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Towards Expeditious Justice: A Policy Analysis of the Law's Delay

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Judicial delay means the waiting time endured by litigants beyond the minimum period required by due process. It is the unnecessary prolongation of a law suit, resulting from a huge volume of cases and from the "drag" in case processing. The trend of congestion is alarming, with the pending cases already in the half-million mark. Socio-economic forces and poor service capability of the court system jointly account for the continuous increase of pending cases. With the present rates of disposition, the number of incumbent judges is inadequate to dispose of cases to meet the demand posed by cases filed and cases pending. Postponements in the trial courts were found to occur mostly at the trial stage and to be largely caused by lawyers/fiscals. The barangay courts have been found to be effective in that they were able to settle 80 percent of cases submitted to them and only 12 percent go to the regular courts. With these findings considered, the model for judicial delay suggests courses of action that would screen out unnecessary suits and speed up the disposition of cases. How to keep out the unnecessary and non-jurisprudential cases from the court system, and how to accelerate case disposition without sacrificing due process are, therefore, the twin aspects of judicial delay that must be addressed by policies.

Introduction

The dictum that justice delayed is justice denied has gained a current urgency with Philippine court dockets becoming increasingly congested with cases taking many years to resolve. Thus, between 1974 and 1979, the total number of cases *pending* in all the courts had grown from nearly 250,000 to over 425,000. While the *new* cases filed amounted to over 365,000 and 395,000 in 1974 and 1979, the courts were able to *dispose of* only 362,000 and 374,000, respectively; thereby leaving an accumulated backlog of the order cited above.

Leaders of the bench and the bar have long acknowledged the problem. Anxious that the law's delay would further undermine public confidence in government, they proposed numerous measures to reduce court congestion. Indeed, in 1978, President Ferdinand E. Marcos decreed a "*barangay* justice" system in order to stem the influx of cases into the regular courts. In addition, various proposals were made to enable the courts to more expeditiously handle the cases that were continuously filed. Proposed

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reforms included increasing the number of judges, restructuring the organization of the courts, changing court rules and procedures, and changing the behavior of judges, lawyers, and litigants so that cases are promptly disposed of, while at the same time observing due process. Some of these proposals, notably the reorganization of the entire judicial system below the Supreme Court, are embodied in a legislative measure, Cabinet Bill No. 42, filed in the *Batasang Pambansa* in late 1980.

While the proposed or already initiated reforms appear to be basically sound, they provide no assurance that the complex and difficult problem of judicial delay would soon be effectively remedied without undue cost. This study is an attempt to understand and analyze selected aspects of the problem of judicial delay, and to assess the likely effectiveness and costs of alternative solutions, including those already implemented and remedies prescribed by authorities and by the authors of this study. Specifically, it includes an inquiry into the constitutional provisions and related studies in the hope of arriving at norms for measuring delay; presentation of the extent and trends of delay and congestion vis-a-vis the overall performance of the entire judicial system; results of case studies and data analyses undertaken by the group which reveal insights on demand management, service capability, and anatomy of delay; information gathered from literature on the factors giving rise to litigations; the elements leading to poor service capability; and, lastly, the solutions proposed and legislated including the alternative measures generated by the group.

Methodology

The problem of judicial delay was approached from the "demand" and the "supply" sides. Much of the problem may be (as it has often been) attributed to undue litigiousness on the part of the growing population; on the other hand, the institution of barangay justice to reduce the number of cases filed in the regular courts may well be viewed as a strategy of demand management. Other causes and solutions may be found on the supply side. Thus, there have been frequent proposals to increase the number of salas, judges, and trial lawyers to more adequately cope with demand (number of cases). Alone, however, this would be an over-simplified remedy (and perhaps not even the most cost-effective, necessary as such increments may seem). As earlier suggested, many other factors intervene in the interaction of demand and supply; that is, in the actual processing of cases by the judicial system. These include court organization, procedures, litigants' behavior, and administrative management.

To understand the problem, existing literature on the subject were looked into. The information derived were organized to show the background and nature of judicial delay. Perceived causes of the problem were identified, and the solutions proposed and legislated taken into account. Pertinent data, whether organized or not, were gathered from the Supreme Court (SC). Being the agency wielding administrative control and supervision over all courts, the highest tribunal receives all the reports from the inferior courts and maintains a statistical section. In addition, secondary data were also used.

Two case studies were prepared to provide insights into the problem. One case study tried to determine the effects of the implementation of the *Katarungang Pambarangay* under Presidential Decree (P.D.) No. 1508 on the volume of cases filed in the City of Caloocan, which was picked out for convenience and availability of records. The objective was to determine whether P.D. No. 1508 is a factor in reducing the growth of the number of cases filed, particularly in Caloocan City. The other case study randomly picked 9 civil cases and 9 criminal cases that had been decided by a randomly chosen sala of the Court of First Instance (CFI) of Manila. The incidents throughout the life span of these cases, from filing to decision, especially the extent and causes of postponements, were then analyzed. The purpose was to pinpoint where and why delay usually occurred.

The figures collected were then subjected to selected techniques of data analysis in order to get a quantitative description of the different aspects of judicial delay, and the extent and trend of court congestion. Congestion, connoting quantity, refers to the state of having too many cases waiting to be processed by the court. Delay, connoting quality, means the slowness in the hearing and the adjudication of cases. Both factors result in longer waiting time endured by litigants. A court which is "fast" in disposing of cases may have docket congestion due to a torrent of lawsuits spawned by circumstances beyond its control. When this happens, the cases at the end of the long queue must wait for longer periods. It could also happen that because a court is "slow," the cases before it (though initially few) could pile up resulting in congestion.

Not much data were available on "delay" as measured by waiting time for individual cases. But there were data on "congestion," as manifested by the number of pending cases, and these were analyzed through a simple mathematical equation showing the changes in the pending cases as a result of changes in either or both of the cases filed and the cases disposed of. The causes of delay as pointed out in existing literature, both from the demand and the supply sides, were structured by means of diagrams. Through these diagrams the interrelations of the different aspects of the problem were shown.

With the use of the proposed solutions also gathered from existing literature and from the ideas generated in group discussions, remedies for each aspect were then listed. The different courses of action addressing each aspect of the problem are called policy alternatives. These policy alternatives, especially those for which the gathered data and information could find support, were then subjected to cost-effectiveness analysis. This technique simply presents how and to what extent an alternative could help in solving the problem or in attaining speedy justice without sacrifice of due process and considering its financial costs and possible implications.

From the range and interrelations of the policy alternatives as laid out, the decision makers could then make their choices. Since the improvement of judicial administration is not only decision-making on the preferred courses of action for expeditiousness, other imperatives are pointed out in the end.

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Limitations of the Study

This policy study has its limitations. The data are inadequate, especially on the period of time that a case stays in the courts. The case studies are one-shot affairs. Hence, their results can only be seen as providing insights and not binding conclusions. The data from the Supreme Court are not totally reliable due to identified discrepancies. The analysis of the policy alternatives does not reflect the nuts and bolts of implementation although the expected consequences are laid out. This assessment also suffers from meager data on the costs of each alternative. But then, policy research aims for just the best analysis possible within the limits of available time, information, and manpower.[1]

Judicial Delay as a Policy Problem

Meaning of Judicial Delay

The 1973 Constitution mandates that an accused has, among others, the right to a speedy and impartial public trial.[2] It guarantees all persons the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.[3] It even fixes the maximum period within which a case or matter shall be decided or resolved by the courts from the date of its submission. The Supreme Court is given 18 months; all inferior collegiate courts, 12 months; and all the other inferior courts, 3 months.[4]

Thus, as written in the Constitution, Filipinos want to avoid the denial of justice through undue delay. In short, there is a need for a fair but speedy dispensation of justice. Judicial delay, then, basically means the unnecessary prolongation of the resolution of a suit, resulting from a huge volume of cases and from the "drag" in case processing.

Just how promptly justice is dispensed may be measured in terms of waiting time for litigants. Waiting time is equal to the "life span" of a case, from the filing of the case to the execution of the court's decision. A litigant waits for the redress of his grievances or protection of his right from the filing of his complaint until the court's decision or order is carried out or effected.

However, time is needed for the requirements of "due process" to be observed. In the Philippine system of laws, both parties must be heard before a decision could be rendered, except in cases of default or failure to prosecute. Hence, the ideal is to reduce the litigation period to the minimum length of time required by due process.

As a whole, the Philippine judicial system does not work swiftly enough. Way back in 1967, President Marcos already talked about the crises of justice and pointed out then that there must be a study of the causes of delay and the apparent denial of justice to many litigants who vocally and openly complain against our institutions.[5] Two years later (1969),

[1] Edith Stokey and Richard Zeckhauser, *A Primer for Policy Analysis* (New York: W.W. Norton and Co., Inc., 1978), p. 329.

[2] Philippines (Republic), *Constitution of the Philippines of 1973*, Article IV, Section 19.

[3] *Ibid.*, Article IV, Section 16.

[4] *Ibid.*, Article X, Section 11 (1).

[5] President Ferdinand E. Marcos, Speech delivered at the Annual Convention of CFI Judges, Manila Hotel, March 16, 1967.

Senator Lorenzo M. Tañada complained that justice grinds slowly, criminality rises, and the peace and order situation worsens.[6] President Marcos, in 1975, again urged the CFI judges to dispense speedy justice so that the aggrieved parties would not take the law into their own hands, which, as numerous records show had resulted in bloodshed.[7] In 1976, the late Chief Justice Fred Ruiz Castro told lawyers that justice will always remain a sterile abstraction unless ways and means are discovered to achieve it with dispatch in every case, in the shortest time possible, and at the lowest possible cost.[8] In 1978, the same Chief Justice warned lawyers that docket congestion is a large, formidable, and menacing enemy.[9] In July 1980, Chief Justice Enrique M. Fernando deplored the number of piled-up cases and called on the judiciary to exert the most determined efforts to reduce the increasing backlog of cases.[10] In November 1980, during the First General Assembly of the ASEAN Law Association, the problem of court congestion in the Philippines was introduced with this quote: "All legal circuits are overloaded and all warning lights are red."[11]

Extent of Delay

Strictly speaking, there is no standard or normative "minimum length of time required by due process," except perhaps those implied by the maximum periods legally prescribed for case resolution. Nor are there readily available data on the *average* time it takes for cases in the Philippines to get resolved, although *median* figures have been generated in some studies (cited below). Thus, there are no norms in ideal or actual law practice by which the extent of delays can be measured, and while the legally prescribed periods may be used for this purpose, no data are available on how long individual cases have taken to get resolved.

A number of studies provide insights on time intervals in the trial courts of Metropolitan Manila and in the Court of Appeals (CA). Martinez in 1977, conducted a study of congestion and delay in Metro Manila trial courts.[12] Among the relevant information he generated were data on the median time of the different phases in the life spans of civil and criminal cases of the Metropolitan Courts of First Instance. He studied 600 civil cases and 600 criminal cases from the CFIs of Metro Manila.

The study provided the following median time intervals for criminal cases:

[6] *Sunday Times*, March 16, 1969.

[7] Message at the oath-taking of some CFI Judges, April 1, 1975.

[8] Fred Ruiz Castro, "The Bar and the Congested Dockets," Address to the Third Regional Convention of the Greater Manila Region of the Integrated Bar of the Philippines, held at the Philippine International Convention Center, December 10, 1976.

[9] Fred Ruiz Castro, "Law and the Lawyer in a Changing Society," Address to the IBP Greater Manila Regional Convention, Manila, March 4, 1978.

[10] Enrique M. Fernando, as quoted by Apolonio Batalla in "Thoughts on Reorganization," *Bulletin Today*, September 26, 1980.

[11] Workshop Papers of the 1980 ASEAN Law Association General Assembly, Manila, 1980, p. 30.

[12] Daniel T. Martinez, "Congestion and Delay in Metro Manila Trial Courts: Extent, Causes, and Remedies," Thesis presented to the NDCP, 11th Regular Course for the degree of MNSA (1977).

Arraignment to trial .....22 days
Initial trial to submission
for decision .....180 days

Altogether, the median time from arraignment to submission for decision of the 600 criminal cases in the CFIs is 6 months and 22 days. This means that about half of the total number of criminal cases moved from arraignment to submission for decision in less than 6 months and 22 days, while the other half moved through the stage in periods longer than this.

The study, however, did not determine the median time used up from submission to promulgation of judgement, which must not exceed 3 months as provided for in the 1973 Constitution.

For civil cases, the following median time spans were arrived at:

Filing to joinder of issues ....39 days
Joinder to pre-trial .....32 days
Pre-trial to trial .....35 days
Contested trials to judgements and dismissals ..... one year

The median time span therefore of those civil cases that go through all the stages in the CFIs is over 15 1/2 months. It is noted that these data do not show a clear-cut time span from submission to rendition of judgement. This means that half of those cases going the full stretch are terminated in less than 15 1/2 months; the other half take up more time.

A calculation of the median time of cases that have been pending in the Metro Manila CFIs, for the period 1972 through 1976 was also made. The basis of Martinez's calculations were 46,400 pending cases in 1972; 42,537 pending cases in 1973; 42,125 pending cases in 1974; 46,380 pending cases in 1975; and 49,501 pending cases in 1976.

From these pending cases he established that the median time that ordinary civil actions have been pending was 14 months and 22 days; and that of special civil actions, 8 months and 28 days. Special proceedings have been pending for a median time of 3 years, while land registration proceedings, 7 months and 10 days. The criminal cases with prisoners have a median pending time of 4 months and 20 days; those without prisoners (accused still-at-large), 7 months.

From a sample of 1,723 terminated civil cases taken from the municipal and city courts of Metro Manila, the study determined the median age for these cases to be 7 months. This meant that half of them were finished in less than 7 months, and half beyond 7 months. Data on criminal cases from these municipal and city courts for median age computation were, however, not gathered.

Navarro in 1978 tackled congestion and delay of cases already submitted for decision in the Court of Appeals.[13] Cases awaiting completion of the record and submission of briefs were not included. The pertinent findings on median age of the cases submitted for decision since 1965 through 1978 are summarized in Table 1.

The data imply that about half of the civil cases pending in 1978 have been awaiting decision for more than

[13] Flordelis O. Navarro, "Congestion and Delay in the Court of Appeals: Extent, Causes, and Remedies," Thesis presented to the NDCP, 12th Regular Course for MNSA (1978).

Table 1. Calendar Age Frequency and Median Age (Per Class) of Cases Pending in the Court of Appeals (As of December 1978)

Year Case was Submitted for Decision	Class of Cases		
	Civil	Criminal	Special Civil Action
1965	1		
1967	1		
1969	2		
1970	66		
1971	48		
1972	158	15	
1973	252	26	1
1974	368	41	1
1975	747	163	10
1976	1,231	299	59
1977	1,144	389	208
1978	145	72	115
Total Number of Cases	4,163	1,005	394
Median Age	27 months, 23 days	25 months, 20 days	16 months, 22 days

2 years, 3 months and 23 days; another half have remained undecided upon for durations less than this median period. As to criminal cases, half have been waiting for more than 2 years, 1 month, and 20 days. An equal number of criminal cases have been waiting for a shorter period. In the special civil actions category, half have been awaiting decision for more than 1 year, 4 months, and 22 days; but an equal number has remained pending for a shorter time.

The above data show that one of the civil cases has remained pending for 13 years after having been submitted for decision; another one for 11 years, 2 for 9 years. In 1970-1971 there were 66 civil cases that have been waiting for disposition for 8 years, and 48, for 7 years. Later years show that pending cases have increased: 368 for 4 years; 747 for 3 years; 1,231 for 2 years; 1,144 for 1 year, and 145 for less than a year.

The oldest criminal cases are the 15 that remained pending for 6 years. Twenty-six of them have been waiting for 5 years; 41 for 4 years; and 163 for 3 years. There were also 299 cases pending decision for 2 years, 389 for a year, and 72 for less than a year.

Of the special civil actions, 1 remained pending for 5 years after submission, another one for 4 years, and 10 for 3 years. There were 59 pending for 2 years, 208 for a year, and 115 for less than one year.

These data which show the number of cases pending for particular periods

also present the Court of Appeals in an unflattering light. It would not be fair, however, to say that the Court of Appeals is worse than the other courts since these were the only accurate data found among the different courts.

Former Chief Justice of the Supreme Court, Roberto Concepcion, observed that a number of cases have dragged in the courts from 20 to 50 years, and that many of these cases have reached the appellate courts as often as 10 times.[14]

Causes of Delay: A Case Study of Branch XXX, CFI, Manila

The case study on delay in Branch XXX of the CFI of Manila pointed out the role of the many actors in the judicial system in relation to any undue lengthening of case processing. The case study objectives were: (a) to determine at which stage of the caseflow delay occurred, (b) to identify factors that contributed to time lag in that particular stage, (c) to analyze the delay factors, and (d) to present specific alternatives to speed up the litigation process. In brief, these objectives pointed to a general goal of reducing the litigation period to the minimum required by due process.

A random sample of 18 cases disposed of by Branch XXX of the CFI of Manila was taken from all cases raffled to it in the period 1975-1980. This sample was stratified into civil and criminal cases, with a sample size of nine in each stratum.

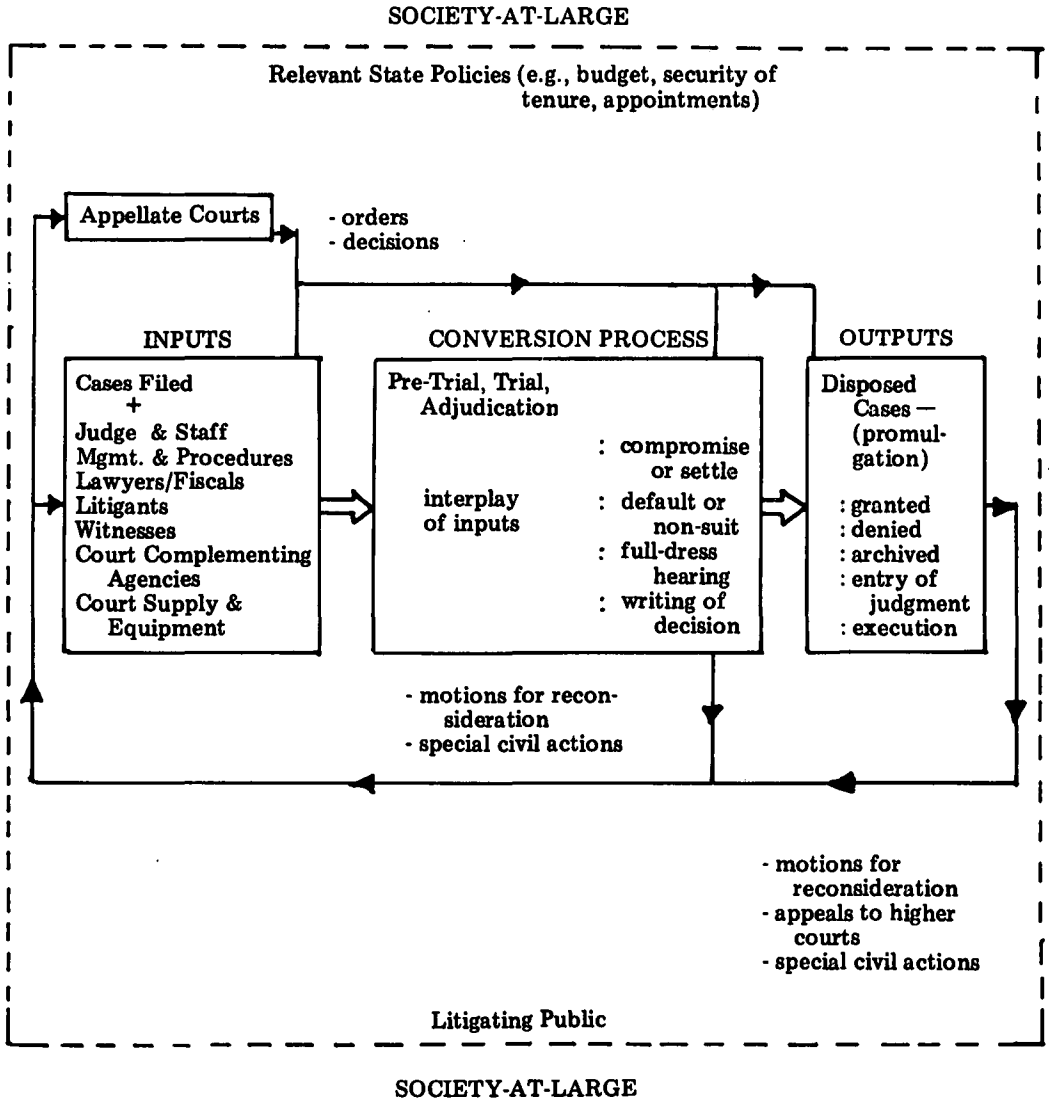
As a backgrounder, Branch XXX experienced a higher number of cases disposed of with an average of 30 cases per month, compared to the whole of CFI, Manila, which had an average of only 26 cases per month. Branch XXX also had a smaller number of pending cases which is 22 percent lower than that of the CFI average. As to the type of cases filed in Branch XXX, there were more civil cases (53 percent) than criminal cases (47 percent) and this experience also holds true for the entire CFI, Manila. This particular branch had a commendable performance in terms of "speedy" disposition of cases and this observation was further attested by the fact that Judge Pedro R. Ramirez of Branch XXX was one of the ten nominees for the "fastest judges" in CFI, Manila.

In this context, the "real texture" of the delay problem in the processing of cases was examined through a systems approach which shed light on the dynamic interrelations of the actors, such as the judges, lawyers, court support staff/facilities, court complementing agencies, with the number of cases filed (as inputs), the litigation process and its phases, such as the pre-trial and trial stages (as conversion process and its subsystems) and the cases disposed of (as outputs) which may take the form of executed, archived, appealed, or dismissed cases.

At first, a general systems model of trial court operation was drawn up, which model is presented in Figure 1.

[14]Speech by former C.J. Roberto Concepcion cited in Maya, *"A Call To A Revolution in Judicial Procedure"* (unpublished) referred to in Antonio R. Bautista, "Administration of Justice: Procedural Reforms in Court Congestion (Philippines)," ALA Workshop Papers, 1980, p. 31.

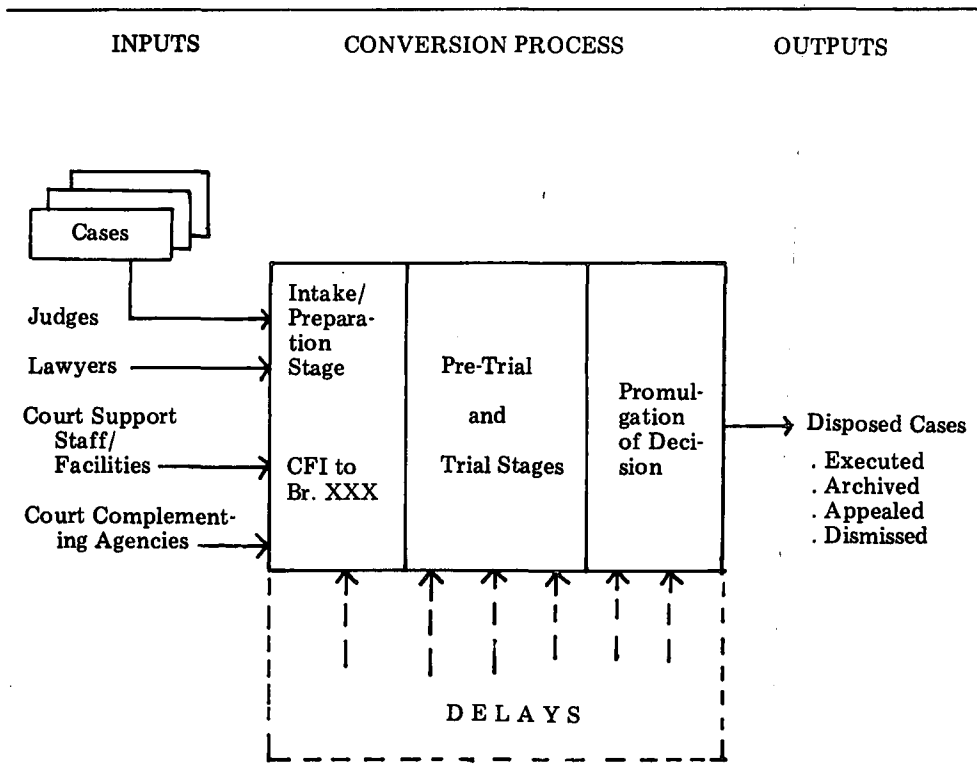
Figure 1. Systems Model of Trial Court Operation



Given this perspective, a more specific representation of the adjudication process to depict the situation of Branch XXX was prepared. This representation is laid out in Figure 2.

With this overall view, the adjudication process was broken down into phases. The duration of each phase for each of the sampled cases were determined from the case records and were

Figure 2. A Systems View of the Adjudication Process in Branch XXX, CFI, Manila



tabulated. The results of this tabulation of phase durations for criminal and civil cases are shown in Table 2.

The table shows that for criminal Case No. 4, for example, it took 8 days from the filing of the complaint in the CFI to the day said complaint was received in Branch XXX after raffling. The dash indicates that the records of Case No. 4 did not show the day the warrant of arrest was issued. But the order of arraignment was issued 44 days from the day Branch XXX received the complaint. There are no data on how many days elapsed up to the arraignment. But the first trial was held 28 days from issuance of the order of arraignment. The trial period, from first trial to submission for decision, took 447 days. From submission, 62 days elapsed before the decision was handed down. In its entirety Case No. 4 lasted for 589 days from filing to decision.

The data on the other cases may be read in the same manner as Case No. 4. On the part of Case No. 1, the zeroes under "submission for decision" and "decision" mean that the decision therein was immediately handed down during the first trial.

The tabulations of phase durations reveal that the trial period (first

Table 2. Length of the Litigation Process Per Phase in the Nine Criminal and Nine Civil Case Samples Branch XXX, CFI, Manila

Criminal Case No.	Filing of Complaint CFI	Receipt of Complaint Br. XXX	Order of Warrant of Arrest	Order for Arraign-ment	Arraign-ment	First Trial	Submis-sion for Decision	Decision	Total
1		17	—	—	26	20	0	0	63
2		5	—	—	8	23	175	20	229
3		6	—	293	23	61	361	26	770
4		8	—	44	—	28	447	62	589
5		3	7	239	17	32	856	55	1,209
6		10	—	5	16	115	312	49	507
7		6	—	2	7	20	360	21	416
8		8	4	16	—	38	496	22	584
9		1	—	—	16	61	894	613	1,585

Civil Case No.	Filing of Complaint CFI	Receipt of Complaint Br. XXX	Issue of Order of Summons	Joinder of Issues	Pre-Trial	First Trial	Submis-sion for Decision	Decision	Total
1		5	—	1	—	—	148	11	165
2		7	—	20	—	227	—	41	295
3		3	—	35	45	45	913	62	1,103
4		—	—	25	30	195	249	0	499
5		2	—	—	112	139	548	39	840
6		3	—	14	55	21	696	180	969
7		11	14	60	664	70	410	22	1,251
8		4	21	271	83	122	—	3	504
9*									

	Filing of Appeal CFI	Receipt of Appeal Br. XXX	Order of Elevation of Records	Briefs Submitted for Decision	Actual Submission for Decision	Decision	
		1	—	21	69	41	132

* Civil Case no. 9 is an appealed case from the City Courts and thus underwent different phases.

trial up to submission for decision) make up the longest phase. In the criminal cases, the duration of trials ranged from 175 to 894 days. This range took up 61% to 93% of the total litigation periods of the 9 criminal cases. Among the 9 civil cases, the trials ranged from 148 to 913 days, or 41% to 95% of the total litigation periods.

From a cursory look at the tables, the arraignment and trial phases in the criminal cases, and the pre-trial and trial phases in the civil cases appear to be the longest events. Hence, the postponements occurring in these phases were identified from the records and were then tabulated.

The purpose of this tabulation of postponements is to determine the extent to which the total litigation periods could have been reduced without these postponements. Of course, the postponements in the other phases were not considered for being generally insignificant in duration. It must be pointed out, too, that due to the difficulty of making the distinctions the group did not anymore distinguish between "necessary" and "unnecessary" postponements. With these caveats, the postponements are taken here as measures of delay.

The tabulation of postponements vis-a-vis the litigation period is shown in Table 3.

Taking Criminal Case No. 9 to explain these data, we find that the actual length of litigation was 1,585 days. There were 20 actual trials and 22 postponements during the trial. The total duration of these 22 postponements was 1,004 days. Thus, if there were no postponements, the length of litigation of Case No. 9 should have been (SHB) 581 days only. If this SHB period were assumed to have occurred, that would mean a reduction of the original litigation period by 63.34 percent. The average percent reduction of litigation among the 9 criminal cases, assuming that the SHB periods were realized, was found to be 42.78%. This percent reduction of litigation ranged from 23.37% to 63.34%.

These data in Table 3 also show that among all the 9 civil cases, the length of litigation could have been reduced from 15.15% to 83.64% if there had been no postponements in the pre-trial and trial stages.

To determine the causes of these postponements or delays, the reasons found in the order for postponement for each case were categorized. The factors/reasons thus found were classified into four, which are: (a) lawyers (to include fiscals); (b) court system; (c) court-complementing agencies; and (d) others.

The postponements caused by lawyers or fiscals were called lawyer-caused delay. Specifically, this was understood to mean not only the lawyer's own inaction or absence due to business commitments, illness, and commitments in other courts, but also those resulting from the absence of witnesses/litigants whose presence in the court to testify is the lawyer's responsibility as manager of his client's case.

Court-system-caused postponements were taken to mean those resulting from actuations or conditions of the judge and/or his support staff and supply, and from the procedures and

Table 3. Period of Litigation, Number of Trials, and Postponements of the Nine Criminal and Nine Civil Case Samples, Branch XXX, CFI, Manila (in Days)

Criminal Case No.	Actual Length of Litigation (in Days) *AL*	No. of Postponements in Arraignment/ Pre-Trial	No. of Postponements in Trial	Actual Number of Trials	Length of Postponements (in Days) *P*	Length of Litigation Minus Postponements (in Days) *SHB*[a]	Percentage Reduction of Litigation *% R*[b]
1	63	2	0	1	21	42	33.33
2	229	0	7	3	141	88	61.57
3	770	0	7	4	369	401	47.92
4	589	0	8	2	240	349	40.75
5	1,209	0	12	12	376	833	31.10
6	507	0	7	8	157	350	30.97
7	416	0	9	7	219	197	52.64
8	584	1	6	10	30	554	23.37
9	1,585	0	22	20	1,004	581	63.34
Average	661	.33	8.67	7.44	284	377	42.78
Civil Case No.							
1	165	4	0	0[c]	138	27	83.64
2	295	1	4	2	153	148	50.17
3	1,103	0	10	9	303	800	27.47
4	499	0	8	2	375	124	75.15
5	840	0	8	7	224	616	26.66
6	969	0	6	11	246	723	25.39
7	1,251	7	5	6	755	496	42.21
8	504	0	0	1	0	504	0
9	132	—	1	—	20	112	15.15
Average	640	1.5	4.7	4.8	246	394	38.43

[a] "Should Have Been Period" = AL − P

[b] $\%\ R = \frac{AL - SHB}{AL} \times 100\%$

[c] Case 1 shows no trial because defendant was defaulted at the pre-trial and plaintiff's evidence was presented ex-parte.

handling of cases by the court. Postponements brought about by inefficiencies in court-complementing agencies, like the post office and the police, were attributed to these agencies. Reasons for postponement that could not be classified under any of the above three were classified as "others."

The frequency and percentage distribution of occurrences of these categorized causes of postponement among the 9 criminal cases and the 9 civil cases are shown in Table 4.

If, with these data, the causes were to be ranked according to the proportion that each brought about postponements among the sampled cases, the lawyers would top the list. They accounted for 56% of postponements in criminal cases, and 72% in civil cases. The court system was responsible for 14% of postponements in criminal cases and 6% in civil cases; Court-complementing agencies accounted for 7% postponements in criminal cases and 6% in civil cases. Other reasons, such as agreement of the parties, unforeseen bad weather, special holidays, and other unspecified reasons account for 16% and 23% of postponements in civil and criminal cases, respectively.

Among the factors subsumed under lawyer-caused delay, absence of witness accounted for 29% and 24% in civil and criminal cases, respectively, while procedural hitches were responsible for 10% in civil cases and 18.5% in criminal cases. Absence of lawyer constituted a large proportion of the delay (41% in civil cases and 39% in criminal cases).

In the breakdown of lawyer-caused delay, however, it may be contended that three factors could not be blamed totally upon the lawyers. These are absence of a witness, absence of a plaintiff or defendant, and change of or no counsel, which had a total weight of 49% of the 72% in civil cases and 42.5% of the 56% in criminal cases. Assuming that these three factors constitute another group, they would make up a large proportion of the whole (35% in civil cases and 23.5% in criminal cases) but 37% and 32.5% of postponements in civil and criminal cases, respectively would still be attributed totally to lawyers.

All these are the findings on the dynamics of delay in Branch XXX of the CFI of Manila. The insights gained may be revealing. But having been generated from only 9 criminal cases and 9 civil cases, it would be unwise to rush to conclusions that the above findings hold true for the entire court system population.

Magnitude of Congestion

As of July 30, 1980, there were 449,793 cases pending in all courts.[15] In April 1981, assistant solicitor-general Reynato S. Puno revealed that there were more than 600,000 cases pending in various courts throughout the country.[16]

Data gathered from the Supreme Court Statistics Office provide suffi-

[15]Enrique M. Fernando, Ricardo C. Puno, Ramon C. Aquino, Ameurfina A. Melencio-Herrera, Felix Q. Antonio, and Jesus N. Borromeo, Report to the President and Prime Minister By The Committee on Judicial Reorganization, October 17, 1980.

[16]*Bulletin Today*, April 20, 1981.

Table 4. Frequency and Percentage Distribution of the Causes of Postponement Showing Specific Reasons, Branch XXX, CFI, Manila

Causes of Postponement	Civil Cases		Criminal Cases	
	No.	%	No.	%
A. Lawyer-caused delay				
1. Absence of witness (sick or reason unspecified)	14	29	9	24
2. Lawyer attending to urgent personal matters, ill or absent for unspecified reason	14	29	8	21
3. Lawyer in another court	6	12	7	18
4. Absence of plaintiff or defendant	5	10	—	—
5. Procedural (waiting for evidence, amend complaint, file motion or coach witness)	5	10	7	18.5
6. No counsel or change of counsel	5	10	7	18.5
Total	49	100	38	100
Percent	(72%)		(56%)	
B. Court-system caused				
1. Stenographic notes not yet transcribed	—	—	3	33
2. Poor calendaring	1	25	—	—
3. Judge on vacation, study leave, retired or attending other functions	3	75	5	56
4. Court attending to other cases	—	—	1	11
Total	4	100	9	100
Percent	(6%)		(14%)	
C. Court-complementing agency caused				
1. Delayed arrest/no arrest yet	1	25	2	40
2. Delayed mail of notice or evidence	2	50	3	60
3. Notice not served/mistake in service of notice	1	25	—	—
Total	4	100	5	100
Percent	(6%)		(7%)	
D. Others				
1. By agreement	7	64	8	50
2. Unspecified reason	1	9	5	31
3. Bad weather	2	18	—	—
4. Official holiday	1	9		13
5. Document soiled by rain	--	—	2	6
Total	11	100	16	100
Percent	(16%)		(23%)	
TOTAL PERCENT	(100%)		(100%)	

cient detail of these general statements. A continually increasing number of pending cases in the entire judicial system, from 1974 to 1979 is shown in Table 5. This reveals that every year, the total number of pending cases, which go by the hundreds of thousands, increase on the average by 11.60%. There are fluctuations in the percentage of increases as shown by the 11.65% increase of cases from 1974 to 1975, and 9.16% from 1975 to 1976. Yet, the numbers increased again in 1977 by 16.73%, and gradually moved down in 1978 by 14.99%, and further steeply down in 1979 by only 5.49%. Perhaps, in the instances of the lower percent increases, the number of incoming cases has gone down or maybe the number of those disposed of, has increased or both phenomena may have happened. But whatever be the reasons for the fluctuations, the fact remains that the 247,374 pending cases in all our courts in 1974 accelerated to 426,911 in 1979. A 72.64% increase over a six-year period is evident.

It is also apparent from this Table that the generally increasing trend of pending cases does not hold true for all the courts, at least for the Court of Appeals (CA) and the Court of Tax Appeals (CTA). The CA had 9,987 pending cases in 1974, which increased to 10,124 in 1975, but from then on this number went down, until in 1979 the figure became 8,016. The CTA had a continously decreasing number of pending cases from 594 in 1974, to 445 in 1979. The other courts generally had fluctuating increases.

The continually growing number of pending cases is a result of (a) the increasing volume of cases filed, and (b) the inability of the courts' volume of case disposition to approximate the number of cases filed and the case carry-overs from previous years.

The figures on cases filed per court from 1974 to 1979 are shown in Table 6.

On the whole, these figures show a generally increasing trend. From 365,578 cases filed in 1974, the court system met 372,245 incoming cases in 1975, which increased to 374,832 in 1976, and to 418,610 in 1977. By 1978 the cases filed had swollen to 447,842. However, in 1979 the numbers decreased to 396,726.

Thus, on the average percent increase of 1.95, the overall cases filed in the entire court system moved from 365,578 in 1974 to 396,726 in 1979, with upward fluctuation up to 447,842 in 1978. As Table 6 shows, each court has experienced fluctuations in the number of cases filed from year to year.

But noteworthy is the fact that in 1979 the number of cases filed decreased by 11.41%. A closer look at the statistics reveals that this overall decrease is a result of the notable decrease in both the city and municipal courts. Together with the CFIs, the CCs and the MCs have the biggest proportion of casehold.

The city courts' fluctuations show a dramatic decrease of cases filed in 1979. There was an increase by about 6,000 in 1975, a decrease of about 5,000 in 1976, an increase of around 16,000 in 1977, another increase, this time about 17,000 in 1978, and then suddenly a decrease by 24,000 in 1979. These variances of increases/decreases are simply the difference in the cases filed from year to year. The figures have been rounded off so that the differences could be stated in thousands.

Table 5. Annual Number of Pending Cases Per Court, 1974 to 1979

Court	1974	1975	1976	1977	1978	1979
Supreme Court (SC)	3,238	3,347	3,798	4,008	4,043	4,139
Court of Appeals (CA)	9,987	10,124	9,630	8,887	8,190	8,016
Court of Tax Appeals (CTA)	594	590	569	494	451	445
Courts of First Instance (CFI)	80,191	89,470	94,347	107,713	120,060	132,784
Courts of Agrarian Relations (CAR)	7,252	6,481	6,044	8,179	8,220	7,878
Circuit Criminal Courts (CCC)	1,084	1,298	1,577	1,980	2,011	2,133
Juvenile and Domestic Relation Court (JDRC)	5,578	5,835	6,598	7,853	8,696	7,362
City Courts (CC)	77,004	84,533	84,083	86,365	105,310	114,500
Municipal Courts (MC)	62,446	74,524	94,851	126,464	147,705	149,654
Totals	247,374	276,202	301,497	351,943	404,686	426,911
Rate of increase		11.65%	9.16%	16.75%	14.99%	5.49%

Average Annual Percent Increase = 11.6%

Source: Statistics Section, Office of Court Administrator, Supreme Court.

Note: The large share of the CFI, CC, and MC account for 90.94 percent of the total number of pending cases in the entire system. The cases pending in all the other courts make up only 9.06 percent of the total, and, therefore, the overall trend would necessarily follow that of the CFI, CC, and MC.

Table 6. Annual Number of Cases Filed Per Court, 1974 to 1979

Court	1974	1975	1976	1977	1978	1979
SC	1,980	2,240	3,086	2,240	2,010	2,660
CA	5,093	4,863	5,209	4,892	4,521	3,862
CTA	70	119	84	68	70	63
CFI	64,870	73,210	77,737	85,487	91,760	101,557
CAR	4,944	3,894	3,369	6,715	5,543	5,754
CCC	1,895	1,782	2,598	2,596	2,091	1,934
JDRC	4,010	4,412	4,762	4,666	4,112	3,897
CC	128,542	134,389	129,376	145,405	162,806	138,189
MC	154,174	147,336	148,611	166,541	174,929	138,810
Totals	365,578	372,245	374,832	418,610	447,842	396,726
Rate of increase		1.82%	.69%	11.68%	6.98%	-11.41%

Average Annual Percent Increase = 1.95 %

Similarly, the municipal courts have had fluctuations beginning with a 7,000 decrease in 1975, then a 1,000 increase in 1976, to an 18,000 increase in 1977, unto another increase by about 8,000 in 1978, and suddenly a decrease by about 36,000 in 1979. These 1979 decreases exhibited by the two trial courts become interesting when considered together with the fact that the *Katarungang Pambarangay* System under P.D. No. 1508 has been implemented all over the country since 1979. Cases under the jurisdiction of the barangay courts are the petty ones which otherwise would be filed with the city or municipal courts.

There is reason to believe, therefore, that this dramatic 1979 decrease might have been largely caused by the barangay courts. There is no organized data of P.D. No. 1508 implementation for 1979, but the Ministry of Local Governments and Community Development (MLGCD) has been able to gather nationwide statistics on the Katarungang Pambarangay implementation for the whole year of 1980. The data show that there have been 39,645 disputes submitted to the different *Lupong Tagapayapa* of the reporting barangays. (Reports from some regions were incomplete.) Of this total number, 32,888 disputes or 82.97% of the disputes have been settled by the lupons; 5.01% or 1,987 of the disputes have remained pending. Only 4,770 or 12.02% have been certified or forwarded to the courts for litigation. These data which show that at least 32,888 cases did not reach the city and municipal courts, almost account for the decrease in number of cases filed in 1979.

The case study on the Katarungang Pambarangay in Caloocan City further reveals generally the same kind of proportions as in the national level. The particulars of this case study will however be described later.

A comparison of the figures on cases disposed of presented in Table 7 with those of the cases filed reveals that the volume of cases disposed of could not match that of cases filed.

With the foregoing, the number of cases pending per year may be viewed as a function of the volume of cases filed for the year, together with the previous year's pending cases, vis-a-vis the number of cases disposed of for the year.

The discussion and the presentation of data have so far indicated the nature and extent of delay and congestion. The data presented showed that caseload consists of the number of cases filed for the year plus the cases pending in previous years, and that the magnitude of caseload from year to year is a function of the volume of cases filed and cases disposed of.

The important questions to be asked then are: (a) What are the factors influencing and giving rise to litigations? and (b) What factors affect the speed (and, of course, fairness) in the disposition of cases? The first question refers to the demand aspect of the problem, the second, to the service capability of the court system.

Analysis of the Court System's Service Capability

The general finding is that at the rate cases are filed, and at the rate these cases are disposed of, the number of pending cases will continue to grow.

Table 7. Annual Number of Cases Disposed Of Per Court, 1974 to 1979

Court	1974	1975	1976	1977	1978	1979
SC	1,633	2,066	2,571	1,950	1,743	2,176
CA	5,726	4,726	5,703	5,635	5,218	4,036
CTA	102	123	105	143	113	69
CFI	61,463	63,931	72,860	72,121	79,413	88,833
CAR	6,313	4,665	3,806	4,580	5,502	6,096
CCC	2,116	1,568	2,319	2,193	2,060	1,812
JDRC	6,020	4,155	3,999	3,411	3,269	5,231
CC	136,204	126,860	129,826	143,123	143,861	128,999
MC	142,688	135,258	128,284	134,928	153,688	136,861
Totals	362,265	343,352	349,473	368,084	394,867	374,113
Percentage change		-5.22%	1.78%	5.33%	7.28%	-5.26%

A straight-line projection of the data on the number of cases filed, cases disposed of, and cases pending, really bring out the future implications of the trends as shown by the 1974 to 1979 data. By 1990, the Supreme Court shall have had 6,290 pending cases. The Court of Appeals, on the other hand, will reduce its pending cases from 7,490 in 1980 to 2,790 in 1990; the CFIs by 1990 will have about 246,290 pending cases. The CCCs in 1990 will be working on 4,510 pending cases. The CARs in 1990 will he handling 14,450 pending cases. Similarly the JDRCs will have about 11,570 pending cases. The City Courts, on the other hand, will have 189,300 pending cases in 1990. The Municipal courts will be laboring with 374,600 pending cases.

Of course, all these are stated under the assumption that present conditions will continue up to 1990. Obviously, changes are being made by the government, and these figures will be affected either positively or negatively. These projections would help in the making of policy decisions to arrest the menacing proportions of congestion. If nothing is done to rectify the situations pointed to by these forecasts, the quantitatively described congestion will happen together with intolerable delay.

It is worthwhile to ask whether there is indeed an insufficient number of judges. For in the past years, and even with Cabinet Bill 42, the government assumed that the number of judges is inadequate and thereby has generally kept on increasing the number of judgeships. As of January 1981 the Supreme Court records revealed that there are 1,618 branches or salas of all the trial courts. These are broken down into 423 for the CFIs, 16 for the CCCs, 25 for the JDRCs, 62 for the CARs, 166 for the CCs, and 926 for the MCs. Not all of these positions have been filled up, however. Table 8 shows a total of 418 vacancies in the entire court system which has 1,622 total number of courts, including the Supreme Court, the Court of Appeals, the *Sandiganbayan*, and the Court of Tax Appeals.

Table 8. Number of Judgeships, Incumbents, and Vacancies of the Entire Court System (January 1981)

Court	Total No. of Courts	Total Judge-ships	Incumbents	Vacancies		
				Total	Organized	Unorgan-ized
SC	1	15	11	4	-	-
CA	1	45	35	10	-	-
SB	1	9	6	3	-	-
CTA	1	3	3	0	-	-
CFI	423	423	291	132	67	65
CCC	16	16	11	5	5	0
JDRC	25	25	10	15	1	14
CAR	62	62	54	8	7	1
CC	166	166	107	59	35	24
MC	926	926	744	182	174	8
Totals	1,622	1,690	1,272	418	289	112

The listing of vacancies in this table shows that the Supreme Court lacks 4 Justices, the Court of Appeals lacks 10 Justices, and the Sandiganbayan, 3. The CFI still needs 132 judges — with only 67 salas organized, 65 still unorganized. The Circuit Criminal Courts require 5 more, whereas the JDRCs need 15, and the CARs, 8. The City Courts must still be reinforced with 59 more and the Municipal Courts await 182 additional appointees. (See Table 8.)

Interviews with the personnel in the Supreme Court Statistics Office and Office of Administrative Services revealed that the judgeships provided for by law had not been really filled up through the years. New appointees were just enough to replace the retired, resigned, disabled, or dead. This fact suggests policy alternatives that would require the appointing authority to have all the positions filled up at all times so that court performance may be maximized.

The data have shown that the number of incumbent judges were inadequate to meet the demand of cases filed and pending. The question that must be raised is: "What would happen to the levels of case disposition if all the legislated judge positions were filled up through the years?"

To answer this question, it was necessary to determine the monthly or yearly average rates of disposition per judge, per court. It was difficult to derive these average rates, however, because the Supreme Court only had data on the number of incumbents, and not the number of judges who served in the court system from 1974 to 1979. However, with information on the additions or resignations of judges culled from documentary sources, especially on the judicial reorganizations in the martial law era, the actual number of judges for each year of the six-year period 1974 to 1979 was reconstituted. Al-

Table 9. Average Number of Cases Disposed Per Month Per Judge by Court, 1974-1979

Court	Average Number of Cases Disposed of Per Month Per Judge Throughout the Country
SC	15
CA	15
CTA	3
CFI	19
CCC	13
JDRC	42
CAR	13
CC	98
MC	13

though it could not be claimed that these reconstituted numbers were the "actual number" of judges for the period, it was the best approximation that could be generated.

Given the reconstituted number of judges from 1974 to 1979, the average disposition rates per justice/judge per month were calculated for each court. The results are presented in Table 9.

Equipped with these average disposition rates, and assuming that justices/judges in the different courts would have generally the same rates of disposition, the group proceeded to calculate the effects, upon the pending cases, of: (a) the number of incumbent judges, (b) the number of judges if all positions were filled up, and (c) the number of judges if all positions created under Bill 42 were filled up. For this sensitivity exercise, the projected data were also used.

These data reveal that if the incumbent judges dispose of cases at the average disposition rates, only the Court of Appeals could probably eliminate its pending cases by 1984.

If all the vacancies in the existing judgeships were filled up, four courts would be able to eliminate pending cases. These would be the City Courts, projected to wipe out pending cases by 1989; the JDRCs, by 1983; the CARs, by 1984; and the Court of Appeals, by 1982.

If all positions under Bill 42 were filled up, the City Courts could probably erase their pending cases also in 1989. The Regional Trial Courts, which would take over the CFI, CCC, JDRC, and CAR would probably eliminate pending cases in 1988; but due to projected increase in cases filed, the number of RTC judges would become inadequate in the year 2000. The Court of Appeals would also get rid of its pending cases in 1982.

Note that these estimates of the years that the different courts might resolve the cases pending in their dockets are all based on the assumption that the judges in the three categories have monthly disposition rates equal to the average rate of disposition derived from historical data and that the rate of cases filed follow the projections. The conclusion is that

Table 10. Sensitivity Analysis of the Service Cost Requirement for Judges' Salaries of the Different Courts[a]

Court	Incumbent Judges			Present Judgeships		CB Judgeships	
	Salary/ Year/ Judge	No. of Judges	Total Judges' Salaries/ Year	No. of Judges	Total Judges' Salaries/ Year	No. of Judges	Total Judges' Salaries/ Year
SC	₱65,000	11	₱715,000	15	₱975,000	15	₱975,000
CA	61,344	35	2,147,040	45	2,760,480	50	3,067,200
RTC[b]	50,292	368[b]	18,406,872	526[b]	26,453,592	704	35,405,568
CC	32,184	107	3,443,688	166	5,342,544	177	5,696,568
MC	21,624	744	16,088,256	926	20,023,824	947	20,477,928
Total		1,265	₱40,800,856	1,678	₱54,581,415	1,893	₱64,648,239

[a]Estimates are conservative, based on the lower rates of salary per court level, as provided for in Letters of Implementation Nos. 93 and 96, both dated August 9, 1979.

[b]The RTC under "incumbent judges" and "present judgeships" refer to the total number of judges of the CFI, CCC, JDRC, and CAR.

generally (i.e., in five of the nine courts), the number of present positions for judges is sufficient, if these were only filled up. The exceptions are the municipal courts, the Courts of First Instance, the Circuit Criminal Courts, and the Supreme Court.

For the municipal courts, perhaps, it would be wise to return to the greater number of judges before circuitization. And without jettisoning circuitization, additional municipal judges could be appointed in crowded or urbanized areas needing them. As regards the Supreme Court, if its justices were increased to 19, the High Court could eliminate its pending cases by 1989. With the constitutional number of 15 justices, its case dispositions cannot meet the demand of cases filed and cases pending.

Using the known salary ranges of justice and judges, a comparative tabulation of total service costs in terms of judges' salaries only was made. The result is shown in Table 10.

Table 10 shows that the total number of incumbent judges (1,263) requires about ₱40.8 million for their total annual salaries, the present judgeships totalling 1,678 would need about ₱55.5 million, and those provided for under Bill 42 would demand about ₱64.6 million. These are only conservative estimates, based on the lower rates of salary per court level as provided for in Letter of Implementation Nos. 93 and 94. But these costs are presented for the decision-makers to determine their priorities: to spend only about ₱40.8 million annually and generate savings by not filling all the positions but have a menacing docket logjam, or to spend at least ₱55.5 million, and have more judges to adjudicate cases and prevent the intolerable delay by easing congestion.

A Model for Judicial Delay

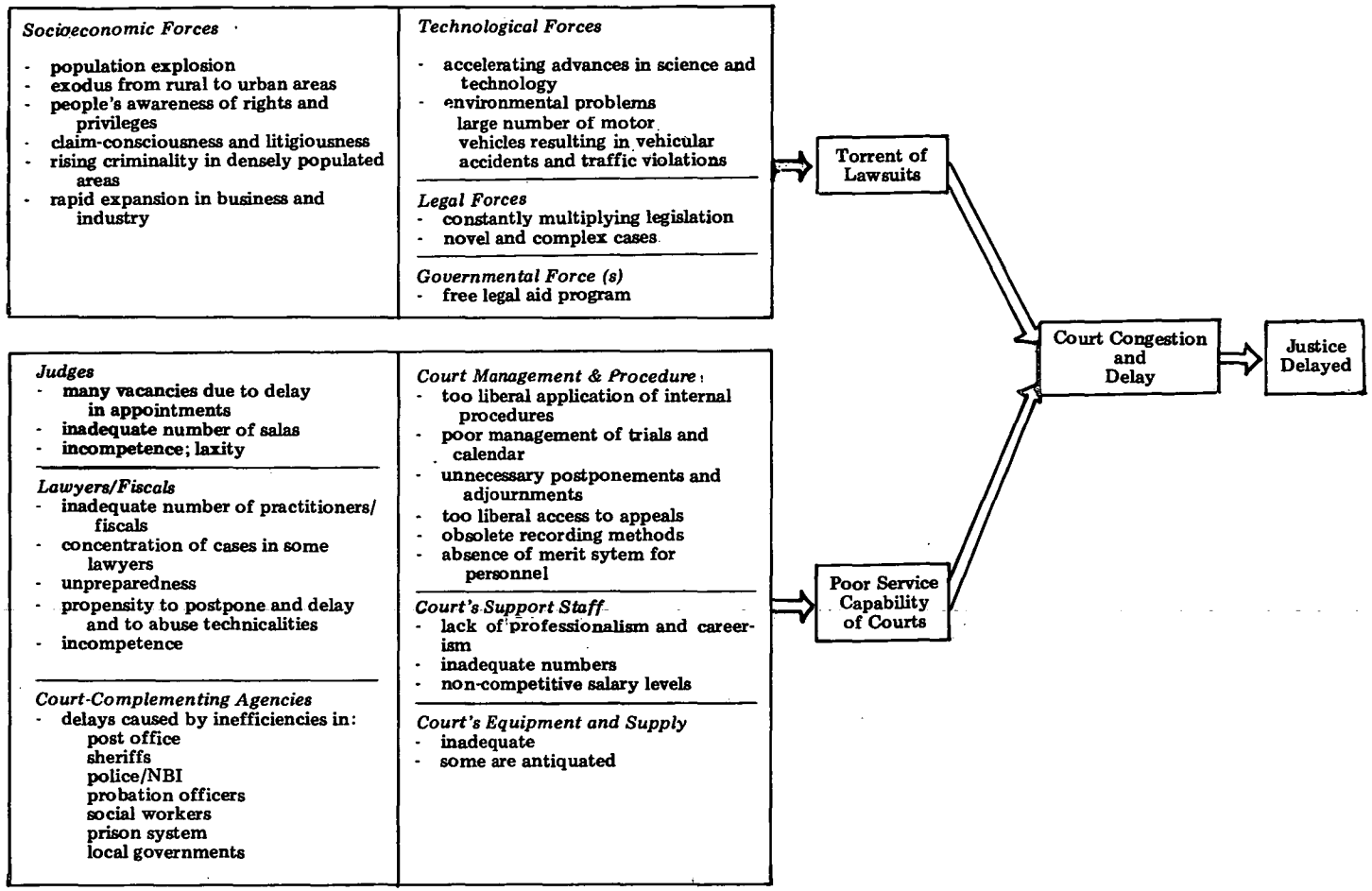
The resultant long wait being endured by litigants has been primarily attributed to the large volume of cases being filed. The late Chief Justice Castro calls this demand the "torrent of lawsuits." The forces that brought about this torrent have been identified as part of the socio-economic, technological, and legal forces contributing to the volume of cases filed. Socio-economic forces include population explosion, the exodus from rural to urban areas, people's awareness of rights and privileges, claim-consciousness and litigiousness, rising criminality together with juvenile and domestic relations problems in densely populated areas, and the rapid expansion of business and industry. There are also technological forces, like the accelerated advances in science and technology, environmental pollution, and the large number of motor vehicles. Legal forces, on the other hand, show their contribution in the form of constantly multiplying legislation. To all these, the commendable but nevertheless "torrent-causing" government drive of democratizing justice through free legal aid must be added. This policy gives its share to the overall number of cases filed, especially when considered with the people's litigiousness and "free services" rendered for the satisfaction of this propensity to litigate.

The above, however, only depicts the forces contributing to the increase in the demand side of the congestion problem. The other input factors make up the supply side that must meet the demand. The supply, for purposes of this policy study, is composed of the actors, materials, and processes that would interact in the course of settling disputes legally and justly. "Supply" is the service capability of the judicial system. Service capability is measured by the number of cases disposed of per judge, assuming that the dispositions do not violate justness and fairness.

Service capability, however, does not involve the judge alone. He is not the only actor in the adjudication process. While the judge makes the decisions and rulings on cases, it is the action, preparation, and presentation of lawyers and fiscals of cases that enable him to do so. The judge's output is also affected by the efficiency of his support staff like the clerk of court and the stenographers, whose performances in turn are influenced by the court's office supplies and equipment, aside from their own motivations and incentives/disincentives. In addition to hairsplitting technicalities, there is the aspect of managing the judge's own time, his court's resources, and, particularly, the control of calendaring and postponements. Not the least, there are the agencies performing functions complementary to, or supportive of, the court's functions, like the post office, the police, other investigating offices, and prison officers. They have been called "court-related agencies," but we prefer to call them "court-complementing agencies." These factors leading to poor service capability of courts are integrated and diagrammatically presented in Figure 3.

The mixture of the torrent of lawsuits and the poor service capability of the courts necessarily result in a large volume of pending cases (congestion) and longer period of processing for

Figure 3. Factors Leading to Poor Service Capability of Courts



each case (delay). These two factors (congestion and delay) bring about longer waiting times for each litigant, which is judicial delay — a condition that renders adjudications unjust for being too late and for causing unnecessary expenditures of time, money, and energy; therefore, it is a defect with anti-developmental consequences.

With this integrated and comprehensive view of the problem, it is apparent that policy alternatives have to address the variables in the factors affecting either the service capability or the demand, or both. The implication of this model as presented is that the solutions lie in policies which make the negative attributes positive.

Analysis of Policy Alternatives

This section presents an integration of the model for judicial delay and the various proposals to remedy the problem. The integration was made through a matching framework containing an indiscriminate list of policy proposals vis-a-vis the problem factors. With this general list as springboard section, a matrix focusing on the alternatives according to the data and insights generated in the preparatory analyses was constructed. This matrix serves as basis for the selection of policy options to be analyzed. Before the analysis of alternatives, the merits and gaps of Cabinet Bill 42 are discussed.

Cabinet Bill 42: Merits and Gaps

Would the comprehensive reorganization scheme as the primary means embodied in the Bill for achieving the goal of expeditious justice bring about speedier adjudications?

More specifically, the changes to be instituted by the revised Bill include changes in the quantity of judgeships and mobility of judges; court organizational setup and jurisdiction; appointments; semi-integration of certain courts; streamlining of procedures and process; appeals, salaries and gratuities, and appropriations.

The institutional changes can be summarized as follows:

(1) The Court of Appeals would be known as the Intermediate Appellate Court (IAC). Ten divisions to be composed of 49 Intermediate Appellate Justices and a Presiding Appellate Justice will replace the existing 15 divisions which are presently composed of 44 Associate Justices and a Presiding Justice. Five, instead of the present three, members shall compose each division. Three out of the proposed five members shall constitute a quorum per division instead of all three members at present. And a majority vote for decisions shall be reached on a three to five ratio, rather than by unanimous voting of all three members at present. The Bill also provides for specialization among divisions such that four divisions will handle appealed civil cases, two divisions appealed criminal cases, and the remaining four divisions will resolve special cases to cover original actions or petitions (including petitions for review) and appeals in all other cases. Whereas at present, the Court of Appeals can issue writs of *mandamus*, prohibition, injunction, *certiorari*, *habeas corpus*, and all other auxiliary writs and process *only in aid* of its appellate jurisdiction, the

Intermediate Appellate Court could issue these writs and processes *whether or not in aid* of its appellate jurisdiction. Moreover, the IAC will have the power to try cases and conduct hearing, receive evidence and perform acts necessary to resolve factual issues raised in cases before it; the CA does not have this power.

(2) The Courts of First Instance will be merged with the Circuit Criminal Courts, the Juvenile and Domestic Relations Courts, and the Courts of Agrarian Relations to become Regional Trial Courts (RTCs). Instead of the present territorial division of 16 judicial districts, the RTCs will operate in 13 Judicial Regions co-extensive with the present administrative and Batasan regions. A judge would be appointed to a region which shall be his official station, unlike the present setup where a judge's official station is the province and branch to which he had been appointed. There would, thus, be mobility in the sense that an RTC judge may be assigned anywhere in the region without applying the six-month constitutional limitation against temporary assignments (without the judge's consent) to stations other than his own. The RTCs will have no concurrent jurisdiction with inferior courts nor with the Sandiganbayan. Whereas the CFI has jurisdiction over all admiralty (maritime claims and probate cases), the RTC will have jurisdiction over admiralty or maritime cases only where the claim or demand would exceed ₱20,000.00. The RTCs will absorb the functions of the special courts (CCC, JDRC, CAR) although the special procedures and technical rules now governing these special courts would remain applicable in case special cases are assigned to an RTC branch. At present, the salas of the CFIs, CCCs, JDRCs, and CARs add up to 520. Based on an apportionment of 200 cases per sala (according to the average workload for the last three years) 184 salas will be added to these, thereby making 704 salas for the RTC.

(3) The present inferior courts, which are the City Courts, Municipal Courts, and Municipal Circuit Courts, will be replaced with Metropolitan Trial Courts (Metro TC), Municipal Trial Courts (MTCs), and Municipal Circuit Trial Courts (MCTCs). The TCs with several branches will be established for a large urban area like Metro Manila and other metropolitan complexes. City Courts in cities not forming part of metropolitan complexes shall be replaced with MTCs or MCTCs with one or more branches as the case may be. Of course, the courts in municipalities will become MTCs or MCTCs. The Supreme Court may designate certain branches of the Metro TCs and of the MTCs (in case there are more than one branch in a municipality) to exercise special jurisdiction over certain cases, and may authorize the adoption of simplified rules of procedure for such cases. In metropolitan areas, a judge would be appointed to a Metro TC and may be assigned to any branch thereof; at present, appointment is to a branch of the city court and no law authorizes assignment to places outside the judge's station. While at present municipal courts cannot be circuitized with city courts, under Bill 42, courts in municipalities may be circuitized with those in cities not forming metropolitan complexes. Bill 42 also provides for presidential appointment of the judges to single municipalities

or to the several municipalities as circuitized; the incumbents were merely designated by the Supreme Court in an Administrative Order to sit in existing Municipal Courts and Municipal Circuit Courts.

Other noteworthy provisions in the Bill are: (a) the clear-cut delineation of jurisdiction among the trial courts; (b) the delegated jurisdiction in cadastral and land registration cases to Metropolitan Trial Courts, MTCs, and MCTCs; (c) special jurisdiction in certain cases and summary procedures in special MTCs, and MCTCs without need of certification from the RTC judge; (d) uniform 15-day period of appeal for all cases; (e) elimination of record on appeal where original record is transmitted; (f) longevity pay for judges; (g) constitution of Shari'a Courts or the courts to adjudicate cases under the Muslim Personal Law (P.D. No. 1083), and (h) appropriation of ₱15,500,000 to carry out the purposes of the act.

All in all, the measures prescribed in Bill 42 are principally directed towards the attainment of more efficient disposal of cases through a reallocation of jurisdiction, and streamlining/revision of procedures which do not tend to the proper and speedy meting out of justice. The means are largely reorganization and the legislating out or replacement of court personnel. Are these enough? Are these the only means to address the problem of congestion and delay? Restructuring per se will probably go a long way in realizing speedy justice. Through the new organization, problems, like those entailed in jurisdiction overlap and constrained mobility of judges, will be eliminated. On the other hand, personnel replacement or court mergers would not guarantee a fair and faster disposition of cases. It must be remembered that a court is more than a physical network, or an organizational structure. It is also a socio-technical system, operating through the behavior and action of men (socio) following, modifying or subverting certain rules/procedures (technical). This premise views the court as an administrative body, with its inputs (cases) being processed and transformed into desirable outcomes (speedy and fair justice). A court, therefore, has to be administratively capable.

Judicial administration covers activities in such fields as the court system organization and structure, training and development of judges and court administrators, articulation of effective and flexible procedures for the orderly consideration of cases, and efficient approaches and systems for obtaining and managing such resources as personnel, equipment, and records.[17] A court system showing proficiency in the above-mentioned activities covered by judicial administration may be considered administratively capable.

Bill 42 has not included the behavioral and socio-ethical requirements for improving service capability. Some missing aspects in the Bill, referred to in this study as "gaps," include the work environment not only of judges but also of lawyers and other court personnel; training and continuing education programs for both lawyers

[17] David J. Gould, "Improving Judicial Administration: Some Comparisons Between Modernized and Modernizing Countries," *International Review of Administrative Sciences*, Vol. XI, No. 2 (1974), p. 143.

and judges as prime actors in the drama of adjudication; motivational requirements, such as incentive/compensatory schemes to increase effectiveness of these sectors; improvement of court administration/management process, e.g., recording, calendaring, information gathering, and dissemination.

Likewise, the measures proposed in Bill 42 mostly address the problem of *supply*, in terms of increasing the quantity of judges, expanding their area of control and delineating the jurisdictions of the different courts. The gap here has something to do with the measures addressed to the *demand* side of the problem (influx of cases). This would include orientation and information/educational components to inform the general public (for it is hard to segment the more litigious constituents from the rest), on the concept of justice, mechanics of court system and its administration. Pre-trial efforts can also be increased to prevent not only congestion but the aging of cases in the dockets; and quasi-court bodies or alternative forums other than the barangay courts can be created with the help of the more respected and knowledgeable members of the citizenry.

Measures on procedures should also be taken into account to increase the rate of the disposition of cases. This involves court rules on case proceedings; rules/ethics concerning lawyer-litigant behavior; rules on appeals and the involvement of would-be lawyers in the congestion and delay problem, perhaps, through assisting in legal research and other activities which support processing of cases. These gaps in Bill 42 are presented in Table 11. Bill 42 tends to speed up adjudication and to improve our court system's administrative capability, but it leaves out room for betterment as indicated by the "gaps."

Focusing of Alternatives

Various proposed measures for, and insights to, the problem of court congestion and delay aired by interested parties[18] were gathered, interpreted, and grouped into an array of policy alternatives and subalternatives. This line-up of options, which was envisioned as means of attaining the two-pronged objectives of making court service capability efficient and effective, and decreasing/managing demand for cases filed are generally presented in the policy/problem matching framework for expeditious justice this being the overall goal of this analysis. (See Figure 4).

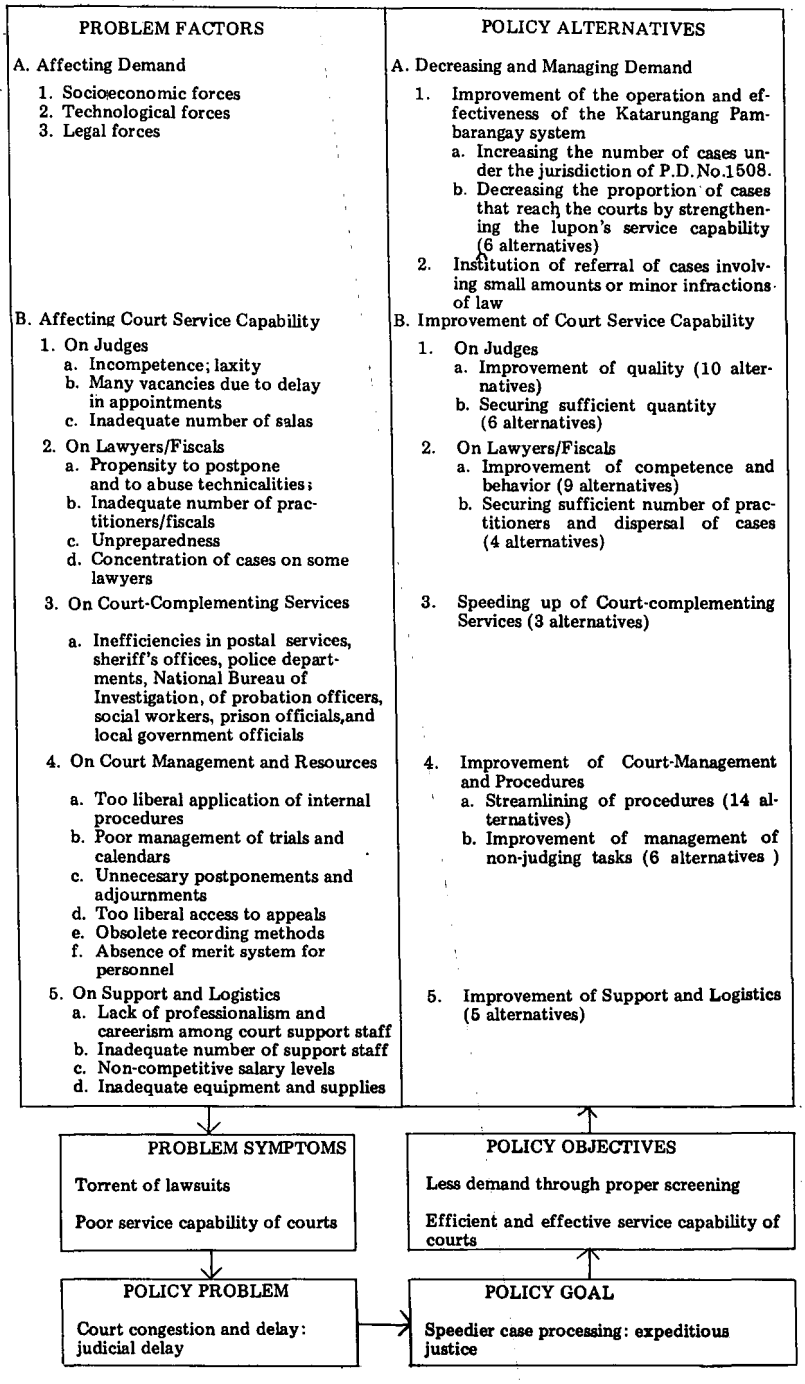
The alternatives under the service capability objective, were further classified according to five variables felt to be the factors affecting the capability of courts to speedily and judiciously process their cases: (1) *the judge*, where the alternatives were directed toward the improvement of "quality" (in terms of performance and competence) and "quantity" (in terms of increasing supply to meet the backlog of cases and establish a desirable proportion

[18]Proposals generated by ASEAN Law Association experts, our own judges and justices and other views by lawyers, columnists, policy issue initiators, and critics on the problem of court congestion/reorganization. Proposals found in American literature on Judicial Administration were also included.

Table 11. Analysis of Cabinet Bill 42 and Its Effects on the Judiciary: Capability Matrix (Italicized phrases indicate "gaps" or missing aspects)

	Objectives	Reduce Incidence of Cases	Improve Service Capability	Increase Disposition Rate
Functional Areas	Effects / Attributes	Positive Effects (Gaps)	Positive Effects (Gaps)	Positive Effects (Gaps)
Judges	number of judges competence/work ethic number of salas	*Community work to reduce incidence of violations of laws*	more salas/judges *Better trained judges (judicial academy)* *Increased effectiveness induced by merit system (reward for performance)* *Work ethic of justice*	possible higher rate of disposition induced by higher salary *Work ethics of judges* *Legal volunteers (for backlog disposition).*
Lawyers/ Fiscals	number of practitioners lawyer preparedness competence/work ethic	*Increased efforts by fiscals and lawyers to prevent cases from reaching the courts, without denying citizens redress of grievance nor protection of rights*	more salas/practitioners *Preparedness of lawyers* *Work ethic of lawyers/ fiscals*	*Work ethic and court rules to reduce propensity to postpone/ delay*
Court Procedures and Management	internal procedures management of trial/ calendar access to appeals adjournments recording methods	*Information/education program to inform people about justice and its administration*	specialization rationalization of jurisdiction no more record on appeal; uniform 15-day period for appeal *Measures to improve recording of cases* *Better calendar management*	shortened appeals procedures *Stricter appeals procedures* *Simpler rules* *Stricter application*
Administration and Administrative Support	merit system appointment of judges professionalism/career-ism salaries/allowances number/quality of staff supply/equipment	*Efficient administration of court cases, to impress upon public impartiality strictness of justice (and hopefully reduce incidence of violation of laws)*	more funds for administration *Increased efficiency induced by merit system* *Need for more/better qualified support staff* *Work ethic of administrative staff*	*Increased speed in administration of court cases induced by merit system* *Timely appointment of judges (administrative staff)*
Court-Complementing Agencies	performance of: post offices sheriff police/NBI probation officers social workers prison system local governments	*Reduction of court cases by means of alternative forums other than barangay courts* *Court-complementing agencies Efforts to reduce incidence of violation of laws*	*Measure for improving supportive efforts in handling of courts cases*	*Measures for improving supportive efforts during pre-and post-trial stages*

Figure 4. Policy/Problem Matching Framework For Expeditious Justice



of judges to the entire litigating population;) (2) *the lawyers and fiscals*, where the alternative measures were directed towards the minimization or discouragement of delay-causing "behavior" (i.e., unpreparedness, incompetence and propensity to procrastinate or abuse technicalities); (3) *the court-complementing agencies*, where the policy options could be considered as alternative strategies designed to speed-up/update their respective services to support court processes; (4) *court of management and procedures*, where all options spelled out the streamlining of existing cumbersome procedures that have mystified and annoyed litigants on one hand, and allowed lawyers to muddle the proceedings with technicalities to complicate simple situations, and the improved management of court function not directly related to, but interfacing with, the treatment of cases; and (5) *court staff and logistics*, where the options themselves served as measures for motivating court personnel (in terms of materials and professional needs); providing timely and adequate funding to attain these needs; and conducting studies on, and establishing better management system for the improvement of court staffing and procurement support systems.

Although it would have been ideal to exhaust all possible alternative solutions to the problem, and to gather enough evidences for and against each of these alternatives as "rational" policy analysts are wont to do, the major options, considered as workable/implementable under the existing policy environment and highly supported by the methodological framework, were zeroed in. These chosen alternatives therefore were, in the main, the solutions to the problem factors which were translated into hypotheses, "tested" through various forms of data gathering and analysis, and proven according to the analytical framework of this paper.

The foregoing treatment of the problem called for the construction of a matrix pointing to the postulated problem factors; the means/tools used for testing each factor; the evidences for conclusion, e.g., solution and tables; and the matching alternatives to the findings/conclusions. The process delineated the policy alternatives which were responsive to the findings from the rather indiscriminate listing of alternatives in the matching framework.

Thus, the factors affecting court service capability were delimited into three: judges, lawyers, and court procedures, while alternative measures to lessen and/or manage the demand side of the problem (torrent of lawsuits) were limited to the findings of the case study on particular Katarungang Pambarangay (and the success of P.D. No 1508). The alternatives under the barangay courts were all directed towards the improvement of the effectiveness of these mediating bodies and strengthening their position and operations. After spending much time in pursuing the possible reasons of judicial delay, testing these reasons, and establishing them as facts, the proper bases for presenting various policy alternatives which would address the specific problems are now laid out in matrix form in Table 12.

At this juncture, three points must be stressed: first, the alternatives sifted from the listing in Figure 4, plus the writers' contributions (options not found in the list and created

Table 12. Matrix of Problem Factors and Findings/Conclusions in the Preparatory Analyses

Preparatory Analyses	PROBLEM FACTORS			
	Decreasing/Managing Demand	Improving Supply By Upgrading Court Service Capability		
		Judges	Lawyers/Fiscals	Court Procedures
Hypothesis	Congestion can be solved through the amicable settlement of disputes at the barangay level, as provided for by P.D. No. 1508.	Increasing the supply of judges, as proposed in Bill 42, generally will not solve the congestion problem.	Delay/congestion may be attributed to the behavior of the "principal actor's" in the litigation process, especially lawyers/ fiscals.	Delay mostly occurs in the trial stage. Postponements largely account for the time lag in the trial period.
Means of Testing Analytical Tool	Pre-Test/Post-Test Method of the pre-experimental design. Analysis of the Ministry of Local Government and Community Development reports and survey data.	Trend analysis of cases pending, filed and disposed of to determine the disposition rate/ judge/month. Projection of future demand. Projections of cases disposed of to know the capability of courts. Sensitivity analysis for varying number of judges to project disposition capability.	Case study method Interviews	Case study method Case flow analysis using a systems model.
Findings	The Katarungang Pambarangay system was generally successful in screening out cases within P.D. No. 1508 coverage from the regular courts. Nationwide performance reports and the case study in Caloocan City showed that in 1980, only about 12% of the cases submitted to the "Lupong Tagapayapa" were forwarded to the courts/fiscal's office, about 82% were settled; and the rest pending.	Disposition rate/judge per month for the different court levels are as follows: CFI, 19 cases; CCC, 13; JDRC, 42; CAR, 13; CC, 19; and MC, 13. By 1990, there would be 560,620, cases filed and 849,130 pending cases for the entire court system. By 1990, there would be only 454,800 cases disposed of for the entire court system. For MCs the case demand cannot be meet even if all MC positions (both at present and under Bill 42) were filled. The CCs may eliminate pending cases in 1989 if all judgeships are filled, both at present and under Bill 42. The CFIs and CCCs would not be able to meet case demands even if all positions in them were filled. Should the RTCs operate fully with 704 salas, pending cases will be eliminated in 988 but would surface again in 2004. The CA does not need additional justices because even the incumbents are capable of liquidating the cases pending in the mid-80s. The Supreme Court cannot meet its case demand unless its Justices are increased to at least 19.	Frequent cause of postponement is "lawyer-cause "delay representing 72% in civil, and 56% in criminal cases. "Lawyer-caused" delay representing 72% in civil, and 56% in criminal cases. "Lawyer-caused" delay however, is both defined as lawyer's absence due to illness or presence in other courts and also the absence of litigants/ witnesses whose presence in court is the lawyer's responsibility.	The longest event in the whole litigation process is the trial event, consuming 61-93% of the total litigation period for criminal cases, and 41-95% of the total litigation process for civil cases. Trial period is characterized by numerous postponements. Minus postponements/ inactive period, total litigation process can be shortened by 15-84% for civil cases, and 23-63% for criminal cases. (These findings are true at least in the 18 case samples studied which were taken from Branch XXX, CFI, Manila.)

by the group) make up the entire alternatives presented in the following section. Second, the best analysis possible will be attempted within the limits of time, information, and work force; and third, Bill 42 — the issue that has aroused the writers' interest on the subject of court congestion and delay, and the document that holds the promise of realizing the goal of "expeditious justice" — will be referred to as context and point of reference in analyzing the alternatives.

Evaluation of Policy Alternatives

For an overall view of the selected policy alternatives that have been subjected to cost-effectiveness analysis, those options are now brought together and summarized in Table 13.

Alternatives to Decreasing And Managing Demand

With regard to decreasing and managing demand, two general alternatives are submitted. These are the full implementation of the barangay court system and the expansion of the jurisdiction of the barangay courts. These recommendations are supported by the case study presented below.

P.D. No. 1508: An Effective Measure in Decreasing and Managing Demand. The case study on implementation of the Katarungang Pambarangay system in Caloocan City shows results suggesting that this neighborhood settlement scheme under P.D. No. 1508 should be made more effective, and, perhaps, expansive in terms of greater coverage of cases. The approach in this case study was a simple before-and-after measurement (pre-test/post-test), and analysis of reported performance. The cases within the jurisdiction of the Katarungang Pambarangay were identified through the pertinent provisions of P.D. No. 1508, the decree creating barangay courts. Generally, P.D. No. 1508 type of cases are petty crimes and civil disputes involving small amounts. These are cases cognizable by city or municipal courts.

Knowing the nature of these cases and where they are found, the City Fiscal's Office and the City Court of Caloocan were asked for samples of cases they processed. The samples were requested in order to determine whether P.D. No. 1508 brought about a reduction of cases filed among those covered by it. The effectivity of the decree in decongesting the clog in the city fiscal's office and in the city court was determined by getting case samples for a 12-month period prior to the implementation of P.D. No. 1508 and samples of another 12-month period, one year after the decree was put into effect.

In the Fiscal's Office, a sample of 400 cases was taken from those filed within the period January to December 1978. Noting that the decree was implemented in 1979, another sample of 400 were gathered for the period from March 1980 to February 1981. Both samples were classified according to whether the cases would fall within P.D. No. 1508 jurisdiction or not.

In the City Court of Caloocan, only civil cases were sampled. The periods covered were also January to December 1978, and March 1980 to February 1981. For each period, 120 cases were randomly selected

Table 13. Policy Alternatives/Options, Their Effectiveness and Costs

Policy Alternatives/Options	Effectiveness	Costs
I. Decreasing and Managing Demand		
a. Full Implementation of P.D. No. 1508 in all barangays and improvement of their operations in terms of effectiveness and material support.		
This alternative may be realized through one or a combination of the following choices:		
1. Holding massive information drive on Katarungang Pambarangay (KP) to impress upon the people that most of their problems can be resolved by and amicably settled with the elders of their communities and therefore need not be brought immediately to our overloaded courts.	Develops awareness in the people of the KP to whom they will submit their grievances thereby decreasing the number of cases in the regular courts.	Mobilization of societal forces that contribute most to information dissemination. Additional burden on the media.
2. Conducting training programs for barangay captains/secretaries/lupon members especially on P.D. No. 1508 responsibilities.	Improves the competence of lupon members and their grasp of applicable rules vis-à-vis conflicting versions. Moreover, orientation on the ideal compassionate response of citizens among themselves would presumably help in the compassionate settlement of disputes.	Necessary training costs for trainors, materials, and sites.
3. Involving barangay tanods/Philippine Constabulary/Integrated National Police (PC/INP) in speeding up the service of summons/notices/subpoenas and similar orders to litigants and witnesses.	Instills necessary and sufficient compulsive idea upon the persons concerned thereby encouraging their cooperation in the lupon proceedings, at least by appearing therein.	Additional burden on these law enforcement officers.

Policy Alternatives/Options	Effectiveness	Costs
4. Coordinating with the Ministry of Labor and Employment (MOLE) for sanctions against private firms which refuse to allow their employees who are lupon members to serve therein on official time pursuant to Sec. 11, P.D. No. 1508.	Maximizes lupon operations since employers would allow their employees who are lupon members to serve on official time.	Unnecessary sacrifice might be viewed of the private business enterprise. Additional burden on the MOLE.
5. Requiring successful bar examinees to assist the MLGCD in the information drive and in training barangay captains/secretaries/lupon members, as well as in monitoring and supervising the implementation of P.D. No. 1508 in their respective provinces/municipalities/barangays as prerequisites for their oath taking; they shall be duly compensated for their services with reasonable honoraria by the MLGCD and such services shall last for six months as may be deemed necessary by the Supreme Court.	Reinforces the small manpower group of the MLGCD manning the P.D. No. 1508 supervision albeit for only part of the year. The extensive and up-to-date legal know-how to newly successful bar examinees would be of help in training the lupon members. This will provide incoming lawyers the chance to be exposed to the socioeconomic conditions of the barangays, thereby developing more social orientedness in them.	Unnecessary state of suspended animation for successful bar examinees. Additional work for incoming lawyers and honoraria expense for the MLGCD, added costs on administrative operations and certifications for such pre-oath barangay service.
6. Providing additional sources of funds for supplies and materials, honoraria, and incentive payments for lupon members from the (a) 10% barangay development fund, (b) reasonable filing fees, (c) special taxes, and (d) fund raising campaigns.	Alleviates supplies/materials problem of the lupons and provides at least some financial incentive to the lupon members for their service.	Additional expense for taxpayers, filers, and contributors. Proportionate decrease in barangay project efficiency.
b. Expansion of substantive jurisdiction of P. D. No. 1508 by including more cases susceptible to the *Lupong Tagapamayapa* treatment, e.g., inclusion of cases whose penalties exceed ₱200.	If the nationwide data that 82.9% of cases handled by the lupons were amicably settled would still hold true with the expansion of cases covered, then this will serve to increase the cases channeled away from the court system.	Training/maintenance of the barangay lupons. Additional burden on lupon members who serve on voluntary basis. Susceptibility to complaints of "second class justice."

Policy Alternatives/Options	Effectiveness	Costs
II. Improving the Service Capabilty of the Courts		
A. Judges		
a. Effective recruitment and selection of candidates with competence and integrity.		
1. Creating a nominating commission. A candidate for any court judgeship would first be nominated/screened by a Nominating Commission composed of members of the Supreme Court (SC) and the Integrated Bar of the Philippines (IBP) and institutions which may be considered to be in a better position to determine the types of people needed by the court system. From the nominated lawyers, the President may pick the appointees.	Provides greater assurance of appointing more competent judges.	Additional responsibility of the Supreme Court.
2. Electing judges. The Supreme Court may undertake the selection of the different judges that would adjudicate cases in the different courts of the country.	Relieves the President of the burden of appointing the judges thus making the judiciary less prone to political control. Expedites filling up of vacant positions in the judiciary because of the relatively lesser responsibility of the Supreme Court than the Office of the President which presently takes charge of the appointment of judges. Provides the Supreme Court with greater control over the elected judges.	Additional responsibility of the Supreme Court.

Policy Alternatives/Options	Effectiveness	Costs
3. Appointing judges done by the President. The President may still continue to appoint the judges of the different courts.	Produces a number of highly capable judges.	Great possibility of continued delay in filling up vacant positions. Continued politicking in the judiciary. Strong influence of the President in the decisions that would be made by the judges.
b. Institutionalization of the career system in the judiciary.		
1. Open career system. In adopting an open career system, lateral entry of judges is allowed. This means that any qualified person could occupy any position in a judgeship ladder without having to occupy any lower judgeship position prior to his appointment.	Encourages lawyers to join the judiciary since they have the opportunity to occupy higher positions at once without occupying lower positions first.	Demoralization of judges in the lower court level since the entry of outsiders means less chances for them to occupy higher positions.
2. Closed career system. In a closed career system entry is made laterally. No promotion is made to higher ranks unless one has formally occupied a lower judgeship position.	Provides wider latitude for promotion to the judges. They could look forward to occupying the next higher position than the ones they are presently occupying.	Limited choice for higher positions to the incumbent judges of the court system.
c. Establishment of a judicial academy. With the establishment of a judicial academy, a permanent institution is created that would undertake pre-appointment and post-appointment training.	Offers greater assurance of having more competent judges as a result of a pre-appointment and post-appointment training.	In-breeding, which means no new ideas are brought into the system, in addition to a sizeable financial outlay that would be spent in establishing a judicial academy. Possible difficulty of looking for the persons who would man the academy.
d. Creation of a commission on performance audit. The commission on performance audit which shall be composed of a team from the	Ensure that promotions are made with sound basis.	Relatively big outlay needed to create a Commission of Performance Audit.

Policy Alternatives/Options	Effectiveness	Cost
SC and the IBP would take charge of undertaking a regular assessment of the performance of all judges. Also, it would be responsible for determining the persons who are worthy of promotions. Merit increases and promotions would be based on excellent rating in performanced audit.	Encourages judges to perform well in court because of the awareness that periodic assessment of their performance is being made.	Difficulty of establishing objective measures for a judge's performance.
e. Adoption of a reporting system. The reporting system that would be adopted should monitor the efficiency and quality of a judge's work.	Simplifies the work of the Commission of Performance Audit since the reports could be made as a basis for the assessment.	Additional workload to the staff doing the paper work. Possibility of preparing voluminous reports that may not be of much use.
f. Continuous restructuring of pay scale. The continuous restructuring of pay scales would be undertaken by the Office of Compensation and Position Classification. This is to make sure that the salaries received by the judges are sufficient to provide them with a decent standard of living	Provides high morale to the court staff. Promotes judicious and fair distribution of salary.	Additional cash outlay. Alternative-action for securing sufficient quantity of judges.
g. Provisions for filling up all vacancies and newly-created positions within a fixed period. This would be true to all vacancies created by termination, resignation, promotion, transfer or death. To operationalize this alternative, a constitutional amendment of Section 4, Art. 4 of the 1973 Constitution would be needed.	Enables the courts to immediately operate for a hasty disposition of cases. Decreases the appointment of political proteges because of the relatively short period of time within which appointments could be made.	Excessive pressure on appointing authority to fill up a vacancy within a prescribed period, thereby sacrificing the possible choice of a better judge had more time been given to look for an appointee.

Policy Alternatives/Options	Effectiveness	Costs
h. Appointments.		
1. Maintaining the Chief Executive's power to appoint justices of the Supreme Court and the judges of the Inferior Courts.	Allows the President to improve his appointment decisions.	Prejudicial to a truly independent judiciary. Increased number of vacancies which are not attended to by the appointing authority. Ineffective way of controlling inferior courts.
2. Giving the power to appoint judges of inferior courts to the SC, while the members of the highest tribunal would still be appointed by the President. This alternative needs constitutional amendment.	Distributes the burden of appointment to two bodies, thereby leading to a speedier release of appointments. Gives greater chance to the Supreme Court to effectively control the appointees under their supervision.	Power of the Chief Executive over the Supreme Court.
i. Creation of a task force of interim judges to supplement regular judges.	Establishes a more independent judiciary.	
1. Establishing a "call-to-judicial-duty" system among all lawyers. This system is to operate under the same principle as the "call-to-active-duty" of military reservists.	Provides a big pool of judicial manpower. Eliminates the problem of waiting for volunteers or nominees to augment the present judicial manpower of the judiciary. Increases the volume of case disposition; thus eliminates pending cases at the shortest possible time.	Inadequate time to operationalize the system. Possible employment of unworthy judges. Additional budget to pay honoraria of the task force.
2. Eliciting volunteerism among lawyers in creating a task force of interim judges to supplement the judicial manpower of the regular judges.	Improves the chance of having dedicated members of the task force, the fact that volunteers are usually sold to the idea of "service."	Great chance of having some difficulty in soliciting volunteers. Additional expenses for honoraria of volunteers.
3. Providing the Supreme Court with a roster of lawyers in the	Broadens the scope of selection.	Resentments from the appointees, especially those occupying high and

Policy Alternatives/Options	Effectiveness	Costs
country from where it may make selective appointments. A lawyer, whether he is in public or private service may be appointed to be a member of the task force.		well-paying positions at the time of appointment. Greater possibility of appointing lawyers who would not give their best because of the forced nature of their being in their judicial job.
j. Development of studies per court level to determine the need for reduction/addition of the number of judges. This would be similar to and a refinement of the sensitivity analysis undertaken by the group.	Provides for the maximum utilization of resources since only the needed number of judges would be hired.	Additional cash outlay to finance the studies.
k. Establishment of judicial liaison representative offices in Cabinet. The judicial liaison or representative officer in the Cabinet is strategic in securing sufficient appropriations for the entire judiciary. At present, the judiciary is receiving an insignificant amount compared to the total yearly budget of the nation.	Provides greater possibility of getting a bigger yearly appropriation for the the judiciary.	No significant cost.
B. Lawyers and Fiscals		
a. Improvement of competence and behavior		
1. Making existing rules on postponement and adjournments mandatory, such that a violation of the fixed time limits will mean default or nonsuit. There should, of course, be exceptions in cases of fraud, mistake, accident, or excusable negligence.	Compels lawyers, fiscals to be assiduous and persistent in their preparations thereby eliminating the usual extensions.	Exceptional situations may arise where the mandatoriness of the postponement would work against substantial justice, as when evidence is not secured on time. Here the judge should be given discretion.

Policy Alternatives/Options	Effectiveness	Costs
2. Requiring judges to be strict in exercising discretion for postponements. Assuming the discretionary nature of the rules on postponements, judges should continue to be strict in exercising their discretion in granting postponements.	Discourages lawyers/fiscals from fabricating reasons for postponement, but rather encouraging them to do their best to appear in court and to manage their affairs so that other activities would not conflict with their court appearance.	A case of super-strictness might sacrifice substantial justice.
3. Simplifying the rules of procedure to eliminate complicated technicalities susceptible to abuse. This entails an in-depth study that would identify the technicalities that are abused and could be dispensed with in the pursuit of fairness. The simplified procedures prescribed in P.D. No. 946 are worth looking into.	Eliminates the basis for some lawyers' penchant for procrastination.	Costs for undertaking the study in terms of time, manpower, and funds.
b. Adoption of a "Certificate of Readiness" rule for trial scheduling. When lawyers are ready for trial they submit certificates of readiness to the court. Only those cases with such certificates from both parties would be scheduled for trial. These certificates are required to be submitted within a prescribed period, like one month from joinder of issues.	Prevents unnecessary postponements. Gives the court a realistic picture of its calendar, thereby substantially adding calendar control, and in effect lessens the hold of lawyers as the main factor in moving the cases through the court processes.	Added work to lawyers. But this is minor even when considered together with the costs necessary for handling administrative details.
c. Dispensation of cases of overloaded lawyers. Judges should be strict with lawyers who seek postponement due to other pending cases, to compel these lawyers to farm out their extra cases to others. This course of action is situation-specific. When the reason for postponement	Oblige lawyers with a surfeit to cases to unload some of their cases to other practitioners. As a consequence, delay/postponements arising from this cause would be minimized, if not altogether eliminated. Fairness would	Conflict in schedule as a result of poor calendaring, not of concentration of cases. Hence, the judge needs to be circumspect to avoid unfairness. Protest from practitioners since this

Policy Alternatives/Options	Effectiveness	Costs
is due to conflict of schedule or to other pending cases, this indicates a concentration of cases on the lawyer concerned which can always result to delay as the lawyer cannot effectively attend to all those cases. A corrective measure in this instance is for the judge to be uncompromising.	not be violated, because lawyers are pressumed and obliged to give the best presentation.	would mean reduction of their income. This course may negate the personal preference of clients and thus, violate the principle that the lawyer-client relationship is one of trust and confidence.
C. Court Management and Procedures		
a. Systematization of procedures		
1. Terminating concurrent jurisdiction. A Bill 42 provision on this course of action clearly delineates the jurisdiction of each court from the others to prevent overlapping jurisdiction.	Wipe away incidents relative to the determination of which court has proper jurisdiction.	Costs concomitant to changes in legal provisions. Nothing procedurally negative.
2. Providing nationwide service of processes to be issued by Metro-Trial Courts, Municipal Trial Courts, and Municipal Circuit Courts without need for certification from Regional Trial Court judges. Also provided for in Bill 42, this alternative makes all processes issued by the first level inferior courts to be automatically capable of being served anywhere in the nation.	Reduce the time drag demanded by CFI (or RTC) certification of enforceability.	None financially but process servers in other areas might have to handle additional work.
3. Adopting "certificates of readiness" rule for trial scheduling.	Same as (b) above	Same as (b) above
4. Using marathon style in the hearing of cases as what is usually	Shorten the waiting time of litigants for the case under	Other cases waiting for the chance to be heard entirely may have to

Policy Alternatives/Options	Effectiveness	Costs
done in the military tribunals, whenever applicable. Continuous hearing and presentation of evidence until both parties have submitted is the hallmark of this strategy. It presupposes that proofs are all gathered beforehand for presentation. The court should devote a stretch of days for one case alone.	consideration as compared to the month by month calendaring of cases.	wait for long stretches, whereas with the present manner of scheduling, at least they can be heard partially and continued at the next hearing. Due to the large volume of cases to be scheduled, there might be problems in the calendaring for marathon hearings.
5. Making rules on postponements/ adjournments mandatory. As a rule, any time excess in the allowable extent of postponements/adjournments would be a ground for default or nonsuit. Exceptions would be instances of fraud, mistake, accident, or excusable negligence.	Reduce the waiting time of litigants.	Inexcusable negligence of counsel or litigant may result to defeat of substantial justice.
6. Adopting the streamlined procedures embodied in P.D. No. 946. According to the late Chief Justice F. R. Castro, the P.D. No. 946 process is a working model of simplicity which allows a complaint in any form to be filed; compels a defendant to answer; disallows any motion to dismiss or appeals/special civil actions on incidental matters until the case is terminated; avoids declaration of defaults and shortens trial name by allowing affidavits/counter affidavits as evidence.	Hasten the consideration and termination of a case as the confounding incidental skirmishes are eliminated.	Substantially, justice may suffer if the extra-ordinary remedies of certiorari, etc. are not available in very serious abuse of discretion or lack of jurisdiction. Although appeal may serve as remedy later, irreparable damage may have been already committed. The only check is the unimpeachable integrity of the judges.
7. Conducting a study to establish time limit within which evidence of both parties must be submitted and offered, computed from	Allow the court to better manage and calendar the cases awaiting action because the termination date of each	Judges and lawyers might turn out to be push-button actors in the system, their desire to beat the time standards. However, if the time

Policy Alternatives/Options	Effectiveness	Costs
joinder of issues; if found practicable, these time limits should be incorporated in the rules of procedure. This is designed to set time standards of evidence presentation, beyond which the other party will already present his proof, or the case will be submitted for decision if both parties have submitted evidence.	litigation can be foreseen with the use of the time limits.	standards established are reasonable enough as proven by previous performance and extensive historical data showing that the limits had most of the time been met before, the push-button fear would not be well-founded.
8. Establishing 15-day uniform period for appeal. This is provided for in Bill 42. All appeals must be made within 15 days from receipt of the notice of judgement by the appellant. This holds true for all courts.	Eliminate the lapses on the proper appeal period sometimes committed by lawyers resulting in their client's prejudice. Besides, the very reduction to 15 days of the usual 30-day period for appeal from CFIs and similar courts already reduces the litigant's waiting time.	Not significant.
9. Eliminating record on appeal by having original records of the case transmitted to the appellate court. Also as provided for in Bill 42, this course of action would have only the original records of the case transmitted to the Appellate Courts, instead of the appellant going through the process of preparing his record on appeal, having it approved and printed.	Eliminate delay concomitant to the preparation and processing of the record on appeal. Reduce cost of preparation of the record.	The plethora of records to review may take up some of the time of the Appellate Courts. This negative aspect however, can be remedied somehow by the lawyers' act of pointing out in their briefs that part of the record they believe is crucial.
10. Securing greater use of pre-trial conference and pre-trial discovery procedures. Pre-trial conference could be potent for settlement purposes and for narrowing	Control backlog through settlement-oriented conferences. U.S. studies reveal that effectiveness of pre-trial conferences is in proportion	Delay may instead result by extending time to allow settlement or compromise. Litigants may be prejudiced because

Policy Alternatives/Options	Effectiveness	Costs
issues. Pre-trial discovery procedures, by ferreting out what the other side intends to present, could shorten presentation through the elimination of unnecessary proof. Aside from being mandatorily prescribed, the judges should be enjoined to strictly require availment of these avenues of settlement/simplification by lawyers practicing before them.	to the time between conference and trial; i.e., the shorter the time interval, the more productive the conference. Eliminate surprise as may be brought about by effective pre-trial discovery.	settlement often ignores the issue of liability, by-passing ancient fault concepts. Where settlements are strongly encouraged, litigants may be forced to yield. High pressure salesmanship at the pre-trial conference, with the judge's direct involvement as arbitrator or conciliator in the attempt to reach an agreeable formula for settlement may be detrimental to the image of aloofness and impartiality required for the respect of the system. Involves more time through discovery procedures.
11. Adopting a one-appeal rule. This alternative limits the appeal chance to only one. On questions of fact, and of fact and law, the inferior courts could be the resort. On questions of law, the case must be elevated to the Supreme Court. The decisions of the Appellate Courts would be considered final, except when there are pure questions of law that may arise in their judgments, in which case, there could be one last resort to the Supreme Court.	Reduce litigant's waiting time proportionately to the period eliminated from supposed further appeals.	Feelings of dissatisfaction may be generated with the thought that decisions of inferior Appellate Courts become final without the chance of being corrected by the Supreme Court. Alternative to improve management of non-judging tasks and incoming cases.
2. Appointing competent court administrators for each RTC. With non-judging tasks away from the magistrate's concerns, more time could be devoted to adjudication, thereby hastening case processing.	Relieve the judges from the concerns on personnel administration/supervision, supply procurement and management, facilities maintenance, work area betterment. Together with the various clerks	Additional outlay for salaries/wages. Skills in management/administration and at least some knowledge of legal proceedings without necessarily being a lawyer is required. Of course a lawyer with higher training in

Policy Alternatives/Options	Effectiveness	Costs
	of court in the different branches, the region court administrators could construct a master calendar/ schedule chart and plan out management strategies for recording, information gathering, and generally for the betterment of court proceedings.	judicial administration/management would be preferred. These are scarce types of manpower for which the court system might have difficulty holding against the competition of private business. Because of their training and orientation as soloists, judges and lawyers may resist management of their activities by another officer.
b. Establishment of MIS for the entire systems with head unit at SC and sub-units at Regional capitals.		
1. Using MIS specialists. A management information system can be established for the court system with the employment of MIS specialists. These specialists would study, determine, gather, and analyze data that are of importance to management decisions particularly those involved in the smoother and speedier flow of cases through the court system.	Assist the Supreme Court in making strategic decisions for court reform, more specifically in the area of expeditiousness; systematic data would go a long way in ordering schedules of cases and tracing case movement.	Additional expenses for salaries and administrative details. Difficulty in securing MIS specialists especially in view of keen manpower competition here and abroad. Added cost of training.
2. Using computers for systematic information storage and retrieval.	Same as 1 above	Huge outlay for computer procurement and technician salaries.
c. Installation of tape recorders, dictaphones, videotapes. Tape recorders and dictaphones preserve sounds/voices without need for the slow stenography and the	Reduce paperwork. Eliminate conflicts of calendar. Save witnesses' time because they would have to testify	Huge initial costs for equipment procurement. But U.S. studies show that long-run maintenance is less costly as compared to stenographers and stenotypists.

Policy Alternatives/Options	Effectiveness	Costs
paper work. Videotapes tape not only voices but also physical expressions and demeanor in testimony.	only once with their testimony preserved in tape. Reduce paperwork.	
d. Classification of cases that do not write jurisprudence; subject them to referrals.		
1. Subjecting to compulsory arbitration all civil cases up to ₱10,000 before being allowed to get into the court system. There is a need to adopt an arbitration system by rules of court. Arbitrations are selected from a list of attorneys who volunteer to serve in panels of three for a nominal fee per case. These panels normally hear cases within a short time after referral, and decision must be rendered within 20 days after hearing.	Relieve the courts some of their load especially if the arbitration would have a high proportion of success. U.S. studies show this sytem to be very effective as means for a more rapid disposition of minor claims.	Litigants may feel deprived of judicial services especially because arbitrated settlement usually overlooks fault and liability. Added costs for maintaining arbitrators and related administrative activities. Additional burden to attorney-arbitrators.
2. Establishing small claims courts for civil cases up to ₱5,000. Courts specializing in small claims up to ₱5,000 would be made to operate in cities and metropolitan areas.	Eliminate the kinds of cases that turn the regular courts into collection agencies, as well as reduce its load.	Expenses for small claims of judge and staff and facilities. Exclusion of important legal questions involving only small value in the evolution of jurisprudence due to screening factor effected by the small claims court.
3. Adopting an auditor system. Under an authorizing statute, the Supreme Court may refer any case to an auditor without the consent of the parties. Auditors are the attorneys, recommended by local bar chapters and select-	Save judicial time because after all some cases hardly reach trial. U.S. study revealed that the auditor system was effective on minor cases that usually do not reach trial. Perhaps, if applied to not so minor cases it could	Substantial burdens for attorneys who must serve as auditors with little remuneration. Litigants may react negatively to this as "second class justice" like the other referral measures.

Policy Alternatives/Options	Effectiveness	Costs
ed by the court, who may spend only part of their working time hearing and disposing referral cases. The remainder of an auditor's time may be spent in the practice of law. Auditors render decisions which are binding only upon consent of parties. By refusing to consent, the parties retain the right to appeal to trial at which the auditor's findings will be accorded weight as prima facie evidence.	be more effective in screening of incoming cases.	
4. Establishing quasi-judicial administrative bodies. Some cases could also be assigned for hearing to administrative bodies, as part of the exhaustion of administrative-remedies-rule. Thus, if the National Housing Authority handles cases relative to housing, such cases as traffic violations might also be given to agencies like the Bureau of Land Transportation or special traffic bodies like that of the Metro Manila Commission.	Help in increasing the screening-off process. Particularly effective for those cases that do not involve complex matters.	Susceptible to charge of "second class justice."

Table 14. Samples of Criminal Cases Filed With The Caloocan City Fiscal's Office, and of Civil Cases Filed With The City Court of Caloocan (1978; March 1980-February 1981)

	(Fiscal's Office) Criminal Cases		(City Court) Civil Cases	
	Number	%	Number	%
Sample for January to December 1978				
covered by P.D. No. 1508	153	38.25	73	62.00
not covered by P.D. No. 1508	247	61.75	47	39.00
Total	400	100.00	120	100.00
Sample for March 1980 to February 1981				
covered by P.D. No. 1508	55	13.75	87	72.50
not covered by P.D. No. 1508	345	86.25	33	27.50
Total	400	100.00	120	100.00

from the total of those filed. The results are presented in Table 14.

These figures suggest that the implementation of P.D. No. 1508 probably helped reduced the number of criminal complaints reaching the City Fiscal's Office. Before the "Lupong Tagapayapa" in the barangays were created, P.D. No. 1508-type cases accounted for 38.25 percent of the fiscal's caseload. After the implementation of the Katarungang Pambarangay, those kinds of cases composed only 13.75 percent of the fiscal's work. Assuming other things remain constant, it would be reasonable to give P.D. No. 1508 credit for the decreased proportion of the cases covered by the decree.

The above data also show that the proportion of P.D. No. 1508-type of civil cases filed with the City Court of Caloocan grew from the pre-implementation proportion of 61 percent to the post-implementation proportion of 72.5 percent. Apparently, P.D. No. 1508 did not have any effect on these civil cases.

However, the growth in share of this class of civil cases in the overall civil caseload of the City Court could be explained by the rise in ejectment cases involving apartment rentals. City Court officials revealed that the Presidential Decrees and Batas Pambansa which prohibited increased in rentals spawned court suits considering that landlords wanted to raise rents due to taxes and cost of living. Other data showed that among 73 civil cases falling under the jurisdiction of the Lupong Tagapayapa, 71 or 97% were ejectment cases, and that only about 57% of the ejectment cases were settled and the rest were certified to the courts.

It appears therefore that external factors like rental disputes affected the impact of the Katarungang Pambarangay system on the number of civil cases filed in the City Court of Caloocan. But generally, P.D. No. 1508 tends to positively induce reduction of civil cases filed before the City Court of Caloocan. This is indicated by the performance of the five ba-

rangays which submitted reports on the implementation of P.D. No. 1508.

A random sample of 90 disputes were taken from among cases attended to by the five reporting barangays. Seventy-three (73) of them, or 81.66%, were criminal cases, while only 17 or 18.34% were civil. Of these civil cases, 11 or 64.7% were settled before the lupons, and only 6, or 35.38%, were forwarded to the city court. Although this number of civil cases is relatively small, it can be readily seen that about two-thirds of them were settled in the barangay courts.

The lupons of the five reporting barangays in Caloocan City had a high overall rate of settlement performance. For 1980, these barangays handled a total of 567 cases, among which 463 or 81.66% were criminal and 104 or 18.34% were civil cases. On the whole, the barangays were able to settle 472 or 83.24% of the 567. Only 68 or 11.97% were forwarded either to the City Fiscal's Office of the City Court, and only 27 or 4.76% remained pending. This compares well with the national performance rate of the barangay lupons, which, as already stated, have 82.97% settle disputes, 12.02% forwarded to the courts, and 5.01% pending.

The barangay courts, therefore, have been proven to be effective in decreasing demand for judicial services that creation of such courts in all barangays becomes imperative. Foreseen *cost* will be in terms of increased administrative costs for the MLGCD which spearheads the implementation of P.D. No. 1508. The target benefit from this policy alternative is the reduction in the casehold of City Fiscal by at least 24.5%.

Full implementation of P.D. No. 1508 may be reinforced by a massive information drive to arouse the people's awareness that certain problems can be amicably settled before the lupon. To alleviate the lack of supervisory manpower in the MLGCD and to help in the basic legal training of lupon members, successful bar examinees may be required to render barangay service as a pre-requisite for oath-taking. The active participation of members of the community in the lupom calls for a continuing training program to improve the lupon members' competence in applying legal rules and regulations objectively.

With the consent and cooperation of the Ministry of Labor and Employment, employers may be persuaded to allow employees who are lupon members to serve on official time. Primary law enforcement personnel in the barangay (like the tanods, PC/INP) may be tapped to speed up the service of orders to litigants and witnesses. This would help compel the persons concerned to cooperate with the lupon proceedings. To defray additional expenses for supplies and materials and intended incentive payments, a percentage of the barangay development fund could be alloted; minimal filing fees and special taxes could be levied; and traditional fund raising campaigns may be resorted to.

Expansion of P.D. No. 1508 coverage calls for a course of action which is endorsed on the premise that if barangay courts can amicably settle cases with penalties below ₱200.00 or 30 days imprisonment, there is *promise* in expanding their jurisdiction to equally minor cases (e.g., cases with imprisonment up to those

punishable with *arresto mayor)*, and to include cases where one party resides in an adjacent municipality or city.

Alternatives To Improve Court Service Capability

Regarding courses of action to improve the service capability of courts, alternatives designed to affect only three of the five identified factors/variables in the system are presented. These three factors are: (a) judges, (b) lawyers/fiscals, and (c) court management and procedure.

Policy proposals for judges were classified into two, namely: alternatives for improving quality and alternatives for securing sufficient quantity. Options designed *to improve quality* include assuring effective recruitment and selection and careerizing the judiciary and establishing a Judicial Academy; these options also offer creation of a commission to audit judges' performance, coupled with a reporting system to monitor efficiency and quality of judges' work. In addition, continual restructuring of pay scales and use of peer pressure are likewise proposed.

To secure enough judges, vacancies should be filled by the appointing authority within a fixed period. This proposal sprang from the finding that legislated positions of judges have never been really filled up through the past years. If regular judges are not enough, irregular or interim judges are proposed through the task force alternative. In order to determine the need to add or reduce judges from time to time, studies for that purpose are recommended. Another study is proposed to ascertain the desirable proportion of judges to population which would serve as basis for determining number of judges. And, to assure financial sufficiency especially in budget decisions, a judicial liaison to the cabinet is also suggested.

Results of the study of sample cases from Branch XXX of the Manila Court of First Instance point to lawyers as the primary source of reason for postponements. Although existing rules indicate limits in processing of cases and in allowing postponements, those rules merely contain discretionary provisions. If compliance with such provisions will be mandatory such that a violation will *mean* default, lawyers and fiscals may be made more *assiduous* in their preparations thereby eliminating the usual 'extensions of time. The only cost of adversity that this alternative may entail is during instances where the *mandatoriness* of the postponement would work against substantial justice, as when evidence could not be secured on time. On occasions like these, consideration on a case-to-case basis is called for.

Allowing the control for postponements to be exercised by judges is another alternative. Encouraging judges to be strict in exercising discretion for postponements would discourage lawyers and fiscals from thinking up of reasons for postponement making them appear prepared before the court and so manage their affairs that other activities would not conflict with court appearances.

Conflicting schedules may indicate a concentration of cases on the lawyer concerned. Thus, the lawyer must be encouraged to unload some of his cases to prevent further delay of justice. A corrective measure may be

applied by the judge, by being uncompromising at instances where postponement is due to a conflict of schedules; or the Supreme Court could promulgate rules on the maximum number of simultaneous cases handled per lawyer.

On the other hand, an innovation may be instituted by adopting the "certificate of readiness" rule. Only cases where lawyers have submitted certificates of readiness from both parties would be scheduled for trial. Certificates should be submitted within a prescribed period, say, one month from the joinder of issues. This rule would also give the court a realistic picture of its calendar, substantially allowing calendar control and minimizing the influence of lawyers as the main factor in moving the case through the court processess.

Under the factor of court management and procedure, the alternatives were also presented in two categories, which in this case, are the proposals to streamline procedure and the options to improve the management of non-judging tasks and of incoming cases.

For the streamlining of procedures, eleven alternatives were submitted. Of these 11, four were contained in Bill 42, namely: elimination of concurrent jurisdiction, nationwide service of processess issued by inferior courts without need of approval by an RTC judge, 15-day uniform period of appeal, and the elimination of the record on appeal. The other proposals include the readiness rule, marathon trials, mandatory rules on postponements/adjournments, a one-appeal rule, and greater resort to pre-trial conferences and pre-trial discovery procedures. The very simplified procedures for agrarian cases as embodied in P.D. No. 946 were also proposed to be adopted for the regular courts, even as it was suggested that a study be undertaken to establish time limits for the presentation of evidence.

For the improvement of the management of non-judging tasks and incoming cases, only four alternatives were generated. These covered not just appointment of court administrators in the regions and establishment of a management information system (MIS), but also the use of tape recorders and similar electronic equipment for recording of proceedings. Finally, it was proposed that cases that do not write jurisprudence be sifted from the caseload of courts and be subjected to referral procedures.

Imperatives Beyond The Alternatives

The assessment has bared the pros and cons of each alternative. The decision-makers must now choose, according to their system of preferences, the alternatives that tend to realize the objective of speedy justice without unfairness and with the costs realistically considered.

The long list in the indiscriminate but still incomplete enumeration of alternatives substantiates the view of Justice Arthur Venderbilt that "court reform is no sport for the short-winded."[19] Nonetheless, court reform must be pursued or the demands of change and development might overtake the courts' ponderous movements. Choice alone among alterna-

[19]Quoted by Larry Berksen, "Implementing Judicial Reform: Problems and Solutions," *National Civic Review*, Vol. 68, No. 5 (May 1979), p. 250.

tives is only part of the policy process. Other needs also require close attention.

For one, there is the demand for continuing self-examination. Systematic self-examination is an organization's key to developing a map of its problems and alternative approaches to solving them. Institutional mechanisms are needed for developing data on such matters, like causes of delay, how judge's time is spent, kinds of cases docketed, trends in litigation, forecasting variables, methods of transferring successfully proven technology from one court to another, and even, computer-based management information systems.[20]

It must also be noted that little is known about the process of implementing court reform. This paper has only gone as far as presenting possible courses of action.

Since judicial reforms, starting with those provided for in Bill 42, must be implemented, it would be enlightening to know more about certain problems in the area of implementation. The American Judicature Society conducted a national study of court unification, which focused on the implementation stage of court reform. They found four general problems hampering implementation. These are: (1) lack of sufficient and reliable information about the judicial system; (2) lack of cooperation from members of the executive and legislative branches of government, as well as from lower court personnel; (3) lack of adequate lead time in which to plan for implementation; and (4) lack of funds.[21]

[20] David J. Gould, *op. cit.*

[21] Narrated in Larry Berksen, *op. cit.*, pp. 248-249.

Our dabbling with the problem gave us reason to believe that the same implementation defects are present in the Philippine court system. And so we ask: are there measures designed to correct these, and rectify the adverse situation of the system?

According to the American Judicature Society in the study, to overcome all these problems a comprehensive state court study must be undertaken. This research would provide information on the court system's history, its current status, and its future requirements. With adequate information, implementation would be facilitated. They suggested that the study commission should be established early and that it should be composed of representatives from the judiciary, the executive, the legislative, the press, and the public. And it might be added, the legal academe.

Why is such a study not undertaken in the Philippines? If it has been thought out, what bars its pursuit?

In addition, certain ways of determining the effectiveness of a judicial system should be considered. After all, one of our ultimate interests as a people is to have an effective judicial system.

In this regard, the use of "vital functions" as criteria for determining effectiveness has been suggested by Gould. Here, the question asked is whether the functions are attained. Those vital functions serving as yardsticks for courts' effectiveness, in Gould's viewpoint, are the following:

(1) Leadership. One that is perceptive, painstaking, and ef-

fective for attaining planned changes.

(2) Doctrinal planning. Here, the statement (formulation) of institutional goals and innovation/managerial capacity are all keyed to the societal context.

(3) Action program development. This requires policy-oriented program of action consistent with resources, capability, and goals. Of course, it needs research and development.

(4) Resources mobilization. With this function, resources must be surveyed, developed, and mobilized. The resources include information, staff, and budget. This needs effective management, research, personnel training, and financial administration.

(5) Organization and governance. This must have continued improvement.

(6) Institutional coordination. Here, the courts must be able to coordinate external relations, especially with resource sources (executive/legislative authorities, research centers, professionals); with functional counterparts, competitors, or rivals; with organizations having overlap of interests like the legislature; and with other influential bodies like public opinion leaders.[22]

The question, therefore, of our judicial system effectively performing these vital functions must be raised at this point.

Furthermore, even though this paper's focus is the time factor of delay, it would be instructive to consider the interrelated aspects of overall judicial improvement. Relevantly, six standards/criteria for evaluating the operation of a judicial system to test suggestions/alternatives for improvement have been proposed by Joiner. He formulated these standards by way of questions, which are:

(1) Is the system producing fair results for its users, the litigants? Is it producing justice?

(2) Is the system reasonably convenient to those who have problems (litigants); and to those who help those who have problems (lawyers); and to those who have information needed to make the system work (witnesses)?

(3) Is the system reasonably efficient in its operation and does it perform at a reasonable cost?

(4) Do observers of the system have confidence in it and believe that fairness and justice will result?

(5) Does the system work rapidly enough to provide those involved with some measure of satisfaction related in time to the cause of litigation?

(6) Does the system limit the trauma caused to the establishment that is charged by the public with providing a government of peace and order?[23]

Finally, going back to the considerations for the choice of alternatives,

[22]David J. Gould, *op. cit.*, p. 152.

[23]Charles W. Joiner, "Fog in the Court and at the Bar: Archaic Procedures, and a Breakdown of Justice," Readings for the International Conference of Appellate Magistrates, Manila, January 1977, Vol. III, p. 465.

the crystal-clear goals enunciated by the late Chief Justice Fred Ruiz Castro must not be forgotten. They are:

(1) Sufficient number of competent and dedicated judges.
(2) Efficient management of court business.
(3) Simple, inexpensive, and effective procedural rules.
(4) New arrangements that will restore prudence in resort to the courts of law.[24]

[24]Fred Ruiz Castro, "Let Us Today Build The Bridges of Tomorrow," Address to the Integrated Bar of the Philippines during the celebration of IBP Day, Manila, March 17, 1978.

It is hoped that Justice Castro's aims, together with Joiner's operational standards and Gould's vital functions criteria, will be in the minds of the Philippine decision-makers when they make their critical choices. It is also hoped that the imperative of a continuing institutional self-examination with its concomitant data needs, and the demand for a comprehensive court study, will soon be appropriately responded to. With these hopes realized and with the effective implementation of policy decisions, the day when the administration of justice in the Philippines will be marked with expeditiousness could not be far behind.