
OPERATIONS MANUAL

**FOR THE IMPLEMENTATION OF ALTERNATIVE DISPUTE RESOLUTION
IN THE FIRST AND SECOND LEVEL COURTS OF THE
PHILIPPINE JUDICIAL SYSTEM**

PREPARED BY:

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WITH THE ASSISTANCE OF THE CANADIAN INTERNATIONAL DEVELOPMENT AGENCY

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FOREWORD

The production of the Operations Manual for ADR Implementation in the 1st / 2nd Level Courts is a timely development that synthesizes the experience in court-annexed mediation pilot tested in Philippine Courts since 2001. The experience in the establishment of 24 Philippine Mediation Center (PMC) units all over the country, showed positive signs of realizing a reliable, efficient and low cost solution that contribute to the decongestion of court dockets and ensure speedy access to justice.

The continuing effort to solve the serious problem of court docket congestion involves several approaches – (1) the *direct approach* which focuses on improving judicial efficiency in the disposal rate of cases; (2) the *indirect approach* which restricts initial access to judicial recourse through a procedural bar of certain cases that should first be conciliated or mediated, (exemplified by the *Katarungang Pambarangay Law*); and (3) the *court diversion of pending cases for mediation*.

The third approach was first tested by a **Pilot Project on Court Referral for Mediation** undertaken in September, 1991 by Professor Alfredo F. Tadiar, then Director of the U.P. Office of Legal Aid. Its stated objective was to determine the “*practicability of using alternative means of settling pending court cases*”. The participating courts were the First Level and Regional Trial Courts of Quezon City and San Fernando, La Union. The project was approved by Chief Justice Marcelo Fernan and was undertaken with funding provided by United States Agency for International Development (USAID) through The Asia Foundation. The success of the project prompted the recommendations made in its 1993 report entitled “**COURT-REFERRED MEDIATION – An Experiment in Alternative Dispute Resolution**” for the institutionalization of court diversion through proposed amendment in the Rules of Court.

In 1999, further court diversion in Mandaluyong and Valenzuela were conducted by the Philippine Judicial Academy (PHILJA) under Chancellor Ameurfina Melencio-Herrera with the training of mediators from those two sites in Subic as part of the judicial reform programs of Chief Justice Hilario G. Davide. The sites eventually expanded to all of Metro Manila, Metro Cebu and Metro Davao where Court-Annexed Mediation is now firmly in place.

The JURIS Project carries court-annexed mediation one step further by having the pre-trial judge undertake a second attempt to settle the dispute when the first mediation fails. At this stage, he/she performs the sequential roles of conciliator, neutral evaluator, and mediator.

The evolution of institutionalizing alternative dispute resolution systems was based on the Supreme Court’s Administrative Memorandum No. 01-10-5 issued on October 16, 2001 establishing the Philippine Mediation Center (PMC) and designating the Philippine Judicial Academy (PHILJA) as the component unit on court-annexed mediation and ADR mechanisms. ADR is one of the objectives of the Action Program for Judicial Reforms (APJR) which the Justice Reform Initiative Support (JURIS) Project aims to enhance through judicial dispute resolution.

The JURIS project reiterates the goals of strengthening and promoting a more effective use of ADR mechanisms, improving access to justice and supporting advocacy for reform. It is a five-year bilateral project funded by the Canadian International Development Agency (CIDA) which commenced in 2003. The JURIS project is divided into four components: (1) Judicial Education and Mediation/ADR Strengthening, (2) Reform Advocacy, (3) Technical Studies and (4) Project Management.

The JURIS project hopes to establish 14 Model Courts nationwide equipped with its own structures, systems and organization. The efficient implementation of ADR in Model Courts requires an operations manual to guide its users and practitioners. The manual is designed to explain the ADR procedures arranged in easy-to-refer topical form and brief explanations, with corresponding process flow diagrams for quick visual reference.

To ensure the completeness and the comprehensiveness of the Operations Manual, certain individuals and institutions were involved in various stages. Atty. Hector Soliman of National Judicial Institute (NJI), JURIS Field Project Director in tandem with Atty. Andrew Michael Ong as PHILJA Project Administrator was principally responsible for the design and outline of the manual. Technical assistance was provided by Judge Lucia V. Isnani, Mr. Francisco Pabilla and Dr. Michael James Oliver of Philippine Mediation Foundation, Inc. (PMFI) and Ms. Ma. Regina Ilusorio. Together, this team drafted the manual and revised it based on the initial and final reviews.

The initial review was conducted by the Operations Manual Review Committee led by Deputy Court Administrator Bernardo T. Ponferrada, Dean Reynaldo Suarez and Chairman Alfredo Tadiar. The revised draft was then presented to the ADR Model Courts Design and Management Committee, with Judges Pepito Gellada, Adelaida Ala-Medina, Lorna Demonteverde, Divina Luz Aquino-Simbulan, and Attys. Ildefonso Villanueva, Merideth Malig, Gilfredo Geolingo and Orlando Pangilinan as resource persons.

This manual is intended to serve as a key reference initially for the two model ADR sites in Pampanga and in Bacolod. The applicability of the manual is envisaged to go beyond these two sites to other areas where court-related ADR is already being implemented or will be introduced in the future.

Hopefully, this manual will contribute to reinforcing the deep rooted Filipino values to uphold peace, brotherhood and harmony in one's family and community. This progressive shift in our judicial culture demonstrates our tenacity to work towards a meaningful reform that serves as a foundation of our country's prosperity and integrity as a people.

The Design and Management Committee
August 2004