

PHILIPPINE COMPLIANCE WITH THE UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) ON CRIMINALIZATION AND LAW ENFORCEMENT

*Samina S. Macabando-Usman, LL.M**

*The worst disease in the world today is
corruption. And there is a cure: transparency.
– Bono*

Corruption is not novel in this time. In fact, many great empires and superpower governments have fallen because of corruption in their ranks. Corruption is akin to cancer that is slowly creeping into the government's system, stage by stage. When it reaches a certain stage, everything will crumble, including the good men and women in public service as well as the institutions these men and women built. Most importantly, the general public whom the government serves, will suffer the most. That is how deadly corruption is to our governments. Corruption does not only destroy government, it disrespects and delegitimizes legal institutions like democracy and rule of law, which men of law have been consciously protecting.

As a state, the Philippines is not immune from the disease of corruption. It has, indeed, a history of corruption cases and has taken various courses of action to fight the same. It is continuously fighting corruption. Perhaps, the United Nations Convention against Corruption (UNCAC) is the antidote to the sick governments of our time. Governments should assess themselves and allow transparency in order to diagnose corruption. As it is not immune, the Philippines has taken a step further in fighting corruption by signing the UNCAC. Therefore, it must comply with the UNCAC.

For the purpose of this paper, I will discuss the Philippines and its compliance with UNCAC. To do this, I will first deal with the Philippine history of corruption and legal system. To have a perspective of its standing within the framework of UNCAC, there will be a discussion on the First Review Cycle, its results, and how the Philippine Government has progressed with its UNCAC compliance since then. During the discourse, this paper shall identify the challenges and best practices of the Philippine Government in combating corruption.

It should be emphasized, however, that this paper focuses on UNCAC's Chapter on Criminalization and Law Enforcement.

I. PHILIPPINE LEGAL SYSTEM

The legal system in the Philippines has features both from civil and common law. The Philippine public law is substantially patterned after common law doctrines, while its private law follows the civil tradition of Spain. Public law, notably, constitutional law, administrative law and the law of public offices, is based on American law. Private law refers to laws on persons and family relations, obligations and contracts, and succession, which is patterned after

* Assistant State Prosecutor, National Prosecution Service, Department of Justice, Philippines.

the Civil Code of Spain.¹

The present 1987 Constitution is the fourth constitution of the Philippines after proclaiming its independence in 1898. As enshrined in its 1987 Constitution, it is a democratic and republican State.² It stresses that sovereignty resides in the people and all government authority emanates from them.³ Governmental powers are distributed to the three branches: Legislative Department, Executive Department and Judicial Department.

The Legislative Department, which holds the legislative power, is a bicameral body called the Congress of the Philippines, which consists of the Senate (as the upper house) and the House of the Representatives (as the lower house).⁴ The Legislative Department has the power to make, frame and enact laws. Modification and repeal of said laws is also necessarily included in the legislative power, while the President of the Philippines, who heads the Executive Department, on the other hand, holds the executive power.⁵ As such, the President is in charge of implementing and enforcing the laws enacted by the Legislative Department. Lastly, the judicial power is vested with the Judiciary, which is composed of the Supreme Court and in such lower courts as may be established by law. Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.⁶

Transparency and anti-corruption provisions are enshrined in the 1987 Constitution. As part of its state policies, the Philippines adheres “to maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption”⁷ and “to adopt and implement a policy of full public disclosure of all its transactions involving public interest.”⁸ An article, composed of eighteen (18) sections, is also dedicated for the “accountability of public officers” to address, among others, corruption in the government.

In the context of criminalization and law enforcement, the Office of the Ombudsman, Office of the Special Prosecutor, Department of Justice, Supreme Court, Philippine National Police, Anti-Money Laundering Council and Civil Service Commission are the government instrumentalities concerned with anti-corruption. The Sandiganbayan, a specialized court, under the Supreme Court is also an instrumentality against corruption.

As mentioned, the Philippines has its fair share of corruption cases. Historical accounts show that the Philippine Government was plagued with corruption as early as the administration of President Ferdinand Marcos and, unfortunately, up to this date. By statistics, the Philippines ranked 101 of the 176 States in the 2016 Corruption Perceptions Index⁹ of

¹UNCAC Country Review Report of the Philippines, Item No. 75, Page 15.

² 1987 Constitution, Article II, Section 1.

³ Ibid.

⁴Id., Article VI, Section 1.

⁵ Id., Article VII, Section 1.

⁶ Id., Article VIII, Section 1.

⁷ Id., Article II, Section 27.

⁸ Id., Section 28.

⁹ The CPI scores and ranks countries/territories based on how corrupt a country’s public sector is perceived to be. It is a composite index, a combination of surveys and assessments of corruption, collected by a variety of reputable institutions. The CPI is the most widely used indicator of corruption worldwide, viewed from https://www.transparency.org/news/feature/corruption_perceptions_index_2016 on 10 September 2017.

Transparency International.¹⁰ With an average score¹¹ of 35.6¹² (from years 2012 to 2016), such score still falls short of the global average score of 43. Many corruption cases in the Philippines hit the international media due to their magnitude and impact. These cases include: (1) the Government Service Insurance System—the MERALCO bribery case of 2008; (2) the Philippine National Broadband Network controversy involving allegations of corruption in the awarding of a US\$329 million construction contract to Chinese telecommunications firm ZTE for the proposed government-managed National Broadband Network (NBN) in 2008; (3) the Euro Generals Scandal involving former PNP General Eliseo de la Paz and several Philippine National Police officials who went to Russia in October 2008 to attend the Interpol conference and were detained for carrying a large sum of undeclared money; (4) the Priority Development Assistance Fund (PDAF) scam¹³ in 2013 involving businesswoman Janet Lim-Napoles and other several politicians from both houses of Congress; and (5) the Bangladesh Bank Cyberheist¹⁴ in 2016 where US\$101 million was stolen from the Bangladesh Central Bank, US\$81 million was traced to the Philippines. But this does not mean that the government merely sat and watched as its system crumbles. Various anti-corruption measures and/or courses of action were adopted particularly in the sphere of criminalization and law enforcement. Among these measures was the Philippines' ratification of UNCAC in 2006.

II. PHILIPPINES AS A UNCAC STATE SIGNATORY

UNCAC is the only legally binding universal anti-corruption instrument,¹⁵ and its far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem.¹⁶ UNCAC covers five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. UNCAC covers many different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector. A highlight of UNCAC is the inclusion of a specific chapter on asset recovery, aimed at returning assets to their rightful owners, including countries from which they had been taken illicitly.¹⁷ UNCAC was adopted by the General Assembly of the UN on 31 October 2003 at the UN Headquarters in New York and was open for signature from 9 to 11 December 2003 in Merida, Mexico, and thereafter at the UN Headquarters until 9 December 2005.¹⁸ It entered into force on 14 December 2004 with 140 Signatories and now has 183 State Parties.¹⁹

In sum, UNCAC provides for four (4) main Chapters, to wit:

¹⁰ www.transparency.org

¹¹ A country/territory's score indicates the perceived level of public sector corruption on a scale of 0-100, where 0 means that a country is perceived as highly corrupt and a 100 means that a country is perceived as very clean. A country's rank indicates its position relative to the other countries/territories included in the index. Ranks can change merely if the number of countries included in the index changes.

¹² The writer averaged the sum of global score of Philippines from 2012 to 2016.

¹³ Presented by Atty. Rowena Del Rosario-Vidad of the Office of the Ombudsman (Philippines) during the 9th Regional Seminar on Good Governance for the Southeast Asian Countries.

¹⁴ Presented by Director Dennis Garcia of the Office of the Ombudsman (Philippines) during the 10th Regional Seminar on Good Governance for the Southeast Asian Countries.

¹⁵ <http://www.unodc.org/unodc/en/corruption/index.html>

¹⁶ *Ibid.*

¹⁷ As defined in the United Nations Office on Drugs and Crime website (<https://www.unodc.org/unodc/en/treaties/CAC/>) on 10 September 2017.

¹⁸ <https://www.unodc.org/unodc/en/corruption/ratification-status.html>, viewed on 11 October 2017.

¹⁹ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-14&chapter=18&clang=en, viewed on 11 October 2017.

1. Chapter II on Preventive Measures;
2. Chapter III on Criminalization and Law Enforcement;
3. Chapter IV on International Cooperation; and
4. Chapter V on Asset Recovery.

In ASEAN, all Member States are State Parties to UNCAC, as shown below:

State	Date of Signature	Date of Approval, Acceptance, Accession, Succession or Ratification
Brunei Darussalam	11 December 2003	2 December 2008
Cambodia		5 September 2007 (Accession)
Indonesia	18 December 2003	19 September 2006
Lao PDR	10 December 2003	25 September 2009
Malaysia	9 December 2003	24 September 2008
Myanmar	2 December 2005	20 December 2012
Philippines	9 December 2003	8 November 2006
Singapore	11 November 2005	6 November 2009
Thailand	9 December 2003	1 March 2011
Viet Nam	10 December 2003	19 August 2009

*per checking in the United Nations Treaty Section website (www.treaties.un.org) on 10 September 2017.

The Philippines signed UNCAC on 9 December 2003 and ratified it on 8 November 2006. As a State Party to UNCAC, pursuant to *pacta sunt servanda*, the Philippines is obliged to criminalize certain forms of private and public corruption; institute or strengthen corruption-prevention measures; establish procedures that improve international cooperation; and set up systems for the recovery of forfeited assets.

UNCAC readily shows that it is not only an international legal basis for cooperation, but also a political tool for dialogue between countries and between governments and their citizens. While it shows universally agreed concepts of corruption and ways to fight it, the mechanism for country review can foster international exchange of expertise, good practices and lessons learned.

III. FIRST REVIEW CYCLE (2010-2015)

Pursuant to Article 63, Chapter VII of UNCAC, the Conference of the States Parties (CoSP) was established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in UNCAC and to promote and review its implementation. The CoSP, as the main policymaking body of UNCAC, supports States Parties in their implementation of UNCAC, and gives policy guidance to the United Nations Office on Drugs and Crime (UNODC) to develop and implement anti-corruption activities. The CoSP later adopted resolution 3/1, or the Implementation Review Mechanism (IRM), aimed at reviewing each State Party's compliance with the UNCAC provisions. There are two (2) review cycles envisioned in the IRM: the first review cycle (2010-2015) examines each State Party's compliance with the provisions of Chapters III and IV, and second review cycle (2016-2021) examines compliance with Chapters II and V.

On 8 February 2012, the Philippines completed a comprehensive self-assessment checklist, which was reviewed by peer reviewers from Egypt and Bangladesh. After conducting desk review along with phone conferences, electronic mail exchanges and country visits, peer reviewers cited certain successes and good practices but noted a total of thirty-four (34) challenges in the Philippines' implementation of UNCAC Chapters III and IV.

In the implementation of UNCAC's Chapter III on Criminalization and Law Enforcement, the first review cycle points to a number of successes and good practices by the Philippines, to wit:

1. The Witness Protection, Security and Benefit Programme is considered a good practice, both in law and in operation, and the extended inclusion of other witnesses and additional benefits is welcomed;
2. The incentives and rewards system under the Rules Implementing Republic Act (R.A.) No. 6713 is considered a good practice;
3. The Sandiganbayan has jurisdiction to hear matters involving high ranking public officials so as not to overburden the judicial system; and
4. Philippine authorities have fully cooperated and exchanged information with other States, when it came to their attention that similar proceedings were ongoing overseas.

As to challenges, the first review cycle yielded two categories for the challenges: (i) challenges in the implementation and (ii) technical assistance needed to improve implementation. For the challenges in the implementation, the following are identified which could further strengthen existing anti-corruption measures:

1. Consider adopting a unified definition of public officials in line with UNCAC article 2, as well as expanding this definition to include foreign public officials and officials of public international organizations, notwithstanding any existing privileges;
2. Consider, in the context of ongoing legal reforms, a stand-alone corruption-related law, which would include an offence of active bribery of national public officials, ensure consistency in its application, and extend the bribery offence to transactions other than those listed in subsections 3(b) and (c) of RA 3019;
3. Inter-agency coordination and limited resources were noted as challenges in the pursuit of bribery and embezzlement cases;
4. Consider legislative or other measures to enact active and passive trading in influence provisions in line with the Convention;
5. A reported challenge is that asset and income disclosures are not reviewed unless a complaint is received;
6. Consider enacting the offence of bribery in the private sector;

7. Enact amendments to AMLA to cover the requirements of UNCAC article 23, in particular the conduct described in subparagraphs (1)(a) and (1)(b)(i), and to include all UNCAC-related offences as predicate crimes;
8. Furnish copies of the anti-money laundering laws to the United Nations;
9. Consider whether the criminal or non-criminal sanctions for legal persons are effective, proportionate and dissuasive;
10. Criminalize the preparation of corruption-related offences;
11. Ensure that grants of executive clemency do not create a situation of impunity;
12. Consider entering into agreements or arrangements with other States for the relocation of witnesses and experts who give testimony;
13. Provide sufficient resources for the effective implementation of Senate Bill 2860, once adopted into law;
14. Extend the mandate of OMB to enter and inspect private property;
15. Limited capacity and resources for law enforcement agencies (such as the absence of any OMB regional offices) were noted as a challenge, including to address the consequences of corruption;
16. Authorize OMB to have access to all relevant data and information, including tax, customs, financial and bank records;
17. Adopt proposed amendments to RA 1379 eliminating the restriction that a matter cannot be filed before court one year prior to a general election;
18. Broadly define conflicts of interest for purposes of the rules implementing RA 6713;
19. To overcome challenges of inter-agency coordination, grant competent anti-corruption bodies the necessary law enforcement and prosecutorial powers to carry out their functions effectively and without undue influence in the private and public sectors, with a clear legislative mandate and appropriate resources and training to carry out their functions nationally;
20. Consider enhancing law enforcement cooperation, in particular to ensure that public officials and authorities cooperate sufficiently in criminal investigations and prosecutions; limited financial incentives were noted as a challenge in this context;
21. Consider extending the direct privilege to request a Court order for access to bank/financial records to other anti-corruption authorities where appropriate;
22. Provide for the active and passive jurisdictional personality principles; the application of jurisdiction in extradition cases abroad is a reported challenge.

For the technical assistance needed to improve implementation, the following forms of technical assistance could assist the Philippines in more fully implementing the Convention:

1. With respect to proposed revisions to the RPC, a summary of international best practices, norms and expertise;
2. Article 15: Good practices/lessons learned; legislative drafting; legal advice; on-site assistance by an anti-corruption expert; development of an implementation action plan; inter-agency coordination and investigative training;
3. Article 16: Good practices/lessons learned; model legislation; legislative drafting; legal advice;
4. Articles 21 and 41: Legislative drafting;
5. Article 23: Good practices/lessons learned; legal advice;
6. Article 25: Good practices/lessons learned; on-site assistance by an anti-corruption;
7. Article 30: Capacity-building;
8. Article 31: Good practices/lessons learned;
9. Article 33: Legal advice; capacity-building; financial resource;
10. Article 34: Good practices/lessons learned; development of an implementation action plan; and
11. Article 36: Good practices/lessons learned; training on investigative techniques; development of a central case management system, data collection and training.

To ensure compliance with the above-cited challenges, the Philippines developed the 21-Point UNCAC Agenda.

IV. 21-POINT UNCAC AGENDA

The 21-Point UNCAC Agenda was framed in December 2012. It is a multi-sectoral “Declaration of Commitments” for full institutional cooperation to ensure that the Philippines adequately addresses these challenges, thus:

1. Enactment of a law or the amendment of existing law/s defining “public officer” to conform to the UNCAC definition;
2. Criminalization, through legislation, of active and passive bribery of foreign public officials and officials of public international organizations;
3. Imposition of stiffer and higher penalties and fines to an offending corporation whose directors, officers, employees or other officials or persons are adjudged criminally liable of an offense committed in relation to their duties, responsibilities and functions, and incorporation of corruption-related offenses as a ground for dissolution of a corporation;

4. Passage of a law or amendment of any existing law/s to establish as a criminal offense active and passive trading in influence;
5. Amendment of Republic Act (RA) No. 6713 known as the “Code of Conduct and Ethical Standards for Public Officials and Employees;”
6. Amendment of Act No. 3815, otherwise known as the “The Revised Penal Code” (RPC), in order to harmonize the definition of “person” found in Articles 315 (Swindling/Estafa) and 316 (Other forms of swindling) thereof, and Presidential Decree (PD) No. 1689, otherwise known as the Decree “Increasing the Penalty for Certain Forms of Swindling or Estafa” to conform with Article 22 of the UNCAC;
7. Amendment of PD No. 1069, otherwise known as the “Philippine Extradition Law” to grant extradition on the basis of reciprocity;
8. Amendment of Section 9 (a) and Section 11 of RA No. 3019, otherwise known as the “Anti-Graft And Corrupt Practices Act” to increase the period of prescription for graft and corrupt practices to thirty (30) years;
9. Passage of a law on Freedom of Information;
10. Passage of a law requiring public officials and employees to submit written permission or a waiver of their rights to privacy in favour of the Ombudsman to look into all deposits of whatever nature with banks or banking institutions both within and outside the Philippines, including investment bonds issued by the Government of the Philippines, its political subdivisions and instrumentalities, and providing penalties for failure to comply herewith;
11. Passage of amendment to RA No. 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act,” to criminalize graft and corrupt practices in the private sector;
12. Passage of further amendments to RA No. 9160, otherwise known as the “Anti-Money Laundering Act of 2001,” to include the following:
 - a. concealment or disguise as an unlawful activity; and
 - b. expansion of the definition of money laundering and inclusion of designated non-financial businesses and professions among the list of covered institutions;
13. Passage of the Whistleblowers’ Protection Act;
14. Passage of amendment to RA No. 6770, otherwise known as “The Ombudsman Act of 1989,” to expand the authority of the Ombudsman to inquire into bank deposits even during the investigation stage;
15. Promulgation of Rules of Procedure governing extradition cases;

16. Submission to the United Nations of a revised declaration allowing the Philippines to extradite persons on the basis of UNCAC;
17. Creation of fora among concerned agencies, as well as Dialogues among legislators, the Department of Foreign Affairs and their foreign counterparts, to identify countries where extradition treaties may be needed;
18. Enactment of a law on mutual legal assistance in criminal matters, as well as a law on transfer of detained persons from the requested State to the requesting State;
19. Definition of terms of the Mutual Legal Assistance Treaties;
20. Conduct of regular inter-agency consultations and increase in participation of the House of Representatives in the ratification of treaties and the negotiation of effective Transfer of Sentenced Persons Agreement; and
21. Conduct massive information and localization campaign on UNCAC and to ensure the integration of the UNCAC framework and objectives in the Bangsamoro organic law drafting.

V. PHILIPPINES' BEST PRACTICES

As reported in the first review cycle, Philippines has a number of best practices in terms of implementation of UNCAC provisions related to criminalization and law enforcement, to wit:

A. Witness Protection, Security and Benefit Programme

The programme is created under RA No. 6981, otherwise known as "The Witness Protection, Security and Benefit Act." It is designed to encourage a person who has witnessed or has knowledge of the commission of a crime to testify before a court or quasi-judicial body, or before an investigating authority, by protecting him from reprisals and from economic dislocation.

Any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority, may be admitted into the Program provided that:

- a) the offense in which his testimony will be used is a grave felony as defined under the Revised Penal Code, or its equivalent under special laws;
- b) his testimony can be substantially corroborated in its material points;
- c) he or any member of his family within the second civil degree of consanguinity or affinity is subjected to threats to his life or bodily injury or there is a likelihood that he will be killed, forced, intimidated, harassed or corrupted to prevent him from testifying, or to testify falsely, or evasively, because or on account of his testimony; and

- d) he is not a law enforcement officer, even if he would be testifying against the other law enforcement officers. In such a case, only the immediate members of his family may avail themselves of the protection provided for under said programme.²⁰

The benefits include the following: (i) security protection and escort services; (ii) immunity from criminal prosecution and not to being subjected to any penalty or forfeiture for any transaction, matter or thing concerning his compelled testimony or books, documents or writings produced; (iii) secure housing facility; (iv) assistance in obtaining a means of livelihood; (v) reasonable travelling expenses and subsistence allowance while acting as a witness; (vi) free medical treatment, hospitalization and medicine for any injury or illness incurred or suffered while acting as a witness; (vii) burial benefits of not less than Ten Thousand Pesos (P10,000.00) if the witness is killed because of his participation in the Program; (viii) free primary to college education for the minor or dependent children of a witness who dies or is permanently incapacitated; and (ix) non-removal or demotion at work because of absences due to his being a witness and payment of full salary or wage while acting as a witness.²¹

B. Incentives and Rewards System under the Rules Implementing (IRR) of R.A. No. 6713

Under Rule V of the IRR of RA No. 6713, incentives and rewards shall be granted to officials and employees who have demonstrated exemplary service and conduct on the basis of their observance of the norms of conduct laid down in Section 4 of the law such as but not limited to commitment to public interest, professionalism and simple living.²² Incentives and rewards to government officials and employees of the year may take the form of any of the following: (i) Bonuses; (ii) Citations; (iii) Directorships in government-owned or controlled corporations; (iv) Local and foreign scholarship grants; (v) Paid vacations; and/or (vi) Automatic promotion to the next higher positions suitable to his qualifications and with commensurate salary.²³

C. The Sandiganbayan

The Sandiganbayan is a special anti-graft court created under PD No. 1486 pursuant to the mandate of Section 5,²⁴ Article XIII of the 1973 Constitution of the Philippines. The 1987 Constitution mandated the continuation of the Sandiganbayan. Several amendments have been introduced to the original law creating it, such as RA Nos. 7975 and 8249, with the objective of strengthening both its organizational and functional structures. Under these new laws, the jurisdiction of the Sandiganbayan now includes cases involving public officials occupying positions classified as salary grade (SG) 27 and higher. As provided under Section 4 of RA No. 8249, the Sandiganbayan shall have original exclusive jurisdiction over:

1. Violations of RA No. 3019 (Anti-graft and Corrupt Practices Law);

²⁰ RA No. 6981, Section 3.

²¹ Ibid, Section 8.

²² IRR of RA No. 6713, Rule V, Section 1.

²³ Id., Rule V, Section 3.

²⁴ SECTION. 5. The Batasang Pambansa shall create a special court, to be known as Sandiganbayan, which shall have jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law.

2. RA No. 1379 (Forfeiture of Illegally Acquired Wealth);
3. Crimes by public officers or employees embraced in Chapter II, Section 2, Title VII, Book II of the RPC (Crimes committed by Public Officers), namely:
 - A. Direct Bribery under Article 210, as amended;
 - B. Indirect Bribery under Article 211, as amended;
 - C. Qualified Bribery under Article 211-A, as amended;
 - D. Corruption of public officials under Article 212 where one or more of the accused are officials occupying the following positions in the government whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
 - a. Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as SG 27 and higher, of the Compensation and Position Classification Act of 1989 (RA No. 6758) specifically including:
 - a.1. Provincial governors, vice-governors, members of the sangguniang panlalawigan, provincial treasurers, assessors, engineers and other provincial department heads;
 - a.2. City mayors, vice-mayors, members of the sangguniang panglungsod, city treasurers, assessors, engineers and other department heads;
 - a.3. Officials of the diplomatic service occupying the position of consul and higher;
 - a.4. Philippine Army and Air force colonels, naval captains and all officers of higher rank;
 - a.5. Officers of the PNP while occupying the position of Provincial Director and those holding the rank of Senior Superintendent or higher;
 - a.6. City and provincial prosecutors and their assistants; officials and the prosecutors in the Office of the Ombudsman and special prosecutor;
 - a.7. President, directors or trustees or managers of government owned or controlled corporations, state universities or educational institutions or foundations;
 - b. Members of Congress and Officials thereof classified as SG 27 and up under the Compensation and Classification Act of 1989;
 - c. Members of the Judiciary without prejudice to the provision of the Constitution;
 - d. Chairmen and members of Constitutional Commissions, without prejudice to the provision of the Constitution; and
 - e. All other national and local officials classified as SG 27 and higher under the Compensation and Position Classification Act of 1989.
4. Other offenses or felonies, whether simple or complicated by the commission of other crimes, in relation to their office by the public officials and employees mentioned above;
5. Civil and criminal cases filed pursuant to and in connection with Executive Order (EO) Nos. 1, 2, 14 & 14-A issued in 1986;
6. Petitions for issuance of Writ of mandamus, prohibition, certiorari, habeas corpus, injunction and other ancillary writs and processes in aid of its appellate jurisdiction; Provided, jurisdiction is not exclusive of the Supreme Court;

7. Petitions Quo Warranto arising or that may arise in cases filed or that may be filed under EO Nos. 1, 2, 14 & 14- A;
8. OTHERS provided the accused belongs to SG 27 or higher:
 - A. Violation of RA No. 6713 – Code of Conduct and Ethical Standards;
 - B. Violation of RA No. 7080 – The Plunder Law;
 - C. Violation of RA No. 7659 – The Heinous Crime Law;
 - D. RA No. 9160 – Violation of The Anti-Money Laundering Law when committed by a public officer;
 - E. PD No. 46, referred to as the gift-giving decree, makes it punishable for any official or employee to receive directly or indirectly and for a private person to give or offer to give any gift, present or other valuable thing on any occasion including Christmas, when such gift, present or valuable thing is given by reason of his official position, regardless of whether or not the same is for past favours or the giver hopes or expects to receive a favour or better treatment in the future from the public official or employee concerned in the discharge of his official functions. Included within the prohibition is the throwing of parties or entertainment in honour of the official or employee or his immediate relatives;
 - F. PD No. 749 grants immunity from prosecution to any person who voluntarily gives information about any violation of Articles 210, 211 or 212 of the RPC, RA No. 3019, Section 345 of the National Internal Revenue Code, Section 3604 of the Customs and Tariff Code and other provisions of the said Codes penalizing abuse or dishonesty on the part of the public officials concerned and other laws, rules and regulations penalizing graft, corruption and other forms of official abuse and who willingly testifies against the public official or employee subject to certain conditions.

While the above apparently encompass public officers only, private individuals can be sued in cases before the Sandiganbayan if they are alleged to be in conspiracy with the public officer.

Presently, there are a total 35,368 cases filed as of 31 July 2017, with 33,306 cases disposed of.²⁵ Thus, only 5,232 cases are pending as of 31 July 2017. For years 2007 to 2017, the breakdown of cases is as follows:

Year	Filed	Disposed	Pending
2007	93	308	2319
2008	433	641	2164
2009	211	357	2062
2010	297	247	2158
2011	482	430	2228
2012	395	363	2299
2013	969	480	2862
2014	452	277	3093
2015	357	276	3206
2016	1311	371	4214
2017	1535	532	5232

²⁵ www.sb.judiciary.gov.ph

D. Legislation

Being an international obligation to align national/domestic laws with UNCAC and in response to the challenges during the first review cycle, the following have been enacted by the Legislative Department:

1. **RA No. 10589**, otherwise known as the "Anti-Corruption Month Act," declaring December of every year as "Anti-Corruption Month" throughout the entire country.
2. **RA No. 10660**, or an act strengthening further the functional and structural organization of the Sandiganbayan, further amending PD No. 1606.
3. **RA No. 10910**, an Act Increasing the Prescriptive Period for Violations of RA No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act" from fifteen (15) years to twenty (20) years.
4. **RA No. 10365**,²⁶ an Act Further Strengthening the Anti-Money Laundering Law, amending for the purpose RA No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001."

E. Executive Issuances and Practices

As for executive issuances, the following are presidential acts in order to comply with UNCAC, to wit:

1. Presidential Proclamation No. 506, series of 2012
Recognizing that corruption poses serious problems and threats to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice, and jeopardizing sustainable development and the rule of law, the President declares December 9 as National Anti-Corruption Day, which coincides with the designation of December 9 as international Anti-Corruption Day of the General Assembly of the UNCAC.
2. EO No. 171, series of 2014
On 5 September 2014, the President issued EO No. 171 creating the Presidential UNCAC Inter-Agency Committee (Committee) to oversee the implementation, coordination, monitoring and review of Philippine compliance with the UNCAC. It is composed²⁷ of the Executive Secretary, who shall serve as the Chairperson of the Committee with the following members:
 - a. The Secretary of Justice as Vice-Chairperson;
 - b. The Secretary of Foreign Affairs as Co-Vice-Chairperson;
 - c. The Secretary of Budget and Management;
 - d. The Secretary of Socioeconomic Planning; and
 - e. The Secretary of Interior and Local Government.

²⁶ Presented by Director Dennis Garcia of the Office of the Ombudsman (Philippines) during the 10th Regional Seminar on Good Governance for the Southeast Asian Countries.

²⁷ EO No. 171, Section 2.

The Committee shall have the following functions:²⁸

- a. Assess, evaluate and review all the provisions of the UNCAC and determine its applicability and its compatibility with the existing legal framework and laws;
- b. Formulate and develop plans, policies and response strategies related to the implementation, monitoring and review of compliance with the State's treaty obligations under UNCAC;
- c. Undertake and coordinate the implementation of integrity development and anti-corruption measures with appropriate branches of government that will ensure its adoption and implementation;
- d. Assess and monitor good governance and anti-corruption initiatives in the country, collating all necessary data and information on corruption-related offenses for the comprehensive review of the implementation of the UNCAC;
- e. Set up and implement a communication plan to ensure transparency and accountability in the assessment of the good governance and anti-corruption initiatives in the country and conduct of awareness-raising and advocacy, particularly those contributing to the non-tolerance of corruption;
- f. Ensure compliance by the government with all its obligations under the UNCAC, including the timely submission of treaty implementation reports, replies and comments on cases filed with the United Nations Office on Drugs and Crime;
- g. Direct and ensure the creation of internal working groups (IWGs) from among the concerned government entities as well as the designation of focal points, and institution of an effective system for multi-sector arrangements in the implementation, coordination and monitoring of all related endeavours under UNCAC;
- h. Create technical working groups (TWGs) to conduct relevant studies and research on relevant legal instruments, administrative measures and effective practices aimed at preventing corruption with a view to determining their adequacy to prevent and reduce corruption;
- i. Ensure adherence to the objectives of UNCAC of all anti-corruption programmes and good governance initiatives in the territorial and political subdivisions of the country; and
- j. Report to the President every semester and recommend policy advice and/or measures to ensure compliance with UNCAC;
- k. Perform such other functions as may be directed by the President or as may be necessary, consistent with the basic functions of the Committee.

3. EO No. 176, series of 2015

On 01 December 2014, the President issued EO No. 176, entitled, *"Institutionalizing the Integrity Management Program as the National Corruption Prevention Program in all Government Departments, Bureaus, Offices, Agencies, including Government-owned and Controlled Corporations, Government Financial Institutions, State Universities and Colleges, and Local Government Units through the Establishment of Integrity Management Systems (IMS),"* which institutionalizes the Integrity

²⁸ Id., Section 3.

Management Program (IMP) as the National Corruption Prevention Program, through the establishment of the Integrity Management Systems (IMS).

The IMP covers dimensions or management systems linked to enhance both individual and systems integrity. Its objectives consist of reducing the level of corruption vulnerabilities at the level of the public-sector institution to ensure the attainment of its mandate and to improve the public's trust and confidence in the government.

The said Executive Order created a Program Management Committee (PMC) as the programme overseer of the IMP. The PMC is chaired and co-chaired by the Office of the President and the Office of the Ombudsman.

Memorandum Circular No. 76 dated 15 April 2015 was issued urging all public-sector institutions to initiate the establishment of IMS in their respective offices and adopt the IMP Handbook as the guide in implementing the IMP.

Institutions implementing the IMP shall create an Integrity Management Committee (IMC) to manage and guide the development and enforcement of integrity measures, as well as to encourage participation in IMP implementation at the institution level. The IMP adopts as its framework the international standards and practices on anti-corruption measures under UNCAC.

The IMP was initially piloted in five agencies, namely: the Department of Social Welfare and Development, the Department of Justice, the Bureau of Internal Revenue, the Department of Public Works and Highways and the Department of Health. After the successful run of the pilot agencies, the IMP PMC extended the IMP implementation to another batch of agencies, specifically, the Department of Environment and Natural Resources, the Department of Transportation and Communications, the Department of the Interior and Local Government, the Department of National Defense, and the Department of Education. A number of agencies then officially communicated their requests and volunteered to undergo the IMP implementation process. To date, thirty (30) public sector institutions have undergone the initial stages of IMP implementation.

4. 2016 IRR of RA No. 9184 (Government Procurement Reform Act)

The provisions of IRR are in line with the commitment of the Philippines to promote good governance and its effort to adhere to the principles of transparency, accountability, equity, efficiency, and economy in its procurement process. It is the policy of the government that procurement of goods, infrastructure projects and consulting services shall be competitive and transparent, and therefore shall undergo competitive bidding. The governing principles on government procurement are transparency in government procurement, competitiveness, streamlined procurement process, system of accountability and public monitoring process.

5. EO No. 1, series of 2016
EO No. 1, entitled, “Reengineering the Office of the President towards Greater Responsiveness to the Attainment of Development Goals,” aims to attain national development goals, which requires the efficient, responsive, and just allocation of resources by eliminating duplication or overlapping of common functions, maximizing research utilization with minimum disruption to operations, coordinating efforts more closely, sharing information, and consistently working in a collaborative manner to advance development goals and uplift the quality of life of all Filipinos through a holistic, convergent, and participatory approach to leadership and governance.
6. EO No. 2, series of 2016
Consistent with Article 28, Article II of the 1987 Constitution, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest, subject to reasonable conditions prescribed by law, and Section 7, Article III of the Constitution guarantees the right of the people to information on matters of public concern, the President issued EO No. 2 operationalizing in the Executive Branch the People’s constitutional right to information and the state policies to full public disclosure and transparency in the public service.
7. EO No. 6, series of 2016
The President issued EO No. 6 institutionalizing 8888 Citizen’s Complaint Hotline and establishing 8888 Citizen’s Complaint Center. The 8888 Citizen’s Complaint Hotline shall serve as a mechanism where citizens may report their complaints and grievances on acts of red tape and/or corruption of any national government agency, government-owned-and-controlled corporations, government financial institutions and other instrumentalities in the government.
8. Administrative Order (AO) No. 79, series of 1999
Initially established by a Memorandum of Agreement executed on 11 June 1997, AO No. 79 officially recognized the Inter-Agency Anti-Graft Coordinating Council (IAAGCC), which is a voluntary alliance of government agencies engaged in enforcing integrity and public accountability, namely, the Office of the Ombudsman, Office of the President, Commission on Audit, Civil Service Commission, Department of Justice, and National Bureau of Investigation. These agencies formulate and develop concerted techniques and strategies in the prevention, detection, investigation and prosecution of graft cases.

The IAAGCC developed the Guidelines of Cooperation that will strengthen working relationships among themselves and establish the criteria and operating procedures in: (a) creating Inter-Agency task forces that will investigate collective cases; (b) providing training programmes for their personnel; and (c) establishing a communication and coordination center to facilitate information exchange and monitoring of relevant cases.

The IAAGCC has recently adopted a Strategic Plan for 2015-2018. A few of the major plans are the roll-out of Revised Guidelines on Cooperation;

publication of an Integrated Anti-Graft Investigation and Prosecution Manual; and development of an Integrated Case Management System for Graft and Corruption Cases.

9. Memorandum Circular No. 03 enjoining all government official and employees to strictly observe and comply with the required work hours.
10. Memorandum Circular No. 06 enjoining all official and employees to comply with the prohibition against going to casinos.

As for practices adopted in the Executive Department, the following are practices adopted by the President, to wit:

1. Annual UNCAC State Conference

The Philippines holds the UNCAC State Conference annually every December, which started 2013. It is convened to gather all stakeholders in the Philippines' anti-corruption efforts. The UNCAC State Conference is attended by heads of all branches of the government, constitutional commissions, officials from other government agencies, development partners and the private sector, who come together to share information on the initiatives and reform measures of their respective offices and organizations, as part of its efforts to validate compliance with UNCAC. It is the only event pertaining to anti-corruption that is attended by the highest political level of the Philippine Government. Cited by the UNODC as one of the UNCAC best practices, this annual Philippine State Conference has gained international acclaim.

2. Advance Preparation for the second review cycle

In 2014, while awaiting the results of the drawing of lots for the Second Review Cycle, the Office of the President and the Office of the Ombudsman initiated a preliminary assessment of the Philippines' implementation of the provisions of UNCAC Chapters II (Preventive measures) and V (Asset recovery). This is also consistent with the "going beyond the minimum" approach espoused by the United Nations Development Programme (UNDP).

The Philippines commenced its preparations by organizing a number of inter-agency cluster meetings composed of internal working groups from the public and private sector. Through joint efforts, the Philippines accomplished a preliminary assessment report that will serve as basis for the UNCAC Comprehensive Self-Assessment Checklist in the Second Review Cycle. The Philippines also aims to enact legislative reforms even before undergoing review, which shall commence in 2018.

3. International and national conventions

In view of the Philippines' multi-sectoral approach in fighting corruption, the Government encourages the involvement of various stakeholders such as the civil society and the private sector to reinforce the conviction that we are all partners for change. Pursuant to this thrust, the Philippines regularly organizes multi-sector dialogues and conferences involving the public sector, the private sector, and development partners like the World Bank and UNDP

to enhance cooperation with respect to anti-corruption initiatives of the Government, under the auspices of UNCAC. These events pave the way for knowledge sharing, give an opportunity for capacity building, and assist in the prioritization of technical assistance needs of the Philippines. The Philippines also regularly sends delegates to international conferences in order to share experiences and good practices with other States.

The major activities of the Philippines relative to the UNCAC IRM include the following:

1. Capacity assessment of the Philippines' anti-corruption infrastructure led by the UNODC and the United Nations Development Programme Bangkok Regional Hub held from 24 November to 1 December 2014 in Manila, Philippines;
2. Country visit of officials from the Government Inspectorate of Vietnam in July 2015, and representatives from the Government of Zambia in August 2015 in Manila, Philippines;
3. 6th Session of the CoSP held from 2-6 November 2015 in St. Petersburg, Russian Federation. The Philippine delegation was headed by Ombudsman Conchita Carpio Morales and co-headed by Commission on Audit Chairperson Michael G. Aguinaldo. The Philippine Ambassador to the Russian Federation, and high-ranking officials of the Department of Justice, Anti-Money Laundering Council Executive Director and Presidential Commission on Good Governance also formed part of the Philippine delegation;
4. 7th session of the UNCAC Implementation Review Group (IRG) held from 20-24 June 2016 in Vienna, Austria;
5. 10th session of the Intergovernmental Working Group (IWG) on Asset Recovery held from 25-26 August 2016 in Vienna, Austria;
6. 7th session of the IWG on Prevention held from 22-24 August 2016 in Vienna, Austria;
7. 5th session of the open-ended Intergovernmental Expert Meeting on International Cooperation held from 17-18 November 2016 in Vienna, Austria;
8. Resumed 7th session of the IRG held from 14-16 November 2016 in Vienna, Austria;
9. Synchronized Consultation Meeting on UNCAC Implementation and Review held on 18 November 2016 in Mabini Hall, Malacañang, Manila;
10. Training for focal points or governmental experts participating in the Second Review Cycle of the UNCAC IRM held from 14-16 June 2017 in Vienna, Austria;
11. 8th session of the IRG held from 19-23 June 2017 in Vienna, Austria;
12. 8th Meeting of the IWG on the Prevention of Corruption held from 21-23 August 2017 in Vienna, Austria; and
13. 11th Meeting of the IWG on Asset Recovery held from 24-25 August 2017 in Vienna, Austria.

VI. PHILIPPINE RESPONSE TO THE CHALLENGES

It should be emphasized that per the first review cycle, the results note that Philippines is fifty-four percent (54%) compliant, twenty-nine percent (29%) partially compliant and seventeen percent (17%) non-compliant with the UNCAC provisions on criminalization and law enforcement.²⁹

Based on data from the Good Governance Cluster of the Philippines, the following shows the Philippines’ response to the Generalized System of Preference Plus (GSP+) Monitoring Scorecard relative to its compliance with the challenges identified during the First Review Cycle:

Issues – Description	Concrete Developments/Achievements on Implementation
<ul style="list-style-type: none"> Consider adopting a unified definition of public officials, as well as expanding this definition to include foreign public officials. 	<ul style="list-style-type: none"> In the 16th Congress, bills were filed in both Houses of Congress (House Bill No. 04783 and Senate Bill No. 2311) both entitled “<i>An Act Strengthening the Code of Conduct and Ethical Standards for Public Servants</i>” which define “<i>Public Servant</i>” as including “any person holding or performing a public function in the legislative, executive, administrative or judicial office in the government, regardless of status of employment or engagement, and whether or not they receive compensation . . .” The proposed definition is in line with Article 2 of UNCAC. Said bills (<i>Enhanced Code of Conduct for Public Servants</i>) have been refiled in the 17th Congress as SBN 870 and as HBN 418. A proposed bill entitled “<i>An Act Penalizing Bribery of Foreign Public Officials and for Other Purposes</i>” to expand the definition of public officials to include foreign public officials has been drafted but not yet filed in Congress.
<ul style="list-style-type: none"> Improve legislation on bribery, trading in influence, money laundering and concealment. Consider a stand-alone corruption related law. 	<p>On bribery:</p> <ul style="list-style-type: none"> The provisions of the Revised Penal Code, particularly on Direct Bribery (Article 201), Indirect Bribery (Article 211), Corruption of Public Officers (Article 212) and Qualified Bribery (Article 211-A) comply with the requirements of UNCAC.
	<p>On trading in influence:</p> <ul style="list-style-type: none"> In the 16th Congress, the following bills were filed:

²⁹ From the Monitoring Report of the OP-OMB Joint Technical Working Group, which was done after the CRR, after conducting a series of inter-agency meetings pursuant to the 21-Point Agenda.

	<p>HBN 04821 (<i>An Act Penalizing Influence Peddling</i>) defines “<i>influence peddling</i>” as the “act of representing oneself, either orally or in writing, as being able, whether real or imagined, to influence, facilitate or assist another person having some business, transaction, application, request or contract with the government in which the public official or employee has to intervene, in consideration of any present, gift or material or pecuniary advantage.”</p> <p>SBN 118 (<i>An Act Penalizing Influence Peddling and for Other Purposes</i>) defines “<i>influence peddling</i>” as the “act of representing oneself, either orally or in writing, as being able, whether real or imagined, to influence, facilitate or assist another person having some business, transaction, application, request or contract with the government in which a public official or employee has to intervene.”</p> <p>However, said bills were not enacted into law because while the House version has passed third reading and has been transmitted to the Senate for its concurrence, the Senate version remained at the Committee level.</p> <p>The Office of the Ombudsman and/or the Presidential UNCAC Implementation Committee actively endeavours to urge Congress to consider adopting the definition of active and passive trading influence as contained in Article 18 of UNCAC.</p>
	<p>On having a stand-alone corruption-related law:</p> <ul style="list-style-type: none"> • RA No. 10910, “<i>An Act Increasing the Prescriptive Period for Violations of RA 3019, Otherwise known as the “Anti-Graft and Corrupt Practices Act, from 15 years to 20 years, amending Section 11 thereof,”</i> lapsed into law on July 31, 2016 without the signature of the President in accordance with Article VI, Section 27(1) of the Constitution. The law amended Section 11 of RA No. 3019, so that “<i>all offenses punishable under the Act shall prescribe in 20 years.</i>” The new prescriptive period would ensure that those who violate the existing Graft Law can still be held accountable for up to 20 years after the discovery of their act. The new law is in compliance with the provisions of UNCAC. • In the 16th Congress, HBN 2300, which covers Book 1 on General Provisions of the new Criminal Code, was approved at the Committee level. However, no counterpart bill of the Criminal Code was filed in the Senate. The draft Criminal Code, particularly Sections 39-42 of Chapter 2 (b), defines crimes involving graft and corruption. The draft bill is being considered to be refiled this 17th Congress.

<ul style="list-style-type: none"> Consider whether criminal and non-criminal sanctions for legal persons are effective, proportionate and dissuasive. 	<p>Amendments to BP Blg. 68 (Corporation Code of the Philippines):</p> <ul style="list-style-type: none"> In the 16th Congress, the following bills were filed: HBN 4409/SBN 2194 both entitled “<i>An Act Amending Batas Pambansa Blg. 68, ‘The Corporation Code of the Philippines’</i>”. The Corporation Code Amendments include <i>several provisions recognizing corporate criminal liability for graft and corrupt practices</i> and have provided for the imposition of stiff fines not only for acting as intermediaries for graft and corrupt practices but for engaging intermediaries for said purposes. In both instances, the failure of a corporation to show that it has installed company policies and procedures against graft and corruption shall be <i>prima facie</i> evidence of its liability. The creation of a corporation for graft and corruption as well as the commission by a corporation of graft and corrupt practices have been made grounds for the dissolution of the said corporate entity. The fight against graft and corruption has also been brought to an individual level by the amendments as directors, trustees or officers of a corporation who tolerate graft and corrupt practices committed by other individuals involved in the corporate operations are punished for their failure to report said incidents. To greatly ensure that corporate graft and corrupt practices are reported and may be substantiated by those who have first-hand knowledge of the violations, one of the proposed amendments provides for the protection of whistleblowers and the imposition of a hefty penalty on any person who shall retaliate against a whistleblower. As to all other offenses or violations of the Corporation Code, the fine has been increased from One Thousand Pesos (Php1,000.00) but not more than Ten Thousand Pesos (Php10,000.00) or by imprisonment for not less than thirty (30) days but not more than five (5) years, or both, at the discretion of the court, to a fine of not less than fifty thousand (Php50,000.00) pesos but not more than One Million Pesos (Php1,000,000.00) and/or by imprisonment [for] OF not less than thirty (30) days but not more than five (5) years, or both, at the discretion of the court. Further, the corporation may also be dissolved in appropriate proceedings. However, said bills were not enacted into law because while there was already a Senate Committee Report, the counterpart bill in the Lower House was not passed in the Committee Level. The draft bills are being considered to be refiled in this 17th Congress.
	<p>Amendments to RA No. 8799 (Securities Regulation Code):</p> <ul style="list-style-type: none"> Amendments to the Securities Regulation Code (SRC) have been drafted and are being finalized in preparation for the filing of a bill in the Congress. The administrative, civil and criminal

	<p>sanctions for securities violations under the SRC have been updated and expanded.</p> <ul style="list-style-type: none"> • Not only has the administrative penalty cap been increased from One Million Pesos (Php1,000,000.00) to Five Million Pesos (Php5,000,000.00) to serve as a deterrent to violations but disgorgement, thus far a novel concept in Philippine securities regulation, has been introduced to ensure that the offending corporation will not unjustly profit from unlawful securities schemes. • The amount of damages to be awarded in relation to civil enforcement actions instituted by the Securities and Exchange Commission (SEC) has been raised to not less than One Hundred Thousand Pesos and shall be double the amount of the transaction plus damage and a daily fine until full payment of the penalty is made. The amount of the penalty may be treble or even quadruple the transaction amount if the violation involved fraud, deceit and other aggravating circumstances. • A provision on the award to be granted whistleblowers as well as the parameters for such an award has also been introduced to encourage transparency in corporate dealings as well as to provide an incentive to those who shall report violations of the SRC. • As to the criminal penalty imposable against violators of the SRC and the rules and regulations promulgated by the SEC, the same have been raised from not less than Fifty Thousand Pesos (Php50,000.00) nor more than Five Million Pesos (Php5,000,000.00) to not less than Two Hundred Thousand Pesos (Php200,000.00) not more than Ten Million Pesos (Php10,000,000.00). • The SEC has already made available an updated scale of fines and penalties to be imposed on violations of particular rules, regulations and other issuances of the SEC for comment of interested parties through the submission of position papers and has held a public consultation on the same. The updated scale is targeted to be issued within 2015. • In the 16th Congress, <i>HBN 4407</i> and its counterpart bill, <i>SBN 2465</i> were filed which bat for strong anti-graft and corrupt practice measures within a corporation and its dealings with government. The draft bills are being considered to be refiled in this 17th Congress. 												
<ul style="list-style-type: none"> • Ensure that grants of executive clemency do not create a situation of impunity. 	<p>The table below shows the number of executive clemencies granted by past and present Presidents of the Philippines. This is based on the data (as of 17 August 2015) provided by the Malacañang Records Office.</p> <table border="1" data-bbox="427 1854 1313 2004"> <thead> <tr> <th data-bbox="427 1854 635 2004">Executive Clemency</th> <th data-bbox="635 1854 762 2004">PCCA (1982-92)</th> <th data-bbox="762 1854 895 2004">PFVR (1992-1998)</th> <th data-bbox="895 1854 1034 2004">PJPEE (1998-2001)</th> <th data-bbox="1034 1854 1177 2004">PGMA (2001-2010)</th> <th data-bbox="1177 1854 1313 2004">PBSA III (2010-2015)</th> </tr> </thead> <tbody> <tr> <td data-bbox="427 2004 635 2004"></td> <td data-bbox="635 2004 762 2004"></td> <td data-bbox="762 2004 895 2004"></td> <td data-bbox="895 2004 1034 2004"></td> <td data-bbox="1034 2004 1177 2004"></td> <td data-bbox="1177 2004 1313 2004"></td> </tr> </tbody> </table>	Executive Clemency	PCCA (1982-92)	PFVR (1992-1998)	PJPEE (1998-2001)	PGMA (2001-2010)	PBSA III (2010-2015)						
Executive Clemency	PCCA (1982-92)	PFVR (1992-1998)	PJPEE (1998-2001)	PGMA (2001-2010)	PBSA III (2010-2015)								

	Absolute Pardon	293	158	24	20	2
	Commutation of Sentence	8399	10998	2497	1158	22
	Conditional Pardon	4272	3271	880	985	7
	Conditional Pardon with Voluntary Deportation	0	0	0	47	15
	Conditional Pardon with Parole Condition	0	0	0	44	10
	Reprieve	0	0	0	478	0
	Total	12964	14427	3401	2732	56
	<ul style="list-style-type: none"> The decrease in the number of executive clemencies granted shows that while the grant of executive clemency is discretionary on the part of the President of the Philippines, the same has not been exercised indiscriminately. 					
<ul style="list-style-type: none"> Grant competent anti-corruption bodies necessary law enforcement and prosecutorial powers to carry out their functions effectively. 	<ul style="list-style-type: none"> In the 16th Congress, HBN 3739 and its counterpart bill, SBN 184 were filed to require all public officials and employees, except those who serve in an honorary capacity, to submit a written permission or waiver in favour of the Ombudsman to look into all deposits of whatever nature with banks or banking institutions, both within and outside the Philippines, including investment bonds issued by the government of the Philippines, its political subdivisions and instrumentalities. 					
	<ul style="list-style-type: none"> More than a dozen bills were also filed to strengthen the institutional capacity of the Office of the Ombudsman, such as HBN 5044 and SBN 605. HBN 5044 and SBN 1148 would allow the Office of the Ombudsman to deputize private lawyers to act as investigators or prosecutors to act under the direct control and supervision of the Ombudsman in certain special and meritorious circumstances. 					
	<ul style="list-style-type: none"> On the other hand, SBN 605 intends to augment the financial resources of the Ombudsman by giving it a share in any property forfeited in favour of the State under R.A. No. 1379, otherwise known as the Forfeiture Law and thus increase its funding. The bill provides a mechanism wherein 30% of the value of forfeited assets shall be used as funding for the Ombudsman which will assist the continued progress of cases. The method therefore 					

	<p>ensures additional funding to the Ombudsman, and eliminates the need to reallocate funding from a stretched national budget.</p> <ul style="list-style-type: none"> • HBN 5046 and SBN 1162 both seek to strengthen the forfeiture powers of the State by amending R.A. No. 1379, otherwise known as “An Act Declaring Forfeiture in favor of the State any Property Found to have been Unlawfully Acquired by any Public Officer or Employee and Providing for the Proceeding Therefor”. • SBN 2485 intends to grant additional investigative and prosecutorial powers to the Office of the Ombudsman, which includes the leeway to employ wiretapping in especially meritorious cases, the power to issue subpoenas and subpoenas <i>duces tecum</i> to compel the compulsory attendance of any witness or the production of evidence, the authority to inquire into bank and non-bank accounts, records and transactions, and the power to punish for contempt. This bill is pending with the Senate Committee on Justice and Human Rights. • HBN 4783 and SBN 2311 both contain a provision that empowers the Ombudsman, Civil Service Commission, and the Commission on Audit to obtain, at any time, all documents that may show a public officer’s assets, liabilities, net worth, and business interests and financial connections, commencing from the time the declarant was employed or engaged by the government, from all agencies, banks, and financial institutions, whether private or public. If passed, this will be an exception to the Bank Secrecy Law. • HBN 145, according to its sponsor, "seeks to support the efforts of the Government to rid itself of corruption by setting up a system of rewards and protection for informants and their families. (The) bill will set up such a (system) specifically by (1) establishing a monetary-based rewards system for the benefit of the informers, (2) protecting informants against reprisals and against civil or criminal liability when they make public interest disclosures, (3) ensuring that public disclosures are made to the proper public entity and not the media, (4) ensuring that the inappropriate publication of unsubstantiated disclosures does not damage the reputation of those accused, and (5) ensuring that proper records on disclosures are kept.” On the other hand, SBN 1614 provides for immunity in favour of the informant or whistleblower against any action or proceedings taken against him by any person subject of a disclosure; protection against disciplinary action or reprisals; and financial rewards for whistleblowers. The latter bill also seeks the establishment of a Whistleblower Benefits and Protection Council, which will be composed of the Overall Deputy Ombudsman, as Chairperson, and eight members. Said draft bills are being considered to be refiled this 17th Congress.
<ul style="list-style-type: none"> • Consider enhancing law enforcement cooperation in 	<ul style="list-style-type: none"> • AO No. 79, s. 1999 established the IAAGCC. • Last 01-03 June 2016, the IAAGCC conducted the Cross-Agency Training for IAAGCC Specialists to enable the participants to

criminal investigations and prosecutions.	demonstrate the technical and professional competencies on fact-finding investigation and preliminary investigation. <ul style="list-style-type: none"> • The IAAGCC is presently chaired by the Chairman of the Commission on Audit (COA). On 2 May 2016, the COA Chairman and the Ombudsman entered into a Memorandum of Agreement.
---	--

VII. CONCLUSION

While compliance comes as a natural consequence, in fact an obligation, of the consent given by a state upon signing an international agreement, giving full effect and/or full compliance does not. Any compliance with international obligations will not come easy to any state, especially if the same would entail heavy legislative enactments and executive structure realignment. The same is true with signing UNCAC.

Based on the foregoing, UNCAC is not a blueprint for anti-corruption reform, but rather a tool for a country, through the help of country and peer review and other mechanisms, to detect and identify the flaws and weaknesses in its institutional arrangements and procedures. As a state party to UNCAC, it can be gainsaid that the Philippines is aggressive in complying with its international obligations under UNCAC. Being fifty-four (54%) percent UNCAC-compliant and twenty-nine percent (29%) partially compliant after the first review cycle, Philippines, through its Executive Department, shows many indications of transparency and good governance. The remaining seventeen percent (17%) non-compliant mainly points to enactment, amendment and/or repeal of laws in the country, which power obviously belongs to the Legislative Department. Obviously, responses to these challenges would entail concerted efforts from the different branches of government and agencies. It is a daunting task but it is doable.