

# ENHANCING THE INTEGRITY AND INDEPENDENCE OF PHILIPPINE JUDGES, PROSECUTORS AND LAW ENFORCEMENT OFFICIALS AS A COUNTERMEASURE AGAINST CORRUPTION

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## I. INTRODUCTION

Robert F. Kennedy once said, “Every time we turn our heads the other way when we see the law flouted, when we tolerate what we know to be wrong, when we close our eyes and ears to the corrupt because we are too busy or frightened, when we fail to speak up and speak out, we strike a blow against freedom, decency and justice.” Corruption is an issue that has plagued the Philippines since time immemorial. While not exclusive to our country, it cannot be denied that corruption in the Philippines is at an all-time high. In the study conducted by Transparency International, the Philippines dropped to the 113th rank out of 180 countries in their 2019 Corruption Perceptions Index, a 14-notch fall from its standing of 99th place in 2018. In the said study, the Philippines scored 34 points on a scale where zero is “highly corrupt” and the perfect score of 100 is “very clean.”<sup>1</sup> Also, in the National Household Survey on Experience with Corruption in the Philippines, a study released by the Office of the Ombudsman in 2018, it was discovered that 1 out of every 20 households had bribed a government official or employee.<sup>2</sup>

The negative effects of corruption cannot be overemphasized. As billions of public funds are siphoned off by corrupt officials, delivery of basic services, such as food, housing and medical benefits, and even water supply, are hampered. Investors are discouraged from opening their businesses in this country, bearing in mind the millions of pesos they have to shell out to obtain the necessary permits and licenses for their business operations. People dread law enforcement officers because of these officials’ rampant involvement in kidnapping, sale of illegal drugs and other heinous crimes. The concept of justice becomes distorted as cases are won based on who has the money to bribe the judge or the prosecutor, and not on the evidence on record.

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<sup>1</sup> Philippines Drops to 113<sup>th</sup> Rank in 2019 Corruption Index, by Julia Mari Ornedo, 23 January 2020, GMA News Online.

<sup>2</sup> Ombudsman insists on prioritizing corruption prevention | Inquirer News By: Gabriel Pabico Lalu; INQUIRER.net, 9 December 2019.

## II. ILLUSTRATIVE CASES OF CORRUPTION IN THE PHILIPPINE JUDICIARY, PROSECUTION AND LAW ENFORCEMENT AGENCIES

### A. “Allegations Made Under Oath at the Senate Blue Ribbon Committee Hearing Held on September 26, 2013 Against Associate Justice Gregory S. Ong, Sandiganbayan”<sup>3</sup>

Sometime in 2001, two criminal cases were filed with the Sandiganbayan. The first was for Falsification of Public Documents and the second was for Violation of Section 3(e) of the Anti-Graft Law. Charged were several members of the Philippine Marine Corps and civilian employees, including Ms. Janet L. Napoles (Napoles), her relatives and three of her employees. The cases were raffled to the Fourth Division where Associate Justice Gregory S. Ong sat as Chairperson.

These cases were referred to as the Kevlar case because it involved the questionable purchase of 500 Kevlar helmets by the Philippine Marine Corps in the amount of ₱3,865,310.00 from five suppliers or companies owned by Napoles. The purchase of the Kevlar helmets was deemed anomalous because payment was made even prior to the delivery of the goods; the suppliers appeared to be mere dummies of Napoles and the helmets were made in Taiwan and not in the USA, as represented by the suppliers. After trial, Napoles' mother, brother, and sister-in-law were convicted for Falsification of Public Documents but Napoles and six members of the Philippine Marine Corps were acquitted in both cases.

Sometime in the middle of 2013, another controversy involving Napoles was unveiled by the Philippine media. The scandal, referred to as the Priority Development Assistance Fund (PDAF) scam, or pork barrel scam, involved the fraudulent use by certain members of the Senate and House of Representatives of their PDAF, which have been allocated to them to support their priority development projects either at the local or national level.

During the investigation conducted by the Senate Committee on Accountability of Public Officers and Investigations (Blue Ribbon Committee), whistle-blowers Benhur Luy, Marina Sula and Merlina Suñas, who were former employees of Napoles, named certain government officials and personalities who allegedly transacted with or attended Mrs. Napoles' parties and events. Among those identified by the whistle-blowers was then incumbent Sandiganbayan Associate Justice Gregory S. Ong, who, as earlier mentioned, presided over the Kevlar case and eventually acquitted Napoles.

Following the whistle-blowers' disclosure, an investigation into Justice Ong's conduct was ordered by the Supreme Court. After investigation, the Investigating Justice confirmed, based on records, that Justice Ong performed the following acts: 1) he acted as the contact of Napoles in connection with the Kevlar case while it was pending in the Sandiganbayan Fourth Division where he was the Chairperson; 2) being Napoles' contact in the Sandiganbayan, he fixed the Kevlar case resulting in her acquittal; 3) he received an undetermined amount of money from Napoles prior to the promulgation of the decision in the Kevlar case; thus, Napoles was assured of her acquittal; 4) he visited Napoles in her office where she handed to him eleven (11) checks, each amounting to ₱282,000.00 or a total of ₱3,102,000.00, purportedly as advanced interest for his ₱25.5 million Banco de

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<sup>3</sup> A.M. No. SB-14-21-J (Formerly A.M. No. 13-10-06-SB), 23 September 2014.

Oro check which she deposited in her personal account; and 5) he attended Napoles' parties and was even photographed with Senator. Estrada and Napoles.

Based on the findings, conclusions and recommendations of the Investigating Justice, Justice Ong was dismissed from service, with a corresponding forfeiture of all retirement benefits, except accrued leave credits. In arriving at said decision, the Supreme Court explained:

Regrettably, the conduct of respondent gave cause for the public in general to doubt the honesty and fairness of his participation in the Kevlar case and the integrity of our courts of justice. Before this Court, even prior to the commencement of administrative investigation, respondent was less than candid. In his letter to the Chief Justice where he vehemently denied having attended parties or social events hosted by Napoles, he failed to mention that he had in fact visited Napoles at her office. Far from being a plain omission, we find that respondent deliberately did not disclose his social calls to Napoles. It was only when Luy and Sula testified before the Senate and named him as the “contact” of Napoles in the Sandiganbayan, that respondent mentioned of only one instance he visited Napoles (“This is the single occasion that Sula was talking about in her supplemental affidavit x x x.”).

The Court finds that respondent, in not being truthful on crucial matters even before the administrative complaint was filed against him *motu proprio*, is guilty of Dishonesty, a violation of Canon 3 (Integrity) of the New Code of Judicial Conduct.

Dishonesty is a “disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.” Dishonesty, being a grave offense, carries the extreme penalty of dismissal from the service with forfeiture of retirement benefits except accrued leave credits, and with perpetual disqualification from reemployment in government service. Indeed, dishonesty is a malevolent act that has no place in the Judiciary.<sup>4</sup>

#### ***B. People of the Philippines vs. Joselito C. Barrozo***<sup>5</sup>

Jennie Valeriano (Valeriano) was the respondent in several cases for Estafa and Violation of Batas Pambasa Bilang 22, or the Bouncing Checks Law. Her cases were assigned for the conduct of preliminary investigation to Atty. Joselito C. Barroza, Assistant Public Prosecutor of Dagupan City, Pangasinan. On one occasion, Atty. Barroza told her that he would resolve the cases in her favour in exchange for ₱20,000.00. Valeriano then went to the Office of Regional State Prosecutor to report the incident. Thereafter, the Regional State Prosecutor and Valeriano went to the National Bureau of Investigation (NBI), which immediately planned an entrapment operation. During the operation conducted on February 15, 2005, Atty. Barroza was caught red-handed by the NBI agents receiving the amount of ₱20,000.00 from Valeriano.

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<sup>4</sup> Ibid.

<sup>5</sup> Administrative Case No. 10207, 21 July 2015.

Following his arrest, Atty. Barrozo was charged with Direct Bribery under paragraph 2, Article 210 of the Revised Penal Code before the Regional Trial Court of Dagupan City. The case, however, was later indorsed to the Sandiganbayan since the accused was considered a high-ranking public officer, occupying a position with a salary grade 27 or higher.

In a Decision, dated 17 March 2011, the Sandiganbayan found Atty. Barrozo guilty beyond reasonable doubt of Direct Bribery and sentenced him to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of *prison correctional* maximum, as minimum, to nine (9) years, four (4) months and one (1) day of *prison mayor medium*, as maximum, and to pay a fine of ₱60,000.00. He was likewise imposed the penalty of special temporary disqualification. On 16 August 2012, Atty. Barrozo's conviction became final and executory.

In 2013, the Office of the Bar Confidant (OBC) received a report that Atty. Barrozo was still engaged in the practice of law. Considering that his conviction is a ground for disbarment from the practice of law under Section 27, Rule 138 of the Rules of Court, the Supreme Court issued a Resolution dated 11 December 2013, requiring him to comment on why he should not be suspended/disbarred from the practice of law.

In his Comment, Atty. Barrozo denied that he was engaged in the practice of law as he never received any remuneration for his services. Subsequently, upon Order of the Court, the OBC evaluated the case and came up with its 20 February 2015 Report and Recommendation recommending the disbarment of the respondent.

The Supreme Court adopted the above recommendation. Atty. Joselito C. Barrozo was disbarred and his name ordered stricken from the Roll of Attorneys. As held by the Court in its Resolution:

It must be recalled that at the time of the commission of the crime respondent was an assistant public prosecutor of the City of Dagupan. His act therefore of extorting money from a party to a case handled by him does not only violate the requirement that cases must be decided based on the merits of the parties' respective evidence but also lessens the people's confidence in the rule of law.

Indeed, Respondent's conduct in office fell short of the integrity and good moral character required of all lawyers, specially one occupying a public office. Lawyers in public office are expected not only to refrain from any act or omission which tend to lessen the trust and confidence of the citizenry in government but also uphold the dignity of the legal profession at all times and observe a high standard of honesty and fair dealing. A government lawyer is keeper of public faith and is burdened with a high degree of social responsibility, higher than his brethren in private practice.

Hence, for committing a crime which does not only show his disregard of his oath as a government official but is likewise of such a nature as

to negatively affect his qualification as a lawyer, respondent must be disbarred from his office as an attorney.

As a final note, it is well to state that:

The purpose of a proceeding for disbarment is to protect the administration of justice by requiring that those who exercise this important function be competent, honorable and reliable – lawyers in whom courts and [the public at large] may repose confidence. Thus, whenever a clear case of degenerate and vile behavior disturbs that vital yet fragile confidence, [the Court] shall not hesitate to rid [the] profession of odious members.<sup>6</sup>

### **C. The Kian de los Santos Story<sup>7</sup>**

The Integrated Bar of the Philippines (IBP) and the Field Investigation Bureau (FIB) of the Office of the Ombudsman filed separate complaints before the Office of the Ombudsman charging several police officers with criminal and administrative offences for the death of 17-year-old Kian delos Santos during a purported drug buy-bust operation in Caloocan City. Charged were Police Chief Superintendent Roberto Fajardo, Police Senior Superintendent Chito G. Bersaluna, Police Chief Inspector Amor Cerillo, Police Officer 3 Arnel Oares, Police Officer 1 Jeremias Pereda, Police Officer 1 Jerwin Cruz and private citizen Nono Lubiran.

The complaints are based on the affidavits executed by three witnesses Ma. Luisa Walican, Princess Ann Alano and Sheen B. Concepcion, who all narrated that on the evening of 16 August 2017, Oares, Pereda, Cruz and Lubiran were standing outside a store. When Kian passed by said store, Lubiran pointed to him as his drug runner. Oares, Pereda and Cruz then accosted Kian and dragged him to a dimly lit *cul-de-sac* where Oares shot him in the head. Two plastic sachets of shabu and a .45 calibre handgun were recovered from the body of Kian. The cases are still pending review and evaluation.

## **III. RELEVANT LAWS ON CORRUPTION**

To address the proliferation of corruption in our country, various laws have been enacted. They include the following:

### **A. Article XI of the 1987 Philippine Constitution**

This specific Article of the 1987 Philippine Constitution provides for the Accountability of Public Officers. Section 1 of the same declares, “Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.” Sections 2 and 3 thereof further describe the process by which the President, Vice-President, Members of the Supreme Court, the Members of the Constitutional Commissions and the Ombudsman may be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. The other sections

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<sup>6</sup> Ibid.

<sup>7</sup> Records. *Fajardo vs. Fajardo, et al.*, OMB-P-C-17-0344; OMB-P-A-17-0410.

provide for the creation of the Ombudsman and the anti-graft court known as the Sandiganbayan.

**B. Republic Act No. 6770, Otherwise Known as “An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and For Other Purposes”**

Under this law, the Ombudsman is vested with the authority and responsibility for the exercise of the mandate of the Office of the Ombudsman and for the discharge of its powers and functions. It is the Ombudsman who has supervision and control of the office. It has the authority to organize directorates for administration and allied services as may be necessary for the effective discharge of its functions.

**C. Republic Act No. 3019, Otherwise Known as the “Anti-Graft and Corrupt Practices Act”**

This law was created pursuant to the constitutional principle that a public office is public trust. It defines and penalizes the specific acts of public officers, and private individuals acting in conspiracy with such public officers, which the law considers as graft or corrupt practices. In addition, this Act also discusses prohibitions on private individuals, government officials’ relatives and members of Congress as well as the procedure for filing of the Statement of Assets, Liabilities and Net Worth (SALN).

**D. Republic Act No. 6713, Otherwise Known as “An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, To Uphold the Time-Honoured Principle of Public Office Being a Public Trust, Granting Incentives and Rewards For Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties For Violations Thereof and for Other Purposes”**

This law enumerates the standards of personal conduct in the execution of public duties, the duties of public officials and employees, prohibited acts and transactions and penalties for transgression thereof.

**E. Republic Act No. 7080, Otherwise Known as “An Act Defining and Penalizing the Crime of Plunder”**

This law defines the crime of plunder and how it is committed. Under the law, plunder is the criminal act of amassing, accumulating or acquiring ill-gotten wealth in the aggregate amount or total value of at least P50 million, through a combination or series of overt or criminal acts.

**F. Act 3815, or the Revised Penal Code**

Title Seven of this Code specifically enumerates, defines and penalizes crimes committed by public officers. Some of the more common crimes included in this Title are Direct Bribery, Indirect Bribery, Malversation of Public Funds or Property, Illegal Use of Public Funds or Property and Failure of Public Officer to Render Accounts.

**G. Republic Act 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 Proceedings Therefor”**

This law governs the process by which the State may institute forfeiture proceedings against a public officer who, during his incumbency, amasses property that is manifestly out of proportion to his legitimate income.

**H. Republic Act No. 9160, Otherwise Known as “An Act Defining the Crime of Money Laundering, Providing Penalties Therefor and For Other Purposes”**

The law aims to protect our banks and other financial institutions from being used as money laundering sites for the proceeds of any unlawful activity.

**I. Republic Act No. 10660, Otherwise Known as “An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, as amended, and Appropriating Funds Therefor.”**

This is the law creating the Sandiganbayan, or the Anti-Graft Court of the Philippines. It has the sole jurisdiction to hear criminal cases filed against high-ranking officials of the government, specifically, those occupying positions with Salary Grade 27 or higher.

**J. Republic Act No. 9485 or the Anti-Red Tape Act of 2007**

This is the policy applicable to government agencies and offices which provide frontline services to the public. A notable feature of this act is the creation of the Citizen’s Charter or the set of service standards of the particular office which should be posted in the main entrances of government buildings or other conspicuous places.

#### **IV. MEASURES TO FIGHT CORRUPTION**

Aside from the passage of the above-mentioned laws, our government also continually adopts measures to develop and enhance integrity of those serving its people.

**A. In the Judiciary**

On 7 July 2020, the Supreme Court *en banc*, passed and approved Resolution A. M. No. 18—01-05-SC, entitled “Establishment of the Judicial Integrity Board (JIB) and the Corruption Prevention and Investigation Office (CPIO).” Under said Resolution, the JIB was vested with the power and authority to receive and act on all administrative complaints or disciplinary actions against either the Presiding Justices and Associate Justices of the appellate courts and Judges of the lower courts, as well as act on complaints or referrals as provided for in Rule 140 of the Rules of Court, the “Internal Rules” of the JIB as approved by the Supreme Court *en banc*, as well as the Supreme Court Circulars, Administrative Orders or other issuances.<sup>8</sup>

Likewise, JIB was given exclusive jurisdiction over administrative complaints against (1) Court officials with Salary Grades 30 and 31, excluding those that are not within the jurisdiction of the JIB, regardless of the gravity of the offence; (2) First and Second Level Court Judges, including Shari’a District and Circuit Court Judges, charged with serious charges under Rule 140 of the Rules of Court; and (3) Court officials and or employees, with Salary Grades 27 to 29, regardless of the gravity of the violation of the “Code of Conduct for Court Personnel” and of the Civil Service Law and Rules.<sup>9</sup>

The CPIO, on the other hand, has the primary duty to conduct investigation and/or intelligence, surveillance or entrapment operations, as well as lifestyle checks to detect and

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<sup>8</sup> Section 4, A. M. No. 18—01-05-SC.

<sup>9</sup> *Ibid.*

identify justices, judges and officials of the judiciary who commit, appear to be involved in or are liable for any of the offences enumerated under Section 9 of said Resolution.<sup>10</sup>

## **B. Internal Cleansing of the Philippine National Police (PNP)**

In the PNP, an Enhanced Revitalized Internal Cleansing Strategy (ERICS) was implemented to instil values formation, spiritual development and strengthening of families of its personnel. The programme aims to build a God-centred, service-oriented and family-based organization. Under the punitive aspect of the PNP ERICS, a total of 3,537 personnel were penalized, of which 1,121 were meted the penalty of dismissal from the service, while 9,513 personnel were neither exonerated nor their cases dismissed.<sup>11</sup>

The PNP has likewise created the Integrity Monitoring and Enforcement Group (IMEG) tasked to conduct intelligence build-up and law enforcement operations against PNP personnel involved in illegal activities, institutionalizes efforts against rogue cops and cleansing police ranks to ensure that the PNP will be able to fulfil its duty with honesty, honour and integrity.<sup>12</sup>

## **C. Integrity Measures in the Office of the Ombudsman**

Not to be outdone, the Office of the Ombudsman, in partnership with international agencies such as the United States Agency for International Development (USAID) and the International Development Law Organization (IDLO), regularly organize and conduct trainings for its prosecutors. These trainings are geared towards developing and enhancing the capacity of its prosecutors to ensure the successful prosecution of graft cases filed in court against erring public officials. It has likewise introduced measures focused on developing and improving integrity in public service. Some of these measures are:

### **1. The Campus Integrity Crusaders Program**

This programme is the platform through which the Office of Ombudsman realizes the pro-active and preventive approach of its anti-corruption drive. In 2019, a total of 3,842 elementary, secondary and tertiary student-leaders were capacitated on anti-corruption and integrity development by the Office of the Ombudsman resulting in the involvement of 1,287 high school and college organizations in 1,250 activities cascading the values of integrity, honesty, transparency and accountability in schools and communities.<sup>13</sup>

### **2. Integrity Management Program (IMP)**

This programme aims to establish a systematic approach in building, improving, reinforcing and sustaining a culture of integrity in public sector institutions that is rooted in acceptable values, principles and standards of good governance. In 2018, the IMP was rolled out to five (5) agencies in the Executive Branch, namely, the Department of Health (DOH), the Department of Social Welfare and Development (DSWD), the Department of Public Works and Highways (DPWH), the Department of Justice (DOJ) and the Bureau of Internal Revenue (BIR).<sup>14</sup> The IMP proved to be effective in identifying vulnerable areas in agency processes and helping them draw up corrective measures that will build and develop a culture of integrity in the agency.<sup>15</sup>

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<sup>10</sup> Section 9, A. M. No. 18—01-05-SC.

<sup>11</sup> PNP 2019 Annual Accomplishment Report, p. 23.

<sup>12</sup> Ibid., p. 28.

<sup>13</sup> 2018 Ombudsman Annual Report, p. 17.

<sup>14</sup> Ibid., p. 19.

<sup>15</sup> Ibid.

### 3. Integrity, Transparency, Accountability in Public Service (ITAPS) Program

One of the notable initiatives of the Office is the Integrity, Transparency, Accountability in Public Service Program or the ITAPS Program. It is a programme offered by the National Integrity Center, the training arm of the Office of the Ombudsman. Designed using interactive adult learning methods, it is offered to government officials and employees, whereby modules have been designed to provide a good understanding of corruption (Module 1), accountability of public officers (Module 2), penalizing corruption (Module 3) and integrity in public service (Module 4). Explanations on specific violations such as Bribery, Malversation, Failure to Render Accounts, Illegal Use of Fund or Property and specific laws such as Code of Conduct and Ethical Standards for Public Officers and Employees, Plunder, Anti-Graft Law and the Anti-Sexual Harassment Act are also being offered by the programme.<sup>16</sup>

### 4. Red Tape Assessment

Another anti-corruption initiative is the conduct of the Red Tape Assessments (RTA) in government institutions, including law enforcement agencies. Patterned after the Organization for Economic Co-operation and Development (OECD) Red Tape Assessment tool, the Ombudsman initiated RTA aims to simplify administrative procedures with the end in view of reducing administrative burdens on businesses. As a methodology, the RTA evaluates the adequacy and functionality of the internal controls in place and determines whether they are proportionate to the risk of fraud, corruption, abuse, and mismanagement through listing down in two separate matrices all the documentary and other requirements for availing a service, the various steps required for such, and the rationale behind them in order to assess whether there is a relative impact in an agency's mandate in case a requirement or procedure is dispensed with.<sup>17</sup>

## V. RECOMMENDATIONS

Despite the progress our government has achieved in pursuing its anti-corruption drive, the following are suggested as further steps for improvement:

- A. Intensifying the internal cleansing within the PNP ranks;
- B. Implementing a more rigorous selection process for applicants or appointees to public positions to ensure that these positions are given or offered only to persons of unquestionable integrity and competence;
- C. Improving the fact-finding/intelligence-gathering capacity of the Department of Justice, Ombudsman and the PNP by conducting continuous trainings;
- D. Procuring technologically advanced equipment that will facilitate fact-finding and scientific investigation for case build up;

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<sup>16</sup> Integrity, Transparency, Accountability in Public Service (ITAPS) Program Primer.

<sup>17</sup> Red Tape Assessment Report for Supervisory Office for Security and Investigation Agencies of the Philippine National Police. Public Assistance and Corruption Prevention Bureau, Military and Other Law Enforcement Offices, Office of the Ombudsman.

- E. Review and amend the Bank Secrecy Law<sup>18</sup> to enable the Anti-Money Laundering Council to conduct speedier bank inquiry and investigation on the accounts of public officers involved in corruption and other illegal activities.

## VI. CONCLUSION

The issue of corruption is an issue that is felt by all Filipinos in their daily lives. To this end, adopting measures to develop and enhance the integrity of our public officials is imperative to ensure that public funds are spent not for their own benefit but for the needs of the people they have sworn to serve. When public funds are used and devoted to meet the people's needs, we take a step closer towards achieving economic stability, security and development for our country.

The war against corruption is far from over but our government's resolve to win this war remains steadfast and unbending. However, this responsibility does not rest on our government alone. All citizens must likewise do their part by remaining vigilant and adopting the attitude of non-tolerance against corruption. For it is only through the joint effort of the government and its citizens that we can make any headway in staving off the further spread of this malaise.

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<sup>18</sup> Republic Act No. 1405.