



Republic of the Philippines
OFFICE OF THE OMBUDSMAN
OFFICE OF THE SPECIAL PROSECUTOR
5th Floor, Sandiganbayan Centennial Building
Commonwealth Avenue corner Batasan Road
Quezon City



AN ADVOCATE'S VIEW OF CORRUPTION
(Individual Presentation Paper of Lalaine D. Benitez)

INTRODUCTION

Much has been said about the causes of corruption, the forms of corruption, the effects of corruption and the measures taken against corruption. Corruption has been dissected and analyzed in so many ways. Yes, I agree to corruption being one of the causes of deprivation, of poverty, of decreasing trust and confidence to public officials and to the government in general. Yes, I agree to criminalizing many facets, stages and acts that tend to create opportunities and groundwork for corruption. But what have we achieved so far? Why is corruption increasing in scale, in terms of impunity, profitability and opportunity?

Does it take mere changing of leaderships, criminalizing various acts, revising laws, modernizing information-dissemination and increasing watchdogs? In the point of view of a political and social analyst, corruption is cultural, behavioral, systemic, institutional. Indeed, what more is lacking in the analysis of corruption?

This paper aims to encourage a pro-active approach to corruption. An approach that makes us take a stand, to speak up, to point out weaknesses in measures taken against corruption, to constructively criticize and give a feedback. It aims to offer an alternative view to dissecting and preventing corruption. It aims to remind us that institutions and mechanisms are made up of people. People who make choices, set their priorities, motivated by their orientations, views and values. There is a corrupt system or institution because people who make up that system are corrupt.

In a court of law, it is not the system or the institution that stands charged. It is the accused person or persons. The accused cannot simply defend himself by asserting that the system or procedure did not provide a check, or was merely following orders. A corruption case goes into the very values of a person. It goes into the choices and priorities he makes and sets for himself and for his family. The case is not just cheating the government of its resources. A corruption case is about the accused person's propensity to cheat in order to meet his personal goals and agenda.

I. EXISTING MECHANISMS FOR COMBATTING CORRUPTION IN THE PHILIPPINES

A. The Philippines has very comprehensive Laws on corruption and supposedly very strong deterrents to corruption.

1. Republic Act 3019 –The Anti-Graft and Corrupt Practices Act.

The Law Punishes the following acts:

i. Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

ii. Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law.

iii. Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit for himself or for another, from any person from whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given without prejudice to Section thirteen of this Act.

iv. Accepting or having any member of his family accept employment in a private enterprise which has pending official business with him during the pendency thereof or within one year after its termination.

v. Causing any undue injury to any party, including

the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

vi. Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any manner pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

vii. Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

viii. Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

ix. Directly or indirectly becoming interested for personal gain, or having a material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercises discretion in such approval even if he votes against the same or does not participate in the action of the board, committee, panel or group.

Interest for personal gain shall be presumed against those public officers responsible for the approval of manifestly unlawful, inequitable, or irregular transactions or acts by the board, panel or group to which they belong.

x. Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit privilege or advantage, or of a mere representative or dummy of one who is not so qualified or entitled.

xi. Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to unauthorized persons, or releasing such information in advance of its authorized release date.

Of all the above provisions, in the point of view of a prosecutor, the most preferred charge is under the fifth paragraph, the giving of unwarranted benefit or causing undue injury either to the government or to any private party. It is a catch-all provision that gives leeway on the part of the prosecution in terms of facts to be proven and evidence to be gathered. It must be emphasized that the Anti-graft Law (Republic Act 3019) expressly provided that the charges under the Anti-graft Law is in addition to acts and omissions for which the accused may be penalized under existing laws like the Revised Penal Code of the Philippines, which is the general Criminal law.

Most of the time, a charge under the 5th paragraph of Section 3 of the Anti-graft Law is met with the defense of good faith. Some would say, an allegation of bad faith is a state of mind which may be difficult to prove. But

the law also says “evident”. As such, bad faith can be proven by evidence, documentary or testimonial without relying on the state of mind of accused, whose defense of good faith is likewise a state of mind following their line of argument.

The same 5th paragraph of the law also provides “gross inexcusable negligence” as one of the means to commit the violation. Again, accused would say, that such is contradictory to the allegation of bad faith. On further analysis, when there is already proof of “gross inexcusable negligence”, can accused still put up the defense of good faith? Following again the accused’s line of argument, if the two are contradictory and evidence shows gross inexcusable negligence, the defense of good faith should not be allowed to stand.

2. Crimes Committed by Public Officers under the Revised Penal Code of the Philippines in Title VII Book 2. In Cases filed before the Sandiganbayan, the Anti-graft Court of the Philippines, the crimes of Malversation and Falsification are predominant. Next are Cases of Estafa and Bribery. What do these statistics indicate? They are indicative of the public servants’ view that public office is a profitable trust.

3. Republic Act 6713- The Code of Conduct and Ethical Standards for Public Officials and Employees has been in existence since 1989. Under this law, only the provisions under Prohibited Acts and Transactions, Statements

and Disclosure and Divestment were criminalized.

The rest of the provisions are only administrative infractions. The Act is comprehensive enough to have covered various offenses and infractions but not strong enough to deter inefficiency and corruption. This may be due to the fact that not every public official and employee are aware of the provisions of the law. Neither is there a frequent reminder of what is in the law considering that each official and employee are supposedly well versed of the ideal conduct of a public servant. It provides among others:

i. ***Prohibited Acts and Transactions.*** – In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

(a) Financial and material interest. – Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.

(b) Outside employment and other activities related thereto. – Public official and employees during their incumbency shall not:

(1) Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;

(2) Engage in the private practice of their

profession unless authorized by the Constitution or law, provided that such practice shall not conflict or tend to conflict with their official functions; or

(3) Recommend any person to any position in a private enterprise which has a regular or pending official transaction with their office.

These prohibitions shall continue to apply for a period of one (1) year after resignation, retirement, or separation from public office, except in the case of subparagraph (b)(2) above, but the professional concerned cannot practice his profession in connection with any matter before the office he used to be with, in which case the one-year prohibition shall likewise apply.

(c) Disclosure and/or misuse of confidential information. – Public officials and employees shall not use or divulge, confidential or classified information officially known to them by reason of their office and not made available to the public, either: 91) To further their private interests, or give undue advantage to anyone, or (2) To prejudice the public interest.

(d) Solicitation or acceptance of gifts. – Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

ii. *Statements and Disclosure.* – Public officials and employees have an obligations to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

(A) Statement of Assets and Liabilities and Financial Disclosure. - All public officials and employees, except those who serve in an honorary capacity, laborers and casual or temporary workers, shall file under oath their

Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interest and Financial Connection and those of their spouses and unmarried children under eighteen (18) years of age living in their households.

The two documents shall contain information on the following:

- (a) real property, its improvements, acquisition costs, assessed value and current fair market value;
- (b) personal property and acquisition cost;
- (c) all other assets such as investments, cash on hand or in banks, stocks, bonds and the like;
- (d) liabilities; and
- (e) all business interests and financial connections;

The documents must be filed:

- (a) within thirty (30) days after assumption of office;
- (b) on or before April 30, of every year thereafter; and
- (c) within thirty (30) days after separation from the service.

iii. **Divestment.** – A public official or employee shall avoid conflicts of interest at all times. When a conflict of interest arises, he shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and or divest himself of his shareholdings or interest within sixty (60) days from such assumption.

The above provisions of Republic Act 6713 are comprehensive and clear enough. The provisions on Prohibited Transactions, Disclosures in the SALN, or the Statement of Assets, Liabilities and Networth and on Divestment are punishable by imprisonment of 5 years.

4. Obstruction of justice is penalized under a Special law which is Presidential Decree 1829. However, experience shows that very seldom is there conviction under this law. The law is not very frequently use against government officials and employees.

5. Republic Act 7080- An Act Defining and Penalizing the Crime of Plunder has been in existence since 1991. From 2001 up to 2012, records of the Office of the Special Prosecutor, the prosecutorial arm of the office of the Ombudsman, show that there were only 6 cases of Plunder filed (**Annex A**). So far the most prominent cases of plunder are:

- a. People vs. former Philippine President Joseph Estrada which ended in his conviction but was pardoned by the incumbent President Gloria Macapagal Arroyo. The pardon as claimed by some sectors was for political expediency as Estrada still has much support from the masses.

b. *People vs. Belicena*. Accused here is a former Undersecretary of the Department of Finance. This was dismissed before trial or on motion to quash. This is related to the issuance of tax credit certificates based on falsified supporting documents. The Sandiganbayan dismissed the case on Motion to Quash based on the Court's assessment that the nature of the transaction benefited only the private entities in whose favor the tax credit certificates were issued and did not benefit the officials of the government involved.

c. *People vs. Carlos Garcia*- Accused in this case is a General of the Armed Forces of the Philippines and involves an amount of more than PHP 300Million. The case was downgraded to Bribery only because of a Plea-bargaining agreement which became subject of a senate investigation.

d. *People vs. Gloria Macapagal Arroyo*, the former President of the Philippines. The case which was filed only last July 2012 is undergoing bail hearing.

Now, what do these indicate? Why are two former presidents of the Philippines involve in Plunder? How do we make use of the people's vote and confidence? What does it mean to have power and position? Again, a re-assessment of our personal priorities and choices should be in order. Not only on the part of the person who seeks the mandate of the people but also each individual voter whose mandate is sought.

6. Republic Act 1379- Recovery of Unlawfully –Acquired Wealth has been in existence since 1955. From 1993 to 2011, out of the 15 forfeiture cases filed before the Sandiganbayan, 4 were already dismissed and 1 withdrawn while the rest are still pending either still in trial or already submitted for decision. The government agencies from which the respondents predominantly came from are those from the Department of Public Works and Highways (DPWH) and the Armed Forces of the Philippines (AFP) (**Annex B**).

B. The Philippines has likewise a good number of Laws in Aid of Apprehension and Prosecution

1. Witness Protection- the present Witness Protection Program in the Philippines is administered by the Department of Justice.

2. Grant of Immunity. The Office of the Ombudsman in the exercise of its investigatory and prosecutorial powers can grant immunity to its prospective witnesses. A case in point is the immunity granted to two witnesses in separate cases filed against a former Undersecretary of Finance for the anomalous issuance of Tax Credit Certificates to companies that are not entitled. One witness was the liaison officer of a textile company and the other is the owner of public utility buses who submitted falsified supporting papers in his application for Tax Credit Certificates.

3. Whistle Blowers Protection Act. The Act was approved on its third and final reading in the House of Representatives. It provides for

- i. Requisites of Admission into the Program
- ii, Grounds for termination of admission into the Program and penalties
- Iii Protection against other actions of the person admitted
- iv. Confidentiality of the information
- v. Protection against Disciplinary actions or reprisals
- vi. Other benefits under the program like security and financial reward

C. The Courts which has jurisdiction over corruption cases are:

1. Regional Trial Courts (RTC)- Corruption cases against low-ranking officials are filed with Regional trial Courts. The decisions of RTCs are appealable to the Sandiganbayan then to the Supreme Court.

2. Sandiganbayan is a special collegiate court that hears and decides only corruption cases. There are three justices hearing a case in one Division. It has jurisdiction over corruption cases against high-ranking government officials with salary grade 27 and higher including:

- i. Provincial governors and other provincial officials
- ii. City Mayor and other city officials
- iii. Officials of the diplomatic service occupying the position of consul and higher
- iv. Philippine Army and Air Force Colonels, Naval captains and all officers of higher rank
- v. Officers of the Philippine national Police with the rank of provincial director and senior superintendent
- vi. City and provincial prosecutors and prosecutors of the Office of the Ombudsman
- vii. Presidents, Directors, trustees or managers of Government owned and controlled corporations
- viii. Members of Congress and judiciary without prejudice to the provisions of the Constitution

- ix. Chairmen and members of Constitutional Commissions without prejudice to the provisions of the Constitution

3. Supreme Court- Decisions of the Sandiganbayan are directly appealable to the Supreme Court. However, judgments of acquittal are elevated to the Supreme Court only when there is a showing of Grave abuse of discretion tantamount to lack or excess of jurisdiction. So far there has never been an instance where a judgment of acquittal was reversed by the Supreme Court.

D. Office of the Ombudsman – This is a Constitutional Body which is mandated to perform the following:

1. To investigate corruption cases
2. It files the Informations before the Sandiganbayan
3. To prosecute corruption cases either before the Regional trial courts or before the Sandiganbayan
4. It can issue subpoena in the course of its investigation
5. It has the power to extend immunity to prospective witnesses

6. It has concurrent jurisdiction with the Civil Service Commission to try and decide administrative cases against government officials and employees. However, to prevent conflict in decisions, the Ombudsman will terminate its investigation when the Civil Service Commission already took cognizance of the case.

E. Other Agencies

1. Presidential Anti-Graft Commission under the Office of the President. This agency however can only investigate and recommend but not to prosecute.

2. Integrity Protection and Enhancement Programs in each Government Agency like the one existing in the Bureau of Customs. However this is of very recent implementation and its effectivity to deter corruption is yet to be felt. Moreover, the initiative of putting up this bodies within an agency depends on the head of office. As such not all government agencies have this body.

3. Presidential Commission on Good Government created under the administration of former President Corazon Aquino. The agency was tasked to investigate and file cases for the recovery of former President Marcos's ill-gotten wealth. However, it has no prosecutorial powers. It

can only investigate and recommend. It is the Office of the Solicitor General which acts as the lawyer for the government. Recently, however, the past officials of the Commission also face charges of corruption.

F. Inter-Agency Dialogues and Agreements with other Government Agencies in the Verification of Complaints, Investigation of Subject Persons, Offices or Transactions and Gathering of Documents and Evidence are likewise relied upon in combating corruption. These agencies are the Commission on Audit, the Department of Justice, the National Bureau of Investigation and the Philippine National Police.

II. CURRENT ISSUES, PROBLEMS AND EXPERIENCES OF CORRUPTION IN THE PHILIPPINES

The problem of lack of transparency and lack of sense of accountability has been pervading the Philippine government in so many years. Dating back in the Marcos years, and the very recently concluded impeachment trial of the Philippine Chief Justice is reflective of problems in corruption and in the system of implementation of laws in the Philippines. One of the grounds raised against accused was betrayal of public trust(1987 Philippine Constitution, Article XI, Section 2). There has been perceptions of lack of sense of accountability when the Chief Justice failed to report a complete and true

Statement of his Assets, Liabilities and Networth (SALN) as required under Republic Act 6713, the Code of Conduct and Ethical Standards for Public Officials and Employees.

For several years now, the Statement of Assets, Liabilities and Networth (SALN) of Supreme Court Justices were not made available to the public. The same is true with other agencies of the government. Asserting the principle of separation of powers and the independence and co-equality of each branch of the government, the Philippine Supreme Court issued its own guidelines for the release of their SALNs to the public. And for these guidelines, who will dare question the justices of the Supreme Court? In the same course, who will dare question the Office of the President, or say the Office of the Ombudsman if it issues guidelines for the release of the Statement of Assets. Guidelines, which to the public can be incomprehensible, taxing and time-consuming.

The issue on making the SALN available to the public would not have been given such attention if not for the fact that it was no less than the Chief Justice of the Supreme Court who is being impeached. This is a first in the history of the Philippines. The impeachment case, sad to say, had proceeded with much difficulty for the Senate had to face certain restrictions in the Foreign Currency Deposits Act of the Philippines. One of the restrictions is that, the accounts cannot be inquired into unless it is with the written permission of the depositor (Foreign Currency Deposits Act, Republic Act

6426, Section 8).

The Philippines has not been very strict regarding the implementation of the law on the filing of SALNs of government employees and officials. Only recently, has there been serious attention and scrutiny of the assets and networth of government employees. Very few would espouse the view that if we enter the government why fear exposing your SALN if you have nothing to hide. Why fear divesting your connections to various corporations or businesses if one truly wants to serve the people. The problem with people entering the government is that they are no longer motivated by the desire to serve the public. It is of course understandable that they need employment and need to feed their families. However, totally ignoring the basic norms of simple living, of commitment to public interest, of responsiveness to the public, justness and sincerity goes to the core of being a public servant and a responsible citizen.

Cases filed with the Sandiganbayan, the Philippine Anti-graft court of the Philippines, relating to lack of transparency in contracts and transactions entered into by the Government of the Philippines are likewise reflective of the recent trends of corruption in the country.

i. NBN-ZTE Deal with China involving as accused the Chairman of the Commission on Elections and the Director General of the National Economic and Development Authority. The Contract in this case was never released to the public.

ii. There is lack of transparency in the management and disbursement of the funds of the Armed Forces of the Philippines. This is reflected in the several cases of corruption that has recently plagued the military. Recently, cases and news regarding involvement of military officials in the misuse of public funds are on the rise.

Political Patronage and Alliances, Filipino cultural traits like debt of gratitude, acts done for political expediency and alleged corruption of Commission on Audit personnel are reflective in the following cases:

1. There was diversion of Philippine Charity Sweepstakes Office (PCSO) funds to finance fictitious expenditures. This was the case against a former Philippine President filed last July 2012. The co-accused in this case are officials of PCSO and the Chairman of the Commission on Audit (COA) and the Head of the Fraud Audit Unit of the COA. This involves an amount of more than PHP 365 Million.

2. Another diversion of funds involved the Fertilizer Scam involving officials of the Department of Agriculture. Charged for Plunder are the Secretary of the Department of Agriculture, the Assistant Secretary in conspiracy with private individuals.

Employment of relatives in companies or establishments with pending transactions in the office of the public officer is left unguarded. In one case, a Bureau of Customs Official was charged for employing his brother-in-law to a Customs Brokerage Firm which frequently transacts with the official. This practice is rampant in the Philippines. However, very few are brought to Court, unless there is an actual injured party who is damaged or prejudiced. The case of the Customs official was brought to Court because he was also charged with other corruption cases.

The employment of not so qualified persons in the government leads to inefficient performance in rendering government services. Screening process is relaxed to accommodate recommendations of influential persons like politicians in exchange of future or past favors.

Cases delayed in their investigation, prosecution and execution stage takes its toll on government time, resources and the viability of the case.

In the Investigation Phase, cases may be delayed for five to more than ten years depending on the complexity of the issues involve, the position and influence of the accused and the nature and sources of the evidence to be gathered. This may be so when the investigation involves several documents coming from abroad which consist

of various fund transfers overseas. Add to it the position which accused holds as official of the government. Under the Mutual Legal Assistance provisions of the UNCAC, the Central Authority of a State Party is their Justice Department. As such the Office of the Ombudsman as requesting party had to exercise utmost discretion in gathering evidence. For this, a review of Mutual Legal Assistance Treaties particularly in the designation of Central Authority/ies should be in order.

In the Prosecution Phase, a case in point is that involving multiple issuances of tax credit certificates to entities or business establishments which are allegedly not qualified to avail of tax credit. The cases are multiple counts of violation of the Anti-graft Law involving numerous documents and also for falsification. There are several accused with several lawyers to contend with. The 40 informations involving just one company, a textile company, was filed in August 1999 and the trial is still on going. There are other tax scam cases against other companies engaged in the textile manufacturing business

and public transportation business. Out of the same transactions, two officials of the Department of finance were charged for plunder. The plunder case was dismissed even before trial commenced.

Delay in the Execution of Judgment can be seen in the case of People vs. Pacifico Velasco. The judgment of conviction was promulgated in December 2008. Accused went up to the Supreme Court on appeal and Supreme Court denied the appeal in 2010 for having been filed beyond the period to appeal. On Motion for Reconsideration by the Accused, the appeal was referred to the Supreme Court en banc and the Prosecution was required to comment. In the Supreme Court's Minute Resolution, no reason was stated for the referral to the Court en banc. Again, in a Minute Resolution the supreme Court once again denied the appeal and the judgement was finally executed on May 10, 2012.

What cause delays? Accused most of the time wanted to delay trial of their case. The filing of several motions like dismissal, quashal, determination of probable cause, reconsideration, reinvestigation, judicial notice, etc. swamped the court with so many interlocutory pleadings tending to confuse issues and facts. In the guise of due process, accuse can abuse and misuse the Rules of Court.

We in the prosecution cannot be passive about this. It taxes our time, our effort and the government's resources.

During the preliminary investigation stage, respondents are directed to file their counter-affidavits through a written order. Most of the time respondents will claim their failure to receive the order. Only when the case is already filed in court will they appear and bother to answer the charges.

The penalty of suspension is not being strictly implemented by the concerned head of the agencies of the penalized official or employee. The Department Of Interior and Local Government which is tasked to implement preventive suspensions and suspension of local government officials does not effectively carry out the orders of suspension owing also to the fact that local executives in the Philippines have their private armies.

The concerned officials has not been so keen on regulating unhealthy Business Practices or implementing laws to promote good commercial practices.

Recently, Rice Smuggling and Pork Smuggling has been discovered by authorities. The quality and value of the commodity has been understated so as to evade payment of the correct customs duties and taxes.

The anomalous issuance of tax credit certificates as pointed out earlier also gave rise to their transfer to other entities like oil companies for a consideration and the oil companies would succeed in claiming discounts on import duties. Running after the oil companies for benefitting out of fraudulently- issued tax credit certificates will again entail another proceeding, further prolonging chances of stopping the practice and chances of convicting conspirators.

Still related to the Lack of transparency in government transactions, disbursements of government funds and corruption of Commission on Audit personnel, are the payment of salaries to ghost employees and disbursement of government funds to inexistent projects or unfinished projects. Most of the time, these unlawful disbursements to ghost projects and ghost employees involve large amounts of money and high-ranking officials.

II. RECENT MEASURES IN RESPONSE TO THE CURRENT ISSUES

A. Conduct of Pre-Trial Conferences to Expedite Trial of Cases.

During the pre-trial conferences, parties are to agree or stipulate on the

facts that are in dispute, the evidence to be presented, the issues to be resolved, the witnesses to be presented and the number of days needed by each party to present its evidence. The Court will limit the trial of the case based on the facts, issues, and evidence stipulated on or agreed upon during the pre trial conferences.

B. In the performance of its mandate the then newly appointed Ombudsman, Conchita Carpio Morales launched her 8-point Agenda to wit:

- i. Disposition of High-Profile Cases
- ii. Zero Backlog
- iii. Improved “Survival “ Rate of Fact-Finding
- iv. Enforced Monitoring of Referred Cases
- v. Improved Responsiveness of Public Assistance
- vi. Improved Anti-Corruption Policy and Program Coordination Among Sectors
- vii. Rationalization of the Functional Structure
- viii. Enhanced Transparency and Accountability

2. The Ombudsman is aided by Graftwatch and Junior Graftwatch bodies in the reporting of anomalous transactions or erring government employees.

3. The Office also employs Resident Ombudsman assigned in different government agencies. These employees are lawyers with their support staff.

4. The Office also has a Community Coordination Bureau, a Special Studies Bureau and a Public Assistance Bureau that conducts, research studies, training and coordination with the people at the grassroots level for awareness of the existence and functions of the Ombudsman.

5. In the investigation of cases, the Ombudsman has lawyers and non-lawyers alike trained for the fact-finding and preliminary investigation stage of the case.

6. In the prosecution of cases, the Ombudsman has a separate Office of the Special Prosecutor consist of lawyers trained specifically to prosecute corruption cases in court.

C. Proposed Legislations in combating corruption are:

1. The Freedom of Information Bill which Provides Among

Others:

a. Mandatory Disclosure of Information by National Officials of the Statement of Assets Liabilities and Networth or SALN on an Annual Basis. These National Officials Include

- i. the President
- ii. the Vice President
- ii. the Members of the Cabinet
- iii. the Congress
- iv. the Supreme Court
- vi. the Constitutional Commissions and other Constitutional Offices and
- vii. Officers of the Armed Forces with General or Flag Rank

b. The bill also provides for the mandatory disclosure of the contracts and transactions entered into by a government agency.

c. The disclosure of the budget appropriations and projects to be undertaken by a government agency.

d. The disclosure of a government agency's disbursement of funds, procedures adopted in public bidding, award of contracts and disbursement of funds.

2. Strengthening the Anti-Money Laundering Law. The Proposed Amendments Include:

i. That All Types of Transactions Involving Five Hundred Thousand or More will be automatically reported

to the Anti-Money Laundering Council of the Philippines or
AMLC;

i. That Aside From Banks, Institutions and Persons Who
Will Be Covered By the Anti-Money Laundering Act Or AMLA
will include Money Changers, Foreign Exchange Companies, Pre-
Need Firms and Real Estate Agents;

ii. That the List of Predicate Crimes shall include Bribery
and Corruption of Public Officers, Fraud Malversation of Public
Funds and Property, Forgery and Counterfeiting and Trafficking in
persons.

4. Whistle Blowers Protection Act- Mandates that Every Person
Defined as Whistleblower Under the Law and Admitted Under The
Law's Protection Would not be Subject to any Liability Whether
Criminal, Civil or Administrative.

5. There is the proposal to amend the existing form of the Statement
of Assets, Liabilities and Networth (SALN). There is already a new
format of SALN revised by the Civil Service

Commission but the use of the new SALN form has been suspended in the meantime due to questions on some very technical features that may not be understood by an ordinary government employee. The existing and proposed format of the SALN are presented in **Annex C**.

IV. RECOMMENDATIONS

By way of Legislation, the following are recommended:

1. Reducing the Amount Involved in Plunder cases. The Existing Amount under Philippine Law is Fifty Million Pesos
2. Making the Charge for Several Counts of Anti-Graft Law Non-Bailable

Likewise, less reliance by Courts on Technical Rules of Procedure in the Dismissal of Cases should be looked into. For example, the formal amendment of Informations or charge sheets filed in Court may cause the dismissal of cases even before the case goes to trial.

Non-legal Strategies like conduct of Values Orientation Workshops in Government Offices and Professional Training of Investigators and

Prosecutors in Data Gathering, Build-up of cases and Prosecution of Cases is encouraged.

CONCLUSION

What is wrong with the laws, with the institutions, with the leadership, with the system, necessarily boil down to—What is wrong with us? The priority of a public officer is to serve the public. Power does not corrupt if we know how to use it. If we use it with our conscience and with our hearts, then it can be an instrument of change and development.

If we are to take a pro-active role in our fight against corruption, we have to start in ourselves. Parents have to start their children early. Leaders have to lead by example. We have to take a reassessment of our priorities and our values We have to strengthen our virtues. Let us go back to the basics-teaching and imbibing honesty, continuous learning and strengthening our age-old virtues. What is at stake is the future of our children, peace in our country and peace of our minds. Indeed, not until we truly realized this, can we truly implement the constitutionally- enshrined principle that “public office is a public trust and all public officers and employees must at all times be accountable to the people”.

In brief, there is much to be desired in the individual attitudes, orientations and values of each and every employee or person who seeks

to be employed in the government and those already in the government. Existence of Laws punishing corruption is not enough. Existence of Institutions to fight corruption is not enough. Total individual reorientation and determination is called for.

If every Filipino can think in terms of giving back, of paying back, of putting up with the corrupt system, of staying and fighting on and not giving up, corruption can in many ways, be shut up.