

# PRIMER ON CORRUPTION

## Content Outline

- A. Typology of Corruption
- B. Assessment of Corruption in the Philippines
  - 1. Prevalence of the Problem
  - 2. Costs and Consequences
  - 3. Specific Cases
    - a. Corruption in the Executive
    - b. Corruption in the Legislative
    - c. Corruption in the Judiciary
    - d. Corruption in the Military
    - e. Corruption and the Media
- C. Reforms and Initiatives to Combat Corruption
  - 1. Combating Corruption: Policies, Plans, and Institutions Involved
    - a. Government Strategy
    - b. Other Sectors' Plans
  - 2. Cases and Experiences: Bad and Best Practices
    - a. Commission on Audit
    - b. Presidential Commission Against Graft and Corruption
    - c. Inter-Agency Anti-Graft Coordinating Council
    - d. Office of the Ombudsman
    - f. Nongovernmental Organizations
    - g. Business Sector
    - h. Other Institutions
    - i. Lifestyle Checks
  - 3. International Experiences
- D. Recommendations to Combat Corruption Better

## A. Typology of Corruption

The term "corruption" serves as shorthand for a wide variety of actions in which public office is abused for private gain.

Some types of corruption, such as procurement fraud or the payment of *lagay* [speed or grease money], are common across many different agencies while others are agency specific.

There are three layers or levels of corruption:

- Corruption within the Broader Political System. This includes the demands of electoral politics, the extensive use of patronage in political appointments, and the existence of "pork barrel" funds.
  - Corruption within the Public sector. The analysis of corruption related to the performance of the public sector at a system-wide level focuses on three major problems:
    1. Spotty performance of mechanisms for identifying and sanctioning employees engaged in corrupt and illicit behavior.
    2. Considerations of pay and employment.
    3. Government procurement.
  - Corruption within specific agencies. In agencies like the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC), corruption involves both grand corruption, involving widespread syndicates and millions of pesos; and petty corruption, involving small payments of "grease" money to facilitate the delivery of goods and services.
- ▲ In his study on "dirty" money, New York University economics and finance professor Ingo Walter says that in many countries, corruption in government has become a way of life. He claims that government officials who have the power to alter decisions, like favoring one supplier over another, can be prone to corruption.
- ▲ The categories of "dirty" money are:
- Bribes—the significant payments to officials with decision-making powers to convince them to do their jobs properly.
  - Grease—used to facilitate payments to minor officials to encourage them to do their jobs improperly.
  - Extortion--"payments to persons in authority to avoid damage from hostile actions which they may inflict on the payer's interest.
  - Political Contributions--payments to political parties linked to favors or threats of retribution in case of non-payment.
- ▲ Projects that would have the most impact – those aimed at improving health, alleviating poverty or upgrading the quality of education appear to be also those

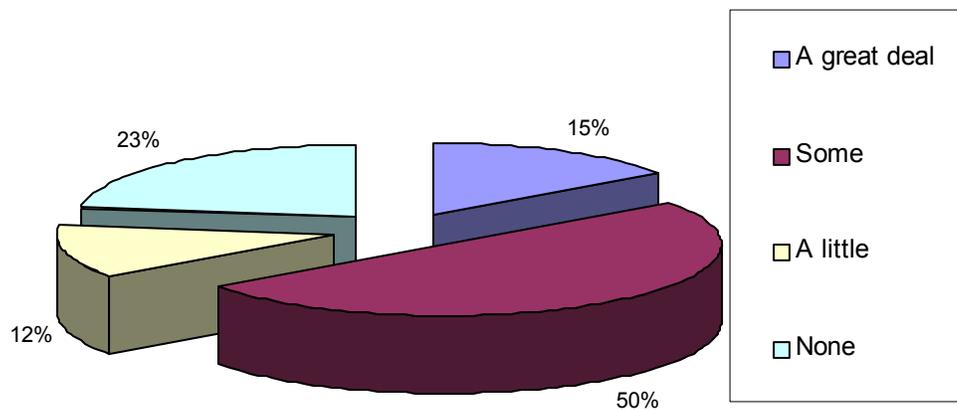
from which the most amount of money can be lopped off to benefit private individuals rather than the public.

## B. Assessment of Corruption in the Philippines

### 1. Prevalence of the Problem

- ▲ The Philippines is the second most corrupt country in Asia, according to the 2005 Political and Economic Risk Consultancy Report for 2005.
- ▲ Corruption and cronyism are identified as the most glaring weaknesses in the country by multinational companies operating in the Philippines, as indicated in the 2000 Corporate Performance Survey by the *Economist Intelligence Unit*.
- ▲ A mere 13% of the businesses in the Philippines are untouched by corruption, while eight percent spend more than 10% of their turnover to bribes, according to A World Business Environment Survey by the World Bank.
- ▲ In 1999, *An Exploratory Study of Graft and Corruption in the Philippines* by Linda Luz B. Guerrero and Steven A. Rood, revealed that nearly 2/3 of the survey respondents thought that there was corruption in government; 38% said it was "a great deal"; and 34% said "some".
- ▲ In the 1998 Social Weather Station (SWS) survey on the public's perception of the government's commitment to combat corruption, half of the respondents believed that the government is exerting some effort to combat corruption.

Perceptions of Government Commitment to Combating Corruption



Source: 1998 Social Weather Stations Survey

- ▲ A World Bank study in 2000 revealed that no one could accurately measure the extensiveness of corruption within the country as there is no systematic data available on its magnitude, location or trend. The same study, however, stated that “several information sources provide a strong indication that corruption is systemic and a key public policy issue” and that “corruption in the public and private sectors in the Philippines is pervasive and deep-rooted, touching even the judiciary and the media.
- ▲ The prevalence of corruption in countries around the world is measured by the Corruption Perception Index (CPI), published by the Transparency International. The CPI score refers to the perceptions on the degree of corruption as seen by business people and risk analysts, and ranges between zero (for highly corrupt) to 10 (for the highly clean). Over time, our ranking has deteriorated- from relatively in the middle (rank 54 in 1999) to near the bottom of the ranking (98 to 102 in 2003 and 2004) from among 100 or so countries around the world.

### Philippine Corruption Perception Index

Year	Rank	Score
2004	102**	2.6
2003	98 *	2.5
2002	77	2.6
2001	65	2.9
2000	69	2.8
1999	54	3.6
**out of 146 countries *out of 133 Countries		
Source: <a href="http://www.transparency.org">www.transparency.org</a>		

Countries with lowest level of perceived corruption for 2004	
<i>Country</i>	<b>CPI</b>
Finland	9.7
New Zealand	9.6
Denmark	9.5
Iceland	9.5
Singapore	9.3
Sweden	9.2
Switzerland	9.1

Source: [www.transparency.org](http://www.transparency.org)

<b>Countries with most acute level of perceived corruption for 2004</b>	
<i>Country</i>	<i>CPI</i>
Haiti	1.5
Bangladesh	1.5
Nigeria	1.6
Myanmar	1.7
Chad	1.7
Paraguay	1.9
Azerbaijan	1.9

Source: [www.transparency.org](http://www.transparency.org)

**Comparative Statistics on the Number of Cases Filed  
in Graft-Prone Government Agencies  
(2000-2001)**

RANK	AGENCY	2000	2001	INCREASE (DECREASE)
1	BOI	2	0	(100%)
	PEZA	3	0	(100%)
	PCSO	6	0	(100%)
2	DFA	7	1	(86%)
3	DENR	68	33	(52%)
4	DOH	27	15	(44%)
5	PPA	15	10	(33%)
6	HUDCC	17	12	(29%)
7	DPWH	48	39	(19%)
	DILG <sup>1</sup>	2466	2002	(19%)
8	DECS	156	134	(14%)
	NAIA	21	18	(14%)
9	BOC	40	35	(13%)
10	HLURB	10	9	(10%)
11	BID	19	20	5%
12	DOTC	53	56	6%
13	DA	19	21	11%
	BIR	27	30	11%
14	DND <sup>2</sup>	36	43	19%
15	NPC	10	15	50%
16	SEC <sup>3</sup>	48	72	57%
17	COMELEC	12	24	100%
18	NHA	13	39	176%
18	NIA	4	13	225%
20	DOE	0	4	400%
21	DFP	0	5	500%
TOTAL		3,125	2674	(15%)

Source: OMB Annual Report 2001

- 1 The number includes cases filed against LGUs, BJMP & PNP
- 2 Includes AFP cases
- 3 Resident Ombudsman was installed in January, 2001

- ▲ In another SWS survey on corruption conducted among Filipino managers engaged mostly in manufacturing, trade, finance, transportation and communication businesses and other private services, respondents said that:
  - Corruption in the public sector is worse than in the private sector
  - Business use of bribery and failure to report solicitation are appalling
  - The private sector must take the lead in raising and managing the resources needed to overcome corruption
  - Other findings:
    - Most incorrupt agencies (as perceived by respondents): Supreme Court, SEC and DOH
    - Most corrupt agencies: BIR, Customs and DPWH
    - 72% were asked for a bribe connected to taxes or licenses
    - 35% were asked for a bribe connected to a transaction with government
    - Most common government regulation activity prone to bribe: local government permits or licenses, payment of income taxes and national government permits or licenses.
    - 57% reports that most or almost – all companies in their sector use bribes to get public contracts.
    - Managers continue to be willing to pay 2% of Net Income to fund a program for halving corruption in 10 years.
    - Imprisonment is the recommended government and business sectors' punishment for corrupt people.
    - What's wrong with corruption?
      - It hurts the country--55%
      - It is immoral—45%
    - Can government run without corruption?
      - Yes—56%
      - Corruption is a way of government—44%

## 2. Costs and Consequences

- ▲ **US\$48 billion**—lost by government to corrupt practices over the last 20 years according to the Ombudsman.
- ▲ **PhP2 billion**—lost by governmental to corruption annually according to COA.
- ▲ The most obvious negative impact of corruption is that on the potential beneficiaries of public programs or projects. By eating into the provisions for a project, corruption

either *raises the cost* to project beneficiaries, or *lowers the quality* (or both simultaneously) of a project.

- ▲ Through the years, Philippine society, politics and economy has been profoundly damaged by corruption—which, among others, resulted to:
  1. Significant economic losses
  2. Problems of poor growth and underdevelopment.
  3. Political instability, military intervention, and regime change
  4. Corrosion of values and a breakdown of social norms, resulting in a perverse 'make do' culture
  5. Undermining of government agencies such as the BIR and Customs

### 3. Cases of Corruption

#### Corruption in the Executive

<b>Marcos Rule</b> 1965-1986	<b>Aquino Administration</b> 1986-1992	<b>Ramos Regime</b> 1992-1998	<b>Estrada Presidency</b> 1998-2001
<p>*Corruption was said to be at its height.</p> <p>*In 1972, the imposition of martial rule gave Marcos unchallenged political powers, which he and his cronies used to lick the government coffers clean, to siphon tens of billions of dollar loans and to extort shares of whatever business they set their sights on.</p> <p>*Many Marcos cronies have managed to remain at the corruption trough till today.</p>	<p>*There were numerous stories of the President's relatives engaging in shadowy transactions and corrupt deals.</p> <p>*Corruption in this era was perpetrated by what was dubbed as <i>Kamag-Anak Incorporated</i>.</p>	<p>*The several corruption scandals that rocked the Ramos regime, drained the little gains achieved by what could have been the Tiger Economy of Asia.</p> <p>*The Centennial Expo scam, the PEA-Amari scandal and the several IPP deals mark this regime.</p>	<p>*Estrada combined the vintage methods of presidential plunder that Marcos had perfected – behest loans, commissions from contracts, and the ownership of companies through dummies – with newer types of machinations such as stock market speculation and corporate mergers and takeovers using state pension funds.</p> <p>*Estrada was said to have accumulated as much as Php20 billion in cash and real estate while in Malacañang.</p>

Source:

## Department of Agriculture

An investigative report by the Philippine Center for Investigative Journalism (PCIJ) alleged the existence of systemic corruption in the Department of Agriculture (DA). The report points out that corruption is deeply rooted in a number of DA Regional Offices, which have power and resources but little monitoring or accountability. For instance, in the highly fertile province of Sultan Kudarat in Mindanao, farmers often complain that the Department has been providing low-quality planting materials and unhealthy farm animals. It has also not been delivering farm equipment under its assistance program.

## PEA-AMARI scandal

Dubbed as the “grandmother of all scandals,” the PEA-Amari deal involves a whopping PhP 1.75 billion worth of bribes, paid by Amari Coastal Bay Resources Corp. to a number of Public Estates Authority officials and some brokers to secure contract covering the sale of reclaimed public land in Manila Bay.

Almost two years following the Supreme Court’s affirmation of its May 2003 ruling voiding the controversial deal, there are still some questions involving Speaker Jose de Venecia and then President Fidel Ramos that have yet to be clearly answered.

## PIATCO-NAIA Terminal 3 Deal

The Supreme Court in May 2003 nullified the US\$650 million contract to build and operate the Ninoy Aquino International Airport (NAIA) Terminal 3 by the Philippine International Air Terminals Co. Inc. (PIATCO), citing irregularities in the bidding and existence of onerous provisions in the contract.

It was reported by Fraport AG, PIATCO’s foreign partner, that the EUR 59.8 million write down on loans or shareholders’ advances was spent to bribe and pay high government officials from the DOTC and other agencies for the immediate implementation of the NAIA 3 project.

## IPP contracts: Corruption involving GOCCs

The Committee tasked to review the contract entered into by the government through NAPOCOR with Independent Power Producers (IPPs) revealed that of the 35 IPP contracts, only six are found to be free of legal, technical and financial defects.

The Casecnan, San Roque Multi Purpose Project and CBK-Impsa were among those contracts that carried enticing incentives and guarantees, to the detriment of the public. It was surmised that despite the lopsided provisions, the contracts were approved because the IPPs gave a significant amount of grease money to the officials of NAPOCOR, NIA, DOE and other agencies.

## Corruption in the Legislative

- ⤴ The Pork Barrel refers to appropriations and favors obtained by a representative for his or her district. These funds are discretionary in nature, meaning it is up to each congressman or senator to identify the projects that will be funded by their pork-barrel allocation and the beneficiaries of the spending.

### *Pork through the years*

1920s	Marcos Rule	Aquino Administration	Ramos Regime	At present
As early as 1922, Senator Juan Sumulong stood at a point of privilege to condemn his colleagues in the legislative who recklessly spend public funds to serve their own interests.	<p>Pre-martial law days, solons then bragged that they had greater access to pork and enjoyed uncontested latitude in its use.</p> <p>At the time the Martial Law was imposed, the dispenser of pork was concentrated on Pres. Marcos alone, with absolutely no check on any abuse</p>	<p>Frustration over the bureaucracy's slow delivery of basic services to their constituents gave birth to the Countrywide Development Fund (CDF) by the members of the 8<sup>th</sup> Congress.</p> <p>The fund allotted <b>P12.5 million</b> to each member of the House of Representatives for their priority infrastructure projects. Any addition had to be negotiated with Malacanang or with the departments</p>	<p>FVR was able to rally legislators behind his agenda with promise of goodies for the legislators' constituents.</p> <p>Thus, with Solons getting as much as <b>P65 million</b> each year, the Ramos administration became what is now known as the Golden Age of Pork</p>	<p>Each member of the House of Representatives receive pork barrel amounting to <b>P70 million</b> each year.</p> <p>Senators on the other hand receive as much as <b>P200 million</b> worth of pork barrel.</p> <p>In both houses the members closest to the leadership get hundreds of millions of pesos of pork.</p>

Source:

- ⤴ Good Side of the Pork:
  - It provides for the needs of the constituents that have been neglected by national government
  - It is a necessary developmental tool, especially to 5<sup>th</sup> and 6<sup>th</sup> class municipalities
- ⤴ The reality of Pork
  - It is primarily a vote getting vehicle and a tool of political patronage.
  - It is also a tool wielded by the President to buy the support of Congress for the bills Malacañang wants passed.
  - It provides an opportunity for lawmakers to rake in bribes and commissions from contractors of pork-funded projects.
- ⤴ Legislator's estimated percentage share from pork funded projects:
  - 60 %—for ghost deliveries (where contracts for materials are faked)

- 40-50%-- for books, magazines and medicines (more if the medicines are expired or soon to be expired)
- 12-20%-- for infrastructure construction

▲ At present, the pork barrel is composed of the following:

Type of Fund	Description/Application	Amount in millions for each solon per year
1. Priority Development Assistance Fund (PDAF)	Used for any type of project whether physical infrastructure, livelihood, scholarship, vehicle and equipment acquisition medicines or training	<b>P12-18M</b>
2. Congressional Initiatives Allocation (CIA)	Budgetary items incorporated in allocations for various agencies over which legislators have the power to direct disbursement of particular appropriations Most of these funds are inserted in the budgets of the DepEd, the DPWH, DILG, and the DOH	<b>P15 M</b>
3. Public Works Fund	Exclusively for physical infrastructure projects	<b>P20-60M</b>
4. School Building Fund	For the construction of school buildings in representative's district	<b>P4.5 M</b>
5. Farm-to-market road construction fund	For farm-to-market road construction in representative's district	<b>P.05M</b>

Source:

▲ According to PCIJ's recently launched book, *The Rulemakers: How the Wealthy and Well-Born Dominate Congress*, apart from the pork barrel, politicians scamper to get a seat in Congress for other perks. The following table indicates just how much a representative can receive in his incumbency.

### What a Representative Can Receive

PURPOSE	AMOUNT
Salary	P35,000 a month
Published expenses	P200,000 a month
Allowance from the Speaker	P50,000-100,000 a month
Christmas gift from the Speaker	P100,000-200,000
Occasional gift from Malacañang (Christmas)	P100,000-150,000
Election for the speakership	as much as P200,000
Attendance in a plenary session to vote on selected national bills	P50,000 (can go up to 500,000 for urgent, controversial measures)
Special occasions (e.g. barangay elections)	P50,000
Foreign travel	\$300 per diem

As officer or committee chairman	Varies, depending on expenses
Pork barrel (Priority Development Assistance Fund and Public Works Fund)	P65 million a year

Source:

\*Salaries are fixed by law. Foreign travel per diem is set by the House leadership. Pork barrel fund is fixed by the General Appropriations Act. The other amounts are based on interviews with former and current congressmen and House staff members.

## **Corruption in the Judiciary**

### PLDT Case

In a sworn affidavit, an expert alleged that then Justice Hugo Gutierrez of the Supreme Court faked authorship of a controversial and important decision that preserved the virtual monopoly of the PLDT on profitable overseas calls. The decision, which overturned the Court's earlier ruling that criticized monopolies and upheld the National Telecommunications Commission's power to order interconnection among telecom firms, appeared to have been written by a PLDT lawyer. The said case raised the possibility of the presence of biases, partiality and lack of independence in the judicial decision-making process.

### Beer Case

In 1998, San Miguel Corp. sued Asia Brewery Inc. for allegedly copying the size, shape and color of its famous beer bottle. Then Justice Jose Campos, who was assigned to pen the decision on the case, revealed that Asia Brewery had offered two other justices an amount equivalent to PhP 2.5 million in exchange for a decision in their favor. Justice Campos decided against Asia Brewery, but months later, the Supreme Court reversed his decision. San Miguel's lawyer recalled being approached by a person who advised the company that the judge would decide in their favor for a fee of PhP 3million. San Miguel refused to pay and lost the case.

## **Corruption in the Military**

### Maj. Gen. Carlos Garcia

Congressional investigations indicated that a year after his appointment to AFP Chief of Staff for Comptrollership, Garcia's bank account reached PhP 7 million. It was also alleged that he was able to make a down payment for two posh condominium units in the US amounting to \$200,000. There were also allegations that Garcia must have brought an estimated PhP 71 billion to the US, which would have been enough to buy 71,000 pairs of boots for soldiers or provide a one-year meal allowance to 6,500 troops.

## Philippine Veterans Affairs Office

We are the only country in the world where veterans are increasing in numbers even as the past wars have faded away in history. The anomalies in PVAO have resulted to legitimate veterans receiving their pensions late, if at all, and to millions of pesos being lost. According to former DND secretary Orlando Mercado, the anomalies would not have been possible without the knowledge or collusion of some officials of the Philippine Veterans Bank.

### **Corruption and the Media**

- ⤴ The media, too, has fallen prey to corrupt practices. In the SWS National Survey conducted during the Fourth Quarter of 2000, 11 percent of the respondents said newspaper writers were bribed to say false things "very often."

### **Reforms and Initiatives to Combat Corruption**

#### **1. Policies, Plans, and Institutions Involved**

##### **➤ Government Strategy**

#### The Arroyo Administration's Key Initiatives

- ⤴ The first Administrative Order of Pres. Arroyo prohibited government agencies from entering into any business contracts with the President, her husband or their relatives.
- ⤴ Created the Presidential Anti-Graft Commission (PAGC) to investigate allegations of corruption involving presidential appointees and to recommend appropriate actions to the President.
- ⤴ Strengthened the Presidential Committee on Effective Governance, which is the highest-level anti-corruption body in the government.
- ⤴ Reactivated the Presidential Commission on Good Government (PCGG) to recover the ill-gotten wealth of Estrada.
- ⤴ Created the privately-funded Governance Advisory Council to serve as watchdog against corruption and to complement the work of PAGC.
- ⤴ Specified the elimination of graft and corruption as one of the objectives of the Medium-Term Philippine Development Plan.
- ⤴ Created the Lifestyle Check Coalition that will investigate "the morality, lifestyle, and nightlife of government officials to gather evidence of graft and corruption."

## Administrative and Legislative Reforms

- ⤴ Congress passed the following measures to send a strong signal to the global community on the government's determination to promote a healthy business environment:
  - The Securities Regulation Code (August 2000) to strengthened the regulatory powers and independence of the Securities and Exchange Commission (SEC).
  - The Anti-Money Laundering Act (2001 and 2003) which aims to curb national and transnational illegal transactions.

## Procurement Reforms

- ⤴ The Department of Budget and Management (DBM) initiated procurement improvement reforms in early 1999 to streamline the procurement system and minimize opportunities for corruption.
- ⤴ Approved Executive Order (E.O.) No. 262, which aims to increase competition, reduce delays, limit the discretion of bids and awards committees, and eventually to reduce opportunities for corrupt practices.
- ⤴ Approved E.O. No. 322 mandating all national government agencies to use the electronic procurement system.
- ⤴ Passed the Government Procurement Reform Act.
- ⤴ Involved civil society in monitoring procurements through Procurement Watch to promote transparency and accountability.

## Public Sector Reforms

- ⤴ Implemented a comprehensive public expenditure management improvement program intended to restore fiscal discipline and increase transparency and accountability in the budget process.
- ⤴ Adopted the Medium-Term Expenditure Framework, which develops a multiyear budgeting, to enhance sustainability of government's economic plan and expenditure program.
- ⤴ Introduced the Sector Effectiveness and Efficiency Reviews to sharpen priorities, help assess the effectiveness of agency programs, and strengthen evaluation within agencies.
- ⤴ Introduced the Organizational Performance Indicator Framework to focus the budget process on outputs and outcomes instead of inputs.

## Judicial Reforms

- ⤴ Introduced an Action Program for Judicial Reform, which outlines a comprehensive and holistic approach that is crucial to judicial reform and identifies a number of steps such as streamlining the administration of both the Supreme Court and the lower courts.

## Inter-Agency Coordination

- ▲ Composed of the Commission on Audit (COA), the Office of the Ombudsman, Civil Service Commission (CSC), PAGC, Department of Justice (DoJ) and the National Bureau of Investigation (NBI), Inter-Agency Anti-Graft Coordinating Council came up with the Guidelines of Cooperation, which outlined each member agency's role in the detection, investigation, and prosecution of graft and corruption cases.

## **GOVERNMENT BODIES TASKED WITH FIGHTING CORRUPTION**

### Office of the Ombudsman

The 1987 Constitution gives the Ombudsman the mandate to fight graft and corruption in various ways: through public assistance, graft prevention, investigation, prosecution and administrative resolution. Despite its multifaceted nature, the Ombudsman is best known for three functions: investigation, prosecution and administrative adjudication.

This mandate is all-encompassing, as provided in Section 13 of RA 6770, or the Ombudsman Law of 1989: "The Ombudsman and his deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned and controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people."

### **Workload and Status of Criminal and Administrative Cases (OMB Docketed and OSP/TBP Transferred Cases) As of December 31, 2001**

<b>Total Workload of Criminal and Administrative Cases</b>	<b>13,585</b>
Cases received during the year	7,720
Referred by the other OMB Offices	221
Disposed cases reverted back to Pending	32
Carry-over from CY 2000	5,833
Less: Cases Recalled to CO/ Transferred to other OMB offices	221
<b>Disposed</b>	<b>9,324</b>
Prosecution	1,374
Penalty Imposed	390
Dismissed/Exonerated	6,270
Closed and Terminated	1,290
<b>Pending</b>	<b>4,261</b>

Source: OMB Annual Report 2001

## Sandiganbayan

The Sandiganbayan is the special court created to hear criminal and civil cases of graft and corruption involving public officials. It is equivalent in rank to the Court of Appeals. Its jurisdiction is limited to cases involving violations of the following:

- R.A 3019 (Anti-Graft and Corrupt Practices Act);
- R.A 1379 (Forfeiture of Illegally Acquired Property);
- Revised Penal Code listing crimes committed by public officials – bribery, indirect bribery, and corruption of public officials; and
- R.A 9160 (Anti-Money Laundering Act), a recent addition to the Sandiganbayan’s jurisdiction

### **Sandiganbayan Facts and Figures**

Year created	1979
Exercises jurisdiction over the following accused officials:  (As stipulated in RA 8249)	*Local government officials *Foreign affairs officials with the rank of consul and higher *Naval captains, air force captains and military officers of higher rank, *Provincial directors of the Philippine National Police (PNP) and higher, *Prosecutors in towns and cities and in the Ombudsman, *Heads of GOCCs *Members of Congress and its officials belonging to Salary Grade 27 *Members of the Judiciary with the exception of members of the Supreme Court who are subject to impeachment, *Heads and members of Constitutional Commissions.
Number Cases handled from 1991 to 2000	30,000
Total amount involved in the cases	Php12 billion
Most common cases	Falsification, malversation, estafa, violations of RA 3019

## Civil Service Commission

The CSC calls itself “the central personnel agency of the government.” It makes sure that the country’s 1.4 million civil servants (Sto. Tomas, 1993) comply with the standards required of them under the Administrative Code and the Civil Service Law as well as the Code of Conduct and Ethical Standards for Public Officials and Employees.

The CSC handles cases when civil servants violate administrative rules and regulations. Cases that come to its attention may be either filed directly by citizens or referred by the Ombudsman.

## Presidential Anti-Graft Commission

PAGC is directly under the Office of the President and is the venue for filing administrative complaints against presidential appointees.

## Commission on Audit

The COA has been called the “watchdog of the treasury” and the government auditors the guardians and protectors of the public fund. This office makes sure government collects the correct amount of revenues and spends money wisely.

### **Philippine Government Anti-Corruption Agencies**

Agency	Legal Status	Date Established	Mandate
Office of the Ombudsman	Constitutional	1986	Investigates and prosecutes. Adjudicates administrative cases and takes criminal cases (or Sandiganbayan depending on government official’s rank)
Commission on Audit	Constitutional	1986	Conducts independent audits of government agencies and refers financial irregularities discovered in audits to ombudsman’s office
Civil Service Commission	Constitutional	1986	Plays preventive role in setting standards and norms for civil service appointments and punitive role for meting out penalties and punishments for violations.
Sandiganbayan	Constitutional	1986	As main anti-graft court, adjudicates criminal cases brought to it by ombudsman’s office. Deals only with cases brought against high-ranking government officials.
Judiciary (headed by Supreme Court)	Constitutional	1901	Adjudicates law in all areas.
Department of Budget and Management	Executive	NA	Oversees reforms in the procurement, tax and expenditure management, streamlining the bureaucracy and civil service reform
Commission on Elections	Constitutional	1986	Tasked with promoting free, orderly, honest, peaceful, and credible elections and handling expeditiously every action brought before it.
Presidential Commission on Good Governance	Executive Order No.1	February 1986	Assigned at its inception with recovering ill-gotten wealth from Marcos family. Now also tasked with similar recovery from Estrada.
Bangko Sentral ng Pilipinas	Constitutional (New Central Banking Account)	1993	Performs central banking functions. Replaced old central bank created in 1946
Securities and Exchange Commission	Commonwealth Act #83 or Securities Act	October 1936	Oversees registration of securities, evaluating financial condition and operations of applicants for security issues, and supervising stock and bond brokers and bond brokers, as well as stock exchanges. Tasked with strengthening corporate governance

Inter-Agency Anti-Graft Coordinating Council	Executive Order No. 79	August 1999	Shares information and resources to enhance coordination, between its members' activities (CoA, Office of the Ombudsman, CSC, PAGC, DoJ, and NBI)
National Bureau of Investigation			Gathers evidence for probable cause hearings and files appropriate charges
Presidential Committee on Effective Governance	Executive Order No. 165	October 1999	Formulates public sector institutional strengthening and Streamlining Agenda. Chaired by Executive Secretary, vice-chaired by DBM, members include: Heads of CSC, CoA, DoF, NEDA and Presidential Management Staff
Presidential Anti-Graft Commission	Executive Order No. 12	April 2001	Investigates violation of anti-graft laws by presidential sub-appointees and can recommend suspension of individual to president (Same mandate as the Ramos administration's Presidential Commission against Graft and Corruption, which it superceded). Also superceded Estrada administration' National Anti-corruption Commission.
Governance Advisory Council	Executive Order No. 25	July 2001	Advises president in formulating governance reform agenda. Consists of private sector appointees
Anti-Money Laundering Council	Created by Anti-Money Laundering Law (Republic Act 9160)	September 2001	Consists of BSP Governor, commissioner of Insurance Commission and SEC Commissioner. Receives reports on covered transactions and can freeze suspicious accounts with recourse to courts for 15 days.

Source: WB, "Combating Corruption in the Philippines: An Update," 30 September 2001.

## ***ANTI – CORRUPTION LAWS***

**The 1987 Constitution** states that:

1. As public office is a public trust, public officers and employees must at all times be accountable to the people.
  - Government officials and functionaries must serve the people with utmost responsibility, integrity, loyalty, and efficiency
  - They shall conduct themselves with patriotism and justice.
  - They must lead modest lives. (Sec. 1, Article XI)
  
2. The President, the Vice-President and similar highly placed government officials may be removed from office by impeachment.
  - They may be held so liable for culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. (Sec. 2. Article XI)

**The Revised Penal Code** has provisions on the following:

- *Crimes Against the Fundamental Laws of the State, (Title II)*

1. Any public officer may be held criminally and civilly liable for the following acts or omissions:
  - 1.1. Arbitrary detention (Art. 124)
  - 1.2. Delay in the delivery of detained persons to the proper judicial authorities (Art. 125)
  - 1.3. Violation of domicile (Art. 128)
  - 1.4. Prohibition, interruption, and dissolution of peaceful meetings (Art. 131)
  - 1.5. Interruption of religious worship (Art. 132)

- *Malfeasance and Misfeasance in Office (Chapter 2, Title VII)*

1. Dereliction of duty
2. Bribery
3. Corruption of Public Officials

- *Other acts defined and penalized*

1. Frauds and illegal exactions and transactions
2. Malversation of Public funds or property
3. Infidelity of public officers, and
4. Other offenses or irregularities by public officers.

**Other laws**

<p><b>An act Defining and Penalizing the Crime of Plunder</b> (R. A. No. 7080)</p>	<p><b>Anti-Graft and Corrupt Practices Act</b> (R.A. No. 3019)</p>	<p><b>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 Procedure Therefore</b> (R. A. No. 1379)</p>	<p><b>Code of Conduct and Ethical Standards for Public Officials and Employees</b> (RA 6713)</p>
<p>1.Any public officer who by himself or in connivance with other persons accumulates or acquires ill-gotten wealth in the aggregate amount of seventy five million pesos (P75,000,000.00) shall</p>	<p>*This was enacted in accordance with the policy of the Government to repress certain conducts of public officers and private persons which constitute or may lead to graft and corrupt</p>	<p>*This law zeroes in on any public officer or employee who has acquired during his incumbency any property which is manifestly out of proportion to his salary or other lawful sources</p>	<p>*This law was enacted in line with the policy of the state to promote a high standard of ethics in public service. (Sec. 2)  *In their discharge</p>

<p>be guilty of plunder.</p> <p>2. He shall be punished by life imprisonment with perpetual absolute disqualification from holding any office.</p> <p>3. His ill-gotten wealth and their fruits, proceeds or income shall be forfeited in favor of the State.</p>	<p>practices.</p> <p>*The following are acts or omissions which this law defines and penalizes as corrupt practices:</p> <p>1. Direct or indirect pecuniary interest in any contract or transaction between the government and any other party wherein the public officer in his official capacity may intervene under the law;</p> <p>2. 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. (Sec. 3, par. d)</p> <p>3. Entering on behalf of the Gov't into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby. (Sec. 3 par. g)</p> <p>4. Knowingly approving or granting any license, permit, privilege or benefit in favor of a person who is not so qualified or entitled. (Sec. 3 par. J)</p>	<p>of income.</p> <p>*Such property may include the following:</p> <p>1. Those which the public officer or employee unlawfully acquired but titled in the name of another person (e.g. spouse or relative)</p> <p>2. Those which were donated to him/her during his/her incumbency unless he can prove that the donation is lawful.</p>	<p>and execution of official duties, every public official and employee shall observe the following as standards of personal conduct. (Sec. 4)</p> <p>1. Commitment to public interest</p> <p>2. Professionalism</p> <p>3. Justness and Sincerity</p> <p>4. Political neutrality</p> <p>5. Responsiveness to public</p> <p>6. Nationalism &amp; Patriotism</p> <p>7. Commitment to democracy</p> <p>8. Simple living</p>
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## ➤ **Initiatives from other sectors**

### Makati Business Club

Its initiatives in fighting corruption include *Project Simplification*, which aims to simplify transactions in licensing and real estate permits, and the *Transparent and Accountability in Governance Project*, which surveys firms on the extent of corruption in the private sector.

### Governance Advisory Council

The GAC has prepared a new corporate governance reform agenda that covers guidelines on the roles and responsibilities of corporate boards, a code of proper practice for directors, and a code of ethics for enterprises.

### Civil Society

- Procurement Watch Inc., an NGO organized by a group of economists, lawyers and policy analysts, helps monitor on demand the major procurement activities of the government. Aside from being a watchdog, PWI conducts studies, promotes e-procurement, and assists in streamlining procedures that govern procurement of goods, supplies, materials, services, and infrastructure projects of the national government.
- *Bantay Katarungan* monitors court proceedings and applicant screenings for positions in the lower courts and courts of appeals.
- The 1,000-member Fellowship of Christians in Government, which has fellowship groups in 50 government agencies, has quietly made its presence felt by publishing a booklet on how to transact business with various government agencies.
- In 2001, civil society organizations led by the Transparency and Accountability Network (TAN) had taken the first steps toward developing a civil society anticorruption agenda. The agenda consists of action plans for preventing corruption, prosecuting offenders, and promoting a corruption-intolerant culture. TAN is composed of 19 academic institutions, media and NGOs.
- 361 NGOs and POs were accredited as corruption prevention units and 1,074 student and community-based youth organizations were registered as junior graft-watch units by the Office of the Ombudsman.

## Media

Dubbed as the watchdog of society, the media has played a crucial role in promoting transparency and curbing corruption. Reports on corrupt practices of government officials often trigger public outcry, launch series of investigation and judicial proceedings, or sometimes resignation of the official involved.

## PCIJ

As a non-profit, independent agency specializing in investigative reporting, the PCIJ has rocked the present and previous administrations with its well-researched and in-depth exposés of the conduct of public officials. Its reports have enriched public opinions and debates.

## ***2. Cases and Experiences: Bad and Best Practices***

### Commission on Audit

- Adoption of a simplified, computerized accounting system consistent with international accounting standards.
- Adoption of government-wide and sectoral performance audit and audit team approach to streamline audit structure and ensure efficiency and independence in auditing.
- Promotion of government-integrated financial management information system.

### Office of the Ombudsman

- Enlisted citizens' support in its fight against graft and corruption.
- Took an aggressive role in addressing the problem of money laundering to further the cause of corruption prevention.
- Filed corruption cases against President Estrada in the Sandiganbayan in 2001.

### Nongovernmental Organizations

- ⤴ PCIJ's reports on President Estrada's unexplained wealth stirred public awareness and discussions on governance and corruption. Three of the PCIJ reports were part of the impeachment complaint against the now deposed president. These reports shared the top prize in Jaime V. Ongpin Awards for Investigative Journalism in 2000.
- ⤴ The Corruption Prevention Unit (CPU) Program is spearheaded by NGOs and POs and is aimed at establishing CPU public assistance centers in the community to ensure community-based participation in the drive against corruption and inefficiency in the government.

### Business Sector

- ⤴ The Makati Business Club represents the progressive elements of the business community who are looking at the larger picture of the economy, not only at their

own business interests. This group was instrumental in supporting the movement for accountability and has endorsed the demand for good government.

### Lifestyle Checks

- ▲ The “Lifestyle Check Coalition,” which is composed of 16 government agencies, NGOs and civil society, pools the expertise, resources and manpower of its members in identifying leads, gathering information and prosecuting accused public officials. The public provides the information, while the intelligence-gathering units of the coalitions (such as the NBI and the Intelligence Service of the AFP investigate suspected officials. The findings are forwarded to other member units for evaluation and confirmation.
- ▲ To further ensure the success of this undertaking, lifestyle checks and anti-graft units were formed in six agencies the DoF, DAR, DOH, DPWH, DENR and DepEd.

### ***3. International Experiences***

- ▲ Based on a comparative analysis of five Asian countries (India, Hongkong, Mongolia, Philippines and Singapore), Professor Jon S.T. Quah of the National University of Singapore draws six lessons for designing successful anti-corruption efforts:
  - Commitment by political leadership is crucial.
  - A comprehensive strategy is more effective.
  - The anti-corruption agency itself must be incorruptible.
  - The anti-corruption agency must be removed from police control.
  - Opportunities for corruption in vulnerable agencies must be reduced.
  - Corruption can be reduced by raising salaries, if a country may afford to so .

### Hongkong’s experience

In the 1960s and early 1970s, Hongkong, with one of the world’s largest police forces, was notorious for the number of its officers engaged in systematic acts of corruption. Moreover, corruption was prevalent not only in the government, but also in the private sector.

In 1971, the government enacted the Prevention of Bribery ordinance then later created the Independent Commission Against Corruption (ICAC). The new agency was given sweeping powers and complete operational independence. It could require any person to provide any information, issue restraining orders to freeze assets and properties, and seize travel documents to prevent escapes.

ICAC has developed a remarkable system of internal controls and outside advisory to provide and analyze information about possible corruption and abuses of power and enjoys widespread support.

The following factors have been critical for its success in combating corruption:

- Recognition of the problem and commitment to solving it.
- An unimpeachable anticorruption agency
- Attention to all reports
- Confidentiality

### ADB-OECD Anti-Corruption Initiative for Asia and the Pacific

1997 saw the launching of the Anti-Corruption Action Plan for Asia-Pacific, which had the following pillars:

- developing effective and transparent systems for public service
- strengthening anti-bribery actions
- promoting integrity in business operations
- supporting active public involvement.

The regional anti-corruption conference of ADB-OECD Anti-Corruption Initiative for Asia and the Pacific in 2003 featured:

- Capacity building workshops that enabled delegates to improve their knowledge in areas such as the use of protection of whistle-blowers, forensic accounting to cope with complex corruption, incidences, detection of corruption in public procurement and transnational judicial cooperation.
- Discussion on the emergence of legal and institutional frameworks to stem corruption.

### World Bank's efforts on measuring corruption and designing strategies to combat and improve governance in Albania, Georgia and Latvia.

#### ▲ Findings in Albania, Georgia and Latvia

1. There are many types of corruption, and each country's pattern is distinct
2. Institutional causes of corruption differ, suggesting different priorities for reform
3. Enterprises would pay higher taxes if corruption were eliminated.
4. Corruption disproportionately hurts the poor
  - Although richer household are more likely to pay bribes, the burden of corruption is much greater for poorer households.
5. Bureaucrats pay for lucrative positions
  - The price of obtaining "high rent" positions is well known among public officials and the general public, suggesting that corruption is deeply institutionalized.
  - In Latvia, ministerial positions are purchased more often than in Albania and Georgia.

#### ▲ Features of anti-corruption strategies in Albania, Georgia & Latvia

1. All three countries first sought assistance from the World bank in designing reforms to improve governance.

2. They committed to open and transparent policy making—including collecting detailed data on corruption and sponsoring public workshops to discuss the data and the policy agenda.
3. The 3 governments initiated policy processes that should culminate in anti-corruption programs for regulator reform, civil service and public administration reforms, public finance reform and judicial reform.
4. Efforts were made to promote the participation of civil society
  - In Albania and Georgia, the data were presented in workshops that were open to members of all branches of government, the business community, and civil society.
  - In Albania, doing such resulted in a shift in policy debates from vague unsubstantiated accusations to a process focused on empirical evidence and systemic weaknesses.
  - Survey results were printed on front page of major newspapers.
  - In Latvia, the government opened the debate on corruption with a workshop in early 1997. In June 1998, the new government presented the basic program at a public conference, prior to the completion of the survey.

## **Recommendations to Combat Corruption Better**

### ***Measure Corruption***

Why measure corruption?

- When evidence on proliferation of corruption is available, the debate on corruption can be depoliticized and its focus shifted to substantive issues;
- Can help establish priorities for reform by identifying activities and agencies where corruption is concentrated;
- Educates the public about economic and social costs of corruption; and
- Establishes a baseline against which the successes and failures of reform can later be measured

### ***World Bank's Proposed Nine-Point Approach to Fighting Corruption in the Philippines***

- ⤴ Reducing opportunities for corruption by police reforms and deregulation
- ⤴ Reforming campaign finance
- ⤴ Increasing public oversight
- ⤴ Reforming budget processes
- ⤴ Improving meritocracy in the civil services
- ⤴ Targeting selected departments and agencies
- ⤴ Enhancing sanctions for corruption
- ⤴ Developing partnerships with the private sector
- ⤴ Supporting judicial reform

### ***Setting Priorities and Generating Local Ownership***

- ✦ Identify a set of high priority, highly visible actions that could be delivered reasonably quickly and that would build support for the unfolding of the full program.
- ✦ Identify leaders (whether groups, agencies or individuals) within and outside the government who will launch, sustain and monitor the anti-corruption action program.
- ✦ Ensure faster-paced and results-oriented implementation.

### ***Strengthening the Management of the Government's Anti-Corruption Action Program and Ensuring it is Adequately Resourced***

- ✦ Ensure that the Government's anti-corruption effort has strong and senior leadership (to spearhead it and to communicate the goals, plans, and progress, to the public on a continuous basis) and that the institutional arrangements for supporting this leadership are adequately resourced.
- ✦ Establish a multi-sectoral advisory group consisting of experts (national and international) involved in anticorruption efforts, and including Filipino citizens representing civil society efforts to combat corruption is important.

### ***Recommendations for Sustaining/Initiating Specific Activities as part of a Medium-Term Anti-Corruption Program***

- ✦ Involve Public in Oversight of Government Services to improve transparency and quality of public services and decision-making.
- ✦ Sustain the DBM Led Program for Reform of Government Procurement
- ✦ Sustain/Accelerate Reforms in Budgetary and Accounting/Auditing Systems to reduce risk of corruption, increase disbursement controls and to improve fiscal monitoring.
- ✦ Design and Implement Anti-Corruption Plans in selected Departments and Agencies.
- ✦ Support Improvement in Corporate Governance and Competition Policies
- ✦ Support Judicial Reforms to increase the speed and fairness of the court system
- ✦ Strengthen the anti-corruption content of the legislative agenda
- ✦ Strengthen anti corruption actions at the local government level
- ✦ Recognize and Reward Good Governance Performance

### ***Coalition Building for reforms***

- ✦ National Anti-Corruption Program reforms should be advanced by a broad anti-corruption coalition.
- ✦ Coalition agenda should include altering the people's and policymaker's values about corruption, re-framing problems to emphasize the severity of the issue of corruption, taking advantage of windows of opportunities that emerge in the political and policy arenas.
- ✦ Public support and participation for NACP is essential and should be a key element of coalition building effort.
- ✦ It is crucial to find and draw the support of reformist public officials.
- ✦ Find and supporting political champion who will advance anti-corruption a coalition. The higher the official and office involved, the better

### ***Managing the implementation of anti-corruption policies and programs***

- ⤴ Requires a keen understanding of where, when and how resistance to NACPs can be overcome
- ⤴ Resistance may stem from governmental sphere or from private vested interests or both.
- ⤴ To help increase the prospects for effective implementation of anti-corruption reforms, the provisions in the policies should be clear. Vague, ambiguous provisions can leave room for different interpretations that can provide excuses for non-compliance.
- ⤴ The choice of individuals and agencies to lead the implementation of anti-corruption reforms is critical. (credibility and legitimacy)
- ⤴ Timing and sequencing matters. – social marketing
- ⤴ In predicting and preparing for resistance and opposition to anti-corruption policy implementation, policy makers need to stock of the resources available to them.
- ⤴ Understanding the nature of existing and obtainable resources that policy makers can deploy is critical to countering challenges to carrying out reforms.

### ***Economic strategy and the scope of government***

(By Emmanuel de Dios and Ricardo Ferrer)

A central argument is that less government intervention in the economy and a greater reliance on markets instead is a key ingredient in reducing corruption [World Bank 1997a], a contention that must be measured, on the other hand, against the idea of an activist “developmental state” in the East Asian mode [Chang 1996]. How countries of the latter sort (e.g., South Korea or Japan) managed to temper the state interventions that mode called for with the need to restrain bureaucratic and political self-seeking is an indispensable part of a growth puzzle.

The characteristics of the problem determine the very approach required to address it. The following are broad suggestions:

1. “Take it from the top” and attack political corruption, using the levers of accountability for the polity-politician relationship. This follows from the analysis that in the Philippines, closed-form bureaucratic corruption is subordinate to politicians (and has not reached the point where underworld elements instead dominate politics). Electoral contests must be an effective tool for recruiting honest and accountable politicians of a sufficient number to break the monopoly of adversely selected *trapos*. For this to occur, however, obviously what is needed is voter education and information; transparency in campaign finance; public transparency, and a prominent role for media and communications.
2. The credibility of the justice system must be restored especially in the prosecution of corruption cases. A decisive resolution of the most prominent pending political cases is needed.
3. The reduction of political discretion from the center.
4. It is important to raise the morale and professionalism of bureaucracy to render it less vulnerable to arbitrary political demands and more sensitive to the general public interest.

5. Underlying all of these reforms in incentive mechanisms, society must begin to address the network of *real*/ social relationships that envelope and shape the political PA relationship. In particular, the problem of low social cohesion, of low political education and civic apathy need to be addressed.

### ***Some Political Consideration in Fighting Corruption***

by Robert Klitgard, Dean, the RAND Graduate School, Santa Monica, California

- ▲ Who will spearhead the government's efforts?
- ▲ What is the "low hanging fruit"?
- ▲ To build momentum, it is important to select a relatively easy-to-fix corruption problem first.
- ▲ Which are the more favorable forces in the political environment and how can the government align its efforts with them?
- ▲ If there is a culture of impunity, it can only be ruptured by "frying big fish"
- ▲ Build political support by:
  - creating a sequenced publicity campaign to raise the profile of the anti-corruption effort; and
  - within the public sector, it is important to do something good for the government officials before seeming to attack them.
- ▲ Strengthen institutional capacity not only through "supply side measures" (more training, more experts, more computers) but especially thru changing systems of information and incentives.
- ▲ Contextualize any anti-corruption strategy as a part of a broader vision of transforming governance.

### ***For the Media***

To be able to act as a vigilant watchdog over the conduct of public officers, it is vital for the media to be freed from political interference. State-owned media should be treated at arm's-length by the government. At the same time, mechanisms have to be set in place to ensure that different proprietors own the media.

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