

**NATION-WIDE CIVIL SOCIETY CONSULTATIONS ON
ANTI-CORRUPTION
TRANSPARENCY AND ACCOUNTABILITY NETWORK
GOVERNANCE AND CORRUPTION IN THE PHILIPPINES**

A. Key Governance Issues in the Philippines

1. Key Governance Issues at the Level of National Government

The Philippines is touted to be one of a few genuine democracies in East Asia. However, its political and governance system must be able to initiate major reforms in the next few years to meet the challenges of a rapidly changing world. National governance in the Philippines is still constrained by a variety of issues

Weak and Unpredictable Regulatory Environment

Rule of law and predictability of the regulatory environment are imperatives of good governance. Rule of law refers to the institutional process of setting, interpreting and implementing laws and regulations. Government decisions must be based on well-defined legislation and rules and must not be arbitrary. This also requires effective mechanisms for law enforcement and dispute settlement. Rule of law also implies a level playing field where various players in the economic and political sphere are given equal rights and opportunities to attain their legal objectives. A predictable and reliable regulatory environment is key towards a healthy investment climate.

The Philippine regulatory environment however is still weak and lacks predictability. Regulatory institutions have high vulnerabilities to rent seeking and political influence. The recent BW Resources "insider trading" investigation by the Securities and Exchange Commission (SEC) is a case in point where the latter was subjected to immense pressure by higher authorities particularly the Office of the President during the Estrada administration. The dismissal of the multi-billion tax evasion case of Mr. Lucio Tan due to a mere technicality allegedly committed because of Malacanang's influence is another example during the ousted regime. There are also numerous cases of failed or rigged bidding processes that contributed to negative perceptions among investors (e.g. the Manila Hotel Sale during the time of Ramos and the Industrias Metalurgicas Pescarmona S.A. power contract during the Estrada administration). Tariff rate reductions have been subject to tremendous lobbies often times derailing targeted schedules as was

demonstrated during the Aquino administration.

Policy Incoherence, Flip-flops and Gridlock

While a certain level of policy incoherence is intrinsic in a democracy due to pressures from competing interest groups, the state must be able to reconcile and manage these divergent interests. However, in the Philippines, there are several instances where policy contradictions have constrained development activities. For example, the Mining Act of 1995 granting incentives to foreign corporations in developing large mines is contradicted by another law, the Indigenous Peoples Rights Act (IPRA) of 1997. The land redistribution objectives of the Department of Agrarian Reform are also being eroded due to land conversions for housing and industrial use often legitimized by appropriate government agencies. It is now wonder then why a National Land Use Code has been pending in Congress for the last ten years (Razon-Abad, 1999).

Institutions with functions overlapping with each other (e.g. The Housing and Urban Development Coordinating Council and the Presidential Commission for Mass Housing, the National Anti-Poverty Commission and National Economic and Development Authority, the Economic Coordinating Council and NEDA, etc.) are continuously being set up exacerbating policy conflicts. Institutional reform is sometimes delayed because of policy flip-flops. A recent example from the Estrada administration is the delayed privatization of the National Food Authority in which the Office of the President issued conflicting executive orders.

Policy gridlock on the other hand occurs as the three branches of government are unable to coordinate key economic or political reforms. A classic example was the enactment of the law expanding the coverage of the value-added tax during the Ramos administration. The law sponsored by the Executive was supported by the legislative. However, losing members of Congress filed a case before the Supreme Court, which then issued a restraining order to halt the implementation of the amount of uncertainly. Both the executive and the legislative promoted foreign investment liberalization during the Ramos regime. However, decision of the Supreme Court nullifying the sale of the Manila Hotel to a Malaysian firm signaled policy conflicts among these branches of government.

Particularism and Patronage Politics

It has been observed that the Philippine political system has often been dominated by particularistic interests i.e. decisions and outcome reached within the system are based not on any fair or rational balancing of competing social objectives but are dominated by narrow group interests (de Dios, 1998). At the extreme, activists declare that the Philippine state is captured by elite vested interests with cronyism as an ultimate example. Cronyism during the Estrada administration was one of the causes of his downfall. Certain policies (e.g.

bilateral air agreements) have been made to favor the former President's close friends and relatives. For example, a real estate firm whose directors included Estrada's wife and son was able to develop a piece of land in the city of Antipolo without even bothering to secure the necessary permits and clearances from appropriate government agencies. The source of such particularistic interests as pointed out by various academics is the entrenched patron-client relations or "bossism" existing in the political landscape.

Weak Law Enforcement and Slow Administration of Justice

The current peace and order situation (e.g. rampant kidnapping in Mindanao or drug smuggling in Luzon) will cast doubt on the ability of the law enforcement agencies to maintain public order. In addition to this, criminal involvement and human rights violations on the part of the police and military personnel further decrease public trust and confidence in law enforcement agencies (Razon-Abad, 1999). The Philippine justice system has also not been spared from criticism -- being perceived negatively by the public concerned with its weak, slow and elitist dispensation of justice. The judicial process is plagued with inefficiency as courts are perennially clogged with pending cases.

Inadequate Organizational and Technical Capacity of the Bureaucracy

An effective and efficient bureaucracy can respond to the changing demands of the environment, promote equity and provide excellent quality service. This requires government personnel equipped with administrative, managerial and technical capacity. However, the Philippine bureaucracy is still saddled with a number of problems as specified by Razon-Abad (1999):

- Maldistribution of government personnel: the bureaucracy is not only bloated but also suffers from misallocation of human resources. Streamlining the bureaucracy has been the objective of any administration since time immemorial. But what is also alarming is the skewed distribution of government personnel with respect to the National Capital Region (NCR). For example, the NCR accounts for almost a fourth of all agricultural workers but the region is hardly agricultural. In addition, it has one policeman for every 860 individuals as compared to Southern Tagalog that has one per 1,161 inhabitants.
- Low salary levels: while the Salary Standardization Law has brought the salary of rank and file government personnel to relatively competitive levels, salaries of middle and senior managers still lag behind their counterparts in the private sector and within the region (i.e. Southeast Asia).
- Lack of Incentives to improve Performance: the primacy of political connection over merit prevails in several managerial positions in government as designated authorities make appointments. This definitely affects the quality of decision making in the bureaucracy as managers try to please appointing powers rather than respond to the

real situation.

- Organizational Dysfunction and Outmoded Systems and Procedures: the bureaucracy remains saddled with unclear delineation of roles and overlapping functions and programs among government agencies For example, more than 10 agencies undertake livelihood Development (even the Department of Science and Technology), 8 agencies provide housing services, 11 agencies involved in water resources management and development.

2. Key Governance Issues at the Local Level

Decentralization and Devolution in 1991

Article 5 section 1 of the 1987 Constitution mandates that "The territorial and political subdivisions shall enjoy local autonomy". Sections 5 and 6 of the same article provides the local government power to create sources of revenue, local fees, levies and charges and the right to share in tax revenues resulting from the exploitation of natural resources in their areas. In October 10, 1991, Republic Act 7160 otherwise known as the Local Government Code of 1991 was signed into law by then President Corazon C Aquino

The Code provides for the devolution of certain powers to local government units (LGUs) according to the level of local authority and prescribes a decentralized system made operational through the devolution of services (i.e. health, social welfare, agriculture and environmental protection), strengthening people's participation in local development, provision of increased shares in taxes (e.g. Internal Revenue Allotments) and strengthening of local councils (Mananzan, 1999). Tables 1 -2 below (Cuaresma and Ilago (1996)) summarize the devolved regulatory powers, services and functions. In terms of revenue sources, the productive taxes with large and secure bases remained with the National government (e.g. income taxes, value-added taxes, import and export taxes). The LGUs get the bulk of their revenues from real property and business taxes.

Table 1. Summary of Devolved Services and Functions

Service and Functions	Devolving Agency/Department
Social welfare and services	Department of Social Welfare and Development
Agricultural extension and on site research	Department of Agriculture
Field health and hospital services, other tertiary health services	Department of Health
Public works and Infrastructure projects funded out of local funds	Department of Public Works and Highways
Tourism facilities and tourism promotion and development	Department of Tourism
School building programs	Department of Education, Culture and Sports
Community-based forestry projects	Department of the Environment and Natural Resources

Table 2. Summary of Devolved Regulatory Powers

Services and Functions	Devolving Agency/Department
Reclassification of Agricultural lands	Department of Agriculture
Enforcement of environmental laws	Department of the Environment and

	Natural Resources
Inspection of food products and quarantine	Department of Health
Enforcement of the National Building Code	Department of Public Works and Highways
Regulation of the tricycle or motorcycles with sidecar	Land Transportation Franchise Regulatory Board Department of Transportation and Communication
Processing and approval of subdivision plans	Housing and Land Use Regulatory Board
Establishment of cockpits and holding of cockfights	Philippine Gamefowl Commission

The Limits of Local Autonomy

Even after nine years of implementation, there is still an ongoing debate on the actual powers that local governments may actually exercise. A conservative view emphasizes that LGUs can only exercise those powers explicitly delegated to them or necessarily implied by enabling laws, A more liberal perspective however extends the authority of LGUs to those that are not otherwise expressly prohibited bylaw. Because of this debate, certain policy decisions, executive issuances and orders of national line agencies allegedly violate the constitutional guarantee of local autonomy.

For example, the Department of Justice opined that devolution is not a continuing process and is therefore limited to the powers functions and facilities confined to the Code. The Department of the Interior and Local Government issued memorandum orders that direct LGUs in the use of their IRAs and in one instance required their approval (i.e. purchase of heavy equipment for infrastructure projects). There are also bills pending in the House of Representatives that seek to "recentralize" powers already devolved to LGUs i.e. functions related to health, agriculture and social welfare services.

Executive Supervision and Legislative Control

The executive branch exercises general supervision over local governments through the Department of the Interior and Local Government and through the President's directs supervision of autonomous regions. With regard to the devolved services, the departments concerned retain supervision over the respective LGU functions and provide technical assistance, additional services and facilities when needed, Cases of LGU-national agency conflicts arise as this general supervision is translated into specific areas of concern

The Legislative branch has control over the structure, delineation and delegation of powers of LGUs It also has a direct hand in the creation, conversion (e.g. from town to city) and dissolution of local governments and in the formulation of specific policies guiding inter-local government cooperation (which is still

pending until today) Congress also has the power to amend the allocation of the share of LGUs in national taxes and national wealth. There are obvious signs of tensions between political leaders in Congress dependent on pork barrel funds and local government officials who do not enjoy these automatic appropriations. There was even an attempt by Congress in the past to reduce the IRA share of LGUs in the National Budget but was stymied because of a strike threat by the local officials. Local government executives are usually compelled to be more innovative and entrepreneurial to sustain their legitimacy as local leaders (Rivera, 1999)

Inter-Local Government Cooperation

Several constraints encountered by LGUs (e.g. lack of financing for projects) may be solved through inter-LGU cooperation. At the same time, economies of scale constraints (e.g. solid waste management) and spillover (e.g. or squatter relocation) problems also exist among local territories. Thus, the Code allows LGUs to group themselves, consolidate and coordinate their efforts; services and resources for mutually beneficial purposes. However, until the present time, very few cases are successful (e.g. the Metro-Naga experience) and policy guidelines are still pending in Congress. For rapidly urbanizing areas and regions, the concept of 'metropolitanization' is still being pondered and discussed. The Metro-Manila Development Authority, an attempt to coordinate LGUs in the National Capital Region remains a dismal failure (e.g. traffic and garbage problems are still unsolved).

The Inequity of the Internal Revenue Allotment Share

As one of the major sources of revenue, the IRA has generated both optimism and concern among LGUs especially with regard to its distribution, allocation and impact on local fund raising. The 1997 IRA shared by 41,000 LGUs amounting to 71 billion pesos is 14.4% of the entire national budget up from a meager 4% in 1991. The impact of the increase in IRA share however varies across levels of local government depending on the cost of devolution for each unit. The provinces shoulder most of the burden followed by the municipalities and then, the cities. In addition, as a general-purpose grant, the IRA does not require any effort on the LGUs to improve their performance and has developed dependency among some LGUs. It has also contributed to the growing gap between rich and poor LGUs. This gap is often exacerbated by the lingering doubt of the national government agencies with regard to the LGUs capacity for fiscal administration and its lack of support and technical assistance to needy LGUs,

More Fiscal Woes

Despite some improvements in local fiscal administration, problematic areas remain:

- Local revenues are still insufficient especially among 4th to 6th class municipalities as tax bases are relatively small and collection efficiency still wanting
- Local revenues are derived mostly on real property and business taxes credit facilities for local governments are still limited
- Many LGUs still lack technical capacity to undertake non-traditional

forms of revenue raising like Build Operate Transfer schemes or Bond flotation

- Many LGUs still do not have strategic development plans which form the basis of any revenue raising program

The Unfunded Mandates

These include laws, executive orders and other policies that increase the functions and services of LGUs but do not include the necessary funding for implementation. For example, Congress has enacted various legislation requiring local governments to undertake and implement national programs (e.g. Social Reform Agenda of the Ramos Administration), provide benefits to local government officials and employees and shoulder the cost of devolved personnel. The LGUs were even asked by the Commission on Elections to share in the expenses for the barangay elections in 1997. The LGUs also oppose the election of sectoral representatives in their local legislature (as mandated by the Code) because they do not have funds to cover the salaries and expenses of those elected. The LGUs contend that 'unfunded mandates' put a strain on their financial resources, stunt their creativity to design local programs and upset their local plans and management systems (Mananzan, 1999)

B. Corruption as a Key Governance Issue in the Philippines.

1. Corruption in the Philippines as an Historical and Ongoing Phenomenon

Over periods of our colonial and national history, corruption has gradually come to be firmly embedded in the culture of government, business, and society. Historical records show rampant corrupt practices in the country since the Spanish colonial period. Allegations of corrupt practices by the previous Estrada administration make it representative of a historical phenomenon. However, that should not be justification for that regime's legitimacy and continuity. In contrast to President Marcos' rule that thrived in an authoritarian setting, President Estrada's government had been the epitome of a corrupt government under a democratic setup. It was a setup where an institutionalized system of check and balance was supposed to function properly. Serious charges had been raised regarding vast amounts of ill-gotten wealth that he accumulated in just two and half-years of his term. He allegedly exercised his power and influence for the benefit of relatives, friends, and allies. Similar to what happened during Marcos' rule, heightened beliefs and perceptions of corruption and injustice divided the country and led it to rise up. Such beliefs about corruption in the Estrada government were conditioned by the following:

Corruption scandals involving President Estrada, his relatives and associates.
In June 1999, just 11 months old, the Estrada administration was rocked by several scandals such as the aborted P2 million bribery by a relative for the DEC's purchase of textbooks, the diversion by a top-ranking official of a P200 million Motorola contract for handheld radios, and the awarding of a P3.6 billion deal for

mandatory drug testing of policemen, licensed gun-owners and security guards. In the latter part of 1999, the President was accused of influencing SEC Chairman Perfecto Yasay to clear BW president Dante Tan on alleged stock market manipulation. Yasay was forced to resign later. On January 5, 1999 Secretary of Finance Espiritu quit reportedly over his disgust over the administration. Then in October 2000, the president himself was implicated by a series of allegations starting with revelations of involvement in jueteng. Ilocos Sur governor Luis Singson directly testified of the president's involvement. Likewise, PCI Equitable bank executive Clarissa Ocampo positively identified him as maintaining a fictitious account under the name of Jose Velarde.

Deteriorating Welfare and Order Conditions,

Perceptions of corruption were reinforced by daily nuisances such as traffic congestion, government ineffectiveness in instilling discipline among pedestrians and motorists, garbage collection problems, poor road conditions, prevalence of crime, increasing unemployment/underemployment, etc. Deteriorating welfare and order conditions raised the question "what is the government doing?" Corruption, institutionalized over decades of public mismanagement, has already damaged our national psyche. It has misled and misinformed people that there is nothing wrong in being corrupt. We have defined our success by the wealth and power that we possess. We know who the corrupt people are. Some of them have even flaunted the fruits of their acts through lavish lifestyles and properties. Yet they have not been prosecuted

The message to the general public is clear: it is possible to be corrupt and get away with it. That message tells much about the ineffectiveness of our justice system. More importantly, it sends wrong signals on how we should behave and on the kind of aspirations that we form. Many of us are attracted to government service because of the privileges of power and the almost sure route to wealth and income. Our businessmen spend large amounts of energies and resources to cultivate relationships with government in the hope of getting special favors and contracts. For many of us, these behavior and practices are but part of the iniquities and injustices of our present systems of governance. Surprisingly, many of us have managed to ignore these continuing injustices simply because the results of performing our civic duties are not always encouraging.

According to the 1998 annual report of the Ombudsman (OMB), as of December 1998, the rate of pending cases before the Sandiganbayan has risen to 65% from 42% in 1995. In other words, out of 10,615 cases, the number of pending cases totaled 6,912. Aside from these, it has been mentioned that the Ombudsman receives an average of 18,000 complaints a year. Of this number, an average of 1,179 cases per year from 1990 to 1998 were being filed before the Sandiganbayan.

One reason for this disparity is that complaints received by the OMB usually did not have supporting documents and other evidence to help in the evaluation of probable cause. The task of getting evidence falls under the Ombudsman's

tract Finding and Investigation Bureau (FFBI), which in turn seeks the assistance of the National Bureau of Investigation and the GOA. Accordingly, it takes months and even years before the FFBI gets a reply.' Another set of reasons hint non-action by the OMB.A third set points at budgetary constraints and propose enlarging the OMB infrastructure.

2. Perceptions of Corruption in the Philippines.

In the Philippines, public perception of corruption is high. In a 1999 Social Weather Station (SWS) survey, corruption was the second most common subject of public dissatisfaction with government after failure to control inflation. In the same survey, 41% said that "corruption is part of the way things work in the Philippines" confirming that the country indeed has a "systemic" type of corruption. The five government agencies perceived to be most corrupt are the Department of Public Works and Highways, the Philippine National Police, the Bureau of Internal Revenue, the Bureau of Customs and the Department of Education and Culture. In the survey the year before, almost 91% of the respondents thought that there was graft and corruption in government with 38% saying there was "a great deal" of corruption. Actual number of complaints received by the Ombudsman verify this public perception.

Table 3: Top 10 Graft Prone Government Agencies: Number of Cases Filed, 1993-98

Government Agency	Number of Cases
1. Department of Public Works and Highways	1762
2. Department of the Environment and Natural Resources (DENR)	1149
3. Department of Education Culture and Sports (DECS)	1046
4. Bureau of Customs/Philippine Ports Authority	517
5. National Irrigation Administration	393
6. Bureau of Internal Revenue	355
7. Department of Health	289
8. Department of the Interior and Local Government	247
9. National Power Corporation	217
10. Bureau of Immigration and Deportation	199

Sources: Carino (1999)

The nature of the above cases include graft and corruption (72%), malversation (15.42%), theft (6.60%), estafa (5.22%) and unexplained ill-gotten wealth (0.79%).

Based on its Corruption Perceptions Index (CPI) for 99 countries, Transparency International (TI) rated the Philippines as the 54th most corrupt countries in 1999. The Philippines scored 3.6 based on the CPI's scale of 1 (high perception) to 10 (negligible perception), up from 3.33 the previous year. The Table below shows the improving scores of the Philippines in the last eleven years. The TI-CPI is derived from assessments of various international surveys that get the perspectives of business people, political analysts, and expatriates in the country being rated.

Table 4: Transparency International Ratings for the Philippines

Year	Rating	Ranking
1988-92	1.96	44/54
1995	2.77	36/41
1996	2.69	44/54
1997	3.05	40/52
1998	3.33	55/85
1999	3.60	54/99

The denominator is the number of countries included in the ratings

A Hong Kong based firm, the Political and Economic Risk Consultancy Ltd. (PERC) also gives out corruption ratings annually for Asian countries. PERC's ratings are derived from regular surveys among expatriates working in the region. The Philippine score has also been improving the past three years. In 1999 though PERC included a caveat that the absolute figure is still not good and that "jury is still out on the extent to which Estrada is prepared to allow crony politics to stage a comeback". (World Bank 2000).

With regard to over-all risk assessment, the World Development Report publishes a measure taken from the PPS-international Country Risk Guide. This monthly index is based on twenty-two risk indicators transformed into one numerical value from 0-100. A rating of 50 and below means the country is high risk and 80 and above means low risk. The Philippine index rose to 73 in February 1999 from 67 in June 1998, as the latter year was an election year for the Presidency. This year however, the most recent rating (March 2000) dropped to 70.8. It is highly probable that this has dropped again in the next months because the Mindanao hostage crisis and war started to worsen in April 2000

The previous Estrada administration vowed early on to fight corruption. However in its first two years of office, perception of corruption increased tremendously. Various scams and anomalies have already surfaced e.g. the IMPSA contract, the BW Resources insider trading scandal at the Philippine Stock Exchange (PSE), The Philippine Charity Sweepstakes Office, etc. The Office of the President was always indirectly or directly involved. More recently, the Philippine Center for Investigative Journalism has published articles looking into the statement of assets and liabilities of the President and into the "active firms" where the President's relatives remain as board directors. In one case, a real estate firm owned by the wife and son of the President did not even bother to acquire the necessary permits for land and housing development in Antipolo City. Perceptions of cronyism did not die down as high profile businessmen friends of the President were always linked to controversial issues (e.g. handing Cojuangco in agrarian reform and agriculture cases, Lucid Tan in airline industry and tax evasion cases). This perception was the impetus for EDSA 2 and has now been concretized in the twelve plunder charges against Estrada.

3. Magnitude, Extent, and Cost of Corruption in the Philippines

As mentioned, from 1990 to 1998, there were 10,615 cases filed by the Ombudsman before the Sandiganbayan. These involved transactions of government agencies totaling P7.75 billion. The National Capital Region Manila had the largest share at approximately 25% of the total number and 72% of the total amount involved. The incidence of corruption in the regions outside of the National Capital Region may probably be higher because of perceived weaker check and balance mechanisms, which in turn are due to local

conditions of poverty and powerlessness.

Corruption have direct and indirect economic costs. The following are the typical costs of graft and corruption (Kaufmann, 1998, World Bank. 1998):

- It raises transaction costs and uncertainty in the economy. Cost of doing business increases and this discourages foreign and local investments. Macroeconomic instability through deficits may also be catalyzed as revenue targets are not reached and government spending overshoots because of corruption. Foreign debt may also balloon as these are diverted to non-productive uses.
- It leads to inefficient economic outcomes. It misallocates talent to rent seeking activities and distorts actual priorities and technology choices. It pushes firms to go underground, undercuts the states ability to raise revenues. It may also lead to monopolies and cartels to the detriments of the consuming public.
- It exerts more burdens on the poor. It denies the poor their share, small as it is as the poor gets excluded when bribery becomes the norm to access government services. It even increases poverty as resources for the welfare of the poor are diverted to dishonest officials and business.
- It endangers the environment when private interests are able to secure rents from the exploitation of natural resources through bribery

It has been estimated that losses to corruption are at least 20% of the national budget. If this estimate were used, from 1995 to 2000, the cost of corruption is at least P609 billion, or an average of p105 billion a year, or P278 million per day. Further, during the same period, the average annual losses represent 3.8% of our gross national product (GNP). This magnitude is similar to another estimate derived from existing cost assessments of around 94.1 billion to 118 billion pesos, which can be broken down as follows:

- Revenue Losses (tax evasion) average of P70 billion per year (this is derived from an EIB estimate of tax evasion of US\$ 8.1 billion From 1993 to 1995)
- Expenditure leakages due to malversation averaged P24.1 to 48 billion a year (this is derived from President Estrada's estimate of 20% of total project funds of government for 1998 that was lost to corruption and the total P1.2 trillion pesos corruption losses for the past 25 years according to the Office of the Ombudsman)

However, indirect losses such as opportunity costs because of foregone investments or losses due to macroeconomic instability are difficult to estimate. However, if one looks at the Foreign Direct Investment (FDI) data across the

region, the Philippines definitely lags behind Malaysia, Thailand and in some years, even Indonesia.

Actual Sectoral Losses

Data from the Office of the Ombudsman shows that the P9 billion losses through the various government agencies from 1990 to 1998 are broken down as follows (only the top 20 agencies are included in this table):

Table 8: Government Losses By Agency

Agency	Losses
Philippine National Bank	P 1.7 billion
Department of Interior and Local Government	P 1.4 billion
Department of Public Works and Highways	P 1.1 billion
Ministry of man Settlements	P 1.0 billion
Department o Finance	P 0.81 billion
Philippine Guarantee	P 0.81 billion
Department of Justice /Register of Deeds	P 0.69 billion
Development Bank of the Philippines	P 0.4 billion
Polytechnic University of the Philippines	P 0.24 billion
Department of Tourism/PTA	P 0.2 billion
National Power Corporation	P 0.2 billion
Department of Defense	P 0.11 billion
National Food Authority	P 0.05 billion
Department of Transport and Communication	P 0.03 billion
Office of the President	P 0.022 billion
Office of the Regional Governor (ARMM)	P 0.021 billion
Philippine Charity Sweepstake Of ice	P 0.021 billion
Department of Education, Culture and Sports	P 0.018 billion
Philippine Racing Commission	P 0.017 billion

Source: Office of the Ombudsman

Gathered from various documented sources mostly form the case studies of the Philippine Center for Investigative Journalism (PCIJ), the following are estimates of the percentage of total project costs lost to cases of corruption in key government sectors:

Table 9: Estimates of Sectoral Losses in terms of Commissions Paid in Bribes

Sector_	Government Agency	Loss estimates	Source
Infrastructure	Department of Public Works and Highways (DPWH)	10-30% of total cost of public works	Parenno, 1998

		projects	
	Mount Pinatubo Commission	10-30% of total cost of public works projects	Florentino-Hofilena, 1998
Education	Department of Education Culture and Sports	20-65% of total cost of textbooks procured	Chua, 1999
Health	Department of Health	20-40% of total cost of medicines procured	Corotan, 2000
Agriculture	Department of Agriculture Rural Field Units	10-50% of total cost of farm inputs procured	Sarmiento, 2000
Finance	Bureau of Internal Revenue Bureau of Customs	30.43% of potential revenues	Talisayon, 1998
Environment	Department of Environment and Natural Resources	15% of reforestation costs 1988-1992	Danguilan-Vitug, 1993
Local Government	Philippine National Police	P45 million a year-ghost payroll	Canno, 1999
Justice	Bureau of Immigration	P200, 000 to P350, 000/illegal alien	Chua and Rimban. 1998

In addition to these, there are also cases where 100% of the total cost of procurement is lost through ghost deliveries. There are also instances where inferior quality goods or products are delivered by suppliers or contractors, Protection money is also common among the police and some national and local government officials especially for illegal activities like smuggling, gambling and drug pushing,

4. "Areas" of Corruption

Corruption Due to Flaws in the Political System

Expensive Elections

Philippine elections are characterized by three Gs -guns, goons and gold. However, gold is the most crucial as this is crucial to access the two other Gs. Thus, it is no wonder that elections are quite expensive in the country. Current estimates for successful campaigns for various electoral positions are found below:

Table 5: Campaign Funds Needed to Win an Electoral Position

Electoral Position	Amount Needed
President	P3-5 billion
Senator	P100-200 million
Congressman	P5-50 million
Provincial Governor	P5-50 million
Mayor (Municipal and City)	P3-20 million

Source: Interviews, World Bank (2000)

Thus, candidates need to raise such campaign funds from various sources. More often than not, contributions have strings attached. Profits from electoral investments are cashed in when winning candidates begin to sit in their public office. These may be in the form of concessions, franchises, monopoly rights, contracts and other favors dispensed with by the winning candidate that would give monetary returns to such investments.

De Castro (1998) chronicles several cases where funds of government agencies (e.g. BIR, DILG) and corporations (e.g. PAGCOR, PNCC) were utilized to bank roll the campaign of various administration candidates at the local and national levels. These instances happened in the Marcos and Aquino regimes. A celebrated case during the Marcos regime was the withdrawal of P55 million in cash from the Manila International Airport bank account supposedly as partial payment of its debt to the Philippine National Construction Company (PNCC). The cash was delivered in three tranches to the Secretary of then President Marcos in January 1986, the peak of the presidential campaign. During the Aquino administration, the Rebel Returnee Program of the National Reconciliation and Development Council (NRDC) was allotted P240 million in 1992, an election year. The fund was to be utilized for various peace and order programs all over the country implemented by local governments. It was alleged that many of the recipients of the funds (82%) were supporters of then administration candidate Fidel V Ramos.

Political Analyst Antonio Gatmaitan however argues that it is the whole government bureaucracy that provides administration candidates the advantage in an election. Being in power, the administration can call on businessmen and many rent seekers who depend on government contracts to provide monetary contributions. He estimates that the use of government machinery, including vote buying and cheating could translate to around 10 percent of the vote (De Castro, 1998).

Legislating through the Pork Barrel

The Philippine President is able to wield power over the legislature because of his ability to withhold the release of pork barrel funds of the Senators and District Representatives. These funds are for various "projects" under the direct supervision of the legislators. Examples include the Countrywide Development Fund and the Congressional Initiative Allocations. These funds under the discretion of the legislators are typically used for the construction of school buildings, farm to market roads and other public works.

To their proponents, such funds allow legislators to be more responsive to the needs and priorities of their constituents and ensure the equitable distribution of resources among electoral districts. However opponents have claimed that they are frequently a source of graft and corruption. For example, in 1996 alone, around P1.8 billion were unliquidated from such funds.(World Bank, 2000). In early 1998, newly appointed Finance Secretary Salvador Enriquez told reporters that up to 45% of pork barrel funds may have been lost to commissions especially in the case of money set aside for school and other instruction materials and about 30% of the total cost of public works projects (Parenno, 1998).

Patronage in the Bureaucracy

According to the World Bank study, the president has the power to name people to 3,175 career executive positions in various government department and agencies In such line departments as education, for example, this includes everyone from the secretary down to provincial superintendents It includes ambassadors, military officers from colonel up and justices for various courts. It also includes 2,488 positions in 60 government owned corporations (e.g. SSS alone has 229 appointive positions). Only a minority of these political appointees are confirmed by the Commission of Appointments in Congress

Patronage within the bureaucracy can be gauged by the degree to which casual and contractual workers are hired to circumvent regulations that applicants pass the civil service examinations, In 1995, there were 157,000 casual employees within the civil service but there were 120,000 civil service vacancies. At the local level, 85,000 casuals were hired despite 43,000 regular vacancies. In 1997, 112,000 were hired as casuals at the local level though there were 43,086 career vacancies. (World Bank, 2000)

Judicial Transparency and Accountability

Corruption in the Judiciary has always been raised by various administrations but it is also one of the most difficult subjects of journalistic investigation, according to the Philippine Center for Investigative Journalism (PCIJ). It adds that this is basically due to the apparent lack of transparency in the judicial processes. While court hearings are typically open to the public and that transcripts of judicial proceedings are part of the public record, deliberations in the judicial bodies especially the Supreme Court and the Court of Appeals are usually kept confidential.

Recent cases documented by the PCIJ include a ruling on the monopoly issue in the telecommunications industry by a Supreme Court justice was alleged to have been written by the lawyer of the Philippine Long Distance and Telephone Company. This was confirmed by an expert who analyzed writing styles of the two persons concerned. In addition, PCIJ looked at violations of the Judicial Code of Conduct by Supreme Court Justices when they are publicly seen with litigants and lawyers with cases pending in their courts, bolstering allegations of the Court's vulnerability to lobbying interests. They also conducted investigations on the role of law offices run by relatives of justices or retired justices, which have been accused of peddling influence in the high court. They also examined the flip-flopping patterns of court rulings and overturning of precedents, which were possible signs of influence by pecuniary interests. Finally, they also examined deviations from prescribed procedures that often were symptoms of anomalies taking place.

The lack of transparency and accountability in the Judiciary stem from the fact that the current political system does not institute appropriate "check and balance" mechanisms. While the President appoints key justices recommended by a Judicial Bar Council, the appointees are not subject to confirmation by the Legislative Council (2000) points out that the only check available is the impeachment by Congress of individual justices, a long tedious process that experts say is almost impossible to see through in addition she mentions that the Supreme Court also has the leeway to set its own procedural rules which may be used to favor certain litigants. The 1987 constitution even strengthened the Supreme Court by giving it the power of executive review and to issue restraining orders.

Corruption in Regulatory Agencies

Regulation is an area where the state exercises its discretionary power to granting firms or citizens certain documents, permits, licenses, exemptions or concessions to conduct economic and other activities. The power of the State is stronger where the good or service it is distributing is scarce such as forest concessions, import licenses, telecommunications and transport franchises (Carino 1999). Examples of regulatory agencies supposedly tainted by recent corruption cases include:

- Department of Finance (recent one stop shop tax exemption certificate scam)
- Securities and Exchange Commission (as alleged by the President during the Best World Resources scam)
- Department of Environment and Natural Resources (timber licenses, mining permits, environment clearance certificate, etc.)
- Bureau of Immigration (human smuggling, extortion)
- Land Transportation Office (registration of smuggled or car napped vehicles)
- Economic Intelligence and Investigation
- Bureau (extortion) Land Regulation Agency (rigged bidding)

- Philippine National Police (drug bust related extortion)

Corruption in Revenue Raising Agencies

Since these agencies raise funds from citizens and firms through taxes, duties and the like, and because evasion is rampant, revenue-raising agencies are highly vulnerable organizations for corrupt practices. According to the Economic Intelligence and Investigation Bureau, from 1993 to 1995 alone, tax evasion in the Philippines was estimated at P210.8 billion compared with the potentially collectible revenue of P493.5 billion (Talisayon, 1998). The key agencies involved in collecting taxes and duties are the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC). It is not surprising why positions in these agencies are the 'most sought after' ones. Also, these agencies almost always top perception surveys on the most corrupt government agencies. Other agencies documented for corrupt practices include the Asset Privatization Trust and the Public Estates Authority (Carino, 1999 and Tordesillas and Coronel, 2000)

Corruption in Revenue Spending Agencies

While all government agencies are included in these sub-group, wider opportunities for corruption can be found in agencies which have a big percentage of their budgets allotted to procurement of equipment and supplies and those which hire sub-contractors in the performance of their mandated services. Carino (1999) cites studies done by the University of the Philippines that showed the cost of supplies increasing due to overpricing, short deliveries, non-existent or insufficient deliveries, purchases in excess of quantity required, low quality goods, etc. Agencies failing under this category include

- Department of Public Works and Highways (sub-standard roads and bridges)
- Department of Transportation and Communication (rigged bidding)
- Department of Interior and Local Government (ghost projects and purchases)
- Department of Education, Culture and Sports (overpriced textbooks and chairs)
- Department of Health (overpriced drugs and vaccines)
- Armed Forces of the Philippines (questionable deals in procurement)

Corruption in Government Corporations

Government corporations enjoy certain privileges and exemptions relative to their counterparts in the bureaucracy. For example, some of them are exempted from the Salary Standardization Act. The Philippine Amusement and Games Corporation (PAGCOR) is not even audited by the Commission on Audit. Because of their nature, such government entities enjoy relative independence and weak oversight from other government bodies (e.g. Office of the President). The Social Security System for example was recently criticized because of its investment forays in the private banking industry. In

addition an incentive problem exist because many of such corporations are subsidized heavily by the national government despite poor performance. For example, the National Home Mortgage Finance Corporation has been in the red for the past several years and yet it continues to receive increased budget allocations from the national government. During the time of Marcos, several of these corporations were used to fund election campaigns (e.g. PAGCOR) while others gave or guaranteed loans to Presidential friends and cronies (e.g. Philippine National Bank, the Development Bank of the Philippines, Government Service Insurance System, and PHILGUARANTEE). Some government corporations were also alleged to have entered into lopsided contracts (e.g. National Power Corporation during the power crisis of 1991-92)

Corruption at the Local Government Level

Critics of decentralization say that the only result of such reform is to decentralize corruption. The Local Government Code of 1991 has indeed given local officials more power and revenues to be able to serve their constituencies better. However, some shrewd politicians have also utilized their new found "powers" to increase rent seeking at the local level. In Cavite, a rapidly industrializing province, officials have made millions from facilitating land conversions (from agricultural to industrial) through the enactment of municipal and zoning ordinances allowed by the Code (Coronel 1995). This type of kickbacks are in addition to the traditional sources of revenues for local politicians which include cuts from public works contracts (10-15% during the 1970s in Cavite as noted by Coronel, 1995) and payoffs from jueteng (illegal numbers game) lords and other types of protection money (e.g. prostitution dens).

Jueteng operation for example is very lucrative where operators at the local level (e.g. municipality) collect P160, 000.00 to P200, 000.00 daily. 20% of the monthly collections (around P1.2 million) consists of their net profits while 80% (roughly P4.8 million) goes to an elaborate multi-tiered structure of protection that includes the police, military, mayor, and the barangay captains (PCIJ and IPD, 1995). The recent Chavit Singson expose showed that bribe money from jueteng has gone all the way to the Presidency. Other types of corruption at the local levels can be traced to the power of the local government to issue business permits, collect real property taxes and procure equipment and supplies. Available data on cases at the local government level is given below:

Table 6: Number of DILG Cases at the Sandiganbayan, 1990-1995

Bureau	Number of cases	Percentage of Total	Amount Involved (million)	Percentage to Total
PNP	621	17.2%	1,204.06	33.9%
NAPOLCOM	5	1%	.01	0.0%
Municipal governments	1,946	53.7%	745.83	21.0%

Provincial Governments	393	10.9%	443.61	125%
City Governments	275	7.6%	457.88	12.9%
Barangay	339	9.4%	680.98	19.2%
DILG	9	2%	13.41	0.4%
Bureau of Fire Prevention	24	7%	1.48	0.0%
Others	5	1%	16	0.0%

Source: Ombudsman as reported in Batalla (2000)

Corruption in Media

The media is also not free from corruption. A recent study shows that media corruption today is costlier, more pervasive and even more systemic. It is also disturbingly more creative and more difficult to detect (Florentino-Hofilena, 2000). Corruption in media is due to the increasing role and power of media in influencing and shaping the people's minds on various issues of the day. Media is also used to project the agenda of certain firms and individuals especially politicians for public relations purposes. For this reason, media practitioners are vulnerable to bribes (e.g. "envelop mental" journalism in print media) and some even engage in extortion. A PCIJ survey shows that almost 50% of reporters of national dailies and 45% of broadcast media were offered bribes,

Corruption in the Private Sector

Typically, private sector participation in corruption is seen mostly from a perspective that the sector is the "bribe giver". However, emphasis must also be placed on other business practices that can also be labeled corrupt. Talisayon's (1998) definition of a corrupt act as those that profit only a small number of people and whose net value to society is nil or negative can definitely include erring private sector groups and individuals. Examples of corrupt business practices in the Philippines include:

- Using influence and money to corner contracts, concessions, franchises, tariff protection, quotas, etc
- Illegal harvesting of a natural resource from a public domain (e.g. Illegal logging)
- Anti-competitive practices like price fixing by a cartel to the detriment of the consumers (e.g. the long running telephone monopoly)
- Using influence and money to avoid legal obligations and responsibilities (e.g. paying the right taxes, giving the right minimum wage and benefits, not employing child labor, etc.)
- Using influence and money to access government funds and loans (e.g. use of GFIs for behest loans)
- Outright embezzlement, estafa or fraud against the public
- DOSRI loans above the limit in the banking sector

A most recent case in the banking industry is the Urban Bank fiasco where executives and officers of the bank allegedly diverted funds worth P2 8 billion to an affiliated real estate firm on the red. This caused a run and the eventual closure of the bank. The government has filed a case of economic sabotage, an offense punishable by death or 30 years in prison. The Marcos regime is replete with examples of the private sector (e.g. his cronies) being able to access government funds including foreign loans. The Philippine Center for Investigative Journalism also discovered that among the water and power thieves are big corporations. These include Coca-Cola Bottlers and Unilever with the arrears of the former due to illegal connection since 1984 amounted to P27million while the latter around P19 million (Rimban, 2.000)

Corruption in Bilateral and Multilateral Projects

During the Marcos regime, there were allegations that official development assistance (ODA) and foreign loans were diverted to private interests. Because of this, ODA funds (e.g. Dutch) were channeled to non-government organizations (NGOs) rather than government line agencies. Bilateral and multilateral funded projects are relatively large and involve huge financial outlays. While implementing government agencies are careful with these types of projects because of wider possibilities for public scrutiny and stricter donor agency monitoring, 'leakages' and bribery through project 'commissions' still occur. However, monitoring agencies like the National Economic Development Authority (VEDA) does not have systematic documentation of corruption cases in bilateral and multilateral projects. Many of such incidents remain anecdotal.

Leakages occur because of several reasons. For one, there are various possibilities of information asymmetry as the line agencies are able to select the information they want to give the donor. Donors also have monitoring constraints as they usually have a portfolio of projects to monitor. In addition to this, excessive intervention by the donor in terms of project design and implementation maybe construed as an affront to the sovereignty of the country.

Thus, ways and means of corruption in donor-funded projects are similar with regular and government funded projects. For example, implicit commissions from donor assisted infrastructure projects at the Department of Public Works and Highways run from 5 to 15% of the gross project cost according to firms bidding for contracts funded by donors like the World Bank and ADB. Though of course, in pork barrel funded projects, "leakages" run up to 40% of the total cost as monitoring is relatively more lenient here than in donor funded projects.

Some government agency officials also use dubious entities to exact rents from contracts that donor funds allow. An example is the US\$240 million Asian Development Bank social forestry loan from 1989 to 1993 where fly by night NGOs were able to garner reforestation contracts amounting to a few hundred thousand to a million pesos. This resulted into some contracts not being fulfilled while others resulted into very low tree survival rates (Severino, 1995). Danguilan-Vitug (1993) even estimates that around 15% of total reforestation costs or around P390 million from 1988 to 1992 was lost to corruption.

Procurement is also another area and this is the reason why donor agencies like the World Bank and the Asian Development Bank (e.g. textbooks by the Department of Education, Culture and Sports) have initiated new guidelines to minimize leakages in their new projects. Textbooks are overpriced from 20 to 65% in cases of fraud, (Chua, 2000). Another recent case is the charge of malversation or illegal use of the World Bank assisted Small Coconut Farms Development Project (SCFDP) funds for "crash training," P23, 262,882 of the Philippine Coconut Authority. The Commission on Audit reports that no actual trainings took place and it was alleged by some groups that political rallies and consultations for charter change were instead held. (Philippine Daily Inquirer, March 28, 2000)

5. Tackling Corruption: Traditional and Alternative Approaches

Corruption in the Philippines has reached a high level of sophistication. For instance, there are at least 14 different ways of making money in road projects.

- Bidding participation of and awards to unqualified and blacklisted contractors
- Bribery of various forms including entertainment
- Presenting more jobs in the Program of Work than is required for the project. The program of work, which is approved by the Department of Public Works and Highways, provides details of the jobs to be undertaken and the budget.
- Ghost deliveries of supplies
- Ghost projects
- Misrepresentation of labor costs through payroll padding
- Over-assessment of values of land acquired for rights-of-way
- Use but nonpayment of rental of government equipment
- Misrepresentation of purchase, use and rental of construction equipment
- Non-conformity of quality control standards
- Use of dummy contractors by DPWH project engineers
- Procurement and use of substandard materials
- Applying improper mix of materials
- Overpricing materials

It is remarkable how contractors can adjust their bids and work based on changing project budgets, net of payoffs made to officials at various levels of

government. These cases illustrate how agents of corruption can devise admirably creative, innovative processes and systems to advance their earthly objectives. They have in a sense elevated corruption to some form of 'science'. Systemic and more sophisticated corruption may not easily be tackled by traditional approaches and thus new ways of doing things must be put forward.

Current Approaches and Traditional Thinking

The traditional and dominant approach has been to expect government to solve the problem, to police its ranks, to clean its own house because public office is a public trust. We want government to solve the problem when the problem itself is government. Human experience tells us that the hardest thing to manage is the self. Nevertheless we continue to wait on government through the Office of the Ombudsman, presidential task forces, anti-corruption legislation, etc. to strike at the heels of corruption and eliminate it. But that can be very painful because that can be one and the same heel.

We expect responsible leadership, a sort of heroism that will always pursue the common good before the self. If and when this happens, then we are lucky. But in the meantime, do we rely on fortune or fate? Is this the only way to think about and approach the problem? This has been our thinking for a long time and it seems that it has not brought us very far.

Traditional Action

Our research has shown several initiatives from various sectors. We have seen innovative programs from the office of the Ombudsman, several task forces put together, watchdog NGOs being formed, people's organizations mobilized, private sector initiatives, development assistance programs and projects, and witnessed the emergence of volunteerism against corruption. Past governments from Presidents Quirino to Estrada have created various task forces, presidential commissions, and other organizations to combat corruption (see Table 7).

Table 7: presidential Anti-Graft and Investigation Agencies 1950-1985

Agency	President
Integrity Board	Quirino
Presidential Complaints and Action Committee (PCAC)	Magsaysay
Presidential Committee on Administrative Performance and Efficiency (Pcape)	Garcia
Presidential Anti-Graft Committee (PAGC)	Garcia
Presidential Anti-Graft Committee (PAGCOM)	Macapagal
Presidential Agency on Reforms and Government Office (PARGO)	Marcos
Presidential Complaints and Action Office (PCAO)	Marcos
Presidential Agency on Reforms and Government Operations (PARGO)	Marcos
Complaints and Investigation Office (CID)	Marcos
Public Ethics and Accountability Task Force	Aquino
Presidential Commission Against Graft and Corruption (PCAGC)	Ramos to present
Inter-agency Anti-Graft Coordinating Council	Estrada

Sources: Data from 1-9 based on Venzon (1993), See Venzon, Regina Emily P. 1993. "Graft and Corruption and the Institutional Mechanisms Promoting Accountability under the Aquino Administration: Focus on the Office of the Ombudsman and the Sandiganbayan". MA Thesis, University of the Philippines. 1993.

While these efforts have all contributed to managing corruption to some degree, we have always wondered why our projects and attempts have not had the impact we have wanted them to have. If we take a closer look at these initiatives, we will observe that some of these may be sporadic, reactive, tactical in nature (not solving the roots), and uncoordinated. We have put large amounts of resources --time; effort, money--behind these initiatives but it

seems that we have not been able to leverage these resources, link all these efforts to have the impact that make a difference.

There has definitely been a tremendous amount of good will behind these noble initiatives. But given the sophistication of the problem, we wonder at the amount of rigor, intellectual discipline, and scientific thinking that has been applied in these pursuits? What kinds of database, quality of information, analytical frameworks, as well as systems and processes, have been used to develop these programs and projects? What diagnostic tools have been adopted to understand the problem and what methods have been employed to generating strategic and sustainable solutions?

This has been our thinking and our actions for a long time. And this has brought us not very far. So therefore are there any alternative ways of thinking and acting to de-institutionalize corruption in the Philippines?

Alternative Ways of Thinking and Action

Rather than say, "Government heal thyself", can we say, "Like people, like government". Can we build an institution amongst ourselves, linking our efforts, leveraging our resources, and making our collective genius equal to the task? Can we build on the good will of government, NGOs, people's organizations, private business, international development agencies, the academe, research organizations, legislators, media, and individual volunteers and weave these efforts toward greater impact and effectiveness? Can we build an institution that can de-institutionalize corruption in the Philippines?

These questions suggest a renewal of how we deal with one another, how we elect our officials, and how each individual is contributing to the common good. We have talked about the degree of sophistication, ingenuity, and almost scientific thought that goes into designing methods of corruption. Can we utilize the vast amount of information and technology, social science tools to design superior Anti-corruption programs that strike at the roots of the problem and bring us closer to more permanent, sustainable solutions?

For instance, agency theory may serve us a framework for understanding conflict of interest between principal -that is the public--and agent---that is government. It emphasizes the importance of appropriate incentives and monitoring in addressing problems. Likewise, stewardship theory portends that altruistic values play an integral role in the effective discharge of duties and responsibilities.

There is no doubt that traditional approaches such as presidential commissions and other agencies will continue to be employed. However, rather than merely being there for show, the enforcement capabilities of anti-corruption agencies should be enhanced. The traditional approach of strengthening in letter the legal framework against corruption should be matched by strengthening in fact the independence of these agencies to perform mandated duties.

Scholars from Singapore and Hong Kong have suggested that the salary structure in government may be a key factor to consider. We think that in their countries a lot of thought and debate have gone into this new perspective in government compensation. A serious discussion should be likewise initiated in the Philippines. We also have to give serious thought about the overall incentive structure for generating profit and income in this country, the amount of investments in money, time, and effort required to equally address the problem.

We do need to get our best researchers, policy-makers, planners, and analysts to the drawing board and come up with sharp and comprehensive analyses, focused and systematic plans, and to find ways to implement and continuously improve our approach to the problem.

6. Conclusion

From the paper, the following were the key lessons learned:

Governance

- The need for wide ranging political reforms that will address the issues regarding elections being too expensive, how to strengthen check and balance among the three branches of government, and how to enhance local autonomy and decentralization, The first two may require amendments to the present Constitution.
- The need to improve administrative governance to address the issues related to streamlining, reorganization, coordination and proper incentive schemes Computerization and the use of the available information and communication technology should be required for all government agencies.
- The need to promote greater economic reforms that will address issues related to the government's role in leveling the playing field and promoting competition in markets

Corruption

- Corruption in the Philippines is systemic and sophisticated; the approach to curb it must be holistic, comprehensive, integrated and innovative.
- There must be strong political will on the part of the top leadership of the country to push for a strong anti-corruption strategy and program. The political leadership must also be credible enough as role model for the program.
- The necessary laws, policies and mechanisms to combat corruption are already in place. However, what is needed is credible leadership in these organizations and commitment to enforce these laws and policies.
- Partnerships must be forged among the various sectors of society (Government, civil society and the private sector) to combat corruption. Current initiatives from government and civil society are often times not linked.
- Government has already started various anti-corruption programs and listed several more (i.e. the DAP study). The greater need is to prioritize and harmonize all these efforts and effectively implement them.
- Government must improve its incentive package (i.e. salaries and benefits especially for high officials) and the prerequisite for this is a successful streamlining and reorganization of the bureaucracy to make costs affordable.
- Since the notorious agencies have already been identified, anti-corruption efforts must be focused on such bodies.
- The key areas where corruption takes place are in procurement, contract bidding and in the actual implementation and delivery.
 - Processes and procedures must be reviewed. Computerization will be a necessary (though not sufficient condition) to promote Transparency and accountability in these two areas.
- Functions of government regulatory agencies must be reviewed; some may be abolished and even privatized.
- Corruption in the legislature and judiciary is also alarming but this will require more in depth political reforms by enhancing the check and balance mechanisms provided by the constitution.
- Corruption in the private and civil society sector is also an area that has remained relatively unexplored and unchecked.

Definitely, we can use new ways of thinking and acting to de-institutionalize corruption in the Philippines. Confronting institutionalized or systemic corruption entails new institutions. Further, the pseudo-science employed by syndicated corruption must be matched by the practice of an equally, or more, powerful science. Uniting efforts, leveraging resources, applying the rigors of the sciences, the intelligent use of information, technology, processes, and structures, all play a key role in advancing our goal. In conclusion, as we reflect on this daunting task before us, we are reminded of a Japanese word: *kokoro*. It is a word that means

heart, mind, spirit, and will. This is one such arena where the challenge is one *for our kokoro*. De-institutionalizing corruption in the Philippines will engage our heart, our mind, our spirit and will, And if we *are* ready to bring all of ourselves to this cause, then we will be equal to the task.

**REINVENTING AND STRENGTHENING INSTITUTIONS OF STATE, MARKET AND CIVIL
SOCIETY:
INPUTS TO A BAREBONE FRAMEWORK FOR PHILIPPINE DEVELOPMENT IN THE 21ST
CENTURY**

By Eric C. Batalla, PhD²

The Roots of Philippine Crises: Failure of Development Strategy or Governance?

The Philippines is in a tumultuous epoch as it greets the new century and millennium. It is a country in strife, the people lay divided by issues that seriously undermine the credibility of institutions as well as those of the individuals that occupy and lead these institutions. Institutions of public trust, it is felt, have been subverted by certain individuals and groups for the promotion of their own selfish interests. Recent opinion polls conducted by Pulse Asia and Social Weather Stations suggest a growing disapproval and distrust among the population of the leading luminaries of government; politics, Church, and other public service organizations. Somehow, the credibility of some of our leaders has recovered because of People Power 2.

Nevertheless, the crisis besetting the Philippines around the turn of the 21ST century represents a culmination of unresolved vicious cycles that have perennially dominated society and government. The ascendancy and failure of the Estrada administration mirrors the ongoing struggle between reality and want, vested interests and public virtue, and democracy's form and substance. Popular will and acceptance have once again fused with particularistic interests to produce a dangerous formula for national disaster--- the legitimization of a corrupt but populist State (under the President Estrada).

In less than three year's of his term, Joseph Estrada's administration has from the beginning been racked by allegations of unduly promoting not only his own wealth, power, and influence but also of his relatives, friends, and allies. He has maintained a stable of women and mansions. He is alleged to have been heavily gambling and drinking while sitting as President. He is even said to have protected organized crime and gave it State-owned or

sponsored franchises. How is it possible for such a person to ascend as the president of the Philippines?

Starting off as one of the region's most vibrant economies in the early decades of the 20th century, the Philippines is now one of the most lackluster performers in Asia and in the world. Except perhaps for brief periods in its history, the Philippine economy has consistently degenerated, producing grave problems of economic underdevelopment, political instability, and social disorder. GNP has averaged between 4 and 4.5 percent per year since 1951 while the population has grown at an average of 2.8 percent per year. This means that per capita GNP growth is running at little over than 1 percent per year. The population data also reveals a large, rapidly growing mass of uneducated and poor people in urban and rural areas. There is a need therefore to raise economic growth rates for a prolonged period at levels that will allow mitigate the adverse effects of rapid population growth and at levels that will allow the sufficient provision of welfare benefits to the greater mass of the population. This will not be realized so long as the Philippine state of affairs is not drastically altered. In fact, under the Estrada administration, the country's state of affairs has deteriorated.

Explanations of the Philippine's historical development performance vary. However, we can classify such explanations into two categories. The first category sees historical performance as a matter of economic development strategy (or lack of it). The second, while recognizing the validity of the first, stresses an initial focus on public governance. Although it is true that performance can be explained by inadequate and inappropriate economic strategy prescriptions, it is argued that the governance dimension plays a more important role than the former. Vicious cycles of poverty and underdevelopment have been nurtured and maintained by a powerful culture of corruption. Vested interests in the public and private sectors have continually subverted the efficient functioning of State and Market to the detriment of the common good. The successful implementation of development strategies and programs should therefore follow effective reforms in governance. But even among governance explanations themselves, certain qualifications must be made,

The Search for the Ideal Philippine State

Public governance explanations necessarily involve the State. The State is a political unit or organization that is a product of the political dynamics affecting a particular territory. It consists broadly of "citizens with rights and duties, institutions and jurisdictions, principles and powers" (Lipson, 1997) or more narrowly, of governmental institutions which are capable of maintaining order and implementing rules or laws (through coercion if necessary) over a given population and within a given territory (Jackson and Jackson, 1997). The state is therefore basically composed of a permanent population, a government, and a defined territory.

Particular interactions between government and people in a defined territory result in various characterizations of state. The state has been classified according to, among others: 1) strength (strong vs. weak; hard vs. soft); 2) political development (traditional vs. modern), 3) political ideology and philosophy (authoritarian vs. democratic, etc.); and relatedly, 4) economic philosophy and system (capitalist, socialist, etc.); 5) government role, function, and behavior toward market and society (developmental, welfare, regulatory, predatory, patrimonial, etc.) and 6) more. Amidst varying taxonomies and perspectives, one thing is certain the state reflects the interaction between government and citizens. The type of government mirrors the predominant types of people that allow their government to exist. An understanding of the Philippine government therefore has a lot to do with understanding its people. Decades of neglect of the Philippine poor have compelled the latter to entrust their faith in populist candidates like President Estrada. In the end, they gain a stronger sense of betrayal because populist government leaders have actually represented particularistic interest.

The dominance of these interests in State affairs leads to the argument that the Philippines is a soft state. Criticisms of the softness of the Philippine State suggest the adoption of the alternative-the hard or strong state (or rational-legal). The ideal strong or hard state has been described as one that clearly delineates "realms of the State and of the market. The State formulates and enforces rules, which creates the

environment under which the market becomes an efficient mechanism for producing and distributing goods and services." On the other hand, the soft state is said to be one in which there is a "blurring of the realms of the State and of the market. The rule formulation and enforcement functions of the State become the objects of market transactions. The formulation and enforcement of rules are then appropriated by those with political and economic power and are used to advance their self-interests"

Although appealing, these characterizations and definitions of strong and soft states present empirical and other problems, particularly when one takes into account the experiences of South Korea and Japan, where bureaucrats and businessmen associate and influence State policy. And if the state is considered strong only in terms of regulation, that will imply the absence of interventions in the market and in society. These will render the State passive against the demands of development. In historical and daily experiences, and even in theory when we take into account the dynamics of the policy process, these characterizations neglect elements of power, influence, and participation of various publics to influence State policy and bureaucratic behavior.

Other conceptualizations of strong and weak states (or governments) basically pertain to the strength of the State vis-a-vis society (including the business sector). In this case, if the State is so defined as an instrument of class or elite domination, the adoption of a hard State implies maintenance of the rules of class oppression. Further, in its less ideal form, a hard state can be a predatory one. A predatory State is one in which the key motivation to rule, regulate, enforce, and accommodate is to extract income and other benefits for private gain.

Paul Hutchcroft (1999) argues that the Philippine state is patrimonial rather than predatory one since it is the oligarchs that are predatory. Relating relative strengths of State apparatus in capitalist societies to Weber's classification of rational-legal and patrimonial states, he offers two types of patrimonial states, namely: patrimonial administrative (or bureaucratic capitalism) and patrimonial oligarchic state (booty capitalism). The former reflects a stronger State apparatus vis-a-vis business interests while the latter reflects a relatively weaker state vis a-vis the same interests. Hutchcroft argues that the Philippines is a patrimonial oligarchic state.

However, on closer investigation, one can observe how the dynamics of government, market, and society produce a historical pattern of corrupt behaviors institutionalized at national and local levels, it is not only the oligarchs who engage in plunder and corruption but also other actors in at various levels of government and society as well.

Perhaps, state strength (hard or soft; strong or weak) will not best describe a formative framework for future Philippine development. But it does highlight the need to develop a strong professional bureaucracy in the country. This need is supported by the continuing characterization of the Philippines as a predatory or patrimonial-oligarchic state. What may be more appropriate given the existing demands and challenges is a state that lies between the developmental and the regulatory.

A Challenge to Philippine Institutions

Perhaps, what will be more relevant to the challenges of Philippine development is a focus on the political capacity of State institutions to bring about material and social progress to the broadest number of the population. State institutions should also have the political capacity to prevent any attempts to subvert or undermine mandated duties by individuals or groups, including the President of the Philippines. Therefore, rather than perpetuate the Philippine State's characterization as an instrument of domination by certain individuals, groups, and classes over the others, there is a need to redefine the State as a social contract. The contract is about public stewardship in which the State becomes an instrument of good governance and as a purveyor of a general environment conducive to development. Looking at it from a different angle though, a hard State may reflect the relative effectiveness of State institutions to perform mandated functions, i.e., if government agencies and individuals act as good stewards of the public trust rather than as agents of vested interests.

However, this imperative for the Philippine State is easier said than achieved for several reasons. First, the rise and continued domination of the patrimonial or predatory Philippine State reflect the relative weakness of civil society. Civil society as understood these days represent groups and individuals whose primary interests formally lie outside

those of the State and market. These include voluntary and civic organizations, social movements, church groups, people's organizations, etc. Civil society groups in the Philippines although strongly vocal about social concerns remain weak to decisively compel effective reforms in State and Market. There have been indications in fact that some civil society groups themselves have been engaged in profit-and rent seeking. So their behavior will not alter the Philippine situation.

Second, culture and experience show that certain economic actors thriving under severe market imperfections will continue to collude with political society in order to unduly gain State favors. This has been demonstrated, though unevenly, in every political administration of the past.

Third, a strong culture of corruption besieges political society and State. This culture is evident in local and national levels of government and society.

Fourth, State legitimacy has been questioned from time to time with a spate of violence and repression. The postwar period, there have been already four attempts to alter the Philippine constitution. The implication is that the State has not been effective in addressing majority expectations that often resulted in political instability and social disorder.

Fifth, strong patronage cultures and kinship networks hamper effective check and balance mechanisms that govern intra- and interrelations among State, market, and civil society. Check and balance, being a central feature to democratic survival, demands impartiality and professionalism. Its failure seriously undermines the legitimacy of State and government purportedly established for the promotion of democratic ideals.

Certain conclusions and recommendations can be derived from the above discussion, as follows:

1. There is a need to strengthen democratic governance and induce development within a democratic framework. However, the demands for development in a democracy are greatly amplified by the need to sustain high economic growth rates for a prolonged period. Attaining these thrusts and addressing the problems of Philippine development should therefore go beyond mere government action and involvement. It also involves the broader and active participation of member's of the Market and Civil Society, working together with the State on an even basis.
2. Since Philippine development will require the effective interactions of State, Market, and Civil Society, the scope and depth of participation by institutional actors in these three spheres should be considered for greater political legitimacy and development impact. Participation in the formulation and implementation of development policy and programs should demonstrate innovative ways for social and political inclusiveness. Public participation should go beyond mere consultation. Social, political and business institutions should be involved in planning, monitoring and evaluating development strategies, programs, and projects. Transparency and accountability are encouraged through

multisectoral participation in various phases of developmental undertaking.

3. There is a need to reinvent and strengthen institutions of State, Market, and Civil Society. The need for reinvention is highlighted by the prevalence of vicious cycles and strong cultures of corruption, patronage, and rent seeking. A vicious cycle exists governing State, Market, and Civil Society relations. This vicious cycle results in the further weakening of the three spheres and the perpetuation of vicious cycles of poverty and underdevelopment in favor of particularistic interests. There is a need to replace vicious cycles in State and Corporate governance with virtuous ones. In the process, vested interest groups should be destroyed. Moreover, the development of virtuous cycles stresses the strengthening of effective check and balance mechanisms.
4. Institutional behavior and performance depends on the values and the persuasiveness of leaders on the one hand and the strategies and structures employed on the other. A jump to strategies and structures without the necessary values and persuasiveness does not differ from traditional approaches to public management. It is by the strength of the values system that makes an institution. A good public institution should therefore be composed of people bearing good values of public service. Their leadership should be infectious. The process of reinvention then begins with the values and persuasiveness of leading change agents in State, Market, and Civil Society.
5. The process of reinvention anti strengthening of institutions of State, Market, and Civil Society should consider a few more suggestions:
 - 5.1. The promotion of effective agency and stewardship values in public service, e.g., enhanced compensation in the bureaucracy, intense social education, civil service screening, intense awareness campaigns for transparency and accountability, etc.;
 - 5.2. Making markets work by enhancing competition, private sector support through research and development via government and academic research programmes, enhancing consumer protection,

improving and enforcing quality product and service standards, and creating a favorable tax environment;

- 5.3. Creating adequate social safety nets within the country's fiscal capacity.
- 5.4. Increased government and private sector support to civil society organizations in terms of enhanced participation and education.
- 5.5. Reconsidering current system of financing and regulating electoral campaigns and candidates,

Rather than provide a detailed economic development strategy and institutional framework, the position of this paper is to submit inputs to a bare bone policy framework about governance. The governance problem in the Philippines is real. The losses due to bad public administration by way of persistent corruption amount to millions of pesos a day. If annual losses constitute about 3.8% of GNP, investment allocation of a similar or significant portion of GNP should be well considered.⁴ Effective reforms can reduce losses due to corruption in the next three or five years. Still, savings can be realized in the long run if reforms lead to a strong culture of public service. More importantly, substantial improvements in Philippine standards of human decency and social order will be within sight.

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New index highlights worldwide corruption crisis, says Transparency International

The Corruption Perceptions Index 2001 ranks 91 countries. Almost two-thirds of the countries ranked in the new index score less than 5 out of a clean score of 10

27 June 2001 --- "There is no end in sight to the misuse of power by those in public office -- and corruption levels are perceived to be as high as ever in both the developed and developing worlds," said Peter Eigen, Chairman of Transparency international, speaking today on the launch of the Corruption Perceptions Index 2001 "There is a worldwide corruption crisis. That is the clear message from the year 2001 Corruption Perceptions Index (CPI), which reflects the degree to which corruption is perceived to exist among public officials and politicians. Scores of less than 5 out of a clean score of 10 are registered by countries on every continent," he said on the publication today of the CPI by Transparency International (TI),

~~This year's index, published by the world's leading non-governmental organization fighting corruption, ranks 91 countries. Some of the richest countries in the world - Finland, Denmark, New Zealand, Iceland, Singapore and Sweden - scored 9 or higher out of a clean score of 10 in the new CPI, indicating~~ [(F)-10(i 1 90()-82(1)-27(C)-19(P)4w82(1)-27(C)-e)-25(v)-20(e)-5(l)-18(s)-20()-82(o)-25

an affordable price to address this human tragedy, it is also essential that corrupt governments do not steal from their own people. This is now an urgent priority if lives are to be saved."

The CPI also registers very high levels of perceived corruption in the countries in transition, in particular the former Soviet Union. Scores of 3.0 or less were recorded in Romania, Kazakhstan, Uzbekistan, Russia, Ukraine and Azerbaijan. Peter Eigen noted: "The leaders of the countries of the former Soviet Union must do far more to establish the rule of law and transparency in government. This is crucial to their economic progress, and to the development of an open society."

While the CPI scores of most leading industrial countries are quite high, the CPI focuses on corruption involving public officials. It does not reflect secret payments to finance political campaigns, the complicity of banks in money laundering or bribery by multinational companies. Speaking in Washington DC, TI Vice Chairman Frank Vogl noted: "Corruption in the most prosperous countries in the world has many manifestations, and Transparency International is increasing its efforts to stimulate actions to secure greater transparency in politics, business and banking. We aim to publish a new Bribe Payers Index in early 2002 to shine the spotlight on the propensity of western firms to use bribes in emerging market economies."

TI Vice Chairman Tunku Abdul Aziz stated in Malaysia: "The CPI is based on the understanding that a change in the perceived level of corruption can be measured only by a consistent shift in behavior over a number of years. As a result, it may not give credit to new government leaders who are making determined efforts to counter years of rampant corruption in their countries. For example, in recent times we have seen new leaders take the helm in Nigeria, Mexico and the Philippines intent upon far-reaching anti-corruption programmes."

"Relief from the IMF and increases in aid funding are evidence that the poor ranking of Nigeria in the GPI is recognized internationally as an inheritance that cannot be overturned in the space of one or two years," said Tunku Abdul Aziz. "The Nigerian administration has also made great strides in its quest to recover funds looted by the late dictator Sani Abacha."

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Corruption Perceptions Index 2001

Country Rank	Country	2001 CPI Score	Surveys Used	Standard Deviation	High-Low Range
	Finland	9.9	7	0.6	9.2-10.6
	Denmark	9.5	7	0.7	8.8-10.6
	New Zealand	9.4	7	0.6	8.6-10.2
	Iceland	9.2	6	1.1	7.4-10.1
	Singapore	9.2	12	0.5	8.5-9.9
	Sweden	9.0	8	0.5	8.2-9.7
	Canada	8.9	8	0.5	8.2-9.7
	Netherlands	8.8	7	0.3	8.4-9.2
	Luxembourg	8.7	6	0.5	8.1-9.5
	Norway	8.6	7	0.8	7.4-9.6

	Australia	8.5	9	0.9	6.8-9.4
	Switzerland	8.4	7	0.5	7.4-9.2
	United Kingdom	8.3	9	0.5	7.40-8.8
	Hong Kong	7.9	11	0.5	7.2-8.7
	Austria	7.8	7	0.5	7.2-8.7
	Israel	7.6	8	0.3	7.3-8.1
	USA	7.5	11	0.7	6.1-9.0
	Chile	7.5	9	0.6	6.5-8.5
	Ireland	7.4	7	0.3	6.8-7.9
	Germany	7.4	8	0.8	5.8-8.6
	Japan	7.1	11	0.9	5.6-8.4
	Spain	7.0	8	0.7	5.8-8.1
	France	6.7	8	0.8	5.6-7.8
	Belgium	6.6	7	0.7	5.7-7.6
	Portugal	6.3	8	0.8	5.3-7.4
	Botswana	6.0	3	0.5	5.6-6.6
	Taiwan	5.9	11	1.0	4.6-7.3
	Estonia	5.6	5	0.3	5.0-6.0
	Italy	5.5	9	1.0	4.0-6.9
	Namibia	5.4	3	1.4	3.8-6.7
	Hungary	5.3	10	0.8	4.0-6.2
	Trinidad & Tobago	5.3	3	1.5	3.8-6.9
	Tunisia	5.3	3	1.3	3.8-6.5
	Slovenia	5.2	7	1.0	4.1-7.1
	Uruguay	5.1	4	0.7	4.4-5.8
	Malaysia	5.0	11	0.7	3.8-5.9
	Jordan	4.9	4	0.8	3.8-5.7
	Lithuania	4.8	5	1.5	3.8-7.5
	South Africa	4.8	10	0.7	3.8-5.6
	Costa Rica	4.5	5	0.7	3.7-5.6
	Mauritius	4.5	5	0.7	3.9-5.6
	Greece	4.2	8	0.6	3.6-5.6
	South Korea	4.2	11	0.7	3.4-5.6
	Peru	4.1	6	1.1	2.0-5.3
	Poland	4.1	10	0.9	2.9-5.6
	Brazil	4.0	9	0.3	3.5-4.5

Preventing Corruption in the Philippines: What s To Be Done?

Briefing Paper for the Corruption Prevention Workshop
Transparency and Accountability Net work

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Introduction

There are three mutually supportive main strategies that can be pursued against corruption: (1) prosecution of corrupt individuals and groups n society; (2) prevention of corrupt acts, and (3) promotion of transparency, accountability, and integrity in the relationships and transactions between and among citizens, businessmen, and government officials. This paper provides a brief overview of the second strategy the prevention of corruption.

This paper presents the following ideas:

- (1) Prevention is a neglected strategy in the Philippines.
- (2) Prevention is a strategy that may have tremendous [pay-offs for the Philippines because it is less intrusive strategy than prosecution yet is a more tangible, ir.7imediate, and instrumental strategy than promotion;
- (3) There have been a few significant historical and current corruption prevention initiatives in the Philippines;
- (4) Other countries have designed and implemented effective corruption prevention measures and mechanisms that can be adopted in the Philippines:
- (5) Corruption prevention is a strategy that calls for maximum and significant involvement of civil society and the business sector, thus enlarging the effective mobilizable resources against corruption; and
- (6.) Corruption prevention will provide the missing component needed to provide balance in the overall Philippine strategy for combating corruption, which has emphasized the enforcement of the law against graft and corruption on the one hand, and the internalization of values of honesty and integrity among government officials on the

other.

What is the Corruption-Prevention

Strategy?

Essentially, it refers to:

- (1) Streamlining government transaction in order to remove the opportunities and occasion for graft and corruption;
- (2) Removing the incentives for rent seeking behavior, and restoring and protecting the instrumental link between work and reward,
- (3) Enabling citizens to be stakeholders a graft and corruption-free government, private sector, and civil society, providing them with the motivation, and capability to combat corruption in all these sectors in a collective as well as individual manner,
- (4) Reengineering anti-graft bodies so they undertake and facilitate corruption prevention strategies, programs, and actions in cooperation with the business sector and civil society
- (5) Installing only men of integrity and honesty in high and sensitive positions of government, both elective and appointive,
- (6) Imbuing decision-making in government with transparency and accountability and for this purpose ensuring the public is well informed, is regularly consulted and is provided opportunities for participation in of decision-making.

Targeting Common, Mass, Reutilized Corruption

What acts of corruption can be prevented? All of them. The corruption-prevention strategy should, however, target the most common forms of corruption. These are the corrupt acts that ordinary Filipinos get acquainted with in their day-to-day lives. This "Way of Life" or routine corruption include the following categories:

- Use of public office for private gain (influence-peddling, taking, of illegal commissions, soliciting bribes and "speed money", etc.) And the privatization

of public resources (stealing of office supplies unauthorized use of 'official vehicles, etc.)

- Briber of traffic aides and policemen
- Bribery of and mulcting by internal revenue, customs, and immigration officials
- Smuggling of goods, from cigarette and motorcycle to contraband such as exotic pets
- Tax evasion through non-issuance of receipts and mis-declaration of taxable income.
- Bribery and Mulcting in local government offices relating to business permits

Prevention ins a Non-Intrusive but Direct Anti-Corruption Strategy

The streamlining of processes and procedures can remove the occasions for graft and Corruption without targeting specific persons in an agency this prevents the confrontational process involved in prosecution that Filipinos are sensitive about. Streamlining can involve the full documentation and publication of the process, provision information to would-be clients and customers, use of computers to reduce human administrative discretion as well as errors, speed up the transaction make the transaction transparent, and enable transaction monitoring as Well as employee performance evaluation.

Prevention as a Neglected Strategy

The main anti-corruption government agency is the Office of the Ombudsman. This office is Constitutionally powerful, even compared to its counterparts abroad however it is primarily a prosecution-oriented agency. It has an office that encourages nongovernmental organizations to serve as Corruption-Prevention Wits (CPUs). Despite the creditation of some 72 such NGOs, However not much impact oil Corruption is evident from these engagements. The other anti-corruption agencies namely the DOJ, the Sandiganbayan, the National Bureau of Investigation, the Presidential Commission Against Graft and Corruption, and the Civil Service Commission are lamely prosecutions oriented

The Commission on Audit (COA) reports documents a huge amount of government expenditures that have been disallowed, as being in violation of the rules on expenditures and disbursements. Despite judicial affirmation of these disallowances, the CO remains unable to recover these amounts. To date there is insufficient corrective action of this situation, and future disallowances continue to spell losses for the government. Appropriate corrective action, involving civil society organizations, call prevent future occurrences of these losses.

As it stands, the anti-corruption effort is 75 percent prosecution, and only 75 percent prevention and promotion. Ideally, it should be something line 30 per cent prosecution, 50 percent prevention, and 20 percent promotion.

Prevention as a Successful but Unsustained strategy in the Philippines

The computerization and, streamlining of the procedures in the Bureau of Customs under Commissioner Parayno are mentioned as successful programs.

The Department of Budget and Management (DBM) has started a procurement streamlining system. The Department of National Defense has attempted a transparent bidding process for military equipment. All these, however, are subject to changes in administration and policy priorities and preferences. One area of action may be to involve the civil society and business sector such that these initiatives cross administration boundaries.

Why has prevention not been successful before?

- (1) Control Measures: The main Filipino strategy for preventing corruption has been to build-in control measures ("checks and balances") in government, usually through various layers of signatures. This, in itself, encourages corruption, as too many bureaucrats are given "veto" powers on government transactions.
- (2) Prevention Spillover from Prosecution: Too much emphasis has been given to the preventive effects of the prosecution of corrupt officials and employees. Since prosecution measures are not generally successful, anticipated demonstration *and* prevention effects are also not successful.
- (3) Unanticipated Consequences: Corruption charges themselves are amenable to negotiation and compromise. Public officials and employees are not dissuaded by any anticipated unacceptable consequences of corrupt acts.
- (4) Performance framework: Prevention requires a wider, more comprehensive performance monitoring and evaluation system that was too expensive and difficult to install and sustain. It has not been feasible to install a monitoring system for corrupt behavior alone in government offices.
- (5) Internalizing Accountability: The recruitment, orientation, and training activities in government organizations are not geared towards selecting government officials and employees with integrity and personal intolerance of corruption.
- (6) Harnessing the Incentive System: The pay and incentives systems in government organizations have not encouraged transparency, accountability, and integrity in the performance of government tasks and functions.

- (7) *Clash of Values*: The clash of familial values with public ethics *has not been* deliberately- resolved in favor of the latter. Rationalizations and justifications of
- (8) *Faulty Cost-Benefit Analysis*: The wide, public, long term negative effects and costs of corruption to society, the economy, and the polity are unknown to the people. They see only immediate, personal benefits.
- (9) *Supportive Civic Culture*: The success of preventive measures against corruption depend on a wider, deeper, civic culture that has not been nurtured by effective citizenship training through the formal school system as well as the operation of society as a whole,
- (10) *Status-Quo Mind-Set*: There has been inadequate effort to re-engineer transactions and processes in government organizations. Officers and employees accept the existing structures, functions, processes as in mutable givens.
- (11) *Harnessing Information Technology*: Measures to prevent corruption have not been successful because information technology was not, sufficiently developed and available for the purpose.
- (12) *Exchange of Best practices*: There has been inadequate exchange of information of transparency and accountability best practices among government organizations, and across the public and private sectors.

International and Local Best Practices in Corruption Prevention

There should be a purposive scanning and adoption of international and local best practices in corruption prevention among the promising measures and mechanisms are'

- (1) *Citizen Transaction Handbook*: Complete and well-publicized instructions on how citizens can qualify and avail of government services. In the United States, there is a handbook entitled "What Uncle Sam Owes You" that provides the citizens of what public goods and services they are entitled to, and how these can be accessed.
- (2) *Report t Card System*: Citizen satisfaction and feedback surveys on government services, especially those that are monopolies. The Public Affairs Center in Bangalore, India, has developed this

method of eliciting citizen feedback to bear pressure on government service-providers who have no competitors and otherwise do not have any means of evaluating their effectiveness and responsiveness to their clients.

- (3) *Random Life-Style Checks*: Identification and publication of names of government officials whose affluent lifestyles are grossly disproportionate to their legal incomes. This method is also used by non-governmental organizations in India, using public opinion pressure to discourage graft and corruption among public servants.
- (4) *Open Public Documents*: Exerting pressure for the publication and distribution of public documents such as budgets, appropriations, financial statements, bidding and procurement documents, infrastructure and other projects, undertaken by both national and local government agencies. The Institute for Popular Democracy has been gathering the Statements of Assets and Liabilities of high government officials, while the Philippine Center for Investigative Journalism has obtained corporate registration records of suspected Corporations involved in corruption, or the betrayal of the public; trust, these and others obtained by other corruption organizations can be pooled and published in website, making them available to all, once they are "cracked".
- (5) *Multisectoral Integrity Pacts*: Contracts between and among government, private sector, and civil society organizations pledging that none of their employees will engage in bribery or dishonest dealings within and across sectors and national boundaries, to be guaranteed by their top managers or leaders. The Seoul City Government promotes these pacts, which it has entered with the private sector, and which is enforced by an Ombudsman with the help of civil society and business complainants and informers.
- (6) *Civil Society Watchdogs*: fielding of appropriate and trained non-governmental organizations to systematically monitor an assigned government agency for graft and corruption. The Concerned Citizens of Abra for Good Government (CCAGG), the Bantay Katarungan, and similar organizations in the Philippines, as well as foreign organizations such as the People's Solidarity for Participatory Democracy (.PSPD) in South Korea, are civil society watchdog organizations 11' the case of PSPD, it has dossiers of all the judges and parliamentarians, monitoring and documenting their performance as well as integrity in public office.
- (7) *Government Procurement Watch*: Development of procedures for

ensuring that government procurement of supplies and equipment are transparent, especially through the use of information technology measures. One such system is the Open System of South Korea, where transactions can be initiated and monitored on the Internet. The bidding out of Fort Bonifacio was successful largely because it used a transparent bidding process.

(8) *Corruption Vulnerability Indices:* This system scans and identifies which government agencies are most prone to corruption. These agencies are then targeted for closer scrutiny and monitoring by mobilized multisectoral anticorruption organizations, both for prevention as well as prosecution purposes.

(9) *Government Services Performance Indicators:* This refers to a set of key performance indicators for government services that will help government officials focus on improving their performance, for which appropriate reward and incentive systems are established. The use of performance indicators rewards accomplishments and prevents public servants from "helping themselves" to public resources out of frustration with a system that does not distinguish the honest from the dishonest, the high performers from the low performers.

- (10) *Mobilization of Internal Reformers*: The people who really know the organization are the people who belong to the organization. Many government employees maintain their moral uprightness. They should be encouraged and harnessed in the fight against corruption. They are knowledgeable about the dynamics and interactions in the organization, and would be helpful in identifying how processes can be streamlined to remove opportunities and occasions for corruption within a given agency.
- (11) *Key Appointments Watch*: The top appointive officials of governments should be carefully screened. The field of selection should be wide. The selection process should be highly consultative, participative, and transparent having persons of integrity at the helm of government departments, bureaus, and offices will go a long way towards reducing corruption in these agencies.
- (12) *Comparative Candidate Evaluation*: Citizens must be given the necessary comparative information that can be the basis of informed community and neighborhood discussions and decision-making as to who could represent their interests best in local and national legislative councils and executive positions.
- (13) *Citizen Recruitment and Training for Anti-Corruption Work*: The citizenry's involvement and participation in anti-corruption work should be formalized through active recruitment by anti-corruption civil society organizations. These organizations should also be professionalized and trained for effective and appropriate anti-corruption work. Enthusiasm is not enough. Technical, political, and administrative skills need to be developed.

Corruption Prevention is a Civil Society-Oriented Strategy

A comprehensive corruption prevention strategy opens up myriad opportunities for civil society to get involved actively in anti-corruption work. This is a formidable sector, which may spell the difference between failure and success. It must be suggested that the failure of many previous anti-corruption programs is that they have not sufficiently harnessed the resources of *the civil society*. There are many donor agencies who prefer to work with civil society organizations. This will help make a civil society-oriented corruption prevention strategy a viable strategy.

Corruption Prevention will Buttress the Prosecution and Promotion Strategies

The effectiveness of the corruption prevention strategy will ease the burden of the corruption prosecution and promotion institutions in society. If these are not overwhelmed, they can strengthen and professionalize

themselves. They can be transformed into proactive, rather than beleaguered, reactive agencies.

Towards an Agenda for Preventing Corruption

We need to come up with a Civil Society Program of Action for Preventing Corruption. This program will at best be an indicative framework of action, within which contributing and participating civil society organizations can play a role according to their abilities and inclinations. To maximize the chance of success, however, the civil society organizations must strain to be as clear, precise, and realistic in answering the following questions:

- (1) What anti-corruption goals and targets do we wish to set for civil society in a year's time? Five years? Ten years?
- (2) What corruption-prevention strategic objectives must we attain to accomplish these goals?
- (3) What measures and mechanisms must we undertake to attain these strategic objectives?
- (4) What are the key result areas for each of these strategic objectives?
- (5) What are the performance indicators for each of these key result areas?
What are the summary indicators for each of the strategic objectives?
What are the indicators that the goals have been attained?
- (6) What policy actions do we want President Gloria Macapagal-Arroyo and the Congress to make to initiate and launch a civil society-oriented corruption prevention program?
- (7) What parallel strategies and programs do we assume or expect the government and the private sector to undertake alongside the civil Society Program?
- (8) How do we recruit, organize, and mobilize for the Corruption-Prevention Agenda? How do we generate resources for implementing the Agenda?
- (9) How do we partner and coordinate with the government and the private sector in undertaking mutually supportive corruption-prevention programs?
- (10) How do we build our capabilities for undertaking this Program of Action?

Additional Resources

Development Academy of the Philippines *Anti-Corruption Framework for the*

Filipino People February 2000

Magdalena Mendoza Ed. *Measuring Good Governance, 2000*

World Bank *Combating Corruption of the Philippines*, November 1999

Seoul City Government *The Open System* (CD-ROM)

PSPD (South Korea) *PSPD Brochure*

Public Affairs Centre (India) *Comparative Candidate Surveys* (VHS)

ACT Urban Services *City Plan and Performance Indicators*: (PowerPoint)

Local Government Association (Melbourne) *Principles of Good Governance*

Victoria Regulatory Commission *Annual Report*

Segundo E. Romero, *Civil Society-Oriented Measures for Combating Corruption in the Philippines* (PowerPoint Presentation)

Council of Local Authorities in International Relations (Japan) *Improving Government Efficiency in Southeast Asia* (Conference Proceedings, October 2000).

r the privatization of public resources abound in Philippine society.

Civil Society-Oriented Measures for Combating Corruption in the Philippines

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1.0 Introduction

Retooling People Power

"People Power" is a sledgehammer, powerful in bringing down bad policies, administrations, and Presidents, but clumsy in shaping and implementing collective visions, policies, and programs. What Filipinos collectively seek is good governance, which cannot be installed in one fell swoop, but must be brought about by many delicate carving tools, knowingly and painstakingly applied in a synchronized manner to realize a shared vision. Despite two People Power episodes, Filipinos have yet to find (or embrace?) the formula for instilling and sustaining national discipline, transparency, accountability, and good leadership and citizenship, action-by-action, event-by-event, problem by-problem.

The challenge for Filipinos after the fall of President Estrada is to tame and harness "People Power", so that it can be channeled to more long-term, purposive, instrumental governance action. The challenge is to get past exhortations of "Tayo'y nagtulongan, (Let's work together); "Tayo'y nagkaisa "" (Let's unite.); or Tayo'y magkaisa (Let's pray together)

Filipinos have a term for the failure to institutionalize the gains of "People Power", to seize the opportunity for societal reform. The term is "backsliding", first applied to the deterioration of the reform efforts of Marcos Constitutional Authoritarianism (1972-1986). It is the same term that applies to the two and a half years of the administration of President *Joseph* Estrada (1998-2001).

"Backsliding" -- for Government and the society at large -- begins on Day One, This has been the Filipino historical experience. The forces of the status quo, of old habits and attitudes; constitute the path of least resistance. The reform

agenda of government invariably requires bold and painful decisions. Every government decision that is shear from Day One -- appointment, policy, appropriation, action builds a framework of

governance that either enlarges or diminishes the degree of freedom for genuine reforms. Without a clear vision or program of reform, it is easy to get lost.

Civil Society Participation in Combating Corruption

It is only for the Arroyo Government to whom the people handed the reins of government, to chart a good governance program (and stave off backsliding). This is a responsibility as well of the vanguards of the Filipino people in the bureaucracy, the civil society, and the private sector. The most important principle of People Power is that governance is too important to leave to government alone. And government alone cannot effectively reduce corruption in the Philippines.

Civil society has been slow to transform itself from a sledgehammer into the precision carving tool required. The rare opportunity for drastically reducing corruption that People Power Two created is quickly diminishing.

Yet, the very resource that can give a genuine boost to the anti-corruption program of the government is civil society. Non-governmental organizations both in the Philippines and abroad have shown that they can be effective anti-corruption crusaders. What needs to be done is to get more civil society organizations involved in a sustained and systematic manner, to provide the required energy for a successful anti-corruption campaign.

This paper seeks to encourage the building of the capabilities and empowerment and deployment of civil society against corruption by describing specific ways that local and foreign NGOs have found to be effective. Civil society organizations need to take stock of their resources and commit to undertake any of the diodes of involvement presented. Civil-society organizations can have a significant impact against corruption if the effort is coordinated, broad-based, and sustained.

Two factors augur well for successful civil society involvement in the campaign against corruption. First, there is a strong, worldwide anti-corruption wave that encourages civil society involvement in anti-corruption work, and provides various forms of support, technology, and models for civil society initiatives against corruption. Second information technology is particularly crucial in the light against corruption, and civil society and the private sector access to this

resource make there powerful partners of government in the campaign against corruption.

2.0 The Magnitude of Corruption

What is Corruption?

Corruption is the use of a public office for private gain. Since corruption is often deemed committed even where there is no public office involved, as in stock market manipulation, corruption may be more broadly defined as the betrayal of the public trust for private gain

Legally speaking, corruption is what the law says it is. RA 3019, "Anti-Graft and Corrupt Practices Act" approved by President Marcos in August 1960, is the first and most comprehensive Philippine law aimed against corruption in government. The law enumerates the following eleven corrupt practices in addition to acts or omissions already penalized *by* existing criminal laws

1. Persuading, inducing or influencing another public official 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;
2. 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
3. Directly or indirectly requesting or receiving any gift, present, or other pecuniary or material benefit, for himself or for another, from any person for 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.
4. Accepting or having any member of the family accept employment in a private enterprise which has pending Official business with his office.
5. Causing undue injury to any party or giving any private party unwarranted benefits or advantage in the discharge of official, administrative or judicial functions;
6. Neglecting or refusing to give, after due demand or request, any matter pending before him for the purpose of gaining pecuniary material benefit

- or giving undue advantage or discrimination against any party
7. Entering into any transaction or contract on behalf of the government which will result in the disadvantage of the latter;
 8. Directly or indirectly having financial or pecuniary interest in any business, contract, or transaction in which he takes part in his official capacity,
 9. Directly or indirectly becoming interested for personal gain or having material gain in any transaction or activity requiring the approval of the board or panel of which he is a member;
10. Knowingly approving or granting licenses, permits, privileges, or benefits to persons not qualified or not legally entitled to such;
11. Divulging valuable information of confidential nature".

There are other laws that define corruption. RA 6713, approved by President Aquino in February 1989, is "An Act Establishing a Code of Conduct and Ethical Standards for Public officials and Employees to Uphold the Time-honored Principle of Public Office being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations Thereof and Other Purposes." This law enumerated the following norms of conduct of public officials and employees- (1) Commitment to public interest, (2) Professionalism, (3) Justness and sincerity, (4) Political neutrality, (5) Responsiveness to the public, (6) Nationalism and patriotism, (7) Commitment to democracy, *and* (8) Simple living.

RA 1379, approved by President Magsaysay in June 1955, is "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"

Perhaps the most famous anti--corruption law in the Philippines today should be the law against economic plunder, under which former President Estrada and his son, Jinggoy Estrada, are currently charged with. The crime of economic plunder applies to Corruption that involves P50 million or more.

Magnitudes of corruption

While there is no actual measurement of government losses due to corruption, there are various estimates that indicate its magnitude. The Office of the Ombudsman estimates that US\$48 billion has been lost by the Philippine Government over the last 20 years on account of corruption. This exceeds the present foreign debt of US\$40.6 billion. The Commission on Audit (COA) estimates that corruption costs the Philippines about PhP2 billion (US\$44.5 million) each year. Percentage-wise it is estimated that some 20 percent of the annual budget is lost to corruption.

Transparency International

Corruption Perception Index for Year 2000

Rank	Country	2000	1999	Change
1	Singapore	9.1	9.1	0.0
2	Hong Kong	7.7	7.7	0.0
3	Japan	6.4	6.0	0.4
4	Taiwan	5.5	5.6	-0.1
5	Malaysia	4.8	5.1	-0.3
6	S. Korea	4.0	3.8	0.2
7	Thailand	3.2	3.2	0.0
8	China	3.1	3.4	-0.3
9.5	India	2.8	3.6	-0.8
9.5	Philippines	2.8	3.6	-0.8
11	Vietnam	2.5	2.6	-0.1
12	Indonesia	1.7	1.7	0.0

The CPI, which TI first launched in 1995, ranks countries in terms of the degree to which corruption is perceived to exist among public officials and politicians, and ranges between 10 (highly clean) and 0 (highly corrupt). The 2000 CPI is a composite Index ranking 90 countries, drawing on 16 surveys from 8 independent institutions, undertaken over the last three years, 1998-2000. Data are obtained from scientifically designed survey methodologies.

The Philippines ranked 9.5 out of 12. Asian countries, or rank 69 out of 90 countries of the world indexed, down from rank 54 in 1999,

In his two and a half years in office, President Estrada is alleged to have acquired billions in ill-gotten wealth.

Low Rate of Reporting of Corrupt Acts

Only 0.5 out of every 10,00 civil servants gets reported for corrupt acts in the Philippines, compared to 8 in Hong Kong.

1998 and 1999 SWS surveys show 20-22 percent of the public has been asked for bribes in government transactions. Only 4 percent in 1999 bothered to report the solicitation.

Those who did not complain reasoned that (1) it was futile to complain (51%); (2) the amount involved is too small (21%); there could be a retaliation (15%); and they did not know where to file the complaint (10%).

3.0 the infrastructure for Accountability and Transparency

Overview

The Philippines has good laws for instilling accountability and transparency. The 1987 Constitution itself has a section on "Accountability of Public Officers." The Revised Penal Code has a section on "Crimes Committed by Public Officers."

The Administrative Code of 1987 (EO 292) sets forth the organization and procedures by which the bureaucracy should operate.

The Main Anti-Graft Structures in the Philippine Government

There are powerful anti-corruption bodies created by the 1987 Constitution. There are also a host of anti-corruption agencies and bodies in the executive, judicial, and legislative branches of government. These bodies are identified in the diagram below:

(THE ANTI-CORRUPTION BODIES IN THE PHILIPPINE GOVERNMENT CHART)

The oversight agencies over government personnel

The three oversight bodies over government offices and personnel are the Civil Service Commission, the Commission on Audit and the Office of the Ombudsman. The Sandiganbayan is the specialized court that tries only corruption cases.

The Civil Service Commission

The Civil Service Commission (CSC) is the central personnel agency of the government. It is mandated to safeguard the merit system in the public service by ensuring that only the fit and qualified enter its ranks. It is engaged in standard setting, in human resource development; test administration, personnel records management and adjudication, functioning as the administrative court of the Philippines.

The Commission on Audit

The Commission on Audit is the fiscal watchdog of the government. It has the power to review and regulate disbursement of public funds and the use of government property to prevent irregular, unnecessary, or extravagant expenditures or usage. Like the CSC, it has quasi-judicial powers.

The Office of the Ombudsman

The Office of the Ombudsman is the Philippines primary anti-corruption agency. It is a special prosecutor, distinct and independent from the national prosecution service under the Department of Justice, which is a part of the Executive Branch.

The Ombudsman has the mandate to investigate and prosecute the criminal liability of public officials and employees involved in graft and corrupt practices. More proactively, it is also mandated to conduct a continuing campaign aimed at preventing graft and corruption. This is done mainly through information and re-education to instill proper moral values among government officials, and employees. There are 72 NGOs and POs Accredited with Ombudsman as Corruption Prevention Units (CPI, is) with the Community Coordination Bureau.

The ejection of President Estrada last month is proof that the government, even given its constitutionally mandated anti-graft bodies, could not detect and much less curb corruption successfully. It took the direct action of the people to take corrective action. Both the perception and the reality of widespread and deeply rooted corruption is proof that anti-corruption work is too important to leave to government alone.

4.0 Civil Society Oriented Measures (or Combating Corruption)

The Arroyo Inaugural

In her inaugural speech, President Gloria Macapagal Arroyo outlined a program of government that converge on four core beliefs:

“1. We must be bold in our national ambitions, so that our challenge must be that within this decade, we will win the fight against poverty.

“2. We must improve moral standards in government and society, in order to provide a strong foundation for good governance.

“3. We must change the character of our politics, in order to create fertile ground for true reforms, our politics of personality and patronage must give way to a new politics of party programs and process of dialogue with the people.

“4. Finally, I believe in leadership by example. We should promote solid traits such as work ethic and a dignified lifestyle, matching action to rhetoric, performing rather than grandstanding.

She also said: "To ensure that our gains are not dissipated through corruption, we must improve (moral standards), As we do so, we create fertile ground for good governance based on: a sound moral foundation, a philosophy of transparency, and an ethic of effective implementation."

Recent Civil Society Anti-Corruption Initiatives

Impatience in the weeks following her inaugural induced NGOs to remind her that corruption should be on top of the agenda. In a forum jointly sponsored by the Institute for Popular Democracy and the Development Academy of the

Philippines in February, the President was urged to make a stronger declaration against corruption. The myriad tasks of organizing a new government that involved political compromises, including a softening on the prosecution of the former President that may have made the self-exile option feasible, appeared to worry many NGOs that helped propel President Arroyo to power,

The pressure to get a credible anti-corruption program going, outside of the Estrada plunder case, also stemmed from the fact that despite the studies of the World Bank and the anti-corruption program that the Development Academy of the Philippines formulated during the Estrada administration, no genuine anti-corruption program was implemented for reasons that are now obvious with hindsight. The an advocacy campaign, centering on large posters of himself, fist up with the message "Supilin ang Katiwalian!" the display of which was mandatory to all government offices.

Nevertheless, there were quiet reforms to streamline transactions and set up a procurement watch in the D13M during the Estrada administration. During the time that president Estrada was undergoing impeachment, non-governmental organizations banded together in what is now known as the Transparency and Accountability Network (TAN), led by the Philippine Governance Forum (PGF) of the Ateneo Center for Social policy and Public Affairs. This network is currently in the process of crating a civil society agenda against corruption and organizing a nationwide civil society summit against corruption.

The Development: Academy of the Philippines's proposed anti-corruption program law the groundwork for a more robust involvement of civil society in the anti-corruption program of government. Unfortunately, the DAP anti-corruption program framework which built on the World Bank study on corruption during the Estrada administration, did not receive operational support from President Estrada.

Nevertheless, the idea that anti -corruption is too important to leave to government alone was adopted by the DAP, and pursued by the TAN. The idea is that civil society and the private sector are beneficiaries of an anti-corruption campaign, they have the energy and resources because of their number and deployment across the country, and the economic crisis of 1997, the political crisis of 2000, and an international outrage against corruption has created the proper atmosphere for mobilization against corruption in the Philippines.

What can civil society organizations do to contribute significantly to the anti-corruption campaign in the Philippines?

This section of the paper presents ten models of programs or projects that civil society organizations can undertake.

1. Key Appointments Watch

Perhaps the most important project is the establishment of a transparent and participatory process for generating nominees for Presidential appointments in critical government offices (such as the Constitutional and regulatory bodies). If persons of integrity are appointed to cabinet positions and constitutional bodies (COA, Comelec, CSC, Ombudsman, Sandiganbayan), downstream problems with corruption in an organization can be checked. The key appointments watch project should "sanitize" the top positions in government of corruption, and progressively move downwards to the lower positions over time avoiding "backsliding" and re-infection of the sanitized tiers.

The Search Committee that President Gloria Macapagal-Arroyo formed recently to assist her in generating nominees for cabinet and other positions and short listing them is a step in the right direction. However, it can be further improved by enabling the committee generate more nominees systematically. It is also obvious that one committee cannot do this task alone for so many important positions. On the whole, the UP system for appointing deans, directors, chancellors, and presidents is a good system that can be adopted. This can involve any or all of the following elements – search committees, public forums where nominees talk about their visions for the organization or unit with the constituent sectors, and straw balloting to short-list a set of top recommendees.

Civil society organizations can participate in the whole process, from serving in search committees, putting up their nominees, organizing public forums to bring together nominees and constituents, and evaluating the nominees.

2. Random Lifestyle Checks

Another crucial anti-corruption project for civil society organizations to undertake is the conduct of random checks on the lifestyle and compensation packages of public officials. Government officials must be put on notice that any one of them can be checked for lifestyles that are beyond reasonable range of their legal salaries. This is particularly important in a culture where stolen or illegal wealth is flaunted, and those who do are set up as "smart" people who know how to get to the top fast.

The Philippine Center for Investigative Journalism has done an excellent

job of investigating the hidden wealth of President Estrada, which formed a crucial part in the impeachment case that was filed against President Estrada, and which will also figure prominently in the criminal cases that will be filed against him. The Philippine Center for Investigative Journalism (PCIJ) is a iron-stock., non-profit media organization established in 1989 that specializes in investigative reporting. It seeks to "build a culture for investigative journalism in a situation where the press is free, but reporting tends to be shallow and sensational." The stories of PCIJ are distributed to ten Manila-based newspapers with a national circulation and two newspapers in Cebu. Many of these stories land on the front pages and have triggered official investigations and catalyzed policy and organizational reforms, personnel changes, and official investigations.

There are many modalities of random lifestyle checks. Citizens and citizen organizations can actively search for neighbors or acquaintances that appear to have lifestyles not commensurate to their official salaries and report them to a central reporting system, possibly also NGO-run. In some countries, NGOs publish these lists on the Internet. The lists can be used for further investigation by government anti-corruption bodies such as the Ombudsman, with the assistance of nongovernmental organizations.

One related idea is for top appointive and elective government officials to voluntarily waive the confidentiality of their bank and other financial records, to indicate transparency and accountability in their actions in public office.

3. Fast Track High Profile Cases

Philippine anti-corruption work focuses on prosecution, which is usually slow and unproductive, especially with respect to cases that involve prominent personalities and the elite. To inspire confidence in the justice system and get resolution of high profile cases, civil society organizations can help mobilize investigative and prosecutorial resources for pursuing graft and corruption cases.

An example of civil society organization work in fast-tracking high profile cases is the successful campaign of the Volunteers Against Crime and Corruption (VACC) for the speedy resolution of the Vizconde Massacre case, which involved the son of a Senator as one of the principal accused. The VACC helped focus public attention on the case, creating pressure for a speedy and fair public trial. The VACC was also a principal complainant in the impeachment trial of President Estrada, and the first complainant to file plunder cases against Mr. Estrada even before he was deposed.

The VACC was formally organized only in July 1998. It provides assistance on a day to-day basis from its offices at its Pope Plus Catholic Center (UN Avenue) offices to victims of crimes during the investigation and prosecution of criminals in court. It promotes public participation in the prevention and solution of crime and corruption. It encourages citizens to expose corrupt officials and government to periodically review policies against crime and corruption.

VACC provides the following services; 24-hour victim assistance; crisis management, intervention and counseling; court watch/case monitoring, support to victims during and after the disposition of cases; education and training, horizontal linkages with similar groups involved in crime solution and presentation; assistance to foreigners who are finding difficulty in following cases due to harassment or pressure; and pressure on authorities to oblige them to provide appropriate assistance to victims of crimes.

4. Open Public Documents

Another project that civil society organizations can undertake is to set up systems to campaign for and ensure the full disclosure of public documents such as budget documents, financial reports, government contracts, and proceedings of public hearings. While the 1987 constitution guarantees the freedom of information and mandates the availability of public documents to citizens, much needs to be done to ensure the practice of disclosure and access matches the constitutional intention. *For instance,*

Statements of Assets and Liabilities (SALs) filed by all government employees every year are submitted to five different agencies, which have varying citizen access procedures that range from absolutely no access, to "room use only" access that precludes photo duplication of the materials, to full access. Access may be theoretically available, but as the PCIJ discovered in investigating the various corporations established can behalf of President. Estrada and his families, the actual access to the articles of incorporation of these firms can be restricted to three a day, unduly prolonging the research process.

A civil society project that is helping widen access to public documents is the Transparency and Accountable Governance Project of consortia of five nongovernmental organizations --- the Makati Business Club, the Philippine Center for Investigative Journalism, the Philippine Center for Policy Studies, the Social Weather stations, and the Asia Foundation. The consortia operates a website, www.tag.org.ph which publishes comprehensive data on how, why and to what degree corruption exists in Philippine society. The TAG provides information on public opinion survey research, investigative reports, case studies, and discussions to engage the public in a discussion on corruption. TAG encourages public debate on corruption and on ways to counter it The website also features government and private sector initiatives against corruption.

5. Citizen-Friendly Guides to Government Services

Another project that civil society organizations is to publish user-friendly guides to accessing government services and goods. Much corruption steins from the lack of information by citizens on the mechanics of transacting and accessing a public service. They are forced to resort to the services of fixers because of the lack of information. The needed information includes the scope of the service, who is entitled to it, what documents; are needed to be presented, what is the cost of the service, if any, who is the responsible office and person, what are the office hours, what is the normal processing time, how feedback on a request for service is obtained, where the service will be provided, what preparatory actions need to be taken by the requester, what follow-up action is required of the requester, what reports need to be filed by the requester, etc.

If this information were available, transaction flows would be faster, costs will be lower, and there will be less frustration, and more confidence in government.

An example of a civil society organization that is providing a citizen--friendly guide io a government service is the Philippine Motor Association (PMA) which publishes and gives free copies of a booklet entitled "And Drayber Na Pinoy" (The Filipino Driver). It also gives free copies of the Philippine traffic code, Republic Act No 4136 Recently, a group of UP

students formed a commercial venture to publish The MUST Handbook which provides a guide to travel destinations and locations, traffic rules and regulations, vehicle maintenance, and traffic safety.

6. Civil Society Watchdog

Civil society organizations can also serve as "eyes and ears" of the community in the formulation, implementation, and evaluation of government projects. Oftentimes, the community that is a recipient of a government project is unaware of what the project is all about, what its total cost is, who pays for the project, who the private contractor is, what the design specifications and performance standards of the project are, how long it will be Undertaken, what role the community plays in designing, implementing, and evaluating, the project, and who formally accepts or rejects the project, in behalf of the community.

While there are internal project controls to ensure standards and specifications are met, these are not undertaken with enough transparency to forestall complicity of government evaluators with the private contractors. Out a civil society watchdog, a government project can be poorly designed, implemented, and evaluated, without any formal complaint or feedback from the people.

Civil society organizations must be encouraged to serve as watchdogs and be formally inducted and trained in their monitoring roles. The monitoring process by which a watchdog Its assigned to a specific government agency or office must be clearly set out and agreed upon by the agency and the watchdog. Monitoring, evaluation, and reporting procedures must be specified, to avoid undue friction between the monitored agency and monitoring non-governmental organization.

The Concerned Citizens of Abra For Good Government

An outstanding recent example of a civil society watchdog is the Concerned Citizens of Abra for Good Government (CCAGG). The CCAGG has watched over DPWH infrastructure projects in the province of Abra. This began with the glaring phenomenon of a new bridge built across the Abra River by the DPWH in 19 that had two missing sections and was therefore impassable. Such a waste outraged the people of Abra, an economically depressed province where government resources are slow to reach the people. The vigilance of the CCAGG led to the prosecution of corrupt government officials for the first time in the province. In May 1988, the DPWH included the CCAGG in the PBAC to ensure that the bidding for government infrastructure projects would henceforth be honest. The CCAGG won an international award for integrity from Transparency International in September 2000.

The CCAGG's progeny is interesting. It was organized by provincial volunteers

of the NAMFREL in 1986 who responded to President Cory Aquino's call for people's participation in building the country's democratic institutions. The CCAGG, now with 100 members, has changed the way Abra is governed.

People's Solidarity for Participatory Democracy

A foreign best practice for civil society watchdogs is the PSPD in South Korea. Founded only in 1994, it has succeeded in harnessing and mobilizing the outrage and energy of South Koreans against corruption in Korean government and society. It is now one of the Primary NGOs against corruption in Korea. The PSPD "seeks to prevent abuse of power by government, the judiciary, and business through advocating social justice, presenting alternative policies, and encouraging social participation of the people"

The PSPD is built on individual membership. It has 8,000 members and subscribers and more than 300 academic and other experts and 100 practicing lawyers. It has 45 full-time paid staff and some 200 volunteer staff. The budget raised from membership fees (approx US\$10 per month). As of Aug 1999, fees constitute US\$30,000 monthly, 80% of total budget. The rest is from fund-raising activities.

Through professional organization, the PSPD has become a vigilant, capable, and formidable civil society watchdog. It undertakes a "Justice Watch" -- which watches against judicial and prosecutor abuse of power. It actually compiles dossiers on judicial officials. It campaigns for judicial reform, and publishes a bi-monthly newsletter "Justice *Watch* "

The organization also undertakes a "National Assembly Watch" -- monitoring National Assembly activities, lobbying on important issues, and watching *against* unfair anti dishonest elections.

PSPD also undertakes a "Transparent Society Campaign." Under this program, it campaigns for elimination of corruption, for anti-corruption legislation, and for disclosure of information. It also monitors the government budgeting process, advocates a whistleblower protection program, and an Informants Protection Act.

The range of its action bodies indicates the wide range of action undertaken by the PSPD. Transparent Society Campaign, Justice Watch, National Assembly Watch, Center for Regaining Citizen Rights, Participatory Economy Committee, Fax Reform. Team, Social Welfare Committee, and Science and Technology Citizens' Committee. It undertakes a number of "Citizens' Meetings" -- Youth Villages for Tomorrow, Mothers' Club, Seniors' Club, Guide for Participatory Welfare, People who keep small Rights, Club for "Our Land" Field Investigation, Youth Keepers for Human Rights, Civil Lobbyist Team, Music Club ("So Good"), Mountain Climbing limb, Movie Club ("Film Gang"), and Pillars toward Unification

7. Integrity Pacts / Circles

The idea of an integrity pact or circle is for private business organizations transact with government collectively commit to Entry into "integrity pacts" between public offices and private firms to eliminate environments conducive to and courting bribery, price-fixing and non-transparent procurement practices.

The Seoul Metropolitan Government manages an Operational "Integrity Pact"

The Seoul Metropolitan Government.

The Seoul Metropolitan Government

The IP of the Seoul Metropolitan Government is an agreement between the administrative offices of the SMG ("Principal") and companies submitting bids ("Bidders") that bribes will neither be offered nor accepted in relation to

bids for any public contract such as for construction, technical services, procurement, or in the process of concluding or executing a contract, in order to prevent corrupt practices in contracts of the public sector.

(Major Components of the Seoul Integrity Pact chart)

Conclusion: Encouraging Civil Society-Oriented Approaches to Combating Corruption

The people power generated by People Power II must be re-tooled and re-channeled towards an effective and sustainable campaign for greater transparency and accountability in Government. Even with a change of administration, it is unlikely that government alone can keep itself clean and honest. Civil society organizations must be prepared to go the distance, and be a permanent anti-corruption institution in Philippine Society. There must be civil society and private sector mobilization against corruption. This should be oriented towards capacity-building and deployment, not parliament of the streets oriented.

(ANTI-CORRUPTION "SHOE-HORN" ROLE)

There must also be a paradigm shift in government anti-corruption work. It should move away from exclusive focus on prosecution, but must now be more oriented towards prevention and promotion. What this effectively means is that government must find prevention and promotion anti-corruption programs, as well as enable government anti-corruption agencies to serve as "shoehorns" - inducers, facilitators, and catalyzers of civil society and private sector initiatives and programs.

That, in brief, are the civil society-oriented approaches to combating corruption in the Philippines. We have a tremendously hospitable environment for anti-corruption work in the Philippines today. Many NGOs are mobilizing, but a larger, wider, more sustained effort is required to turn around corruption in the Philippines. The academe has a special place in this campaign. Anti-corruption is both a matter of values, as well as technique. Both of these need to be learned, and the University community must play its part in providing the spirit and the tools for the anti-corruption campaign.

Transparency and Accountability Network (TAN)
Regional Consultation on Developing A Civil Society Anti-Corruption
Agenda
June 1&2 (Visayas), 5&6 (Mindanao), and 8&9 (Luzon), 2001

Facilitating the Prosecution Process: Possible Roles of Civil Society
Prosecution Briefing Paper prepared by the De La Salle University

Introduction

Civil society should play major role it's hastening, the prosecution of corrupt public officials. In criminal law, prosecution is defined as "the means adopted to bring a supposed offender to justice end punishment by due course of law... carried on in the name of the government, and have for their principal object the security and happiness of the people in general". The contribution of civil society to the end of bringing the "security and happiness of the people" is a responsibility too important to leave to the government alone. An understanding Of the processes involved in the prosecution of corruption cases and the lessons to be learne from the experiences and cases of successful prosecution can generate ideas as to what kinds of future activities civil society should embarkon.

Various mechanisms have been established to fight corruption in the Philippines, including the creation of government bodies/agencies tasked to investigate, build eases, and eventually prosecute corrupt officials. Various laws have also been formulated to set the legal framework for the prosecution of these public, officials Despite efforts, the prosecution-centered government approach in fighting corruption has enjoyed little success in terms of counteracting corruption, highlighted recently by the billions of pesos believed to have been pocketed by former president Estrada.

What then can civil society do to facilitate the prosecution process? This paper presents the government bodies concerned with the prosecution of corrupt public

officials. It also includes a discussion of the prosecution process and the possible areas for civil society activities. Instances of successful prosecution are then cited and lists of research areas are suggested to develop an anti-corruption literature in the country and curb this problem.

Organizations, People and Systems

What kinds of people, organizations, and systems do we need to successfully prosecute and bring corrupt officials to the bar of justice?

The legal framework to prosecute corrupt public officials and the bodies to prosecute them are already in place. Passed in 1960, the Anti-graft Corrupt Practices Act (RA 3019) identifies the following corrupt practices as punishable under this law:

- a) Persuading, inducing or influencing any public officer or allowing oneself to be persuaded, induced, or influenced into violating promulgated rules and regulations.
- b) Directly or indirectly receiving gifts, present, share, percentage, any pecuniary benefit or material in the course of any government transaction, contract, or in securing any government permit or license, including those requiring the approval of a panel or board.
- c) "Accepting or having any member of his family accept employment in a private enterprise which has pending official business with him..."
- d) "Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference...through manifest partiality, evident bad faith or gross inexcusable negligence..."
- e) Deliberately neglecting or refusing to act on any demand or request, discriminating or giving undue disadvantage for the purpose of gaining any pecuniary or material benefit for himself.
- f) "Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same...."
- g) "Knowingly approving or granting any intense, permit privilege or benefit in any person not qualified for or not legally entitled..."

- h) Divulging valuable and confidential information in advance or to unauthorized persons.

The 1987 Philippine Constitution likewise devotes a section to the accountability of public officials declaring public office as public trust, allowing for the impeachment of certain public officials, and outlining the powers of the Office of the Ombudsman. Other laws include the Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713 passed in 1989), the Ombudsman Act of 1989, RA 7080 that defines and penalizes the crime of plunder, among others.

As to the organizations or government bodies, the Office of the Ombudsman acts as the prosecuting body. The Office of the Special Prosecutor or Tanodbayan is directly under the office the Ombudsman. We also have the Sandiganbayan, a special court with the level similar to the Court of Appeals, where all public officials and cases with violations of RA 3019 are tried. The Philippine Senate has the Senate Blue Ribbon Committee and the Lower House has an Ethics Committee. Presidents since Quirino to Estrada have established commissions and special bodies to investigate and fight corruption in the government. The Presidential Commission Against Graft and Corruption (PCAGC) for instance is a special commission mandated to handle graft and corruption against presidential appointees, those with a “rank equivalent to or higher than an Assistant Regional Director”, when the amount involved is at least 10 million pesos, among others.

Aside from those mentioned above there are also the Civil Service Commission (CSC), which implements RA 6713. the Department of Justice, the Commission on Audit, and the Office of the Solicitor General. Investigating bodies include the Supreme Court, the Court of Appeals, and the lower courts. There are also quasi-judicial bodies like the National Labor Relations Commission (NLRC) jurisdictional bodies like the House Insurance Guarantee Corporation (HIGC), the National Telecommunication Commission (NTC), the Commission on Elections (COMELEC), and the Securities and Exchange Commission (SEC), among others.

Despite the presence of various bodies exposing, investigating, and prosecuting corrupt acts by public officials, institutionalized corruption continue to linger and grow in the country. A review of the annual reports of the Sandiganbayan

Year	Pleaded guilty	Convicted	Acquitted	Dismissed	Withdrawn by OSP	Returned to OSP
1990	0	2	7	10	10	0
1991	0	88	15	30	16	0
1992	3	5	10	12	11	1
1993	4	6	15	41	21	0
1994	0	4	15	90	29	0
1995	3	11	17	17	31	2
1996	0	0	7	14	18	1

reveal that from 1990 to 2000, a total of 46 cases in violation of RA 3019 resulted in the conviction of the entire accused Table I show the low percentage, of cases that resulted to successful prosecution from the 1990 to 2000. *Even if we add number of case. Wherein all the accused pleaded guilty (which is 12), this still represent about 0 of the total cases disposed front the same period (which is 2768).* From the same period 8.02% the cases resulted in the acquittal of the accused, 11).65 %y of the cases were dismissed while 75% where withdrawn by the Office of the Special Prosecutor (OSP),

**Table 1. Sample of cases disposed in violation of RA 3019 from 1990-2000
(By year and manner of disposal)**

1997	0	1	13	27	10	0
1998	2	3	21	52	45	0
1999	0	2	16	36	49	0
2000	0	4	86	215	30	6
Total	12	46	222	544	270	10

Source: Culled from the Annual Reports of the Sandiganbayan. Reporters and Statistics Section

From the records of the Sandiganbayan, falsification of document rank first as the most dominant type of offense handled by the court from 1979 to March 2000 with 8876 cases. It is followed by Malversation with 5262 cases, violation of RA 3019 with 4805 cases, estafa with 4261 cases, and then theft with 510 cases. Violations of RA 3019 are the most frequent among the cases filed and handled by the Ombudsman and the Sandiganbayan starting in the 90's. The number of cases of those convicted or pleaded guilty compromises 5-10% of the total cases filed before the Sandiganbayan in violation of RA 3019. Moreover, the predominant section violated in the Anti-graft and Corruption law is section 3 (e) or that on undue injury:

“Sec. 3. (e) Causing any undue injury to any party, including the Government, or by 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.

Of those involved in corruption cases, Table 2 shows that the mayors constitute the bulk of the officials accused in the pending cases before the Sandiganbayan. Followed by Bureau and Regional Directors with 48 cases, Provincial Governors and other provincial officials with 26, then military or PNP officials with 24.

Table 2. Officials involved in Ombudsman Cases Pending before the Sandiganbayan (As of Dec. 31,1998)

Government Office	Number of cases
Cases involving Mayors	166
Heads of State University	7
City Engineers	5
Provincial Board Member and other Provincial Officers	6
Bureau and Regional Directors	48
Other Heads of Agencies	22

Agency Administration	10
Ambassadors	2
Military/PNP Officials	24
Provincial Governors and Other Provincial Officials	26
Judges, Prosecutors and Adjudicators	18
Commissioners	5
Total	339

Source: Culled from the 19998 Annual Reports of the Offices of the Ombudsman

There are also a number of Presidential Commissions and agencies created by different presidents of the Philippines. One of these is Executive Order No. 151 issued in 1994 creating the Presidential Commission Against Graft and Corruption or (PCAGC). It handles cases of graft and corruption lodged against presidential appointees with “the rank equivalent to or higher than an Assistant Regional Director”, when the amount involved is at least 10 million pesos, those posing “grievous harm or injury to the national interest”, or those that are assigned to it by the president. Findings of its investigations and recommendations are then forwarded to the Office of the President for executive action. Table three shows the performance of the PCAGC from 1994 to March 2000 with 709 total numbers of cases docketed from the same period.

**Table 3. Summary of Cases Transmitted to the Office of the President (OP)
(As of 31 December 1999)**

From 1994 to 1999 since the creation of the PCAGC the number of cases that have been transmitted to the Office of the President (OP) for action total to 327, of which 178 where acted upon (see Table 4). The Office of the President can also send the cases transmitted to them to the Office of the Ombudsman for further investigation and prosecution. Misappropriation or misuse of public funds and irregularities relative too procurement tops the kind of charges in the cases transmitted to the OP in 1999.

**Table 4. Tally of Cases Transmitted to the OP According to Charges
(As of December 31, 1999)**

	Charges	Tally	%
	Bribery	5	4.42
****	Conflict of Interest	5	4.42
****	Discrimination/Oppression	2	1.77
****	Failure to act on complaints claim	4	3.54
****	Failure to act on complaints recommendation	1	0.88
****	Failure to act promptly on request	1	0.88
	Falsification of documents/records	2	1.77
****	Grave abuse of discretion	3	2.65
****	Harassment	4	3.54
	Illegal appointment of personnel	1	0.88
	Illegal issuance of special working permit	1	0.88

****	Incompetence	1	0.88
	Irregularities in the bidding of confiscated goods	1	0.88
	Irregularities in the project	8	7.08
	Irregularities relative to issuance of letters of authority	3	2.65
	Irregularities relative to procurement	20	17.70
****	Issuance of letter of Authority despite memo suspending same	1	0.88
	Malversation	8	7.08
	Misappropriations/Misuse of public funds	27	23.89
	Nepotism	4	3.54
****	Protection of employees under investigation	1	0.88
	Unexplained wealth	9	7.96
	Unliquidated cash advances	1	0.88
	Total	113	100.00

Source: Annex 5. PCAGC's 1999 Accomplishment Report

Note: **** those considered as not involving bribery or fraudulent use of public funds

Questions of how people get selected to these important bodies should also be addressed. Does the so-called "palakasan" system work its way to our judiciary, from the Supreme Court to the lower courts and special courts? Even when controversies arise during the *Commission on Appointments*, these controversies later on are forgotten and the presidential prerogative holds sway on whether these people will get appointed or not.

Office of the Ombudsman

One of the Constitutional offices created by the 1987 Constitution is the Office of the Ombudsman (Article XI, Section 4-17). Originating from the Scandinavian concept of an Ombudsman the country's version was a forerunner of the Office of the Tanodbayan (now Office of the Special prosecutor). The Ombudsman became operational through Executive Order No. 243 of 1987 in

Compliance with the 1987 Constitution whose functions and structure was further delineated by press through RA 6770 or "The Ombudsman Act of 1989". Its five major functions include Public Assistance, Graft Prevention, Investigation raid Prosecution, and Administrative Adjudication. It is composed of the Ombudsman, the Special Prosecutor, and the Ombudsmen. For Mindanao, Visayas, Luzon, and the Military. It is tasked to build-up cases, including the gathering of evidence, be filed with the Sandiganbayan, and in resolving other cases involving public officials.

The Office of the Special Prosecutor or the Tanodbayan conducts investigation and prosecutes criminal cases within the jurisdiction of Sandiganbayan, enters plea bargaining agreements, and other duties as may be assigned by the Ombudsman.

Office of the Ombudsman has instituted three programs to fight corruption: the formation of (1) Corruption Prevention Units (CPUs), and (2) Junior Graft watch Units (JGUs), and (3) the appointment of a Resident Ombudsman (ROs) to government agencies.

The functions of the CPUs and JGUs include monitoring the integrity of public servants and reporting anomalous corrupt activities of these people in the performance of their duties to the Ombudsman. They also help in disseminating information on graft and corruption prevention by organizing forums, conferences, and symposia. The ROs on the other hand conduct investigation, public assistance, and studies of systems and procedures in the agency. There are about 774 JGUs accredited by the Office of the Ombudsman, more than 200 CPUs, and ROs have been appointed in government departments/agencies.

The Ombudsman and the Presidential Commission Against Graft and Corruption (PCAGC) handle complaints regarding graft and corruption once these cases are resolved while they are at the Ombudsman, while some upon the determination of probable cause, are elevated to the Sandiganbayan. Cases where the accused was/were found guilty are automatically sent to the Supreme Court, or to the Court of Appeals as can be petitioned by the accused. At present administrative cases are automatically sent to the Court of Appeals while criminal cases like violations of the Anti-Graft and Corruption Practices Act (RA 3019) goes directly to the Supreme Court

The efficiency of the Ombudsman in performing its function has been questioned many times. It is tagged as the cause of delay and reason for the failure of many cases to get conviction from the Sandiganbayan. It has earned a bad reputation as a graft-busting agency and has been

Treated with contempt for taking so long in deciding cases, filing them to the appropriate court, and when upon filing finding the case dismissed for lack of evidence. One of the cited reasons for this performance is the absence of evidences and witnesses when the complaints are filed. Others include the culture inside the Office of the Ombudsman wherein cases are immediately filed to the Sandiganbayan to minimize opportunities for corruption by the prosecutors, delays in getting evidence from the NBI and COA, allegations of corruption, among others.

Diagnosis

there is a low rate of success in prosecuting corrupt officials.

problems encountered within the prosecution process itself contribute to the low success rate in the prosecution of corrupt officials. Figure 1 presents the elements involved in the prosecution process.

Foremost among the reasons for the failure of prosecuting corrupt officials is the **lack of evidence** that would stand in court. This could mean that the evidences available to the prosecuting agency are inadmissible in court or are not strong enough to result in conviction. *The gathering of formation and evidences also entail the identification of witnesses that will testify in court.* Once this task is left to the Office of the Ombudsman, one assumes that the Ombudsman will have sufficient time and be efficient in gathering the evidence. The probability of the complaint seeing its day in court and resulting to conviction is greatly increased when before the filing of the case, strong evidences are already available.

How much is actually lost to corruption when one considers the instances of corruption that are not reported? There are various obstacles encountered in bringing the complaint to the proper agency for prosecution. These include fear of reprisal and lack of public awareness as to where to bring the complaint safely. *The filing (of complaint to the proper agency)* is important to ensure the safety of the complainant and to ensure that the complaint will be acted upon. Instances of corruption ought to be filed at the Ombudsman or the PAGC, although various government agencies already have customer assistance or help desks where complaints may be filed. There is a resident Ombudsman in the different Departments of the government and accredited corruption prevention units (CPU) in communities.

Once those with the Ombudsman, it is re-investigated and if possible a resolution can be reached at [lie level of the Ombudsman. The Office of the Special Prosecutor can file the case to the Sandiganbayan for court action. All cases in violation of RA 3019, which makes graft and corruption a criminal offense, are tried at the Sandiganbayan. *The additional building of case* during this period can be hastened if the complaint filed already contains sufficient evidences to convict the accused. Because of the large number of complaints received by the Ombudsman daily, yes with weak evidences may be relegated to the back increasing the uncertainty as to when it will be filed at the Sandiganbayan.

The importance of building a strong case before it even reaches the Ombudsman is more evident *once it is filed at the Sandiganbayan*. This court will have to determine whether there is probable cause to try the case so that it will not waste the court's resources and time. Once the case is dismissed the same offense may no longer be charged against the same person by virtue of double jeopardy as guaranteed by a Section 21 of the Bill of rights in the 1987 Constitution. Once the case is filed in court there is a need for competent lawyers either to handle the case or to help the government's prosecutor. The caseload of a government prosecutor may be too heavy to ensure a competent representation of the complainant.

In all these instances the monitoring and follow-up of cases is needed to ensure the complaint, the case, and the process will not be maneuvered by personalities with vested interest in the case. Monitoring and follow-up ensure that whatever help is needed for the successful prosecution of the case can immediately be provided or acted upon. This will also ensure a speedy resolution of the case, and a more efficient and competent performance by the prosecuting agencies. Monitoring is also important to watch over possibilities of corruption within the prosecuting agencies themselves, including the Sandiganbayan and other courts.

(PROSECUTION PROCESS)

In South Korea, former presidents Chun Doo-hwan and Roh Tae-woo were convicted in 1996 for amassing illegal political funds worth hundreds of millions of dollars. Convicted together with the two are the heads of top business including Daewoo and Samsung for giving the two former presidents the money. Together with cases of mutiny and treason, the two were convicted for accepting money from the chaebols and top business in S. Korea. Although considered by the business as "customary donations", the money was supposed to go to the political party's slush funds but some were found to be bribes paid to get government contracts and was thus unaccounted for. Observers read the Korean case as an attempt by President Kim Young Sam to rescue his sagging popularity and heed also the public's call to prosecute the two for their military atrocities. Nonetheless the active support by the President Sam helped up the conviction of Doo-hwan and Tae-woo.

Another case of successful prosecution is the conviction of former Japanese Prime Minister (PM) Tanaka Kakuei in the "Lockheed Scandal" of 1976. the scandal involved the former PM Tanaka influencing all Nippon Airways to buy Lockheed Aircraft Corporation's jet airliners after accepting two million dollars worth of bribe. He was arrested in 1976, indicated, and was fined 500 million yen and 4 years imprisonment after 7 years of trial.

Singapore was able to convict in 1991 the Director of the Commercial Affairs Department and a former public prosecutor for corruption in a business deal. The National Development Minister and Chief Executive of the Housing and Development Board on the other hand committed suicide in 1987 after the Corrupt Practices Investigating Bureau (CPIB) investigated him.

In northern Samar, Philippines, Mayor Elias C. Quibal and Municipal Treasurer Antonio U. Deniega were found guilty of charges of graft and corruption for the delay in the construction of a public market in 1988 that cost the government. The Mayor and treasurer released P650,000.00 for the construction of the municipal market of Palapag, Northern Samar costing P652,562,60, despite the market being only 36.42% finished by August 31, 1988 when it should have been finished on March 7, 1988. The case was filed after a COA Special Audit team inspected the project and discovered that despite the non-completion of the market, the contractor was already paid in full. The municipal market was finished December 1989, almost two years since the project started. The mayor and municipal treasurer were sentenced to 6 years to 10 years imprisonment, perpetual disqualification from public office, and subsequent monetary indemnity.

Areas of Civil Society Activity in the Prosecution Process

In criminal law, prosecution is defined as "the means adopted to bring a supposed offender to Justice and punishment by due course of law... carried on in the name of the government, and have for their principal object the security and happiness of the people in general". The prosecution of public officials graft and corruption falls in the hands of the Office of the Ombudsman. A Popular argument when discussing prosecution is that only the small fishes are left to fry and that the top government officials who corrupt on a grand scale are not prosecuted. The management of the prosecution process prevents top officials from getting convicted due to poor collection of evidences and the identification of witnesses to prove guilt. It is in these aspects that the activities of civil society can help to build a stronger case against corrupt officials and hasten their prosecution.

Bringing supposedly corrupt public officials to the bar of justice entails certain measures including the following:

Bringing the complaint to the proper courts or investigating body--Primary to this part of the prosecution process is the people's sense of justice that prompts them to report activities of Metals abusing their position for private gain and public detriment. The Concerned Citizens of Abra for Good Government (CCAGG) for instance monitors construction, projects in their areas and file complaints to NEDA and the implementing agency on perceived deviations and corruption in the infrastructure project. The *JGUs and CPUs* of the office of the Ombudsman have been tools used by that office to increase the number of complaints they receive from the people. Often people get scared to report anomalies and instances of graft and corruption if they are alone. Civil society groups can act in behalf of these complainants or provide the necessary support to them. The Volunteers Against Crime and Corruption (VACC) for example is one of the complainants in the plunder case against former President Joseph Ejercito Estrada.

Gathering of information, evidences, and identification of witnesses -- the gathering of evidences and information takes place before the actual trial or filing of complaint up to the actual trial and resolution of the case. The identification of witnesses who are not afraid to testify is also crucial. The challenge for civil society is to help transform information to evidences admissible in courts. Civil society can also provide support systems and develop a witness protection program to give more security witnesses. Members of civil society organizations can be witnesses themselves in their functions of gathering documentary evidence, of entrapment etc. A case in point is found in the Indian website www.tehelka.com which exposed a corruption in the procurement of military gadgets that caused the resignation of the national president of the ruling party BJP, the national president of the Samta Party, the defense minister, and the suspension of top army officials. The people from the website set up mini-cameras and phones to entrap the government officials in the corruption activity after posing as representatives of a British Manufacturing company. The videotape was then released on the web, causing the suspension and the resignation of top government officials and threatens to comprise the post of the Prime Minister.

Getting competent lawyers and possible expert witnesses -- Hiring, identifying, and ensuring that competent lawyers represent the people is an activity that can be undertaken by civil society. Fighting corruption also entails the need for technical expertise in identifying instances of corruption. Makati-based law firms for instance helped the prosecutors in the impeachment trial. Instances of corruption are sometimes best spotted by people with technical expertise like accountants, engineers, and architects, among others.

Following and supporting the cases until they are resolved -- Monitoring the evolution of the case and its progress can also be an added activity of civil society to facilitate prosecution.

The idea that there are organized groups monitoring the progress of cases provides deterrence to complacency. Often cases are forgotten after they are filed rendering them vulnerable to machinations in favor of the accused. Through this activity, civil society then can propose changes in the information management system to improve public accessibility and monitoring.

Civil-Corruption Network (Civil Society Watchdog)

From the discussion above, there is a major need and a wide space for civil society to act in eating the capacity of the Ombudsman and of other organizations to bring corrupt officials to justice. A major civil society response in terms of prosecution will be to facilitate and augment the capacity of prosecuting bodies in the prosecution of

graft and corruption cases. These can be achieved through the exploration and development of the following activities:

- Help in the need for additional information and evidence collection
- Bringing of problems and complaints to the authorities
- Teaching the citizens to delineate between simple information and how information can become evidence (documentary evidences, recording, taking pictures, etc.)
- There is also a need for the watchdog to establish a collection validation mechanism for the information gathered, the creation of the appropriate filing system or what operation systems would be used.
- Develop an effective witness protection program
- There is also a need to establish support from legal and other technical organizations or groups (lawyers, accountants, engineers, etc.) Determination of occurrences of corruption may require the help of technical expertise, in the construction project for instance corruption causes the use of substandard materials and processes that sometimes only engineers can spot.
- Monitor cases filed of interest to civil society and contribute to the development of more efficient filing of data, taking into consideration the linkages of information from one agency to another

Research

Ongoing and continuing research on corruption is needed to combat a problem that is systematic in the country. Areas for research are rich to develop a huge database of anti-corruption literature.

The systematized research into the successful prosecution of corruption cases can provide insight regarding possible activities that civil society can and should conduct to address problems on prosecution. Mostly journalistic accounts, these various pieces can be advanced to a systematic study of the factors as well as identification of course of actions that contribute to the successful prosecution of cases.

The factors that contributed to the conviction of the former South Korean presidents can provide ideas as to what future activities civil society should look into in the future. Research on similar cases of successful conviction both local and in other countries can help in the identification of future activities by the civil society watchdog.

Many anti-corruption organizations have been used as opportunities for grandstanding and not for serious prosecution. Perhaps the lack of necessary linkages between these

organizations perpetuates this kind of use of public office. The idea of linkages amongst various organizations can be a subject of a more in-depth policy investigation.

Recruitment patterns in government posts specially the top posts and the judiciary; including the justices of the Sandiganbayan can be another area for in-depth investigation. A possible activity resulting from this research is the identification and documentation of which officials is beholden to whom.

Who or what organization should perform the function of the Ombudsman at the local level? Is there a need to elect the special prosecutor to make them accountable to the public?

What is the effect of the value system taught in schools and universities to the citizen's sense of social justice? One laments that the values taught in schools are often disregarded after graduation, or does the breaking of value system occur in the schools themselves? How does these factors translate to the development of a citizenry with a high level of social justice?

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(ANTI- CORRUPTION AND ANTI- RED TAPE PROGRAM CHART)

ANTI-CORRUPTION AND ANTI-RED TAPE PROGRAM FOR LOCAL GOVERNMENTS (A DILG OF ACTION)

I. The Vision of the Presidency

Vision reveals that the Filipino race paid a heavy price on account of unbridled corruption and widespread inefficiency over the years as evidence by the country's deterioration from the second biggest economy in Asia (second only to Japan) in 1963 to its current status as one of the economic laggards in the Asia-Pacific Region. The race to a New World Economic Order has been heating up and the Philippines has yet to find its rightful place in the community of nations.

Progress and prosperity are anchored or founded on good governance. If the development of the country were to succeed governance would have to be guided by the values of accountability transparency social equity rule of law level playing field and participatory democracy. Addressing graft and corruption and inefficiency has to be founded on solid ethical legal and moral principles. Eradicating corruption and red tape in government operations is very essential and of utmost urgency if the Philippines were to gain credibility and respect as an investment destination and as a partner in world affairs.

The vision of the Presidency demands radical reforms in governance- transforming local government units from mere political units to sub-sovereign local economies changing the character of Philippine politics in order to create and ensure the fertile ground for true reforms and providing leadership-by-example and promoting solid traits such as work ethics and dignified lifestyle. For many of our people, government is the institution they engage with on a day-to-day basis and what is closer to them and these are the local governments. The efforts of transformation, therefore has to be made more pronounced at the local level for it to be felt by common people

II. The Problem of Graft and Corruption

The country is not wanting from laws that are intended to prevent or address graft and corruption. They include the 1987 Constitution the Revised Penal Code Republic Act no. 3019 (Anti-Graft and Corruption Practices Act) and Republic Act no. 6713 Code of Conduct and Ethical Standards for public Officials and Employees to addition there are also policies issued by central government authorities as well as local initiatives aimed at streamlining of government operations on matters such as internal administrative systems purchases utilization and the like but that their enforcement and compliance leave much to be desired,

Many local government units have documented their own internal systems and procedures and even displayed system flowcharts in conspicuous places but their actualization is inadequate resulting in circuitous flow of documents. The processing of a voucher for example, may entail from 15 to 20 steps before payments finally made.

Foreign and businessmen or investors complain of difficulty in securing business permits. This may be attributes to unclear guidelines or the lack of these or sheer red tape in the processing of permits, or in the changing of these rules in mid-stream by those who are assigned to process applications or issue such permits. The perception is that going to the local courts for redress of grievances futile amidst these unfortunate incidents. It is likewise the perception that the national government does not care at all.

Another case of pervasive inefficiency in local government operations is in the area of securing birth marriage and death certificates or in the payment of local taxes. Taxpayers are unreasonably treated have to queue for long or be told to return for another transaction day.

A sensational case of corruption involving government functionaries recently surfaced and recounted in an international newsprint where the head of a prestigious multi-national corporation operating in the country was arrested and thrown in jail overnight because of his refusal to toe-the-line and accede to the extortionist tactics of a politician.

The above incidents of corruption and red tape could only be the tip of the iceberg,

III. Strategic Thrust

A. Simplifying and Ensuring Transparency in Transactions and Accessibility of Services of Local Government

The idea is to expedite the performance or delivery of governmental functions and services in a transparent manner. Simplification refers to the adoption of investor/entrepreneur friendly business-related local rules and procedures. It requires the elimination of unnecessary steps or documentation in bidding or in the processing of applications for business permits building and occupancy permits real property documents and civil registry documents.

The step-by-step application procedures, in a flow chart form indicating processing time, documentary requirements and fees are to be displayed in publicly accessible and conspicuous places within the city or municipal hall premises. In addition such rules and procedures are to be contained in primers or flyers for the information of applicants. At the high end local governments that can afford may install electro-based services to allow the public greater access to these services.

Projects:

1. One-stop shop

This revolves the creation in cities and municipalities of One-stop shops to facilitate the processing and issuance of business permits building and occupancy permits real property documents and civil registry documents. This is to be manned by local government personnel involved in document tracking processing and evaluation and treasury operations. The venue for the One-stop shop is to be provided within the city or municipal hall.

2. Internal System Audit Teams

Internal audit teams shall be organized in all the administrative regions including ARMM. Each Audit team shall be composed of representatives from the DILG, DOF, DBM, DTI, COA. Local Government Leagues Civil Society Organizations. PCCI affiliates Association of Government Internal auditors and Philippines Institute of Certified Public Accountants. Each Regional Internal Audit Team may be recognized into sub-team for greater area coverage in a given month.

Team visits shall be to examine the financial transaction of cities and municipalities and recommend steps to improve such transaction or sanctions against local functionaries.

A referral system to the Department of Justice and the judiciary shall be an integral part of this program component.

3. Customer Complaint Desks

Local chief executives shall be directed to install customer complaint desks in their municipalities' cities and provinces. Customer complaint desks shall also be organized at the Regional and National Offices of the DILG. The customer complaint desks shall function as a quick response mechanism to complaints against delays, arbitrary decisions, exorbitant imposition and the like.

A referral and compliance monitoring system shall be an essential part of this program component.

4. Monitoring and Intelligence

Complaints lodged before the Customer Complaint desks and Reports of the Internal Audit Teams shall be the central focus of monitoring and intelligence. As may be demanded by circumstances, intelligence work may include entrapments of abusive and corrupt government personnel.

A referral system to the Department of Justice and the judiciary shall likewise be an important aspect of this program thrust.

5. Performance/ infrastructure and Public Works Billboards

This involves the installation of billboards in strategic and conspicuous places to inform the inhabitants about the working and accomplishments of a local government unit. This will help promote accountability and transparency in program or project implementation.

B. Practice and Enforcement of Local Government Public Services Accountabilities

The strategy calls for creating pressure on local governments to be more accountable through an appropriate system of awards and punishments. Exemplary performance of local government should be recognized and corrupt acts should not also be allowed to go unnoticed. This requires sustaining the current awards programs for local governments and also

fast tracking the resolution of existing graft and corruption cases of erring local officials. It is likewise important to ensure transparency in the appointment and promotion processes in LGUs so that people of proven integrity and competence occupy the key positions in local governments.

Projects:

1. Strengthening the Local Government Performance Measurement and Awards system

This involves the broadening and deepening of the application of the Local Productivity and Performance Measurements. It also includes the strengthening of the current awards system for local governments to make them performance and results based.

2. Local Governments Whistle Blowers Incentives and Protection Program

This involves the development of an incentives and protection program for whistle blower in local governments to encourage people to assist the Ombudsman and the courts to prosecute erring local officials and functionaries.

3. Enhancement of Personnel Management System

Involves the improvements in personnel management system such as recruitment and promotions redress of grievances staff development and performance evaluation to ensure transparency thereby ascertain that only people of proven integrity and competence are able to occupy key positions in the local bureaucracy.

C. Inculcating a Culture of Honesty and Services-Oriented in Local Governments

There are always dedicated and competent public servants in the local Bureaucracy but inequities in salaries and standard of descent living makes people vulnerable to corruption. It is therefore important to take a hard look and at the pay scales and benefits of local government employees.

Projects:

1. Seminars on Public Accountability and Transparency

As part of the capacity-building program of the DILG the Local Government Academy in coordination with the Civil Service Commission shall be tasked to conduct year-round seminar series on public accountability and transparency not only for elective local officials but to reach out as well to other local functionaries with decision-making responsibilities particularly those involved in the exercise of local corporate and regulatory powers.

Under this program thrust the DILG will also see to it public accountability and transparency shall be part of the technical sessions of the local government leagues and associations of professionals or in the seminars offered by recognized training providers to local government personnel.

2. Incentives and Awards Program

This involves the search for outstanding officials and employees of local government policy for good performing employees.

3. Organizing Anti-Corruption Vanguard

Part of this effort is to mobilize anti-corruption advocates for self-policing through the organization of Anti-corruption vanguards to anticipate the attempts or occurrence of graft and corruption (e.g. Basic Values Study Group Integrity Circles etc.,)

4. Integrity Checking and Building Program

This involves the installation of a system that deliberately checks on lifestyle of local government officials and employees vis-à-vis their financial capacities. This is to anticipate lifestyle that is no longer consistent with the financial capacity of local leaders.

D. Heightening Public Sensitivity to Corruption

A corruption free society is paid by vigilance of the various sectors of the public servants to behave according to existing standards rules and regulations. This can be done with the help of the schools and tri-media.

Projects:

1. IEC and Advocacy

This will involve the development printing and distribution of materials to local functionaries and other interest group. This may also mean accessing the tri-media relative to efforts to prevent or eliminate corrupt practices and red tape.

2. Installation of Katanungan and Kasagutan Boards

This involves the installation of question and answer boards in local communities to allow citizens to raise issues related to local government operations transactions and decision making including expectations from the constituency LGUs can also level-off the expectations of constituents so that they to expect from their local governments.

4. Establishment of Community Rating System

This involves the development of a feedback system for local governments. This allows members of the community to rate the performance of local governments based on an agreed set of objectives. This can be done through survey rating cards.

5. Creation/Strengthening Local “Bantay Katiwalian Movement”

This involves the organization of a civil society group that would handle the checking of lifestyles of local officials and functionaries provide feedback to LGUs of wrong doings assist and abusive local officials and employees and manage the community rating system for the LGUs.