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Anti-Corruption and Governance: The Philippine Experience

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Anti-Corruption and Governance: The Philippine Experience

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No problem does more to alienate citizens and to undermine political stability and economic development, than endemic corruption among the government, party leader, judges, and bureaucrats.

- USAID, Foreign Aid in the National Interest, 2002

I. Introduction

Corruption is a problem which all governments, at any level of development, have to deal with. The literature abounds with efforts to understand and measure its magnitude and impacts. This short paper is a modest attempt to revisit the issue, keeping in mind the importance it holds in the APEC agenda of issues. The focus is on Philippine experience, but it first puts forward some definitions and concepts, the linkage between corruption and governance, corruption and development, to provide some perspectives when exploring the Philippine case. As such, the paper has four main sections. The first deals with understanding issues and concepts on corruption and governance, linkage with development, how it takes place. The second presents the Philippine experience. The third and fourth sections explore anti-corruption strategies and enhancing these strategies. The paper ends with a short conclusion.

II. Corruption and governance

“Good government” plays an important role in the development process, and “requires the highest standards of integrity, openness and transparency”. The main requisites for good governance include: (1) political legitimacy for the state through democratic elections and transfer of power and an effective political opposition and representative government, (2) accountability and transparency in the sharing of information, (3) separation of powers, (4) effective internal and external audit, (5) effective means of combating corruption and nepotism, (6) competence of public servants, (7) impartial and accessible justice systems; and (8) the absence of arbitrary government power.¹

Action towards curtailing corruption is perceived as a commitment towards creating good government. As such, discussion of corruption is almost always conducted within the framework of good governance.

Corruption and governance lie on a continuum but occupying opposite poles. Whereas governance, with its end goal of creating a good government, aims to serve the interest of

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¹ Doig, Alan and Stephen Riley. Corruption and Anti-Corruption Strategies: Issues and Cases from Developing Countries, p. 47

the people, corruption, through the use of public office and resources, serves the narrow interest of family and allies. Good government is bound by rules aimed to create a transparent and accountable government; corruption plays discreetly and sometimes directly on these rules to make decisions which will benefit those who have access to power and the highest bidder.²

Thus, more insidiously, corruption has a far reaching negative effect on the national psyche which eventually goes back to undermine the whole system of good governance itself. Systemic corruption breeds a culture of corruption and skews the people's perception of what is right and wrong. For a number of countries where it has been effectively institutionalized, where wealth and power have become the measure of success, corruption has become socially acceptable, sometimes even aspired to. Energies of a large number of people are channeled towards occupying positions in the government to partake of the fruits of a corrupt system.

The survey conducted by the Transparency International finds that corruption in the public sector takes the same form, whether one is dealing with a developed or developing country. The areas of government activities most vulnerable to corruption are:³

- Public procurement
- Rezoning of land
- Revenue collection
- Government appointments; and
- Local government

The methodologies were also observed to be remarkably similar, such as:

- Cronyism, connections, family members and relatives
- Political corruption through donations to political campaigns, etc
- Kickbacks on government contracts (and subcontracting consultancies), and
- Fraud of all kinds

Typical features of system prone to corruption are:⁴

- Concentration of powers in the executive and weak or non-existent checks and balances
- Poor transparency surrounding executive decision combined with restricted access to information
- Elaborate regulatory systems allowing for discretionary decision making
- Weak systems of oversight and enforcement
- Soft social control systems/high tolerance for corrupt activities

² Co, Edna. Challenges to Philippine Culture of Corruption: Causes, Consequences and Change.

³ The Anatomy of Corruption. TI Source Book 2000.

⁴ UNDP, 2004

Definition and variants

Corruption is most commonly defined as the misuse or the abuse of public office for private gain (WorldBank, 1997, UNDP, 1999). It can come in various forms and a wide array of illicit behavior, such as bribery, extortion, fraud, nepotism, graft, speed money, pilferage, theft, embezzlement, falsification of records, kickbacks, influence peddling, and campaign contributions (Klitgaard)⁵. While corruption is commonly attributed to the public sector, it also exists in other aspects of governance, such as political parties, private business sector, and NGO (USAID, Anticorruption Strategy, 2005).

UNDP classifies corruption into two types: spontaneous and institutionalized (or systemic). Spontaneous corruption is usually found in societies observing strong ethics and morals in public service. Institutionalized corruption, on the other hand, is found in societies where corrupt behaviors are perennially extensive or pervasive. In these societies, corruption has become a way of life, a goal, and an outlook towards public office.

Corruption in the government involves three broad layers. First is corruption within the broader political system. This includes the demands of electoral politics, the extensive use of patronage in political appointments, and the existence use of “pork barrel” funds. Second, is corruption within the public sector, which is usually focused on three major problems: spotty performance of mechanisms for identifying and sanctioning employees engaged in corrupt and illicit behavior, considerations of pay and employment, and government procurement. Third is corruption within specific agencies, which involves grand corruption (involving widespread syndicates and millions of pesos); and petty corruption (which involves smaller amounts of money, such as grease money to facilitate the delivery of goods and services. (Primer on Corruption:2005).

Certain types of corruption may not necessarily involve money. It may involve gift-giving or influence-peddling. It can also come in the form of future benefits. With this type of corruption, the boundary between a corrupt and a non-corrupt behavior becomes quite thin. Take for instance the act of giving a gift to a public official as a token of appreciation for services done. In some cultures, this may be ethically condoned. Laws and definitions of corruption, in this regard, become culturally bound.

In the Philippines, Presidential Decree 46 (1972) prohibited gift giving to public officials and employees. Despite this law, however, gift giving is still practiced as this habit has been imbedded in social norms.

How Corruption Takes Place

Corruption appears to take place when it satisfies a certain formula. According to Robert Klitgaard (1998), monopoly of power, when combined with discretion and absence of

⁵ See Robert Klitgaard, “Strategies Against Corruption”, <http://www.clad.org.ve/klit3.htm.p.1>

accountability, will result to corruption. Thus, the formula: $C=M+D-A$, where C is corruption, M is monopoly, D is discretion and A is accountability.⁶

UNDP modified Klitgaard's formula by adding other dimension: integrity and transparency. This creates the formula $C=(M+D)-(A+I+T)$, where C is corruption, M is monopoly, D is discretion, A is accountability, I is integrity and T is transparency. This suggests that the absence of AIT (primarily as a consequence of weak governance) in addition to monopoly and discretion, results in corruption. This formula strengthens the theory that corruption is primarily a failure in governance.⁷

Another school of thought explains that corruption is the end result of the politics of privilege, rent seeking and clientelism. (Hutchcroft:1997). Corruption is nurtured by politicians who coddle supporters and followers, who in turn pressure them to engage in corruption to spread the benefits of a corrupt regime.⁸ Corruption creates a cycle that would make sure that benefits are concentrated on these small sector of the populace.

It can also be explained by the principal-agent theory of Jensen and Meckling (1976). The agents (in this case, the politicians and bureaucrats) are able to abuse the advantages offered by such discretionary power in the wake of the incoherent interest of the principal (in this case, the electorate or the public at large). In the Philippines, this incoherence is partly the result of social divisions (e.g. ethnolinguistic dimensions, religion and urban-rural distinctions), and economic divisions (the huge gap between the rich and the poor).

Corruption and development

Much research has been done on the detrimental effect of corruption in development. Studies show that a corrupt country is likely to achieve aggregate investment levels of almost 5 per cent less than a relatively uncorrupt country and to lose about half a percentage point of gross domestic product per year. It is also shown to slow down FDI. Investing in a relatively corrupt country, as compared with an uncorrupt one, is estimated to be equivalent to 20 percent private tax on investment.⁹

High levels of corruption reduce economic growth. It can distort the allocation of resources and the performance of government in many ways. It has a pervasive and troubling impact on the poor, since it distorts public choices in favor of the wealthy and powerful, and reduces the state's capacity to provide social safety nets (UNDP, 2000).

It exacerbates poverty, most especially in developing and transitional economies. Among the identified effects of a corrupt regime are:

⁶ Co, p. 3

⁷ Anti-corruption, UNDP February 2004

⁸ Co, p. 4

⁹ Kaufmann, Daniel. Revisiting Anti-Corruption Strategies: Tilt Towards Incentive-Driven Approach.

- Lower level of social services
- Infrastructure projects biased against the poor, since public officials will design public projects that will maximize bribery receipts and minimize the chance of detection
- Higher tax burdens and fewer services
- Lower opportunities for farmers to sell their produce and for SMEs to flourish, as their ability to escape poverty using their livelihood will be severely restricted by corruption of the state regulatory apparatus.

III. The Philippine Experience

The Philippines is widely held to be the oldest democracy in Asia. Democratic institutions such as separation of powers, judicial independence, and rule of law had good foundations, but were eroded by a personalistic political system and ambiguous policies in the past which allowed too much discretion given to government officials in dispensing resources and services. This discretionary power, in a context of brittle accountability, supplied the basic incentives for corruption. The martial law years further weakened institutions in both national and local governments, undermining accountability, and resulting to rampant rent-seeking activities by exploiting government rules and resources. (Bhargava, Vinay and Bolongaita, Emil. Challenging Corruption in Asia. Worldbank. Washington, D.C.:2004).

A. Degree of State Capture

For the past decades, the Philippines is consistently on the list of countries whose potential for development has been eroded by corruption. Ranking second to Japan in the 1960s, it went downhill as a result of ambiguous policies, strict government regulations, and corrupt practices which inhibited growth of foreign and domestic investments in the country in the succeeding decades. It earned the reputation of “a country of missed opportunities”.¹⁰

In the 2005 Ranking of Transparency International, out of 158 countries surveyed, the Philippines ranked 117th in the corruption list. Earning a CPI Score of 2.5 in 2005, it is perceived to be the 5th most corrupt country in the APEC Region. In a survey of ASEAN countries, the Philippines is in the bottom three in CPI ranking.¹¹

¹⁰ Description given by a former Japanese Ambassador to the Philippines.

¹¹ **Explanatory notes**

* **CPI Score** relates to perceptions of the degree of corruption as seen by business people and country analysts and ranges between 10 (highly clean) and 0 (highly corrupt).
 ****Confidence range** provides a range of possible values of the CPI score. This reflects how a country's score may vary, depending on measurement precision. Nominally, with 5 percent probability the score is above this range and with another 5 percent it is below. However, particularly when only few sources (n)

**APEC MEMBER COUNTRIES RANKING in the 2005 Transparency International
Corruption Perceptions Index (CPI)**

Country Ranking	APEC Member Country	CPI Score
2	New Zealand	9.6
5	Singapore	9.4
9	Australia	8.8
14	Canada	8.4
15	Hongkong	8.3
17	United States of America	7.6
21	Chile	7.3
21	Japan	7.3
32	Taiwan	5.9
39	Malaysia	5.1
40	South Korea	5.0
59	Thailand	3.8
65	Peru	3.5
65	Mexico	3.5
78	China	3.2
107	Vietnam	2.6
117	Philippines	2.5
126	Russia	2.4
130	Papua New Guinea	2.3
137	Indonesia	2.2
?	Brunei	?

Source Transparency International, 2005.

**ASEAN Members in the 2005 Transparency International Corruption Perception
Index ranking**

Country Ranking	ASEAN member country	CPI Score
5	Singapore	9.4

are available an unbiased estimate of the mean coverage probability is lower than the nominal value of 90%.

*****Surveys used** refer to the number of surveys that assessed a country's performance. 16 surveys and expert assessments were used and at least 3 were required for a country to be included in the CPI.

(http://www.transparency.org/policy_research/surveys_indices/cpi/2005)

39	Malaysia	5.1
59	Thailand	3.8
77	Laos	3.3
107	Vietnam	2.6
117	Philippines	2.5
130	Cambodia	2.3
137	Indonesia	2.2

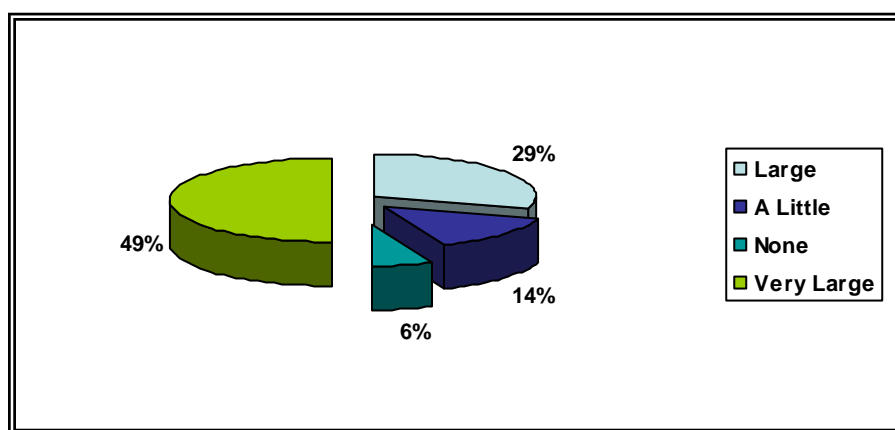
In a local corruption perception survey conducted by the Social Weather Station, the respondents believe that 49% of government resources are wasted due to corruption. Nonetheless, 42% of these respondents believe that the government is “somewhat sincere” in its anti-corruption efforts.

In the same survey, it was also identified that public sector corruption is a result of bad regulation and implementation and that it is most prevalent in government revenue-raising activities. Agencies perceived to be most corrupt are DECS, DPWH, BIR, BOC, PNP and DOH. It is also perceived that 30-50% of government funds allocated for building roads, purchase of vehicles and equipment for government offices and textbooks in public schools are lost to corruption.

Incidence of corruption also abounds in the private sector and media. Corruption in the public sector, however, is perceived to be more rampant.

Corruption Perception in Philippine Government (percent of respondents)

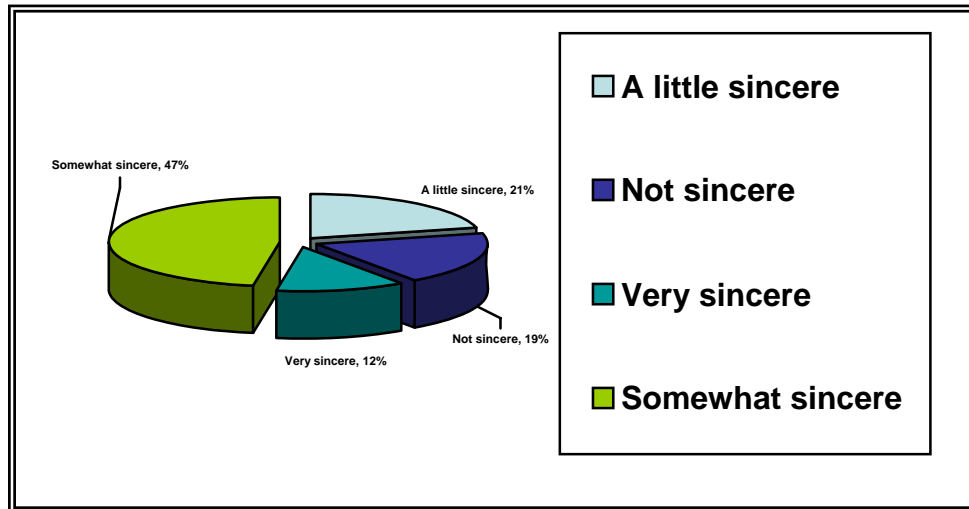
Question: How much corruption do you think there is in the government?



Source: SWS National Survey, March 2001

Perceived government Sincerity about Eradicating Corruption (percent of respondents)

Question: How sincere is the government about eradicating corruption?



Source: SWS National Survey, March 2001.

Areas of Public Sector Corruption (Percent of respondents)

<i>Do you think public sector corruption is...</i>	
Due more to bad regulation	1
Due more to bad implementation	45
Equally due to bad regulation and bad implementation	47
Due neither to bad regulations nor bad implementation	7
<i>Do you think public sector corruption is...</i>	
More prevalent in government revenue-raising	3
More prevalent in government spending	27
Equally prevalent in government revenue-raising	67
Found neither in government revenue- raising nor spending	3

Source: SWS Enterprise Survey, August- October 2000.

Perceived to be Most Corrupt Government Agencies (percent of respondents)

Agencies	October 1999	December 1999	March 2000	September 2000
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Department of Education, Culture, & Sports	7	8	8	13
Department of Public Works and Highways	13	15	20	12
Bureau of Internal Revenue	8	11	11	6
Bureau of Customs	7	15	8	5
Philippine National Police	10	11	9	4
Department of Health	2	3	6	2
Department of Labor and Industries	1	1	2	1
Congress	2	5	4	1
Municipal Government	-	3	4	1
Land Transportation Office	3	5	4	1
Department of Social Welfare and Development	1	-	1	1
Department of Interior and Local Government	2	2	2	1
Don't know	47	48	45	47

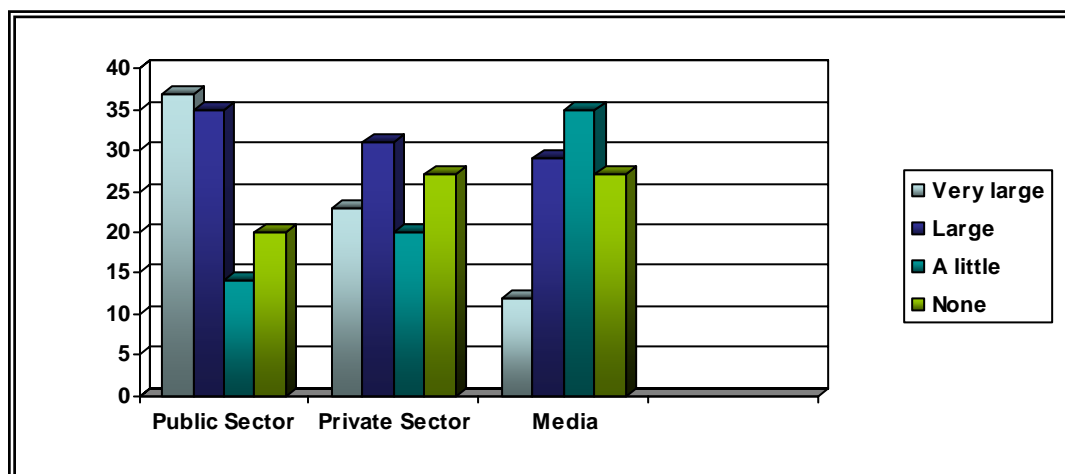
Source: SWS National Surveys, October 1999 to September 2000.

Perceived Portion of Government Funds Wasted due to Corrupt Practices

<i>Amount of leakage</i>	<i>Building roads</i>	<i>Tax collection</i>	<i>Purchase of vehicles and equipment for government offices</i>	<i>Provision of free textbooks in public schools</i>
More than 50	53	43	36	34
30 to 50	30	35	41	41

Sources: National Survey, June 2000.

Corruption in Public Sector, Private Sector, and Media



Source: SWS National Survey, September-October 2000.

a/ corruption in media is based on the question regarding the frequency of cases where newspaper writers are bribes to say false things.

In a 2001 study conducted by the Worldbank, it is estimated that from 1995-2000, a total of P 609 (\$US 12B) Billion pesos is lost to corruption. Some 20% of the total budget is also wasted to corruption. For this six year period, average annual loss as % of GNP is at 3.8%

Estimated Financial Losses Due to Corruption, 1995-2000

<i>Particulars</i>	<i>1995</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>
Total Budget, PhP billion	372.1	445.7	476.2	506.1	593.7	651.0
Nominal Gross National Product, PhP billion	1,958.9	2,261.3	2,522.9	2,794.1	3,100.8	3,478.4
Total Budget as % of GNP	19.0%	19.7%	18.9%	18.1%	19.1%	18.7%
Losses Due to Corruption, % based on WB estimate	20%	20%	20%	20%	20%	20%
Estimated Losses Due to Corruption, PhP billion	74.4	89.1	95.2	101.2	118.7	130.2
Six year Total Losses, PhP billion	609.0					
Estimated Losses as % of GNP	3.8%	3.9%	3.8%	3.6%	3.8%	3.7%
Average Annual Loss as % of GNP	3.8%					

Source: Worldbank Report, 2001

Large segments of the Philippine society do not necessarily believe that institutions of government represent values that are superior to those of smaller groups, such as a clan or a family, and that contributes to a split level set of acceptable public behaviors. As De Dios and Ferrer put it, *“where the notion of what constituted public interest is either vague or disputed, reward and penalty mechanisms are unlikely to function smoothly”*. (Bhargava, p. 9)

B. Corruption and the Government: An Overview

James Scott (2000) said that for developing countries, corruption could be traced to the country's colonial history, corruption being a necessary instrument for dominion of the colonizer over their subjects. History of corruption of the Philippines dates back to the Spanish period (16th-19th century). Bribery, falsification of accounting documents, arbitrarily set and excessively high taxes and fees, embezzlement of salaries of public officials by governors and gift giving were a common practice. Unethical practices were most especially found in the conduct of government affairs. Positions in the government were even sold to the highest bidder.

During the American occupation, one of the first things done was to cleanse the bureaucracy, but the efforts turned out to be insufficient to curtail the spread of corruption. The government's active roles in the promotion of private enterprise for economic growth only precipitated massive and systemic corruption in the country. It came in the form of special favors granted, policy changes, licenses issued, business contracts and employment based on patron-client relationship.

At the time of political independence, there has been a mixed record of government actions in managing the country's resources and promoting development. During the 1950s and 1960s, nationalist sentiments led to policies that favored import substitution through imposition of high tariff rates and protection of local companies from foreign competition. This paved the way for the emergence of an industrial elite that influenced policy making in the country. The protectionist policies often promoted rent-seeking among the elite and diverted resources from people who needed them most.

Corruption reached its peak during the Marcos regime. With the declaration of the martial law, Marcos concentrated state powers in his hands, thus opening up the floodgates for corruption. Referred to as the “politics of plunder”, his authoritarian rule resulted to crony capitalism which benefited his family, allies and conglomerates. By the time Marcos was ousted, he brought the economy to the brink of collapse. (Salonga, 2000; Hutchcroft, 1998; Rocamora, 1998).

The 1970s and early 1980s were characterized by heavy government interventions in the guise of master planning for economic and social development. It was also the period characterized by economic mismanagement and corruption at the highest levels. By the

1980s the Philippines lagged behind most countries in East Asia that pursued more purposive policies of growth with equity.

From 1986 up to 1992, one of the flagship programs of the Aquino government was the institution of checks and balances on the executive branch and rigorous campaigns against graft and corruption. The bureaucracy was also reformed in one of the most sizeable purging of public sector employee. Referred to as deMarcosification, it removed government officials who, in one form or another, had connections with the previous administration. The Aquino administration had also faced accusations of diversification of public funds for elections and other personal gains at the end of its term (De Castro:1998)

In the 1990s, under the Ramos administration, policy reforms on deregulation and privatization had taken place. Reforms in public sector reduced the scope of the government and increased autonomy of local governments Devolution of delivery of basic services brought decision making closer to the frontline and increased participation of civil society and people' organizations in local policymaking.

Even as these reforms were being undertaken, the government struggled with its frail accountability structures and restrained ability to enforce the law against errant officials and against an incoherent expression of public interest in anticorruption. Poor incentives such as noncompetitive pay, and recruitment and promotion practices that were not based on merit, have given officials the excuse not to play by the rules. Accusations of grand corruption, particularly in privatization, infrastructure, and other business dealings also haunt this administration (Parre, 1998; Vitug and Gloria, 2000; Coronel, 2000).

Joseph Estrada had a short-lived presidency that marked the resurgence of crony capitalism, stock market manipulation, massive money laundering, plunder, and others, all of which eventually led to his downfall.

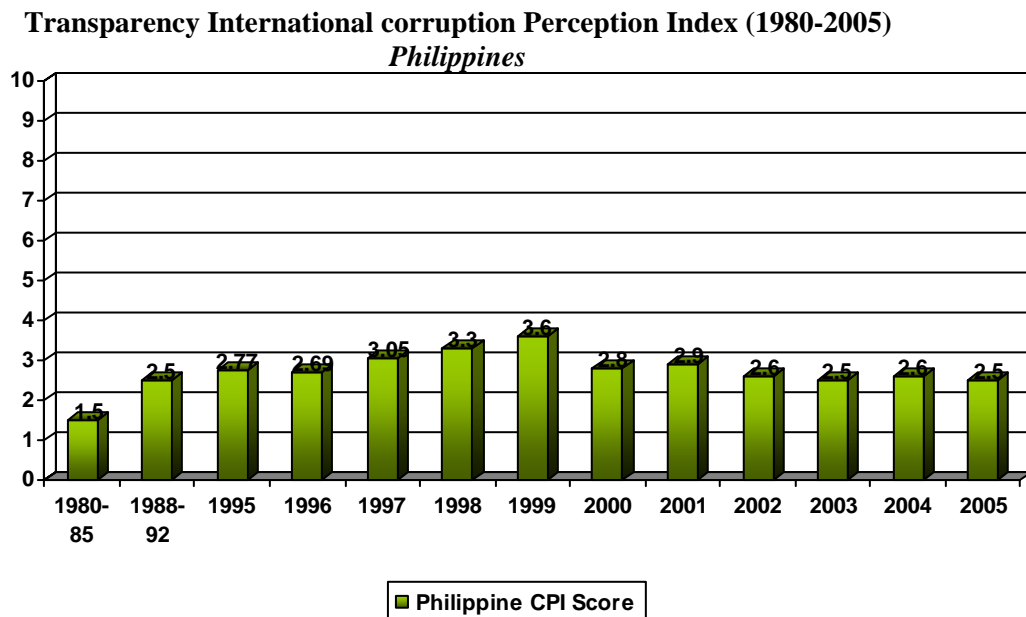
The Philippines struggle with corruption had stretched for decades. According to Rocamora (1997), corruption in the Philippines is the by product of a culture of personalism in Philippine politics, a Presidential system which gives the President too much wide range powers, and a weak party system incapable of securing support through programmatic politics. This set up places public policy making in the hands of cliques and faction that encourage horse trading and spun corrupt deals in the system. It has resulted to institutionalization of corruption as it permeates all of the political system, the bureaucracy, and individual agencies.

Given that corruption is a result of institutional failure, it is in this context that the shift from Presidential to a Parliamentary system of government becomes justifiable. The current administration of President Arroyo is looking into the possibility of reforming the government. A Constitutional Convention was created to seriously study the possibility of a Charter Change. However this move of the government has been met with dissension by the civil society since the current administration also has to contend with political legitimacy issues and accusations of corruption involving the President's family. As such,

this puts any possibilities for reform in a deadlock since the government is perceived not to have the moral ascendancy to initiate such reforms in the midst of unresolved issues surrounding her legitimacy.

Nonetheless, it is significant to note that in general, as far as anti-corruption efforts is concerned, it is not all bad news for the Philippines. Efforts to curb corruption in the past 25 years also resulted to some degree of progress. From a low score of 1.5 in the early 1980s, CPI score reached an all time high of 3.6 in 1999. Decline in scores however was once again experienced in 2000-2005.

Improvement in CPI scores from 1980-1999 is largely attributable to the smooth transition of leadership from Ramos to Estrada, and the more vibrant participation of the civil society, media and the private sector in creating a transparent and accountable government. Decline in CPI scores is experienced from 2000 up to 2005.



Note: 1= high perception of corruption; 10=negligible perception

III. Anti-corruption Strategies

A. Traditional Measures: Government Policies in Fighting Corruption

Various measures were undertaken to combat corruption in the country. On the government side, these interventions had been in the form of legal frameworks, presidential decrees, proclamations and other regulations, anti-graft and corruption bodies like presidential committees, commissions, task forces and other committees and units created since the 1950s.

The 1987 Philippine Constitution provides the legal framework against corruption. Article XI Section 1 of the 1987 Philippine constitution states that, "*Public office is a*

public trust. Public officers and employees, must at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives". Article XI also provides for anti-graft court and an Ombudsman (Section 5). The anti-graft court is called Sandiganbayan and the Office of the Ombudsman is also known as the Tanodbayan. The latter has the rank equivalent to that of a Constitutional Commission.

Almost each administration has a flagship Committee that will address corruption issues in the country. Most of these, however, except for the Presidential Commission Against Graft and Corruption (PCAGC) which was established in 1994, were short lived and were replaced by a new office or task force when term of office of the Presidents ends.

The PCAGC handles cases of graft and corruption lodged against presidential appointees with the rank equivalent to or higher than Assistant Regional Director. It also investigates presidential appointees with a lower rank than Assistant Regional Director a) when the amount involved is at least 10 million pesos, or b) when acts or charges threaten grievous harm or injury to the national interest, or c) when investigation is assigned to the commission by the President. The findings of its investigations along with recommendations are then forwarded to the Office of the President for executive action.

Agency	President	Period	Duration
1.Integrity Board	Quirino	May 1950-Nov.1950	6 months
2.Presidential Complaints and Action Committee (PCAC)	Magsaysay	Dec.1955-July 1958	4 years and 7 months
3.Presidential Committee on Administrative	Garcia	July 1958-Dec. 1961	2 years and 5 months
4.Presidential Anti-Graft Committee (PAGC)	Garcia	Feb. 1960-Dec.1961	1 year and 1 month
5.Presidential Anti-Graft Committee (PAGC)	Macapagal	Jan.1962-Jan.1966	4 years
6.Presidential Agency on Reforms and Government Office (PARGO)	Marcos	Jan. 1962-Sept.1966	8 months
7.Presidential Complaints and Action Office (PCAO)	Marcos	Sept. 1966-Oct. 1967	1 year
8.Presidential Agency on Reforms and Government Operations (PARGO)	Marcos	Oct. 1967- Feb.1970	2 years and 4 months
9.Complaints and Investigation Office	Marcos	Feb.1970 – Feb. 1986	16 years
10. Public Ethics and Accountability Task Force	Aquino	1986-1988	More than a year
11.Presidential Commission Against Graft and Corruption (PCAGC)	Ramos to present	Feb.1994 to present	More than 5 years and still operational
12. Inter-agency Anti-Graft Coordinating Council	Estrada	August 1999- present	Still operational

Sources: Data form 1-9 based on Venzon (1993). See Venson, 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 Sandigan bayan”. MA Thesis, University of the Philippines,1993.

A number of laws had been passed since 1946 to combat various corrupt practices in the country. The newest of these laws specifically target agencies which were frequently on the watch list of corrupt agencies or are considered graft prone, such as the Bureau of Internal Revenue, Bureau of Customs and offices under the Department of Finance. Others are aimed towards streamlining procedures of government operations, and encouraging private sector participation in curbing corruption. In 2003, the Anti-Money Laundering Act was also amended to set a benchmark of P4 million pesos (or its foreign-currency equivalent for suspicious transactions), and commits the Philippines to extending cooperation in transnational investigations and prosecution of persons in money laundering all over the world.

List of Laws Related to Graft and Corruption 1946-1971

- Republic Act (RA) 1379 (1955). This act declared forfeiture in favor of the state any property found to have been unlawfully acquired by any public officer or employee
- RA 3019 (1960). This act provided for the repression of certain acts of public officers and private persons alike, which constitute graft or corruption practices or which may lead thereto, also known as Anti-Graft and Corruption Practices Act.
- RA 6023 (1969). This act provided for the promotion of higher standards of efficiency and justice on administration of laws as well as to better secure the right of the people to petition the government for redress of grievances, creating the office of the citizen's counselor.

1972-1986

- Presidential Decree (PD) 6 (1972). This decree amended certain rules on discipline of government officials and employees.
- PD 46 (1972). This decree made it punishable for public officials and employees to receive and for private persons to give gifts on any occasion, including Christmas.
- PD 677 (1975). This decree amended Section 7 of RA 3019 (as amended).
- PD 749 (1975). This decree granted immunity of prosecution to givers of bribes and other gifts and to their accomplices in bribery and other graft cases against public officers.
- PD 807 (1975). This decree provided for the organization of the Civil Service Commission in accordance with provisions of the constitution of the Republic of the Philippines (repeal under President Aquino's Administration).
- PD 1606 (1978). This decree revised PD 1486 (creating a special court to be known as Sandiganbayan- the main antigraft court that adjudicates criminal cases brought to it by the Office of the Ombudsman (OMB); it deals only with cases filed against high-ranking government officials.

Source:<http://www.tag.org.ph/phillaw>

List of Laws Related to Graft and Corruption
1987-Present

- 1987 Constitution of the Republic of the Philippines. Article XI, Accountability of Public Officers, Article ii, Section 27 and Section 28 policy of the State to maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption, and Article III, Section 7, provides for the right of people to have access to public information.
- 1987 Administrative Code (Executive Order [EO] No. 292). This code instituted the administrative code of the Philippines.
- EC 243 (1987). This order created OMB and restated its composition, powers, functions, and other salient features in the 1987 Constitution of the Republic of the Philippines.
- RA 6713 (1989). This act established a Code of Conduct and Ethical Standards for Public Officials and Employees.
- RA 6770 (1989). This act provided for the functional and structural organization of OMB and delineated its powers and functions.
- RA 7055 (1991). This act strengthened civilian supremacy over the military by returning to the civil courts the jurisdiction over certain offenses involving members of the armed forces, other persons subject to military law, and members of the Philippine National Police.
- RA 8249 (1997). This act further defined the jurisdiction of the Sandiganbayan, amending PD 1606 (as amended).
- Proclamation 189 (1999). This proclamation declared war against graft and corruption and authorized the Philippine Senate, through the Graft Free Philippines Foundation, Inc., to institutionalize public awareness of clean, efficient, and honest governance.
- EO 317 (2000). This order prescribed a code of conduct for relatives and close personal friends of presidents, vice presidents, and members of the Cabinet.
- EO 12 (2001). This order created the Presidential Anti-Graft Commission and provided for its powers, duties, and functions and for other purposes to investigate complaints or hear administrative cases filed against presidential appointees.
- EO 25 (2001). This order established The Governance Advisory Council to encourage more active involvement of the business sector in curbing graft and corruption.
- Code of Corporate Governance (2002). This code further provided to actively promote corporate governance reforms aimed to raise investor confidence, develop capital market and help achieve high sustained growth for the corporate sector and the economy.
- Code of Judicial Conduct (1989). This code provided for the appropriate conduct of judges in performing their duties; otherwise known as the code of Judicial Conduct.
- RA 9160 (2001). This act provided for the modernization, standardization, and regulation of procurement activities of the Government, also known as the Government Procurement Reform Act.
- EO 38 (2001). This order reorganized and extended the life of the Special Task Force created under EO 156 dated 7 October 1999 entitled "Creating a Special Task force to Review, Investigate and Gather Evidence Necessary to Successfully Prosecute Irregularities Committed at the Bureau of Internal Revenue, Bureau of Customs and Other Government Offices or Agencies Under or Attached to the Department of Finance."
- EO 40 (2001). This order consolidated procurement rules and procedures for all national government agencies, government-owned or -controlled corporations, and government financial institutions, required the use of the Government electronic procurement system.
- EO 72 (2002). This order rationalized the agencies under or attached to the Office of the President.
- EO 109 (2002). This order streamline the rules and procedures on the review and approval of all contracts of departments, bureaus, offices, and agencies of the Government including government-owned or controlled corporations and their subsidiaries
- EO No.114 (2002). This order restructured the Bureau of Internal Revenue to furnish OMB with income tax returns filed.
- RA 9194 (2003). This act amended RA 9160 (Anti-Money Laundering Act)

B. Philippine Government Anti-Corruption Arm

The 1987 Constitution established independent bodies aimed to promote integrity and accountability of the public office. These bodies are the Office of the Ombudsman (RA 6770), Sandiganbayan (RA 7975), Civil Service Commission, and Commission on Audit.

Other agencies of the government are similarly tasked to support the anti-corruption measure and establish mechanisms of accountability through specifically defined functions. The table below summarizes the list of agencies and their respective mandate.

Agency	Mandate
Office of the Ombudsman Legal Status: Constitutional Established: 1986	Investigates and prosecutes. Adjudicates administrative cases and takes criminal cases to court or Sandiganbayan, depending on a government official's rank.
Commission on Audit Legal Status: Constitutional Established: 1986	Conducts independent audits of government agencies and refers financial irregularities discovered in audits to Office of the Ombudsman (OMB).
Civil Service Commission Legal Status: Constitutional Established: 1986	Plays preventive role in setting standards and norms for civil service appointments and punitive role for meting out penalties and punishments for violations.
Sandiganbayan Legal Status: Constitutional Established: 1986	As main antigraft court, adjudicates criminal cases brought to it by the OMB. Deals only with cases brought against high-ranking government officials.
Judiciary (headed by the Supreme Court) Legal Status: Constitutional Established: 1901	Adjudicates law in all areas.
Department of Justice Legal Status: Executive Branch	Acts as Government's primary criminal prosecution arm.
Department of Budget and Management Legal Status: Executive Branch	Oversees reforms in procurement systems, tax and expenditure management, bureaucracy streamlining, and civil service.
Commission on Elections Legal Status: Constitutional Established: 1986	Tasked with promoting free, orderly, honest, peaceful, and credible elections and handling expeditiously every action brought before it.
Presidential Commission on Good Governance Legal Status: Executive Order No. 1 Established February 1986	Assigned at its inception with recovering ill-gotten wealth from the Marcos family. Now also tasked with similar recovery from President Estrada.
Bangko Sentral ng Pilipinas Legal Status: Constitutional (New Central Banking Act) Established: 1993	Performs central banking functions. Replaced old central bank created in 1946.
Securities and Exchange Commission Legal Status: Commonwealth Act No. 83 (Securities Act) Established: October 1936	Oversees registration of securities, evaluation of financial condition and operations of applicants for security issues, and supervision of stock and bond brokers and stock exchanges. Tasked with strengthening corporate governance.
Inter Agency Anti-Graft Coordinating Council Legal Status: Executive Order No. 79 Established: August 1999	Shares information and resources to enhance coordination of its members' activities (Civil Service Commission, Commission on Audit,

	Department of Justice, National Bureau of Investigation, Office of the Ombudsman, and Presidential Commission Against Graft and Corruption)
National Bureau of Investigation Legal Status: Executive Order No. 94 Established: October 1947	Gathers evidence for probable cause hearings and files appropriate charges.
Presidential Commission on Effective Governance Legal Status: Executive Order No. 165 Established: October 1999	Formulates public sector institutional strengthening and streamlining agenda. Chaired by executive secretary, vice-chaired by Department of Budget and Management. Members include heads of Civil Service Commission, Commission on Audit, Department of Finance, National Economic and Development Authority, and Presidential Management Staff.
Presidential Anti-Graft Commission Legal Status: Executive Order No. 12 Established: April 2001	Investigates violation of antigraft laws by presidential subappointees and can recommend suspension of individual to presidents. (Same mandate as the Ramos administration's Presidential Commission against Graft and Corruption, which it superseded.) Also superseded the Estrada administration's National Anticorruption Commission.
Governance Advisory Council Legal Status: Executive Order No. 25 Established: July 2001	Advises presidents in formulating governance reform agendas. Consists of private sector appointees.
Anti-Money Laundering Council Legal Status: Republic Act No. 9160 Established: September 2001	Consists of governor of Bangko Sentral ng Pilipinas, commissioner of Insurance Commission, and chairman of Securities and Exchange Commission. Receives reports on covered transactions and can freeze suspicious accounts 15 days without recourse to courts.

Source: Worldbank 2001

The Philippines is not lacking in efforts in curbing corruption. Anti-corruption policies and measures are in place to deal with the different kinds of corrupt activities and behavior in the government. In fact, it is even observed that there are too many laws and regulatory mechanisms that tend to overlap with each other. If executed thoroughly, these laws are sufficient and comprehensive enough to discourage corrupt acts.

Almost all regimes made anti-corruption efforts its slogan and correspondingly created new offices to carry this out as these efforts seemed to create the impression that the new administration is serious in its anti-corruption initiatives. Creation of such bodies however only resulted to redundant functions and wastage of government resources.

While the Philippines has sufficiently created the legal framework for addressing the issue and created institutions charged with combating specific corruption issues, apparently it sorely lacks efforts to successfully implement these laws. Absence of a committed leadership and political will has jeopardized the efforts to curb corruption. Corrupt politicians and government officials seemed not to be short of inventive ways to circumvent the safeguards in place. Thus it becomes necessary that policies aimed

towards preventing acts of corruption and reducing opportunities for corrupt activities should be the focus of reform.

C. Enhancing Anti-corruption Strategy

Kaufmann (1997) distinguishes between the two types of anti-corruption strategies: the ex-post or curative measures and the ex-ante or preventive measures. Based on empirical studies, strong ex-ante anti-corruption measures work better in fighting corruption in the long term.

In a country study of the Philippines conducted by Worldbank, it emphasized the need for focusing on reducing opportunities and motivation for corruption by making it a high-risk, low-reward activity. Within this framework, nine key elements focused on combating the root cause of corrupt activities are recommended for the national anti-corruption program¹²:

Reducing opportunities by policy reforms and deregulation. This would include reforms and deregulation such as tax policy and administration (e.g. preferential tariffs, exemptions, investment incentives, tax audits); regulation of infrastructure services and public utilities (e.g. granting of franchises, government guarantees, competitive arrangements); corporate governance reforms, environmental and land use regulations, and import and trade arrangements.

Reforming Campaign Finance. The dynamics of electoral politics create opportunities for corruption, particularly the financial requirements to obtain and retain office. Reforms of political processes and systems should be an integral part of the government's overall anti-corruption program.

Increasing public oversight. There is a need to increase significantly the information made available to the general public on the performance of elected and appointed officials. Participation of the civil society forms an integral part in this process.

Reforming Budget processes. Enhance the integrity and effectiveness of government wide agency level financial management systems; improve program performance monitoring and evaluation; simplifying public procurement, and limiting congressional discretion over detailed line-items and strictly enforcing public finance rules.

Improving Meritocracy in the civil service. Restructure the civil service to reinforce merit and provide adequate financial compensation and accountability for performance.

Targeting selected departments and agencies. Based on perception survey, the following initial list of target agencies demand intervention: Bureau of Internal Revenue, Bureau of Customs, Department of Public Works and Highways, Department of Environment and Natural Resources, Department of Education, Culture and Sports,

¹² Combatting Corruption in the Philippines, Worldbank 2000

national Irrigation Administration, Department of Health, Department of Interior and Local Government, National Power Corporation, and Bureau of Immigration.

Enhancing sanctions against corruption. Fast-tracking high-profile cases of alleged graft and corruption; supporting capacity building in forensic audit at the Commission on Audit and corruption prevention at the civil service, efficient sharing of information, streamlining and simplifying regulatory framework involving corruption and civil service codes of conduct.

Developing partnerships with the private sector. Involving the private sector in designing anti-corruption strategies, encouraging higher standards of corporate governance, adopting improved accounting standards and auditing rules to ensure transparency in business transactions.

Supporting Judicial Reform. A strong judiciary is a key component of any anti-corruption effort. Among the reforms envisioned are merit-based recruitment and promotion, adequate compensation and accountability of performance. Preliminary assessment conducted by Worldbank shows the need to address the following areas: perception and reality of judicial corruption; case overload and delays; poor working conditions; alternative dispute-resolution mechanisms and judicial education.

D. Multisectoral Approach: Civil Society, Private Sector and International Organizations

A multisectoral approach is likewise used in curbing corruption in the country. NGOs, private sector and donor agencies have been active participants in creating a transparent and accountable government in the past decades.

Civil Society Initiatives. NGOs are particularly a vocal group in the fight against corruption. Civil society groups such as Volunteers Against Crime and Corruption (VACC) have effectively used the media to focus public attention on certain cases and developments. The media themselves have formed NGOs which will serve as the watchdog of the government (Philippine Center for Investigative Journalism (PCIJ), Center for Media Freedom and Responsibility (CMFR)).

Collaborative efforts were likewise done between the government and civil society groups. In January 2005, the Philippine Development Forum was created to serve as venue for dialogue between development partners and the government.

Private Sector Initiatives. Private organizations have been part of the anti-corruption efforts in the country. Their help usually comes in the form of funding of anti-corruption programs of NGOs. The Makati Business Club has been a visible lobbyist for good governance in the Philippines.

International Organizations. With their extensive resources, international organizations have been a huge part of information campaign against corruption in the Philippines. They had also helped craft the good governance framework and long term strategies to fight corruption. International organizations such as the Worldbank, ADB, UNDP, USAID, Konrad Adenauer Stiftung, and Transparency International have launched rigorous programs to help the government.

V. Conclusion

The link between corruption and development is clear. Various studies involving different countries have shown that the more corrupt a government, the more underdeveloped the country becomes. (UNDP 2004) Poverty becomes more rampant, social services are reduced and investments in infrastructure and social services are diminished. Corruption fosters an anti-democratic environment characterized by uncertainty, unpredictability, declining moral values and disrespect for constitutional institutions and authority. Corruption embodies, not just a governance deficit, but also an amputation of democratic values and human rights, resulting to poverty and threatening human security.¹³

Corruption is a governance issue because it involves effective functioning of institutions and management of society thru its political, economic, social and judicial mechanisms. When these formal and informal institutions break down, laws and policies that ensure accountability and transparency of the government become harder to implement.¹⁴

The Philippine experience showed that ruling groups, at their will, can reduce accountability, either thru lack of transparency or by declaring certain areas of decision making off limits to scrutiny and intervention. Hence, it is necessary that mechanisms towards reducing opportunities to monopolize power is in place such that any actions that may undermine accountability are immediately preempted and disciplined. Ex-ante or preventive strategies should be the core element of reform.

Moreover, since this issue is connected with the quality of leaders the country has, it is important that the anti-corruption effort is centered towards political reform and democratization. In the Philippines, one of the root causes of corruption is extreme personalism in Philippine politics and the winner take all system of elections. Policies that will neutralize this system should be enacted.

The anti-corruption strategy should be reinforced by a committed leadership and able management skills to implement the programs and sustain the progress made. Continued reengineering of the bureaucracy is also necessary, with reforms focused not only on achieving efficiency and effectiveness, but also instilling a culture of rules in the system.

¹³ Anti-Corruption, UNDP, 2004.

¹⁴ Ibid., p. 2

Lesson can be learned from Thai anti-corruption activist Pasuk Phongpaichit in curbing corruption. According to him, the control of corruption requires three strategies. First, the formal machinery of monitoring officials and politicians needs to be drastically improved. There is a need for political will to implement this. Second, this will can be generated by popular pressure. We can not expect the bureaucrats and politicians who benefit from the political system to reform themselves. Third, the public must be educated to exert moral and political pressure to outlaw corruption. The mobilization of such public pressure depends on a clearer understanding of the modern concepts of public office and public service and a more widespread awareness of the social costs and political risks which corruption entails. (Rocamora, 1997).

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Annex A : Cases Filed in the Government

Statistical Report on Criminal Cases Submitted to the Office of the Ombudsman (1993-2000)

Types of Cases	1993	1994	1995	1996	1997	1998	1999	2000
OMB Cases Receive During the Year	2,013	2,726	1,620	2,356	2,696	3,107	3,563	3,836
Cases Reverted back to Pending			11	80	25	9	41	606
Old Tanodbayan Cases	105	154	47	552				
Cases Carried over form the Previous Year	8,505	10,235	11,233	10,010	9,788	6,209	4,288	4,436
Total Workload of Criminal Cases and /or Complaints	14,769	17,144	15,793	16,403	15,267	11,662	10,590	10,945
Disposed	4,534	5,911	5,783	6,615	9,058	7,374	6,154	7,971
Dismissed or Closed and Terminated	3,605	4,851	4,262	5,109	6,848	5,208	4,137	5,762
Prosecution	929	1,060	2,521	1,506	2,210	2,166	2,107	2,209
With Regular Courts	569	430	968	1,265	1,772	1,800	1,638	1,938
With Sandiganbayan	360	630	553	241	438	366	379	271
Pending	10,235	11,233	10,010	9,788	6,209	4,288	4,436	2,974

OMB= Office of the Ombudsman.

Notes: Tanodbayan is an independent office of the ombudsman. The Sandiganbayan is the main antigraft court that adjudicates criminal cases brought to it by OMB. It deals only with cases filed against high-ranking government officials.

Statistical Report on Administrative Cases Submitted to the Office of the Ombudsman

Types of Cases	1993	1994	1995	1996	1997	1998	1999	2000
OMB Cases Receive During the Year	2,013	2,726	1,620	2,356	2,696	3,107	3,563	3,836
Cases Reverted back to Pending			8	12	3	9	25	17
Cases Carried over form the Previous Year	1,423	2,554	3,419	2,965	2,685	2,950	2,624	3,131
Total Workload of Administrative Cases and /or Complaints	3,436	5,280	5,047	5,333	5,384	6,066	6,212	6,984
Disposed	882	1,861	2,082	2,648	2,434	3,442	3,081	4,125
Dismissed or Closed or Terminated	809	1,768	1,987	2,469	1,549	3,189	2,758	3,611
Penalty Imposed	73	93	95	179	885	253	323	514

Pending	2,554	3,419	2,965	2,685	2,950	2,624	3,131	2,859
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OMB= Office of the Ombudsman

Source: Office of the Ombudsman

Administrative Cases at the Civil Service Commission

Action on Cases	1997	1998	1999	2000	2001	2002	Total
Cases Dismissed	8	10	1			1	20
Dismissal from Service	44	26	13	14	6	1	104
Exonerated	5	3	1	2	1		12
Fined		22					2
Formally Charged	8	3	2	1			14
Reinstated	1	1			3		5
Reprimanded	1						1
Suspended		3		1	1		5
Total	67	48	17	18	11	2	163

Note: Data for 2002 are as of 31 March 2002 only.

Source: Office of Legal Affairs, Civil Service Commission.

Feedback and Comments Sent through the *Mamamayan Muna, Hindi Mamaya Na Program*

Type of Feedback or Comment					
Year	Commendation	Assistance	Complaint	Suggestion	Total
1997	426	221	2,848		3,495
1998	315	364	2,262		2,941
1999	307	460	1,559		2,356
2000	447	3,452	1,577	29	5,505
2001	1,003	2,419	1,498	38	4,958
2002	70	919	88	3	1,080
Total	2,568	7,835	9,832	70	20,305

Table 9: Feedback and Comments Sent through the *Mamamayan Muna, Hindi Mamaya Na Program* (1997 – 2002)

Type of Feedback or Comment					
Year	Commendation	Assistance	Complaint	Suggestion	Total
1997	426	221	2,848		3,495
1998	315	364	2,262		2,941
1999	307	460	1,559		2,326
2000	447	3,452	1,577	29	5,505*
2001	1,003	2,419	1,498	38	4,958
2002	70	919	88	3	1,080
Total	2,568	7,835	9,832	70	20,305

Note: Figures for 2002 are until the end of March 2002.

Source: Civil Service Commission

Edited from 55057 to 5505

Table 10: Number of Text Messages Received through the Text Civil Service Commission Program (June 2002)

Type of Message	Total	Percentage
Queries	299	41.24
Complaints	321	44.28
Assistance	63	8.69
Suggestions and Recommendations	1	0.14
Commendation	41	5.66
Total	725	100.00

Source: Civil Service Commission

Annex B. Updates on Wealth Recovery

PCGG Ill-Gotten Wealth Cases Presidential Commission on Good Government

- Office of the Solicitor General (OSG) together with PCGG lawyers are prosecuting the ill-gotten wealth civil, criminal and behest loans cases against former President Ferdinand E. Marcos, the immediate members of his family, his principal cronies and business associates.
- As of 31 October 2002, there are 901 cases being handled by the PCGG Legal Department and OSG.
- A total of 517 civil cases were filed before the Supreme Court, Sandiganbayan, Court of Appeals, Regional Trial Courts (RTCs) and Municipal Trial Courts (MTCs),
- A total of 201 criminal cases were filed with the Sandiganbayan, Office of the Ombudsman including Behest Loan cases.
- On-going preliminary investigation are the four (4) Petitions for Forfeiture which were filed with the Department of Justice on March 13, 2002.
- There were seventy-two (72) cases filed before quasi-judicial bodies like the Department of Agrarian Reform Arbitration Board (DARAB), National Labor

- Relations Commission (NLRC), the Social Security System (SSS) and the Department of Justice (DOJ).
- Among the civil cases filed before the Sandiganbayan, twenty (20) are now on trial, twenty-eight (28) on pre-trial, seven (7) were decided in favor of the government, and five (5) were dismissed by virtue of compromise agreements
 - Last December 21, 2001, there were four (4) Petitions for Forfeiture filed by the PCGG before the Department of Justice against some Marcos cronies, now pending preliminary investigation.
 - The forfeiture case filed against the Heirs of Ferdinand Marcos and Imelda Marcos docketed as Civil Case NO. 0141:the Sandiganbayan in its Resolution promulgated on January 21, 2002 granted the Motion for Reconsideration filed by the Marcoses on October 2, 2000.
 - Republic filed its Petition for Certiorari before the Supreme Court on March 1, 2002 assailing the Sandiganbayan resolution and requesting the reinstatement of its early decision which forfeited in favor of the Republic the amount of US \$658 M (now US \$673.560 M) held in escrow with the Philippine National Bank.
 - Last December 21, 2001, there were four (4) Petitions for Forfeiture filed by the PCGG before the Department of Justice against some Marcos cronies, now pending preliminary investigation.
 - The forfeiture case filed against the Heirs of Ferdinand Marcos and Imelda Marcos docketed as Civil Case NO. 0141, the Sandiganbayan in its Resolution promulgated on January 21, 2002 granted the Motion for Reconsideration filed by the Marcoses on October 2, 2000.
 - The Republic filed its Petition for Certiorari before the Supreme Court on March 1, 2002 assailing the Sandiganbayan resolution and requesting the reinstatement of its early decision which forfeited in favor of the Republic the amount of US \$658 M (now US \$673.560 M) held in escrow with the Philippine National Bank.
 - The Supreme Court gave both parties a November 15, 2002 deadline to submit final memoranda.

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