
STRENGTHENING ANTI-CORRUPTION INSTITUTIONS

The Republic Act 6770, otherwise known as the Ombudsman Act of 1989, gives powers, functions and duties to the Office of the Ombudsman (OMB) to protect the Filipinos against graft and corruption. However, the exercise of such mandate is deemed to be weak and limited given the challenge in the capacity of the OMB to exercise powers in warranting evidences as graft cases grow in number.

Recent reforms in the investigative efforts of the OMB help to track and run after corrupt practices and abusive schemes. In fact, the country has improved in the 2014 Corruption Perceptions Index of Transparency International ranking from 105th in 2012 to 85th.

This resolution reaffirms the need to strengthen the Office of the Ombudsman to be able to work promptly and timely in tracking and building solid evidences, and thus, levy the necessary administrative, civil and criminal liability to fraudulent officials.

Proposed amendments to the Ombudsman Act will be helpful in strengthening its investigative and prosecutorial powers. Furthermore, proposed reforms with the anti-graft court, Sandiganbayan would expedite case disposition acknowledging the fact that the Philippines continues to face significant challenges and constraints in anti-corruption efforts.

These limitations are as follows:

1. The anti-corruption institutions are limited by budget.

The National Statistical Coordination Board (NSCB) established that “out of the PhP 1.8 trillion national budget in 2012, only 0.7% was allotted to the Judiciary from 0.8% in 2009. With Gross Domestic Product (GDP) level of PhP6.3 trillion in 2012, the share of the entire criminal system’s budget to GDP is 1.8% while that of the adjudication/ courts is less than 1%”.

Based on the General Appropriations Act (GAA) of Aquino administration budget allocation for the Sandiganbayan has increased to 18.98% while the Office of the Ombudsman budget allocation has increased to 61.48% from 2011 to 2013. Ombudsman has proven its budget utilization in 2013 by resolving 39% of the criminal case load and 42% of the administrative case load. Ombudsman has imposed the penalty of dismissal from the service upon erring public officials in 188 administrative cases and filed 961 criminal cases with the Sandiganbayan, which is the highest in the last 18 years.

2. Pending trials and clogged dockets remain to limit the efficiency of case resolutions.

The World Bank study observed in 2012 that the average pendency of cases before the Sandiganbayan prolonged to 9.1 years or 2.5 years more delayed from 6.6 years in 2003. In 2013, Sandiganbayan reported 14.36% case disposal rate with 2,862 pending cases.

3. The Ombudsman and Sandiganbayan are limited in its capacity in the existing legal framework.

Presently, OMB is recognized as deficient in its investigative and prosecutorial powers by existing laws. The United Nations Convention Against Corruption (UNCAC) review stated that

OMB is challenged by access to financial, bank records and private property in addressing corruption. Extending its mandate was suggested.

4. Inter-agency coordination and coordination among law enforcement authorities, and criminal investigations and prosecutions were also noted in the UNCAC review.
5. The United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) documented the following problems faced in the prosecution and trial stage: technical inefficiency for key players; involvement of partisan politics in the appointments of law enforcers and employees; non-appearance and unpreparedness of witnesses during preliminary or formal investigation; obsolete rules of procedure; lack of sound database management systems; and lack of effective information and education programs and activities is also evident at the community-level.
6. Based on the 2013 National Household Survey on Experience with Corruption in the Philippines, bribery practice has shifted from supply-driven (2010) to demand-driven (2013). More families paid bribe when solicited by a government official in all types of services. The survey also observed low reporting rate of extortion experience.

These are few compelling reasons for the proposed reforms in legal and institutional frameworks of anti-corruption.

Thus, we, the undersigned, recommend the following:

1. The 2014 Ombudsman Legislative Reform should be passed by the 16th Congress of the Philippines.
 - a. Expedite Case Resolution in the Sandiganbayan
 - Five more divisions or a total of 15 more justices should be added
 - Provision for single justice hearings and a quorum of two justices to decide on a case
 - Streamlining of jurisdiction by downloading cases involving amounts of Php1 Million or less to the Regional Trial Courts
 - b. Institutional Strengthening of the OMB
 - Amendments to the Ombudsman Act include intensifying the fiscal autonomy of OMB
 - Offer competitive compensation and retirement package for its employees
 - Expand the investigative and prosecutorial functions of the OMB which comprises access to bank records; stronger contempt powers; amend wire-tapping law; authority to enter public buildings and premises, including seizure of public property; and granting immunity and legal protection for OMB officials and employees
 - c. Amendment to the Forfeiture Law
 - Allow filing of forfeiture cases to recover stolen assets and ill-gotten wealth
 - Criminalize illicit enrichment by public officials by penalizing through perpetual disqualification from holding public office
 - Remove time-bar for elective officials
 - Creation of an asset management and disposal corporation

Through these proposed bills, the need to support the capacity of the Office of the Ombudsman vis-a-vis its counterparts in other government agencies and other anti-graft and corruption bodies in the Asia-Pacific Region will be answered. Moreover, international

commitment with the UNCAC should make local anti-corruption efforts at par with global standards.

2. The Whistleblowers Protection Act should also be passed to aid in the prosecution of corrupt and erring public officials and employees through the provision of protection and reward for whistle blowers. It also aims to improve the conditions and procedures for providing protection and assistance to a witness during investigation and prosecution.
3. Priority reforms in the inter-agency anti-corruption efforts and enforcement procedures, especially monitoring of high-profile corruption cases should continue. The Integrated Anti-Corruption Enforcement Manual should be published to help in improving the technical efficiency of law implementers. Moreover, the signing of Resolution of the Inter-Agency Anti-Graft Coordinating Council (IAAGCC) will serve as a supplement to harmonization efforts.
4. The Komisi Pemberantasan Korupsi (KPK) of Indonesia can be studied as a model that can be explored in the Philippines. KPK, an Anti-Corruption Commission, acts as an independent state agency, in carrying out its duties (e.g. coordinate, establish report system, etc.) and powers free from any authority. The performance-based system can aid in higher turnover of cases.
5. Longitudinal data can be generated on actual corruption experience to track progress in the national anti-corruption program. Furthermore, conduction of the National Household Survey on Experience with Corruption in the Philippines every three years can be done in collaboration with Philippine Statistical Authority. Thus, the academe and research institutions should further conduct studies and impart knowledge with other stakeholders through educational mediums.
6. Call for the implementation of a participatory monitoring and evaluation mechanism to ensure that anti-corruption efforts are responsive and timely. With this, the civil society organizations can help in the promotion of community-based campaigns against corruption.
7. Appeal that all critical actors actively participate in preemptive actions and development of anti-graft and corruption reforms.

We, the undersigned hereby sign this resolution to strengthen anti-corruption institutions in the Philippines. This resolution certifies the end goal towards strengthened accountability in governance.

SIGNED ON THIS 19th OF NOVEMBER IN THE YEAR 2014 AT THE ASTORIA PLAZA HOTEL, ESCRIVA DRIVE, ORTIGAS BUSINESS DISTRICT, PASIG CITY.

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