

Chapter 21

Anti-Corruption

I. SITUATIONER

Graft and corruption are increasingly viewed as threats to the sustained growth and development of the country. Corruption distorts access to services for the poor, results in government's poor performance and, consequently, low public confidence in government. The culture of corruption in the country breeds the vicious cycles of poverty and underdevelopment.

Over the years, initiatives against graft and corruption have included administrative measures, legislative action, and greater people participation. Progress has been made in the last three years to enhance transparency and accountability in the public sector as well the effectiveness of sanctions against corrupt behavior, although there is still a lot yet to be done.

In keeping with the President's call for a collective front against graft and corruption, 16 government agencies, nongovernment organizations (NGOs) and civil society groups have joined forces in investigating the morality, lifestyle, and nightlife of government officials to gather evidence of graft and corruption. On March 20, 2003, a Memorandum of Understanding was signed creating the "Lifestyle Check Coalition." The coalition pools the expertise, resources and manpower of its members in identifying leads, gathering information and prosecuting accused public officials. The public provides the information, while the intelligence-gathering units of the coalition (e.g., National Bureau of Investigation (NBI) and Intelligence Service of the Armed Forces of the Philippines) investigate suspected officials. The findings are forwarded to other member units for evaluation and confirmation. Along this line, lifestyle checks and antigraft units were formed in six agencies i.e., the Department of Finance, Department of Agrarian Reform, Department of Health, Department of Public Works and Highways (DPWH), Department of Environment and Natural Resources and Department of Education (DepEd).

The Office of the Ombudsman (OMB), the Civil Service Commission (CSC), and the Presidential Anti-Graft Commission (PAGC), and the heads of agencies as the primary disciplining authority, would cooperate in handling the administrative aspect of the lifestyle check process, specifically in determining the administrative culpability, if any, of the officials involved, and imposing the appropriate administrative sanctions. On the other hand, the OMB would handle the criminal aspect of the lifestyle check process, specifically in filing the appropriate cases in court and prosecuting officials who failed the lifestyle check.

The capacity of government to sanction corrupt practices was strengthened by increasing the number of prosecutors in the OMB from 52 to 104 after additional funding was provided by the President in 2003. This resulted in an improvement in the conviction rate from 6 to 14 percent.

Recently, the heads of the CSC, the Commission on Audit and the OMB forged the Solana Covenant, a joint anticorruption plan. The Solana Covenant lists concrete and doable initiatives to be undertaken within the next five years, such as the establishment of a database for the statement of assets, liabilities and net worth (SALN) that the CSC will run, together with procedures to enhance

compliance and monitoring, among others. It also identified the need to strictly implement the rules regarding the liquidation of cash advances and presumed that after a formal demand, the failure of the Accountable Officer (AO) to liquidate within the prescribed period, shall constitute a prima facie case of gross neglect of duty as defined under existing Civil Service law and rules. The corresponding punishment for the first offense is dismissal from service.

The commitment of the President to make the Bureau of Internal Revenue (BIR) and Bureau of Customs (BoC) showcases in the fight against graft and corruption was strengthened. In the BIR, new tax administration measures were established to minimize opportunities for corruption and abuse. In the BoC, a Customs Integrity Action Plan was formulated as the working guide for its anticorruption programs.

The Government Procurement Act (Republic Act 9184), which was passed in the first Arroyo Administration redefined procedures in government purchasing, and has enhanced transparency, competitiveness and public accountability in government procurement. One important change in the system is the establishment of the Government Electronic Procurement System or E-Procurement System. This serves as the primary source of information in all government procurement. As of June 2004, some 7,173 suppliers and 2,522 agencies, including government-owned-and-controlled-corporations (GOCCs) and local government units (LGUs) have registered with the System. It has resulted in increased competition among suppliers and contractors. It has also generated competitive prices and reduced procurement processing time. All these have resulted in at least 30 percent savings in the cost of government procurement.

To strengthen public financial accountability, the new government accounting system (NGAS) was implemented on January 1, 2002. The NGAS aims to (a) simplify government accounting (b) conform to international accounting standards; and (c) generate periodic and relevant financial statements for better performance monitoring. The NGAS intends to address the undue complexity of the old system, which inhibits full compliance with reporting requirements, inaccurate reflection of the full cost of agency operations, which affects management decision-making and the inability of the system to allow benchmarking of costs with the private sector.

Notwithstanding these achievements, progress in anticorruption efforts is still slow, as reflected in the falling ranking of the Philippines in terms of perception of corruption (Transparency International, 2003). Several issues need to be addressed in managing the fight against corruption, among these are: (a) weak enforcement of anticorruption laws; (b) the need to reinvigorate the anticorruption agencies and improve their coordination; (c) the low social awareness and high tolerance for corruption; (d) the need to institutionalize government-civil society-business collaboration; and, (e) the need to strengthen integrity and accountability in government-business transactions. There is a need to strengthen earlier efforts against corruption and build a track record of success.

II. GOALS, STRATEGIES AND ACTION PLANS

Anticorruption through good government is one of the key reform packages that President Gloria Macapagal-Arroyo articulated in her State-of-the-Nation-Address (SONA). Under the philosophy of free enterprise, the way to fight poverty is to create jobs. To create jobs, the country has to attract investments, and to attract investments, it has to focus on strategic measures to bring in more investments and to make the domestic environment more globally competitive. To improve the country's ability to attract foreign investments means building an effective government bereft of graft and corruption, from national to local,

with a devoted professional civil service that delivers services to the people, maintains peace and order and administers the rule of law and justice to all. This points to addressing graft and corruption through punitive and preventive measures, and promotion of zero tolerance for corruption. In addition, the government would work closely with the civil society and the private sector in the establishment of a strong foundation for moral value formation in the government bureaucracy and society.

Anticorruption efforts will focus on three areas of reform:

- Punitive measures that include effective enforcement of anti-corruption laws; enforcement mechanisms within revenue generating agencies with BIR and BoC as showcases; Morality, Lifestyle and Nightlife Checks; Text-CSC Program and other programs to facilitate participation of the public;
- Preventive measures that include the strengthening of anti-corruption laws, improvement of integrity systems; conduct of integrity development reviews, strengthening of financial accountability reforms; and
- Promotion of zero tolerance for corruption through societal values formation that includes values formation and ethics compliance for government officials and employees as well as the strengthening of people's values to achieve zero tolerance.

The BIR and BoC will continue to be showcases in the fight against graft and corruption. Lifestyle checks on both agencies' officials and employees will be vigorously pursued. The enforcement mechanisms within these bureaus will be deepened through an integrated program of systems and institutional reforms, coupled with human resource investments and effective use of information and communications technology. Enforcement functions such as assessment and audit will be the target of process reforms.

More lifestyle checks and anticorruption units will be created from the present six to encompass all departments and major GOCCs, to be headed only by the Undersecretaries/Assistant Secretaries. These lifestyle check and anticorruption units will serve as the integrity review units of their agencies. The agencies will conduct a comprehensive review (Integrity Development Review) of their systems and formulate corruption prevention reform measures, which will be their roadmap for combating corruption in the next six years.

Effective prosecution and conviction begins at the fact-finding, evidence gathering and investigation level. Thus, the investigative capability of the OMB will be strengthened by building up its institutional resources and enhancing its individual and institutional competence. The capabilities of other government agencies involved in the investigation and prosecution of graft and corruption, i.e. the PAGC, NBI, the Department of Justice, as well as capabilities of the different agencies to discipline their employees and maintain integrity within their ranks, will also be reinforced.

A law that will make the OMB like the Hong Kong's Independent Commission Against Corruption (ICAC) will be pursued to strengthen and expand the institutional capability of the OMB. The proposal is to follow the track of Hong Kong when it established the ICAC in 1974. The establishment of the ICAC was the most important factor that made Hong Kong the second least corrupt state in Asia, from being the most corrupt in the region 30 years ago. Two models are proposed similar to ICAC for the Philippines. The first is to amend the Ombudsman Law to strengthen and expand its investigation or case build-up unit. Second is to ask Congress to create an entirely new

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institution patterned after ICAC to focus only on case build-up, prevention, and education. Under the second model, the Ombudsman would do the preliminary investigation and prosecution.

Other proposals include amending the Ombudsman Law to allow the OMB to hire private prosecutors to litigate before the Sandigan Bayan anti-graft court; requiring the attachment of the income tax returns in the Statement of Assets and Liabilities of all public officials and state employees; enacting the Whistleblower's Protection Act; and requiring the waiver of secrecy of bank deposits of officials charged with corruption after the Ombudsman finds probable cause.

The Philippines will also push for the immediate ratification of the United Nations Convention Against Corruption. The Convention contains a wide range of provisions that will strengthen international efforts to fight corruption. Among others, the Convention requires governments to criminalize bribery, promote integrity among public officials and increase participation of civil society in the fight against graft and corruption.

Meanwhile, to ensure transparency, accountability, and participation in governance processes, preventive anti-corruption measures will be implemented. The following measures will be instituted:

- a. Improving frontline service delivery specifically audit of systems and procedures to simplify and speed up agency processes;
- b. Strengthening procurement reforms; and
- c. Involving all sectors at all levels to scrutinize projects that are willfully made transparent, so that people, especially the poor, can actually see the benefits accruing to them from the government.

The improvement of frontline service delivery will be pursued to simplify and speed up agency processes. This will be done through various streamlining measures such as the use of information and communications technology (ICT) to reduce opportunities and incentives for graft and corruption e.g., simplifying procedures for registering Barangay Micro-Business Enterprise (BMBEs), implementation of the Philippine Business Registration System, etc.

It is important to build on progress already made with the new Procurement Law by:

- a. Widening the use of e-procurement in the bidding process;
- b. Developing guidelines for value engineering which shall be mandatory for infrastructure projects costing P50 million and above;
- c. Encouraging alternative bids for design to ensure cost-efficient project design and avoid overpricing of projects;
- d. Setting quality and price standards for major infrastructure projects; and
- e. Improving the methodology in estimating the approved budget for the contract (ABC).

Likewise, Executive Order No. 278 shall be fully implemented to ensure the fair participation of local contractors and consultants for foreign-assisted projects. Also, the BOT Law and its IRR shall be reviewed and amended to further encourage private sector participation in government projects.

A phased implementation of the national government agencies will be adopted, which focuses on setting up the basic manual system. Computerization and the development of a Government Integrated Financial System that will provide management and financial information to various levels of government will follow.

The government will also seek to make clear and available for public scrutiny, the terms of bidding of government-funded projects, and all contracts or agreements of government with the private sector without exception unless national security is involved.

To change the culture of corruption, the government will mobilize the country's formal and nonformal educational system, the media and civic organizations to rally societal reform. Value formation will also be reinforced by inculcating positive values to the youth, at the onset, such as "delicadeza", "palabra de honor", patriotism or love of country, excellence, transparency, efficiency, accountability, integrity, self-respect, self-reliance, peace advocacy and pride in being a Filipino (Chapter 20: Culture).

To institutionalize values formation in the educational system, the DepEd will revise the elementary and high school basic curriculum to replace the current Makabayan subject with the character education program for students nationwide (Chapter 18: Education).

Stronger censorship and moral suasion in broadcast media, particularly in program commercials will be undertaken to help promote positive social values. Filipino children will also be protected from inane and morally debilitating programs in radio and TV (Chapter 20: Culture).

The Presidential Council on Values Formation (PCVF) will serve as the lead agency in establishing the strong foundation for moral value formation in government by designing and implementing action-oriented programs.