

IS THE PHILIPPINE JUDICIAL SYSTEM EFFECTIVE IN FIGHTING CORRUPTION?

**Preliminary Report: A Policy Research by the Center for People Empowerment in Governance (CenPEG) and Transparency International – Philippines
Published Dec. 8, 2006**

I. Introduction: Objectives of the Study

This research study, entitled “Is the Philippine Judicial System Effective in Fighting Corruption?” was done by the Center for People Empowerment in Governance (CenPEG) in partnership with Transparency International (TI)-Philippines.

In early November 2006, Transparency International (TI), in its 2006 Corruption Perception Index (CPI), rated the Philippines as among countries whose ranking fell in the list of 163 countries, dropping to 121 from 117 in 2005.¹ TI also ranked the Philippines as the third most corrupt country in the Asean region next to Myanmar and Indonesia.

TI’s Global Corruption Barometer (GCB) in 2004 named the judiciary as among the top institutions where the incidence of corruption is very high in the Philippines. Likewise, topping the GCB with the judiciary was law enforcement, another pillar of the criminal justice system.

These studies by TI about the incidence of corruption in the Philippines have been disputed by the government of President Gloria M. Arroyo, particularly its anti-corruption consultant and the Ombudsman both of whom called the findings of TI in its GCB as well as of the Political and Economic Risk Consultancy, Ltd. (PERC)² as mere perceptions. Their reactions suggested that government was doing all it can to address the endemic problem, and that corruption had been minimized and, accordingly, should not be projected internationally as a hopeless case.³

From the Ombudsman, Assistant Ombudsman Cyril Ramos also dismissed perceptions that the country’s judicial institutions are toothless against corruption for failing to convict powers-that-be or, in his own words, the “big fish”. Contrary to these claims, he said, several municipal and city mayors have been convicted for graft and related offenses by the Sandiganbayan.⁴

CenPEG and TI thus planned this study in order to evaluate the validity of these claims to the effect that government institutions including the Ombudsman and Sandiganbayan, as well as other agencies have been playing their part in the prompt and fair investigation and judicial disposition of complaints regarding graft and corruption and related cases. The study focuses particularly on the performance of the Ombudsman, as a pillar of the judicial system, and the

¹ <http://www.tribune.net.ph/headlines> last access Nov. 24, 2006.

² PERC, in a 2005 survey, ranked the Philippines as Asia’s second most corrupt country. “Many of the same old problems continue, only the actors have changed,” the Hong Kong-based consultancy group said.

³ Indeed, the Arroyo administration launched its integrated anti-corruption drive in 2005, called the “Integrity Development Action Plan” (IDAP) which seeks the implementation of several anti-corruption measures under the scheme “prevention, deterrence, and education.” Mrs. Arroyo spearheads the “deterrence” approach through the Presidential Commission on Values Formation.

⁴ Transcript of the Focus Group Discussion on the National Integrity System held by TI-Philippines on June 26, 2006 in Makati City.

Sandiganbayan, the anti-graft court, from 2001 to May 2006, or during the present term of Mrs. Arroyo.

The study also covers the performance of the media in publicizing reports about graft and corruption which is important in enabling the industry to perform its adversarial role vis-à-vis government especially in checking excesses and abuses. Another important pillar of the judicial system, the citizens movement or grassroots organizations, is included in the study because of their equally crucial role in the fight against corruption during the period.

Research Methodology

For the study, CenPEG used quantitative research based on data provided by the Office of the Ombudsman and the Sandiganbayan, specifically for the period 2001-May 2006 and primarily regarding cases of corruption involving government officials with Salary Grade 27 and higher as well as their alleged private co-conspirators. The database used was limited to cases involving graft and corruption, plunder, bribery, theft, estafa and malversation. There were no entries on “money laundering and behest loans” as they are technically described.

Necessarily, too, research was made on relevant laws, rules and regulations as well as agencies and bodies with mandates against corrupt practices.

Media monitoring was devoted to the content analysis of two major dailies, the Philippine Daily Inquirer and Philippine Star, supplemented by interview of key media informants representing the print, radio and TV media. A research, policy and legal institution serving farmers organizations also served as a key source of data with regard to community intervention in the judicial system regarding the issues of graft and corruption, plunder and bribery. While these study segments could have been done more comprehensively, treatment could not be expanded as desired because of time and logistical constraints.

For the same reason, this policy research was not able to cover the other pillars of the judicial system, i.e., law enforcement and other relevant sources of information including such as the PCGG and other public and private institutions.⁵

⁵ Commissioner Camilo Sabio of the PCGG approved the request of CenPEG for database access but, despite several follow-ups with his staff no records were provided. CenPEG also faced some constraints regarding its research work in the Office of the Ombudsman upon the implementation of a 2005 memo that restricted its personnel from releasing “confidential information” to the public including dismissed cases that explicitly identified the names of complainants and respondents.

II. The Ombudsman and Sandiganbayan: Brief Overview of Laws Defining Their Tasks

The 1987 Philippine Constitution (Article XI, Accountability of Public Officers) is clear about the role of the Office of the Ombudsman: It “shall act promptly on complaints filed...against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations...” It shall also investigate “any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.”

On the other hand, RA 6770 of 1989 (an Act providing for the functional and structural organization of the Office of the Ombudsman, and for other purposes), says that the investigative authority of the Office of the Ombudsman excludes “officials who may be removed only by impeachment or over Members of Congress, and the Judiciary.” However, Section 22 of the same Act says that the Ombudsman can investigate “any serious misconduct in office allegedly committed by officials removable by impeachment, for the purpose of filing a verified complaint for impeachment including against private persons who may be implicated in the impeachable offense.”⁶

The Sandiganbayan (anti-graft court)⁷, has exclusive original jurisdiction in all cases involving violations of RA 3019 (the Anti-Graft and Corruption Practices Act), RA 1379 and Chapter II, Section 2, Title VII Book II of the Revised Penal Code, where one or more of the accused are officials of the executive branch occupying the positions of “regional director and higher, otherwise classified as Grade ‘27’ and higher.”⁸ Where none of the accused occupy these positions, the regional trial courts have jurisdiction.

The Constitution and several other pertinent laws are clear about the key roles of both the Ombudsman and the Sandiganbayan in combating graft and corruption, specifically the prompt investigation and disposition of all cases and the conviction, if found guilty, of officials, employees and private individuals especially those holding high positions in government. As key investigative and judicial institution, respectively, the two bodies bear the brunt of public expectations with regard to the constitutional mandate against graft and corruption particularly those committed by high government officials so as to ensure effective governance, for the highest standards of accountability and ethical conduct for all public officials and employees, and the strict devotion of public funds and resources solely to and for public interest.

⁶ Furthermore, it shall have jurisdiction “to include such private person in the investigation and proceed against such private person as the evidence may warrant.”

⁷ Established in 1978 under PD 1486, as amended by RA 7965 in 1995 and RA 8249 in 1997.

⁸ These include provincial governors, vice governors, members of the Sangguniang Panlalawigan and other provincial officials; city or municipal mayors, vice mayors, members of the Sangguniang Panlungsod, and other city or municipal officials; consuls and higher officials of the diplomatic service; Philippine army and air force colonels, naval captains, and higher officers; officers of the Philippine National Police (PNP) specifically provincial directors and senior superintendents or higher officers; city and provincial prosecutors, officials and prosecutors in the Office of the Ombudsman and special prosecutor; presidents and other high officials of government-owned or –controlled corporations, state universities and related others; members of Congress and officials classified as Grade “27” and higher; members of the judiciary without prejudice to constitutional provisions; chairmen and members of constitutional commissions, without prejudice to constitutional provisions; and all other national and local officials classified as Grade “27” and higher.

III. Results of the Study on the Ombudsman and Sandiganbayan

Based on the study conducted from July to November 2006 in partnership with Transparency International (TI)-Philippines covering the period 2001-May 2006, CenPEG finds that there is much to be desired as far as the performance of the Ombudsman and Sandiganbayan is concerned. If the performance of these two constitutionally-mandated bodies is to be gauged based on their mission as defined by the Constitution and other laws, there appears to be a need for further institutional reforms and policy reorientation to make them more effective and efficient in carrying out their vital functions.

A. The Office of the Ombudsman

For the period 2001-2005, reports from the Office of the Ombudsman showed its yearly workload of criminal and administrative cases attended to, as follows: 2001, 13,585 cases (42.9% carry over); 2002, 12,923 (35.2% carry over); 2003, 16,030 (41.3% carry over); 2004, 17,303 (50.4% carry over); and 2005, 18,859 (51.7% carry over). The highest workload was 18,859 cases and highest percentage of carry over (51.7%) recorded in 2005.⁹ On the other hand, 42,319 were new cases – 19,719 of these criminal cases or 46.6%. (See Table 1 below and Table 2 next page)

Table 1: Distribution of Total Workload of the Office of the Ombudsman and Status of Cases from 2001 to 2005

Particulars	2001	2002	2003	2004	2005	Total
Total Workload of Criminal and Administrative cases	13,585	12,923	16,030	17,303	18,859	n/a
<i>Cases received during the year</i>	7,720	8,265	9,310	8,448	8,576	42,319
<i>Disposed cases reverted back to pending</i>	32	101	103	127	536	n/a
<i>Carry over from previous year</i>	5,833	4,555	6,617	8,728	9,747	n/a
Disposed	9,324	6,306	7,302	7,556	7,727	38,215
<i>Prosecution</i>	1,374	1,268	1,369	1,211	1,145	6,367
<i>Penalty imposed</i>	390	162	356	468	454	1830
<i>Dismissed/exonerated</i>	6,270	3,690	4,711	5,058	5,275	25,004
<i>Closed and terminated</i>	1,290	1,186	866	819	853	5,014
Pending	4,261	6,617	8,728	9,747	11,132	n/a

(Compiled from Annual Reports 2001-2005 from <http://www.ombudsman.gov.ph/> and Annual Report 2002 furnished by the Office of the Ombudsman Public Assistance and Corruption Prevention Office or PACPO.)

⁹ The Rules of Procedure of the Office of the Ombudsman (AO No. 07) provides that a *criminal complaint* may be brought for an offense in violation of RA 3019, RA 6713, Revised Penal Code (Title VII, Chapter II, Section 2), and similar offenses committed by public officers and employees. The same Rules says that an administrative complaint may be filed for acts or omissions which are: contrary to law or regulations; unreasonable, unfair, oppressive or discriminatory; inconsistent with the agency's functions; based on a mistake of law or an arbitrary ascertainment of facts; and other grounds.

The reports also revealed a steady increase in the number of pending cases, giving the Ombudsman more workload every year. As an example, the carry over from 2000-2001 was 5,833 cases. By the end of 2005, the number of pending cases carried over to 2006 is 11,132 or an increase of 90.8%. (See Table 1 previous page)

For the period under study, 38,215 cases (or 78.5%) were disposed, but a large majority – 30,018 – was dismissed/exonerated or closed/terminated. Majority or 25,004 cases (65.4%) of the total number of disposed cases were dismissed. Meanwhile, the remaining pending cases represent 20.6% of the total number of cases carried over from 2000 and new cases filed from 2001-2005. (See Table 1 previous page)

On a yearly basis, 2005 registered the biggest number of pending cases at 59.0% of the total workload compared to 2001, the lowest with 31.4%. Likewise, there was a steady increase of pending criminal cases (1,916 in 2001 to 5,642 in 2005). (See Table 2 below)

In fact, in terms of criminal cases, carry-over cases for the years 2004 and 2005 were more than the new cases received: 4,645 new cases vis-à-vis 4,771 carry over cases; and 4,537 new cases and 5,041 carry over cases, respectively. (See Table 2 below)

Out of the disposed criminal cases, 68.3% were dismissed/exonerated. More than half (51.3%) of the total workload of criminal cases for 2005 was carried over to 2006. (See Table 2 below)

Table 2: Distribution of Total Workload of Criminal Cases of the Office of the Ombudsman and Status of Cases from 2001 to 2005

Total Work Cases	New Criminal Cases received	Carry-over from previous year	Disposed					
			Prosecution		Dismissed/ Exonerated	Closed and Terminated	Pending	
			Regular Courts	Sandiganbayan				
2001								
7,594	4,686	3,356	1,196	178	4,097	207	1,916	
2002								
7,694	4,976	2,632	1,229	39	2,455	210	3,761	
2003								
9,228	5,412	3,761	1,278	91	2,920	168	3,957	
2004								
9,438	4,645	4,771	1,160	51	3,050	132	5,041	
2005								
9,826	4, 537	5,041	1,070	75	2,951	88	5,642	

(Compiled from Annual Reports 2001-2005 from <http://www.ombudsman.gov.ph/> and Annual Report 2002 furnished by the Office of the Ombudsman Public Assistance and Corruption Prevention Office or PACPO.)

Of the total workload of cases filed and attended to in 2001-2005, 35.5% were administrative, with 2005 registering the highest at 9,033 cases or a 14% increase compared to 2004. New administrative cases represented an average of 52.8% of the total workload. Of the total number of disposed cases, there was a bigger percentage of dismissed cases (55.7%) in contrast to cases that were either closed (24.6%) or penalized (10.7%). (See Table 3 next page)

Table 3: Distribution of Total Workload of Administrative Cases of the Office of the Ombudsman and Status of Cases from 2001 to 2005

Total Work Cases	New Administrative Cases	Carry-over from previous year	Recalled or Transferred to other agencies	Disposed		
				Penalty Imposed	Dismissed/ Exonerated	Closed and Terminated
2001						
5,991	3,036	2,947	94	390	2,173	1,083
2002						
5,229	3,289	1,923	---	162	1,235	976
2003						
6,802	3,898	3,898	---	356	1,791	698
2004						
7,869	3,803	3,957	---	468	2,008	687
2005						
9,033	4,039	4,706	---	454	2,324	765
Total						
n/a	14, 171	n/a	94	1,830	9,531	4,209

(Compiled from Annual Reports 2001-2005 from <http://www.ombudsman.gov.ph/> and Annual Report 2002 furnished by the Office of the Ombudsman Public Assistance and Corruption Prevention Office or PACPO.)

For both criminal and administrative cases, most of those filed were about violations of RA 3019 especially section 3(e) (“causing undue injury to the government by showing partiality in light of government corporation charged with grant of licenses and permits”). Of the 209 “significant” cases filed during the period for graft and corruption, 146 are about this section. This is followed by section 3(g), with 14 cases; and third, malversation of public funds.

It should be stressed that only 209 cases were classified as “significant” by the Ombudsman of the total workload of cases filed in 2001-2005. The “significant” cases involved, among others, violations of RA 3019 section 3(e), 146 cases of 69.9%; section 3(g), 14 cases or 6.7%; malversation, 12 cases or 5.7%; and direct bribery, 6 cases or 2.9%.

Of these, a big number of the graft and corruption charges were filed against mayors: 53 cases or 25% of the 209 “significant” cases. Most of these cases involved violations of RA 3019, particularly malversation of public funds. Nine cases involved regional directors and six involved undersecretaries of different departments. As an office, the Saranggani provincial office had the most number of graft charges filed, with 12 cases involving various officials including the Governor who was charged with violating RA 3019. The Saranggani provincial office was followed by the Public Estate Authority (PEA), with 10 cases. The Paranaque city government including its mayor and other officials had seven cases including one involving the purchase of broomsticks for P2.948 million in 1996-1998.¹⁰ The AFP came next with six cases involving officers with ranks of colonel to major general in connection with allegations of assets disproportional to their salaries.

¹⁰ Ombudsman Annual Report of 2004.

B. The Sandiganbayan

For the period of 2001-May 15, 2006, 12 incumbent or former governors from 11 provinces were charged before the Sandiganbayan, while 168 city or municipal mayors faced a total 725 cases. Of these, however, only five mayors faced convictions. For 2001 to 2005, the thousands of cases filed before the anti-graft court against public officials and private individuals involved the total amount of P7.168 billion of alleged government money.

In all, there were 7,658 cases¹¹ of graft and corruption filed before the Sandiganbayan in 2001-2005. This figure reaches 8,971 cases if those filed between January-May 2006 are included. If counted singly, there were for 2001-2005, 2,032 cases, with 1,402 “included cases”¹²(69.0%) and 630 “excluded cases” (31.0%). Majority (6,476) of the cases filed were in connection with violations of RA 3019 (5,247 cases or 81.0%), followed by malversation (932 or 14.4%), estafa (209 or 3.2%), and bribery and plunder (88 or 1.4%). (See Table 4 below)

Table 4: Distribution of Cases of Malversation, Estafa, Bribery, Plunder and Violations to R.A. 3019 Filed at the Sandiganbayan (from 2001 to 2005)

Offense	Frequency	Percent
Violation of RA 3019	5247	81.0
Malversation	932	14.4
Estafa	209	3.2
Bribery	45	.7
Plunder	43	.7
Total	6476	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Of the 6,476 included cases from 2001- 2005, 1,680 were filed against persons holding government positions (or 25.9%). Those holding no positions had 145 cases and 4,651 cases (or 71.8%) for those “not indicated” (See Table 5 next page). There were more cases filed against private individuals (1,056 or 16.3%), compared to, in succeeding order, councilors (921 cases or 14.2%), mayors (603 or 9.3%), flag officers in command (155 or 2.4%), ambassadors (19 or 0.3%), governors (19 or 0.3%), colonels (11 or 0.2%), congressmen (11 or 0.2%), and former President (5 or 0.1%).

¹¹ Based on Sandiganbayan database, a case is counted as one for every respondent. Hence, cases with more than one respondent or respondents with more than one case at the Sandiganbayan are not counted singly (e.g., if bribery case involves two respondents, such is counted as two cases).

¹² Meaning, those included in the CenPEG study.

Table 5: Distribution of Cases Filed at the Sandiganbayan Whether Respondent Holds Elective Position or Not (from 2001-2005)

Elective Position	Frequency	Percent
Not indicated	4651	71.8
No	145	2.2
Yes	1680	25.9
Total	6476	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Counted singly, 470 cases were filed against 227 private individuals. More than one-third of these cases involved more than one private individual. Many of the cases filed against private individuals (128) 52 single cases involving 63 private individuals, as counted singly, were dismissed later by the Sandiganbayan.

Amounts involved

The total amount of money involved in all cases filed was P7.168 billion, with the biggest single amount (P4.098 billion) filed in April 2001 against former San Juan Mayor and now Sen. Jose “Jinggoy” Estrada, former President Josaeph Ejercito-Estrada, and private individuals under the special division of the Sandiganbayan. The second biggest amount was P532 million in cases filed against officials of the Public Estate Authority (PEA) during the period. *(See Table 6 below)*

Table 6: Distribution of Total Amount Involved in Connection with Cases Filed at the Sandiganbayan According to Year (from 2001 to 2005)

Year	Amount Involved
2001	4,687,194,311.80
2002	316,845,241.15
2003	1,311,343,896.58
2004	435,185,303.26
2005	417,062,753.04
Total	7,167,631,505.83

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Agencies and regions

The Department of Interior and Local Government (DILG) topped the list of agencies that had the highest number of cases on graft and corruption for 2001-2005 (2,282 or 35.2%) brought to the Sandiganbayan, considering the inclusion in many cases of a number of governors, mayors and other local government officials as well as PNP officers. The DILG was followed by the following: Department of National Defense (DND) with 1,465 cases (or 22.6%) involving commanders, flag officers in command, colonels and majors, brigadier generals, major generals and lieutenant generals; the Department of Health (DoH), 360 (5.6%); Department of Agriculture (DA), 229 (3.5%); and Department of Public Works and Highways (DPWH), 131 (2.0%). The OSP has the least number of cases filed, 1 (0.0%). *(See Table 7 next page)*

Table 7: Distribution of Cases Filed at the Sandiganbayan According to Agency of Respondent (from 2001 to 2005)

Position	Frequency	Percent
DILG	2282	35.2
DOND	1465	22.6
DOF	560	8.6
DOH	360	5.6
DOA	229	3.5
DPWH	131	2.0
Others*	391	6.0
No agency	1058	16.3
Total	6476	100.0

*Others are agencies with cases one percent and below. These include government corporation, constitutional commission, Congress, DOJ, DENR, DOLE, DFA, DAR, DOT, DOE, NEA, state college/university, DOTC, DECS, OPS, Coast Guard, DSWD, OSP, et.al.

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

The National Capital Region (NCR, with 3,136 cases or 48.4%) topped the list of regions where public officials and private individuals faced charges during the period. The NCR was followed by: Region IX now Zamboanga Peninsula including ARMM provinces, 1,148 cases or 17.7%; Region XII, 462 or 7.1%; and Region VI, 281 or 4.3%. The region with the lowest number of cases was Region V, with 58 or 0.9%. (See Table 8 below)

Table 8: Distribution of Cases Filed at the Sandiganbayan According to Region (from 2001 to 2005)

Region	Frequency	Percent
NCR	3136	48.4
IX	1148	17.7
XII	462	7.1
XI	379	5.9
VI	281	4.3
IV	195	3.0
VIII	186	2.9
X	153	2.4
VII	143	2.2
II	95	1.5
XIII	86	1.3
III	79	1.2
I	75	1.2
V	58	.9
Total	6476	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Disposal of cases

Of the 7,324 included cases for the period including January-May 2006, only 45 cases (or 0.6%) had convictions and 51 (or 0.7%) had acquittals. A big number, 1,494 cases (20.4%), were dismissed; 277 cases (or 3.8%) were dismissed with trial, with an additional 28 (0.4%) dismissed where the respondents were deceased; 54 (0.7%) were withdrawn by the Office of the Special Prosecutor. Still, majority of the cases remain pending at this writing (3,909 or 53.4%) while 1,413 (or 19.3%) were archived. There was only 1 case (or 0.0%) where the respondent pleaded guilty. *(See Table 9 below)*

Table 9: Distribution of Cases Filed at the Sandiganbayan According to Disposal of Cases (from 2001 to May 15, 2006)

Disposal	Frequency	Percent
Pending	3909	53.4
Dismissed	1494	20.4
Archived	1413	19.3
Dismissed with Trial	277	3.8
Withdrawn by the Office of the Special Prosecutor	54	.7
Acquitted	51	.7
Convicted	45	.6
Transferred to Other Court	36	.5
Dismissed (Respondent Deceased)	28	.4
Dropped from Information	12	.2
Acquitted (Demurrer to Evidence)	4	.1
Pleaded Guilty	1	.0
Total	7324	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Governors

There were 12 incumbent and former Governors who faced 20 cases before the Sandiganbayan in 2001-May 2006 (one case was filed in 2006). Of the 12 governors, two came from the same province (Camarines Norte). Of the total number of cases, 12 involved violations of RA 3019 and 8 involved malversation of public funds. Five cases of malversation were filed in 2005 against Sarangani Gov. Miguel Draculan Escobar, involving a total amount of P3.3 million. Four cases involving RA 3019 and malversation were filed against Gov. Antonio P. Calingin of Misamis Oriental in 2001 and 2005, involving P22.1 million. Gov. Isagani Amatong of Zamboanga del Norte had two cases, with one case involving P500,000 and the other case, no amount. All cases filed against the three governors are pending at the Sandiganbayan.

After Governor Calingin, the second highest amount involved was the case in connection with violation of RA 3019 filed against Leyte Gov. Benjamin Trinidad Romualdez in 2001. The case, involving P5.8 million, was however dismissed by the First Division.

In all, 15 of the 20 cases filed against the 12 governors are pending at the Sandiganbayan. Four cases were dismissed, including some cases filed against Romualdez, Caligin, Guimaras Gov. Joaquin Carlos Rahman Arano Nava, and Cagayan Gov. Florencio Vargas. *(See Tables 10-14 next two pages)*

Convictions

However, two out of 17 governors who were earlier charged in 1979-2000 were found guilty by the Sandiganbayan. They were: Tarlac Gov. Mariano Un Ocampo III, who was charged in 1991 with three counts of malversation involving the total amount of P13.154 million and convicted in 2002 by the anti-graft court's Fifth Division. The other was Eastern Samar Gov. Ruperto A. Ambil, Jr., charged in 2002 (no amount involved) with violation of RA 3019 and convicted by the First Division in 2005. Only one vice-governor, Munib S. Estino of Sulu, was convicted in 2004 or four years after he was charged with violation of RA 3019 in 2000.

In terms of region, Mindanao had the highest number of governors facing graft and corruption charges, with six governors; followed by Luzon, four governors in three provinces; and Visayas, two governors.

Table 10: Distribution of Cases Filed Against Governors at the Sandiganbayan According to Year Filed (January 2001 to May 15, 2006)

Year Filed	Frequency
2001	8
2002	1
2003	2
2005	8
2006	1
Total	20

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Table 11: Distribution of Cases Filed Against Governors at the Sandiganbayan According to Offense (January 2001 to May 15, 2006)

Offense	Frequency
Malversation	8
Violation of RA 3019	12
Total	20

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Table 12: Distribution of Cases Filed Against Governors at the Sandiganbayan According to Name of Respondent (January 2001 to May 15, 2006)

Respondent	Frequency
Escobar, Miguel Draculan	5
Calingin, Antonio Padilla	4
Amatong, Isagani Sybico	2
Abayon, Harlin Cast	1
Matba, Rashidin	1
Matugas, Francisco T.	1
Nava, Joaquin Carlos Rahman Araño	1
Padilla, Casimiro Jr. A.	1
Romualdez, Benjamin Trinidad	1
Sanchez, Hector S.	1
Typoco, Jesus Jr. O.	1
Vargas, Florencio L.	1
Total	20

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Table 13: Distribution of Cases Filed Against Governors at the Sandiganbayan According to Province (January 2001 to May 15, 2006)

Province	Frequency
Cagayan	1
Camarines Norte	2
Catanduanes	1
Iloilo	1
Leyte	1
Misamis Oriental	4
Northern Samar	1
Sarangani	5
Surigao del Norte	1
Tawi-Tawi	1
Zamboanga del Norte	2
Total	20

There are 11 provinces with governors facing charges at the Sandiganbayan. These are the governors of the provinces in Table 4. In the case of Camarines Norte, two respondents with the position of governor were charged at the Sandiganbayan. First is Casimiro Padilla, Jr. who is charged in 2005 with malversation (amount worth 7,462). His case is still pending at the First Division. The second is Jesus Typoco, Jr. charged this year (2006) with violation of RA 3019. The case is pending at the Second Division (no amount involved).

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Table 14: Distribution of Cases Filed Against Governors at the Sandiganbayan According to Year of Disposal

Year Disposed	Frequency
Not yet disposed	15
2002	3
2004	1
2005	1
Total	20

Three cases disposed in 2002 (two dismissed; one withdrawn by the OSP). One case was disposed in 2004 and another in 2005 (both dismissed cases). No case was disposed as of May 15, 2006. Fifteen cases remain pending as of that date. Furthermore, not a single case against a governor was revived after the Sandiganbayan disposed the case.

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Mayors

From 2001-May 2006, 168 city and municipal mayors were charged with 725 cases, ranging from violations of RA 3019 (548 cases or 75.5% of the total); malversation of public funds (152 or 20.9%); estafa (25 or 3.4%); and plunder (1 or 0.1%). The number of mayors charged represented 0.10% of the total number of mayors in the country.

The mayors who were charged came from 161 cities and municipalities¹³. Fifteen (or 9.3%) of those charged were city mayors with one-fourth of the total number of cases; 146 (90.7%) were

¹³ Based on 2004 data, there were 1,618 cities and municipalities in the Philippines (117 cities and 1,501 municipalities). It should be noted that there were two respondents facing different charges named as having the same position of mayor if Tiwi, Albay. Two respondents facing charges were also holding the

municipal mayors with three-fourth of the cases. Topping the list of mayors with the highest number of cases was Mayor Gonzalo de Pedro of Bagumbayan, Sultan Kudarat with 120 cases (or 16.5% of the total) in connection with violations of RA 3019 and malversation. Following him was Mayor Romulo S. Rodriguez of Gingoog City, Misamis Oriental, with 108 cases (or 14.9%); and Mayor Ulysses D. Perez of Midsalip, Zamboanga del Sur, 59 cases (8.1%).

Making up the highest amount involved in cases filed was P4.1 billion in connection with the plunder case (the only one in 2001-May 2006) filed in 2001 against then San Juan Mayor and now Sen. Jose "Jinggoy" Estrada, together with former President Estrada and private individuals. The second highest amount, P9.2 million, is in connection with the pending malversation case against Mayor Gil T. Beltran of Ramos, Tarlac and the third, P8.9 million, is in connection with a case on violation of RA 3019 filed in 2002 against Mayor Oscar Acuna Jaro of Imus, Cavite.

Almost half of the total number of cases (45.7%) filed against mayors involved no amount.

However, 161 (or 22.2%) of the total number of cases filed were dismissed or withdrawn by the OSP.

Convictions

Only 10 cases (1.4%) had convictions involving five mayors: Two municipal mayors convicted in 2004 (Alfonso Lista town, Ifugao, P101,756; and Guinobatan, Albay, P794,445) on charges of malversation of funds; the municipal mayor of Lantapan, Bukidnon was convicted in 2005 for violating RA 3019 and malversation, P393,000; the mayor of San Miguel, Surigao del Sur, RA 3019, no amount; and mayor of Culasi, Antique, P177,400. Acquitted were six mayors from: Alfonso Lista, Ifugao in another case; Bulusan, Sorsogon; Caibiran, Biliran; Tarragona, Davao Oriental; Lanuza, Surigao del Sur, and Anahawan, southern Leyte.

A big number, 544 cases (or 74.9%), is pending at the Sandiganbayan. *(See Tables 15-17 next two pages)*

same position of mayor of Taal, Batangas. Likewise, two respondents were charged with the same position as mayor of Villaverde, Nueva Vizcaya. Another two were charged with the same position as mayor of Masantol, Pampanga.

Table 15: Distribution of Cases Filed Against Mayors at the Sandiganbayan According to Name of Respondent (January 2001 to May 15, 2006)

Respondent	Frequency	Percent
De Pedro, Gonzalo	120	16.5
Rodriguez, Romulo Jr. S.	108	14.9
Perez, Ulysses D.	59	8.1
Abico, Danilo S.	30	4.1
Dumangan, Necitas Jr. S.	23	3.2
Demaala, Lucena Diaz	22	3.0
Dugayon, Wilfredo A.	22	3.0
Marquez, Joey P.	20	2.8
Pinat, Rodolfo G.	18	2.5
Dagalangit, Gambai R.	15	2.1
Cabrera, Fe M.	12	1.7
Mate, Uldarico E.	12	1.7
Maamo, Zenaida P.	10	1.4
Creus, Lito Narcisco E.	8	1.1
Respondents with percent share of one and below	247	34.0
Total	726	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Table 16: Distribution of Cases Filed Against Mayors at the Sandiganbayan According to City or Municipality (January 2001 to May 15, 2006)

City or Municipality	Frequency	Percent
Bagumbayan	120	16.5
Gingog City	108	14.9
Midsalip	59	8.1
Diplahan	30	4.1
Batuan	23	3.2
Narra	22	3.0
Pinukpuk	22	3.0
Parañaque City	20	2.8
Tubajon	18	2.5
Lumba-Bayabao	15	2.1
Taal	14	1.9
Tacloban City	12	1.7
Lilo-an	10	1.4
Sta. Monica	9	1.2
Malabuyoc	8	1.1
*Other cities or municipalities with cases one percent and below	236	32.5
Total	726	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Table 17: Distribution of Cases Filed Against Mayors at the Sandiganbayan According to Disposal of Cases (January 2001 to May 15, 2006)

Disposal	Frequency	Percent
Pending	544	74.9
Dismissed	95	13.1
Dismissed with Trial	32	4.4
Dismissed (Respondent Deceased)	19	2.6
Withdrawn by the OSP	15	2.1
Convicted	10	1.4
Acquitted	5	.7
Archived	3*	.4
Acquitted (Demurrer to Evidence)	1	.1
Dropped from Info.	1	.1
Transferred to OC	1	.1
Total	726	100.0

**Of these disposed cases, only three cases filed against mayors were revived by the Sandiganbayan. These were archived cases; two of which were reverted to pending in 2004 and one dismissed in 2005.*

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Others

One member of the House of Representatives, Constantino H. Navarro, Jr. was charged in 2003 with nine counts of violation of RA 3019 involving P15.3 million and one count of malversation involving P11.8 million. Another case of violation of RA 3019 was filed in 2004. All the cases are pending at the Sandiganbayan.

In 2004, Benjamin Romualdez,¹⁴ an ambassador, was charged with 19 counts of violation of RA 3019. All his cases are pending except four that were archived by the Third Division.

Regions

In terms of region, Mindanao again topped the list of number of cases filed against mayors with 411 cases (56.7%), with Region X (northern Mindanao) registering 152 cases (20.9%); followed by Luzon, 201 cases (27.7%); and Visayas, 114 (15.7%).

Comparative trends

It should be noted that many cases that remained pending in previous years had been absorbed by the Sandiganbayan during the period under study (2001-May 2006). To illustrate, of 71,605 cases of graft and corruption filed before the anti-graft court from 1979-2000, 44,119 (or 61.6%) were resolved during that period. The number of all archived cases was 16,400 and of these, 11,156 (or 68.0% of the total archived cases) were marked as “included archived cases.” Only 540 (or 4.8%) of these cases were revived in 2001-May 2006. The following were the results of the “revived cases”: 157 (29.1%) cases had acquittals; 311 (57.6%) were dismissed; 12 (2.2%) withdrawn by

¹⁴ Benjamin Romualdez is the same Governor of Leyte charged in 2001 with violating RA 3019, involving the amount of P5.8 million. The case was dismissed by the Sandiganbayan’s First Division.

the OSP; 5 (0.9%) transferred to other courts; 5 (0.9%) archived/re-archived; 46 (8.5%) pending. Only 4 cases (0.7%) had convictions.¹⁵ (See Table 18 below)

Table 18: Distribution of Archived Old Cases Filed from 1979 to 2000 According to Disposal When Cases Were Revived in 2001 to 2006

DISPOSAL	Frequency	Percent
Acquitted	157	29.1
2004	19	
2003	123	
2001	6	
2002	9	
Archived ("Re-Archived")	5	.9
2003	3	
2002	1	
2002	1	
Convicted	4	.7
2005	2	
2004	2	
Dismissed	311	57.6
2006	1	
2005	3	
2004	238	
2003	9	
2002	14	
2001	43	
2000	1	
No exact year indicated	2	
Pending	46	8.5
	46	
Transferred to Other Courts	5	.9
2003	2	
2002	1	
2001	2	
Withdrawn by the Office of the Special Prosecutor	12	2.2
2003	12	
Total	540	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

However, it can be said that there were 20,801 cases¹⁶ of bribery, malversation, theft, estafa, and violations to RA 3019 considered as old cases and carried over as backlog by the Sandiganbayan

¹⁵ Convicted in the four cases by the Sandiganbayan were Felicidad F. Tabang, municipal treasurer of Tangalan, Aklan (2004); Raul S. Tello, telegraph operator of Prosperidad, Agusan del Sur (2004); and Vicente J. Domingo, Director III of the DA, Quezon City for two counts of malversation involving P516,616.

from 2001-May 2006. These include pending old cases and archived old cases filed in 1979-2000, and old cases disposed only in 2001-May2006. Old cases (1979-2000) that are still pending with the anti-graft court total 5,472 (7.6% of the total cases filed before 2001). (See Table 19 below)

Table 19: Distribution of Carry-Over Cases of Bribery, Estafa, Malversation, Theft, and Violations to R.A. 3019 Filed at the Sandiganbayan From 1979 to 2000

Cases	Frequency
Number of cases related to bribery, estafa, malversation, theft, and violations of RA 3019 filed from 1979 to 2000 that are still pending	5085
Number of cases related to bribery, estafa, malversation, theft, and violations of RA 3019 filed and archived from 1979 to 2000	11156
Number of cases related to bribery, estafa, malversation, theft, and violations of RA 3019 filed from 1979 to 2000 and only disposed from 2001 to 15 May 2006	4560
Total	20801

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

The total amount involved in the old cases that are pending is P3.014 billion. The DILG topped the list of pending old cases, with 1,032 cases (20.3%), followed by the DPWH (17.9%), DoF (13.3%), DENR (10.5%), and DND (3.2%). (See Table 20 next page)

In the old cases disposed during 2001-May 2006, 18 respondent mayors were convicted by the anti-graft court.¹⁷ The remaining respondents who were convicted held positions such as regional director, division superintendent, vice governor, vice mayor and other low positions in the LGUs, PNP and other agencies. (See Tables 21 and 22 next page)

¹⁶ Again, counted as one case per respondent. If cases are counted singly, those carried over as backlog would total 9,776 cases.

¹⁷ The mayors are: Rolando Sison of Calintaan, Occidental Mindoro (charged in 1997, convicted 2002); Roberto Tayagan of Tinoc, Ifugao (charged in 1992, convicted 2001); Gilbert Wagas of Compostela, Cebu (1994, 2001); Jaime Halili of San Manuel, Isabela (1996, 2002); Demetrio N. Cabiles of Burgos, Pangasinan (1996, 2001); Bonifacio Balahay or Borobo, Surigao del Sur (1994, 2002); Edgar Y. Teves of Valencia, Negros Oriental (1996, 2002); Teofilo Gallardo Pantaleon, Jr. of Castillejos, Zambales (2000, 2003); Cresente Llorenta of Sindangan, Zamboanga del Norte (1993, 2003); Escolastico Hitgano of Trento, Agusan del Sur (1995, 2004); Demetrio T. Comendador of Nagcarlan, Laguna (1996, 2004); Franklin Geminiano Eduardo of Jaen, Nueva Ecija (1994, 2004); Rosendo N. Escara of Polilio, Quezon (1994, 2004); Hermes E. Frias, Sr. of Capas, Tarlac, (2000, 2005); Leonardo Leria of MacArthur, Leyte (1999, 2005); Cesar Sulong of Lapuyan, Zamboanga del Sur (1999, 2005); Victoria Banez of Sallapadan, Abra (1994, 2005); and Melchor Mallari of Infanta, Pangasinan (1999, 2003).

Table 20: Total Number of Cases Filed at the Sandiganbayan from 1979 to 2000 vis-à-vis Number of Old Cases Disposed from 2001 to 15 May 2006

Number of Cases	Frequency	Percent
Number of cases filed from 1979 to 2000 that are still pending	5472	7.6
Number of cases filed and archived from 1979 to 2000	16400	22.9
Number of cases filed from 1979 to 2000 and only disposed from 2001 to 15 May 2006	5614	7.8
Cases resolved before 2001	44119	61.6
Total number of cases filed from 1979 to 2000	71605	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Table 21: Distribution of Cases Filed From 1979 to 2000 But Only Disposed From 2001 to 2006, According to Disposal

Disposal	Frequency	Percent
Dismissed	1634	35.8
Acquitted	1237	27.1
Withdrawn by the Office of the Special Prosecutor	414	9.1
Archived	394	8.6
Dismissed (Supreme Court decision)	240	5.3
Convicted	222	4.9
Dismissed with Trial	171	3.8
Dropped from Info	107	2.3
Dismissed (Respondent Deceased)	70	1.5
Demurrer to Evidence	36	.8
Transferred to Other Court	18	.4
Acquitted (Demurrer to Evidence)	15	.3
Pleaded Guilty	1	.0
Returned to the Office of the Special Prosecutor	1	.0
Total	4560	100.0

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

Table 22: Cross Tabulation of Cases Filed From 1979 to 2000 But Only Disposed From 2001 to 2006, According to Original Disposal of Case and Disposal after Case Was Revived

Original Disposal	Disposal After Case Was Revived					Total
	Acquitted	Archived	Convicted	Dismissed	Pending	
Archived	10	3		5	12	30
Convicted	5		2			7
Dismissed				1	23	24
Total	11	3	2	6	35	61

(Source: Generated from Sandiganbayan Database provided by the Statistics Section of the Sandiganbayan (database as of May 15, 2006) subjected to descriptive statistical analysis using SPSS.)

IV. Media Monitoring of Graft and Corruption

The Philippines' tri-media industry is considered a consistent watchdog of graft and corruption, having also played a key role in exposing and checking presidential excesses as well as alleged cases of cronyism, corruption and plunder: first, in the period prior to the ouster of President Ferdinand E. Marcos in February 1986, and second, in the removal of President Joseph Estrada in January 2001.

The period 2001-May 2006, referring to the presidency of Mrs. Gloria M. Arroyo, also saw major scams and scandals hogging the headlines involving the President herself and her husband as well as other government officials. The politically-charged atmosphere in this period saw the filing of two successive impeachment complaints against Mrs. Arroyo generating nationwide interest among the people. This in turn, all the more influenced the media to treat graft and corruption as a timely issue of coverage.

A related study using the methodology of content analysis was done by CenPEG of two major daily broadsheets including interviews with an opinion columnist and two radio-TV journalists in order to determine the extent of media coverage done on graft and corruption cases.

The content analysis – which focused on news reports - was based on the Aug. 15 – Oct. 15, 2006 daily issues of the Philippine Daily Inquirer (PDI) and the Philippine Star or Star, or a combined total of 124 daily issues for the two months covered. As a whole, the two dailies published a total of 379 news stories dealing on 74 different cases related to graft and corruption, with the PDI coming out with 194 reports (39 cases) and Star with 184 reports (35 cases); or an average of three stories about graft and corruption in every daily issue.¹⁸ The reports cited cases that were national in scope as well as province-based cases. (See Table 23 below)

Table 23: Distribution of Corruption-Related News According to Prominence (Banner Story, Front Page Story, Inside Page Story)

Newspaper	No. of Corruption News as Headline (Banner Story)	No. of Times Corruption News Front Page*	No. of Times Corruption News Inside Page	Number of Corruption News Published from August 15 to October 15, 2006
Philippine Daily Inquirer	11	45	138	194
Philippine Star	13	26	147	187
Total	24	71	285	381

*This excludes headline/banner story

(Source: CenPEG content analysis of the Philippine Star and Philippine Daily Inquirer, Aug. 15 to Oct. 15, 2006.)

¹⁸ The two newspapers used a combined total of 117 (94.0%) daily issues out of 124 to publish news stories on graft and corruption in the form of banner headlines (24 banners for both papers), front or inside pages.

The top story during the period was about the leakage of the 2005 nursing examination¹⁹ which was reported prominently by the two newspapers 43 times and warranted 7 editorials in both dailies. The other graft and corruption cases that also became top stories in both newspapers were: the government takeover of Piatco III; BCDA and the Poro Point; PCGG in the Philcomsat issue; secret bank accounts of Arroyo as alleged by Rep. Cayetano; the fertilizer scam involving former DA Undersecretary Bolante and his immigration case in the U.S.; and the Ombudsman probe into the ACM deal. The 2004 poll fraud case against Mrs. Arroyo was No. 5 in PDI and was not among Star's prominent stories during the period. (See Table 24 below)

Based on the news stories, the cases that became subjects of major stories were in connection with violations of RA 3019, extortion, anomalous bidding procedures, plunder and falsification of assets and liabilities, malversation of funds, lifestyle checks, overpricing in the purchase of medicines, among others. The top 12 cases mentioned in 12 major stories involved amounts of money totaling P9.6 billion, allegedly on corruption and related cases.

The news reports indicated not only the deep involvement of government agencies and some of their public officials in graft cases but also the central government's flip-flopping and apparent indecisiveness in resolving outstanding cases, such as the nursing exam leakage. On the whole, both newspapers depicted the various types of cases, laws violated, magnitude of the cases and the huge sums of money involved as well as the sheer volume of complaints that are filed and pending in the Ombudsman, Sandiganbayan and other courts.

Media-based watchdogs

Three separate interviews with three journalists (a TV investigative journalist, a newspaper columnist, and a radio anchorperson) revealed how an investigative press can uncover cases of graft and corruption that allegedly link high government and military officials, lead to investigations by Congress and Ombudsman as well as risks to their profession including libel cases and even death threats.

An episode aired by Probe Team, a TV investigative news magazine, such as the Ginintuang Masaganang Ani (GMA), later tagged as the "fertilizer scam" involving a total sum of P1.7 billion, became part of the impeachment complaints filed against President Arroyo. Other controversial episodes were about the case of the PAGCOR chair that challenged the lifestyle check of the Presidential Anti-Graft Commission and on the 2004 poll cheating.²⁰ The expose by a Philippine Star columnist, Jarius Bondoc, about the unexplained wealth of the AFP comptroller, Maj. Gen. Carlos Garcia, led to the filing of charges against him including plunder and perjury.²¹ Another swashbuckling media practitioner, radio anchor Deo Macalma says that 35-40% of his

¹⁹ The 2005 nursing examination was taken by 42,000 nursing graduates with only 17,000 or 40% passing. Test questions were reportedly leaked to a number of review centers and involved at least two examiners, the president of the Philippine Nurses Association and the intervention of the Philippine Regulatory Commission.

²⁰ In the Probe Team episode, the PAGCOR chair, whose real name is Efraim Ginogino, allegedly used a different name, "Efraim C. Genuino," in the lifestyle check incident. The episode, reports said, led to the sacking of the investigative news magazine by the GMA-7 management forcing the program producers to transfer to another channel.

²¹ Mr. Bontoc tells CenPEG that he had, upon request, given evidence, reports and other information to the Ombudsman regarding his exposes.

stories in his radio program, “Espesyal na Balita,” is about corruption involving top- and low-ranking officials.

According to the three informants of CenPEG, the publication of their exposes on alleged scams was also made possible through tips and leads given them by government insiders, showing that even within the bureaucracy there are potential tipsters about government mess. Some of the tips though could be attributed to sources hurt by intrigues and infighting within government circles. All CenPEG sources, however, agree that media can only do so much – exposing cases of graft and corruption – expecting that government bodies would then investigate them with earnest and bring the alleged culprits to court.²²

CenPEG, in cooperation with the Center for Communication Matters (CCM), did an earlier content analysis of media monitoring of corruption cases. Done on Oct. 11 – Nov. 11, 2004, the study was based on the coverage by three newspapers (PDI, Star and Today) and the news programs of TV Patrol (ABS-CBN 2) and 24 Oras (GMA 7). The CenPEG study²³ found that, based partly on the case of AFP comptroller Gen. Garcia making the military as the institution that drew media attention during the period, the interest in coverage of military corruption was “not apparently inspired by any conscious policy to report issues that matter to the people... (but) mainly a reaction to events and circumstance shaped by the usual actors that affect perceptions of Philippine reality.” The paper also noted the general perception that “unless a sensational controversy involving government agencies or officials erupts, the media tend to ignore corruption as a critical issue.”

V. Grassroots Community as a Pillar in the Legal Fight against Graft and Corruption

Not disregarding citizens groups and movements that campaigned against graft and corruption and for moral regeneration over the past decades, the emergence of similar organizations also became notable in the period under study, animated by the anti-corruption struggle that became active prior to the presidential ascendance of Mrs. Arroyo. Notable among the groups was the Plunder Watch that was formed to pursue and monitor the plunder cases filed against former President Joseph Estrada. The role played by citizens groups and other grassroots organizations either in filing graft charges against public officials or monitoring cases even as they pursue other forms of struggles on behalf of their sectoral and multi-sectoral constituencies is aided by lawyers who sometimes render legal services pro-bono.

Time and logistical constraints made it difficult for CenPEG to study and evaluate the performance of more representative citizens groups and grassroots organizations as possible in the monitoring and legal battles on graft corruption during the period. It chose however to do research at an active policy advocacy research and legal center dealing on farmers issues, capped by an interview with one of its pro-bono lawyers. The Quezon City-based Sentro para sa Tunay na Repormang Agraryo (SENTRA) was a significant institutional source of data and interview considering that between 2003-September 2006 on behalf of the farmers movement, Kilusang Magbubukid ng Pilipinas (KMP) and the fisherfolk organization Pamalakaya it filed with Office of the Ombudsman eight “special cases” in connection with or related to graft and corruption

²² Mr. Macalma, just like many other Filipinos, is disappointed with the country’s judicial system: “Yan ang nakakadismaya sa judicial system natin talaga, napakabag!!”

²³ “Selected Mass Media’s Reporting on Corruption,” Prof. Luis V. Teodoro, Prof. Danila Arao, and Prof. Evelyn Katigbak, presented in National Study Conference on Corruption (Jan. 14-15, 2005), University of the Philippines. See CenPEG Monograph NSCC05.

against top government officials including President Arroyo, former Agriculture Undersecretary Jocelyn “Joc Joc” Bolante, Batangas Gov. Armando Sanchez, and a powerful businessman, Eduardo Cojuangco.²⁴

All the eight cases remain pending at the Ombudsman, with five of the cases remaining unacted upon or without an order of investigation issued by the office. The lack of response on the cases filed by the farmers appeared to confirm fears by the complainants that the cases will be difficult especially given that they are up against high officials of government. Lawyer Jobert Pahilga, the executive director of SENTRA, tells a CenPEG senior researcher that farmers are reluctant to file criminal charges against government officials and influential private individuals for threats of counter-charges as had been their experience in previous cases involving land conversion, ejection, and so on that were filed with the Ombudsman and other courts.²⁵

VI. General Trends and Conclusion

Just as this CenPEG study was winding up early November 2006, the Philippines once again became a subject of global perception as two international institutions came up with reports showing the worsening state of corruption in the country. Transparency International (TI), in its 2006 Corruption Perceptions Index (CPI), said the Philippines joined other countries whose ranking fell in the list of 163 countries, dropping to 121 from 117 in 2005.²⁶ TI also ranked the Philippines as the third most corrupt country in the Asean region next to Myanmar and Indonesia. In 2003, it also rated the Philippines 11th among countries with the worst corruption cases in the world. The Philippines ranked 102 in a field of 146 countries in 2004.²⁷

Then on Nov. 18, 2006, the Asian Development Bank (ADB) revealed that Overseas Development Assistance (ODA) funds are being lost to corruption. Using the Philippines and Indonesia as case studies, the ADB surveyed more than 700 opinion leaders in Asia Pacific region. In its report, the ADB said that “many opinion leaders think that corruption eats into foreign assistance funds and produces substantial waste.”²⁸ In January 2005, ADP found the Philippines as second to Bangladesh in corruption, citing irregular payments and bribery in public contracts in particular as major problems.²⁹ In October that year, the Bank also said corruption in the Philippines was jacking up electricity cost and that corruption existed in ADB-assisted power projects.³⁰

²⁴ The eight separate cases ranged from violation of RA 3019, violation of the Code of Conduct and Ethical Standards for Public Officials and Employees (RA 6713), malversation and illegal use of public funds, bribery and estafa under the Revised Penal Code. The case against President Arroyo and Bolante was filed on June 3, 2004 in connection with the fertilizer fund scam and for plunder, violation of RA 6713, RA 3019, among others. Source: Atty. Jobert Pahilga, executive director, SENTRA, Nov. 4, 2006.

²⁵ Other NGOs said to be engaged in the crusade against graft and corruption are: Kilos Bayan, headed by former Sen. Jovito Salonga, which has its “Bantay Katarungan” watchdog; the Jesuits Committee on the Evangelization of Culture (CEC), which collaborates with the Ombudsman; the Catholic Bishops Conference of the Philippines (CBCP); and the WB-supported Procurement Watch.

²⁶ <http://www.tribune.net.ph/headlines> last access Nov. 24, 2006.

²⁷ The day TI released its recent CPI survey, Huguette Labelle, chair of the Berlin-based international NGO, said “Despite a decade of progress in establishing anti-corruption laws and regulations, today’s results indicate that much remains to be done before we see meaningful improvements in the lives of the world’s poorest citizens.”

²⁸ <http://www.tribune.net.ph/headlines> Last access Nov. 24, 2006.

²⁹ Philippine Star, Jan. 24, 2005.

³⁰ Inq.net.news Oct. 28, 2005.

Earlier, on Sept. 18, 2006, the World Bank reported that the ability of the Philippines to improve its governance and curb corruption has faltered over the past eight years. The WB report, "Governance Matters 2006: Worldwide Governance Indicators" which covered 209 countries, showed a sharp decline in the ranking of the Philippines in the control of corruption benchmark from 50.5% in 1998 to 37.4% in 2005.³¹ It was the WB which revealed in 2000 that corruption in the Philippines has cost the country close to \$50 billion in two decades (ending 1997) or about \$47 million a year.³²

It is information like these as well as other year-end surveys that have objectively tarnished the credibility of the Philippine government not only in terms of investment confidence but more so in terms of governance. The greater the corruption is, the more the delivery of public services is wasted. The burden of proving that something is being done to curb graft and corruption falls on government including the Presidential Anti-Graft Commission (PAGC) as well as investigation, prosecution and adjudication bodies such as the Ombudsman and the Sandiganbayan.

Both the Ombudsman and Sandiganbayan were expected to play their respective roles through the prompt investigation and disposition of graft and corruption and related cases following the termination of the Estrada presidency by people power in January 2001 over allegations of corruption and plunder. A major barometer on how these two legal pillars performed their respective role is the number of cases attended to and disposed and, more importantly, in their ability to solve cases involving the powers-that-be.

In his term as Ombudsman (seven years, ending in August 2002)³³, Aniano Desierto vowed to bring the "big fish" to the bar of justice for corrupt acts and practices. "This is essential," his office said, "to clearly send a signal that the Office (of the Ombudsman) can never be deterred from fulfilling its mandate, however wealthy and powerful the grafters may be." The Ombudsman listed at least 11 "high profile cases" for investigation and prosecution, which included the plunder case against deposed President Estrada; former First Lady Imelda Marcos, for violation of RA 3019, Section 3(g); and the complaint filed against former Vice President Salvador Laurel as chair of the National Centennial Commission under the Ramos administration.

Unfortunately, the Sandiganbayan decision on the case against Mrs. Marcos that found her guilty as charged was reversed by the Supreme Court. Four other "high-profile cases" were dismissed, two were withdrawn, one resulted in an acquittal, and four (with three groups of respondents) are pending at the anti-graft court.³⁴

In the CenPEG study (2001-May 2006), both the Ombudsman and Sandiganbayan appeared to be burdened with an overload of cases that include carry-over or pending cases in previous years.

³¹ <http://newsinfo.inq7.net/inquirerheadlines/nation/view> Last access Nov. 24, 2006. The WB apparently based its estimate on a 2000 Ombudsman report. Another estimate by the Commission on Audit (CoA) put the year losses at \$2 billion.

³² BBC News, June 9, 2000.

³³ Simeon Marcelo took over as Ombudsman on Oct. 17, 2002 but resigned on Nov. 30, 2005.

³⁴ Dismissed were: the case against Laurel, in 2005 after he died; the case against former DILG Undersecretary Ronaldo Puno filed in 2000, dismissed with trial in 2003; the case against former Leyte Gov. Benjamin "Kokoy" Romualdez; the case against former Rep. Carmelo F. Lazatin. Withdrawn were the cases against PNB Vice President Panfilo Domingo, withdrawn in 2002; and Pampanga Gov. Manuel Lapid, withdrawn 2004. Acquitted in 2005 was Ilocos Norte Gov. Rodolfo Farinas. Pending are the cases against President Estrada; former PEA officials, filed in 1998; Gen. Cesar P. Nazareno, filed 1994 and brought to the Sandiganbayan 2005; and the case against Benjamin Romualdez as ambassador.

The Ombudsman may have registered a high percentage of cases disposed but a large majority of these (65.4%) were dismissed. Quite troublesome is the fact that more than half of the total number of criminal cases in 2005 were carried over to 2006, showing an increasing backlog in criminal cases.

Majority of the cases filed with the Ombudsman for investigation and prosecution and the Sandiganbayan for judicial disposition were about violations of RA 3019, followed by malversation, estafa, bribery, and plunder.

Compared to the Ombudsman which had a total of 78,700 criminal and administrative cases (including old and new) attended to during the period, the Sandiganbayan had total included cases of 7,324 out of which 1,700 were dismissed. Majority of the cases (3,909 or 53.4%) are pending at the writing of this report while 1,413 (19.3%) were archived.

The CenPEG study also appears to confirm an earlier study (Venzon, 1993)³⁵ regarding the slow rate of disposal of cases by the Sandiganbayan. In 1986-1991, for instance, out of 4,169 cases the anti-graft court was able to dispose only 1,256 cases (or 30.13%). Most of the cases against alleged big-time corruptors were either dismissed, archived or remained pending. Convictions during the same period were limited to low-ranking officials.

In a separate report, the Supreme Court (SC) found that it takes almost seven years for a case to go through the Sandiganbayan. The backlog of cases and inefficiency in the disposal of cases can also be attributed to the fact that the anti-graft court has only 15 justices to hear them.³⁶

Former Ombudsman Simeo Marcelo himself said in May 2005 that the Sandiganbayan suffers some “congestion problems” where cases involving high-ranking government officials take more than 10 years to solve. Marcelo proposed adding more justices and forming five more divisions to the anti-graft court’s current five. “A massively-funded anti-corruption campaign should be seen as an investment and not as an expense, where the primary beneficiaries are the poor,” he said.³⁷ Barely finishing half of his term, Marcelo himself would later resign over reported pressures from Malacanang involving some highly-sensitive cases.

It should be noted that although the cases filed with the Ombudsman and the Sandiganbayan did indicate the inclusion of high public officials, it is municipal and city mayors who comprised the bulk of so-called “significant cases” and they represented a small percentage compared to the total number of cases. The rest were a few governors and other provincial officials, a handful of department officials (usually undersecretaries), a few AFP generals and police officials. The vast majority of respondents included private individuals and low-level officials in various government agencies, government corporations and LGUs.

Likewise, it is quite remarkable that considering the big number of cases brought to the Sandiganbayan, the anti-graft court had only a few convictions. Out of the 7,324 included cases attended to by the anti-graft court in 2001-May 2006, only 45 cases (or 0.6%) ended in convictions while 51 (or 0.7%) had acquittals.

³⁵ Regina Emily P. Venzon, “Graft and Corruption and the Institutional Mechanisms Promoting Accountability under the Aquino Administration,” MA Political Science Thesis, 1993, College of Social Science and Philosophy School.

³⁶ Philippine Star, Aug. 25, 2005.

³⁷ <http://www.adb.org/Documents/Periodicals/ADBReview/2005> Last access Dec. 4, 2006.

Of the 20 cases filed against 12 incumbent and former provincial governors at the Sandiganbayan, 15 are pending and four were dismissed. However, two out of 17 governors who were earlier charged in 1979-2000 were later convicted in 2002 and 2005.

Furthermore, only a small number of mayors were found guilty of corruption during the period: six out of 168 municipal and city mayors charged with 725 cases. A total of 161 (22.2%) cases were dismissed or withdrawn by the OSP. A big number, 544 cases (74.9%) are pending at the Sandiganbayan. However, 17 respondent mayors who were earlier charged in 1979-2000 were found guilty by the anti-graft court during 2001-May 2006.

As the late Haydee Yorac, former Comelec Commissioner and chair of the PCGG would put it, the Philippines is the only country with so many laws and rules against corruption and the highest number of anti-graft institutions, but with so few convictions.³⁸

In the same conference where she made the statement, Yorac praised then Ombudsman Simeon Marcelo as “excellent” and “bright” only that his office lacked personnel. Many office personnel, she said, were protégés of Aniano Desierto who was criticized for dismissing many criminal cases filed by the PCGG with the Ombudsman.

The Ombudsman is also partly to blame for the low conviction rate of the Sandiganbayan. Fr. Jose Dizon, head counsel of servant and leaders of Kairos Philippines, cited criticisms on the Ombudsman’s lawyers and prosecutors for being “ill-prepared, uninformed, or unfamiliar with cases they handle.”³⁹

Lawyer Vicky Avena, former member of PCGG and UP law professor, posits another problem that would explain the current performance of the country’s judiciary particularly the Ombudsman and Sandiganbayan: “It is important for the public to realize that because the judiciary’s power to corruption is passive – its mechanism does not commence until and unless there are those who discover corrupt activities and then become complainants who are willing to speak out. In fact, the judicial system will never truly succeed unless there is an official support framework to protect and sustain the prosecution of the wrongdoers till they are jailed and economically paralyzed to an extent that will prevent repetition permanently.”

Meanwhile, the Department of Interior and Local Government (DILG) topped the list of agencies that had the highest number of cases of graft and corruption and related cases brought to the Sandiganbayan during the period, with 2,282 cases (or 35.2%). This can be explained by the number of officials particularly at the LGU level in the provinces charged with graft complaints including a significant number of police officers. The DILG was followed by the DND, DoH, DA and DPWH.

In this connection, it would be interesting to find out the basis of the PAGC for zeroing in on seven government agencies for investigation on account of the large number of cases faced by their officials. The seven agencies, which the commission named on Nov. 24, 2006, are: the

³⁸ Keynote address, National Study Conference on Corruption (NSSC) organized by CenPEG, Jan. 14-15, 2005, University of the Philippines, Diliman, Quezon City.

³⁹ NSSC Conference, Jan. 14-15, 2006.

Bureaus of Immigration, Customs, and Internal Revenue Philippine National Police (PNP-DILG); Land Transportation Office (LTO-DOTC); DPWH; and the Department of Education (DepEd).⁴⁰

Meanwhile, Mindanao showed the highest number of cases filed against governors and mayors; followed by Luzon and the Visayas.

The role of the Ombudsman and Sandiganbayan in the swift and fair disposition of graft and corruption cases is supported in no small measure by the Philippine media based on CenPEG's media study and previous similar researches. But the risk of getting engaged in what can be considered as a form of investigative journalism is even more aggravated by the spate of media killings where many victims have fallen to assassin's bullets following their exposes of graft cases and other anomalies. Other forms of harassment that deter media efforts to help curb corruption include libel threats by powerful officials and private individuals. The lack of political will on the part of civilian and police authorities to prevent or solve the killings does not encourage journalists to continue with their crusading journalism.

The sheer volume of cases filed with the Ombudsman indicates not only the magnitude of the incidence of corruption in the country but also some measure of concern by public complainants themselves. However, majority of the cases appear to involve the proverbial "small fish" and, of the many cases filed, a significant percentage of the cases is dismissed.

The highest elective position of officials charged and convicted by the Sandiganbayan is governor although only two governors were found guilty within a period of 27 years (1979 to May 2006).

This is followed by mayors although the number of convictions represents a small fraction compared to the total number of mayors throughout the country. Whether, however, this only shows that corruption among the mayors is confined to a small insignificant number remains a question.

The fact is, even the few "high-profile cases" – or those involving top national officials - have been few, with most of the cases either dismissed, withdrawn or still pending.

There have also been criticisms that the amount of money lost to graft and corruption has been far bigger compared to the amounts of money that became subject of cases filed. In this aspect, a member of the Senate – Sen. Sergio Osmena III – has batted for the dissolution of the PCGG because the ill-gotten wealth confirmed to have been recovered from Marcos is a mere drop in the bucket compared to the expenditures of the commission since its creation 20 years ago. #

⁴⁰ <http://newsinfo.inquirer.net/breakingnews/nation/view> Last access Nov. 24, 2006. This perception by the PAGC was apparently based on various reports made in 1998-1999 as cited by the Asian Journal of Public Administration, December 2003.