

IS THE PHILIPPINE JUDICIAL SYSTEM EFFECTIVE IN FIGHTING CORRUPTION?

**A Preliminary Report
of the Center for People Empowerment in Governance (CenPEG)
in partnership with Transparency International (TI) – Philippines
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EXECUTIVE SUMMARY

This Preliminary Report is based on a policy research done by the Center for People Empowerment in Governance (CenPEG) in July-November 2006 in partnership with the Transparency International (TI) – Philippines, regarding the performance of the Ombudsman and the Sandiganbayan. The CenPEG study centers on the two bodies' investigation/prosecution and judicial disposition of cases of graft and corruption and related. It also covers the role played by the Philippine media and community organizations, two other pillars of the country's judicial system, in curbing graft and corruption.

The analysis of the performance of the Ombudsman and Sandiganbayan (anti-graft court) was based, among others, on database supplied by the two government institutions covering 2001-May 2006 and on other data covering 1979-2000.

The CenPEG-TI study finds the Ombudsman and Sandiganbayan performing below public expectations with regard to their constitutionally-mandated mission: the prompt and fair disposition of graft cases, and the prosecution and conviction of high-profile officials.

First of all, both institutions suffer a backlog of cases while many cases said to have been disposed were actually dismissed or archived. It usually takes an average of seven years or even up to 10 years before a significant case is solved partly due to the congestion of cases and the small number of justices in the Sandiganbayan.

Moreover, the highest elective official charged and convicted is governor. But only two governors for a period of 27 years have been found guilty. Similarly, for the same period, only 23 municipal and city mayors were convicted for violation of RA 3019, malversation, estafa, bribery and theft. Eighteen of them were earlier charged in 1979-2000 and found guilty only in 2001-May 2006.

Including one vice governor and one vice mayor who were also convicted, the total number of elective officials in top government positions who were convicted is 27 in 27 years. The total number of convictions does not include eight town councilors and several non-elective officials who were also found guilty as charged.

The CenPEG research study found that both the Ombudsman and Sandiganbayan had an overload of cases including carry-over cases, resulting in the rise in the number of pending cases every year. On the part of the Ombudsman, it may have registered a high percentage of cases disposed but a majority of these (65.4%) were dismissed.

Majority of the cases filed with the Ombudsman for investigation and prosecution and with 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) filed during in 2001-May 2006, 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.

Although a big number of cases were brought to the Sandiganbayan, the anti-graft court had only a few convictions. Specifically, of the 7,324 cases attended to by this body in 2001-May 2006, only 45 cases (or 0.6%) ended in convictions while 51 (or 0.7%) had acquittals.

Based on the Sandiganbayan data, the highest elective official charged and convicted during the cumulative period of 1979-May 2006 (or 27 years) is governor. Only two governors were found guilty, namely: 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 found guilty in 2002; and Eastern Samar Gov. Ruperto A. Ambil, Jr. who was charged in 2000 with violation of RA 3019 (no amount involved) and convicted in 2005.

Of the 20 cases filed against 12 incumbent and former provincial mayors at the Sandiganbayan, 15 cases are pending and four were dismissed. Furthermore, only a small number of mayors were found guilty of violating RA 3019, malversation, estafa, bribery, and theft: five out of 168 municipal and city mayors who were charged with 725 offenses. A total of 161 (22.2%) cases were dismissed or withdrawn by the OSP.

However, an additional 18 out of 253 other respondent mayors who were earlier charged in 1979-2000 were found guilty by the anti-graft court for similar offenses during 2001-May 2006. (Three other respondent mayors who were earlier charged and convicted in 1979-2000 were acquitted in 2001-May 2006.)

This means that cumulatively, from 1979 to May 2006 or a period of 27 years, only 23 mayors were found guilty of violating RA 3019 and for malversation of funds, estafa, bribery, and theft.

The Office of the Ombudsman, under then Ombudsman Aniano Desierto whose 7-year term ended in August 2002, had earlier pledged to bring the “big fish” to the bar of justice for corrupt acts and practices. The former Ombudsman mentioned in particular the 11 “high profile cases” attended to for investigation and prosecution (including the plunder case against former President Joseph E. Estrada; the case against former First Lady Imelda Marcos for violation of RA 3019; and the complaint filed against the late Vice President Salvador P. Laurel in his capacity as chair of the National Centennial Commission during the Ramos administration). However, 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 acquittal, and four (with three groups of respondents) are pending at the anti-graft court.

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 is dismissed.

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 the subject of cases filed. #