

**Consultative Commission to Propose the Revision to the 1987 Constitution  
Committee on Civil Service and Accountability of Public Officers  
Meeting No. 2**

Friday, October 18, 2005

**CALL TO ORDER**

At 11:33 a.m., Committee Chairman Antonio T. Vilar called the meeting to order.

**ROLL CALL**

The Committee dispensed with the roll call. The following members were present:

Adamat, Ronald L.  
Bian, Joji Ilagan  
Garcia, Pablo P.  
Jurado, Gonzalo M.  
Mendoza, Democrito T.  
Pedrosa, Carmen N.  
Vilar, Antonio T.

Non-members:  
Tendero, Efraim M.

**OBSERVATIONS/PROPOSALS  
ON VARIOUS ISSUES**

*On Government-owned and  
Controlled Corporations*

Chairman Vilar noted that government-owned and controlled corporations (GOCCs), which are subsidized by the national government, should ensure that their operations are profitable and should report their revenues to the public. However, he stated that these GOCCs are not performing well or not financially viable. He cited as an example the National Power Corporation (NPC), a government corporation attached to the Department of Energy which has been reported to suffer heavy losses and has not reported any revenues, not even

from its transmission lines. He added that only SSS and GSIS publish their annual reports.

A list of GOCCs was distributed to the Committee to show the vast number of GOCCs which are mostly financed by government and heavily indebted. The Committee then agreed that the Annual Reports and Financial Statements of selected GOCCs should be obtained from COA.

Chairman Vilar suggested the abolition or privatization of GOCCs that were found to be liabilities to the government. He said the officials of these GOCCs should be required to justify the existence of their corporations.

*Statement of Assets and Liabilities*

According to Chairman Vilar, public officers should submit their Statement of Assets and Liabilities (SALs) as well as their Income Statements, which are public documents that should be disclosed as the public has the right to inspect these documents.

He explained that the SAL describes the state of wealth of the person while an income statement reflects a particular year's income state.

*Salaries of Public Officials*

Chairman Vilar noted that the lifestyle of many public officials does not reflect the modest government salaries that they receive.

Commissioner Tendero opined that appointment to GOCC Boards with hefty honoraria and per diem has become an extra source of income for high-level government officials.

Commissioner Garcia pointed out that in Singapore, the three highest paid executives are the prime minister and two other public officials. Commissioner Bian agreed that this strategy used also by the private sector would attract good people in government. She said good pay makes people turn in better and quality work performance.

#### *State Universities and Colleges (SUCs)*

Commissioner Garcia suggested that the Committee should look into the state universities and colleges (SUCs) where there are more teachers than students. Commissioner Jurado estimated that there are some 200 SUCs and LUCs which are using up 16 Billion a year and employing professionals that are not well qualified for teaching.

Commissioner Bian asked whether it would be possible to privatize these SUCs, to which Commissioner Tendero replied in the affirmative.

#### *Outsourcing Government Employees*

Commissioner Bian stated that outsourcing employees in the government should be considered to ensure that only the best workers are hired in government. Outsourcing is also more efficient as employees are paid based on their output and performance, she said.

#### *The Ombudsman*

Commissioner Garcia discussed the role of Office of the Ombudsman and *Tanodbayan* in dealing with erring officials. He said the Ombudsman

serves as the clearing house of cases on illegal or unjust acts of government officials and employees while the *Tanodbayan* acts as the government prosecutor. Later on, he said, the Ombudsman was also granted prosecutory powers.

Commissioner Jurado mentioned the *The Rulemakers* as an important book on investigating corrupt officials of the legislature, as it is based on historical fact and has good sources and documentation.

### **THE UP REPORT ON STRENGTHENING OF THE CIVIL SERVICE**

Commissioner Garcia informed the Body that the first law passed by the Americans in the country was the Civil Service Law.

In this regard, Commissioner Jurado stressed civil servants are tasked to promote efficiency.

As agreed upon in the previous meeting, the UP study group presented its report on strengthening the Philippine civil service. The UP study group noted that in order to accommodate sudden changes on governance brought about by a parliamentary system, there is a need to reform the civil service in the country.

The UP study team presented noteworthy features of the civil service in selected European parliamentary governments which the country may emulate, to wit:

- a. The civil service in the UK is an independent, apoliticized body whose recruitment is based on merit and fitness via appropriate examinations. Cabinet members exercise policy-making functions with limited administrative/

supervisory powers over departments and agencies under it. Except for political appointees, civil servants are strictly prohibited from engaging in partisan political activities.

- b. The French Parliamentary System incorporates a strong executive, who exercises control and supervision over the entire civil service. Prospective bureaucrats attend specialized learning institutions on public administration and are recruited into the civil service after graduation. The recruitment in the bureaucracy is strictly based on merit and fitness.

Based on these features, the group made the following comments and recommendations:

- a. While the Constitution and civil service laws direct that admission to the civil service shall be based on merit and fitness, the applicant's connections with top officials is the prevailing practice in getting employed in government.
- b. Civil service examinations do not accurately measure and guarantee the competence of the civil servants. Moreover, the differing policies of the CSC and the Career Executive Service Board on admission to the civil service and the career executive service do not assure that only the most qualified are admitted. An example is the exemption from the career service exams of those who graduated with honors. Due to the disparity in the quality of education in universities nationwide, not all of those who graduate with honors are equally competent. Thus, the practice of granting automatic civil service eligibility may not be practical.
- c. The Constitutional prohibition on public servants to engage in political activities is, in reality, not being adhered to by government officials and employees.
- d. There should be specialized schools and courses that would prepare future civil servants for a career in the civil service.
- e. The CSC Chair and Commissioners should be appointed with fixed terms by the Parliament or the Prime Minister. This is to insulate the CSC Commissioners from politicking, ensure continuity, and protect the civil service from the change of government.
- f. The practice of interpellation or the "Question Hour" between members of parliament and top executives and agency heads, patterned after UK's civil service, should be institutionalized. This is to promote transparency and enable top executives, agency heads, and all who exercise administrative and sovereign functions to remain accountable for their actions. This provision may be included as an additional article on the Parliament or in the section on Commission on Appointments.
- g. The judicial review of administrative actions should be institutionalized by creating a special court or permanent institution to review administrative cases and accordingly impose penalties on erring officials. This shall also streamline the current process under the principle of exhaustion of administrative remedies and prevent the tendency to protect government officials from being punished for their misdeeds.
- h. The Ombudsman should be strengthened by making it an

independent office with powers to impose preventive suspension while the case is under investigation. It was noted that the proper courts are the only entities that can impose suspension and dismissal as a penalty. At present, there is no provision authorizing the Ombudsman to impose suspension or dismissal on erring officials as a final penalty.

- i. The Parliament shall have the authority to appoint the OMB.

### **COMMENTS ON THE UP PRESENTATION**

Thereafter, the Committee members made the following comments on the presentation:

- a. The provision on “question hour” is already embodied under Article VI, Section 22 of the Constitution granting Congress the power to ask department heads to appear before them and answer questions pertaining to their departments. It was pointed out that under a parliamentary system, the collegial relationship among members of parliament may affect their objectivity during the question hour.

The question hour is a mechanism for the public to exercise their sovereignty through their representatives, on the other hand, it may be necessary to establish an institutional mechanism that will allow the public to directly question their leaders, especially the top two level officials and the members of the parliament, on their actions. A panel of distinguished citizens may be invited to question members of the Parliament and the high officials.

- b. The creation of a special court or permanent institution to review

administrative cases and directly impose punishments may be a usurpation of judicial functions. Article VIII, Section 1 of the Constitution mandates that only the Judicial department shall settle actual controversies involving rights that are legally demandable and enforceable and determine whether or not a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any government instrumentality has been committed. Thus, the Committee agreed to exclude the said proposal.

- c. It was reiterated that all provisions on the Ombudsman shall be transferred in the Article pertaining to Constitutional bodies to make the Ombudsman independent.

The existing provisions on the *Tanodbayan*, whose powers were transferred to the Ombudsman, should be reviewed. There should be a constitutional provision that would remedy the overlapping functions of the Ombudsman and the Office of the Special Prosecutor. Under Republic Act (RA) 6770, or the Anti-Graft Law, the powers of the Office of the Special Prosecutor may also be exercised by the Ombudsman.

The Committee likewise agreed that the power of the Ombudsman, which is not a court, should be limited to prosecution and suspension of an official under investigation. The power to prosecute does not carry the power to penalize. Such power should be left to the courts because they are the most independent and trustworthy body to impose penalties including the penalty of dismissal.

It was also noted that the Ombudsman has been imposing 6-

month preventive suspension on erring officials and employees in compliance with RA 6770. The said law vests the Ombudsman with more powers including the power to suspend accused officials and employees under investigation up to six months.

### **COMMISSIONER JURADO'S PRESENTATION FOR THE PLENARY**

The Committee agreed that Commissioner Jurado shall present the summary of the discussion and recommendations of the Committee to the plenary. For this purpose, Commissioner Jurado presented a draft report that he would submit to the plenary as follows:

- a. The Committee is guided by the principle that it shall be the duty of public servants to serve the Filipinos by carrying out the duties bestowed on them by law with efficiency, courtesy and integrity. They should be rewarded for meritorious performance and penalized for work that is below commonly accepted standards;
- b. In reviewing the provisions on the civil service, the Committee believes that the right to self-organization does not include the right to strike;
- c. Compensation of government officials including those in GOCCs should be disclosed;
- d. The whole provision on the CSC should be restructured according to the following: Section 1 shall define the mandate of the CSC; Sec. 2 the duties of CSC; Sec. 3 the oath of civil servants; and Sec. 4 the composition of the commission;
- e. All sections on the Ombudsman shall be placed under the Article on Constitutional Commissions;
- f. Reference to the Judicial and Bar Council is unnecessary and should be deleted because in a parliamentary government, the parliament is empowered to create committees that shall accept and screen applicants for the position of the Ombudsman;
- g. Public officers must submit income statements aside from their statement of assets and liabilities and these documents should be open to the public; and
- h. Section 18, Article XI which provides for the change in citizenship for public officials and employees of the state shall be deleted and transferred to Article IV on Citizenship. This proposal shall be transmitted to the Committee on Preamble, National Territory, Declaration of Principles and State Policies, Citizenship, Bill of Rights and Political Rights.

For the plenary presentation on October 20, 2005, it was agreed that Commissioner Jurado shall give a sponsorship speech before proceeding to the actual report, similar to the practice in Congress. The report may be reproduced and distributed to the members of the Commission for their review. The recommendations of the UP group may be retained and presented in the plenary for discussion and amendment. It was also agreed that there is no need to present the Committee's comments on the form and style; the Committee report shall focus on the relevant and substantial points discussed, the main messages of which are:

- a. The need for a professional and productive civil service to deliver dedicated and efficient service to the public and the need to apply civil service rules to all public servants including political appointees and GOCC officials;
- b. The need for a stronger Ombudsman to deter corruption; and
- c. The need to restructure and rationalize GOCCs.

The said presentation to the plenary shall also form part of what the Committee shall present in the regional consultations.

#### **ADJOURNMENT OF MEETING**

The meeting was adjourned at 1:15 p.m.

Certified correct:

**COM. ANTONIO T. VILAR**  
Committee Chairman

\_\_\_\_ November 2005