

The Office of the Ombudsman and the Fight Against Corruption*

ERNESTO NOCOS

The Office of the Ombudsman is taking on the biggest case in the history of the Philippines: No less than a former president is charged with crimes against the people. Can the Ombudsman do its job? The author believes so. The Constitution provides that the Ombudsman has authority over the actions of all public officials and employees, offices and agencies, including the Office of the President. It is the official critic of laws, procedures and practices in government. It is the protector of the people against graft and corruption on all levels of government. The Ombudsman has a battle plan. If followed properly, it will stop graft and corruption before it starts, and make the guilty pay. To accomplish its goals, the Ombudsman will tap the active support of the citizenry and government offices such as the Commission on Audit (COA), the Civil Service Commission (CSC) and the National Bureau of Investigation (NBI). Through proper methods and the support of public and private sectors, the author believes that there could one day be only high standards of ethics and efficiency in government.

Among the high profile cases in our midst, the Plunder case filed against former President Joseph E. Estrada tops them all. This is a case of first instance and not only our entire nation but the world is watching closely its progress.

Once again, the Office of the Ombudsman is drawn into the microscopic scrutiny of the public. The big question now in the minds of our people is the capability of the Office to fight graft and corruption. Can the Office of the Ombudsman win this formidable battle? I say YES, it can!

Allow me to present to you the mandate, power, functions and duties of the Office of the Ombudsman.

Under the new Constitution, particularly Article XI, an independent Office of the Ombudsman was created and revitalized. The framers of the 1987 Constitution envisioned the Ombudsman as an official critic who studies the laws, procedures and practices in government; a mobilizer who ensures that the steady flow of services is accorded the citizens; and a watchdog who looks at the general and specific performance of all

*This piece was read during the *Academe Meets Government* forum entitled "Crime and Punishment Part I: Paglilitis sa Plunder" sponsored by the Third World Studies Center and the Philippine Center for Policy Studies. The forum was held last September 13, 2001 at the Sulwegang Claro M. Recto, UP Diliman, Q.C.

government officials and employees. To further strengthen and insulate the Office of the Ombudsman from politics and pressure forces, the Constitution made a fiscally autonomous body independent from any other branch of government, and headed by an Ombudsman with a fixed term of seven years who could be removed from office only by way of impeachment.

In consonance with the Constitution, the Congress enacted on November 17, 1989, Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, providing for the functional and structural organization of the Office of the Ombudsman and delineating its powers, functions and duties.

The clear intent is to give the said office full and unimpeded exercise of the extraordinary range of oversight and investigative authority over the actions of all public officials and employees, offices and agencies. Not only can it investigate on its own or on complaint any official act of omission that appears to be illegal, unjust, improper or inefficient, it can also prod officials into performing or expediting any act or duty required by law; stop, prevent and control any abuse or impropriety in the performance of such duties; and, require the submission of documents relative to contracts, disbursements and financial transactions of government officials for the purpose of ferreting out any irregularities therein. The conferment of this extensive authority is prefaced in the Constitution with the bestowal upon the Ombudsman and his deputies of the appealing title of "Protectors of the People."

The Ombudsman and his Deputies, as protectors of the people shall act promptly on complaints filed in any form or manner against officers and employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the government for the people.

We have drawn up a battle plan, so to speak, to fight graft and corruption. It covers both the punitive and preventive approaches. We call it the *Ombudsman's eight-point national comprehensive anti-corruption strategies*.

1. Punitive and Retributive Method of Combating Corruption and Aggressive Imposition of Administrative Sanctions;
2. Speedy and Aggressive Investigation and Prosecution of Graft Cases;
3. Efficient and Responsive Public Assistance Program;
4. Intensive Graftwatch Over the Bureaucracy;
5. People Empowerment;
6. Education and Transformation of Individual Psyche Through Value Orientation Seminars;
7. Linkages with Other Government Institutions and International Corruption Fighters;
8. Systems and Procedures Improvement.

The first point is the punitive approach. Under this strategy, the Ombudsman employs aggressive and efficient graft detection, evidence build-up, investigation and administrative action. This directly targets the criminal and administrative offenders among public officials and employees. Once anomalies are uncovered, the same are investigated and the perpetrators are prosecuted in the Sandiganbayan for high-ranking functionaries and the regular trial courts for low-ranking officials and employees. Administrative proceedings are simultaneously conducted in the exercise of the Ombudsman's disciplinary authority over all elective, appointive officials, including cabinet members and excepting only the impeachable officials and the members of the Congress and the Judiciary.

The second point aims to send the message to grafters that "whichever way you look at it, corruption does not pay." The immediate effect is deterrence to potential wrongdoers and to make graft and corruption a high-risk business. The Ombudsman will oppose any delaying tactics of the accused and will always strongly move for the speedy trial of all graft cases filed before the courts.

As to the third point, the Ombudsman is strongly enforcing all government offices to observe the implementation of Section 5 of Republic Act No. 6713 mandating that all communications from the public should be acted upon within 15 days, in order to ensure speedy action on all requests for assistance.

To ensure intensive graft watch over the bureaucracy, the Ombudsman has installed the Resident Ombudsman in graft-prone departments and agencies of the government. Their main job is to monitor official performance and transactions in order to prevent wheeling and dealing.

The Ombudsman acknowledges the need to tap the active support of the citizenry because of the magnitude of the corruption problem. The Office has organized and accredited non-governmental organizations as Corruption Prevention Units to serve as the Ombudsman's citizen arm in the fight against graft and corruption.

Education as an effort to fight graft and corruption is focused on inculcation of ethics in public office and the revival of wholesome Filipino traits like honesty, simple living, love for fellowmen and faith in God. The target of education is not only the youth and non-governmental organizations but also (and more importantly) new entrants to government service, and the public sector employees in general to include the military personnel.

In order to strengthen its campaign against the formidable problem of graft and corruption, the Office of the Ombudsman has entered into a joint undertaking with other government institutions. There is an efficient coordination among the anti-corruption agencies through the formation of the Inter-Agency Coordinating Council among the Commission on Audit (COA), the Civil Service Commission (CSC) the Department of Justice (DOJ), the National Bureau of Investigation (NBI), the Presidential Commission Against Graft and Corruption and the Office of the Ombudsman and also the Integrated Bar of the Philippines, (IBP) and the National Press Club (NPC) for NATIONWATCH. This endeavor is one of the key factors in the pursuit of the national program for good government.

Through the Systems and Procedures Improvement, the strategy is to pursue the implementation of Section 13, paragraph (7), Article XI of the 1987 Constitution which mandates the Office to determine the cause of inefficiency, red tape, mismanagement, fraud and corruption in Government and make recommendation for their elimination and observance of high standards of ethics and efficiency. ❁