



# TRANSPARENCY AND ACCOUNTABILITY NETWORK



## PHILIPPINE MCC COMPACT FUNDING IN JEOPARDY

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The Philippines' eligibility for large funding from the Millennium Challenge Corporation under its Compact Program is in jeopardy, according to a report from the Washington-based Center for Global Development ([www.cgdev.org](http://www.cgdev.org)). In a note authored by Amy Crone, Research and Policy Analyst, and Sheila Herrling, Senior Policy Analyst and Manager of the MCA Monitor, CGD stated that for the first time since the creation of the Millennium Challenge Account (which is managed by the Millennium Challenge Corporation) in 2003, the Philippines failed the corruption indicator. Crone and Herrling noted that this decline happened, ironically, in the two years that the Philippines was

under the Threshold Program of the MCC. In 2006, the Philippine government received \$21 million from the MCC under its Threshold Program to improve its anti-corruption efforts. Compact eligible countries such as Tanzania and Morocco have received as much as \$700 million from the MCC.

"Anti-corruption advocates have been saying for the longest time that the Threshold Program of the Philippine government was not an anti-corruption program, so I am not surprised that we failed the control of corruption indicator," said Vincent Lazatin, Executive Director of Transparency and Accountability Network, which has been closely watching the MCC program. "As early as

June when the World Bank Institute released its control of corruption indicators, it was clear that the Philippines was going to fail in the MCC evaluation."

The MCC uses 17 third party indicators to assess a country's progress on three broad policy areas – ruling justly, investing in people and economic freedom. It uses the World Bank Institute's Control of Corruption index to assess a country's progress on fighting corruption. The Philippines fell below the median of about 70 low income countries on the corruption indicator.

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### BRIDGING THE GAPS:

#### World Bank Developing Local Social Accountability Networks Project Update

**Leslie B. Flores, Project Coordinator**

Bridging islets of successes in good governance is a critical factor in the fight against graft and corruption. This is one of the main objectives of the recently concluded project of the Transparency and Accountability Network on *Developing Local Social Accountability Networks (LSAN)*. The project, funded by the World Bank, aimed to complement past efforts of TAN to develop and activate local social accountability and integrity networks and worked towards developing networking mechanisms to strengthen anti-corruption civic engagements in the local level.

In 2007, TAN held the anti-corruption road show which resulted to the formation of the Citizens Network for Good Governance (CNGG) in Bacolod. Through the LSAN Project, TAN was able to support the group through

**SO NEAR YET SO FAR : Project Update on Access to Information Network (ATIN)**

**Reylynne F. Dela Paz, Research and Advocacy Officer**

Indonesia and Bangladesh recently joined the growing number of countries that have freedom of information (FOI) laws. There are now around 54 countries implementing FOI laws as part of their efforts towards good governance.



Unfortunately, in the Philippines, despite clear constitutional guarantees on the people’s right to know, the state of access to information has deteriorated over the last several years. There have been countless instances when the government denied the people of their right to know in the face of the constitutional guarantee. One of the most sensational is the recent Supreme Court’s denial of the motion for reconsideration filed by the Senate upholding former National Economic and Development Authority (NEDA) Secretary General Romulo Neri’s invocation of executive privilege in evading questions relating to the controversial NBN broadband deal.

There is probably nothing more bizarre than our government’s claims of being sincere in upholding the principles of transparency and accountability in governance while at the same time using all means at its disposal to frustrate the people’s right to know.

Right to information legislation in the Philippines has gained some ground. The House of Representatives has done its part but unfortunately, legislation is stalled at the Senate. After several years of struggle in pushing for the Freedom of Information bill, the Access to Information Network (ATIN) has finally made a dent in its legislative advocacy when Congress passed on third and final reading House Bill 3732 or the Freedom of Information Act in May this year. This has been the farthest that the Network has gotten in its advocacy for legislation. The Network is understandably anxious that the Senate match the political will of the lower house before it loses interest to other high profile issues. The Senate Committee on Public Information and Mass Media set a couple of hearings on the bill, but because of last minute cancellations, these hearings have not pushed through.

**SUPREME COURT APPOINTMENTS WATCH GEARS UP FOR 7 RETIREMENTS**

The Supreme Court Appointments Watch (SCAW) coalition is preparing to monitor the appointments process for replacements for seven retiring justices in the Supreme Court in 2009. The mandatory retirements of six justices plus a seventh unscheduled early retirement, in a 12 month period is unprecedented in Supreme Court history.

The six justices that will turn 70, the mandatory retirement age for Supreme Court justices, in 2009 are Justices Ruben Reyes, Adolfo Azcuna, Dante Tinga, Consuelo Ynares-Santiago, Leonardo Quisumbing, and Minita Chico-Nazario. The seventh retirement, that of Justice Alicia Martinez, is expected in April of next year, more than a year and a half before her mandatory retirement in December 2010, when she turns 70.

“We are very concerned about the next series of appointments because nearly

half of the Court seats will be vacated and their replacements appointed by a single president,” said Marlon Manuel, coordinator for the Alternative Law Groups, co-convenor of the Supreme Court Appointments Watch project.

**“We are very concerned about the next series of appointments because nearly half of the Court seats will be vacated and their replacements appointed by a single president,” said Marlon Manuel, coordinator for the Alternative Law Groups, co-convenor of the Supreme Court Appointments Watch project.**

“That means that for the first time since the Marcos government, a single president will have appointed nearly all of the high court’s members. That is a dangerous situation and we must ensure good appointments are made,” Manuel continued.

Vincent Lazatin, executive director of SCAW co-convenor Transparency and Accountability Network, added, “Many

suspect that the selection process is highly political in nature, given that at least five of the eight Judicial and Bar Council members are directly appointed by the President. Without a more transparent process, there is a danger that the President can express her preference for a candidate even before the selection process begins.”

The SCAW convenors have been advocating for a more open selection process, including open voting of JBC members, live media broadcasts of the interviews of the candidates, and better public disclosure about the candidates.

The Supreme Court Appointments Watch group is composed of Alternative Law Groups, Libertas, Philippine Association of Law Schools, Newsbreak and the Transparency and Accountability Network.

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follow-up training on procurement monitoring. The CNGG is composed of representatives from social action centers in Bacolod that aim to monitor local government procurements.

TAN likewise participated in the procurement monitoring training of representatives from the World Bank Knowledge for Development Centers (KDCs) with speakers from the Department of Education and Department of Public Works and Highways represented by Director Aida Carpintero and Director Antonio "Jun" Molano, respectively. The training was also a venue for the Makati Business Club-Namfrel represented by Edward Gacusana and Ann Bernal to share their efforts medicines' monitoring.

As of April 2008, eight out of the nine KDCs were accepted as the newest members of TAN together with the Citizens' Network for Good Governance which increased the network membership from 25 to 34 member organizations nationwide.

TAN, through the LSAN initiative, partnered with the Evelio B. Javier Foundation, MBC, and Bishops' Businessmen's Conference in the conduct of the *Government and Civil Society Partnership Building for the Institutionalization of CSO BAC Observers*. The objective was to organize discussions and dialogues to come up with a proposed coordination and deployment system of procurement observers in

Cebu and Davao. TAN also conducted a reorientation workshop on the *Government Procurement Reform Act* as a follow-up activity in Cebu and Davao last September 2008.

Under the same initiative, TAN assisted the Northern Luzon Coalition for Good Government (NLCGG) in their network planning workshop where NLCGG members reviewed their goals and strategies and identified next steps towards strengthening the NLCGG. TAN also assisted the group in coming up with a proposal focused on improving the participation of indigenous people and communities in governance in a meeting held in Baguio City last October.



## MAKING A FUSS ABOUT MONEY IN POLITICS

*Toix Cerna, Head, Research and Project Development*

The presence of money in politics is both necessary and a danger. "While money is required to foster political competition, its role in politics can [also] undermine the tenets of democracy... Money can distort the electoral process as a result of the source and distribution of funds, the management of resources and expenses, as well as the motivation linked to donations." (Speck, 2008) Thus most laws that regulate money in politics (especially campaign funding) are built around the principle of political equality. (Walecki, 2004) "Campaign finance regulations are designed to create a level playing field for competition between political parties and candidates." (Open Society Justice Initiative, 2005: 102) When corruption enters campaign finance, the damage it creates has extensive reach. "It discredits elections, poisons governments, undermines transparency and accountability, and frustrates the consolidation of the rule of law." (Ibid: xi) Party financing scandals in Belgium, France, Germany and Spain, for instance, resulted in public distrust of politicians, political institutions and processes. People view political parties as slowly losing independence as it is being held captive by private interests - political decisions are improperly influenced by money contributions from private sources. The channels of campaign finance become ways through which the most serious type of corruption<sup>1</sup> - state capture - take root in a political system. (Ibid; Walecki, 2004)

OSJI (2005) identified three types of corrupt campaign finance practices: 1) quid pro quo donations, 2) misuse of state resources, and 3) direct bribery or vote buying. (see Pinto-Duschinsky, 2002 and Walecki, 2004 for a more detailed listing of these practices). The most serious of its kind in my opinion is the second. Use of state resources by incumbent politicians and political parties "may lead to a structural monopoly of power that permanently benefits one party or political group at the expense of all others - in effect, "state capture" from within." (OSJI, 2005: 103)

1 World Bank defines state capture as the "influence of private interests over laws and politics." (OSJI, 2004: 15)

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CITIZENS' INVOLVEMENT FOR BETTER ROAD SERVICES : *Bantay Lansangan Project Update***Leslie B. Flores, Project Coordinator**

It was in 2007 that representatives from the government, civil society, and the private sector formed a partnership which created the *Bantay Lansangan (BL)* in an effort to increase transparency and citizen participation to ensure the quality of road projects in the country.

At present, *Bantay Lansangan* has completed its trainings on road projects monitoring held in Baguio City, Manila, Cebu, and Davao from August to

September 2008 with more than 100 monitors trained nationwide. The BL regional volunteers will monitor both locally and foreign funded projects and shall also conduct a Road Users' Satisfaction Survey in 15 regions. The monitoring and survey is set to start by November 2008.

A study on the mapping of vulnerabilities of the Department of Public Works and Highways is likewise being conducted by a

Dr. Edna Co of the UP National College of Public Administration and Governance and the Ateneo School of Government. Initial findings of the study were presented in a small group discussion with BL networks on 10 October 2008 at the Balay Kalinaw in UP Diliman.

The first Year-End General Assembly is scheduled on 5 December 2008.



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Other dangers related to misuse of state resources are more appalling such as: "undermining civil liberties and/or personal security (e.g. Detention of campaign workers by the police); undercutting the quality of democracy, specifically the quality of political rights and the ability of citizens to participate effectively in the political process by providing incumbent parties and candidates with systemic advantages that are not available to other participants; undermining the integrity of state functions by using them as a means for conducting electoral campaigns rather than for their established purposes; diverting public resources from their intended uses (presumably for the public interest) to serve private interests, imposing a financial cost on the public purse." (Ibid: 102-103)

***"In the coming 2010 Philippine elections, money in politics should not only be viewed in terms of 'nominal' excesses by candidates/parties. More than that, money in politics should be viewed vis-a-vis embedded excesses in the culture and practice of politics in the country. Let us be reminded that money's role in politics is to foster healthy political competition. Beyond that, money becomes a distorting factor in the democracy experience."***

In addressing these corrupt campaign finance practices, Pinto-Duschinsky (2002) recommends three important kinds of regulations on campaign finance: 1) disclosure regulations, 2) direct public subsidies and 3) provision of free political broadcasts. Speck (2008) identifies other equally important regulations pertaining to the use of state resources during election campaign periods, those that set limits to contributions from private sources, and those governing state agencies that control political finance. Even with the presence of state controls, civil society monitoring stands as a very strong deterrent against campaign finance abuses because of the social sanctions (e.g. withdrawal of support) it is able to 'impose' on abusive candidates and political parties<sup>2</sup>. Unlike state control, social oversight goes beyond the legal limitations (e.g. 'evidence or proof' to prosecute) and creates a disciplining effect on political actors nonetheless. (Speck, 2008) This is the power that citizens have and should claim and exercise to correct abusive political behaviour. In the coming 2010 Philippine elections, money in politics should not only be viewed in terms of 'nominal' excesses by candidates/parties. More than that, money in politics should be viewed vis-a-vis embedded excesses in the culture and practice of politics in the country. Let us be reminded that money's role in politics is to foster healthy political competition. Beyond that, money becomes a distorting factor in the democracy experience.

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<sup>2</sup> These are irregularities according to established rules and regulations governing campaign finance (e.g. Overspending, under-reporting, excess television and radio "appearances").

## PROCUREMENT TRANSPARENCY GROUP UPDATE



### MEDIA RELEASE

#### Procurement Transparency Group Statement

31 October 2008

### PURCHASE OF INTELLIGENCE EQUIPMENT REQUIRES TRANSPARENCY

PNP Director General Jesus Verzosa has given the third explanation for the bagful of money amounting to €105,000 that was found on the person of then PNP Director Eliseo de la Paz by Russian customs officials. According to the PNP chief, the money was for the procurement of intelligence equipment. If true, then PNP officials could have violated Republic Act 9184, the Government Procurement Reform Act (GPRA), which covers all government procurement, even the purchase of sensitive intelligence equipment.

***“Walking around Moscow with over a hundred thousand Euros to buy intelligence equipment is highly irregular and does not seem to conform with any provisions of RA 9184,”*** said Atty. Pat Menzon, spokesman of the Procurement Transparency Group (PTG).

The GPRA mandates that all government procurement should be done through competitive bidding as the default mode of procurement. There are exceptions to competitive bidding, such as for the procurement of highly specialized type of goods where procurement can be done through alternative modes. Alternative mode procurement requires prior approval of the head of procuring entity and can only be undertaken under specific conditions. The alternative modes of procurement are:

***Limited source bidding:*** It involves direct invitation to bid to a set of pre-selected suppliers or consultants. This method of procurement can be used when highly specialized goods are available only from a few suppliers or consultants.

***Direct contracting:*** In this method, the supplier is simply asked to submit a price quotation. It can be done only under certain conditions, among them when procurement of items of proprietary nature can be obtained only from the proprietary source.

***Shopping:*** Shopping is only applicable to readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications and when the amount involved does not exceed Php250,000.

“The PNP must tell us why P6.9 million was released without authorization. Then show to the PTG that the equipment they intend to buy is in their Annual Procurement Plan,” Menzon emphasized.

The Procurement Transparency Group, as authorized by Executive Order 662 (as amended), may require agencies to submit its Annual Procurement Plan, written authority from head of agency allowing alternative procurement, the resolution of its bids and awards committee, and the proposals from foreign suppliers. PTG can also submit to the proper authorities its findings and recommendations for possible civil, administrative, and/or criminal charges.