



# TRANSPARENCY AND ACCOUNTABILITY NETWORK



## Editorial

# COLLUSION IN THE ROAD SECTOR

Vincent T. Lazatin, Executive Director

Last January 14, 2009, the World Bank announced that it had debarred seven (7) construction firms and one individual from participating in World Bank funded projects in the Philippines for having engaged in collusive practices related to a Bank funded project. The seven firms – three Filipino firms and four foreign firms – were debarred for varying lengths of time from four years to permanent debarment. Receiving the stiffest penalty of permanent debarment was E.C. de Luna Construction Corporation and its owner and sole proprietor, Eduardo C. de Luna.



As early as 2003, World Bank officials had noticed what it felt was collusive behavior among several firms bidding for two different projects funded by the Bank under the National Road Improvement and Management Program (NRIMP-1). Those two projects were never funded by the Bank, but instead financed directly by the Philippine government with taxpayers' money. As a result of the suspicions of the World Bank, it decided to impose anti-corruption safeguards in the second phase of NRIMP, including the creation of a civil society-private sector-government partnership in the road sector which eventually became known as *Bantay Lansangan*. (TAN is a member of *Bantay Lansangan* and acts as its secretariat.)

The strong action by the World Bank against the seven firms is not to be taken lightly. The Bank's Vice Presidency for Integrity (INT) investigated the troublesome procurement for several years, collecting circumstantial and testimonial evidence from key confidential sources. The sanctions were decided upon by the Sanctions Board of the World Bank, an independent body in the World

Bank that is composed of, among others, independent legal experts that are not part of the World Bank project team.

According to documents available on the World Bank website, "No World Bank staff, either from the investigation office INT, or from the project team, are involved in the sanctions decision-making process. This ensures the independence of all Sanctions Board decisions."

So serious are the findings (and subsequent sanctions) of the World Bank, that the Tanzania Public Procurement Regulatory Authority decided to ban three of the international construction firms named in the Bank's INT report. As we say in Tagalog, "*buti pa ang mga Tanzanians*" ("good thing for the Tanzanians").

### Philippine Government Response

Senator Miriam Santiago was rightfully indignant when she discovered that the Department of Finance, Department of Public Works and Highways, and the Office of the Ombudsman knew as early as November 2007 of the possible collusion in NRIMP1 and have thus far done nothing. During the joint Senate hearing of the Economic Affairs Committee (chaired by Santiago) and Public Works Committee (chaired by Senator Ramon Revilla III) last January 27, it was revealed that the World Bank had sent copies of its report on possible collusion in NRIMP1 to the Department of Finance as early as November 2007, which in turn forwarded it to the Office of the Ombudsman. If the public perception of corruption in the Philippines is high, it's not media's fault for reporting corruption (the common scapegoat for the poor perception) but government's because its response to corruption has been so tepid, at best.

**Cont. at page 3**

### INSIDE THIS ISSUE:

PROJECT UPDATES	2+
NEW PROJECTS	4
WHY THE OMBUDSMAN IS BECOMING UNPOPULAR	7
ANNOUNCEMENTS	10

## 2010 Presidential elections preparations, where's the Comelec at

*By: Farah Sevilla, Junior Research Associate*

In January 2009, the Commission on Elections submitted to the Department of Budget and Management a supplemental budget proposal amounting to Php 11.3-B in addition to the Php 2.6-B budget for the 2010 National Elections. This was hurriedly approved by the department and was forwarded to the Committee on Appropriations headed by Quirino Representative Junie Cua. The proposal sat on the committee only for several days and was approved.

The Comelec just recently announced that the Comelec Advisory Council (CAC) which serves as their technical team had finally decided on the OMR or the Optical Mark Reading machine as the technology to be purchased or leased for the 2010 presidential elections. The OMR is a scanner that has paper trail, election returns, and transmits votes directly to the national canvassing machine. The CAC recommended the use of the OMR technology also because of the customized ballots to be printed per machine in each precinct therefore there is no possibility of ballot switching. With this electoral process, indelible ink and biometrics. Will still be used.

However, the CAC has been informed that Smartmatics sahi, a contractor of election technologies for both DRE and OMR, is asking for changes in the terms of reference/request for proposal (TOR/RFP) for the procurement of election technology, saying that they can bid DRE machines for a competitively affordable price. We do not know what will happen: Will the CAC consider this or will they stick to their earlier recommendation? The said RFP has not been finalized yet, but there are rumors that some contractors already have copies of the RFP.

The senators are looking for the breakdown of the Php 11.3-B poll supplemental budget which the Comelec was not able to answer in one of the committee hearings. This is expected to be approved in January 2009 so that there is enough time for the Comelec and CAC to work with the Commission on Information and Communications Technology (CICT) to prepare for the procurement of the automation machines which they target to begin this March. As per Comelec Resolution No. 8576, CICT is assigned to manage the bidding and procurement of the technology for the upcoming elections.

*Cont. at page 6*

## PASS THE FOI BILL NOW!

*By: Reylynn F. dela Paz, Research and Advocacy Officer*

I live with friends working in a TV network who are program researchers, segment producers, etc. Countless times, I hear them complain about the difficulty of securing a document they need for their stories from government offices. One had to spend her entire day just to get a basic document that should have been readily available in the first place.

This scenario is not strange to many and some of us have probably been victims of this tragedy ourselves. We are familiar with stories of those who after going through hell are still denied access in the end.

In 2007, TAN, together with one of its members, Caucus for Development NGOs (CODE-NGO) lobbied for the inclusion of the transparency provision to be included in that year's General Appropriations Act (GAA) which stated:

*"Right to Information. Subject to limitations as may be provided by law, the right of the people to information on matters of public concern, guaranteed under Section 7, Article III of the Constitution as well as with the state policy of full disclosure of all its transactions involving public interest, every government agency shall, upon request by any citizen, make available the data under their possession for information, scrutiny,*

*copying, or reproduction of all records of information, in any form whatsoever, pertaining to the implementation of the appropriations under this Act including but not limited to information on projects, disbursement of funds, reports, contract bidding and awards."*

Now, I hear people who are afraid and are more or less certain that the President will veto the transparency provision in the 2009 GAA for it would mean losing the weapon to demystify the disbursement of the controversial P50 billion "economic stimulus package".

*Cont. at page 6*

### Collusion

The House of Representatives, on the other hand, cleared all firms named in the INT report, saying they found no evidence of collusion among the bidders. This, after only 2 congressional hearings looking into the matter. What exactly were the congressmen looking for?

Collusion is a crime that rarely has any "hard" evidence, if at all. Colluders do not sign memoranda of agreement amongst themselves, there are no minutes of meetings, no paper trail to follow. They meet in private homes, offices or coffee shops, away from the public eye, to pre-arrange the outcome of the bid-

ding. Those looking for hard evidence are deceiving the public into thinking hard evidence can be found. Collusion is indicated by patterns of behavior (circumstantial evidence) and by those willing to talk (testimonial evidence). Short of wiretapping phone conversations and planting listening devices where colluders meet, circumstantial and testimonial evidence is the best we can hope for. This is what the World Bank used as the basis for imposing administrative sanctions on the seven contractors. The Department of Public Works and Highways would do well to get a copy of the report (perhaps from

their counterparts in the DOF?) and study it carefully.

**According to recent media reports, Secretary Hermogenes Ebdane has conceded that collusion is part of the way that contractors do business. We hope this isn't an admission that such practices are implicitly condoned by the DPWH. Only strong action on the part of the Department of Public Works and Highways will determine if it is serious in addressing the problem of corruption.**

*Cont. from page 1*

### BL and CoST-IAG Conducts Sample Monitoring

*By: Francis Isaac, Research Assistant, Bantay Lansangan*

It is not everyday that we get to interact with visitors, much more with people from outside of the Philippines. But when we do, Bantay Lansangan, like the proverbial Filipino family, is ready to take on a show.

This was exactly the case last January 31, 2009, when BL was invited by the Construction Sector Transparency Initiative (CoST) to perform a sample road monitoring before the members of their International Advisory Group (IAG).



Starting the day bright and early, BL research associate Kiko Isaac, along with BL Volunteer Julius Liwag of the Movement for the Advancement of Student Power (MASP), arrived at the plush Manila Peninsula at 7:30 in the morning, bringing along their kits, measuring tools, and other monitoring paraphernalia. Upon their arrival at the hotel, they went straight to the second floor at Recto Hall where they met BL Executive Director Mr. Vincent Lazatin and CoST Philippines Coordinator Mr. Thirday Gomez.

By 8:00am, the hall was already filled with delegates from CoST-IAG, prompting Mr. Gomez to introduce Mr. Joseph Jesalva from CBCP-Laiko. Mr. Jesalva, for his part, immediately took the floor and gave a short presentation on Laiko's procurement monitoring efforts. He was then followed by Mr. Lazatin, presenting BL's role in monitoring of projects being implemented by the Department of Public Works and Highways (DPWH).



After a few queries from the IAG and some quick replies from the two speakers, the delegation then boarded a waiting coaster parked just outside of the hotel. Accompanied by two motorcycle-mounted police officers, the delegates were brought to an ongoing bridge project by the DPWH-National Capital Region. Located at the corner of Aglipay and Lubiran Sts. in Sta. Mesa, Manila, the Bacood-Mandaluyong Bridge (as the project is called) has a total budget of Php335 million sourced from local funds, and is expected to ease the flow of traffic along Shaw Boulevard as well as in Old Sta. Mesa Street in Nagtahan, Manila.

Upon arrival at the site, the delegation was officially welcomed by Engr. Tayao—DPWH's Assistant Regional Director for NCR. After a short briefing, the floor was given to Isaac of BL who outlined the monitoring tools that have been developed by the partnership. With that done, Liwag took over, giving a walkthrough on how they perform an actual road monitoring.

Lasting for just 20 minutes, the sample monitoring was able to measure the width of the project, and check if the specifications have all been met.

As a reminder of the event, the members of CoST-IAG were each given a hardhat, compliments from Bantay Lansangan.



## NEW PROJECTS:

**Incorporating Governance in the Citizens Report Card**

By: Leslie B. Flores, Project Coordinator

The Transparency and Accountability Network together with the *Association of Schools of Public Administration in the Philippines*, *Evelio B. Javier Foundation, Inc.*, and *Social Weather Stations* will undertake a project on formulating a "Citizens' Governance Report Card" that will be pilot-tested in two local governments in the country in 2009. The project, funded by the Affiliated Network for Social Accountability East Asia and the Pacific (ANSA EAP), aims to pilot-test a tool that can be used by the citizens to objectively assess not only public service delivery but also the quality of governance in their respective municipalities.

The concept of a citizens report card started in India when the concerned citizens of the city of Bangalore

undertook a project to rate the quality of service delivery of its city government in the mid-1990s. Thus the concept of the Citizen Report Card (CRC) was born. This effort has been recognized internationally as a best practice in citizen empowerment and as a means to improve service delivery. The conduct of citizen report cards has also been pilot tested in the Philippines by the UP National College of Public Administration and Governance in 2007 covering the cities of Quezon City and Naawan.

Several innovations to the CRC can be introduced to include an assessment of an LGU's good governance practices which is what this project hopes to achieve through the *Citizens Governance Report Card*. The results of the CGRC can be a sound

basis for the communities, people's organizations, and non-government organizations, to engage in dialogue with their respective local governments. In addition to these, the CGRC is also a means by which citizens can be informed of what can and should be demanded from their local governments in terms of citizens' involvement in good governance. Ultimately citizens can use the results of the CRC as a tool to assess candidates in political contests.

The project conveners have already identified the local government of Iloilo as one of the pilot cities for the CGRC. Iloilo City Mayor Jerry Trenas has already expressed the LGU's support to this initiative. The conveners are yet to identify the second LGU for pilot-test in Mindanao.

**Improving the Quality and Responsiveness of Public Spending in Poor Communities through Localized Procurement Reform**

By: Reylynne F. Dela Paz, Research and Advocacy Officer

Since the enactment of the Government Procurement Reform Act (GPRA) in 2003, various efforts have been done to capitalize on the provisions of the bill that promote transparency, accountability and efficiency in public procurement including the participation of civil society organizations as observers. While many CSOs are now procurement observers, the participation of marginalized communities in procurement is still a gap seen so that these reforms can be fully implemented.

In 2005, the Department of Social Welfare and Development (DSWD) in partnership with the World Bank operationalized the KALAHI-CIDSS project where community based procurement was practiced. It successfully promoted transparency in the use of public funds and developed the skills of community volunteers in conducting procurement.

Taking off from this success, TAN in partnership with the Government Procurement Policy Board (GPPB) and the World Bank will be implementing a project on Improving the Quality and Responsiveness of Public Spending in Poor Communities through Localized Procurement Reform funded under the Japan Social Development Fund (JSDF)

In 2008, a series of regional consultations involving representatives from Municipal Local Government Units, local CSOs and community volunteers from KALAHI-CIDSS areas were held to solicit their ideas on what appropriate interventions do they need to effectively participate in procurement reform initiatives.

The outputs of the consultations were incorporated in the final proposal that was approved and will be implemented

early this year. The project involves three components: **(1) Institutionalizing participatory public procurement processes in poor communities** which largely focuses on sustaining the partnership between Barangay Local Government Units and the community for procurement to ensure more efficient and responsive public services in poor communities; **(2) Localizing procurement reform at the Municipal level** which will concentrate on developing partnership mechanisms between Municipal Local Government Units and CSOs for transparent procurement in accordance with the GPRA ; and **(3) Monitoring and evaluation and project management** which will zero in on establishing a government-CSO partnership for procurement reform.

TAN is currently finalizing the Operations Manual for the project.

## THE SEARCH FOR THE NEXT SUPREME COURT ASSOCIATE JUSTICE STILL ON:

### Supreme Court Appointments Watch Update

By: Leslie B. Flores, Project Coordinator

On 14 January 2009, Malacañang has announced the appointment of Sandiganbayan Presiding Justice Diosdado Peralta as the new associate justice of the Supreme Court. Peralta replaced former Justice Ruben Reyes who retired from the post after reaching the mandatory retirement age of 70. Justice Peralta is one of three justices of the Sandiganbayan Special Division involved in the plunder case of former president Joseph Estrada.



The other nominees shortlisted by the Judicial and Bar Council for the Supreme Court were Ateneo College of Law Dean Cesar Villanueva, Sandiganbayan Justice Francisco Villaruz, and Court of Appeals Justices Portia Hormachuelos and Martin Villarama.

The next Supreme Court Justice due to retire in February 2009 is Justice Adolfo Azcuna. There are eighteen candidates for this vacancy. They are the following:



Abad, Roberto A. - Private Practitioner; Dean, UST Faculty Of Civil Law  
 Abdulwahid, Hakim - CA Justice  
 Acosta, Ernesto D. - PJ-CTA  
 Bersamin, Lucas P. - CA Justice  
 \*Bunag, Jose Mario C. - Private Practitioner  
 \*Devanadera, Agnes VST - Solicitor General  
 Dimaampao, Japar B. - CA Justice  
 \*Enriquez, Juan Jr. Q. - CA Justice  
 \*Fernando, Remedios Salazar - CA Justice  
 \*Hormachuelos, Portia Alino - CA Justice  
 \*Reyes, Andres Jr. B. - CA Justice  
 \*Robles, Rodolfo - private practitioner; Chair of the Board and President, Landphil Management Development Corp.  
 \*Sandoval, Edilberto G. - Sandiganbayan Justice  
 Sanidad, Pablito Sr. V. - private practice  
 Tolentino, Amelita De Guzman - CA Justice  
 \*Villanueva, Cesar L. - Dean, Ateneo School of Law  
 \*Villarama, Martin Jr. S. - CA Justice  
 \*Villaruz, Francisco Jr. H. - Sandiganbayan Justice

Eleven out of these eighteen candidates have already applied for the Supreme Court associate justice position vacated by Justice Reyes in December 2008 (*those with asterisks before their last names in the above list*). As a matter of rule, these eleven candidates shall no longer be subjected to public interview by the JBC as their interviews during the Reyes vacancy are good for one year.

Meanwhile, the Supreme Court Appointments Watch and the Citizens' Search Committee for the Supreme Court (CSCSC) continuously intensify its search for potential candidates for the Supreme Court associate justice. SCAW has published the CSCSC's call for nominations both in Business World and ANC, websites, and has also written law schools in the country to nominate potential Supreme Court associate justice candidates. The deadline set by the CSCSC for submission of applications is extended until February 28, 2009. A SCAW campus tour is also being scheduled in February 2009.

*\*Candidates who already applied for the Supreme Court associate justice vacancy due to the retirement of Justice Ruben Reyes*

**2010 Elections...** *Cont. from page 2*

The Transparency and Accountability Network is excited with the bidding process for the automation of the 2010 national and local elections where an estimate of 85,000 machines is to be acquired. Because of the new automated electoral process, the bidding process is expected to be done properly and promptly to give ample time for voter education which we know is important.

Hopefully this time the Comelec gets it right. As we know that automation has failed in the past elections since the approval of the election modernization bill in 1997. Going back in 2004, the Comelec failed in following the bidding process in the awarding of P1.3-billion contract to Mega Pacific eSolutions, which the Supreme Court found to be unqualified bidder. (<http://pcij.org/i-report/special/comelec3.html>)

Together with other civil society organizations, TAN calls for a positive outcome for the acquisition of machines for the automation election system of the Comelec. May there be a positive work relationship with the procurement agent, in this case the CICT, so that together we promote a transparent, accountable, and clean procurement process.

**Pass the FOI Bill..** *Cont. from page 2*

And if she vetoes it now should I be surprised knowing that secrecy has been GMA's favorite policy? Maybe not.

GMA has successfully led the entire bureaucracy about governing in the dark. For in the name of national security and all possible ambiguities, they demand the moon and the stars from someone asking for a piece of information. For instance, my friends from the media had to unnecessarily brag about the company they're from, as a last resort, to be able to secure the information they need. But the truth is that there is no need for anyone to represent a prominent organization or institution but only his/her citizenship to be able to access public information and documents because no less than the constitution grants him/her that access.

But agencies would argue and say "Which documents are public anyway?" or "The request should clearly state the purpose and that they should pay this huge amount because this document is of utmost importance!"

These questions are fortunately dealt with by the Freedom of Information Act that was passed in Congress last May 2008 and is now awaiting the same fate in the Senate.

The bill presupposes that all documents in the custody of any government office should be made accessible in a clearly defined manner including reasonable fees and timeframes. One of the features of the bill is the public interest override where the burden of explaining the reason for denial of access to information is placed in the hands of the government and should be satisfactory in the gauge of public interest. Mandatory disclosure is another feature of the bill where government agencies are mandated to take the initiative to disclose certain information even without the request from the public.

The Access to Information Network (ATIN) to which TAN is a member has been actively pushing for the passage of the bill in the Senate. It held a series of dialogues with Senators and will soon expand the network of advocates to increase the volume of the clamor for the law. This legislative advocacy has been in existence since the 12<sup>th</sup> Congress but never did it lose hope that the FOI Act will finally come to reality soon so that this government and the next ones will start to live normally – in the light and complete transparency.

## WHY THE OMBUDSMAN IS BECOMING UNPOPULAR

By: Toix Cerna, Head, Research and Project Development

The Ombudsman is dubbed 'protector of the people' and by its mandate, it should “act promptly on complaints filed in any form or manner against officers or 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 to the people” (Section 13, R.A. 6770). Further, it is directed to “give priority to complaints filed against high ranking government officials and/or those occupying supervisory positions, complaints involving grave offenses as well as complaints involving large sums of money and/or properties.” (Section 15, R.A. 6770) In this, the Ombudsman's performance can be gauged by its capacity to prosecute (measured by the conviction rate) and its relations with the public.(Ibid.)

Year	Net Sincerity Rating (Very/ Somewhat Sincere – Somewhat/ Very Insincere)	Ombudsman
2000	-5	Desierto
2001	+7	
2002	n.a.	Marcelo
2003	+21	
2004	+28	
2005	+22	Gutierrez
2006	+6	
2007	+9	
2008	+4	

Desierto



Marcelo



Gutierrez



From the Social Weather Stations (SWS)' annual enterprise surveys, the Office of the Ombudsman (OMB) is seen to be most popular during Marcelo's leadership, exhibiting 'moderate' sincerity in fighting corruption. Under Gutierrez' leadership, however, the Ombudsman's anti-corruption efforts are found to be 'mediocre'. ([www.sws.org](http://www.sws.org))

During Marcelo's leadership, one of the key programs that the OMB undertook was to strengthen its prosecutorial arm through trainings and recruitment of additional staff. Gains from this effort were seen with the immediate increase in the conviction rate of the Ombudsman from a mere 6% to 14% or over a hundred per cent improvement in performance. (Monsod, 2004) These gains have spilled over to Gutierrez' administration. The Ombudsman's conviction rate in 2007 is 55%. (Ombudsman, 2008) The following year, however, this has gone down dramatically to 14.43% for the period January to June 2008. The worst months were March (5% conviction), May (3%), and June (0%). (Visperas, 2008) As of October 31, 2008, the Sandiganbayan disposed 349 cases with only 25 resulting in convictions, a rate of 7%. This downward trend in public perception and even in the actual performance of the Ombudsman in its primary function of prosecuting erring public officials paints a dim picture for the country's overall anticorruption efforts. The Millennium Challenge Corporation (MCC) reflects this in their assessment of the Philippines, showing declining scores in the country's control of corruption - 76% (2007), 57% (2008), and 47% (2009). (Rufo, 2008a) In its 2008 survey, the Political and Economic Risk Consultancy, Inc. reports the Philippines as the number one most corrupt country in Asia (Bonabente, 2007)

1 The Social Weather Stations ratings of net sincerity are as follows: 'very good' for over +50 net rate, 'good' for +31 to +50, 'moderate' for +11 to +30, 'mediocre' for +10 to -10, 'poor' for -11 to -30, 'bad' for -31 to -50, 'very bad' for below -50. ([www.sws.org](http://www.sws.org))  
 2 When Marcelo came in, the Ombudsman just had 32 full-time prosecutors. This has increased to 113 prosecutors at present. (Conde, 2005; Rufo, 2008)  
 3 Conviction rate is computed as the number of cases that resulted in convictions, including guilty pleas over the number of decided cases by the Sandiganbayan as brought forward by the Ombudsman. This is not the same as Assistant Ombudsman Jalandoni's definition (number of convictions over number of dismissals x 100). (Rufo, 2008a)  
 4 The Millennium Challenge Corporation (MCC) is a United States Government corporation that provides aid to developing countries, following the principle that aid is most effective when it reinforces good governance, among others. In this, before a country becomes eligible to receive assistance, MCC looks at their performance on independent and transparent policy indicators. (<http://www.mcc.gov>)  
 5 This includes: a) \$2million bribery case involving Gutierrez' former boss, Justice Secretary Hernando Perez, b) P2billion peso contract between the COMELEC and Megapacific, c) Multi-million dollar deal on NBN-ZTE deal, and d) fertilizer scam.  
 6 Rufo, 2008a.

## WHY THE OMBUDSMAN IS BECOMING UNPOPULAR

Cont. from page 7

In what seems to be a disappointing performance by the Ombudsman under the stewardship of Gutierrez, we ask the question why – *Is there institutional weakness? Is it a question of leadership? Is it unlucky circumstances?*

The Ombudsman's current institutional capacity is a far cry from Hong Kong's Independent Commission Against Corruption, which is provided enough resources to ably perform its mandate. It was only during Marcelo's leadership that real actions had been taken to strengthen the Ombudsman, such as increasing manpower and financial resources. Still, the Ombudsman's capacity do not match the ICAC's in terms of resources.

Hong Kong (ICAC)	Philippines (Ombudsman)
Budget: US\$10 to \$90 million annually 2003: US\$90 million or P5 billion Size of bureaucracy: 150,000 Staff: 1,060 Ratio: 1:142 civil servants	2007: P825.5 million (from P481.4 million in 2003) Size of bureaucracy (2003): 1.4 million Staff (2007): 964 Ratio: 1:1,400 civil servants
Prosecution done by another office About 3,000 cases handled annually	Prosecutors: 113 (from 52 prior to 2003) About 10,000 cases handled annually Ratio: 1: 88 cases Workload as of 2008: 20,000 cases (from 7,695 in 2003)



([www.mbc.com.ph](http://www.mbc.com.ph): Ombudsman, 2008)

The institutional reforms begun during Marcelo's time resulted in improved performance for the Office of the Ombudsman– e.g. higher conviction rate and improved credibility (higher net sincerity ratings). Aside from the additional resources given to the Ombudsman, Marcelo 're-engineered' the internal procedures at the Ombudsman. Marcelo decentralized some powers to the deputy Ombudsmen, retaining a few key powers to ensure check and balance. This delegation of powers resulted in efficient handling of cases, without necessarily compromising the integrity of the institution through sufficient checks and balance in place. Marcelo also recognized the importance of the Office of the Special Prosecutor and the Field Investigation Office, and thus implemented programs to strengthen the two offices – recruitment of additional prosecutors (from 52 to 104 in 2003 and 113 in 2007) and investigators (from 37 to 96 in 2003 and 158 in 2008) and trainings. Further, as integrity is a key characteristic looked for in the Ombudsman personnel, screening of applicants was very stringent – background investigations were thoroughly conducted. (Anonymous, 2009)

With Gutierrez as new Ombudsman, most of these institutional practices/policies have been undone. Gutierrez centralized almost all decisions – e.g. travel orders, information dissemination, approval/disapproval of complaints filed by the Field Investigation Office before the Preliminary Investigation Administrative Adjudication and Monitoring Office (PAMO) – and entrusted approval powers to only Assistant Ombudsman Mark Jalandoni and Overall Deputy Ombudsman Orlando Casimiro. (Rufo, 2008b; Office Order 20 series of 2006) The Deputy Ombudsmen for Luzon, Visayas and Mindanao were ordered to transfer all pending cases involving governors and vice-governors to the Office of the Overall Deputy Ombudsman. Even the Ombudsman's official spokesman, Jose de Jesus, has to seek clearance from the Ombudsman and her 'delegates' before he can do his job as spokesperson and liaise with media. As a result of this centralized decision-making, conviction rates dropped and the staff became demoralized. Gutierrez also strained relations with the Office of the Special Prosecutor (OSP) headed by Dennis Villa-ignacio. Allegedly, because of this, a no hire policy for the OSP was adopted, which explains the 36% prosecutorial positions unfilled. (Rufo, 2008a) Also, through Office Order 22 issued in January 2008, key subordinates of Villa-ignacio are directed to report to Gutierrez at least once a week, a rather odd arrangement, showing clear distrust for the Special Prosecutor. All these moves by Gutierrez toward the OSP contribute not only to the low conviction rate but also to a public perception of the Ombudsman as a discordant office and therefore ineffective.

8 Anonymous, 2009.

## WHY THE OMBUDSMAN IS BECOMING UNPOPULAR

Cont. from page 8

Another institutional strength that Marcelo built on during his leadership was the Ombudsman's good relations with other partner organizations in the fight against corruption (Commission on Audit, Civil Service Commission, Presidential Anti-Graft Commission, and civil society organizations such as the Transparency and Accountability Network). The Solana Covenant – a covenant between the OMB, COA, and CSC – was a celebrated agreement among 'like-minded institutions' towards a more coordinated approach to fighting corruption. It outlined programs of the three agencies that should not duplicate but rather complement and strengthen each other's anticorruption efforts. (Newsbreak, 2007)

When Gutierrez assumed the post as new Ombudsman, the Inter-Agency Anti-Graft Coordinating Council (IAAGC), composed of the OMB, COA and CSC, was deactivated - as chair of the IAAGCC, she simply did not convene the council. The result of uncoordinated efforts is but of course duplication of programs such as the Oplan Red Plate, which should have been a CSC program under the Solana agreement. (Ibid.) Gutierrez' relations with civil society organizations also became strained contrary to claims that strategic alliances with CSOs and other stakeholders have been formed. (Ombudsman, 2008) For instance, the Ombudsman cut ties with openly critical CSOs such as TAN, unlike during the time of Marcelo, when criticisms from CSOs were appreciated as constructive dialogues. Thus far, TAN has remained outside the Ombudsman's friendly relations circle.

***From the looks of it, the apparent weakness of the Ombudsman as an institution as mentioned above is the doing of poor leadership. The low conviction rate is explained by a highly centralized system, a weakened Office of the Special Prosecutor, and a demoralized staff. This and bad relations with other anticorruption organizations contribute to the bad image of the Ombudsman and thus its growing unpopularity.***

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**The Citizens' Search Committee for the Supreme Court**  
Request for Submission of Nominees for the Supreme Court  
December 2, 2008 to February 28, 2009

In view of the upcoming vacancies for Associate Justice at the Supreme Court of the Philippines, **the Citizens' Search Committee for the Supreme Court (CSCSC) is open to receiving nominations from civil society, academic institutions, business, professional or non-governmental organizations, for the Associate Justice position.**

After a proper screening process, all candidates that are determined by the Committee to be fit and qualified, will be endorsed to the Judicial and Bar Council for the Associate Justice position and their documents submitted to the same.

This process will not substitute for the JBC screening process. It is being undertaken by private individuals that have come together to form the CSCSC in order to widen and deepen the search for qualified nominees for the Supreme Court.

The 1987 Philippine Constitution requires that the candidate for Associate Justice must be a natural born citizen of the Philippines, at least 40 years of age at the time of his/her appointment, must have been a judge of a lower court or engaged in the practice of law in the Philippines for at least 15 years and **of proven competence integrity, probity and independence.**

**Citizens' Search Committee for the Supreme Court Members:**

Justice Hilarion Aquino, Dean Andy Bautista, Ambassador Albert del Rosario, Mr. Eddie Go, Atty. Raissa Jajurie and Professor Solita Monsod

**For more information:**

Visit [www.scaw.org.ph](http://www.scaw.org.ph) or call (632) 434- 0525/ (632) 435-0203 or e-mail [tan\\_secretariat@hotmail.com](mailto:tan_secretariat@hotmail.com)

**ANNOUNCEMENTS:**

*The TAN Operations Team would like to request TAN members to submit articles regarding their activities/ projects.*

*Kindly e-mail them to [tan\\_secretariat@hotmail.com](mailto:tan_secretariat@hotmail.com) or to [byjies@yahoo.com](mailto:byjies@yahoo.com).*

**F**or those who might be interested to submit a proposal to European Union the full guidelines for applicants and application documents are available at the Delegation of the European Commission, RCBC Plaza Tower 2, 30F, 6819 Ayala Ave., corner Gil Puyat, Makati City 1200, Philippines and can be downloaded from this internet site: <http://www.delphl.ec.europa.eu/>

There will be 2 deadlines for the submission of concept notes: **16 March 2009 at 17:00, Manila time, and 30 June 2009 at 17:00, Manila time**

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