

[Working Paper Series: Pandemic Crisis and Democratic Governance in Asia – Part I]

## **Pandemic Governance in the Philippines: Democratic Recession and Corruption Risks**

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### **Introduction<sup>1</sup>**

Previous studies indicate that established democracies show lower levels of corruption than authoritarian regimes or young democracies.<sup>2</sup> In this regard, it is interesting to consider how authoritarian tendencies have diminished the role of democratic institutions and systems of checks and balances that control corruption. The outbreak of corruption scandals that accompanied the Corona Virus Disease (COVID)-19 health crisis in 2020 exemplifies how the democratic recession has negatively affected the state of public accountability in the Philippines.

This study probes into whether the COVID-19 pandemic further promoted democratic recession and corruption in the Philippines. It examines the patterns of irregularities emerging from the implementation of public programs aimed at responding to the crisis. Poorly designed institutional arrangements and weak democratic controls foster opportunities for the commission of illicit transactions in the delivery of public goods and services. Finally, this study considers the importance of reviving democratic institutions as a key effort in fighting corruption on a long-term basis.

The eruption of the pandemic shed light on the severe corruption vulnerabilities in many countries. However, even before the pandemic, it was estimated that the loss of about 10 to 25 percent of a public contract's value could be attributed to corruption.<sup>3</sup> Currently, over 7.8 trillion USD is allocated annually to public health globally.<sup>4</sup> With more public funds being made available to fight the pandemic, stronger safeguards are needed to prevent corruption.

The COVID-19 pandemic was found to have hastened corruption. The potential for corruption in

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<sup>1</sup> Throughout the year, ADRN members will publish a total of three versions of the Pandemic Crisis and Democratic Governance in Asia Research to include any changes and updates in order to present timely information. The first and second parts will be publicized as a working paper and the third will be publicized as a special report. This working paper is part I of the research project.

<sup>2</sup> Ina Kubbe and Annika Engelbert, "Corruption and the impact of democracy." *Crime, Law and Social Change* 70, 2 (2018) 175-178.

<sup>3</sup> UNODC, *Guidebook on Anti-Corruption in Public Procurement and the Management of Public Finances*. New York: United Nations Office on Drugs and Crime (2013),

[https://www.unodc.org/documents/corruption/Publications/2013/Guidebook\\_on\\_anti-](https://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf)

[corruption\\_in\\_public\\_procurement\\_and\\_the\\_management\\_of\\_public\\_finances.pdf](https://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf) (Accessed on October 18, 2013).

<sup>4</sup> WHO, *Global spending on health: A world in transition*, WHO/HIS/HGF/HF Working Paper, No. 19.4, Geneva: World Health Organization (2019);

[https://www.who.int/health\\_financing/documents/health-expenditure-report-2019.pdf?ua=1](https://www.who.int/health_financing/documents/health-expenditure-report-2019.pdf?ua=1) (Accessed on February 6, 2020).

pandemic times is greater especially as pressures for swift government action may lead to shortcuts that damage the integrity of institutional processes. The main risk areas include the withholding of accurate health data, irregularities in public procurement, purchase of sub-standard equipment, and misappropriation of health budgets.<sup>5</sup>

As the first case was to have been reported on November 17<sup>th</sup>, 2020 in Wuhan, China - a city in Hubei Province- the COVID-19 pandemic is acknowledged to have begun during this time. In the following weeks, cases of people infected with the virus piled up. However, the Chinese government hid health data and even reprimanded local doctors who warned of the new disease. It was not until December 31, 2019 that the government informed the World Health Organization (WHO) China Country Office on the existence of the fast-spreading virus. Such lack of transparency prevented health authorities over the world from taking preventive action and containing the transmission of the coronavirus across cities, nations, and borders.<sup>6</sup>

## Corruption and Economic Crisis

The Philippine economy suffered heavily from the onslaught of COVID-19. The Philippine Statistics Authority reported that the gross domestic product (GDP) dropped by 16.5% during the second quarter of 2020. This came on the heels of a 0.7% GDP decline during the first quarter of the same year. This announcement confirmed that the country descended into an economic recession as two consecutive quarters resulted in negative GDP growth in 2020.

The last time the GDP sank dramatically in the Philippines was during the final years of the Marcos regime when the GDP dropped to 10.5 percent during the first quarter of 1985. The economic crisis under authoritarianism was fomented by the unchecked exercise of executive discretion, widespread crony capitalism, and the absence of strong democratic institutions for rules-based governance. These factors were the same factors that drove investors away from the country.

A key role of democratic institutions is to level the playing field in both political and economic competition. Such institutions enable the effective application of rules and incentives that govern the behavior of actors in a system. To function well, institutions should be able to exercise independently from particularistic interests in society. It is crucial that they maintain their integrity, transparency, and accountability. Democratic institutions must also be cautious to prevent power from being in the hands of the few as this can lead to corrupt use.

The prevalence of captured institutions and abuse of power brought the economy to its knees under authoritarian rule. The unimaginable amount of money wasted in corruption at that time was fueled by the politics of plunder.<sup>7</sup> The restoration of democracy in 1986 brought hope that the reinstitution of a system of checks and balances, independent media, and rule of law would provide a better environment for the economy to grow. While corrupt practices have persisted in the Philippines, they have been moderated through institutional and societal

<sup>5</sup> Sarah Steingrüber, Presentation at the “25 years of fighting with the nation the perennial pandemic of corruption” Virtual Town Hall Discussion, Transparency International-Philippines and Stratbase ADR Institute, August 28 2020.

<sup>6</sup> Sarah Steingrüber, Monica Kirya, David Jackson, and Saul Mullard, *Corruption in the time of COVID-19: A double-threat for low-income Countries*, U4 Anti-Corruption Resource Centre, 2020.

<sup>7</sup> Belinda Aquino, *Politics of plunder: The Philippines under Marcos*, Quezon City: Great Books Trading, 1987.

oversight. While political clans have remained, they have to compete in regular elections.

It has taken more than two decades to establish credible institutional mechanisms to regain investor confidence in the Philippine economy. This required slow, painstaking moves for reforms that were pushed and carried out across the single-term presidential administrations. Among the crucial reforms are the creation of an independent central bank, installation of a competition commission, setting up of an effective fiscal and treasury system, building strong checks and balances, and integrating oversight provisions in public procurement, public-private partnership tenders, and government-owned and controlled corporation activities.<sup>8</sup>

The results from these reform efforts are certainly worth the wait. The legacy of the authoritarian years led to a decrease in GDP per capita that lasted for two decades starting from 1982. After reaching the 1982 GDP per capita level in 2003, the Philippines experienced continuous growth in GDP levels in succeeding years. The GDP growth rates averaged at more than 6% for the past five years. The pursuit of judicious borrowing and disciplined repayment programs that were applied over the years earned the country a good sovereign credit rating.

The steady growth rate of the economy was grounded to a halt with the vicious arrival of the COVID-19 pandemic in 2020. In many places around the world, including the Philippines, demands were made for the transfer of emergency authority and funds to the executive branch. This is a rational request to respond to the health crisis swiftly and efficiently. As huge amounts of public funds are allocated and used to address the health and economic crisis, the institutional safeguards for transparent and accountable governance, checks and balances, and strong audit and legislative oversight must be in place.

## Corruption in the Health Sector

The corruption risks in the health sector surfaced conspicuously with the eruption of allegations regarding the misuse of funds by the Philippine Health Insurance Corporation (PhilHealth) at the height of the COVID-19 crisis in 2020. The PhilHealth case brought to the fore the weak exercise of institutional control mechanisms in the state-run agency. The resigned anti-fraud officer and head executive assistant of PhilHealth became whistleblowers by revealing information that led to investigations by the Senate, House of Representatives, and Presidential Anti-Graft Commission on the malpractices in the government corporation. Previous to that, rampant financial violations were observed in reports rendered by the Commission on Audit (COA). These indicate the importance of legislative and audit oversight agencies as accountability institutions within a system of checks and balances.

In the case of PhilHealth, it has been reported that COA struggled in auditing the agency due to the difficulty of obtaining documents from its central office. Corruption is perpetrated when there is a deviation from legal and institutional norms. The system of checks and balances to combat corruption can be improved through the adoption of an integrated approach. This requires promoting a comprehensive strategy that includes the facilitation of basic democratic standards, participation of a strong civil society engaged in transparency and accountability work, and the consistent application of the rule of law.

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<sup>8</sup> Mendoza, Ronald, Presentation at the “Continuing political development towards a better (new) normal: Making public institutions matter” Virtual Town Hall Discussion, Stratbase ADR Institute, August 3 2020.

Minimizing information asymmetry can reduce corruption vulnerability. The poor information technology system of PhilHealth paves the way for the processing of fraudulent claims in the agency. It is also said that key officials in the agency have strong political backers. There are also regional officials in the agency that have managed to avoid being assigned to other jurisdictions. In the case of the Philippines, it is evident that public personnel corruption was encouraged by a political culture driven by patronage. Therefore, it can be said that the regular rotation of key officers and staff will lessen the risks of unhealthy relationships and corruption risks.

Corruption should not be simplified as a mere irregularity or a deviant act. The focus should be placed on corrupt systems. Corruption prevention strategies should look for ways to reduce monopoly power, limit and clarify discretion, and promote transparency and accountability in governance. As a crime with intent, corruption could be countered by converting it into a high-risk activity through the judicious application of institutional controls, checks and balances, social accountability, and the rule of law.

It is disconcerting that a spate of allegations had been raised on the misuse of public funds amid the uphill battle of the Philippines to control the COVID-19 crisis. The Senate investigated the questionable disbursement of funds by the Philippine Health Insurance Corporation (PhilHealth) drawn from the P30-billion Interim Reimbursement Mechanism (IRM). The IRM is an emergency support program for hospitals taking care of COVID-19 patients. During the Senate hearings, Senator Panfilo Lacson questioned why P231 million from the IRM were released to 48 dialysis centers and 4 maternity clinics with no COVID-19 related cases.<sup>9</sup> This was supported by Senator Francis Tolentino who stated that some hospitals were able to collect benefit claims for COVID-19 cases even if the patients were admitted for other ailments.<sup>10</sup>

COVID-19 affects not just people's health but public finance as well in a very detrimental way. As the crisis deepens, it was revealed that the use of the IRM fund was just one of the many corruption cases that occurred during the pandemic-stricken times. A number of other irregular actions were suspected to also have corruptly utilized the COVID-19 response funds. These include ghost payments to deceased patients in the form of receiving support for hospitalization from PhilHealth, and the purchase of overpriced personnel protective equipment, ventilators, and other medical supplies for hospitals and quarantine facilities by the Department of Health (DOH). The Office of the Ombudsman opened its own investigation on the accountability of the DOH on accusations of corruption in 2020.<sup>11</sup>

### Corruption Perception on the Rise

Corruption perception in the Philippines has been on the rise even before the pandemic. The country slipped 14 spots in the 2019 global corruption index released by Transparency International (TI). The Corruption Perception Index (CPI) is a credible index utilized by many respected institutions that are composed of a combination of 13 surveys and assessments of corruption by experts and businesses. Perceptions of high levels of corruption in

<sup>9</sup> Christia Marie Ramos, "Lacson scores PhilHealth for releasing P45 M to unregistered dialysis center," *Philippine Daily Inquirer*, August 11 2020, <https://newsinfo.inquirer.net/1320093/lacson-scores-philhealth-for-releasing-p45m-to-unregistered-dialysis-center> (Accessed on August 11, 2020).

<sup>10</sup> Marlon Ramos, "P15 billion went to PhilHealth 'syndicate' – whistleblower," *Philippine Daily Inquirer*, August 5 2020, <https://newsinfo.inquirer.net/1316858/whistleblower-p-15b-went-to-philhealth-syndicate> (Accessed on August 8, 2020).

<sup>11</sup> Dolores, Espanol, Dolores, Discussion at the "Continuing political development towards a better (new) normal: Making public institutions matter" Virtual Town Hall Discussion, Stratbase ADR Institute, August 3 2020a.

society tend to erode confidence in the sustainability of democracy in the country. The Philippines scored 34 out of 100 in the 2019 CPI ranking 113 out of 180 countries. This was lower than the country's score of 36 in the 2018 CPI, ranking 99<sup>th</sup>. As the Philippines continues to perform poorly in the CPI, it is crucial to analyze the reasons for the decline and find potential remedies.

The downward slope of the performance of rule of law is one explanation of the weakening of the country's institutional defense to fight corruption. In the 2020 Rule of Law Index, the Philippines registered an overall score of 0.47 scoring below the global average of 0.56 and the regional average of 0.60. Globally, it ranks 91 out of 128 countries surveyed. Published by the World Justice Project (WJP), the Rule of Law Index is regarded as the leading source for original, independent data on the rule of law. It depicts the rule of law in 128 countries by presenting scores and rankings based on eight factors: Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice.<sup>12</sup>

The Rule of Law Index embodies the experiences and perceptions of both ordinary citizens and in-country professionals regarding the performance of the state and its agents and the actual operation of the legal framework in their country. The General Population Poll questionnaire includes 127 perception-based questions and 213 experience-based questions, together with socio-demographic information on all respondents. It is administered by leading local polling companies using a probability sample of 1,000 respondents. The Index team determined, on average, more than 300 potential local experts per country to respond to the Qualified Respondents' Questionnaires.

Since 2015, the Philippines recorded declining results in the Rule of Law Index with a score of 0.53 in 2015, 0.51 in 2016, 0.47 in 2017-2018, 0.47 in 2019, and 0.47 in 2020. The Rule of Law Index 2020 shows that more countries' rule of law performance deteriorated than improve for three consecutive years. This means that a continuous weakening and stagnating rule of law is evident around the world. The Philippine data is consistent with the global trend since its score has remained the same for the past three years.

At the global level, the highest levels of decline by country over the past year were seen in the areas of 'Constraints on Government Powers' (52 declined, 28 improved), 'Fundamental Rights' (54 declined, 29 improved), and 'Absence of Corruption' (51 declined, 26 improved). The Philippines is following this pattern as its score went down in the areas of Constraints on Government Powers (from 0.53 in 2019 to 0.50 in 2020), Fundamental Rights (from 0.42 in 2019 to 0.41 in 2020), and Absence of Corruption (from 0.47 to 0.46 in 2020).

### **Erosion of Institutional Constraints**

The erosion of institutional constraints on the power of the government is related to the ascending trend towards authoritarian populism in many countries. Active efforts are made by the executive branch to weaken the independence of other branches of the government. Independent public oversight agencies suffer from a lack of budget support. The standing of the press as the fourth estate in the political system stands on precarious ground

<sup>12</sup> WJP, *Rule of Law Index 2019*, Washington, D.C.: World Justice Project, 2019, <https://worldjusticeproject.org/sites/default/files/documents/ROLI-2019-Reduced.pdf> (Accessed on March 11, 2020).

as media outlets and practitioners are threatened with closure and court cases.

Populism thrives where citizens look at strong leaders more favorably than strong institutions. A 38-nation survey conducted by the Pew Research Center in 2017 indicates that actors with unrestricted executive power have a significant amount of supporters. In twenty countries, a quarter or more of those polled preferred an arrangement in which a strong leader can make decisions without interference from the legislature and judiciary branch. This political trajectory is evident in countries where the executive branch has extended or consolidated its power in recent years. The overpowering executive branch demonstrates a weakening of the checks and balance system that is inherent in representative democracy. In the case of the Philippines, the survey finds that half of the population was favorably inclined towards strongman rule.<sup>13</sup>

In Philippine politics, it is common for elected officials to jump into the presidential bandwagon after the national elections. After the 2016 presidential election, a mass exodus of politicians to the PDP-Laban, the ruling political party of President Rodrigo Duterte, ensued. Given the absence of strong policies due to political turncoatism, many elected legislators transferred to the party of the newly elected president as well as allied parties to be appointed to Congressional committee positions. The authoritarian tendencies of populism are reinforced when the ranks of opposition parties are decimated through party switching. This weakens the independence of the legislature from the executive. The existence of an opposition is supposed to ensure the existence of a functioning democracy as it serves to keep in check the power of the ruling coalition. The opposition became a token force in the Philippine Congress after legislators rushed en masse to the administration side.<sup>14</sup>

Democratic norms and rules are molded over time through the healthy competition between the administration and opposition parties.<sup>15</sup> In the Philippines, however, the absence of strong political parties carrying well-defined platforms of governance prevents the institutionalization of political contestation based on policy differentiation. Political parties become mere vehicles for the candidates to be elected into office instead of being substantive agents of representation. In this context, personality-oriented elections are routinized and become the norm. Citizens become less meticulous in scrutinizing the plans and programs of the leaders they choose to run the affairs of the state.

For the most part, Congress is unable to act independently from the executive branch due to the lack of a disciplined political party system. Nothing prevents politicians from jumping from one party to another without repercussions. This results in the transferring of most legislators to the ruling party or the allied parties of the Chief Executive.

## Challenges to Freedom of the Press

The freedom of the press is faced with tremendous challenges in the age of populism. In 2018, the government, by

<sup>13</sup> Richard Wike, Katie Simmons, Bruce Stokes and Janell Fetterolf. *Globally, broad support for representative and direct democracy*, Pew Research Center, 2017.

<sup>14</sup> Andreo Calonzo, "Lakas exodus continues: Belmonte moves to LP," *GMA News*, November 18, 2009, <http://www.gmanetwork.com/news/news/nation/177267/lakas-exodus-continues-belmonte-moves-to-lp/story/> (Accessed on November 20, 2018); Mara Cepeda, "If LP exodus continues, party loses Commission on Appointments seat," May 21 2017, <https://www.rappler.com/nation/170122-liberal-party-seat-commission-appointments> (Accessed on November 19, 2018)

<sup>15</sup> Seymour Martin Lipset, "The Indispensability of political parties," *Journal of Democracy* 11: 1, (2000); 48-55.



citing the rulings of the Securities and Exchange Commission (SEC), barred the ‘Rappler,’ an online news platform that has published critical reports on government action, from covering palace press briefings and other presidential events. The regulatory agency revoked Rappler’s registration papers for violating foreign ownership rules. However, the SEC stated that the online news site could continue with its operations pending its appeal to the courts.<sup>16</sup> This was followed by a court ruling in which the executive director of Rappler, Maria Ressa, and former Rappler reporter Reynaldo Santos Jr was found guilty of cyber libel. This controversial case was seen as a major test on the freedom of the press under the Duterte administration. In May 2020, the court ordered a jail sentence ranging from six months and one day to a maximum of six years. This was the first case in the country for a reporter to be convicted for cyber libel. The court allowed Ressa and Santos to post bail, pending an appeal. The case is the first of at least eight active cases filed against Ressa and her media organization since Duterte assumed office.<sup>17</sup>

In numerous speeches since assuming office in 2016, President Duterte said he would block the renewal of ABS-CBN’s franchise. Duterte accused the network of “swindling” and slammed the media giant for supposedly not airing his political ad that was already paid for during the campaign period last year. ABS-CBN and the Philippine Daily Inquirer were singled out by Duterte among the media organizations that have shown or published what he deemed to be unfair or slanted reports about him, including those on his war on drugs.<sup>18</sup>

In addition, the House of Representatives Committee on Legislative Franchises rejected the franchise application of the ABS-CBN Corporation on July 10, 2020. It refused the franchise application of the broadcast organization to construct, install, establish, operate and maintain radio and broadcasting stations in the Philippines. The resolution to deny the ABS-CBN a franchise application was adopted with 70 committee members voting in favor of the resolution, 11 against, and with 1 abstention and 2 inhibitions. Before approving the resolution, the committee adopted the recommendation of its technical working group that proposed the non-renewal of the ABS-CBN franchise.<sup>19</sup>

## Internal Controls and Oversight Agencies

A mega task force led by the Department of Justice (DOJ) was formed in October 2020 to investigate corruption in the bureaucracy. In addition to the DOJ, the task force is comprised of the National Bureau of Investigation (NBI), the Office of the Special Assistant to the President (OSAP), the Presidential Anti-Corruption Commission (PACC), the National Prosecution Service (NPS), the DOJ Office of Cybercrime (OOC), and the Anti-Money

<sup>16</sup> Dharel Placido, “Duterte says he merely followed SEC ruling in blocking Rappler,” *ABS-CBN News*, February 22 2018, <https://news.abs-cbn.com/news/02/22/18/duterte-says-he-merely-followed-sec-ruling-in-blocking-rappler> (Accessed on November 19, 2018).

<sup>17</sup> Ted Regencia, “Maria Ressa found guilty in blow to Philippines’ press freedom,” *Aljazeera News*, June 15 2020, <https://www.aljazeera.com/news/2020/06/15/maria-ressa-found-guilty-in-blow-to-philippines-press-freedom/> (Accessed on June 18, 2020).

<sup>18</sup> Nestor Corrales, “Duterte vows to block renewal of ABS-CBN’s franchise,” *Philippine Daily Inquirer*, April 27 2017, <https://business.inquirer.net/228463/duterte-vows-block-renewal-abs-cbns-franchise> (Accessed on November 19, 2018); Pia Ranada, “Duterte: If It were up to me, No ABS-CBN franchise renewal,” *Rappler*, August 3 2018, <https://www.rappler.com/nation/208802-duterte-threatens-again-block-abs-cbn-franchise-renewal-august-3-2018> (Accessed on November 19, 2018).

<sup>19</sup> De la Cruz, “House panel votes 70-11 against ABS-CBN franchise application,” *Business Mirror*, July 10 2020, <https://businessmirror.com.ph/2020/07/10/house-panel-votes-70-11-to-reject-abs-cbn-franchise-renewal/> (Accessed on July 13, 2020 ).

Laundering Council (AMLC). The inter-agency body aims to concentrate its investigation on allegations involving top government officials, alleged stolen funds worth more than a billion pesos, and key agencies offering crucial public services, especially PhilHealth and the Department of Public Works and Highways (DPWH).<sup>20</sup> The government appears to be singularly focused on investigation for its anti-corruption program.

The Independent Commission Against Corruption (ICAC) of Hong Kong stands out among the global best practices in fighting corruption. There are three main departments in this agency: Operations, Corruption Prevention, and Community Relations. The conduct of proactive investigation falls under the Operations Department. In this modern age, it is important to use information technology to obtain and analyze criminal intelligence. Computer forensic skills training is needed to preserve, seize, examine and analyze electronic data to uncover unlawful transactions. There should also be specialized financial investigative skills to trace paper trails involving corrupt payments.<sup>21</sup>

The Corruption Prevention Department of ICAC focuses on removing the opportunities for corruption through the institution of transparent and accountable procedures, building effective leadership and supervisory controls, and improving system controls and safeguards in government. In this regard, every agency of government has to establish effective internal control systems to prevent corruption. The Department also publicizes anti-corruption messages through traditional and social media and promotes business ethics and youth integrity promotion. The Community Relations Department of ICAC pursues the adoption of an “ethics for all” strategy to cascade corruption prevention education programs to different target groups. It also engages in partnership arrangements with various sectors of society.

Much can be learned from the ICAC model especially in the pursuit of a whole-of-government and whole-of-society approach in battling corruption. While the Philippines do not have a strong anti-corruption agency like the ICAC, it has an ecosystem of institutions that perform various anti-corruption functions. The key public accountability institutions are the Civil Service Commission (CSC), COA, and Office of the Ombudsman.

Under the law, the CSC administers and enforces the merit system for all levels and ranks in the Civil Service. It promulgates policies, standards, and guidelines for the Civil Service and adopts plans and programs to promote the economical, efficient, and effective personnel administration in the government. It also renders opinions and rulings of all personnel and other Civil Service matters which are binding on all heads of departments, offices, and agencies and which may be brought to the Supreme Court on certiorari. The CSC established a “Contact Center ng Bayan” that is a feedback mechanism designated as the government’s main helpdesk where citizens can request information and assistance on government frontline service procedures, and report commendations, appreciation, complaints, and feedback. Its Career Executive Service Board manages leadership and integrity development training for career officials in the bureaucracy. However, political appointees are not subjected to this rigorous capacity-building program. A high percentage of executives in government are political appointees.

The COA is the supreme audit institution in the country. Under the Constitution, it is mandated to

<sup>20</sup> Ted Cordero, “Mega task force vs. corruption probe to focus on ‘big fish’ – DOJ,” *GMA News*, October 31 2020, <https://www.gmanetwork.com/news/news/nation/762172/mega-task-force-vs-corruption-probe-to-focus-on-big-fish-doj/story/> (Accessed on November 3, 2020).

<sup>21</sup> <https://www.icac.org.hk/en/about/struct/index.html> (Accessed on April 6, 2021).



prepare an annual report covering the financial condition and operation of the government, its subdivisions, agencies, and instrumentalities, including government-owned or controlled corporations, and non-governmental entities subject to its audit, and recommend measures to improve their effectiveness and efficiency. The audit report is a useful tool for the President, as the head of government to monitor public performance, and Congress to carry out its oversight function during the budgeting process. It also caters to the public who use data in the context of fostering transparency and accountability. The challenge for COA is to equip itself with a new generation of auditors with modern financial investigative and digital forensic skills.

The Office of the Ombudsman is mandated by law to investigate corruption by government officials. It has primary jurisdiction over cases cognizable by the Sandiganbayan and it may take over, at any stage, from any investigatory agency of the government, the investigation of such cases. The lack of lawyers and other resources given its workload is a big obstacle for the agency. It is engaged in partnerships with stakeholders and previously convened a Multi-Stakeholder Advisory Council (MSAC) with the participation of civil society organizations.

Political development is fostered through democratic inclusion and public participation anchored in the promotion of good governance, civil society development, and the rule of law. Formal constitutional and organizational arrangements are meshed with informal institutional practices. While formal checks and balances might appear good on paper, the actual practices might spell a different picture.<sup>22</sup> To sustain democratic political development, adequate measures are needed to strengthen the rule of law by improving the institutional constraints on government powers, promoting fundamental rights, and curbing the use of public office for private gain. In the *Rule of Law Index 2020 Insights*, the WJP states that the “effective rule of law reduces corruption, combats poverty and disease, and protects people from injustices large and small.” Improvements in the rule of law would assure citizens that their health and future are protected from the deadly impact of corruption in the age of COVID-19.<sup>23</sup>

### Civil Society as Co-Producers in Fighting Corruption

The allegations of widespread misuse of public funds by PhilHealth represent the continuing problem of corruption in the country. It has become evident around the world that the battle against corruption is not waged by government accountability agencies alone. Civil society organizations have proven themselves to be reliable co-producers in fighting corruption.

Elinor Ostrom defined co-production as the process through which inputs used to produce a good or service are contributed by individuals who are not in the same organization.<sup>24</sup> The early formulation defined those who co-produce as consumers, thereby seeming to rule out a co-productive role for other actors, such as citizens, volunteers, or non-governmental partners.<sup>25</sup> Given this definition, co-production implies that citizens can

<sup>22</sup> Rizal Buendia, Presentation at the “Continuing political development towards a better (new) normal: Making public institutions matter” Virtual Town Hall Discussion, Stratbase ADR Institute, August 3 2020.

<sup>23</sup> <https://worldjusticeproject.org/our-work/publications/rule-law-index-reports/wjp-rule-law-index-2020-insights> (Accessed on April 6, 2021).

<sup>24</sup> Elinor Ostrom, “Crossing the great divide: Coproduction, synergy, and development,” *World Development* 24, 6 (1996): 1073-1087.

<sup>25</sup> John Alford, John, “The multiple facets of co-production: Building on the work of Elinor Ostrom.” *Public Management Review* 16,

play an active role in producing public goods and services and are responsible for the consequences. As an organized entity working for citizen interests, the civil society can co-produce anti-corruption programs with public and societal stakeholders.

The function of civil society in fostering rules-based governance globally is shown in the work of the non-government organization Transparency International that was founded in 1993. With headquarters in Berlin, TI has accredited national chapters in more than 90 countries. The TI chapter in the Philippines was launched in 1995. In a forum that celebrated the 25<sup>th</sup> anniversary of TI-Philippines, Dolores Espanol, TI-Philippines Chair, narrated the contributions of her organization in the co-production of inputs that were utilized over the years in various anti-corruption campaigns.<sup>26</sup> The role of civil society in governance and development is acknowledged by the 1987 Constitution. Article 1, Section 23 of the Charter stipulates that “the State shall encourage non-governmental, community-based, sectoral organizations that promote the welfare of the nation.”<sup>27</sup>

In its early years, TI-Philippines produced a directory of government agencies and civil society organizations doing anti-corruption work. This provided an important database for the public, business, and civil society sectors when they explored networking and collaborative activities on corruption prevention. TI-Philippines was a key player in the formation of integrity circles in government. In partnership with the Civil Service Commission and the support of the United Nations Development Programme, the organization conducted a program that resulted in the production of the 2010 manual on *Organizing Integrity Circles*.

Integrity circles are workgroups tasked to develop tools for diagnosing corrupt practices and creating action plans to address the identified problems. Top-level management personnel are designated to be part of the Integrity Circle Committee that reported on the work progress. Aside from working with agency personnel, the program cooperates with third-party organizations, constituting the Integrity Circle Support Groups whose job is to help monitor, evaluate and reward the honesty and performance of the integrity circles.

TI-Philippines cooperated with several government agencies including the Government Service Insurance System, DPWH, Philippine Navy, and Philippine National Police in the implementation of the Integrity Circles Program. In this program, the integrity circles were set up in the critical or corruption vulnerable sections of each agency. Each integrity circle consisted of 5-10 personnel from the same office who performed similar or related functions. They committed to abide by the values of honesty and professionalism and to improve their delivery of public services.

The TI-Philippines manual emphasized that the integrity circles would be most useful in agencies that are prone to corruption. These organizations suffer from the following features: (1) loose management controls; (2) unclear ethical and performance standards; (3) weak personnel recruitment and selection systems; (4) patronage-driven promotion systems; and (5) blurred service procedures for clients.

Going by the initial findings from the investigation by the Senate and House of Representatives on the alleged corruption of PhilHealth, the insurance agency would be a prime candidate for an integrity check based on the criteria provided by TI-Philippines. Arguably, the level of civil society engagement in anti-corruption work,

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3 (2014): 299-316.

<sup>26</sup> Dolores Espanol, Presentation at the “25 years of fighting with the nation the perennial pandemic of corruption” Virtual Town Hall Discussion, Transparency International-Philippines and Stratbase ADR Institute, August 28 2020b.

<sup>27</sup> 1987 Philippine Constitution.

including that of TI-Philippines, has declined in recent years. It is well welcomed that TI-Philippines intends to revive its dormant programs and introduce transparency and accountability work to the younger audience.

The tools, manuals, and programs developed by TI-Philippines can be recalibrated to suit the contemporary governance context. New co-production mechanisms can be established to address the new practices that have emerged to contravene the rule of law and use public office for private benefits. It would be in the best position as a knowledge intermediary to organize forums and roundtable discussions to discuss the findings from the Corruption Perceptions Index (CPI) scores and country rankings.

### **Participatory Audit: Medical Monitoring**

This case presents how corruption prevention through civil society participation can be undertaken in the public health sector, especially in the area of medical monitoring. The lessons from corruption prevention more than a decade ago should have been mainstreamed and institutionalized in the DOH when dealing with the corruption allegations against the public health sector during the 2020 COVID-19 crisis

The National Movement for Free Election (NAMFREL), which originally started as an election watchdog, expanded into the public health monitoring sector in 2004 in partnership with the DOH and the Coalition Against Corruption through the Medicine Monitoring Project. This probed into the agency's procurement of drugs, medical supplies, laboratory needs, infrastructure, equipment, as well as supplies. This initiative focused on the availability and affordability of medicines in DOH hospitals. It sought to address the concerns of citizens who were not able to obtain low-cost, high-quality medicines. This was partially due to the inefficient procurement processes, erroneous deliveries and distribution, and insufficient stocking of medicines. These factors are attributed to the corruption in the delivery of health services (Partnership for Transparency Fund 2013).

Citizen engagement in government procurement is meant to boost and improve the delivery of services to the public. For citizens to participate in the monitoring process, local NAMFREL chapter leaders carried out capacity-building workshops, formed coalitions with local civil society organizations, and educated volunteers on how to properly monitor the different reporting formats followed by hospitals, suppliers, as well as the procurement secretariat. In the process, 72 public hospitals and 16 regional centers across the country as well as PHP 302.51 million worth of medicines were subjected to this type of monitoring (La Salle Institute of Governance 2012).

Citizens and civil society organizations that volunteered in the Medicine Monitoring Project took part in the following activities: (1) Monitoring procurement activities in every hospital and regional health office managed by DOH; (2) Monitoring the delivery of essential medicines in selected hospitals and regional health offices; (3) Monitoring inventories, warehouses and medicine stocks as well as hospitals' and CHDs' internal systems for checking inventories; and (4) Monitoring distribution of essential pharmaceutical products to entitled hospital recipients (Partnership for Transparency Fund 2013). In addition, volunteers were deployed to review the Annual Procurement Plan, observe the bidding process, make sure that the medicines were authorized by the

Philippine National Drug Formulary, follow the paper trail to verify the integrity of the procedure, review the purchase orders, and prepare inventory monitoring reports.<sup>28</sup>

Ever since the Medicine Monitoring Project was put into practice in 2004, several improvements in the health sector emerged. Such changes include the following: (1) The reputation of the DOH dramatically increased based on scorecards completed by both government and civil society as well as through public opinion surveys; (2) The availability of essential medicines improved considerably; (3) The discrepancy in the delivery of drugs and medicines to hospitals and regional health offices was reduced significantly; (4) Most of the hospitals and regional health offices and BAC officers became more responsive to the role of NAMFREL volunteer-observers in the various stages of the procurement process; and (5) Bidding prices became more competitive and reflected a more realistic market price (Partnership for Transparency Fund 2015).

As a result of the positive outcomes of the project, hospitals, and health centers have since become more informed in choosing the best bidding prices during the procurement process. This in turn led to an improvement in the delivery of health services. These outcomes also prove that citizens play a crucial role in pushing for greater transparency and accountability. The support of the government agencies and other stakeholders involved, especially the DOH and the heads of the hospitals monitored, was also important in the completion of this project (La Salle Institute of Governance 2012).

## Reviving Democratic Institutions

A government initiative that survived the transition from the Aquino administration to the Duterte administration is the Open Government Partnership (OGP). The Philippines is one of the eight founding countries of the OGP. The OGP, founded in 2012, is a global coalition of reformers within and outside of the government that works together towards co-creating shared commitments, which aims to contribute to improving public service delivery through the mainstreaming of initiatives on access to information, civic participation, public accountability, and leveraging technology to strengthen governance.<sup>29</sup>

At the national level, the OGP process is overseen and guided by the Philippine OGP Steering Committee. The forum meets regularly every quarter and is comprised of an equal number of governmental and non-governmental members. The PH-OGP Steering Committee is chaired by the Department of Budget and Management (DBM) and co-chaired by the Mindanao Coalition of Development NGO Networks (MINCODE). The members of the Steering Committee include representatives from Government, Local Government, Congress, Civil Society, Academe, Private Sector, and Public Sector Union.

The Philippines has made ambitious and pioneering shifts in its country strategy as it enters its fifth OGP action plan cycle. Being the first country to meet all the requirements of the Extractive Industries Transparency Initiative (EITI) and given its pioneering efforts in promoting transparency in the extractives sector, the Philippines has been nominated to receive the 2019 EITI International Chair Award, three years after accepting the same award in 2016.

<sup>28</sup> Francisco Magno, "Public Participation and Fiscal Transparency in the Philippines," *Global Initiative for Fiscal Transparency (GIFT)*, May 2015.

<sup>29</sup> PH-OGP, *The Philippine Open Government Partnership National Action Plan 2019-2021*, November 2019.

The country scored 67 in the last Open Budget Survey (OBS) released in January 2018 that placed the Philippines on top and ahead of all other Asian countries in terms of government budget transparency. The Open Budget Survey (OBS) is the world's only independent, comparative, and fact-based research instrument that uses internationally accepted criteria to assess public access to central government budgetary information; formal opportunities for the public to participate in the national budgeting process; and the role of budget oversight institutions such as the legislature and auditor in the budgeting process. In the 2019 OBS, the Philippines improved its score to 76 and ranked 10<sup>th</sup> in the world.

The 2019 OBS recommended that the Philippines should pursue a number of steps to improve budget transparency. Specifically, it suggested that the DBM should include additional information on fiscal risks in the Executive's Budget Proposal, such as the balance sheet of the government, quasi-fiscal activities of public corporations, and the long-term sustainability of the government's finances. It should include in the Year-End Report additional information on the outcomes of performance indicators and detailed comparisons on actual debt and borrowing during the fiscal year as compared to the original estimates. It should also enhance the information in the Mid-Year Review by including details on the updated fiscal projections for the remainder of the budget year by showing expected changes in expenditure classifications and individual programs.<sup>30</sup>

In the case of Congress, the 2019 OBS noted that it provides adequate oversight during the planning stage of the fiscal year and adequate oversight during the implementation stage. To make its oversight even more effective, the survey suggested additional measures the congress could take. The legislature should debate budget policy before the executive's budget proposal is tabled and approve recommendations for the upcoming budget. A legislative committee should examine the in-year budget implementation and publish reports with their findings online. A legislative committee should examine the audit report and publish a report with its findings online. Congress has established public hearings related to the approval of the annual budget but should also prioritize the following actions. Nevertheless, it has been recommended that the legislature should allow any member of the public or any civil society organization to testify during its hearings on the budget proposal prior to its approval. It should also let members of the public or civil society organizations testify during its hearings on the audit report.<sup>31</sup>

According to the COA, through the institutionalization of the Citizen Participatory Audit (CPA), the country is the only place where the citizens are officially part of the state auditing team. These trailblazing efforts are frequently being shared and cited in global and regional Open Government Partnership (OGP) events and other multilateral platforms such as the Global Initiative for Fiscal Transparency (GIFT), Association for Southeast Asian Nations (ASEAN), Public Expenditure Management Network in Asia (PEMNA), and Asia-Pacific Economic Cooperation (APEC), among others.

The government agencies that have enrolled programs in the OGP contribute to the fight against corruption by strengthening their transparency and accountability procedures, as well as engaging with civil society stakeholders. Linked to various international and local governance frameworks, such as the United Nations Sustainable Development Goals (SDGs), the 2017-2022 Philippine Development Plan (PDP), and the Participatory Governance Cluster of the Cabinet (PGC) Performance and Projects Roadmap (PPR), and the fifth

<sup>30</sup> IBP, *Open Budget Survey 2019*, Washington, D.C.: International Budget Partnership, 2020

<https://www.internationalbudget.org/open-budget-survey/country-results/2019/philippines> (Accessed on April 1, 2020).

<sup>31</sup> Ibid.

PH-OGP National Action Plan, co-created international open government commitments that aim to contribute towards addressing pressing public problems and achieving a people-centered, clean, and efficient delivery of public services, and building a high-trust, peaceful and inclusive society are put forward.

The OGP provides a good platform to bring together advocates of good governance reform across the state-society divide. Amid the noise and chaos of hyper-partisanship fueled by populism and social media, the OGP provides an opportunity to bring people together to support programs rather than individual leaders. These programs can reinforce democratic values of participation, deliberation, tolerance, transparency, and accountability.

Linking the OGP with the SDG principles will form democratic governance and an inclusive development agenda geared towards fighting corruption and poverty at the same time. Mobilizing a youth constituency for the OGP and SDG platforms would provide a good anchor for preparing future leaders through civic education and active citizenship. In liberal terms, the concept of citizenship is limited to individual legal equality. In this regard, a set of rights and responsibilities are given by the state to its citizens. However, in the actor-oriented approach, citizenship is achieved through the agency of citizens themselves. It also looks at the role of non-state actors in claiming, monitoring, and enforcing the rights themselves. Thus, the practice of citizenship is not limited to political and civic participation, such as the right to vote, free speech, and due process of law. The new models of accountability focus on the role of citizens themselves in demanding public scrutiny and transparency.<sup>32</sup>

Civic education and leadership programs for the youth should be developed to enable meaningful participation. This not only includes elections but also entails broader democratic governance processes that include youth councils and local special bodies. The youth can be engaged in active citizenship programs relating to participatory planning, budget watch, and project monitoring. For example, the Concerned Citizens of Abra for Good Government (CCAGG), a prominent civil society organization in Northern Luzon, has a youth branch called the Young CCAGG that participates in infrastructure monitoring (Bantay Lansangan) to prevent corruption in road construction projects.

Political parties should be fortified as institutions of democratic representation and governance. The policy agreement between voters and their preferred party is supposed to be a central measure of representative democracy.<sup>33</sup> This is the case when political parties themselves are aware of the policy differences that distinguish them from the others. However, it is also important to understand what unites them within the bounds of a democratic ecosystem.

A multi-partisan political and civic education program should be provided to the youth sections of the different political parties. The modules should include the study of democratic norms, deliberative practices, new participatory mechanisms, corruption prevention, and OGP and SDG-related topics. This is an important intervention to counter widespread disinformation programs pursued by political operators through social media. In teaching civic education, it is crucial to examine the exchanges among students on how they critically examine the current democratic process to determine in what ways the government is failing or living up to deliberative

<sup>32</sup> John Gaventa, "Introduction: Exploring citizenship, participation and accountability." *IDS Bulletin* 33, 2 (2002): 1-11.

<sup>33</sup> Russell Dalton, "Party representation across multiple Issue dimensions," *Party Politics* 23: 6 (2017): 609-622.



democratic ideals.<sup>34</sup> Credible capacity-building programs are needed to dilute personality-based politics and moderate populist tendencies among future leaders and promote democratic principles, ethical leadership, and programmatic and rules-based governance. There should be no shortcuts to leadership training and development.

Democracy that stands for the rule of the people is highly predisposed toward populist politics. Previous studies indicate that social media give populist actors the freedom to articulate their ideology and spread their messages.<sup>35</sup> Populist parties favor the use of social media platforms as the mass networking capability of social media acts as a fitting instrument to communicate and to appeal to the mass public.<sup>36</sup> In the age of social media and machine learning, it is important to examine how civic technology and institutional arrangements could have a double-edged effect in sustaining or derailing patronage and personality-based politics. In this regard, it can be said that a strong role is played by information intermediaries, including parties, policy think tanks, universities, non-government organizations, and media to foster civic education as a driving force in deliberative politics.

While democratic norms and principles may be written in the Constitution, democracy has to be demonstrated by providing avenues and mechanisms for citizens to voice their opinion and participate in policy development and monitoring. Aside from improving democratic processes and practices, the case for democracy has to be made in the minds of the broader public. Citizens may have to be convinced that deficits in performance and accountability can be remedied through democracy and the rule of law rather than banishing rules-based governance away.

The threat to democracy has intensified amid the crisis of public knowledge. The enormity of this crisis is exhibited in the proliferation of fake news and alternative facts in the media. In a highly connected digital world, the spread of misinformation either for profit or propaganda has diminished the authority of the mediating institutions that generate and share knowledge, including universities, science, and the press.<sup>37</sup>

## Conclusion

The rise of populist rule in many countries, including the Philippines, led to the weakening of democratic institutions. Mass media practitioners have turned to self-censorship. Civil society organizations have become less active in confronting malfeasance. Given the government's lack of intolerance for opposing opinions, the quality of political debate and discussions decreased tremendously. The democratic erosion that populism induced also weakened the institutional ecosystem that pushed back corruption in the country.

A governance initiative that survived the transition from one administration to another is the OGP. The OGP supplies a good platform for ushering together good governance reform advocates across the state-society divide. Amid the noise and chaos of hyper-partisanship fueled by populism and social media, the OGP provides an opportunity to bring people together to support programs rather than personalities. These programs can reinforce democratic values of participation, deliberation, tolerance, transparency and accountability.

<sup>34</sup> Jarrod S. Hanson and Ken Howe, "The potential for deliberative democratic civic education." *Democracy and Education* 19, 2 (2011): 1-9.

<sup>35</sup> Sven Engesser, Sven, Nicole Ernst, Frank Esser & Florin Büchel. "Populism and social media: how politicians spread a fragmented ideology," *Information, Communication & Society* 20, 8 (2017): 1109-1126.

<sup>36</sup> Paolo Gerbaudo, "Social media and populism: An elective affinity?" *Media, Culture and Society* 40, 5 (2018): 745-753.

<sup>37</sup> Rogers Brubaker, "Why populism?" *Theory and Society* 46, 5 (2017), <https://doi.org/10.1007/s11186-017-9301-7>: 357-385.

Linking the OGP with the SDG principles will form democratic governance and inclusive development agenda geared towards fighting corruption and poverty at the same time. Mobilizing a youth constituency for the OGP and SDG platforms would provide a good anchor for preparing future leaders through civic education and active citizenship.

The public oversight agencies, especially the CSC, COA, and Office of the Ombudsman should be strengthened with enhanced financial and human resources. The partnerships made with civil society organizations should be continued and sustained to advance corruption prevention efforts. This would ensure that public accountability measures are supplemented by social accountability mechanisms that keep government officials open, honest and accountable.

There is a need to pass the bills on strengthening the Ombudsman, as well as fully implementing the National Anti-Corruption and Advocacy Plan and the country's commitment to the UN Convention Against Corruption. In addition, passing the Whistleblowers Protection Act, Freedom of Information Act, and Budget Modernization Act is essential in enhancing transparent and accountable governance.

Populism triggered authoritarian tendencies that have diminished the role of democratic institutions and systems of checks and balances that control corruption. The outbreak of corruption scandals that were accompanied the COVID-19 health crisis in 2020 exemplifies how the democratic recession has negatively affected the state of public accountability in the Philippines. The revival of democratic institutions is crucial in fighting corruption judiciously and systematically.

The narrative of a strong political will can be said to be relevant in the push for strong democratic institutions. This is not equivalent to the will of the leader but rather speaks of the general will of the democratic polity. The role of knowledge institutions, including policy think tanks, research organizations, and universities, in developing new content to educate the new generation of citizens for democracy and rules-based governance is valuable. Media is tasked with performing the valuable job of ensuring integrity, credibility, and comprehensiveness to provide mechanisms for information and knowledge dissemination. On the other hand, political parties should be strengthened to become representative institutions to aggregate interests, produce evidence-based policies, and foster adherence to rules-based governance. Support for a rules-based system is nurtured through interdependent civic and knowledge institutions. ■

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This series of reports was compiled as a part of Asia Democracy Research Network's joint research project on Pandemic Crisis and Democratic Governance in Asia. The research for these reports was conducted entirely by EAI and its partner think tanks in Asia, including Manusher Jonno Foundation, Society for Participatory Research in Asia, Indonesian Institute of Sciences, Japan Center for International Exchange, Academy of Political Education, Samata Foundation, Pakistan Institute for Legislative Development and Transparency, Jesse M. Robredo Institute of Governance, Centre for Policy Alternatives, and King Prajadhikok's Institute.

This program was funded in part by the National Endowment for Democracy (NED).

This publication and other ADRN reports can be found on our website, [ADRN Working Papers]. The contents of this publication do not necessarily reflect the views of the East Asia Institute.

"Pandemic Governance in the Philippines: Democratic Recession and Corruption Risks"

979-11-6617-114-7 95340 Date of Issue: 13 April 2021

Typeset by Jinkyung Baek

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