

FRANCISCO A. MAGNO, PH.D



REVIVING DEMOCRATIC INSTITUTIONS: STRENGTHENING THE FIGHT AGAINST CORRUPTION

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WRITTEN BY
FRANCISCO A. MAGNO, PH.D

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ABSTRACT

A wave of populism has engulfed the world over the past decade. There is a strong penchant among populist leaders to exercise executive overreach that unsettles the balance of power between the branches of government. Critics of government decisions are met with verbal insults in official speeches as well as bashing by populist followers on social media. The independent media is threatened with punitive actions fostering a climate of fear.

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-regulation. Civil society organizations have become less active in confronting public malfeasance. The democratic erosion that populism induced also weakened the institutional ecosystem that pushed back corruption in the country.

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 accompanied the Coronavirus Disease (COVID)-19 health crisis in 2020 exemplifies how the democratic recession has negatively affected the state of public accountability in the Philippines.

The narrative of a strong political will is 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.

This study probes into whether the COVID-19 pandemic enhanced the risks of 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, it considers the importance of reviving democratic institutions as a key effort in fighting corruption on a long-term basis.

REVIVING DEMOCRATIC INSTITUTIONS: STRENGTHENING THE FIGHT AGAINST CORRUPTION

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A wave of populism has engulfed the world over the past decade. Populism may come in various forms, but its disruptive effects on institutions can be generally overwhelming (Devinney and Hartwell, 2020). Populist leaders capitalize on anti-elite sentiments and present themselves as standing up for the people against the so-called oligarchs (Öniş and Kutlay, 2020). The antagonistic and divisive style of populism is often directed against liberal democracy, which is based on political pluralism (Ruth, 2018).

Populists have critical issues with liberal democracy, especially with the rule of law and separation of powers (Mudde and Kaltwasser, 2018). There is a strong penchant among populist leaders to exercise executive overreach that unsettles the balance of power between the branches of government. Critics of government decisions are met with verbal insults in official speeches as well as bashing by populist followers on social media. The independent media is threatened with punitive actions fostering a climate of fear.

The ascendancy of populist strongman rule in many countries, including the Philippines, resulted in the weakening of democratic institutions (Teehankee and Thompson, 2016). Mass media practitioners have become timid. Civil society organizations have become less active in confronting public wrongdoings. With the high intolerance for opposing views, the quality of political discourse dipped tremendously. The democratic recession that populism triggered also weakened the institutional ecosystem that constrained corruption in the country.

Previous studies indicate that established democracies show lower levels of corruption than authoritarian regimes or young democracies (Kubbe and Engelbert, 2017). 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 Coronavirus 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 enhanced the risks of 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, it considers the importance of reviving democratic institutions as a key effort in fighting corruption on a long-term basis.

Corruption Outbreak

The eruption of the COVID-19 pandemic brought to the fore the severe corruption vulnerabilities in many countries. However, even before the pandemic, it is estimated that an average of 10 to 25 percent of a public contract's value may be lost to corruption (UNODC, 2013). Globally, over USD 7.8 trillion are allocated annually for public health (WHO, 2019). With more public funds being made available to fight the pandemic, better safeguards are needed to prevent corruption.

The COVID-19 crisis hastened corruption. The potential for corruption in pandemic times is greater, especially when 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 (Steingrüber, 2020).

The COVID-19 pandemic is acknowledged to have begun on November 17, 2019, with the first recorded case of the disease in the city of Wuhan in Hubei Province, China. In the succeeding weeks, cases of people infected with the virus piled up. However, the government kept a tight lid on health data and even reprimanded the local doctors who warned of the new disease. It was only on December 31, 2019, that the government informed the World Health Organization (WHO) China Country Office of the existence of the fast-spreading virus. Such lack of transparency prevented global health authorities from taking preventive action and contain the transmission of the COVID-19 virus across cities, nations, and borders (Steingrüber et al., 2020).

Defining Corruption

Klitgaard (1988) defined corruption using the formula $C = M + D - A$, where C = Corruption, M = Monopoly, D = Discretion, and A = Accountability. In this regard, corruption thrives in an institutional setting where decision-making is monopolized by a few people and subject to discretion, while accountability mechanisms are not firmly in place.

Corruption is a form of behavior that deviates from the norms and rules of public office for reasons of private gain. To curb corruption, institutional control mechanisms are important, including the establishment of regulations, enforcement of prohibitions, and installation of adequate checks and balances.

Institutional control mechanisms are needed in corruption prevention. These include not just strategic anti-corruption steering committees but also operational watchdogs in the government, private sector, and civil society. Operational watchdogs are expected to cover the monitoring and evaluation of critical governance domains such as public finance and expenditure management, personnel administration, investment planning, and citizen feedback and complaint channels.

Corruption and Economic Crisis

The Philippine economy suffered heavily with the onslaught of the COVID-19 virus. 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 year. The announcement confirmed that the country descended into an economic recession, given the two consecutive quarters of negative GDP growth in 2020.

The last time the GDP sank dramatically was during the dying years of the Marcos regime when the GDP dived by 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 conditions drove investors away.

A key role for democratic institutions is to level the playing field in both political and economic competition. These 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 independence from particularistic interests in society. They need to maintain their integrity, transparency, and accountability. Power in the hands of the few can lead to its perverse 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 (Aquino, 1987). The restoration of democracy in 1986 brought hope that the reinstitution of a system of checks and balances, independent media, and the rule of law would provide a better environment for the economy to grow. While corrupt practices have persisted, they have been moderated

through institutional and societal oversight. While political clans have remained, they have to compete in regular electoral exercises.

It has taken more than two decades to establish credible institutional mechanisms to regain investor confidence in the Philippine economy. These required slow, painstaking moves for reforms that were pushed and carried over 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 (Mendoza, 2020).

The results from these reform efforts are certainly worth the wait. The legacy of the authoritarian years that saw a decrease in GDP per capita after 1982 lingered for two decades until 2003 when the same GDP per capita level was reached in 2003 and higher levels registered in the succeeding years. The GDP growth rates averaged at more than 6% for the past five years. The pursuit of a judicious borrowing and disciplined repayment program 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 in the world, including the Philippines, calls for the transfer of emergency authority and funds to the executive are sounded 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 in a big way 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 in 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 had a hard time 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.

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. Public personnel corruption is encouraged by a political culture driven by patronage. Likewise, the regular rotation of key officers and staff will lessen the risks of unhealthy relationships and corruption risks.

Corruption should not be simplified as mere irregularities or as acts of individuals who went astray. The focus should be on the systemic and structural side of 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 of calculation, 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 PhP 30-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 wondered why PhP 231 million from

the IRM were released to 48 dialysis centers and four maternity clinics with no COVID-19 related cases (C. Ramos, 2020). On the other hand, Senator Francis Tolentino disclosed that some hospitals were able to collect benefit claims for COVID-19 cases even if the patients were admitted for other ailments (M. Ramos, 2020).

The COVID-19 crisis is affecting not just people's health but public finance as well in a very injurious way. As the crisis deepens, it begins to unravel that the use of the IRM fund is just one of the many alleged corrupt practices happening in these pandemic times. Rent-seeking operations are seen to be at play in other emergency response programs as well. There are a number of suspected irregular actions to benefit from COVID-19 response funds. These include the cash allocation to poor citizens that have been marred with allegations of corruption against local government officials, the ghost payments to deceased patients still receiving support for hospitalization from PhilHealth, and the Department of Health (DOH) purchase of overpriced personnel protective equipment, ventilators, and other medical supplies for hospitals and quarantine facilities. The Office of the Ombudsman opened its own investigation on the accountability of the DOH on accusations of corruption in 2020 (Espanola, 2020a).

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

CPI is a composite index, a combination of 13 surveys and assessments of corruption by experts and businesses, retrieved by a variety of respected institutions. Perceptions of high levels of corruption in society tend to erode confidence in the sustainability of democracy in the country. The Philippines scored 34 out of 100 in the 2019 Corruption Perception Index (CPI) of TI where it ranked 113 out of 180 countries. This was lower than the country's score of 36 in the CPI 2018, where it ranked 99th. As the Philippines continues to perform poorly in the CPI, it is appropriate to analyze the reasons for the decline and find potential remedies.

The country's institutional defense to fight corruption has weakened with the downward slope in the rule of law performance over the years. In the 2020 Rule of Law Index, the Philippine registered an overall score of 0.47 that is 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 (WJP, 2019).

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 posted declining results in the Rule of Law Index with a score of 0.53 in 2015, 0.51 in 2016, 0.47 in 2017 to 2018, 0.47 in 2019, and 0.47 in 2020. The Rule of Law Index 2020 shows that more countries declined than improved in overall rule of law performance for the third year in a row, continuing a negative slide toward weakening and stagnating rule of law around the world. The declines were widespread and seen in all parts of the globe. The Philippine data is consistent with the global trend since its score remained the same for the past three years.

At a 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 government powers is related to the ascending trend towards authoritarian populism in

many countries. Active efforts are made by the executive to lessen the independence and subordinate the other branches of government. Independent public oversight agencies are tormented through administrative and budget proceedings. The standing of the press as the fourth estate in the political system stands on precarious ground 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 unrestricted executive power has its substantial adherents. 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. This political trajectory is evident in countries where executives have extended or consolidated their power in recent years. The overpowering executive demonstrates a weakening of the system of checks and balances that is inherent in a representative democracy. In the case of the Philippines, the survey finds that half of the population was favorably inclined towards strongman rule (Wike et al., 2017).

In Philippine politics, it is common for elected officials to jump into the presidential bandwagon after the national elections. In the post-2016 election period, a mass exodus to the PDP-Laban, the political party of President Rodrigo Duterte, ensued. Given the absence of strong policies on political turncoatism, many elected legislators transferred to the party of the newly elected President as well as allied parties to avail of choice Congressional committee positions. The authoritarian tendencies of populism are reinforced when the

ranks of opposition parties are decimated through party switching. This results in the diminished independence of the legislature from the executive. The existence of opposition is supposed to ensure the existence of a functioning democracy as it serves to check the power of the ruling coalition. The opposition becomes a token force in Congress after legislators rushed en masse to the administration side (Calonzo, 2009; Cepeda, 2017).

Democratic norms and rules are molded over time through the healthy competition between the administration and opposition parties (Lipset, 2000). 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 election of candidates 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 exhibit independence 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 most legislators transferring to the party or allied parties of the sitting Chief Executive. In the era of populism, it is interesting to note that even the opposition bloc in the House of Representatives cannot even choose their own Minority Leader. During the 17th Congress, a controversy emerged when Quezon Representative Danilo Suarez was selected as the Minority

Leader in July 2016. This was questioned by a group of lawmakers who insisted that Ifugao Representative Teddy Baguilat Jr. should be the true minority leader, being the second placer in the speakership race. They also contended that Suarez belonged to the majority since he voted for Pantaleon Alvarez, Jr. in the speakership race. Fighting off the challenges with the support of the House Speaker, Congressman Suarez was able to keep his post as Minority Leader (Lopez, 2017).

In August 2017, Speaker Alvarez was dramatically removed from his post with the legislators switching support to Rep. Gloria Macapagal-Arroyo as the new Speaker of the House of Representatives. Suarez retained the Office of the Minority Leader after the plenary approved the motion of Majority Leader Rolando Andaya. Again, there was resistance to his appointment from members of the minority. Albay Representative Edcel Lagman argued: “under the rules, the minority leader should be voted upon by members of the minority. It is never subject to the approval and disapproval of the plenary.” The Minority Leader also sided with the majority in electing Arroyo as the new House Speaker (Colcol, 2018).

The independence of the legislature from the executive was severely tested during budget deliberations involving the Commission on Human Rights (CHR). In a stunning move, the House of Representatives voted in September 2017 to give the CHR a measly budget of only PhP 1,000. This came in the wake of criticisms made by the human rights agency on the President’s war against illegal drugs.

From the proposed budget of PhP 678 million submitted by the Department of Budget and Management, 119 representatives voted in favor of the move to slash the budget of the CHR to a thousand pesos

while 32 representatives voted against the motion. As a constitutional body, the CHR enjoys fiscal autonomy and cannot be defunded or given a budget of only a peso that is tantamount to abolishing the agency (Morallo, 2017). Lawmakers from the Lower House later decided to give the CHR a budget of PhP 537 million during the third and final reading of the proposed 2018 national budget. On the other hand, the Senate provided a PhP 693 million budget for the CHR. The Senate's version of the CHR budget includes a PhP 28.5 million allocation for the Human Rights Violations Victim's Memorial Commission (Mercado, 2017).

While the Senate was more assertive of its legislative independence compared to the other chamber, an opposition senator was not able to escape the wrath of the executive. In the aftermath of Senator Leila de Lima's call for an investigation into the drug war, the President continuously called her out in his speeches, with the promise to "destroy her, make her cry and let her rot in jail." De Lima was arrested and jailed in February 2017 with allegations of receiving drug money to finance her senatorial campaign. In early 2017, De Lima was charged with drug trafficking, an offense without bail. She denied the charges but remains in detention as court hearings slowly proceed (Ana Santos, 2018)

Executive overreach on judicial independence was seen when Solicitor General Jose Calida filed a quo warranto petition to the Supreme Court in March 2018 to remove Chief Justice Maria Lourdes Sereno from office. In his petition, Calida presented the following argument: "Under Section 7(3), Article VIII of the 1987 Constitution, the Chief Justice of the Supreme Court of the Republic of the Philippines, like any member of the Judiciary, must be of proven integrity. Cognizant of this eligibility requirement, the Judicial and

Bar Council in 2012 directed all applicants for the position of Chief Justice to submit *inter alia* all statements of assets and liabilities filed prior to their application. Respondent Maria Lourdes P.A. Sereno did not do so, although she began her government service as a professor at the University of the Philippines College of Law from 1986 to 2006. The Report to the JBC nevertheless mistakenly stated “complete requirements” opposite Sereno’s name. This misled the JBC into including her in the shortlist; she was subsequently appointed to the highest position in the Judiciary, notwithstanding her failure to prove her integrity.”

The *quo warranto* petition was filed amid the impeachment proceedings against the Chief Justice in the House of Representatives. Calida said the move would fast-track Sereno’s trial since Supreme Court magistrates themselves will decide on the case. According to him, the Constitution recognizes the *quo warranto* petition as a legal remedy against an individual who entered public office unlawfully (Bermudez, 2018). In a landmark decision, the Supreme Court in a special *en banc* session voted 8-6 to declare Sereno’s appointment as invalid on May 11, 2018. The Supreme Court, on June 19, 2018, denied with finality Sereno’s motion for reconsideration. It upheld its decision on the *quo warranto* petition of Solicitor General Calida that nullified the appointment of Sereno as the Chief Justice of the Supreme Court (UNTV News, 2018).

The Office of the Ombudsman is another independent agency that earned the displeasure of the presidency. It is a constitutional body with the mandate to investigate and prosecute public officials accused of crimes, especially graft and corruption. In July 2018, the Office of

the President ordered the dismissal of Overall Deputy Ombudsman Melchor Arthur Carandang over his partiality in investigating the presidential family's wealth. Aside from his separation from public service, Carandang was also slapped with the forfeiture of retirement benefits and perpetual disqualification from holding public office. The ruling, signed by Executive Secretary Salvador Medialdea, said Carandang was accused of violating the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713) when he disclosed or misused confidential information in order to give undue advantage to Senator Antonio Trillanes IV who filed a plunder complaint against the President (Santos, 2018).

Populism and the Free Press

Populism can use an electoral mandate to decimate independent institutions that are considered the bedrock of liberal democracies like the free media. Populism might lead to political tribalism, which derails civil discourse and prevents political consensus (De Vreese et al., p. 424). The substitution of global democratic norms with authoritarian practices would mean more elections in which the incumbent's success is a matter of course. It would lead to more media spaces that are flooded by propaganda mouthpieces that sideline the opposition while presenting the ruler as omnipotent, tough, and committed to the welfare of the nation. It would mean state control over the Internet and social media through both censorship and active manipulation that promotes pro-regime messages (Abramowitz and Repucci, p. 135).

The free press is faced with tremendous challenges in the age of populism. In 2018, the government barred online news platform Rappler from covering Palace press briefings and other presidential events, citing the ruling of the Securities and Exchange Commission (SEC). The regulatory agency revoked Rappler's registration papers for violating foreign ownership rules. However, the SEC said the online news site could still continue with its operations pending its appeal to the courts (Placido, 2018). In a succeeding event, a court in the Philippines found Rappler executive director Maria Ressa and former Rappler reporter Reynaldo Santos Jr guilty of cyber libel, in a controversial case seen as a major test of press freedom under the Duterte administration. In May 2020, the court sentenced Ressa and Santos, Jr. to a minimum of six months and one day to a maximum of six years in jail. It allowed them to post bail, pending an appeal. They are the first two journalists to be convicted for cyber libel in the country. The case is the first of at least eight active cases filed against Ressa and her media organization since 2016 (Regencia, 2020). Rappler has published reports that are critical of government actions.

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 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 (Corrales, 2017; Ranada, 2018).

The pattern of resorting to quo warranto cases was not lost on critics of the Duterte administration. On February 10, 2020, Solicitor General Calida filed a quo warranto case before the Supreme Court questioning ABS-CBN's right to keep its franchise. While Section 1(a) concerning a person who usurps, intrudes into, or unlawfully holds or exercises a public office, position or franchise, of Rule 66 was used against Sereno, Section 1(c) concerning "an association which acts as a corporation within the Philippines without being legally incorporated or without lawful authority so to act" was applied by the Office of the Solicitor General in the case of ABS-CBN (Nonato, 2020). The Supreme Court denied the motion when it ruled that it was moot and academic when the National Telecommunications Commission enforced a cease and desist order for the broadcast network on May 2020, pending a Congressional decision on its application for renewal of its franchise.

Finally, 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 franchise application was adopted with 70 committee members voting in favor of the resolution, 11 against, and with one abstention and two 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 (De la Cruz, 2020).

Internal Controls and Oversight Agencies

A mega taskforce led by the Department of Justice (DOJ) was formed in October 2020 to investigate corruption in the bureaucracy. Apart from 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 Laundering Council (AMLC). The inter-agency body will concentrate its probe on allegations involving top government officials, more than a billion pesos worth of alleged stolen funds, and key agencies offering crucial public services, especially PhilHealth and the Department of Public Works and Highways (DPWH) (Cordero, 2020). The government appears to be singularly focused on an investigation as to its anti-corruption program.

The Independent Commission Against Corruption (ICAC) of Hongkong 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.

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 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 economical, efficient, and effective personnel administration in the government.

It also renders opinion and rulings on all personnel and other Civil Service matters, which shall be 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 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 head of government, and Congress in the performance of its oversight function in the budget process. It also caters to the public as users of data in the context of fostering transparency and accountability. The challenge for COA is to equip a new generation of auditors the modern financial investigative and digital forensic skills.

The Office of the Ombudsman is mandated by law to investigate

and prosecute on its own or on the complaint by any person, any act or omission of any public officer or employee, office or agency when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan, and it may take over, at any stage, from any investigatory agency of government, the investigation of such cases. The agency is hampered by the lack of lawyers and other resources given its workload. 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 (Buendia, 2020). 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 the citizens that their health and future are protected from the deadly impact of corruption in the age of COVID-19.



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. All over the world, it has been shown that the battle against corruption is waged not by government accountability agencies alone. Civil society organizations have proven themselves to be reliable co-producers in fighting corruption.

Ostrom (1996) 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. The early formulation confined the definition of who co-produces to consumers, thereby seeming to rule out a co-productive role for other actors, such as citizens, volunteers, or non-governmental partners (Alford, 2014). Given this expanded definition, co-production implies that citizens can play an active role in producing public goods and services of consequence to them. As an organized entity working for citizen interests, 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 Transparency International that was founded in 1993. With headquarters in Berlin, TI has accredited national chapters in more than 90 countries. The TI chapter on the Philippines was launched in 1995. In a forum that celebrated the 25th 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 (Espanol, 2020b). 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.”

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 during that time as 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 a 2010 manual on Organizing 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 to 10 personnel from the same office who perform similar or related functions. They committed to abide by the values of honesty and professionalism and to improve their delivery of public services.

Integrity circles are work groups 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 tapped outside organizations to constitute Integrity Circle Support Groups whose job is to help monitor, evaluate, and reward the honesty and performance of the integrity circles.

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.

If we go by the initial findings from the Senate and House of Representatives probe on alleged corruption in 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, including that of TI-Philippines, has declined in recent years. It is welcome news that TI-Philippines intends to revive its dormant programs and introduce transparency and accountability work to a 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: Medicine Monitoring

This case represents how corruption prevention through civil society participation can be undertaken in the public health sector, especially in the area of medicine monitoring. Considering the corruption allegations in the public health sector in the middle of the COVID-19 crisis in 2020, the lessons from this case in corruption prevention more than a decade ago should have been mainstreamed and institutionalized in the DOH.

The National Movement for Free Election (NAMFREL), which originally started as an election watchdog, ventured into public health monitoring 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. Some of the reasons for these were the inefficient procurement processes, erroneous deliveries and

distribution, and insufficient stocking of medicines. These were attributed to the corruption in health service delivery (Partnership for Transparency Fund, 2015).

Citizen engagement in government procurement is meant to boost and improve the delivery of services to the public. In order 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 monitor properly the different reporting formats followed by hospitals, suppliers, as well as the procurement secretariat (La Salle Institute of Governance, 2012). 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 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 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, 2015).

Aside from these, volunteers were deployed to review the Annual Procurement Plan, observed the bidding process, made sure that the medicines were authorized by the Philippine National

Drug Formulary, followed the paper trail to verify the integrity of the procedure, reviewed the purchase orders, and prepared inventory monitoring reports (Magno, 2015).

Ever since the Medicine Monitoring Project was put into practice in 2004, several improvements in the health sector emerged. These include the following: (1) The reputation of the DOH dramatically increased based on scorecards completed by both government and civil society as well as validated through public opinion surveys; (2) The availability of essential medicines improved considerably; (3) The discrepancy in the delivery of the drugs and medicines to hospital 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 bid prices in the process of procurement, which led to a more improved health service delivery. These outcomes also prove that citizens can play a more 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, were also important in the completion of this project (La Salle Institute of Governance, 2012).



Reviving Democratic Institutions

A governance 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 in 2012. The OGP is a global coalition of reformers within and outside of government that work together towards co-creating shared commitments, which aim 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 (PH-OGP, 2019).

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 composed of an equal number of government and non-government sector 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 have 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.

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 budget information; formal opportunities for the public to participate in the national budget process, and the role of budget oversight institutions such as the legislature and auditor in the budget process. In the 2019 OBS, the Philippines improved its score to 76 and ranked 10th 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 in the Executive's Budget Proposal additional information on fiscal risks, 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 Yearend Report additional information on the outcomes of performance indicators and detailed comparisons on actual debt and borrowing during the budget 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 (IBP, 2020).

In the case of Congress, the 2019 OBS noted that it provides

adequate oversight during the planning stage of the budget cycle and adequate oversight during the implementation stage. To make its oversight even more effective, the survey suggested certain actions. 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 their 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 to testify during its hearings on the Audit Report (IBP, 2020).

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 Philippine Development Plan (PDP) 2017-2022, and the Participatory Governance Cluster of the Cabinet (PGC) Performance and Projects Roadmap (PPR), the fifth PH-OGP National Action Plan puts forward 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.

The OGP provides a good platform for bringing 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.

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, including 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 (Gaventa, 2002).

Civic education and leadership programs for the youth should be developed to enable them to participate meaningfully not just in elections but also in broader democratic governance processes, including youth councils and local special bodies. The youth can be engaged in active citizenship programs related 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 arm 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 the functioning of representative democracy (Dalton, 2017). This is the case when political parties themselves are aware of the programmatic 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 would 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, there is a need to draw attention to be to the process of the exchange of reasons among students and how they critically examine the current democratic process to determine in what ways it is or is not living up to deliberative democratic ideals (Hanson and Howe, 2011). 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 to a romantic entanglement with populist politics. Previous studies indicate that social media give populist actors the freedom to articulate their ideology and spread their messages (Engesser et al., 2017). The convergence between social media and populist politics emanate from the manner in which the mass networking capabilities of social media furnish a fitting channel for mass politics and appeals to the people typical of populism (Gerbaudo, 2018). In the age of social media and machine learning, it is important to see how civic technology and institutional arrangements could have a double-edged effect in sustaining or derailing patronage and

personality-based politics. In this regard, there is a strong role to be 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, the case for democracy has to be demonstrated by providing avenues and mechanisms for citizen voice and participation 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 media spaces. 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 (Brubaker, 2017).

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-regulation. Civil

society organizations have become less active in confronting public malfeasance. Given the government's lack of intolerance for contrary opinions, the quality of political debate and discussions went down immensely. 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.

Linking the OGP with the SDG principles will form a 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, the passage of a Whistleblowers Protection Act, Freedom of Information Act, and Budget Modernization Act are 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 accompanied the Coronavirus disease (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 in a judicious and systematic manner.

The narrative of a strong political will is 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 to perform the valuable job of ensuring integrity, credibility, and comprehensiveness in providing mechanisms for information and knowledge dissemination. On the other hand, political parties

should be strengthened as 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.

¹ Page 24 picture credit: ishr.ch/news/philippines-l-human-rights-defender-protection-law-passes-three-readings-house-representatives

² Page 28 picture credit: today.mims.com/expert-opinions--public-health-in-the-philippines

³ Page 32 picture credit: medium.com/@alyadjunas19/a-relationship-between-civil-society-and-democracy-the-case-of-philippines-and-indonesia-bef28d606939

⁴ Page 36 picture credit: r3.rappler.com/move-ph/41793-pantawid-program-working-well

⁵ Page 44 picture credit: globalbalita.com/2014/02/page/2

⁶ Page 48 picture credit: washingtonpost.com/world/asia_pacific/dutertes-drug-war-is-horribly-violent-so-why-do-many-young-liberal-filipinos-support-it/2017/04/16/9d589198-1ef1-11e7-be2a-3a1fb24d4671_story.html

⁷ Page 50 picture credit: koreaherald.com/view.php?ud=20131104000667&mod=skb



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