

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

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SENATE

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S. No. 1737

INTRODUCED BY THE HONORABLE MAR ROXAS

EXPLANATORY NOTE

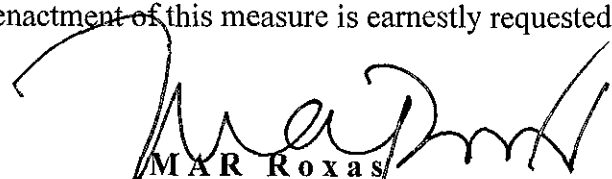
This bill seeks to allow the Office of the Ombudsman to augment its rank of lawyers by allowing it to designate or deputize private lawyers to assist in the prosecution and investigation of cases pending before the *Sandiganbayan*. Under RA 6770, also known as the Ombudsman Act of 1989, the Ombudsman may only designate or deputize fiscals, state prosecutors, and other government lawyers; hence, there is a need to introduce amendments to the said law to allow the Ombudsman to enlist the assistance of private attorneys.

The Office of the Ombudsman has been mandated by the Constitution with immense responsibilities. As the "protector of the people," it is the Ombudsman which has been granted the power to act on complaints filed in any form or manner against public officials and to investigate any act or omission when such act or omission appears to be illegal, unjust, improper, or inefficient. The Ombudsman Act makes perfectly clear that the jurisdiction of the Ombudsman encompasses all kinds of malfeasance, misfeasance, and nonfeasance that have been committed by any government officer or employee.

Despite the immensity of the expectations and the burden placed on the Ombudsman and considering the enormity and responsibilities mandated by law, the Ombudsman does ^{not} have the necessary resources to accomplish its mandate. At present, it only has 32 full-time public prosecutors handling more than 2,000 cases pending with the *Sandiganbayan* and hundreds of cases more on appeal to the Supreme Court. Because of their heavy work load and meager resources, public prosecutors are always at a disadvantage when litigating before the anti-graft court. Corrupt public officials, more often than not, operate from a position of strength given their organizational and financial capability and ability to retain top-notch legal services. There is a need to neutralize this built-in advantage by allowing the Ombudsman to draw on the experience and expertise of private lawyers.

This measure will not entail any additional cost on the part of the government because the services rendered by private lawyers shall be on a *pro bono* basis. Only incidental and necessary expenses are to be paid by the Ombudsman.

In view of the foregoing, the immediate enactment of this measure is earnestly requested.


MAR ROXAS
Senator

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AN ACT
ALLOWING PRIVATE PROSECUTORS TO
ASSIST THE OFFICE OF THE OMBUDSMAN IN THE INVESTIGATION AND
PROSECUTION OF CASES, AMENDING FOR THE PURPOSE REPUBLIC ACT
NO. 6770 OTHERWISE KNOWN AS THE "OMBUDSMAN ACT OF 1989"

Be it enacted by the Senate and the House of Representatives in Congress assembled:

Sec. 1. Section 31 of Republic Act No. 6770 is hereby amended to read as follows:

Section 31. *Designation of Investigators and Prosecutors.* The Ombudsman may utilize the personnel of his office and or designate or deputize any fiscal, state prosecutor or lawyer in the government service OR ANY PRIVATE LAWYER to act as special investigator or prosecutor to assist in the investigation and prosecution of cases. Those designated and deputized by him herein shall be under his supervision and control.

The Ombudsman and his investigators and prosecutors, whether regular members of his staff or designated by him as herein provided, shall have the authority to administer oaths, to issues *subpoena* and *subpoena duces tecum*, to summon and compel witnesses to appear and testify under oath before them and/or bring books, documents and other things under their control, and to secure the attendance or presence of any absent or recalcitrant witness through application before the Sandiganbayan or before any inferior or superior court having jurisdiction of the place where the witness or evidence is found.

SECTION 31-A. *PRIVATE LAWYERS.* FOR PURPOSES OF THIS ACT, THE TERM PRIVATE LAWYER SHALL MEAN OR BE UNDERSTOOD AS FOLLOWS:

- (1) ANY PERSON LEARNED IN THE LAW AS AN ATTORNEY, COUNSEL, OR A PERSON LICENSED TO PRACTICE LAW, WHO HAS BEEN IN THE PRACTICE FOR AT LEAST FIVE (5) YEARS;
- (2) ANY LAWYER WHO IS NOT EMPLOYED IN ANY GOVERNMENT AGENCY AND WHO IS NOT PAID OUT OF PUBLIC FUNDS;

SECTION 31-B. *PRO BONO SERVICE*. THE SERVICES RENDERED BY THE PRIVATE LAWYERS UNDER AND PURSUANT TO THIS ACT SHALL BE *PRO BONO* AND THEY SHALL NOT RECEIVE ANY FORM OF COMPENSATION EXCEPT FOR NECESSARY, INCIDENTAL, AND REPRESENTATION EXPENSES WHICH SHALL BE FOR THE ACCOUNT OF THE OMBUDSMAN.

Section 2. *Separability Clause*. If any provision of this Act is declared invalid, the remainder of this Act or any provision not affected thereby shall remain in full force and effect.

Section 3. *Repealing Clause*. All laws, decrees, ordinances, rules and regulations, executive or administrative orders, and other presidential issuances inconsistent with this Act, are hereby repealed or amended or modified accordingly.

Section 4. *Effectivity*. This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation or the Official Gazette, whichever comes first.

Approved, _____.

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