


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

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SENATE
S. B. No. 1836

RECEIVED BY: 

Introduced by Senator Francis N. Pangilinan

Section 1 of Article XI of the Constitution provides "Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice and lead modest lives." Pursuant thereto, the fundamental law of the land gives the Office of the Ombudsman the calling and badge to protect the people from the abuse and misuse of governmental power for personal aggrandizement. Accordingly, Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, was enacted on November 17, 1989.

Further, to give meaning to the above-stated constitutional appellation, the Office of the Ombudsman is charged with five major functions, to wit: Public Assistance, Graft Prevention, Investigation, Prosecution and Administrative Adjudication.

However, despite the foregoing command, graft and corruption in the government continue to escalate in number. While the Office is being overwhelmed with complaints of corruption by government officials, including high ranking officers, nevertheless, resolutions continue to elude the people. This is not to put the blame on the lackluster performance of the lawyers in the Office of the Ombudsman. The number of lawyers in the Office is just so considerably insignificant vis-à-vis the number of cases pending before the institution. This is not to mention the saddle of having to contend with the fancied, prominent and high caliber lawyers the accused hire to handle their cases.

To give meaning to the mandate of the Ombudsman as protector of the people and promoter of integrity and efficiency and high ethical standards in public service through prompt investigation of complaints and aggressive prosecution of cases filed against erring public officials and employees, there is a need to equip the Office with enough competent lawyers to promptly handle complaints and enforce the appropriate administrative, civil and criminal liability, in accordance with its mandate. Sadly, however, the budget constraint of the government renders improbable the increasing of appropriation to cover the ideal number of lawyers to handle the cases pending before the Office. Thus, this Bill aims to authorize the Ombudsman to hire private lawyers to assist the Office in handling the cases before it. Unless, the shortage of lawyers in the Office of the Ombudsman is resolved, aversion of corruption in the government and efficiency in the government service will be highly improbable.


Thus, the passage of the Bill is earnestly requested.


FRANCIS N. PANGILINAN

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**AN ACT
AMENDING SECTION 31 OF REPUBLIC ACT NO. 6770,
OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989", AS AMENDED,
ALLOWING PRIVATE LAWYERS TO ACT
AS PROSECUTORS ON BEHALF OF THE OMBUDSMAN**

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

Section. 1. Section 31 of Republic Act No. 6770 is hereby further 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 services to act as special investigator or prosecutor to assist in the investigation and prosecution of certain cases. THE OMBUDSMAN MAY ALSO DESIGNATE PRIVATE LAWYERS TO ACT AS INVESTIGATORS AND/OR PROSECUTORS TO ASSIST IN THE PROSECUTION OF CASES DECIDED HEREUNDER. Those designated and deputized to assist him herein provided 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 authority to administer oaths, to issue *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 witnesses through application before the Sandiganbayan or before any inferior or superior court having jurisdiction of the place where the witnesses or evidence is found.

"THE OMBUDSMAN MAY DESIGNATE PRIVATE LAWYERS TO ASSIST HIM IN THE PROSECUTION OF CASES IN THE FOLLOWING INSTANCES:

- A. CASES INVOLVING FORMER PRESIDENTS OF THE PHILIPPINES, FORMER VICE PRESIDENTS OF THE PHILIPPINES, INCUMBENT AND FORMER MEMBERS OF THE CABINET AND

INCUMBENT AND FORMER UNDERSECRETARIES APPOINTED
IN THE EXECUTIVE BRANCH;

- B. CASES REQUIRING SPECIALIZED AND EXPERT KNOWLEDGE
AND TRAINING OF THE LAW;
- C. CASES WHERE THE PRIVATE LAWYER DEPUTIZED BY THE
OMBUDSMAN IS ALSO THE COMPLAINANT IN THE FILING OF
THE ORIGINAL COMPLAINT LODGED WITH THE
OMBUDSMAN: WHERE THE COMPLAINANT IS NOT A
LAWYER, THE OMBUDSMAN MAY ALSO DESIGNATE OR
DEPUTIZE THE PRIVATE LAWYER/S HIRED AND ENGAGED BY
THE SAID COMPLAINANT.

"Sec. 31-A. DEFINITION OF PRIVATE LAWYERS. – FOR PURPOSES
OF THIS ACT, THE TERM PRIVATE LAWYER SHALL MEAN OR BE
UNDERSTOOD AS FOLLOWS:

- (A) (I) ANY PERSON LEARNED IN THE LAW AS AN ATTORNEY,
COUNSEL, OR A PERSON LICENSED TO PRACTICE LAW;
- (II) ANY PERSON WHO PROSECUTES OR DEFEND CAUSES
IN COURTS OF RECORD OR OTHER JUDICIAL TRIBUNAL, OR
WHOSE BUSINESS IS TO GIVE LEGAL ADVICE OR
ASSISTANCE IN RELATION TO ANY CAUSE OR MATTER; OR
- (III) ANY LAWYER WHO IS NOT EMPLOYED IN ANY
GOVERNMENT AGENCY AND NOT PAID OUT OF PUBLIC
FUNDS; AND
- (B) WITH AT LEAST FIVE (5) YEARS OF ACTIVE LITIGATION
PRACTICE OR EXPERIENCE

"SEC. 31-B. NATURE OF SERVICES. – THE SERVICES RENDERED BY
THE PRIVATE LAWYERS UNDER AND PURSUANT TO THIS ACT SHALL BE
PRO BONO AND ON A PURELY VOLUNTARY BASIS EXCEPT THAT
INCIDENTAL, NECESSARY AND OUT-OF-POCKET EXPENSES SHALL BE
FOR THE ACCOUNT OF THE OFFICE OF THE OMBUDSMAN.

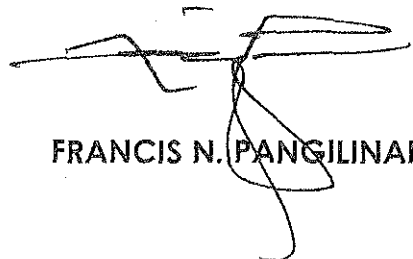
"SEC. 31-C. PROHIBITION ON APPEARANCE. – PRIVATE
LAWYER/S DESIGNATED BY THE OMBUDSMAN UNDER AND PURSUANT
TO THIS ACT AND THE FIRMS TO WHICH THEY BELONG SHALL, IN
CASES WHERE ACTUAL OR POTENTIAL CONFLICT OF INTEREST ARISES,
BE BARRED FROM APPEARING AS COUNSEL OR AGENT OF THE
OMBUDSMAN, AND FROM TRANSACTING BUSINESS DIRECTLY OR
INDIRECTLY WITH THE SAID OFFICE, WHILE THEY ARE DEPUTIZED TO
ASSIST THE OMBUDSMAN.

-Sec. 2. *Separability Clause.* – If any provision of this Act is declared
invalid or unconstitutional, the remainder of this Act or any provisions not
affected thereby shall remain in force and effect.

Section 3. *Repealing Clause.* – All laws, decrees, ordinance, rules and regulation, executive or administrative orders, and other presidential issuances inconsistent with this Act, are hereby repealed, 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 publication.

Approved,



FRANCIS N. PANGILINAN