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Introduced by Senators Magsaysay, Jr. and Osmeña III

EXPLANATORY NOTE

The Philippines is at the doorstep of the top ten most corrupt countries in the world. Our government is lost and is about to wear out in the investigations conducted by various government agencies in all its three branches, with no real answer to the country's problem of corruption in sight.

Corruption in government was among the primary reasons for the so-called EDSA Revolutions I and II, but the collapse of the Marcos and Estrada administrations was not a deterrent to corruption which seems to go on unabated. No one is willing to seriously dispute the report that not less than forty percent (40%) of public funds is stashed away from vital government services, but neither is the Filipino people convinced that serious efforts are being undertaken to put an end or reduce the squandering of the people's money by almost all government institutions. Soon after the report of the investigation of the Feliciano Commission on the so-called Oakwood mutiny precipitated by alleged corruption in the military, came the reports on alleged huge amount of ill-gotten wealth of a relatively low-ranking officer of the military which our people believe is but the tip of the iceberg.

No amount of investigation or threat of punishment it seems, could slow down our entry into the circle of the infamous. Perhaps this is because we won't really find our way out of corruption in government without discovering the truth.

Therefore, the creation of a Truth and Reconciliation Commission is hereby proposed, to explore the many facets of corruption in the civil, military, government and other sectors, and hopefully, to set our country in the direction of good governance and transparency before it is too late. The Commission's goal will necessarily include or involve efforts at reconciliation among all segments of our society.

To achieve our objective, help will be sought from outside the government, from citizens who are recognized for their probity and character who will make up the Commission, and the citizens who are knowledgeable about the corruption in government

as participants and beneficiaries thereof, and the rest of us who will ensure that the Commission could and will perform its function and duties faithfully and well.

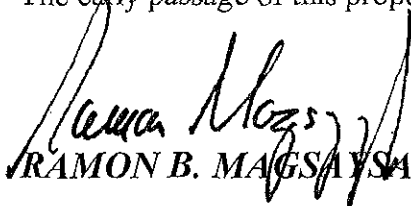
Use of immunity will be necessary to get at what has gone wrong. Nothing short of a grant of immunity will get people to open up fully, especially when telling the truth might otherwise cause them to lose their jobs - or worse, spend years behind bars. We must unearth the root causes of corruption and understand the culture that gives rise to it to be able to fix it, so that threats of prosecution or dismissal from office will be removed.


To the extent possible, justice will not be sacrificed, but bringing to its end corruption in government shall be the primary goal and objective of the Truth Commission proposed to be created and established.

The proposed enactment is one measure to implement the policy enunciated in the Philippine Constitution:

"Sec. 27. The State shall maintain honesty and integrity in public service and take positive and effective measures against graft and corruption."¹

The early passage of this proposed legislation is earnestly sought.


RAMON B. MAGSAYSAY, JR.


SERGIO OSMEÑA III

¹ Constitution of the Philippines, Article II, Sec. 27

1 Sec. 6. The Commission shall consist of seven (7) members, all of whom shall be
2 citizens of Philippines and appointed by the President and after being selected and
3 recommended in accordance with the procedure prescribed for the purpose.

4 Sec. 7. The members of the Commission shall be -

5 a. Persons of integrity and credibility who would be impartial in
6 the performance of their functions under this Act and who would enjoy the
7 confidence generally of the people of Philippines; and

8 b. Persons with high standing or competence as lawyers, social
9 scientists, religious leaders, psychologists and in other professions or
10 disciplines relevant to the functions of the Commission.

11 Sec. 8. The Commission shall have a Chairman and a Deputy Chairman both of
12 whom shall be appointed as such by the President.

13 Sec. 9. A member of the Commission may resign his office by written notice to
14 the President and may be removed from office only for inability to perform the functions
15 of his office, whether arising from infirmity of body or mind or for a misconduct under
16 this Act.

17 Sec. 10. Members of the Commission shall work full-time or nearly as full-time
18 as possible and shall, accordingly, be paid such remuneration as the President may
19 determine.

20 Sec. 11. The Commission shall be inaugurated within two weeks of the
21 appointment of its members and shall operate for three (3) years: Provided, that for good
22 cause shown, the President may extend the term of the Commission for a further one (1)
23 year.

24 Sec. 12. Before the commencement of the period of one year specified in the
25 immediately preceding section, the Commission shall have a preparatory period of three
26 (3) months during which it may undertake all tasks necessary to ensure that it is able to
27 work effectively from the commencement of its operations.

28 Sec. 13. The tasks to be undertaken by the Commission during the preparatory
29 period shall include procurement of office space, preparation of a budget, securing funds
30 for the Commission, hiring staff, discussing questions of methodology, designing and
31 undertaking a public education campaign for the purposes and procedures of the
32 Commission, designing and putting in place a database, undertaking a preliminary

1 background research, collecting supporting materials for its investigations and
2 prioritizing its work.

3 Sec. 14. Both during the preparatory period and after it commences operations,
4 the Commission shall endeavor to inform the public of its existence and the purposes of
5 its work, and, when appropriate, shall invite all interested parties who may wish to do so,
6 to make statements or submit information to the Commission.

7 **ARTICLE III - FUNCTIONS OF COMMISSION**

8 Sec. 15. The Commission is established to create an impartial historical record of
9 graft and corruption committed or perpetrated after the downfall of the of former
10 President Ferdinand Marcos and, thereby determine the causes of graft and corrupt
11 practices, as well as seek to promote the reconciliation of their perpetrators with the
12 Filipino people.

13 Sec. 16. The Commission shall grant rewards to persons providing information
14 on graft and corrupt practices in government, including those who may have been
15 involved in graft and corrupt practices themselves voluntarily coming forward with
16 information and evidence on graft and corruption they themselves were involved in, and
17 grant immunity to the perpetrators of graft and corruption under the terms and conditions
18 specified in this Act and those determined by the Commission.

19 Sec. 17. Without prejudice to the generality of the immediately preceding section,
20 it shall be the function of the Commission -

21 a. To investigate and report on the causes, nature and extent of
22 the graft and corruption committed or perpetrated as provided in Section
23 15 of this Act to the fullest degree possible, including their antecedents,
24 the context in which they occurred or were committed, the question of
25 whether those acts were the result of deliberate planning, policy or
26 authorization by any government, group or individual, and the role of both
27 internal and external factors in the transactions;

28 b. To grant immunity from prosecution and work to help restore
29 the dignity of perpetrators coming forward with testimonies and evidence
30 of the graft and corruption they are party to and promote reconciliation by
31 providing an opportunity for the perpetrators to give an account of their
32 violations and transactions and to relate their experiences and, by creating
33 a climate which fosters constructive interchange between the Commission
34 and the perpetrators; and

1 c. To do all such things as may contribute to the fulfillment of the
2 object of the Commission.

3 Sec. 18. The Commission shall, subject to this Act, solely determine its operating
4 procedures and mode of work with regard to its functions which shall include the
5 following three (3) components : -

6 a. Undertaking investigation and research into key events, causes,
7 patterns of corruption or violation of anti-graft laws and the parties
8 responsible;

9 b. Holding sessions, some of which may be public, to hear from
10 the perpetrators of any graft or corrupt practices, witnesses thereof, or
11 from other interested parties; and

12 c. Taking individual statements and gathering additional
13 information with regard to the matters referred to in sub-paragraphs (a) or
14 (b).

15 Sec. 19. The Commission may enlist the assistance of any branch, department,
16 bureau, office, agency or instrumentality of the government, including government
17 owned and controlled corporations, in undertaking any and all its investigations, hearings
18 and operations, which may include the use of its personnel, facilities and resources. The
19 Commission may seek assistance from traditional and religious leaders to facilitate its
20 tasks and help in resolving incidents of graft and corruption or in support of healing and
21 reconciliation.

22 Sec. 20. At the discretion of the Commission, any person shall be permitted to
23 provide information to the Commission on a confidential basis and the Commission shall
24 not be compelled to disclose any information given to it in confidence.

25 Sec. 21. The Commission shall take into account the interests of victims and
26 witnesses when inviting them to give statements, including the security and other
27 concerns of those who may wish to recount their stories in public and the Commission
28 may also implement special procedures to address the needs of such particular perpetrator
29 of corruption or witness.

30 Sec. 22. Decisions of the Commission shall, as far as possible, be taken by
31 consensus and in the absence of consensus, by the majority vote of members of the
32 Commission and the Chairman shall cast the deciding vote where there is a tie.

1 Sec. 23. During the course of and/or at the conclusion its operations, the
2 Commission may provide information or recommendations to the Ombudsman regarding
3 perpetrators of graft and corruption not cooperating with the Commission against whom
4 sufficient evidence for their prosecution may have been gathered.

5 Sec. 24. The Commission shall have power generally to organize its work and
6 shall, in its operations, have power -

7 a. To gather, by means it deems appropriate, any information it
8 considers relevant, including the ability to request reports, records,
9 documents or any information from any source, including governmental
10 authorities, and to compel the production of such information as and when
11 necessary;

12 b. To visit any establishment or place without giving prior notice,
13 and to enter upon any land or premises for any purpose which is material
14 to the fulfillment of the Commission's mandate and in particular, for the
15 purpose of obtaining information or inspecting any property or taking
16 copies of any documents which may be of assistance to the Commission,
17 and for safeguarding any such property or document;

18 c. To interview any individual, group or members of organizations
19 or institutions and, at the Commission's discretion, to conduct such
20 interviews, in private;

21 d. Subject to adequate provision being made to meet his expenses
22 for the purpose, to call upon any person to meet with the Commission or
23 its staff, or to attend a session or hearing of the Commission, and to
24 compel the attendance of any person who fails to respond to a request of
25 the Commission to appear and to answer questions relevant to the subject
26 matter of the session or hearing;

27 e. To require that statements be given under oath or affirmation
28 and to administer such oath or affirmation;

29 f. To request information from the relevant authorities of a foreign
30 country and to gather information from victims, witnesses, government
31 officials and others in foreign countries;

32 g. To issue summons and subpoenas as it deems necessary in
33 fulfillment of its mandate; and

34 h. To request and receive police assistance as needed in the
35 enforcement of its powers.

1 Failure to respond to a summons or subpoena issued by the Commission, failure
2 to truly or faithfully answer questions of the Commission after responding to a summons
3 or subpoena, or intentionally providing misleading or false information to the
4 Commission shall be deemed equivalent to contempt of court and may, at the discretion
5 of the Commission, be referred to the appropriate court for trial and punishment.

6 Sec. 25. All persons, including members and officers of the government and
7 political parties, shall cooperate with and provide unrestricted access for the Commission
8 and its staff for any purposes necessary in the fulfillment of the Commission's mandate
9 under this Act, as determined by the Commission.

10 Sec. 26. Any person who willfully obstructs or otherwise interferes with the
11 Commission or any of its members or officers in the discharge of the Commission's
12 functions under this Act, commits an offense and shall be liable on conviction to a fine
13 not exceeding Five Hundred Thousand Pesos (P500,000.00) or to a term of imprisonment
14 not exceeding one year or both such fine and imprisonment.

15 **PART IV - ADMINISTRATIVE PROVISIONS**

16 Sec. 27. To assist it in the performance of its functions, the Commission may
17 appoint such committees as it may consider necessary.

18 A committee under this section shall include persons who are not members of the
19 Commission but who are appointed, taking into account gender representation and
20 regional participation in the work of the Commission.

21 Sec. 28. A member of a committee who is not a member of the Commission shall
22 be paid such allowances as the Commission may determine.

23 Sec. 29. The Commission shall have such offices and may employ such staff as it
24 may consider necessary for the efficient performance of its functions.

25 Sec. 30. Public officers may be seconded or otherwise render assistance to the
26 Commission.

27 Sec. 31. The staff of the Commission shall be employed on such terms as the
28 Commission shall, after consultation with the Civil Service Commission, determine.

29 Sec. 32. The operations of the Commission shall be financed from an initial
30 appropriation of the amount of Two Hundred Million Pesos (P200,000,000.00) which is
31 hereby appropriated and by a fund consisting of moneys and other resources obtained by

1 the Commission as gift or donation from inter-governmental organizations, foundations,
2 non-governmental organizations and foreign governments.

3 Sec. 33. The funds of the Commission, over the disbursements of which amount
4 the Commission shall exercise absolute and sole control, shall be utilized only on the
5 basis of the budget prepared for the purpose.

6 Sec. 34. The Commission shall keep proper books of account and other records in
7 relation to the operation of the Commission and shall prepare quarterly statements of
8 accounts in a form designed to -

9 a. Indicate monthly expenditures;

10 b. Provide data for up-to-date budget control based on the
11 management information system of the Commission; and

12 c. Ensure correct use of the funds of the Commission.

13 Sec. 35. The accounts of the Commission kept under the immediately preceding
14 section shall be audited by an auditor, being a professional accountant of high standing,
15 appointed by the Commission and the statement of accounts together with the auditor's
16 report thereon shall be submitted to the government and other contributors to the funds of
17 the Commission.

18 Sec. 36. Subject to this Act, the Commission shall, in the performance of its
19 functions under this Act, not be subject to the direction or control of any person or
20 authority.

21 Sec. 37. Each member of the Commission and member of staff of the
22 Commission shall serve in his individual capacity, independent of any political party,
23 government or other organizational interests, and shall avoid taking any action which
24 could create an appearance of partiality or otherwise harm the credibility or integrity of
25 the Commission.

26 Sec. 38. No member of the Commission or member of staff of the Commission
27 shall make private use of or profit from any confidential information gained as a result of
28 his work in the Commission or divulge such information to any other person except in the
29 course of his functions as a member or staff of the Commission and any contravention of
30 this provision may result in dismissal from the Commission. Any member or member of
31 staff of the Commission who contravenes the immediately preceding section shall be
32 guilty of misconduct and liable to be dismissed from the Commission.

1 Sec. 39. No member of the Commission or staff of the Commission shall be held
2 liable for any acts carried out within the scope of his duties.

3 **ARTICLE V - REPORT AND RECOMMENDATIONS**

4 Sec. 40. The Commission shall submit report of its work to the President at the
5 end of its operations.

6 Sec. 41. The report shall summarize the findings of the Commission and shall
7 make recommendations concerning the reforms and other measures, whether legal,
8 political, administrative or otherwise, needed to achieve the *object of the Commission*,
9 namely *the object of providing impartial record*, preventing the repetition of the graft and
10 corrupt practices, addressing impunity, responding to the needs of promoting healing and
11 reconciliation.

12 Sec. 42. Immediately upon submitting the report to the President, the Commission
13 shall publish the report in the Official Gazette by the insertion of the appropriate
14 Government Notice and in such other publications as it may consider appropriate and
15 shall, in collaboration with the government; make copies of the report or summaries
16 thereof, widely available to the public.

17 Sec. 43. The President shall, within thirty days of receiving the report of the
18 Commission, submit a copy to the Congress of the Philippines with a request that it be
19 lodged in the archive of Congress.

20 Sec. 44. The departments and agencies of the government concerned shall
21 faithfully and immediately implement the recommendations of the report that are directed
22 to said offices and encourage or facilitate the implementation of any recommendations
23 that may be directed to others.

24 Sec. 45. The President shall, upon the publication of the report of the
25 Commission, establish a committee or other body, to monitor the implementation of the
26 recommendations of the Commission and to facilitate their implementation.

27 Sec. 46. The Government shall, during the period of eighteen months or such
28 longer or shorter period after the establishment of the follow-up committee as that
29 committee shall determine, provide quarterly reports to the follow-up committee
30 summarizing the steps it has taken towards implementation of the recommendations of
31 the Commission.

1 Sec. 47. The follow-up Committee shall publish the reports of the government in
2 the appropriate form and submit quarterly reports to the public evaluating the efforts of
3 the government and the efforts of any other person or body concerned to implement the
4 recommendations of the Commission.

5 Sec. 48. The President shall, not later than three (3) months after the submission
6 of the report of the Commission to him, dissolve the Commission by notice in a statutory
7 instrument.

8 Before it is dissolved, the members of the Commission shall, among the final
9 administrative activities of the Commission -

10 a. Organize its archives and records, as appropriate, for possible
11 future reference, giving special consideration to - (i) what materials or
12 information might be made available to the public, either immediately or
13 when conditions and resources allow; and (ii) what measures may be
14 necessary to protect confidential information; and

15 b. Organize the disposal of the remaining property of the
16 Commission.

17 Sec. 49. This Act shall take effect upon approval.

18 **Approved,**