

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

6 MAR -1 P5:48

SENATE

RECEIVED BY: 

COMMITTEE REPORT NO. 54

Submitted jointly by the Committee on Agriculture and Food and the
Committee on Accountability of Public Officers and Investigations (Blue
Ribbon) on 01 MAR 2006.

Re: Proposed Senate Resolution No. 327

Recommending approval of the recommendations contained herein.

Sponsor: Senator Ramon B. Magsaysay, Jr.

MR. PRESIDENT:


The Committees on Agriculture and Food, and Accountability of Public
Officers and Investigations (Blue Ribbon), to which was referred Proposed Senate
Resolution No. 327, introduced by Senator Magsaysay, Jr., entitled:


"RESOLUTION
TO CONDUCT AN INQUIRY ON THE ALLEGED
MISMANAGEMENT AND USE OF THE FERTILIZER FUND OF THE
DEPARTMENT OF AGRICULTURE'S GININTUANG
MASAGANANG ANI PROGRAM TO THE DETRIMENT OF
FILIPINO FARMERS WITH THE END IN VIEW OF CHARTING
EFFECTIVE POLICIES AND PROGRAM FOR THE AGRICULTURE
SECTOR"

have considered the same and have the honor to report it back to the Senate with
the attached recommendations be approved with Senators Magsaysay, Jr. and
Arroyo as authors thereof.

Respectfully submitted:

Chairpersons:


JOKER ARROYO
Committee on Accountability of
Public Officers and Investigations
(Blue Ribbon)


RAMON B. MAGSAYSAY, JR.
Committee on Agriculture and Food

Vice- Chairpersons



MANUEL B. VILLAR, JR.
Committee on Agriculture and Food

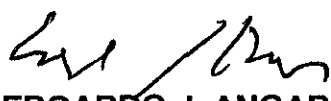


RODOLFO G. BIAZON
Committee on Agriculture and Food
Member, Blue Ribbon Committee

Members:



COMPANERA PIA S. CAYETANO
Agriculture and Food and Blue Ribbon



EDGARDO J. ANGARA
Agriculture and Food and Blue Ribbon



JUAN PONCE ENRILE
Blue Ribbon Committee




JINGGOY EJERCITO ESTRADA
Agriculture and Food and Blue Ribbon

RICHARD J. GORDON
Blue Ribbon Committee



PANFILO M. LACSON
Blue Ribbon Committee



MANUEL "LITO" M. LAPID
Agriculture and Food and Blue Ribbon

ALFREDO S. LIM
Agriculture and Food and Blue Ribbon



M. A. MADRIGAL
Blue Ribbon Committee



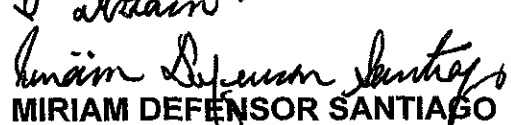
SERGIO R. OSMEÑA III
Agriculture and Food and Blue Ribbon



RAMON "BONG" REVILLA, JR.
Agriculture and Food and Blue Ribbon

RALPH G. RECTO
Agriculture and Food and Blue Ribbon

MAR ROXAS
Blue Ribbon Committee

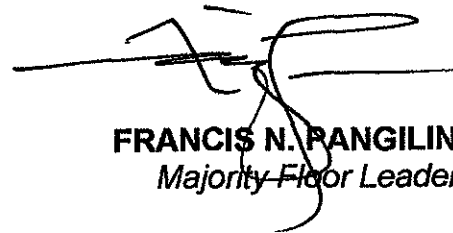
I abstain:

MIRIAM DEFENSOR SANTIAGO
Blue Ribbon Committee

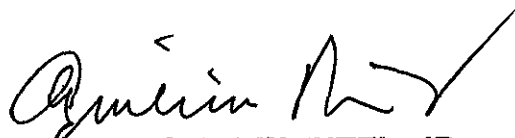



LUIA "LOI" EJERCITO-ESTRADA

Ex-Officio Members:


JUAN M. FLAVIER
Pro-Tempore President


FRANCIS N. PANGILINAN
Majority Floor Leader


AQUILINO Q. PIMENTEL, JR.
Minority Floor Leader

HON. FRANKLIN M. DRILON
Senate President
Pasay City



**THIRTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
Second Regular Session**

SENATE

COMMITTEE REPORT NO. _____

Submitted by the Committees on Agriculture and Food and Accountability of Public Officers and Investigations (Blue Ribbon), on

PSR 327 1 - "RESOLUTION DIRECTING THE COMMITTEE ON AGRICULTURE AND FOOD TO CONDUCT AN INQUIRY, IN AID

¹ RESOLUTION DIRECTING THE COMMITTEE ON AGRICULTURE AND FOOD TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED MISMANAGEMENT AND USE OF THE FERTILIZER FUND OF THE DEPARTMENT OF AGRICULTURE'S GININTUANG MASAGANANG ANI PROGRAM TO THE DETRIMENT OF FILIPINO FARMERS WITH THE END IN VIEW OF CHARTING EFFECTIVE POLICIES AND PROGRAMS FOR THE AGRICULTURE SECTOR

Whereas, one of the hallmarks of the 1987 Philippine Constitution is the prominence of declarations aimed at preventing wastage of government resources through the institutions of so-called "sunshine laws", viz:

- Section 27, Article II, stating "[t]he State shall maintain honesty and integrity in public service and take positive and effective measures against graft and corruption."
- Section 28, Article II, providing "[s]ubject to reasonable conditions prescribed by law, the state adopts and implements a policy of full public disclosure of all its transactions involving public interest."
- Section 7, Article III, mandating "[t]he rights of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitation as may be provided by law."
- Section 1, Article XI, declaring "[p]ublic 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."

Whereas, the *Ginintuang Masaganang Ani* (GMA) Program of the Department of Agriculture is envisioned to generate employment, increase farmers' income, and achieve greater food security;

Whereas, the fund resources of the Program are meant for the procurement and distribution seeds (inbred and hybrid) and fertilizer, provision of other location specific intervention, research and Development (R & D) to improve productivity and farmer's income and National Expansion of Farmers Field Schools revitalization of national extension system;

Whereas, the Philippine Center for Investigative Journalism (PCIJ) in a report revealed that the Department of Agriculture released fertilizer funds during the 2004 presidential campaign and records would bear that the Department of Budget and Management authorized the release of Seven Hundred Twenty-eight Million Pesos (P 728,000,000.00) for the purchase of farm inputs and implements;

Whereas, farmers and farm organizations declared that they never received a single-centavo worth of fertilizers or farm inputs intended for their respective district and accordingly, some of those districts without agricultural lands were reportedly given

OF LEGISLATION, ON THE ALLEGED MISMANAGEMENT AND USE OF THE FERTILIZER FUND OF THE DEPARTMENT OF AGRICULTURE'S *GININTUANG MASAGANANG ANI* PROGRAM TO THE DETRIMENT OF FILIPINO FARMERS WITH THE END IN VIEW OF CHARTING EFFECTIVE POLICIES AND PROGRAMS FOR THE AGRICULTURE SECTOR" by Senator Ramon Magsaysay, Jr.

Recommending the adoption of the recommendations contained herein:

Mr. President:

The Committees on Agriculture and Food and Accountability of Public Officers and Investigations (Blue Ribbon) have conducted an inquiry, in aid of legislation, into P. S. Resolution 327 by Senator Magsaysay, Jr. Six (6) public hearings² and a series of dialogues with farmer organizations have been conducted. A substantial number of witnesses appeared, braving the threats on their lives : career service officers, local government officials, ordinary farmers and farm workers affiliated with respectable farmer organizations and responsible men and women of the Commission on Audit. Witnesses who answered the summons of the committees, with corresponding dates, are listed below :

appropriation for fertilizers;

Whereas, the truth in this particular issue must be resolved considering that the agriculture sector particularly our farmers are sweating it out to make both ends meet and are in dire need of government support: Now therefore be it

RESOLVED BY THE SENATE, AS IT HEREBY RESOLVED, TO DIRECT THE COMMITTEE ON AGRICULTURE AND FOOD TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED MISMANAGEMENT AND USE OF THE FERTILIZER FUNDS OF THE DEPARTMENT OF AGRICULTURE'S *GININTUANG MASAGANANG ANI* PROGRAM TO THE DETRIMENT OF FILIPINO FARMERS WITH THE END IN VIEW OF CHARTING EFFECTIVE POLICIES AND PROGRAMS FOR THE AGRICULTURE SECTOR.

Adopted,

² Six (6) public hearings have been conducted on the following dates : October 6 and 26, 2005; November 17 and 24, 2005; December 12, 2005 and February 2, 2006.

October 6, 2005

Assistant Commissioner Sofronio Flores, *Director* Tobias P. Lozada, *Ms.* Flerida Jimenez - Commission on Audit (COA); *Ms.* Che Che Lazaro - ABS-CBN Channel 2 Probe Team; *Secretary General* Danilo Ramos – Kilusang Magbubukid ng Pilipinas (KMP); *Secretary General* Enrico Cabanit - Pambansang Ugnayan ng mga Nagsasariling Lokal na Organisasyon sa Kanayunan (UNORKA); *Advocacy Officer* Emerson Perucho - Partnership for Agrarian Reform and Rural Development Services (PARRDS); *Executive Director* Arce Glipo - Integrated Rural development Foundation (IRDF); Joseph Canlas – Alyansa ng Magbubukid sa Gitnang Luzon

October 26, 2005

Commissioner Guillermo Carague, *Assistant Commissioner* Sofronio Flores, *Assistant Commissioner* Emma Espina - Commission on Audit (COA); *President* Raymond Ilustre – Fertilizer Industry Association of the Philippines (FIAP); *Secretary General* Danilo Ramos – Kilusang Magbubukid ng Pilipinas (KMP); *Atty.* Frank Chavez – Taxpayer; *Mr.* Villano- League of Provinces; Ka Felix Paz – KMP Bicol Region; *National Vice Chairperson* Imelda Lacandazo – KMP Southern Tagalog

November 17, 2005

Former Secretary Emilia Boncodin – Department of Budget and Management (DBM); *Atty.* Frank Chavez; *Mr.* Antonio Salas – Asst. Provincial Treasurer, Eastern Samar; *Mr.* Alfonso Esposa – President, Provincial Irrigations Associations; *Mr.* Danilo Ramos – Kilusang Magbubukid ng Pilipinas (KMP); *Prof.* Cesar Mamaril – farmer, UPLB Program and IRRI specialist in fertilizer and food management; *Secretary General* Nilo Arado –Pahagpong sa mga Mag-uuma sa Panay

(PAMANGGAS Panay, Iloilo, Aklan, Capiz, Guimaras); *Chairman* Guillermo Bautista –Katipunan ng Samahang Magbubukid ng Timog Katagalugan (KASAMA-TK); Joseph Canlas – Central Luzon; Romulo Tapayan – Kalipunan ng mga Maliliit na Magniniyog sa Pilipinas (KMMP) ; *Chairperson* Fernando Hicap – Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas (PLKM); Ernesto Tañedo – Katipunan ng Samahang Magsisibuyas.

November 24, 2005

Atty. Frank Chavez – Chavez, Miranda Assoc; *Assistant Commissioner* Espina - Commission on Audit (COA); *Provincial Agriculturist* Jesus Agda – Borongan, Eastern Samar; *Provincial Accountant* Vener Dulfo – Borongan, Eastern Samar; *Mayor* Antonio B. Rivera - Municipality of Dolores, Eastern Samar; *President* Raymond Ilustre – Fertilizer Industry Association of the Philippine (FIAP); Dr. Araceli Alejar – Fertilizer Expert/Consultant & Evaluator of Registered Plant Growth Regulators and Foliar Fertilizers; *National President* Apolinario Pacardo; *Secretary General* Enrico Cabanit - Pambansang Ugnayan ng mga Lokal at Nagsasariling Organisasyon sa Kanayunan (UNORKA); *Secretary General* Lito Gacusan - Samahan ng Gugti ng mga Parag-uma - Sinirangan Bisaya (SAGUPA - SB); *Mr.* Jose Tico – SAGUPA-SB-Northern Samar; “*Nanay*” Carmen Buena - National Federation of Peasant Women (AMIHAN); *Mr.* Jose Barredo – Taxpayer/witness

December 12, 2005

Undersecretary Jocelyn Bolante was invited as lone resource person but he fled the same morning for the United States of America, evading the Senate hearing. Official communication from his lawyers confirming his departure and explaining his absence, was sent to the committee.

February 2, 2006

Board member Rebecca Aquino of the Province of Sorsogon; Ms. Flerida Jimenez, Mr. Joseph Anacay and Delfin Aguilar, Commission on Audit; Citizen Jose Barredo, Jr.; Avelino Dacanay, Solidarity of Peasant Against Exploitation-Ilocos; Tonying Flores, FADC, Davao City; Dr. Cesar Mamaril, PhilRice-Los Banos; May Faustino, chicken and poultry supplier from Tarlac; Danilo Ramos and Pedro Arnado, Kilusang Magbubukid ng Pilipinas; Alfredo Ronquillo, Aaron Foundation

Preliminaries

The story of one is the story of all. This old saying remains to be true for Carmen Buena, a 60-year-old mother and farmer from Sta. Ana, Pampanga, and head of the women farmers' group called *Amihan*.

"Mahirap ang buhay magsasaka. Sa bukid, iwan at datnan ka ng araw at ulan. Di tulad ng ibang empleyado, may mga benepisyo. Kaming mga magsasaka, talagang wala, kundi sakit sa бага o di kaya rayuma. May pagkakataon pa ngang inaalipunga ang aking suso sa maghapon pagkababad sa putikan kapag nagtatanim," said Buena³ whose tale of hardship as a farmer is shared by many in the agriculture sector.

"Mahirap ang buhay magsasaka. Hindi talaga kasya ang kinikita kung susumahin mo." The mother of five revealed that during the harvest season, they usually produce 160 cavans of rice sold for a little more than Php

³ Oral testimony given by Carmen Buena, AMIHAN, to the Committees on Agriculture and Food, Accountability of Public Officers and Investigations

54,000.00. Of this amount, Php 6,750.00 goes to the so-called thresher; Php 36,250.00 goes to loan payments for farm inputs and the remaining Php 11,010.00 is to be shared by the landowner and the family who tilled the land. What is left to the hapless farmer is a meager P 5,050.00, which when computed against the length of time for rice production (usually four months), gives him a net income of Php 1,376.00 a month or Php 45.87 a day. It is unimaginable how a family of five (5) to seven (7), which is the size of a normal agricultural family, can subsist on such a miserable income.

In some countries, the farmers are among the wealthiest and most prolific. Sadly in the Philippines, our farmers can hardly put enough food on their table, and are in fact at the bottom of the social and economic strata. Aggravating their situation is the systemic corruption perpetuated by a few unscrupulous people in government, who have the temerity to rob them of the little assistance earmarked for them. It is ironic that our principal suppliers of food have been reduced to becoming the principal victims of hunger. We must put a stop to this injustice.

The Philippine Agriculture⁴

Being an agriculture-based country, the 1987 Philippine Constitution mandates “promoting industrialization based on sound agricultural development and agrarian reform as part of the country’s main economic thrust”.

But, why has our agriculture policy failed so badly?⁵

As early as the 1700s, it has already been recorded that the agriculture sector, much less the farm workers, had not been receiving enough government support.

⁴ Nationalist Imperialism Book of Alejandro Lichauco and the Filipino Heritage Encyclopedia

⁵ Taken from the Highlights of the Report and Recommendations of the Congressional Commission on Agricultural Modernization, entitled: Modernizing Agriculture, pp1

“After independence, nationalist policymakers favored industry over agriculture – seeing agriculture as “backward” and industry as “modern”. Successive governments used the dollars earned from the export of copra and sugar to build up national industry. And the high tariffs and an overvalued peso that nurtured these “infant industries” stunted the growth of agriculture.”⁶

The agricultural sector, which traditionally was exclusively reserved for the Filipino farmers, was eventually opened to international agri-market. Our local market started competing with imported agricultural products right in our own backyard.

In order to successfully implement the Import Liberalization as well as the GATT-WTO Uruguay Round Agreement that opened-up the country's market to foreign agri-products, among others, the Agricultural Tariffication Act was passed. This law repealed earlier laws prohibiting the importation of onion, potato, garlic, cabbage and coffee. It also repealed the Magna Carta for Small Farmers and the Seed Industry Development Act.

What was envisioned to enhance the agri-industry, by opening the trade market, without government's full assistance to the sector and safety nets set in place, actually turned the life of the peasants from worse to worst.

As per the Kilusan ng Magsasaka ng Pilipinas, farmers are paying higher prices for their farm inputs but they have to sell their produce at cheap prices caused by the monopoly position of big traders and food processing conglomerates. Moreover, cheap, subsidized imports from the industrialized countries are now pushing the prices even lower.

The situation have pushed and deprived lots of barrio farmers from their single source of livelihood. Less than a million jobs in agriculture have been lost, which increased unemployment rate in the provinces to about 1.3 million in 1998.

⁶ Ibid

What used to be self-sufficient and self-reliant farmers tilling their own lands are now regular workers in large farms owned by landlords. They earn only about between 60 to 90 pesos per day. Based on statistics released by the government, wage and salary earners in farms and plantations increased 13 percent between 1993 and 1997. Based on the statistics of the National Statistics Office Philippine Yearbook 2005, the average daily wage rate of farm workers without meals from 1996 to 2003 is 147 pesos. On the other hand, the number of farmers who work on lands they own continuously decrease by about 0.5 percent annually during the same years.

“Two-thirds of the Filipino poor—who altogether number almost 5 million families—live in rural areas. Most of them subsist as farmers, fishers and gatherers of forest products. The poorest of them are landless workers on sugar-cane, corn, rice and coconut farms; and fishers on our coastal water.”⁷

The colonialism in the agri-industry that thrives up to the present brought the sorry state of farmers being impoverished, dependent, exploited and oppressed.

Ginintuang Masaganang Ani (GMA) Rice and Corn Program: Tracing its History

The Marcos Administration

Former Agriculture Minister Arturo R. Tanco, Jr. under the Marcos administration, launched the innovative *Masagana 99* rice production program during his term of office from 1978 to 1984. The program revolutionized the rice industry and made the Philippines a rice-exporter and self-sufficient white-corn producer.⁸

⁷ Taken *en toto* from the Highlights of the Report and Recommendations of the Congressional Commission on Agricultural Modernization, entitled: Modernizing Agriculture, pp2

⁸ History of Philippine Agriculture, www.da.gov.ph/about/history.htm

The Ministry of Agriculture became the Ministry of Agriculture and Food (MAF) in 1984 under E.O. 967. A ssemblyman S alvador H. Escudero III was then appointed Minister of MAF. Under his stewardship, the Intensive Rice Production Program (IRPP) was launched.

The Aquino Administration

In 1986, after the EDSA revolution, Ramon V. Mitra was appointed Minister of MAF by President Corazon Aquino. The MAF then implemented policy and institutional reforms that freed the agriculture markets, enabling farmers to enjoy farmgate rates. After Minister Mitra, MAF Deputy Minister Carlos G. Dominguez was appointed Minister. On January 3, 1990 President Aquino appointed Senen Bacani as Secretary. This was when the DA implemented the Rice Action Program (RAP) which led the country to export rice in 1992. The Corn Production Enhancement Program (CPEP) was likewise launched which moved the country to be corn-sufficient.⁹

The Ramos Administration

In 1992, Roberto S. Sebastian became the Secretary of DA under the leadership of President Fidel V. Ramos. Secretary Sebastian introduced the key production approach (KPA), whose guiding principle was planting the right crop at the right place and time. It was during this time when the Medium Term Agricultural Development Plan was formulated. When Dr. Salvador H. Escudero III was reappointed as Agriculture Secretary, he launched the *Gintong Ani* Programs. This was to ensure food security and to help organize subsistence farmers into functional groups.¹⁰

The Estrada Administration

Dr. William D. Dar was designated Acting Agriculture Secretary on June 30, 1998 during the term of President Joseph Ejercito Estrada. The Ten-Point

⁹ Ibid

¹⁰ History of Philippine Agriculture, www.da.gov.ph/about/history.htm

Agenda in agricultural and fisheries was introduced. After a year, former Senate President Edgardo J. Angara was appointed as Secretary of Agriculture in 1999. Being the principal author of the AFMA of 1998, he put into action the visions of the law.

The AFMA which was approved into law on December 22, 1997 has two principal objectives, namely:

1. to modernize the agriculture and fisheries sectors by transforming these sectors from a resource-based to a technology-based industry; and
2. to pursue a market-driven approach to enhance the comparative advantage of our agriculture and fisheries sectors in the world market.¹¹

The Macapagal-Arroyo Administration

Secretary Leonardo Q. Montemayor, appointed on February 12, 2001 during the PGMA Administration, led the DA in the implementation of AFMA. The Ginintuang Masaganang Ani Countrywide Assistance for Rural Employment and Services (GMA-CARES) was implemented. This is the precursor of the present day *Ginintuang Masaganang Ani* Rice and Corn Program.

The Department of Agriculture (DA) is the main agency tasked to promote agricultural growth and development. Reorganized under Executive Order 116 dated January 30, 1987, the DA is mandated to provide the policy framework and help direct public investments in agriculture and fishery. In partnership with local government units (LGUs), it provides the support services necessary to make agriculture and agri-based enterprises profitable,

¹¹ Ibid

and helps spread the benefits of development to the poor, particularly those in the rural areas.¹²

The Php728 Million GMA Rice and Corn Funds:

FERTILIZER FUNDS SUPPOSEDLY FOR FARMERS

The Php 728 million fertilizer fund inquiry commenced when the farmers started to look for the fertilizer and other farm implements subsidy and found none. “Where are the millions of pesos?” “Where are the subsidies?” “Where are the fertilizers?” These are just some of the questions raised by the peasant farmers and their families in the countryside.

The Philippine Center for Investigative Journalism (PCIJ) published a report following “a trail of nearly P3 billion released by the Department of Agriculture (DA) during the 2004 presidential campaign. Its investigation found “that big chunks of that money were diverted to congressmen, mayors and governors who are allies of President Arroyo”. The same yielded the conclusion that “a portion of the money mysteriously ended up in the hands of obscure private foundations and companies” and eventually “siphoned to the Arroyo campaign”.¹³

The Probe team led by Ms. Cheche Lazaro¹⁴ also presented the issue and emphasized that the farmers as beneficiaries did not receive a single centavo from the said fertilizer funds.

The following are the factual backdrop of the Php 728 fertilizer fund, per the testimony of former Department of Budget and Management Secretary Emilia Boncodin¹⁵:

¹² Ibid

¹³ Philippine Center for Investigative Journalism, www.pcij.org. The document and the attachment dossiers of the PCIJ report was submitted as evidence by Atty. Francisco Chavez, TSN, October 26, 2005

¹⁴ The Probe report on the “fertilizer fund scam” was presented in the very first hearing of the joint committees serving as primer for the issue subject of inquiry. During the hearing, Ms Cheche Lazaro presented and annotated the report. TSN, October 6, 2005.

One. The DBM released the amount of Php 728 million for the purchase of farm inputs to the Department of Agriculture, Office of the Secretary, under Special Allotment Release Order or SARO under E-01-00164, dated February 3, 2004. This release was charged against the Agriculture and Fisheries Modernization Program (AFMA) as a continuing appropriation under Republic Act No. 9206.

Two. On the same day, DBM released the amount of Php 291.2 million to the Land Bank of the Philippines for the account of the Department of Agriculture, Office of the Secretary. This amount of Php 291.2 million represents forty percent (40 %) of the allotment released under the AFMA.

Three. The releases were made by the DBM upon the request of the Department of Agriculture based on a formal request submitted to the DBM. In that request, the attachment that is reflected as Annex A of the SARO was incorporated and that same schedule or attachment contains a listing of 105 congressional districts, 53 provinces and 23 municipalities.

Four. Subsequent releases for the NCA were made also upon the request of the Department of Agriculture either as a separate NCA or as part of the common fund that is usually authorized the agencies on a regular basis.

Five. The release made by the DBM was for farm inputs which could incorporate fertilizers, seeds and even insecticides. But the actual purpose for which the same will be used will depend on the Department of Agriculture.

Six¹⁶. In the case of the Php 728 fertilizer fund, the request for release was made by Undersecretary Jocelyn Isada Bolante. Accordingly, from the time of Secretary Montemayor, Undersecretary Bolante has been given the

¹⁵ Transcript of Stenographic Notes of November 17, 2005 public hearing. Likewise, Secretary Emilia Boncodin executed a deposition for the joint committees in the National Kidney and Transplant Institute.

¹⁶ TSN, November 17, 2005, 2:48 p.m. This portion is not part of the affidavit of Secretary Boncodin but is given in reply to the Senate President's question.

authority to make request in behalf of the Secretary of Agriculture and has never been revoked up to the time of Secretary Luis Lorenzo.

Lastly, when asked if the fertilizer fund request made by Undersecretary Bolante for the Department of Agriculture was upon the instruction of the President, Secretary Boncodin replied with “I would imagine so.”¹⁷

**The Php 728 million Fund is just a Portion of a
Larger Fertilizer Fund Released during the Elections of 2004**

The Php 728 million fertilizer fund is just part and parcel of the huge fund releases to the Department of Agriculture totaling Php 2.806 billion intended for the purchase of farm inputs and implements in 2004, all made just before the May 10, 2004 elections. Its breakdown as follows :

| Nature of Fund/Program | SARO Number and Date | Amount |
|-----------------------------------|---------------------------------|-------------------|
| GMA Farm Inputs and Implements | E-04-0014 February 3, 2004 | Php 728 million |
| GMA Rice and Corn and | E-04-00294 February 11, 2004 | Php 1.102 billion |
| Marcos Wealth for CARP | E-04-01090 | Php 544 million |

¹⁷ TSN, November 17, 2005, 3:28 p.m.

April 28, 2004

| | | |
|----------------------------|-------------------------|-------------------|
| GMA Rice Program | From Agency Budget | Php 432 million |
| And Fertilizer Procurement | Matrix (regular budget) | |
| And Distribution Component | | |
| | | ----- |
| TOTAL | | Php 2.806 billion |
| | | ===== |

In a document submitted by the Department of Agriculture¹⁸, the Php 728 million fertilizer fund forms part of the Farm Inputs and Farm Implements Program in 2004 to assist LGUs in boosting their agricultural production and increasing farmers' income.

The Mechanics of the Fertilizer Fund Scam

Lawyer Francisco Chavez testified that the fertilizer fund is a *modus operandi* that involves a ranking official in the DA who is linked to Mrs. Gloria Macapagal Arroyo's husband, Jose Miguel Arroyo. This official deployed runners whose job was to approach local government officials and extract a commitment from these officials to purchase fertilizers in liquid state from them.¹⁹

Essentially, the sharing system in the fertilizer fund scam is as follows: 25% for the DA official (referring to Mr. Jocelyn Bolante); 30% for the

¹⁸ Letter of Secretary Domingo Panganiban to the Committee dated November 16, 2005, with attachments pertaining to the fertilizer fund

¹⁹ SPOT Report of the Committees, TSN, October 26, 2005

mayors, governors and congressmen concerned; 20% for the supplier of the farm inputs, and 25% for the DA official runners.²⁰

Witness Jose Barredo, who admitted to being one of the runners in the fertilizer scam, presented in detail how they operated.²¹ His revelations, made under oath, were substantiated by the following assertions:

²⁰ TSN, October 26, 2005

²¹ Affidavit of Jose Barredo which was read in full, TSN, February 2, 2005. The same is reproduced here in full text for appreciation:

REPUBLIKA NG PILIPINAS)

_____)S.S.

SINUMPAANG SALAYSAY

Ako, si JOSE B. BARREDO, JR. Pilipino, may asawa, may sapat na taong gulang at may tirahan sa 105 Hanglid St., President Roxas, Capiz, matapos manumpa ayon sa batas ay nagsasalaysay ng mga sumusunod:

1. Kilala ko si Maritess "Tess" A. Aytona mula pa noong mga taon ng 1997 dahil sa naging katrabaho ko siya sa pagbebenta ng mga medicina sa mga Local Government Units (LGUs). Natigil iyon bago mag 2004.

2. Noong mga Enero 2004 ako ay muling inalok ni Tess Aytona na makatrabaho niya. Ang project ay ang pagbebenta ng liquid fertilizer sa mga LGUs and Congressmen. Ang pundo ay galling sa Department of Agriculture (DA). Ang fertilizer ay mangagaling sa isang kompanya na may pangalan na FESHAN PHILS. INC. (FEHAN), may tanggapan sa 16 Sgt. Esguerra Avenue, South Triangle, Quezon City. Ang presidente nito ay si Julie Gregorio. Ang nagbibigay ng capital na ibinibili ng fertilizer ay isang babae na nagngangalan na Nezy na siyang may-ari ng Dayna Publishing, isang supplier sa Department of Education.

3. Ang nalaman ko ay ang FESHAN ay siyang may connections kay Usec. Jocelyn "Joc-Joc" Bolante at itong kompanyang ito ang binigyan ng karapatan ni Usec Bolante na magsupply ng liquid fertilizer sa mga LGU officials, Congressmen at saka Governors bago mageleksyon ng 2004. Gumamit ang FESHAN maraming brokers at runners para mahikayat sa mga nasabing official ng gobierno para gamitin ang mga pundong nilaan ng DA para pambili ng fertilizer sa FESHAN.

4. Ang sabi ni Tess Aytona sa akin ay samahan ko siya sa kanyang pagbebenta ng fertilizer una sa Bulakan. Ang sabi niya sa akin ay mayroong pundo galling sa DA na ibinibigay para sa mga LGUs para ibili ng fertilizer. Ayon kay Tess ang nangangasiwa ng pundo na ito ay si DA Usec Bolante. Kapag may pundo na, gaya ng para sa Bulakan, ay dapat puntahan ang mga namumuno sa LGUs na pinili ng DA. Ginawa naming ito ni Tess at kinausap ang Mayor ng Pulilan, Bulakan, na si Mayor Castillo. Pumunta rin kami ni Tess kay Mayor Pagdanganan ng Kalumpit, Bulakan at kay Congresswoman Neneng Nicolas.

5. Isa-isa naming kinausap ni Tess ang mga nabanggit na local officials at sinabi naming sa kanila na mayroong pundo na nakalaan para sa kanila para ipambili ng fertilizer na manggagaling sa FESHAN. Inalok naming sila ni Tess ng tinatawag na SOP o commission ng 30% ng pundong ibibigay sa kanila ng DA. Para kay Mayor Castillo ang pundo ay P5 Million; kay Mayor Pagdanganan ay P3 Million; at ang kay Congresswoman Nicolas ay P3 Million. Si Congresswoman Nicolas ay hindi pumayad na tanggapin ang fertilizer dahil pinili niya na cash ang

tanggapin niya. Nalaman ko na kung ang buong pundo halimbawa ay P3 Million, ang SOP ay P900,000 (30% ng P3 Million) at ang P2.1 Million naman ay ang kaukulang biniling fertilizer.

6. Kapag pumayag na ang LGU official ay ginagawa ni Tess ang isang Memorandum of Agreement (MOA) at papipirmahin niya ito sa kainuukulang LGU official at saka pipirma naman para sa DA ng Regional Director ng Region na sumasakop sa nasabing LGU. Ang sample ng MOA na iyon ay inilakip ditto bilang ANNEX "A". Ang MOA na ito ay dadalhin sa RD at kanyang pipirmahan at ipa-nonotaryo ni Tess, at saka kanyang ipalalabas ang pundo sa upisina ni Usec Bolante patungo sa nasabing RD. Ang paglalabas ng pundo ay dalawang ulit, ang una (First Trance) ay 65% ng nakalaang pundo para sa LGU. Ang sunod na paglalabas ng pundo (2nd Trance) ay 35% ng nakalaang pundo. Kung ang nasabing pundo ay nasa kamay na ng RD, kokontakin na ni Tess ang FESHAN at ipadedeliver sa bumiling LGU ang biniling liquid fertilizer na nasa bottleyas. Ang alam ko ay P1,500 ang presyo na ipinapasa ni Tess sa lahat ng LGUs.

7. Pinipirmahan ng LGU ang Delivery Receipt at Sales Invoice na galling sa FESHAN kapag naka pagdeliver na ng fertilizer. Ang sunod ditto ay maglalabas ng cheke ang RD sa pangalan ng LGU alinsunod sa napagkasunduan nila sa MOA. Pagkadeposito ng LGU ng cheke galling sa RD, ang nasabing LGU ay magbibigay ng kaukulang bayad na cheke sa FESHAN. Ang gagawin ni Tess ay sasabihan ang FESHAN na ideposito na sa bank account ko ang kalahatang SOP ng LGU official.

8. Sumama sa akin sa banko ang representative ng LGU official at sa kanya ko inibinigay ang SOP. Ang pakinabang ko bukod sa buwanang swledo ko na P10,000.00 ay pinangakuan ako ni Tess na bibigyan niya ako ng 3% to 5% ng SOP para sa pagod ko.

9. Ang pinatrabajo sa kin mismo ay ang Region 6 dahil ako ay isang Illonggo. Ang nagbibigay ng utos sa akin ay si Tess. Isa sa mga kinausap ko ay si Governor Vicente Bermejo sa kapitolyo ng Roxas City. Sinabi ko sa kanya na may pundo ang DA na nakalaan sa kanya para pambili ng fertilizer. Tinanong niya kami ni Tess kung magkano ang SOP niya at ang sagot ni Tess ay 25%. Sinabi ni Governor ay mayroon ng nagoffer sa kanya na supplier at ang offer ay 40% SOP. Inutusan niya si Tess na kontakin si Usec Bolante sa phone and nakita at narinig kong nagusap sina Governor Bermejo at Usec Bolante sa telepono. Ako ang nagbigay ng SOP ni Gov. Bermejo galling sa first chance na pinadala ng DA sa RD.

10. Pinuntahan ko rin sa Bacolod si Congressman Monico Fuentesbella at sinabihan ko siya na may pundo siya na P5 Million mangagaling sa DA para pambili ng fertilizer. Pumayad siya pero ang gusto niya ay 25% lamang ang fertilizer at 75% ay cash. Kasama ko noon si Tess Aytona.

11. Nagpunta rin ako kay Governor Florencio Miraflores sa Kalibo, Aklan. Sabi sa akin ni Tess bago ako nakipagkita kay Gov. Miraflores na nagusap na sina Usec Bolante at Gov. Miraflores kaya wala na akong masyadong ipaliliwanag sa kanya. Dinala ko kay Governor ang MOA para pirmahan niya pero hindi niya pinirmahan hanggang hindi niya natanggap ang kanyang SOP na P1.5 Million isang araw bago ang Mayo 2004 eleksion.

12. Pinuntahan ko rin si Mayor Reymar Recaldo ng Kalibo at sinabihan ko siya na ang pundo niya galling sa DA na pambili ng fertilizer ay P3 Million. May dala ako na P600 Thousand pero hindi niya tinanggap. Tinawagan ko si Tess sa Maynila at sinabi kong magdala pa ng karagdagang pera para kay Rebaldo at Miraflores. Asawa ko ang nagdala ng pera isang araw bago mageleksyon noon May 2004 at dinala naming ang kwarta sa bahay ni Mayor Rivaldo. Ang asawa ni Mayor at mga kapatid ang nagbilang ng pera sa loob ng kuwarto ni Mayor.

13. Hindi tumanggap ng pundo galling sa DA si Congressman Arthur Defensor. Pinabigay na lamang niya ang allokasyon niya galling DA sa tatlong Mayors na sina Mayor Alex Centena ng Calinog, Mayor Mariano Malones ng Maasin at Mayor Ramirez ng Lambunao.

1. Barredo worked with a certain Maritess Aytona in the marketing of liquid fertilizers to local government units and congressional districts beginning January 2004;
2. The local government units and congressional districts which will be the recipient of the fertilizer fund were already identified. The funds on the other hand were to be sourced from the Department of Agriculture;
3. The liquid fertilizers were to be supplied by Feshan Philippines, Inc. A company with business address at 16 Sgt. Esguerra Avenue, South Triangle, Quezon City;
4. Feshan Philippines, Inc. is linked and connected with Undersecretary Jocelyn Bolante;
5. Barredo, along with Aytona, negotiates with local government officials and congressmen, informing them of the fund appropriated to the LGUs or congressional district, promising local government officials or congressmen of getting thirty percent (30 %) representing "SOP" or "commission". The "SOP" or "commission" can go higher depending on the "request" or arrangement made by the proponent local official or congressmen;
6. Upon approval of the transaction by the local government official, a memorandum of agreement is executed;

14. Si Congressman Oscar Garin ay tumanggap din ng SOP mga dalawang lingo bago mageleksyon ng 2004. Ang bigay nap undo sa kanya ng DA ay P5 Million. Ang SOP ditto ay P1.250 Million at 75% ng P5 Million ay fertilizer na ideniliber sa kanya.

15. Si Congressman Edgar Espinosa ng Guimaras ay tumanggap din ng P3 Mpondo galling sa DA. Ang SOP niya ay 30%,

16. Bago mag eleksyon ng 2004, ay nakipagusap din kami kay Congressman Lacson, Cong. Maranon at Gov. Maranon pero hindi natuloy ang pagtanggap nila ng pondo galling sa DA dahil sa naglipat sila ng suporta kay FPJ. Gayundin din ang nangyari kay Cong. Fredinel Castro. Tinanggihan nila ang pondo na inaalok ng DA dahil sabi niya "alam ko na ang mangyayari diyan" at saka lumipat ng suporta kay FPJ.

17. Maaring hindi ko nasabi lahat ang mga detalye at lahat ng mga taong nakaharap at nakausap ko sa panahong binabanggit ko ditto sa aking salaysay pero nakahanda naman akong sabihin lahat iyon sa mga susunod na pagkakataon.

7. In the case of Mr. Barredo, he identified several municipalities and congressional district in Bulacan and LGUs and legislative districts in Region 6 as his area of operation.

The Missing Key Players

(Bolante, Lorenzo, Poliquit, et.al.)

Jocelyn I. Bolante was the first appointee of Ms. Gloria Macapagal-Arroyo in the Department of Agriculture as Undersecretary (Finance and Administration). He was already in office prior to the appointment of then agriculture secretary, Leonardo Montemayor.

Citing provisions from the Administrative Code of the Philippines, Bolante, as Undersecretary, is guided by the following duties and functions :

- a. Advise the Secretary in the promulgation of Department Orders, Administrative Orders, and other issuances with respect to his area of responsibility;
- b. Exercise supervision and control over the Offices, services operating units and Officers or Officials, and employees under his responsibilities;
- c. Promulgate rules and regulations, consistent with Department policies, that will efficiently and effectively govern the activities of Units under his responsibility;
- d. Coordinate the functions and activities of the Units under his responsibility with those of other Units under the responsibility of other Undersecretaries;

e. Exercise delegated authority on substantive and administrative matter related to the functions and activities of Units, under his responsibility, to the extent granted by the Secretary, through Administrative Issuances;

f. Perform other functions as may be provided by law, or assigned appropriated by the Secretary.

But Undersecretary Bolante's power over the agriculture department was widely known.²² And it encompasses more than what the Administrative Code provided.

In fact, at the time that he was Undersecretary, Jocelyn Bolante was concurrently appointed by the President in other powerful positions: as Acting Chairman of the National Irrigation Administration, as Acting Chairman of the Livelihood Corporation and as Acting Chairman of the Strategic Investments and Development Corporation. At the same time, he was Director of the National Power Corporation and Land Bank of the Philippines.²³

It is significant that even without background principally on agriculture, Bolante was appointed by the President (at the time she herself was acting Agriculture Secretary) and holding a sensitive position at that, as Undersecretary for Finance and Operation.

In the fertilizer fund scam, Undersecretary Bolante is the declared architect. He designed it. He was its brains. It was he who worked with the DBM for the immediate release of the fund. It was him who prepared and submitted names who would become the fertilizer fund's proponents. It was Undersecretary Bolante who sent letters to various congressmen and local officials informing them of the availability of funds under the DA's GMA Project. It was him who directed these officials to coordinate with his office

²² PCIJ, Ibid

²³ Portfolio of Undersecretary Jocelyn Bolante as filed in the records of the Department of Agriculture

to discuss all the requirements to facilitate the said project fund. Undersecretary Bolante in the words of his then Chief of Staff, Ibarra Poliquit, had a hand in determining how the GMA Project fund works and will be spent. And that although the DA has a list of officials whose "proposed projects" were to be funded by the fertilizer fund, Bolante was given the authority to drop them and replace them with others.²⁴

In the Committee of the Whole public hearing of January 31, 2006, Undersecretary Belinda Gonzales specifically mentioned that it was the Office of Undersecretary Jocelyn Bolante who ordered the release of funds to the recipients stated in the list. "I got instructions from Usec Bolante that this ---- P 1 00 million ---- will be be transferred to the different regional offices."²⁵

Secretary Luis Lorenzo and Undersecretary Belinda Gonzales served as co-signatories of Mr. Bolante in transferring the money from the Department of Agriculture to the regional field units (RFUs) and to local governments. Assistant Secretary Jose Felix Montes served as the program's spokesperson.

In the case of Secretary Lorenzo, while indeed he did sign a memorandum²⁶ that designates Undersecretary Jocelyn Bolante as the approving authority of the fertilizer fund, the fact remains that he was aware of the program and acted as co-signatory in the transaction.²⁷

Former Undersecretary Ibarra Poliquit, per the records submitted by the Commission on Audit,²⁸ assisted Undersecretary Bolante in the approval of

²⁴ PCIJ, Ibid

²⁵ Belinda Gonzales was subpoenaed four times and extended an invitation once to attend the joint committees. She was absent in all those hearings citing EO 464. But in the Committee of the Whole, January 31, 2006, she cannot abscond interpellations given to her and thus, was forced to divulge some information.

²⁶ Memorandum from the Secretary, March 16, 2004, signed by Secretary Luis Lorenzo addressed to Undersecretary Jocelyn Bolante where he directed the latter, "in order to expedite the implementation of the Farm Inputs and Implements Program, with Local Government Units, all requests for fund assistance under the program shall be subject to your assessment, evaluation, and approval." The memorandum was requested during the Committee of the Whole hearing of December 6, 2005 and is reflected in the TSN.

²⁷ A document presented to the Committee dated April 30, 2004, signed by Lorenzo and Bolante in which they are allowing the debit/credit of the amount of P 4.5 million for the DA RFU Region III-Butuan City and the same covered by the fertilizer fund.

²⁸ Documents submitted by the Commission on Audit, January 26, 2006

projects that would be accorded the fertilizer fund. A substantial number of requests for the approval to issue sub-allotment advise (SAA) with corresponding cash allocation to DA-RFUs for the implementation of the GMA Farm Inputs and Implements Program would indicate Undersecretary Poliquit as the requesting party. In one hearing, from the documents submitted by the COA, it was noted that Ibarra Poliquit, then Assistant Secretary for Field Operations requested for the transfer of P 89 million in Region IV alone; P5 million in Region V; and P 22 million in Region VII.

BUT NO ONE RECEIVED THE FERTILIZERS.

The Farmers' Voices. The Peasants' Woes.

In all public hearings conducted, the farmer groups were its most active and cooperative participants. Farmers and peasant leaders from as far as the Ilocos region and Western Mindanao aired their collective grievances. Theirs are the voices of desperation.

One of the largest farmer organizations in the country, the Kilusang Magbubukid ng Pilipinas (KMP) through its national leaders, Danilo Ramos said that not one among their 64 provincial chapter farmer members from the 15 regions nationwide had received assistance from the so-called fertilizer fund. Mr. Ramos lamented about their plight that for every bag of urea fertilizer they would loan, they would pay an equivalent of three (3) 50-kg bag of *palay* during harvest, adding that the system of usury is still widespread because farmers have not received any support whatsoever from the government.

The KMP emphasized that the meager amount of fertilizer that they should have received during the year 2004 seemed to point to the direction of the election fund campaign of Ms. Arroyo.

In the words of respected farmer leader Tatay Greg Rivera, "*Ni isang butil na abono hindi kami nakatanggap*"

In their consultations with other farmer organizations, the KMP group of Mr. Ramos confirmed that other farmers groups which happened to be within their alliance also indicated not having received fertilizer assistance.

Pambansang Ugnayan ng mga Nagsasariling Organisasyon sa Kanayunan (UNORKA). UNORKA through its Secretary-General Enrico Cabanit declared that not one of their members received any form of assistance from the program. They likewise stated that another fund covered by the Presidential Agrarian Reform Council (PARC) Resolution No. 2003 – 93 -04, Php 544 million has been approved for the GMA Rice Program. And just like the fertilizer fund, no assistance was given to them. They said they were not included in the master list of beneficiaries prepared by the DAR and DA based on the guidelines they have signed.

Farmers from Iloilo reported that no fertilizers or rice seeds managed to reach them and they have not felt the support of the DA. If ever there were farm inputs, the DA would sell them to the farmers.

Farmer representatives from Davao del Norte in Mindanao told the committees that the farmers have not felt the so-called support services of the government especially the one involving the P728 million fertilizer assistance.

Pambansang Lakas ng Kilusang Mamamalakaya ng Pilipinas through its President Fernando Hicap informed the committees that PAMALAKAYA consulted their members from the *barangay* level to the regional level and from their 100,000 membership, no one signified having received any support from the said government fund.

Kalipunan ng mga Maliliit na Magniniyog sa Pilipinas through its President Romulo Tapayan informed that in terms of fertilizer assistance or subsidy, their ranks have not felt the assistance.

Katipunan ng Samahang Magbubukid sa Timog Katalugan (KASAMA-TK) through its Secretary-General Guillermo Bautista informed that in a survey made to their members from the 10 provinces of the Southern Tagalog Region, with reference to the Php 728 million agricultural fund, no one has ever received even a single granule of the said agricultural inputs. Their group aired out their sentiments that from the information they have gathered, P69 million was released to their congressmen, governors and mayors and they would be interested to know who the recipients were.

Pahagpong sa mga Mag-uuma sa Panay (PAMANGGAS).. Mr. Nilo Arado said that his organization covers the provinces of Guimaras, Iloilo, Aklan, and Antique. He informed the committees that their group held a consultation among their leaders and members, and not one from among their farmer-members has ever received the farm inputs assistance.

Katipunan ng Samahang Magsisibuyas (KASAMNE) is a federation of 19 primary cooperatives covering 5 towns and 1 city based in Nueva Ecija. They are rice farmers and grow onions after rice. The federation through its President, Mr. Tanedo, stated that their farmer members have not received any subsidy or assistance from the P728 million farm input program.

Alyansa ng Magbubukid sa Gitnang Luzon through its representative Joseph Canlas informed the Body that their group went around the provinces of Central Luzon to find out what really happened on the fertilizer fund and whether the same was given to them and recalled that every farmer member they asked responded in the negative.

KMP-Southern Tagalog Chairperson Imelda Lacandazo gave her testimony that farmer-members of the KMP Southern Tagalog have not received any fertilizer or farm inputs assistance.

Samahan ng Gugti ng mga Parag-uma - Sinirangan Bisaya (SAGUPA-SB). Mr. Gacusan, the Secretary General of the Samahan ng Gugti ng mga Parag-uma – Sinirangan Bisaya, informed the committees that the farmer from Eastern Samar and their members did not receive any assistance from the fertilizer fund.

SAGUPA- SB, Northern Samar. Jose Tico, a farmer from Northern Samar, testified that farmers from his area have not received the alleged farm inputs/fertilizers which emanated from the national government, meaning Department of Agriculture. They have only read about the information from newspapers that there are lots of fertilizers being given out by the government but the same had never reached them.

National Federation of Peasant Women (AMIHAN). “*Nanay*” Carmen Buena informed the committees that their federation comprised of 32 provinces. She is a farmer herself, and has not received any fertilizer assistance, along with any of her members.

KMP, Bicol. Mr. “Tatay” Felix Paz, the overall chairman of KMP-Bicol said that his farmer-members have not received any assistance, whether in the form of fertilizers or agricultural fund assistance, particularly in Albay where he resides.

The Other Courageous Witnesses

The hearings of the joint committees produced valiant witnesses among ordinary farmers, government employees and public servants in local government units.

Antonio Andag Salas²⁹ is the Assistant Provincial Treasurer in Eastern Samar. A crusader of truth, he declared boldly and amid threats to his life, that contrary to the liquidation report submitted identifying his province as a recipient of the fertilizer fund, there were no actual deliveries made. Another fearless witness, Alfonso Cainto Esposa,³⁰ president of the Pinamalutan Water Impounding Irrigators Association, corroborated the no-actual-delivery case as a microcosm of the fertilizer fund scam.

Rebecca L. Aquino is a Bokal, a member of the Sangguniang Panlalawigan of the Province of Sorsogon. The feisty but heroic Aquino testified on the “gross overpricing of fertilizers using public funds” in her province. In her oral testimony, she presented COA’s audit observation for Sorsogon which cited that the Bio Nature liquid fertilizer which was actually sold in the market at P hp 1 80.00 to 3 50.00 had been overpriced at P hp 1,500.00 per bottle. She further cited COA’s findings that the said liquid fertilizers were not appropriate for rice and corn, the principal crops of the Bicolandia, but for hanging plants like orchids and other ornamental plants.

The Legitimate Players in the Fertilizer Industry Are Not Suppliers in the Transaction

The largest group of legitimate players in the fertilizer industry, the Fertilizer Industry Association of the Philippines (FIAP), through its president Raymond Ilustre, stated that it has seventeen (17) companies which are basically into supplying fertilizers by bulk. With a market share of 95 percent, FIAP is responsible for supplying about 1.5 million tons of fertilizers to farmers on an annual basis. Ilustre pointed out that FIAP did not participate in the fertilizer project which is the subject of the inquiry.

²⁹ Witness Antonio Andag Salas appeared before the public hearing of the committees during the third public hearing. He executed an affidavit detailing his knowledge of the issue and provided the committees relevant dossiers to prove his allegations. The TSN of November 17, 2005 fully contained Mr. Salas’ testimony.

³⁰ Witness Alfonso Cainto Esposa attended the hearing of the committees on November 17, 2005. He submitted an affidavit and his testimonies in the TSN of the public hearing of the same date.

Some Congressmen Simply Used in the Fertilizer Fund Distribution

In an impromptu testimony, former Secretary Florencio Abad³¹ denied that he made a request or was a proponent in the Php 728-million fertilizer fund. Accordingly, his name and congressional district were included in the list prepared by Undersecretary Bolante as an attachment for the release of SARO and NCA under the fertilizer fund.

Abad stressed that he never requested for any allocation, or received fertilizers or farm inputs for his legislative district. He added that he had demanded explanation from the DA but to date, the latter failed to satisfy his query. He even made a conclusion that his name was merely used.

Abad further mentioned that among the members of the House of Representatives whose names were used in the fertilizer fund scam were Representatives Noynoy Aquino of Tarlac and Miguel Zubiri of Bukidnon. Senator Biazon added to the list Muntinlupa Rep. Ruffy Biazon as not among the proponents of any project under the fertilizer fund.

The Rape of the Nation:

Ten Reasons Why The Fertilizer Issue is a Scam

The fertilizer fund as covered by the Farm Inputs and Implements program is a premeditated, systematic and grand agricultural theft. In the words of farmers and taxpayers, the fertilizer fund scam is the rape of the nation. In all indications, it was purely adopted to suit electoral purpose.

The mismanagement of the fertilizer fund is novel in its method and astounding in its shamelessness. In fact, it is an object lesson in the abuse

³¹ Secretary Florencio Abad was not invited in the public hearing. He attended the November 17, 2005 hearing, in support of a friend and fellow public servant Emilia Boncodin.

of power and the misuse of people's money by some officials of the Department of Agriculture and some local leaders.

Ten reasons are advanced why this fertilizer fund mismanagement is considered the grand agricultural theft (grand theft agro):

First, as confirmed by Secretary Panganiban himself during the budget hearing, nobody in the Department of Agriculture knew of the existence of the Farm Inputs and Implements program. In the files of the Department itself, there is no single document that would support the existence of such program.³²

³² The relevant details of the transcript of records, Committee of the Whole, December 6, 2005, 11:46 a.m.:

The Chairman: Now, let me go through some...First, just for some information. Can we have a copy of your Farm Inputs and Implements Program for 2004?

Mr. Panganiban. We got a breakdown of that, Your Honor.

The Chairman. The Farm Inputs and Implements program for 2004? You mentioned in your submission to the Senate that you implemented the Farm Inputs and Farm Implements program in 2004 to assist the LGUs, boost their agricultural production and to increase the income of farmers. This is what you have submitted to us. We have a copy of this program?

Mr. Panganiban. These were submissions they requested when they take over, Your Honor, from Undersecretary Belinda Gonzales and Assistant Secretary Jose Montes.

The Chairman. I am sorry?

Mr. Panganiban. The one I submitted for the Senate, Your Honor.

The Chairman. Yes, you have submitted this to us. And your representation in your submission to us is that there was a program that you implemented a farm inputs and farm implements program in 2004 to assist the LGUs boost their agricultural production and to increase the income of farmers. I assume this program is in existence. This is your submission. Is there no such program?

Mr. Panganiban. This is only in 2004, Your Honor, that's why this is a program crafted by former Secretary Lorenzo and...

The Chairman. All I'm asking is, is there a copy of this program that you mentioned here? Because you said you implemented a program. What does this---is this a program that is submitted by or that is in existence in your files in the DA or what?

Mr. Panganiban. This was promulgated only in 2004.

Mr. Chairman. Okay? Do you have a copy of that?

Mr. Panganiban. We shall look for that, Your Honor. We don't have a copy of it right now.

The Chairman. Okay. You don't have a copy of this. You mean you implemented a program without having seen a copy, or at least...I'm sorry. I keep on referring to you. You mean your department implemented a program or is this just a---you implemented a program without any reference point, a specific program, that you have cited here?

Mr. Panganiban. Nobody in the Department of Agriculture knew about this program, Your Honor.. That's why in...

Second, while agricultural and fisheries modernization has been a staple of the agriculture budget every year since the AFMA enactment in 1997, the fertilizer fund was a single appropriation meant only for 2004. This huge expense has not been repeated since. Why it was implemented only in 2004, in the months of the election season in particular, is an indication of its intended purpose and illicit objective.

Third, even the design and implementation of the fertilizer fund scam manifest the height of scandalous corruption. The gross overpricing as reported by the Commission on Audit is absolutely abominable, with the ordinary foliar fertilizer (which was allegedly supplied in almost all transactions) overpriced from almost 700 to 1,250 percent.

The Commission on Audit through an Audit Observation Memorandum dated January 20, 2006 submitted its report to the committees. Its observations are all indicative of massive irregularities including overpricing, frontal violations of the Procurement Law and wanton wastage of scarce government resources.

In Region V, for example, the COA cited the overpricing of fertilizers to be from a range of 783.59 percent to as much as percent of the actual market price of foliar fertilizers. Canvass made by the ATLs of DA-RFUs I and XII to determine price rationale revealed that the procurement of foliar liquid fertilizers totaling Php 54,744,200.00 was overpriced by a total amount of Php 48,067,100.00 or 720 percent.

The Chairman. What?

Mr. Panganiiban. ...my quest for getting the true picture of...

The Chairman. Nobody knew of the farm inputs and farm implements program?

The Chairman. Except the possibility of Director Belinda Gonzales and Assistant Secretary Joey Montes, Your Honor.

Based on the canvass made by the ATLS on Foliar Liquid Fertilizer of equivalent products available in the locality, the procurement of NGOs was overpriced by a total amount of Php 79,674,649.26 (out of the total Php 92 million).

In the acquisition of shredders and chippers (which most congressmen in Manila acquired using the GMA project fund except Paranaque where “urban gardening” is apparently being practiced), the observation of overpricing characterized the fertilizer fund implementation. In the case of towable shredders and chippers, overpricing went as high as 331 percent while for small shredders and chippers, it was 206 percent.

The purchases were found to be excessive as provided for in the COA Circular No. 85-55 which states that excessive expenditure signifies unreasonable expenses or expenses incurred at an immoderate and exorbitant price. It also includes expenses which are unreasonably high and beyond the just amount and those in excess of reasonable limits.

Fourth, the fertilizer fund was released in the months of February to May, the traditional harvest season in the country or “gapasan” months, when fertilizers are of no use because the planting time starts in November.

Fifth, ghost and questionable suppliers and deliveries haunt the fertilizer fund scam. AKAME Marketing is the identified supplier of a substantial number of transactions in the Php 728-million fertilizer fund. Process servers of the Senate failed to locate its business address indicated in its registration. Tacloban Star, a regional newspaper in Leyte and Samar, reported that its telephone number corresponds to a “gulayan” stall in Kalooacan City.³³ Another company named Castle Rock Construction was awarded multiple contracts under the same fund. COA, in its audit memoranda, noted that “no copies of the documents from the Department of Trade and Industry was available that can show that Castle Rock Construction can engage or do business relative to the trading of

³³ Affidavit of Antonio Salas, TSN,

fertilizers.”³⁴ Witness Jose Barredo stated that FESHAN Philippines, Inc., one of the largest suppliers, is originally a medical supplier and started to supply fertilizer only in 2004. Its office address as submitted to the DA is a non-existing address.

Sixth, a document identifying the fertilizer requirements for 2003 submitted by Frisco Malabanan, Director, GMA Rice Program indicated that it only needed Php 28.613 million for the entire Philippines. If the said document is to be adopted and corresponding adjustment made, allocations will not be as huge as the Php 2.806 billion released for the year 2004. This is a classic case of gross disproportion between what is needed by the farmers and wasteful utilization of the farmers’ fund.

Seventh, foliar fertilizer, which is appropriate for ornamental plants and not for rice, was supplied. Technical experts invited by the Committees are one in saying that generally, rice would require solid fertilizers which include urea, ammonium sulfate, ammophos, complete fertilizers, and muriate of potash, depending on the situation of the soil.

Furthermore, foliar fertilizer is advisable for use in high value crops (HVC) because it is relatively expensive if it will be applied to rice. Besides it is not effective in rice mainly because of the stature of the leaf of rice which is upright. Thus, sprayed foliar fertilizer will just slide down and could not be absorbed by the plant. The most effective way of applying these nutrients to the rice plant is by the soil.³⁵

Eighth, the wrong and overpriced kind of fertilizer for rice was even diluted with water. Call it a case of “double corruption.” In the testimonies presented during the public hearings, the fertilizers overpriced by almost 1,000 % are not even pure fertilizers but watered down fertilizer.

³⁴ Audit Observation Memorandum, Folder 2, Commission on Audit, February 2, 2006

³⁵ Dr. Mamaril, University of the Philippines College of Agriculture, TSN, November 17, 2005, 2:58 p.m.

Ninth, Undersecretary Jocelyn Bolante cunningly, wittingly listed 105 congressmen, 53 governors and 23 mayors to justify the immediate release of the fund. It specifies uniform amounts, regardless of which congressional districts or local units the proponents represent, whether the same are rice or corn-producing LGUs or not. *Bolante is not even mindful* that the locality or legislative district from where the proponent came from is part of the farm-absent Metro Manila. From this list, it can be deduced that it was an intended flawed program using public funds.

Tenth, Bolante made the list attractive by including a number of *politicians* as proponents but in truth and in fact, their names were just used to lend credence to the project. And when asked to explain, the DA cannot even justify where it was appropriated, by whom and who disbursed it. Again, it was a manifestation of pure scam.

RECOMMENDATIONS

1. A law institutionalizing assistance to farmers through a voucher system must be set in place. The farmers and those in the agriculture sector must be accorded the right to determine their needs and acquire the tools and other farm inputs based on actual need. The voucher system would be more effective in terms of providing timely assistance to farmers than a centralized flawed system under the current setup.

In the absence of a law and considering immediate reforms that must be effected, a special provision to this end should be introduced in the 2006 General Appropriations Act.

It should be noted that a similar program was adopted during the time of President Corazon Aquino under then Agriculture Secretary Carlos

Dominguez which proved to be successful. Reviving and reintroducing the mechanism will serve the agriculture sector well and efficiently.

2. Administratively, the Department of Agriculture must set up an internal “pre-audit” service immediately. This is to prevent the large-scale illegal disbursement of resources and funds earmarked for farmers. Apropos, all laws, guidelines, rules and regulations, and orders have been put in place pertinent to the institution of an internal audit system; what is needed is its earnest implementation.

3. A law that would tighten the registration and regulation of foundations, NGOs, associations and peoples’ organizations must be introduced. In the case of the fertilizer fund scam, a number of foundations, POs, NGOs and associations have become agents for money laundering transactions, together with the National Agricultural and Fisheries Council, a regular attached agency of the DA.

The nobility and spirit of charity are the hallmarks paving the birth of foundations, NGOs, POs and associations, which must be emphasized and embedded in the proposed law.

4. The entire bureaucracy must adhere to the Procurement Law. Former Budget Secretary Emilia Boncodin and COA (after finding serious violations in a substantial number of transactions as observed in their AOMs) recommended that in future procurements, the Department of Agriculture and the regional field units (RFUs) must ensure compliance with RA 9184, and obtain the most advantageous price for the government.

5. The committees recommend the total overhauling of the Department of Agriculture. At present, the department works in such a way as a mafia or syndicate is operating it. There is a substantial number of projects being implemented by the Department with huge appropriation but its honest enforcement is not being seen and most of them are being questioned by

its direct constituents, the farmers, the farmworkers and those in the agriculture sector.

6. Strong probable criminal culpability is established, hence, criminal and administrative charges must be filed against:

- a. Undersecretary Jocelyn Bolante,
 - b. Secretary Luis Lorenzo,
 - c. Undersecretary Ibarra Poliquit,
 - d. Undersecretary Belinda Gonzales,
 - e. Assistant Secretary Jose Felix Montes
- and
- f. all Regional Directors of the Department of Agriculture who participated in the illegal transactions or dissipation of the Php 728-million fertilizer fund scam

They must be charged for violating the Law on Plunder and violating the Anti-Graft and Corrupt Practices Act (Section 3 [e], Republic Act 3019).

In the investigations conducted, from the testimonies of the witnesses who appeared before the committees and the records of the Commission on Audit, there appears massive misappropriation, diversion of funds, malversation of public funds and raids of the farmers' money. In the case of Mr. Bolante, testimonies to the effect that he received, directly or indirectly, commission and percentage of pecuniary benefit from suppliers in connection with the contracts and transactions pertaining to the fertilizer fund have been adduced during the public hearings.

The Law on Plunder states, " [a]ny public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1 (d) hereof in the aggregate

amount or total value of at least Fifty million pesos (P50,000,000.00) shall be guilty of the crime of plunder and shall be punished by reclusion perpetua to death. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court. The court shall declare any and all ill-gotten wealth, and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State.

The relevant provision of the Anti-Graft and Corrupt Practices Act specifically violated is Section 3 (e) "[c]ausing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence."

Malversation of funds as defined by the Revised Penal Code must likewise be studied in the case of the several of diversion of funds committed.

7. Evidence submitted by the Commission on Audit, and the affidavits and sworn testimonies of Antonio Salas and board Member Rebecca Aquino, statements of Atty. Francisco Chavez and all farmers who appeared before the committees indicate the involvement of certain local government officials on the misuse and abuse of the fertilizer funds purportedly for their own benefit. It is, therefore, recommended that the Ombudsman together with the Anti-Money Laundering Council scrutinize the voluminous documents and trace its flow from the Regional Field Units of the Department of Agriculture to the local officials and file charges against them, whether elected or appointed, for violation of the Anti-Graft and Corrupt Practices Act.

A criminal complaint under the same Act and the provisions of the Revised Penal Code on perjury should be filed against Mr. Jesus Agda, the Provincial Agricultural Officer of the Province of Eastern Samar on the basis of his false testimony.

8. Similarly, the partners, suppliers or subordinates in the private sector who worked in cahoots with the above-mentioned officials of the Department of Agriculture who participated in overpricing, supplying substandard and diluted fertilizers should be charged as co-conspirators under the Plunder Law and Anti-Graft and Corrupt Practices Act must be filed. The Ombudsman is advised to check the various records which would indicate their names and the complete paper trail of their respective transactions.

Considering the enormous profits these private entities and individuals amassed, the Bureau of Internal Revenue should likewise investigate these private entities for possible tax evasion.

9. Although this is the Final Committee Report, the fertilizer fund scam will never be closed without the testimony of its brains and implementor-Jocelyn Bolante. Thus, the order of contempt against Jocelyn Bolante must be enforced. In addition, the following individuals must be held in contempt:

Secretary Luis Lorenzo

Undersecretary Ibarra Poliquit

The rationale for the enforcement of contempt order against Bolante and the issuance of contempt against Lorenzo are anchored on their continuous defiance of the Senate committees.

Four subpoenas and one invitation had been sent to Bolante. An equal number of subpoenas and invitation had been extended to Lorenzo. Both of them absconded by leaving for the United States, avoiding the public hearings for the purpose. The unexplained, hurried flight of both Bolante and Lorenzo in a number of instances may, as a general rule, be taken as evidence, having tendency to establish their liability.

Flight strongly indicates guilt and betrays the existence of a guilty conscience. For the wicked fleeth even when no man pursueth, whereas the righteous are as brave as a lion.³⁶

In the case of Mr. Poliquit, his being Vice President of the GSIS is not within the contemplation and coverage of Executive Order 464. But Poliquit sought refuge in the oppressive Executive Order and clothed himself to be within its ambit and protection. It should be stated that Poliquit was served four subpoenas and one invitation relevant to the hearings of the fertilizer mismanagement issue.

10. The Committees recommend that President Gloria Macapagal-Arroyo must be held accountable in the mismanagement of the fertilizer fund and take it upon herself to institute measures to correct the flaws in her administration.

It bears knowing that a number of testimonies adduced during the hearings were that the fund was indeed used to assure her victory in the 2004 elections. Statements of lawyer Francisco Chavez, the various farmer organizations led by the *Kilusang Magbubukid ng Pilipinas*, and the positive declaration of Secretary Emilia Boncodin that the President may have knowledge on the Bolante requests for fertilizer funds stand and remain uncontested in the legislative records.

³⁶ People v. Orio, 330 SCRA 576 (2000)

Cognizant of the presidential immunity and respect accorded to the Chief Executive, the accusations against her in the fertilizer fund scam is so serious that it places the position of the Presidency in the balance. The Palace looks at the issue as a mere political tool. Its refusal to cooperate violates the spirit of democracy, promotes tyranny and breeds the ground for instability it has in fact stirred. Failure to disprove the charges, even resorting to shield those directly responsible for squandering taxpayers' money, suggest her culpability and involvement in this unforgivable act made against our poor farmers. Her obvious indifference to examine the matter further and identify the irregularities surrounding the disbursement of the farmers' fund is equivalent to breach of official duty by *nonfeasance*³⁷ and inexcusable negligence of sworn obligation. In sum, the same may be labeled as betrayal of public trust in addition to the violations committed under the Anti-Graft and Corrupt Practices Act and the Law on Plunder.

Before taking on her official functions, the President makes a symbolic act before the nation and declares a solemn pledge to the people that the Constitution requires: "I do solemnly swear (or affirm) that I will faithfully and conscientiously fulfill my duties as President of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man and consecrate myself to the service of the nation x x x"

With this in mind, the committees urge the President to heed the clarion call of public service, encapsulated in the dignity of this oft-repeated maxim, that "a public office is a public trust." The people should be given the opportunity of seeing the truth in "[t]he State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption."

The committees challenge the President to break her silence and put together the pieces of the unfinished puzzle.

³⁷ Defined as the omission of an act which a person ought to do (Blacks Law Dictionary)

before the 2004 Presidential elections – in aid of legislation, not destabilization.

Section 7, Article III of the Constitution guarantees the people's right to information on matters of public concern in this manner:

Sec. 7. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

The State policy of full transparency in all transactions involving public interest reinforces the people's right to information on matters of public concern. This State policy is expressed in Section 28, Article II of the Constitution:

Sec. 28. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

In *Chavez v. Public Estates Authority*, the Supreme Court ruled:

These twin provisions of the Constitution seek to promote transparency in policy-making and in the operations of the government, as well as provide the people sufficient information to exercise effectively other constitutional rights. These twin provisions are essential to the exercise of freedom of expression. If the government does not disclose its official acts, transactions and decisions to citizens, whatever citizens say, even if expressed without any restraint, will be speculative and amount to nothing. These twin provisions are also essential to hold public officials at all times x x x accountable to the people, for unless citizens have the proper information, they cannot hold public officials accountable for

To this date, no effort on her part has been made, no categorical denial was even heard. But all allegations and testimonies point to her benefiting the most in an intricate scheme of deception and fraud. Only this much the committees of the Senate know: that the fertilizer fund was misused. It was corrupted. It was intended to assure her victory. Mrs. President, could it be true?

The committees demand the truth. The Filipino farmers deserve no less.

Epilogue

The history of our race, and each individual's experience, are sown thick with evidence that a truth is not hard to kill and that a lie told well is immortal.³⁸

It is unfortunate that the inquiry on the P728-million fertilizer funds has been tagged as one of the Senate-initiated “destabilization” moves aimed at unseating President Gloria Macapagal-Arroyo.

Adamant on its position, the Palace, via the dictatorial EO 464, refused to give the go-signal to Agriculture department officials and others in the Executive department including those in the government-owned and-controlled corporations (like Poliquit) to testify in the Senate hearings which it dubbed as a legislative undertaking “in aid of destabilization.”

Pathetically, it is a political interpretation reflecting the current turmoil hounding the legitimacy of the incumbent, and disrespectful and insensitive about the way democratic processes function.

Truth is the only safe ground to stand on. The Senate pursued the inquiry in search for truth – the hidden facts about public funds distributed shortly

³⁸ Mark Twain, “Advice to Youth”

anything. Armed with the right information, citizens can participate in public discussions leading to the formulation of government policies and their effective implementation. An informed citizenry is essential to the existence and proper functioning of any democracy. As explained by the Court in *Valmonte v. Belmonte, Jr.* –

"An essential element of these freedoms is to keep open a continuing dialogue or process of communication between the government and the people. It is in the interest of the State that the channels for free political discussion be maintained to the end that the government may perceive and be responsive to the people's will. Yet, this open dialogue can be effective only to the extent that the citizenry is informed and thus able to formulate its will intelligently. Only when the participants in the discussion are aware of the issues and have access to information relating thereto can such bear fruit."³⁹

At the onset, it was emphasized that the inquiry was called to allow the Senate to separate truth from fiction, either quashing or confirming the report of the Philippine Center for Investigative Journalism, with the end view of recommending appropriate measures. The resolution was filed and the inquiry commenced to honor transparency which is vital to good governance because public office is a public trust. People deserve the right to be informed of how effective the government has implemented programs, such as the “*Ginintuang Masaganang Ani Program*” or GMA Program which envisioned a subsidy for farmers in the form of farm implements and production inputs pursuant to the Agriculture and Fisheries Modernization Act (AFMA).

Furthermore, it is the constitutional duty of the Senate to exercise its functions according to its powers, enabling a system of checks and balances in government. Justice Isagani Cruz emphasized this concept:

³⁹ Francisco I. Chavez v. Public Estates Authority, et.al., G.R. No. 133250, July 9, 2002.

What makes the doctrine of separation of powers especially workable is the corollary system of checks and balances, by means of which one department is allowed to resist encroachments upon its prerogatives or to rectify mistakes or excesses committed by the other departments. The exercise of this authority is not itself an arrogation inasmuch as it is the Constitution itself that provides for this system of counteraction. The theory is that the ends of the government are better achieved through the exercise by its agencies of only the powers assigned to them, subject to reversal in proper cases by those constitutionally authorized.⁴⁰

To brand the Senate's quest for truth transparency as part of an orchestrated destabilization plot smacks of irresponsibility, rooted on an insecure stance displayed by the current administration due to its lingering crisis of legitimacy.

Likewise, the premeditated and methodical abuse of the check-and-balance function of the Senate by Malacanang is chilling, and needs to be stopped. The absence of remedy to correct the blatant and exploitative acts of the current administration is severely hurting the country and itself.

The main culprit for the country's current political woes is the shelving of truth instead of digging it in order to protect the seat of power which has long been exposed to be unworthy.

Those who make peaceful revolution impossible will make a violent revolution inevitable.⁴¹

⁴⁰ Isagani Cruz, *Philippine Political Law*. Quezon City: Central Lawbook Publishing Co. Inc., 2002, p.7.

⁴¹ John F. Kennedy, in speech at the White House, 1962