

PRESIDENTIAL COMMISSION  
ON GOOD GOVERNMENT

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# MILESTONE REPORT

AS OF 30 JUNE 2012

2011  
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2012



# A MOMENT FOR INTROSPECTION



There is cadence to the rhythm of the work in the public sector. To create public goods of consequence and value, we must occasionally look back in order to move forward. The Presidential Commission on Good Government's work has endured for 26 years—and the verdict still remains unclear on its over-all track record.

Among the main challenges that were faced by the present Commission was that of restoring its credibility and infusing the institution with renewed vigor in its operations. The first few months involved a careful balancing of priorities: the pursuit of the Commission's primary mandate of recovering ill-gotten wealth, while repairing the institution's integrity to navigate its political and legal terrain.

Excesses of the past were immediately discontinued, while priming the present for the Commission's future. Adhering to the principles of transparency and accountability, the Commission embraced a third pillar of good governance: "voice and participation." In this regard, it aimed not to be a mere passive presence. Instead, it strove to be an active partner to its primary stakeholders—the Filipino people.



Part of this effort was a comprehensive Report that situated the Commission's 25-year history—its successes and failings, as well as the remaining challenges. (see "100 Day Report and Plan of Action" available at <http://www.pcgg.gov.ph>)

The Report sought to shed light on questions that have hounded the Commission, all throughout its existence—*How much has been recovered? Where have all these recoveries gone? What remains at stake? What were the excessive expenses and questionable transactions that were entered into?*

At the same time, the Report made a full disclosure of the immediate steps that were undertaken in order to stem the tides of corruption. When it could, the Commission sought to undo and remedy, with fresh eyes, situations that seemed irremediable to most.



The Commission's new set of officials—Chairman Andy Bautista and Commissioners Gerard Mosquera<sup>1</sup>, Richard Amurao, Maita Chan-Gonzaga, and Nelson Acebo—embraced the institution's 25<sup>th</sup> Anniversary, as an opportunity to "close chapters, and find a way forward."

Twenty months since the Commission convened and commenced its own chapter, it remains steadfast and unceasing in protecting the interests of the Republic and the Filipino people, while accounting for all the years that it has been in existence.

Early on, the Commission—based on its assessment of the tasks involved in fulfilling its primary mandate of recovering ill-gotten wealth of former President Ferdinand Marcos, his family, and cronies—proposed that this mandate be winded down. This recommendation<sup>2</sup> was made, on the bases that (1) nearly all the ill-gotten wealth cases involving the Marcos regime have already been filed, (2) these cases are presently being prosecuted by the Office of the Solicitor General (and, in certain instances, the Office of

<sup>1</sup> Assumed as Deputy Ombudsman for Luzon on 1 June 2012.

<sup>2</sup> There are two important contextual factors that should be borne in mind in evaluating this recommendation. First, the Commission has two further mandates, under Executive Order No. 1, s. 1986: (i) the investigation of other cases of graft and corruption, as may be assigned by the President, and (ii) the installation of effective safeguards to prevent corruption in government. Second, the executive issuances concerning the creation and existence of the Commission were promulgated, in the exercise of then President Corazon C. Aquino's executive and legislative powers. As such, a de jure abolition of the Commission can only be accomplished through an act of Congress.

the Special Prosecutor), and (3) the possible future discoveries of ill-gotten wealth cases is constitutionally imprescriptible.

Even as it awaits the details and directives regarding its winding down, the Commission has commenced the task of fully documenting and revitalizing the operations of the corporations under its care, as well as improving its linkages and cooperation with partner-agencies: Department of Justice, Department of Finance/Privatization Management Office, Department of Agrarian Reform, Commission on Audit, Office of the Ombudsman, and Office of the Solicitor General.

Section 15. The right of the State to recover properties unlawfully acquired by public officials or employees, from them or from their nominees or transferees, shall not be barred by prescription, laches, or estoppel.

Section 15, Article XI  
The Accountability of Public Officers  
1987 Philippine Constitution

That institutional reforms do not happen overnight is a truism, but this does not foreclose the possibility of achieving incremental and landmark changes.

## REFORMATION & RESTORATION

In October 2010, its present officials came upon an agency whose reputation was shoddy and shot. The agency had figured in a number of controversies that played out in full view of the public. It was important to seriously re-think the Commission's position in the fast evolving politico-legal landscape. After all, while it represented a valiant first effort in the journey from the dictatorship--back to democracy--its continued existence, 26 years later, likewise, meant that the ghosts of the past had not yet been fully exorcised.

*"We recognize that the time will come when we shall have done all that we could. We are tying loose ends and trying still not to lose any more of what others perceive to be a lost cause. And while closure can be appreciated on different levels, we have in contemplation the concluding chapter of the Commission, in the form of legislation directing it to wind down its affairs, mindful of the fact of its other mandates under Executive Order No. 1, s. 1986."*

- Letter to His Excellency Benigno S. Aquino III  
dated 6 December 2010, re: "Winding Down the Commission"

*More than two decades have passed since then President Corazon C. Aquino created the PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT on 28 February 1986, the first official act of the Aquino administration, predating the 1987 Philippine Constitution. This legislative measure seeks to recognize that symbolic first step in the transition from tyranny to democracy, and the institutionalization of the Filipino people's desire and aspiration for good government. It is important to learn from the mistakes of the past and anchor the nation's future in ethical and rational thinking, while underscoring the fact that demanding good governance is a challenge that rests on everyone's shoulders.*

*This Bill seeks to underscore the urgency and necessity of giving the Filipino people a much-needed sense of closure to the culture of corruption that was the legacy of the Marcoses and their cronies.*

- PCGG Draft Winding Down Bill

That being said, the relevance of these efforts to recover Marcos ill-gotten wealth, despite the daunting challenges and ever-present criticism, should not be lost on the Filipino people. Though the people's expectations seem to have been dashed by the long passage of time, the hope remains that, under the present Administration, justice may finally be rendered and a semblance of closure be attained, marked with a sense of peace with the past.

# 2

A MOMENT FOR  
INTROSPECTION

In the transition from the past administration into the new, an important signpost on the road of good governance was the Truth Commission of 2010. Among its first directives was to require the various agencies to document and endorse instances of graft and corruption from the past administration. In response to this call, the Commission submitted its "Preliminary Report to the Truth Commission" (which was later annexed to its "100 Day Report").

## I. UNLIQUIDATED CASH ADVANCES

**A. Background:** Certain sums that were disbursed to and advanced by the Commission's past officials were not supported by appropriate liquidation requirements (e.g. reports and receipts). These sums remain outstanding and open in the books of the Commission.

**B. Issue:** Former Chairman Sabio's failure to remit the sum of PhP10,350,000.00 (representing PCGG-collected deposits) to the Bureau of the Treasury is the subject of a case before the Office of the Ombudsman.

**C. Status:** Chairman Sabio has been arraigned and has posted bail. A hold-departure order has been issued against him. The Pre-trial was conducted on 16 April 2012 and the prosecution commenced presenting evidence on 30 May 2012.

## II. PNB-RETAINED FUND

**A. Background:** In 2004, the Commission recovered the amount of US \$658,175,373.60, forfeited from the Swiss deposits of former President Marcos. In connection with this matter, two cases remain pending in New York and in Singapore, representing a potential recovery of (approx.) US\$60,000,000.00.

Under the leadership of *then* Chairperson Haydee B. Yorac, the Commission passed PCGG Resolution No. 2004-Y-002, which resolved to authorize the Philippine National Bank (PNB): "to retain five per cent (5%) of the amount recovered to cover the necessary administrative and litigation expenses in the recovery of the ARELMA account and the approximately Twenty-two Million U.S. Dollars (US\$22M) still in West Landesbank in Singapore, as well as necessary expenses that may arise in relation to the Escrow Agreement."

**B.1. Issue:** The amounts retained by PNB are managed by it (i) to maximize the funds' earnings (ii) subject to trust fees. It appears that the said fund's income was less than competitive, despite the above-the-market trust fee rate that was being charged against the fund for its judicious management.

**C.1. Status:** The Commission commenced negotiations with *then* PNB President Eugene Acevedo resulting in an in-principle agreement being reached as to the (i) waiver of trust fees for 2012, coupled with its (ii) subsequent reduction, in order to maximize the fund's earning potential. Despite these earlier good faith negotiations and in-principle agreements, a written Memorandum of Agreement has yet to be concluded under PNB's new leadership.

The Commission passed a Resolution directing the withdrawal from PNB of the amount of US\$10,000,000.00 from the said fund. The whole amount was remitted to the Bureau of the Treasury on 28 June 2012 for utilization in the CARP.

**B.2. Issue:** Under its previous leadership, the Commission retained various law firms to represent the Republic in its cases abroad.

**C.2. Status:** Based on an assessment of its legal needs vis-a-vis the complexity of its ongoing litigation, the Commission decided to terminate the services of some of its previously retained foreign law firms and to request substantial discounting of previous bills, resulting in a tremendous decrease in legal costs and expenses.

The most notable finding that was made public and revealed in the said Preliminary Report was the extent of the excessive travels and expenses from the fund that was set aside for litigation and administrative costs (to be) incurred in the recovery and transfer to the Republic of the ARELMA and WestLB accounts remaining from the Marcos Swiss deposits.

As was found out, various employees were co-opted in order to facilitate the withdrawals and charges upon an account that was set aside during the time of *then* PCGG Chairperson Haydee Yorac.

Since its report was made public, the Commission has been trying to fully document and liquidate the expenses that were charged against the said fund. Letters have been sent to all concerned officials and persons who, based on available records, appear to have received or were subject of disbursements from the said fund. This is the most comprehensive effort to fully liquidate and document all these disbursements. Upon completion, all the data, information, and replies gathered will be endorsed to the Commission on Audit.

A. Current PCGG Employees*	
Letters sent	16
Replies received	16
B. Former PCGG Employees	
Letters sent	11
Replies received	8
C. Non-PCGG Employees	
Letters sent	25
Replies received	23

*\*With COA clearance and in the interest of transparency, the Commission may make public, at the appropriate time, the list of respondents who have yet to extend the courtesy of a reply.*

In order to safeguard the integrity of purpose and nature of the said fund, and to further support the Comprehensive Agrarian Reform Program, the Commission withdrew US\$10,000,000.00 and immediately remitted the whole amount to the Bureau of the Treasury on 28 June 2012.

**C.3. Issue:** Various travels charged against this fund were marked by the following characteristics: (i) unliquidated/incomplete documentation; (ii) irregularly disbursed; (iii) clearly excessive; and (iv) in some instances, *ultra vires*, in that it was used for travels clearly beyond the stated parameters of the fund.

**C.3. Status:** The Commission has issued various letters requiring the concerned officials or employees to explain and/or to accomplish the appropriate liquidation report.

### III. QUESTIONABLE DECISIONS/AGREEMENTS

**A. Background:** There were a number of contractual agreements and/or decisions that were made with the color of authority, but upon closer scrutiny and the exercise of due diligence, were found to be apparently disadvantageous to the government.

**B.1. Issue:** IBC-13's Joint Venture Agreement: The agreement, signed on 24 March 2010, covers the property known as "Broadcast City." The previous Commission interposed no objections, despite apparent "red flags" concerning the transaction, foremost of which are (i) the lack of review by the Privatization Council and (ii) the lack of technical review of the valuation.

**C.1. Status:** The Presidential Communications Operations Office (PCOO) created a technical working group composed of PrC, COA, OGCC, PCGG, OSG, and NEDA which will review the JVA. PCOO and IBC representatives will join the members of the TWG. The 1<sup>st</sup> TWG meeting was held on 13 January 2012, where the Commission sent a representative to observe the proceedings. All member-government agencies were present, except for the OSG and COA (which did not participate due to a conflict of interest). Each member-agency was to give their respective comments and recommendation on the issue.

**B.2. Issue:** Conversion of SMC Common Shares into SMC Series 1 Preferred Shares: On 17 September 2009, as an incident in *COCOFED, et al. v. Republic* (G.R. Nos. 177857-58), the Supreme Court resolved to approve the conversion of the 753,848,312 SMC common shares registered in the names of CIF companies to SMC Series 1 preferred shares.

**C.2. Status:** The Commission is presently coordinating with coco levy recovery groups to work out a strategy that is responsive and aligned to the interests and needs of the country's coconut farmers.

**B.3. Issue:** PIMECO MOA: On 11 December 2009, a Memorandum of Agreement (MOA) was entered into by and between PCGG, Peter Sabido, PIMECO, and Consolidated Prime Development Corporation, concerning a prime property located along C-5. On its face, the MOA appears to be grossly disadvantageous to the government.

**C.3. Status:** The Commission has registered a claim in behalf of the Republic of the Philippines with the Registry of Deeds of Pasig City, expressing its intent to recover the approximately PhP4.3 billion property subject of the questionable compromise agreement.

CORRUPTION:  
FROM WITHIN  
AND WITHOUT

The incremental reforms—both institutional and organizational—have, likewise, been followed through: the abusive practices of the past have been discontinued and the internal systems for transparency and accountability have been further refined. If anything, the most radical reform that the present Commission has put in place is the active, responsive, and transparent conduct of its affairs. In its reports and statements, the Commission has sought to engage its stakeholders—the Filipino people—by responding to lingering questions, issues, and concerns promptly.

The appointments of a new Ombudsman in the person of (Ret.) Supreme Court Associate Justice Conchita Carpio-Morales and of a new Commission on Audit Chairperson, Grace Pulido-Tan, were, likewise, important steps in the administration's anti-corruption drive and platform for good governance. Apart from the aforementioned institutional cooperation among the Office of the Ombudsman, COA, and the Commission, significant progress has been made as regards charges leveled against the Commission's past leadership.

Most significantly, formal indictments have been filed in the Sandiganbayan against the former PCGG Chairman for waylaying and misappropriating at least PhP10.35 million in funds intended to be remitted to the Bureau of the Treasury.

#### Accountability in Action: Updates

- Former PCGG Chairman Camilo Sabio has already been arraigned in the Sandiganbayan, for misappropriating at least PhP10.35 M, funds that should have been remitted to the Bureau of the Treasury; he has, likewise, been declared by the Office of the Ombudsman administratively liable for grave misconduct and penalized with forfeiture of retirement benefits and disqualification from holding public office.
- The former Chairman, together with (Fmr.) Commissioners Ricardo Abcede (†), Narciso Nario, and Nicasio Conti, have also been declared administratively liable by the Office of the Ombudsman, with the latter ordering the filing of criminal charges before the Sandiganbayan.

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A MOMENT FOR  
INTROSPECTION



The Commission is embedded in a nexus of legal relations. The success of its operations and performance is hinged upon an authorizing environment that supports its efforts. Executive Order No. 42, signed by President Aquino on 9 May 2011, was an important boost to the Commission's mandate to "oversee the judicious management of shares and/or corporations sequestered by or surrendered to it." This Executive Order complemented the Commission's inherent authority to nominate and designate persons to such corporations, in order to protect the interests of the Republic and prevent the dissipation and wastage of the assets under its care.

Aside from this executive issuance, the Commission has been working closely with the Office of the President, in order to ensure that the persons nominated to these corporations would perform their functions faithfully and with a clear view of their purpose, that is, to serve the better interests of the Filipino people.

REMITTANCES  
AND PROJECTIONS

The Commission has among the smallest budgets among the attached agencies under the Department of Justice (which itself, has among the smallest budgets within the Executive Department). This limitation notwithstanding, for the year 2011, the Commission remitted the sum of PhP268.481 million, on a budget of PhP93 million—a cost-to-recovery ratio of nearly 1:3, that is, for every peso spent on recovery efforts, the approximate return to the Bureau of the Treasury is three pesos. For the year 2012, the Commission aims to generate PhP405.723 million, on a budget of PhP96 million. The Commission is on track and will most probably exceed its remittance target for 2012.

The monies that the Commission remits to the Bureau of the Treasury come from (i) the sums recovered from its cases, (ii) the earnings from surrendered corporations remitted to it, and (iii) the income realized from its privatization efforts.

SURRENDERED  
AND SEQUESTERED  
CORPORATIONS

A longstanding criticism against the Commission is the apparent abuse and looting of the corporations under its care. In the early years, the so-called "fiscal agents" were notorious for taking advantage of their positions. In the years that followed, persons were appointed to these corporations, primarily, on the basis of patronage politics.

Industry	Company*
Banking	1. United Coconut Planters Bank (UCPB)
Broadcast	2. Intercontinental Broadcasting Corporation (IBC-13)
Clinical Research	3. Chemfields, Inc.
Insurance	4. United Coconut Planters Life Assurance Corporation (Cocolife) 5. UCPB General Insurance, Inc. (Cocogen)
Manufacturing/Refining	6. CIIF Oil Mills Group (CIIF OMG)
Microfinance	7. UCPB-CIIF Finance and Development Corporation (Cocofinance)
Oleochemical	8. United Coconut Chemicals, Inc. (Cocochem)
Telecommunications	9. Philcomsat**
Real Estate	10. Independent Realty Corporation (IRC) 11. Bataan Shipyard and Engineering Company (Baseco)

\*Surrendered/sequestered corporations or corporations with surrendered/sequestered shares under the care of the Commission, as of December 2012.

\*\*See the discussion in the succeeding section, re: Philcomsat.

When the present Commission took charge, some of these corporations were either operating at a loss or were grossly mismanaged—having been peopled by appointees who lacked the managerial wherewithal, much less the dedication to look out for the interest of the Republic.

The present Commission has brought an understanding of management and corporate governance principles to bear upon its handling of these corporations, respecting fairness, accountability, and transparency. For sequestered corporations, especially, while the questions of their ownership remain unsettled, their operations are impressed with public interest.

The corporations under the Commission's care (except for one) are now operating in the black. The consolidated Revenues increased from P26.1 billion in 2010 to P31.2 billion in 2011, this translates to a 19.5% growth rate, or P5.1 billion. Consolidated Net Income increased by P509 million, from P2.8 billion to P3.3 billion, or an 18% improvement.

In the early half of 2012, the Commission also established its presence in Anchor Insurance Brokerage Corporation (AIBC) and the Philippine Development Alternatives Foundation (PhilDAF).

## PERFORMANCE HIGHLIGHTS OF THE CORPORATIONS

The following summary provides highlights of the performance of these corporations. (see [www.pcg.gov.ph](http://www.pcg.gov.ph) for the full Report)

### 1. UCPB

Established in 1963, the United Coconut Planters Bank (UCPB) was the first private Philippine bank to become a universal bank, obtaining its expanded commercial banking license in 1981. Today, the bank and its subsidiaries operate nationwide delivering a full range of expanded commercial banking services to a highly diversified clientele. It has strong capabilities in consumer finance, commercial credit, corporate and investment banking, trust banking, domestic and international trade finance, treasury and money market investment, cash management and deposit services.

UCPB	2011	2010	Change
Revenues	6,151,000,000	6,019,000,000	2%
Net Income	3,048,000,000	2,454,000,000	24%

AIBC, a subsidiary of San Miguel Corporation, was created in 1983 to engage in the general business of insurance, reinsurance, pre-need, and health maintenance. The company and its assets were sequestered on 21 April 1986 and is a subject of Civil Case No. 33 (Republic v. Cojuangco, et al.).

### 2. IBC 13

The Intercontinental Broadcasting Corporation (IBC) operates radio, television and/or telecommunication stations. Pursuant to Executive Order No. 4 dated 30 July 2010, IBC has been placed under the supervision and control of the Presidential Communications Operations Office (PCOO).

IBC 13	2011	2010	Change
Revenues	203,000,000	120,000,000	69%
Net Income	55,920,000	(26,230,000)	313%

PhilDAF, formerly Technology Resource Center Foundation, was incorporated to engage in the mobilization, encouragement and support of resources and expertise in the formulation of researches, policies, and strategies for technology development, innovation, and adaptation. The Commission is currently exploring ways by which PhilDAF's resources and potential can be optimized to pursue its laudable objectives.

### 3. Chemfields

Chemfields, through its 80% owned Joint Venture company with UST – UST Cedres, manages laboratory facilities and provides drug research and evaluation services for pharmaceutical companies. Its key services include bioavailability and bioequivalence (BA/BE), monograph (potency) and dissolution tests for local generics companies and clinical trials in partnership with leading pharmaceutical companies and Clinical Research Organizations (CROs).

Chemfields	2011	2010	Change
Revenues	20,802,594	21,157,165	(-2%)
Net Income	1,713,583	(757,681)	326%



#### 4. Cocolife

United Coconut Planters Life Assurance Corporation (Cocolife) is the 9<sup>th</sup> largest life insurance company in terms of premium income. The Company offers a wide range of life insurance products as well as accident and health insurance.

Cocolife	2011	2010	Change
Revenues	3,919,283,000	3,097,151,000	27%
Net Income	241,761,000	212,301,000	14%

#### 5. Cocogen

UCPB General Insurance Company (Cocogen) is a wholly owned subsidiary of Cocolife. The Company is engaged in the non-life insurance business which covers motor, property, liability and casualty, marine, personal accidents and bonds. In terms of premium income, it is the 8<sup>th</sup> largest non-life insurance company.

Cocogen	2011	2010	Change
Revenues	1,885,001,000	1,711,151,000	10%
Net Income	46,510,000	1,974,000	2,256%

In this connection, the Commission is fully supportive of the designation and appointment of legitimate farmer-representatives in the appropriate coco levy-related companies under its care.

#### 6. CIIF-OMG

The six companies which comprise the "CIIF Oil Mills Group" were established or acquired with monies from the Coconut Industry Investment Fund (CIIF) which formed part of the coconut levy fund. These companies are engaged in the milling and refining of copra to processed products such as crude coconut oil and edible oil. Among its better known products is Minola Cooking Oil.

CIIF-OMG	2011	2010	Change
Revenues	16,657,000,000	14,187,000,000	17%
Net Income	149,000,000	120,000,000	24%

UCPB-CIIF Foundation, Inc. (Cocofoundation) serves as the Coco Levy Companies' social development vehicle and is sustained by the contributions from the group. Its flagship scholarship program was launched in 2004. Since then, it has provided financial assistance to children of coconut farmers/farmworkers for college education or vocational/technical (VOCTECH) courses. As of December 2011, a total of 1,425 qualified beneficiaries from 54 coconut-growing provinces had been awarded scholarships: 909 in college and 516 for VOCTECH. Total graduates now number 756, with the first summa cum laude scholar graduating in 2012.

#### 7. Cocofinance

UCPB-CIIF Finance and Development Corporation (Cocofinance) serves as UCPB's wholesale finance and investment vehicle for coconut farmers. Cocofinance provides wholesale financing/lending to accredited rural financial institutions and cooperatives who, in turn, relend the funds to coconut farmers.

Cocofinance	2011	2010	Change
Revenues	90,486,107	68,919,022	31%
Net Income	14,166,734	2,157,774	557%

#### 8. Cocochem

United Coconut Chemicals, Inc. (Cocochem) is engaged in the manufacturing of various oleochemical products that are sold in the domestic and foreign markets. Its main products include fatty alcohol (which is used in the manufacture of soaps, detergents, cosmetics, etc.) and glycerine.

Cocochem	2011	2010	Change
Revenues	2,191,842,030	809,105,815	171%
Net Income	-318,057,878	-10,512,000	(2,925%)



## 9. Philcomsat

The Philippine Communications Satellite Corporation (PHILCOMSAT) was organized for the primary purpose of providing telecom services through space relay and repeater stations mounted on communications satellite, and also to install, maintain and operate a satellite station. Philcomsat is 100% owned by Philippine Overseas Telecommunications Corporation (POTC) which is 35% owned by the Republic.

*As of this publication, despite repeated requests, Philcomsat has not submitted any financial report to the Commission nor to the Department of Finance.*

## 10. IRC

The Independent Realty Corporation (IRC) was created for the primary purpose of acquiring, selling, leasing, investing, and dealing with real estate properties. The company, and its subsidiary corporations were voluntarily surrendered by Mr. Jose Campos in 1986 in favor of the government.

IRC	2011	2010	Change
Revenues	80,027,433	71,866,423	11%
Net Income	39,256,391	31,190,020	26%

## 11. BASECO

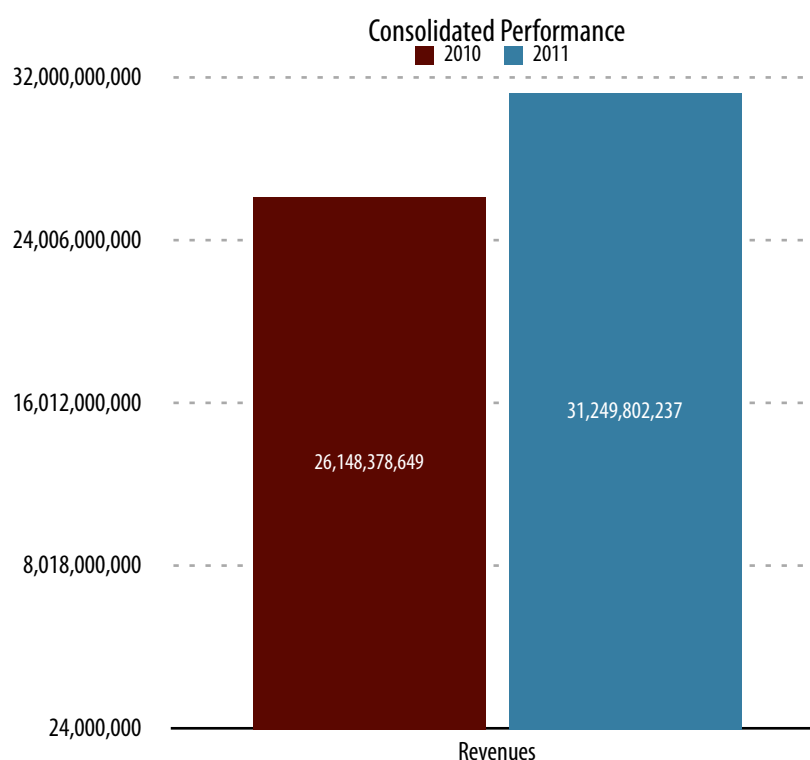
The Bataan Shipyard and Engineering Corporation (BASECO) is a shipbuilding and ship repair corporation once identified with Marcos in-law Alfredo "Bejo" Romualdez. The current business operation of BASECO involves the lease of properties in Mariveles, Bataan and in the City of Manila. The Bataan property covers around 300 hectares under a Joint Venture (49% BASECO - 51% Bataan) corporation with the Province of Bataan. The Manila property covers around 6 hectares abutting the Pasig River and Manila Bay and is more commonly known as Engineering Island.

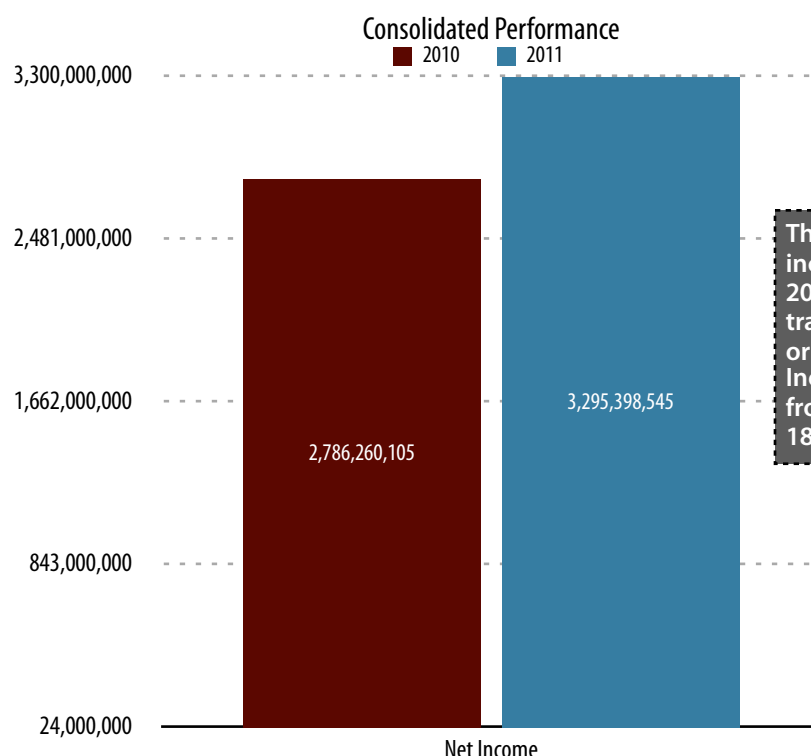
BASECO	2011	2010	Change
Revenues	51,360,073	43,028,224	19%
Net Income	17,128,715	2,136,992	702%

In August 1990, Meralco Foundation, Inc. (MFI) and the Commission entered into a compromise agreement for the disposition of the Meralco shares held by MFI and sequestered by the Commission in 1987. The Three-Man Board that was created to oversee the disposition of the shares and the remittance of the proceeds was thought to have completed its task in 2008, after successfully disposing of the shares and remitting PhP18B to the national government.

In May 2011, the existence of two accounts related to the 1990 agreement was discovered after a due diligence review of the transactions--an escrow deposit at the Development Bank of the Philippines in the amount of PhP114M; and a PhP67M account in MFI's custody.

Both sums are the subject of ongoing discussions between the Commission and MFI, for their possible recovery and remittance to the national government.





The consolidated Revenues increased from P26.1 billion in 2010 to P31.2 billion in 2011, this translates to a 19.5% growth rate, or P5.1 billion. Consolidated Net Income increased by P509 million, from P2.8 billion to P3.3 billion, an 18% improvement.

## PRIVATIZATION EFFORTS

In 2011, the Commission, in coordination with the Privatization Council, undertook the bidding of the following surrendered properties:

Property Location	Area	Floor Price	Winning Bid
1. Wack-Wack Property EDSA corner Berkeley St. Barangay Wack-Wack, Mandaluyong City	2,012 sq.m.	PhP101,606,000.00	PhP127,057,239.00
2. Hans Menzi Compound Outlook Drive (North), Barangay Gibraltar. Baguio City	3,875.57 sq.m.	PhP37,245,850.00	PhP93,017,555.57

In connection with the Wack-Wack Property, the highest bid received was P127.057 million—25% above the floor price. The notice of award was issued in favor of the highest bidder on 27 December 2011 with the approval of the Privatization Council.<sup>3</sup>

The Hans Menzi Compound was successfully bidden out on 24 April 2012 for PhP93,017,555.57—a bid that was 150% higher than the property's minimum bid price of PhP37,245,850.00. The Privatization Council, on 9 May 2012, approved the PCGG's proposal to award the sale to Comnet Management Corporation. (In the same letter, the Privatization Council approved the Commission's proposal to undertake a rebidding for the 4,038 sq.m. Mapalad Property with a minimum bid price of PhP250,759,800.00 or PhP62,100/sq.m.)

The Mapalad Property is a 4,038 sq.m. commercial and residential lot located at Roxas Boulevard, cor. Librada Avelino St., Baclaran, Parañaque City

<sup>3</sup> However, there is a pending legal issue with the City Government of Mandaluyong, in connection with the City's foreclosure and auction sale of the property for alleged non-payment of real estate taxes. The Commission's position—that the Wack-Wack Property is exempt from real estate tax pursuant to Section 234(a) of Republic Act No. 7160<sup>5</sup>—is supported by the Supreme Court Decision promulgated on 24 August 2011 in G.R. No. 185023 (City of Pasig vs. RP/PCGG). In the said case, the Supreme Court held that real properties surrendered to the Republic are exempt from real property tax, except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person.

Most striking—as it is, consequently, most tragic—is the fact that a large number of its cases that have remained pending for more than two decades, were filed by the Commission during its first three years of existence. (In certain instances, there are cases that have yet to commence pre-trial!) These setbacks aside, earnest efforts are being undertaken in order to reach certain milestones in some of the Commission's landmark cases. The Commission's Legal Department has formulated a three-track strategy composed of the following elements.

**1. Managing Effectively and Addressing Risks.** The foremost function of the Legal Department is case management. Its main responsibility is to ensure that the 279 cases in the legal docket are effectively monitored, pleadings are filed on time, and that the main cases are aggressively pursued.

**re: Managing Effectively and Addressing Risks**

- a. Update of the legal docket and case statistics
- b. Establishment of 14 case clusters to facilitate efficient case management by teams
- c. Development of a counterpart cluster team system in the Office of the Solicitor General

The other half of this track is Risk Mitigation and Management. It is important, considering the highly political and controversial nature of PCGG cases, that risks are identified in advance and contingency plans are prepared. Accordingly, the Legal Department established two mechanisms to enhance its capacity to respond to contingencies and risks that may arise in relation to the prosecution and defense of cases in its docket.

**re: Risk Mitigation and Management**

- a. Identification and close monitoring of the top 20 concerns. This watch-list allows the Legal Department to focus its attention on the cases and incidents that might pose a risk or cause problems for the Commission.
- b. Institutionalization & conduct of regular meetings of the Legal Management Committee (LMC). The LMC meets at least once every two weeks, functioning as the risk management committee of the Legal Department. The top 20 concerns and other problem areas are regularly discussed, anticipatory measures and action points are formulated, and their implementation regularly monitored.

**2. Five (5) Priority Cases.** Five cases and crucial incidents in the Commission's docket were identified early in 2012 as having a high probability of imminent resolution. The first two—cases involving the Clif Block of SMC shares and the Arelma assets, with a total potential recoverable value of approximately PhP70.965B—were resolved by the Supreme Court in favor of the government in January and April, respectively; both cases are the current subjects of motions for reconsideration which are expected to be resolved early next year. The other three identified cases involve execution: the matter of PTIC dividends, as well as the Bugarin and Tanchanco cases. These may generate substantial pecuniary recoveries in favor of the government, estimated at PhP497M. Accordingly, they are being closely monitored and aggressively pushed.

**3. Preparing for Winding Down.** To reflect the forward-looking vision of the present Commission, the Legal Department prepared a study as to how the 279 cases in the PCGG docket, sequestered assets, case records and important documents will be transferred to permanent agencies such as the Department of Justice, the Office of the Solicitor General, the Privatization Management Office of the Department of Finance, the National Museum and the National Archives as part of the winding-down process of the Commission.



Legal Department's  
Three-Track Strategy

The implementation of these three separate but closely coordinated strategy tracks is meant to ensure that the objectives of the Legal Department—managing its complex docket, addressing inherent and unavoidable legal risks, capturing the so-called low-hanging fruits and preparing for the transfer of the docket to a permanent agency—are met in an effective manner with a view to avoid confusion and conflict of mandates and directions.

### **CIVIL CASE NO. 0005: REPUBLIC V. LUCIO TAN, ET AL.**

**Background:** This is an action for reconveyance and recovery of ownership and possession of assets and properties acquired by defendants Lucio Tan and the spouses Ferdinand and Imelda Marcos as a result of a criminal enterprise founded on a 60-40 partnership. Pursuant to the said illicit partnership, Mr. Marcos extended special favors and concessions, and under his special sponsorship, Mr. Tan rose from being a small businessman into one of the principal tycoons in Southeast Asia with vast holdings in tobacco, banking, livestock, transportation, real estate development and other industries. It is the government's position that all properties acquired pursuant to the criminal enterprise and partnership of Mr. Tan with the spouses Marcos are forfeitable and should be reconveyed to the government. In a Decision dated 11 June 2012, the Sandiganbayan dismissed the case.

**Next Steps:** The Commission and the Office of the Solicitor General are studying the Republic's legal options in light of the recent ruling--among which are the filing of a Motion for Reconsideration or a direct recourse to the Supreme Court.

### **ARELMA (NEW YORK) AND WESTLANDESBANK (SINGAPORE)**

**Background:** In its Decision of 15 July 2003, the Supreme Court ordered the forfeiture of the Swiss deposits in the estimated aggregate amount of US\$658,175,373.60 (as of 31 January 2002) in favor of the Republic. (The amounts recovered from the Swiss deposits had already been remitted to the Bureau of the Treasury in 2004 and, of which, approximately PhP10 billion has been set aside to fund a bill that would provide compensation for the human rights violations victims of the Marcos regime.)

Of these so-called Swiss deposits, there remain two sums of money that are presently being litigated in New York and in Singapore.

#### **SINGAPORE: WESTLB AG V. PNB AND OTHERS (OS 134 OF 2004)**

**Background:** In the interpleader case filed by WestLB, the Republic did not initially intervene and asked to be impleaded only after the lower court did not approve PNB's application for *forum non conveniens*. The High Court was satisfied that the Republic had established sufficient standing to apply for a stay of the proceedings but ruled that it had submitted to the court's jurisdiction through implied waiver (notwithstanding that it had expressly declared that it was intervening solely to plead sovereign immunity). The other parties include a slew of Marcos foundations and the plaintiffs in the Hawaii class suit against the Marcos estate.

This case is pending before the High Court (the lower division of the Supreme Court of Singapore) and all parties provided closing submissions on 16 January 2012. The pre-trial conference was held on 28 February 2012, but there is, as yet, no update from the Supreme Court Registry on when judgment may be released.

The Republic's lawyers anticipate that the Judge will take a few months to render his grounds of decision. Once judgment in OS 134 of 2004 is pronounced, parties have one month to file a Notice of Appeal to the Court of Appeal (which is the upper division of the Supreme Court).

#### **NEW YORK: SWEZEY V. MERRILL LYNCH, PNB, ET AL. (INDEX 104734/09)**

**Background:** This case, involving the Arelma assets, was initiated in 2009 by a representative of the martial law human rights violations victims which had won a class suit in Hawaii (against the Marcos estate). The Republic is not a party in this case as it asserts sovereign immunity as a matter of right. However, it believes that the monies belong to the Republic and not to the Marcoses.

It bears noting that in the 2008 case of Republic v. Pimentel (which also dealt with the Arelma assets), the US Supreme Court had dismissed the proceeding, giving respect to international comity and the Republic's sovereign immunity. The instant litigation in New York is simply a thinly-veiled attempt to revive this earlier litigation.

It was PNB, as escrow agent, and Arelma which both intervened, seeking the dismissal of the petition. The NY Supreme Court denied the motion to dismiss, but the NY Appellate Division reversed the lower court's order (on 16 June 2011). It held, in a 4-1 decision, that the plaintiffs' suit should be dismissed as the case should not proceed in the absence of the Republic and that to require the Republic to participate would be to essentially negate its sovereign immunity. Petitioners appealed the dismissal to the NY Court of Appeals which, on 26 June 2012, in turn, affirmed the dismissal of the case.

### **ON THE MATTER OF MARCOS, JR., ET AL. V. REPUBLIC (G.R. NOS. 189434 & 189505)**

**Background:** In 2009, the Sandiganbayan ruled the Arelma assets as ill-gotten wealth and, thus, forfeited in favor of the Republic. The Marcoses raised this issue to the Supreme Court soon thereafter. On 25 April 2012, the Supreme Court affirmed the Sandiganbayan's decision. The decision dismissed all the arguments of the Marcoses and makes a number of significant points, including:

1. that forfeiture proceedings under R.A. 1379 are civil in nature and that, therefore, summary judgment is allowed;
2. that the Republic was able to establish a *prima facie* presumption that the subject assets were manifestly and patently disproportionate to the Marcoses' salaries as public officials and that they had failed to overturn this presumption when they merely presented vague denials and pleaded "lack of sufficient knowledge";
3. that the 2003 decision on the Swiss deposits did not serve as the entire judgment in Civil Case No. 141 (Petition for forfeiture of Marcos ill-gotten wealth) and that the Republic was not precluded from seeking partial summary judgment over another matter covered by the petition for forfeiture; and
4. that the petitioners are simply attempting to delay recoveries by evasiveness and the expedient profession of ignorance, and that their sham denials and their failure to properly tender an issue justified the application for summary judgment on the part of the Republic.

Petitioners have filed motions for reconsideration of the Supreme Court's decision--which the Republic will be opposing.



## **CIVIL CASE NO. 33-F: REPUBLIC V. SANDIGANBAYAN**

In 1987, the PCGG filed Civil Case No. 33 which was later subdivided into Civil Case Nos. 33-A to 33-H. To this cluster of cases belong the infamous "coco levy" cases which cover three blocks of shares in San Miguel Corporation: 20% ("Cojuangco Block"), 24% ("CIIF Block") and 4% ("Treasury Shares").

### **CIVIL CASE NO. 33-F: COJUANGCO BLOCK**

**Background:** Based on the allegations in the Republic's complaint, the Cojuangco Block was purchased by Mr. Eduardo "Danding" Cojuangco, Jr. through loans that he took out from United Coconut Planters Bank and credit advances from the CIIF Oil Mills Group, at the time when Mr. Cojuangco was in control of these institutions and the government-facilitated monopoly of the Philippine coconut industry.

**Status:** In April 2011, the Supreme Court decided against the Republic in the case that it filed against Mr. Cojuangco. In its Decision, the Supreme Court ruled that the Republic failed to substantiate its claims and fell short in providing the necessary evidence as regards contentious issues surrounding Mr. Cojuangco's acquisition of a 20% block of San Miguel Corporation shares. Soon thereafter, the Commission filed a Motion for Reconsideration reiterating the position earlier adverted to by Justice Carpio-Morales in her dissenting opinion that the evidence adduced, taken together with the judicial admissions made by Mr. Cojuangco, were sufficient to confirm that the said contested shares rightly belong to the Republic (and to be held by it, in trust for all the coconut farmers and the coconut industry). Unfortunately, the said pleading was denied by the Court.

The Commission subsequently filed a Second Motion for Reconsideration which was expunged by the Court. On 29 November 2011, the Commission filed an Omnibus Motion asking the Court to reinstate the Second Motion for Reconsideration, and to consider the issues and arguments raised in the "higher interests of justice" as is allowed by the Internal Rules of the Supreme Court. This, too, was expunged by the Supreme Court via Resolution dated 17 January 2012.

The relevant dates are, as follows: (a) the initial Sandiganbayan disapproval of Compromise Agreement: 25 October 1991; (b) Sandiganbayan denial of Motion for Reconsideration: 18 March 1992; (c) Supreme Court affirmation of Sandiganbayan's Resolution: 14 September 2000; (d) Supreme Court denial of SMC M.R.: 17 April 2001; (e) Supreme Court Entry of Judgment: 27 June 2001.

### **CIVIL CASE NO. 33-F: CIIF BLOCK**

**Background:** The CIIF Block represents shares in SMC that were previously adjudged by the Sandiganbayan as belonging to the Republic, to be held in trust for the coconut farmers and the coconut industry. These shares were found to have been purchased using coco levy funds (which, by nature, are prima facie public funds).

**Status:** In a Decision dated 24 January 2012, the Supreme Court, by a unanimous vote of 11-0, decided in favor of the Republic, whereby it affirmed the earlier Resolutions of the Sandiganbayan to the effect that the 6 CIIF Oil Mills, the 14 Holding Companies, and the CIIF Block, along with all dividends declared, paid and issued, are owned by the Government to be used only for the benefit of all coconut farmers and for the development of the coconut industry. On 14 February 2012, a Motion for Reconsideration was filed by COCOFED--which will be opposed by the Commission.

### **CIVIL CASE NO. 33-F: TREASURY SHARES**

**Background:** The Treasury Shares are part of the CIIF Block which were the subject of a 1986 stock purchase agreement between SMC and UCPB (then administrator of the CIIF). This purchase did not pan out and a subsequent attempt to compromise was disapproved by the Sandiganbayan in 1991. The Treasury Shares were awarded in favor of the Republic by the Sandiganbayan and this was affirmed by the Supreme Court on 14 September 2000. Entry of Judgment was made on 27 June 2001. A prior demand was made by the Commission during the time of Chairperson Haydee Yorac, upon San Miguel Corporation. However, SMC did not comply with the order of the Supreme Court affirming the Sandiganbayan's prior resolutions.

**Status:** The present Commission filed a motion in the Supreme Court, asking that SMC be directed to comply with its order for the latter to deliver 4% Treasury Shares in SMC, including all the cash and/or stock dividends that have accrued thereto, had the said shares of stock not been previously declared treasury shares. SMC has filed a comment reiterating and rehashing its previous position on the matter.

## **"PAYANIG SA PASIG" CONTROVERSIES**

On 24 August 2011, the Supreme Court, in *City of Pasig v. Republic of the Philippines* (G.R. No. 185023), affirmed the ownership and possession over *Payanig sa Pasig*. Furthermore, the Commission recently commenced the filing of cases to eject 10 non-paying tenants in the said property (as a result of the latter's refusal to heed the demand letter sent by MPLDC). The Commission and MPLDC asked the court to issue a writ of preliminary mandatory injunction compelling the non-paying tenants to vacate and deliver the possession of the property to the government.

"Payanig sa Pasig" is an 18.5 hectare property situated in the heart of the Pasig Central Business District owned by Mid-Pasig Land Development Corporation (MPLDC). MPLDC was surrendered by Jose Y. Campos to the government, through the Commission, in 1986.



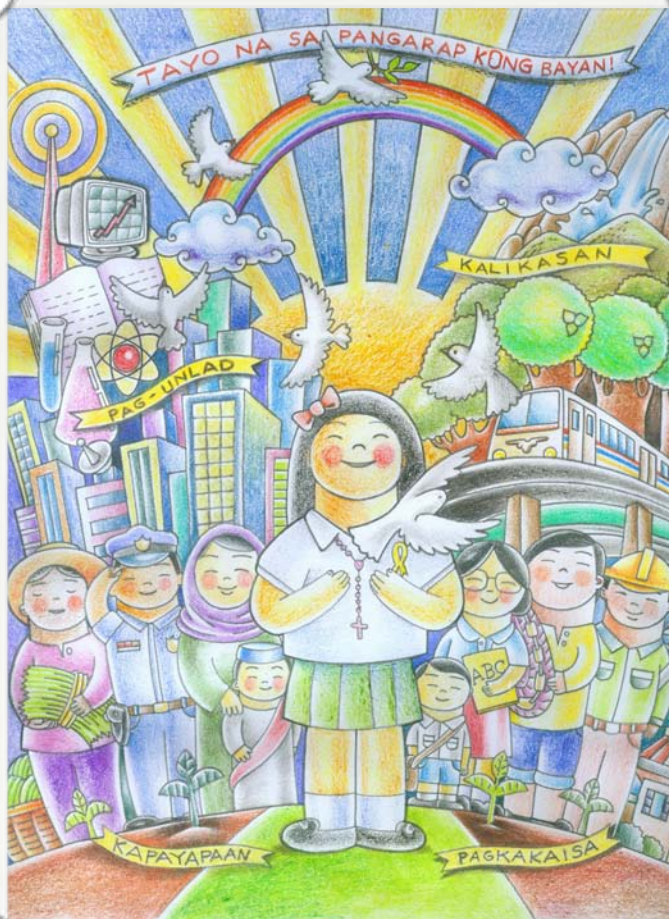
LESSONS TAUGHT  
LESSONS LEARNED

With a fresh mandate from President Aquino, its officials were set on commemorating the Commission's 25<sup>th</sup> year in a meaningful manner. Mindful of the historical value of the Commission's work, as well as its heretofore little known mandate of installing safeguards to prevent the occurrence of corruption in government, it embarked on an ambitious series of activities that aimed to help teach the lessons of martial law and of the EDSA People Power Revolution.

## 25<sup>TH</sup> ANNIVERSARY CELEBRATION ACTIVITIES

### "What is Good Government To Me?"

The Commission launched a series of contests that posed the question, "What is Good Government To Me?" to the post-EDSA '86 youth. The overwhelming number of entries to the various contests—essay writing, short film, drawing, and model youth organization—reinforces the contention that the spirit of youth activism remains vibrant and relevant.



"... Good government is not the work of the government alone. It should also be the work of the people who selected those that are in government. I would like to believe that this is why we seem to have such high regard for our electoral processes or for historical events like the 1986 EDSA Revolution. These are the times which constantly remind us of our role in the pursuit of the ideals that constitute Philippine democracy."

"Democracy Through the Pursuit of Good Governance" (1st Place)  
Pamela Jasmin K. Wong, First Year  
Immaculate Conception Academy

Ronna T. Cruz (1st Place), Grade 5  
Santiago Syjuco Memorial School  
Malabon City

"A good government should put into consideration not only the present but also the sustainability of a country, which is why the youth should be given attention."

It is the request of every Filipino to be heard and be allowed to ventilate their feelings to what they see is not in accordance with what a good government should be."

"What is Good Government to Me?" (2nd Place)  
Marcus J. Valdez, Fourth Year  
Ateneo High School



Jennifer C. Libertino (2nd Place), Grade 6  
Salvacion Elementary School  
Davao Del Norte



"I feel sad for those people who have chosen the wrong paths in life because I know that soon enough, the very pleasures that brought them happiness would soon destroy them. I hope that you are one of the few remaining people who have the heart to abstain from those deadly pleasures and work with me towards the realization of a good government..."

The Good Government in My Lenses (3rd Place)  
Philip Nathaniel T. Go, Second Year  
Misamis Union High School

Jheremie Lois B. Salalima (3rd Place), Grade 6  
La Consolacion College  
Caloocan City





1st Prize: Audije, Facturanan, Jansalin, Landingin, Reyes, Villongco, Yecla  
University of the Philippines - Manila  
<http://www.youtube.com/watch?v=zfChRO2kCRO>



**Makinig ka lang.**



2nd Prize: Butial, Bongato, Castillon, Recla, Salinas, Songco  
University of the Philippines - Manila  
<http://vimeo.com/mainitnakape/gustokong>

**Lahat dapat pakinggan.**



3rd Prize: Calimon, Chua Rojas, Ocampo, Lim, San Juan  
Ateneo de Manila University  
<http://vimeo.com/20093397>

**ONE-TWO STEP**  
THE INTERPLAY BETWEEN THE YOUTH & THE GOVERNMENT



**STEP 2: CREATE SPACE FOR YOUTH INVOLVEMENT.**

**STEP 1: UNDERSTAND THE YOUTH'S LANGUAGE.**



Pedro Diaz High School  
Supreme Government  
Resolution No. 15  
Winner of the Model Youth  
Organization Competition

“Sa ating sama-samang  
pagtutulungan ay  
matutugunan ang  
suliraning kinakaharap.”



#### Background of the Organization:

PEDHS Supreme Student Government is a school-based organization established to represent the students in the community where it belongs.

*“Noise pollution has always been a problem for everyone; especially for our schoolmates who occupy the buildings along the South Luzon Expressway... The different vehicles that pass through SLEX create a big amount of noise that distracts the classes in the said buildings. As a result, the students became “slow learners” because they couldn’t focus well on their lessons.*

*As concerned students, we want to help our fellow Pedronians to have quality education. So we came up with a project entitled, ‘The Environmental Hazards Caused by SLEX to the Learning Environment of the Pedronians.’”*

To help the plight of our fellow students, we undertook the following actions:

1. Identification of the magnitude and extent of environmental hazards caused by SLEX to the learning environment of the Pedronians.
2. Conduct of a survey among the students in order to enumerate and consolidate their concerns.
3. Thorough research to comparatively analyze the detrimental effects of environmental hazards to the learning performance of affected learners occupying the buildings adjacent to SLEX.
4. Filing of SSG Resolution No. 15 to air deepest concerns regarding the ill-effects of environmental hazards.
5. Presentation of SSG Resolution No. 15 to the Vice Mayor’s Office. (An endorsement letter was thereafter sent by the City Council of Muntinlupa to the Mayor’s Office.)
6. Attended a public hearing which tackled the said resolution.

The chairman at the said hearing suggested that the construction of the sound-proof fence be done before the start of the next school year. The SLEX environmental officer then conducted an ocular inspection and measured the extent of gas emissions within the premises of PEDHS.

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## Journey to Good Governance

The Commission recognized the need to bring its message of good governance vis-à-vis the lessons of Martial Law to various academic institutions across the country. Weeklong exhibits—focusing on the themes of the excesses of the past, ongoing recovery efforts, and the challenges of good governance—were complemented by various forums attended by the Commission's top officials.

No.	Name of School/University	Date
1.	<b>Central Luzon State University</b> Science City of Muñoz	July 13, 2011
2.	<b>Ateneo de Naga University</b> Naga City	July 19, 2011
3.	<b>Colegio de Dagupan</b> Dagupan City	Aug. 10, 2011
4.	<b>St. Paul University Philippines</b> Tuguegarao City	Aug. 24, 2011
5.	<b>University of San Agustin</b> Iloilo City	Sept. 7, 2011
6.	<b>Aquinas University</b> Legaspi City	Sept. 12, 2011
7.	<b>Silliman University</b> Dumaguete City	Sept. 21, 2011
8.	<b>Leyte Normal University</b> Tacloban City	Oct. 5, 2011
9.	<b>Western Mindanao State University</b> Zamboanga City	Nov. 10, 2011
10.	<b>Visayas State University</b> Baybay City	Nov. 16, 2011
11.	<b>Xavier University</b> Cagayan de Oro City	Nov. 23, 2011
12.	<b>University of San Carlos</b> Cebu City	Dec. 5, 2011
13.	<b>Central Mindanao University</b> Maramag, Bukidnon	Dec. 7, 2011
14.	<b>Ateneo de Davao</b> Davao City	Dec. 9, 2011
15.	<b>Notre Dame of Marbel University</b> Koronadal City	Dec. 12, 2011
16.	<b>Saint Louis University</b> Baguio City	Jan. 25, 2012
17.	<b>University of Batangas</b> Batangas City	Feb. 10, 2012
18.	<b>Philippine Normal University</b> City of Manila	Feb. 23, 2012
19.	<b>UP-Los Baños</b> Los Baños, Laguna	Mar. 9, 2012



With the support of external partners, funding agencies, and centers of academic excellence, the Commission was able to reach an audience of 4,374 participants from 19 universities and colleges.



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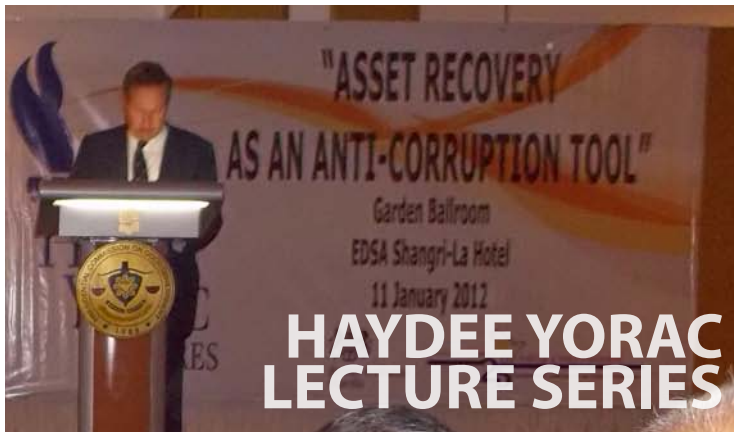
LESSONS TAUGHT  
LESSONS LEARNED



# JOURNEY TO GOOD GOVERNANCE







## Haydee Yorac Commemorative Lecture Series

In recognition of Chairperson Haydee Yorac's meaningful contributions to the Commission's work and history, a series of lectures were organized in her name and honor. Facilitated and delivered by recognized experts in the field of anti-corruption, these lectures served to complement the Commission's third mandate pertaining to measures to prevent corruption in government.

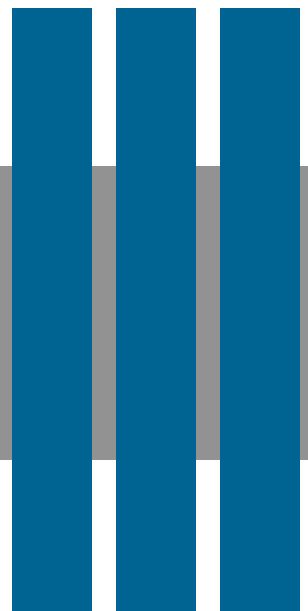
No.	Lecture	Date
1st	<b>Mr. Tony Kwok</b> (Hong Kong) Independent Commission on Anti-Corruption 5 <sup>th</sup> floor, FEU- Makati	May 4, 2011
2nd	<b>Sec. Florencio Abad</b> (Philippines) Department of Budget and Management  <b>Comm. Gerard Mosquera</b> (Philippines) Commissioner, Presidential Commission on Good Government  <b>Atty. Racquel Dimalanta</b> (Philippines) Author, Assessment Report on the PCGG Marriott Hotel, Newport City Complex, Pasay City	Sep. 30, 2011
3rd	<b>Judge Michael Hopmeier</b> (United Kingdom) Judge, Kingston upon Thames Crown Court Garden Ballroom, Edsa Shangri-la	Jan. 11, 2012
4th	<b>Prof. Robert Klitgaard</b> (United States of America) (Fmr.) President, Claremont Graduate University Bancom & Soriano Rooms Asian Institute of Management (AIM), Makati City	Feb. 27, 2012
TOTAL NUMBER OF PARTICIPANTS		715



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LESSONS TAUGHT  
LESSONS LEARNED

# CALL TO ACTION: CONSULTATION AND ENGAGEMENT





## PCGG Assessment Report

It is not often that a government agency opens its doors and invites scrutiny. For a 26-year institution, however, doing so is necessary, if only to inspire a breath of fresh air into the conduct of its affairs. And so, the Commission allowed itself to be made the subject of an independent assessment that cohered around the following framework: review of legal literature, study of the operational framework of the Commission, and an analysis of pending cases.

### **PCGG May Be Assigned Non-Marcos Graft Cases by the President**

Pursuant to Cruz, Jr. vs. Sandiganbayan (G.R. No. 94595, February 26, 1991) and Republic of the Philippines v. Sandiganbayan (G.R. No. 115906, September 29, 1994), it is clear that non-Marcos graft cases may be investigated by the PCGG, upon Presidential authority. The PCGG may therefore want to fully explore its potential as an anti-corruption agency by soliciting the President's assignment to it of such cases as may be warranted.

PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT  
ASSESSMENT REPORT

### **PCGG can Perform Preliminary Investigation**

Since part of the challenges encountered by the PCGG is the delay in the resolution of complaints and petitions filed with the Ombudsman, it may want to consider taking on the task of conducting preliminary investigation of certain cases, provided that fact-finding is performed by another agency, possibly the National Bureau of Investigation (NBI).

PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT  
ASSESSMENT REPORT

### **Observations on Case Inventory in Sandiganbayan**

Unfortunately, the average length of time for these pending cases from filing, to current year, is 20 years, with the longest period running at 24 years. 64 percent of the cases pending with the Sandiganbayan have been pending for more than 20 years.

This may be due, in part, to the interlocutory appeals which are raised by parties from the Sandiganbayan to the Supreme Court, which also toll the proceedings below.

The average period for incidents elevated from the Sandiganbayan to the Supreme Court is 9 years, with the longest incident running at 21 years. 18 percent of these incidents have been pending in the SC for more than 20 years. This period is embedded in the number of years that the case remains pending in the Sandiganbayan, as the proceedings with the Supreme Court on the incidents affect the proceedings in the Sandiganbayan from which the incidents arise.

PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT  
ASSESSMENT REPORT

President Benigno S. Aquino III enunciated throughout his campaign and during his initial months in office that his number one priority is fighting corruption. His campaign slogan, *"Kung Walang Corrupt, Walang Mahirap"* embodies this priority. The PCGG's centerpiece function is recovering the ill-gotten wealth of the Marcoses and their associates. However, the agency does have other functions, although lesser known--including investigations of cases of graft and corruption as the President may assign, and the adoption of safeguards and institution of adequate measures to prevent corruption. These mandates contained in EO 1 allow PCGG to be aptly called an anti-corruption agency, aside from being an asset recovery organization. While PCGG has recovered some of the plundered wealth of the Marcoses, its potential in investigating cases of graft and corruption and in instituting safeguards against corruption remains to be fully exploited.



## Human Rights Compensation

In a letter to His Excellency Benigno S. Aquino III (dated 18 July 2011), the Commission expressed its full support for the passage of a bill that would seek to provide compensation to the human rights violations victims of the martial law regime. In that same letter, the Commission further urged the President to certify such legislative measure as urgent, as well as to include it as a priority measure in the Administration's human rights agenda.

On 25 July 2011, the President delivered his Second State of the Nation Address, stating categorically that "[it is the Administration's] aim to give due compensation to the victims of Martial Law."

Contemporaneous to these efforts, the Commission has (i) facilitated the visit of Ambassador Valentin Zellweger, Head of the Directorate of Public International Law, Switzerland's Federal Department of Foreign Affairs, including meetings with the respective Committees on Human Rights of both houses of Congress; (ii) participated in the Committee hearings of both the Senate and the House of Representatives; and (iii) contributed to the work of the inter-agency task force on the Human Rights Compensation Bill.

We welcome the opportunity presented by the prospects of passing this Bill as a chance to right the wrongs of the past. Beyond providing a means for compensating the legitimate claims brought by Human Rights Violations Victims, the passage of this Bill by Congress signifies the recognition of the various forms of human rights abuses that characterized the Marcos regime.

It is within this context that we write to urge you to certify this Bill as urgent, as well as to express our support for its inclusion as a priority measure in your administration's human rights agenda.

Chairman Andres Bautista  
Letter to the President, dated 18 July 2011



Maganda na po ang ating nasimulan. Pero mahalaga pong maalala natin: simula pa lang ito. Marami pa tayong gagawin. Hayaan po ninyong ilatag ko sa Kongreso ang ilan sa mga batas na magpapaigting sa pagtupad ng ating mga panata sa bayan.

Layon nating bigyan ng kaukulang kompensasyon ang mga biktima ng Martial Law...

President Benigno S. Aquino III  
Second State of the Nation Address



*xxx It is hereby declared the policy of the State to recognize the heroism and sacrifices of all Filipinos who were victims of summary execution, torture, enforced or involuntary disappearance and other gross human rights violations committed during the regime of former President Ferdinand E. Marcos covering the period September 21, 1972 to February 25, 1986 and [to] restore the victims' honor and dignity. The State hereby acknowledges its moral and legal obligation to recognize and/or compensate said victims and/or their families for the deaths, injuries, sufferings, deprivations and damages they suffered under the Marcos regime.*

- House Bill No. 5990, Compensation Act to Victims of Human Rights Violations

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CALL TO ACTION:  
CONSULTATION  
AND ENGAGEMENT

## Coco Levy Recovery

The Commission is a key partner in the fight to recover the coco levies. In this regard, it has dialogued and cooperated with various farmer groups and relevant organizations, in order to help align efforts in the coco levy recovery—after all, it is for the 3.5 million-strong Filipino coconut farmers that this fight is being waged. The Commission, likewise, is part of the Presidential Task Force on the Coco Levies that was convened by the Presidential Management Staff, and is looking to submit a report to the President on the issues surrounding the anticipated recovery.

The Commission has participated in the Joint Committee hearing at the Senate, regarding the Coco Levy Trust Fund Act authored by Senate President Juan Ponce Enrile. The Commission is committed to supporting the passage of such legislative measure.

## Strategic Partnerships

The professional—but collegial and convivial—work environment resulted in a more efficient and effective system, both internally and externally. The reality of the team system that the Commission's officials took on has made collaboration with other colleagues in the bureaucracy possible. And just as assembling a team is important to foster integrity, collaborations further it by inviting others who will keep watch and ensure that ethical progress is made. The "risk" posed by one person speaking up forestalls the prospect of co-optation—especially when more of those persons could be counted on as partners.

*"A country whose Court is without a sense of history will have a history devoid of sense. Beyond the dictates of judicial notice--be it of the history of the Philippines or of matters which are of public knowledge--there are the demands of justice and the resolve of one's conscience. The impartiality and independence that Lady Justice's blindfold signifies are not served by turning a blind eye to the obvious which, if ignored, is to the painful detriment and suffering of others: that the Republic's duty and right to recover ill-gotten wealth is an effort of paramount and transcendental importance--and that all the matters, issues, and cases relative to such efforts are sui generis. In many ways, these efforts are bound up with the struggle to right the wrongs of history."*

*- Motion for Reconsideration,  
re: Republic v. Cojuangco*

THE  
ATENEO  
HUMAN RIGHTS  
CENTER



British Embassy  
Manila



Partnerships have allowed the Commission to undertake various relevant projects, at no additional cost to the taxpayer.

A more expansive take on "partnership" means accepting an ongoing active relationship with one's stakeholders. In this regard, the Commission has reached out to such stakeholders and have opened its doors to them. The fourth estate, media, and the public's watchful eye are partners in ensuring that it does not stray from the straight path—a path that the Commission treads, even at the risk of, sometimes, harsh and unfair criticism.

The experience of the Commission is illustrative of the difficulty of the fight against corruption. Deeply-entrenched practices that have seeped into the organization feed into a culture of inefficiency. Nevertheless, what the experience has, thus far, shown is that institutional reforms are possible.

### **Incentivizing and Reinforcing Good Behavior**

Reforms are the result of incremental changes that chip away at deeply-embedded inefficient and improper practices. They are simultaneously directed at the organization—that is, the people, their environment, and the administration and management of both—and the institution—that is, the intangible norms that suffuse and animate the organization.

Lacking the traditional carrot-and-stick incentives of the private sector, the public sector contends with resources that are limited both in fact and by law. In this regard, creativity is key in signaling change cues that incentivize good behavior and reinforce reform efforts. At the end of the day, the work is only as good as the people who do them.

Considering that the agency was born out of noble intentions, it does not come as a surprise that its first employees were, in fact, its first volunteers. A recognition of this important factual context revealed that leadership by example *and* by inspiration are integral to restoring the employees' morale. Being able to work with a sense of pride is essential to being able to do work that one could take pride in.

### **Transparency and Accountability**

These principles are without meaning if they are not translated into concrete policy measures. In this regard, the Commission aspired to be truly transparent and authentically accountable. If it is to be effective, then the Commission has to be truly and legitimately "public." The PCGG failed in claiming this role in the last 26 years. Had it remained true to the edict of its being the people's Commission, it could have played an active and relevant role in being the people's advocate in combating and preventing corruption. Rather than seizing upon the window of opportunity, it allowed itself to be swept by the torrents of the political events in the years that followed.

Throughout this process, it was clear that the Commission had to communicate its efforts to the public—not just to assure them of the changes that were coming—but to invite their attention, as a means to further reinforce its commitment. Reports, statements, and publications were prepared and disseminated regularly through its web site, via email, and even on social media (such as Facebook and Twitter).

The various fora that were organized in connection with the "Journey to Good Governance" and the "Haydee Yorac Lecture Series" served as platforms to communicate and interact with the public. Acknowledging that the Commission needed to share the President's Social Contract with its audience, it made a discussion of the Good Governance Framework and Action Plan (as prepared by the Department of Budget and Management) an integral part of its public forums.

## Tools and Talents to the Table/"Legal++"

Corollary to a "team system" is the principle of "giving, but not counting the cost." This enlightened approach to managing and utilizing human resources, allowed the Commission—from its officers to its employees—to go beyond the traditional operational constraints of the public sector. Whereas traditionally, work in the public sector relegates the functioning of a public official to the itemized scope of duties and responsibilities, the Commission sought to harness its own people's talents, skills, and passions.

Instead of outsourcing a certain job function or work, the Commission looked to its own, whenever possible. This has improved morale, due to an increased sense of "ownership" and initiative among its ranks.

Whereas in the past, the work of the Commission was largely confined to a "legal" nature, it was important to recognize, and so, bring an economic sense—as well as a sense of "timing"—to its functioning. Being the steward of various corporations in a diverse range of industries, it was just as crucial to bring real management skills to improve the performance of these corporations. Negotiation and legal advocacy, coupled with business acumen allowed the Commission to bring much-needed "unusual" changes to the lackadaisical "business as usual" attitude that had long stymied the financial viability of the corporations under its care.

## A POSTSCRIPT

It is hard to tell the future for a Commission whose work has most to do with the past. There is much difficulty in shouldering the burden of righting past wrongs—and of understanding the sins then, since then.

Counting time passed reveals not just time lost: 26 years since the Commission was created, and nearly 40 years since the impetus for its creation—the proclamation of Martial Law. 40 years since the dictatorship, the Philippines remains saddled with and reeling from the aftershocks of the sunk cost that was the dictatorship. 26 years since the People Power Revolution of 1986, the road to democracy led to a recent nine-year detour that bore a striking resemblance to a past that does not bear repeating.

Looking forward, the horizon will always loom ahead—ever-present as a possibility, until it is made real. Ushering in that closure that the Filipino people seek and deserve requires urging along the causes that have languished for far too long. The battle lines have been drawn, and the present Commission has been making in-roads to hurdle the challenges. And while the people are better served to manage their expectations, the Commission seeks to serve the Filipino people's expectations by delivering results, through its renewed sense of commitment and dedication.

The present Commission has learned from the mistakes of its past incarnations—and so, too, should the people learn the lessons of history. In its 26th year, the Commission will continue in its vigorous pursuit of its mandate—with the full understanding that its success (or failure) is premised on a proper and functioning politico-legal environment, steeped in good governance and rid of corruption.