

FURTHER REVISING PRESIDENTIAL DECREE NO. 1487, AS REVISED BY PRESIDENTIAL DECREE NO. 1607, CREATING THE OFFICE OF THE TANODBAYAN.

PRESIDENTIAL DECREE NO. 1630, July 18, 1979

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To give effect to the constitutional right of the people to petition the government for redress of grievances and to promote higher standards of integrity and efficiency in the government service, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me under the Constitution, hereby order and decree as follows:

SECTION 1. Short Title.— This Decree may be cited as the Tanodbayan Decree.

SEC. 2. Establishment of Office.—An independent Office of the Ombudsman, to be called the Office of the Tanodbayan, is hereby created. The Chief of said Office of the Tanodbayan shall be called the Tanodbayan who shall have two (2) deputies for Luzon, one for the Visayas and one for Mindanao.

SEC. 3. Appointment.—The President shall appoint the Tanodbayan and his Deputies.

SEC. 4. Qualifications.—The Tanodbayan and his Deputies shall be members of the bar, well equipped to analyze problems of law, administration, and public policy, and shall not have been actively involved in partisan affairs.

SEC. 5. Disqualifications.—The Tanodbayan and his Deputies shall not, during their tenure in office, engage in the practice of any profession or in the management of any business, or be financially interested directly or indirectly in any contract with or in any franchise or privilege granted by, the Government, or any subdivision, agency, or instrumentality thereof including government-owned or controlled corporations.

SEC. 6. Term of Office.— (a) The Tanodbayan and his Deputies shall serve for a term of seven years without re-appointment unless removed by the President upon his determination that the Tanodbayan or any of his Deputies has become incapacitated or has been guilty of neglect of duty, or misconduct.

(b) If the Office of Tanodbayan becomes vacant for any cause, the Senior Deputy Tanodbayan shall serve as Acting Tanodbayan until the Tanodbayan shall have been appointed for a full term.

SEC. 7. Salary.—Unless otherwise provided by law, the Tanodbayan and each Deputy Tanodbayan shall receive an annual salary of sixty thousand pesos and fifty thousand pesos, respectively, which shall not be diminished during their continuance in office.

SEC. 8. Organization of Office.—(a) The Office of the Tanodbayan shall have one Executive Director; and Administrative Office; a Finance, Management and Planning Office; a Legal Office; and an Investigation and Prosecution Office.

The Executive Director shall have a compensation of forty two thousand (P42,000.00) pesos per annum, and each of the aforesaid offices shall be headed by a Director with compensation of forty thousand (P40,000.00) pesos each per annum.

The Investigation and Prosecution Office shall, aside from the Director, have twelve (12) Special Prosecutors with compensation of thirty-eight thousand (P38,000.00) pesos each per annum, and twelve (12) investigators with compensation of thirty-five thousand (P35,000.00), pesos each per annum. The Special Prosecutors shall have the same qualifications as Provincial and City Fiscals.

The Legal Office shall, aside from the Director, have nine (9) Legal Officers with a compensation of thirty-five thousand (P35,000.00) pesos each per annum.

The Administrative Office shall consist of the General Service Division and Personnel Division. Until such time as the Administrative Office is actually organized, the Complaints and Investigation Office shall continue to serve as the administrative arm of the Tanodbayan.

The Finance, Management and Planning Office shall consist of the Budget Division, Accounting Division, and Management and Planning Division. Each of these divisions shall be headed by a Division Chief with a compensation of thirty-seven thousand (P37,000.00) pesos per annum. There shall also be a Private Secretary to the Tanodbayan with a compensation of twenty-seven thousand (P27,000.00) pesos per annum.

All of these officials shall be appointed by the President upon the recommendation of the Tanodbayan. The Tanodbayan may also select, appoint, and compensate in accordance with law and within the amount available by appropriation, such other assistants and employees as he may deem necessary to discharge his responsibilities under this Decree;

(b) When the Tanodbayan is disabled or absent and so notifies his office, the Senior Deputy Tanodbayan shall have authority to act in his stead.

(c) The Tanodbayan may delegate to other members of his staff any of his authority or duties under this Decree except his power of decision in all cases and the duty of formally making recommendations to administrative agencies or reports to the President or the National Assembly.

SEC. 9. Definitions.— As used in this Decree, the term? (a) "Administrative agency" means any department or other governmental unit including any government-owned or controlled corporation, any official, or any employee acting or purporting to act by reason of connection with the government but it does not include (1) any court or judge, or appurtenant judicial staff; (2) the members, committees or staffs of the National Assembly; (3) the President or his personal staff; and (4) the members of the Constitutional Commissions and their personal staffs.

(b) "Administrative Act" refers to any action, including, but not limited to, decisions, omissions, recommendations, practices or procedures of an administrative agency.

(c) "Failure of Justice" refers to the defeat of a particular right, or the failure of reparation for a particular wrong, from the lack of inadequacy of a legal remedy for the enforcement of the one or the redress of the other. There is also failure of justice when a public official or employee commits any administrative act or omission warranting criminal prosecution or the filing of an appropriate criminal, civil or administrative case.

SEC. 10. Powers.—The Tanodbayan shall have the following powers:

(a) He may investigate, on complaint by any person or on his own motion or initiative, any administrative act whether amounting to any criminal offense or not of any administrative agency including any government-owned or controlled corporation;

(b) He may prescribe the methods by which complaints are to be made, received, and acted upon; he may determine the scope and manner of investigations to be made; and, subject to the requirements of this Decree, he may determine the form, frequency, and distribution of his conclusions and recommendations;

(c) He may request and unless as herein provided for he shall be given by each administrative agency the assistance and information he deems necessary to the discharge of his responsibilities; he may examine the records and documents of all administrative agencies; and he may enter and inspect premises within any administrative agency's control, provided, however, that where the President in writing certifies that such information, examination or inspection might prejudice the national interest or violate existing law, the Tanodbayan shall desist. All information so obtained shall be confidential, unless the President, in the interest of public service, decides otherwise;

(d) He may issue a subpoena to compel any person to appear, give sworn testimony, or produce documentary or other evidence the Tanodbayan deems relevant to a matter under his inquiry;

(e) If after preliminary investigation he finds a prima facie case, he may file the necessary information or complaint with the Sandiganbayan or any proper court or administrative agency and prosecute the same;

(f) He may file and prosecute civil and administrative cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office;

(g) He may undertake, participate in, or cooperate with general studies or inquiries, whether or not related to any particular administrative agency or any particular administrative act, if he believes that they may enhance knowledge about or lead to improvements in the functioning of administrative agencies.

In carrying out his functions, the Tanodbayan may with the approval of the President, deputize or call upon any official or employee of the government or any agency or office and during such deputation the official or employee concerned shall be under the supervision and control of the Tanodbayan.

SEC. 11. Powers and Functions of the Tanodbayan Deputies.—The Tanodbayan Deputies shall assist the Tanodbayan in performing his duties and functions under this Decree. The provisions of Section 2 of this Decree notwithstanding, the Tanodbayan may designate or assign any of his Deputies to assist him in the performance of his duties in any region or geographical area of the country.

SEC. 12. Matters appropriate for Investigation.—(a) In selecting matters for his attention, the Tanodbayan should also address himself to an administrative act that might be—

1. contrary to law or regulation;
2. unreasonable, unfair, oppressive, or inconsistent with the general course of an administrative agency's functioning;
3. mistaken in law or arbitrary in ascertainties of facts;
4. improper in motivation or based on irrelevant considerations;
5. unclear or inadequately explained when reasons should have been revealed;
6. inefficiently performed; or
7. otherwise objectionable

(b) The Tanodbayan may concern himself also with strengthening procedures and practices which lessen the risk of occurrence of any objectionable administrative acts.

SEC. 13. Action on Complaints.—(a) The Tanodbayan may receive a complaint from any source concerning an administrative act. At no expense to the complainant, he may conduct a suitable investigation into the things complained of.

(b) After completing his consideration of a complaint, whether or not it has been investigated, the Tanodbayan shall suitably inform the complainant and, when appropriate, the administrative agency or agencies involved.

(c) A letter to the Tanodbayan from a person in a place of detention or in a hospital or other institution under

the control of an administrative agency shall be immediately forwarded, unopened, to the Tanodbayan.

SEC. 14. Consultation with Agency.—Before announcing a conclusion or recommendation that criticizes an administrative agency or any person, the Tanodbayan shall consult with that agency or person.

SEC. 15. Recommendations. —(a) If, having considered a complaint and whatever material he deems pertinent, the Tanodbayan is of the opinion that an administrative agency should (1) consider the matter further, (2) modify or cancel an administrative act, (3) alter a regulation or ruling, (4) explain fully the administrative act in question, or (5) take any other step, he shall state his recommendations to the administrative agency. If the Tanodbayan so requests, the agency shall, within the time he has specified, inform him about the action taken on his recommendations or the reasons for not complying with them.

(b) If the Tanodbayan believes that an administrative action has been dictated by laws whose results are unfair or otherwise objectionable, he shall bring to the notice of the President and the National Assembly his views concerning desirable statutory change.

SEC. 16. Publication of Recommendations.—In every case where a prima facie case of the commission of a crime or failure or neglect in the performance of duty, is found by the Tanodbayan, the Tanodbayan shall transmit his conclusions, recommendations, and suggestions to the President so that he may take such immediate action as may be necessary. When transmitting an opinion adverse to an administrative agency or official he shall, unless excused by the agency or official affected, include the substance of any statement the administrative agency or official may have made to him by way of explaining past difficulties or present rejection of the Tanodbayan's proposals.

SEC. 17. Investigation and Prosecution of Cases.—The Office of the Tanodbayan shall have the exclusive authority to conduct preliminary investigation of all cases cognizable by the Sandiganbayan; to tile information therefor and to direct and control the prosecution of said cases. The Tanodbayan may utilize the personnel of his office and/or with the approval of the President, designate or deputize any fiscal, state prosecutor or lawyer in the government service to act as special investigator or prosecutor to assist him in the investigation and prosecution of said cases. Those designated or deputized to assist him as herein provided shall be under his supervision and control.

No publicity shall be allowed during the pendency of such preliminary investigation and the name of the complainant and the accused shall not be made public until an information is filed by the Tanodbayan.

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

The resolutions and actions of the Tanodbayan shall not be subject to review by any administrative agency.

SEC. 18. Prosecution of Public Personnel or Other Person.? If the Tanodbayan has reason to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary action or proceedings, he shall conduct the necessary investigation and shall file and prosecute the corresponding criminal or administrative case before the Sandiganbayan or the proper court or before the proper administrative agency.

SEC. 19. Tanodbayan's Immunities.—(a) No proceeding, opinion, or expression of the Tanodbayan or any member of his staff, shall be reviewable in any court;

(b) No civil action shall lie against the Tanodbayan or any member of his staff for anything done or said or omitted, in discharging the responsibilities contemplated by this Decree;

(c) Neither the Tanodbayan nor any member of his staff shall be required to testify or produce evidence in any judicial, legislative or administrative proceeding concerning matters within his official cognizance, except in a proceeding brought to enforce this Decree.

SEC. 20. Rights and Duties of Witnesses.—(a) A person required by the Tanodbayan to provide information shall be paid the same fees and travel allowances as are extended to witnesses whose attendance has been required in the courts of first instance.

(b) A person who, with or without service of compulsory process, provides oral or documentary information requested by the Tanodbayan shall be accorded the same privileges and immunities as are extended to j witnesses in the courts, and shall also be entitled to be assisted by counsel while being questioned.

(c) If a person refuses to respond to the Tanodbayan's subpoena, refuses to be examined or engages in obstructive misconduct, the Tanodbayan shall certify the facts to the Sandiganbayan or the court of first instance. The court shall thereupon issue an order directing the person to appear before it to show cause why he should not be punished as for contempt. The order and copy of the Tanodbayan's certified statement shall be served on the person. Thereafter the court shall have jurisdiction of the matter. The same proceedings shall be had, the same penalties may be imposed, and the person charged may purge himself of the contempt in the same way as in the case of a person who has committed a contempt in the trial or a criminal or civil action before the court.

SEC. 21. Duty to Render Assistance to the Office of the Tanodbayan.—Any official or employee to any ministry, agency, bureau or office of the government, including government-owned or controlled corporations and local governments, when called upon or required by the Tanodbayan, upon approval by the President shall be obliged to render assistance or services to the Office of the Tanodbayan, otherwise he shall be subject to administrative disciplinary action.

SEC. 22. Obstruction.—A person who willfully obstructs or hinders the proper exercise of the Tanod-bayan's functions or who willfully misleads or attempts to mislead the Tanodbayan in his inquiries, shall be fined not more than P5,000.00.

SEC. 23. Franking Privilege.—All mail matters and telegrams of the Tanodbayan addressed for delivery within the Philippines, shall be recorded, transmitted and delivered free of charge; Provided, that such mail matter when addressed to persons or offices other than government officers or offices shall not exceed one hundred and twenty grams in weight.

SEC. 24. Repealing Clause and Relation to Other Laws.—Republic Act No. 6028 and all laws, General Orders, Presidential Decrees, Letters of Instructions, rules and regulations inconsistent with this Decree are hereby repealed; but, otherwise, the provisions of this Decree are in addition to and do not limit or affect the provisions of any other enactment under which any remedy or right of appeal is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter. The powers conferred on the Tanodbayan may be exercised notwithstanding any provision in any enactment that any administrative action shall be final or unappealable.

SEC. 25. Appropriation.—There is hereby appropriated the sum of Five Million Pesos (P5,000,000.00) to carry out the provisions of this Decree. Thereafter the appropriation for the Office of the Tanodbayan shall be included in the General Appropriations Act.

SEC. 26. This Decree shall take effect immediately.

Done in the City of Manila, this 18th day of July, in the year of Our Lord, nineteen hundred and seventy-nine.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JACOBO C. CLAVE
Presidential Assistant

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