

# TO VENABLE OR NOT TO VENABLE

■ By Ramil Añoña Andag

**M**UCH has been said about the consultancy contract the Philippine government has entered into with Venable LLP, a US-based law firm. Even as the existence of multiple contracts entered into by the Philippine government with US-based firms were subsequently discovered, no singular contract has generated similar criticisms from a broad sector of society in general, and the opposition in particular, as the Venable LLP contract.

After all, the Venable LLP-Philippine government contract has all the necessary elements of a riveting suspense novel. It is shrouded in mystery that even high ranking Malacañang officials expressed surprise at its existence. Millions of pesos are involved. A Cabinet Secretary has been detained at the Senate. The same Cabinet Secretary suffered a stroke leading to an extended stay at a hospital. Members of a political party, which that cabinet secretary heads, massed up outside the hospital calling for the dissolution of the Philippine Senate. And, maybe, most importantly, no other contract has led to the issuance of an Executive Order which essentially prohibits any member of the executive branch to testify in Senate hearings unless granted prior clearance by the President of the Republic.

## The Road to Venable

The Venable LLP contract was entered into on July 25, 2005, a consultancy agreement to boost Malacañang's charter revision gameplan. On this same day, President Gloria Macapagal Arroyo delivered her State of the Nation Address (SONA) challenging the legislative to start the works necessary for charter change which would pave the way for a parliamentary federal form of government.

Signatories to the contract



**HARDLY THE BEST PLACE TO BUILD A HOUSE ON:** poverty incidence worsens, as the government goes on a binge hiring expensive foreign consultants.

were National Security Adviser Norberto Gonzales, on behalf of President Arroyo, and lawyers James T. Pitts and James George Jatras, Venable LLP representatives.

An online copy of the contract shows that the Philippine government should pay Venable a monthly retainer of "\$75,000.00 plus costs for travel, fax, copying, etc." Considering that the contract is good for "one year unless extended in writing by both parties," the Philippines at the very least needed \$900,000 or roughly P50.4M to cover for the services of Venable LLP.

But the contract has been kept from public eye until September. In fact, in subsequent media interviews, Executive Secretary Eduardo Ermita, whose function includes scrutiny of all contracts the government enters into, expressed surprise and admitted he was not aware of the Venable LLP contract.

After the Venable deal was brought to public attention by the media, Secretary Gonzales announced that he has rescinded the said contract. President Arroyo herself appeared on national television and declared that "she was scrapping the contract because the matter of charter change got

into the picture and the contract became unnecessarily controversial." She also promised to review the provisions of the contract.

Even with the contract nullified, Gonzales was not yet off the hook. The Senate Blue Ribbon Committee summoned Sec. Norberto Gonzales to shed light on the issues surrounding the Venable LLP contract. According to Blue Ribbon Committee head Sen. Joker Arroyo, even with the scrapping of the contract, there is still a need to inquire as to Secretary Gonzales' possible overstepping his executive functions.

Citing reasons of national security, Gonzales refused to answer questions by Senators during the Blue Ribbon hearings, particularly on the funding source for the contract. For this, the Committee cited him for contempt and put him under Senate custody. Shortly thereafter, (that same afternoon, in fact) Secretary Gonzales suffered a stroke and was confined at the Philippine Heart Center, still under Senate custody.

Supporters from the Partido ng Demokratiko Sosyalista ng Pilipinas (PDSP), which Gonzales also chairs massed up outside the hospital and called for the dissolution of the

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Philippine Senate for disrespecting their leader.

On September 29, President Macapagal-Arroyo issued Executive Order 464 which essentially prohibits government officials from testifying in congressional hearings unless a clearance to do so is issued by her. According to Palace officials, these Congressional hearings were impeachment proceedings disguised to be carried on in aid of legislation.

### Critical Venable Provision

The Venable LLP contract earned public curiosity and flak from all sides of the fence not solely for the exorbitant amount of money involved. What made this contract stand out and generate widespread criticism is the task of Venable to "secure grants or congressional earmarks for support of the Charter Change initiative of the President of the Philippines, which would reshape the form of government in the Philippines from its current structure into a parliamentary federal system."

This provision was made even before the newly formed Constitutional Commission could decide which sections of the Philippine Constitutions needed to be changed.

Militant groups decried this particular provision, saying that it lays bare the Philippine patrimony and the existing patriotic provisions of the Constitution to foreign influence and interests. They argued that the United States has no business tinkering with the Philippine Constitution. The political opposition was also quick to point out that the act of entering into such contract constitutes "treason." According to noted Constitutionalist Fr. Joaquin Bernas, Gonzales violated the Constitutional provision that prohibits financial contributions from foreign governments.

Even one of the main progenitors of Charter Change, former President Fidel Ramos, was quoted as saying that charter change must be done without foreign intervention.

There is also the question of the source of the money which will be used to pay for the services of Venable. During the Senate hearings, Secretary Gonzales intimated that the Philippine government will not be spending for this contract because the money will be coming from the private sector that is supportive of the Charter change measures of the administration. Asked who these individuals were, he invoked reasons of national security and refused to divulge names. This refusal so inflamed the Senators, they put Secretary Gonzales under Senate custody.

According to the Philippine Center for Investigative



**A FINE KETTLE, INDEED.** Multi-million dollar consultancy contracts, to be shouldered by destitute Filipinos who can hardly afford a decent meal.

Journalism (PCIJ), even with the nullification of the contract, the Philippine government still has to pay Venable as it committed the government to pay a three-month advance. Further, the contract can only be cancelled after a 90-day notice.

The Senate hearing ignited further controversy around the Venable contract. Even before the members of the Senate Blue Ribbon Committee could be satisfied with Gonzales' answers, he had to be confined at a state-run hospital for a reported heart ailment. Malacañang officials claimed that the Senate did not show respect to and treated Secretary Gonzales in an inhumane manner.

Malacañang also claimed that such Senate hearings were not being done in aid of legislation but in aid of destabilization. According to Press Secretary Ignacio Bunye, "we are now seeing that they are trying to revive the accusations listed in the impeachment case that was thrown out by the House."

To stop similar incidents from happening, and to protect the Executive branch, a co-equal of the legislative branch, the Palace issued EO 464 which prohibits any member of the executive to appear in congressional hearings unless allowed by the President. This order further drew criticisms for it was viewed as a signal that the Executive is announcing war on the Legislative branch.

EO 434 was viewed essentially as a gag order.

### Postscripts to Venable

The Venable brouhaha has led to the discovery of other active lobby contracts between the Philippine government and several US-based consultancy firms for various purposes. Based on PCIJ reports, President Macapagal-Arroyo has entered into eight similar contracts since she assumed office in 2001. According to San Juan Representative Ronaldo Zamora, these contacts are of the same price range - P50M to P100M.

The first casualties of EO 464 were military officials. Brig. Gen. Francisco Gudani and Lt. Col. Alexander Balutan testified in a Senate hearing that the election results in Mindanao were rigged in favor of



President Macapagal Arroyo. The two were summarily relieved of their posts. The benefits of Gudani, who was set to retire a few days after his Senate appearance, were forfeited for defying EO 464. Gudani and Balutan now face court-martial proceedings.

Secretary Norberto Gonzales has since been released from the Heart Center of the Philippines. Even as his diagnoses and prescriptions enjoyed widespread media coverage, he refused to follow experts' advice to undergo bypass operations.

Most recently, the Supreme Court ordered the Senate Blue Ribbon Committee to produce Secretary Gonzales and justify his Senate detention.

### Alarm Bells

It is very alarming that the Philippine government has entered into multiple multi-million dollar contracts with foreign lobby firms. This is made even more suspect by the fact that these contracts were apparently made *sub rosa*, with the people unaware that their government is contracting services supposedly on their behalf, the costs of which will most probably be shouldered by the people.

The Arroyo administration reaction over the Venable ruckus was simply to dismiss the magnitude of the issue, even if it is already clear that we have been victims of secret deals which we end up paying. The

contracts being secret and thus loosely monitored, it is therefore almost impossible to track the effectiveness of these lobby firms. Thus, some people are making easy money while the Filipino people, already reeling from the unabated increases in all basic commodities, are left to foot the costly bill.

It is interesting to note that the government has initiated cost-saving measures to ease the effects of the economic crisis. Spot checks are being made on government offices to check their energy consumption. The Bureau of Internal Revenue has filed cases against personalities and high profile tax evaders to muster the money needed for the government to operate.

Poverty incidence reportedly went down, not because Filipinos are enjoying a better quality of life, but largely due to belt-tightening measures. Unemployment statistics went down, not because there are more jobs available, but because the government has changed the definition of "unemployed."

Meanwhile, the administration is entering into secret contracts to improve investor confidence, doll up the President's image, improve credit ratings and secure foreign loans.

Just another day in Philippine governance. Meanwhile, the Filipino people continue to suffer.

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