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Mercy or No Mercy?

"In an act of defiance, Ombudsman Maria Mercedes "Mercy" Gutierrez arrogantly declared, "I have my mandate....."

SACRAMENTO, CALIF., March 12 (PinoyGlobal) - In an act of defiance, Ombudsman Maria Mercedes "Mercy" Gutierrez arrogantly declared, "I have my mandate, I have my term and I believe this is my duty, my service to our countrymen." With "my" repeated four times in one sentence, one would wonder if she really cared much about what her "mandate" was all about.

What prompted her outburst was the filing of an impeachment complaint against her. Last March 2, 2009, 31 civil society leaders led by former Senate President Jovito Salonga filed a complaint before the House of Representatives. The group -- called "Kilosbayan" (people action) -- said that the Office of the Ombudsman "has become synonymous to inaction, mishandling or downright dismissal of clear cases of graft and corruption, some leading to the President herself or her closest associates."

What makes the impeachment complaint extraordinarily unusual is that Gutierrez, as the Ombudsman, is the "Tanodbayan" -- literally, the "Protector of the People" -- who is duty-bound to prosecute corrupt public officials who use their positions to enrich themselves. That's her mandate. If she fails to perform her mandate, then she will be derelict of her constitutional duty to "protect the people."

Appointed to a seven-year term of office by

President Gloria Macapagal Arroyo on December 1, 2005, the constitution stipulates that the Ombudsman can only be removed from office "on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust."

It is interesting to note that Gutierrez is believed to be a close friend of the First Gentleman, Jose Miguel "Mike" Arroyo. They were classmates at the Ateneo College of Law. Their "friendship" has fueled speculations that Gutierrez is a protégé of the First Gentleman. Prior to her appointment as Ombudsman, Gutierrez was appointed by President Arroyo as Chief Presidential Legal Counsel and Chairman of the Presidential Anti-Graft Commission -- the Anti-Corruption Czar -- in December 2004. Her two concurrent appointments made her one of the most powerful officials in the Arroyo government.

Coincidentally, it was during Gutierrez's "czarist" days that corruption dramatically increased. In 2004, before she became the Anti-Corruption Czar, the Philippines was the fifth most corrupt country in Asia. In 2005, during her first "czarist" year, the Philippines became the third most corrupt country in Asia. In 2006, during her first year as Ombudsman, the country moved up to second place.

In 2007 and 2008, the country became the most corrupt country in Asia. And more than likely, the country would retain that ignominious distinction in 2009.

The basis for the impeachment complaint against Gutierrez involved at least five cases of corruption in high places which Gutierrez allegedly failed to investigate or prosecute. They are the P1.3-billion Mega Pacific poll computerization case against former Comelec Chairman Benjamin Abalos, the \$2-million extortion case against former Justice Secretary Hernando Perez, the P728-million fertilizer scam scandal involving Joc-joc Bolante, the P6.9-million case involving the “euro generals,” and the rigged bidding of multi-billion World Bank-funded projects in which the First Gentleman was implicated.

When Gutierrez took office, she declared, “I will be merciless to the grafters... no one can bribe me!” But within eight months, “Mercy,” as she is affectionately called by her friends and associates, was accused of being too merciful to influential people suspected of graft and corruption. On July 31, 2006, the Malaya editorial said: “The Office of the Ombudsman has become a joke after Merceditas Gutierrez, a classmate of Mike Arroyo, succeeded Simeon Marcelo. How many big-time corruption cases have been sleeping the sleep of the dead on the desk of Gutierrez?”

The Malaya editorial enumerated several “sleeping” cases, to wit:

(1) The case against former Justice Secretary Hernani Perez who allegedly received millions as payoff for awarding a sovereign guarantee to an Argentine company. It was reported that the Swiss government provided information to the Philippine government on deposits made to bank accounts of Perez and his wife.

(2) The case against Comelec officials over the election modernization scam was completed by Gutierrez’ office. However, the findings of investigators were overturned by

Gutierrez, leaving only Resurreccion Borra among the commissioners to face the music.

(3) On the fertilizer fund scam, Gutierrez failed to take action despite the massive volume of testimonial and documentary evidence transmitted by the Senate committee on agriculture and the Blue Ribbon committee.

Indeed, the impeachment complaint filed by Kilosbayan mirrors the three “sleeping” cases exposed by Malaya two and a half years ago and the two recent scandals involving the “euro generals” and the rigged bidding of World Bank-funded projects.

Although President Arroyo had publicly distanced herself from the impeachment complaint against her three-time appointee and friend of her husband, it remains to be seen if she would covertly exert pressure on her House allies to reject the impeachment complaint against Gutierrez.

However, as a lame duck president, House members might be emboldened to resist pressure from Arroyo to quash the impeachment complaint. With the likelihood that Arroyo would not be able to stay in power beyond 2010, her House allies might soon be looking around for a new “master” to lead them to battle in the 2010 elections.

To impeach Gutierrez, a one-third vote -- 80 -- of the 238 members of the House is needed. The question is: would there be enough House members who will show no mercy for Gutierrez and thus impeach her? In the event that Gutierrez was impeached by the House, she would then be brought to trial before the Senate. Conviction in the Senate requires a two-thirds vote -- 16 -- of the 23 senators. In my opinion, the Senate will show no mercy for Gutierrez -- they will convict her. Therefore, Gutierrez’s fate hinges on how the House members will vote on impeachment: mercy or no mercy?

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