

# Philippines: Historic audit of illegitimate debts

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On Dec. 22, 2016, President Duterte signed the General Appropriations Act (GAA) of 2017 with a special provision calling on Congress' oversight committee on overseas development assistance "to conduct a debt audit to determine the legitimacy" of 20 government-contracted foreign loans. The audit is to be completed within the 2017 fiscal year.

Earlier, on Dec. 13, 2016, a more far-reaching Senate Resolution (SR) No. 253 was filed jointly by Sen. Risa Hontiveros and Senate President Aquilino Pimentel III "directing the appropriate Senate committee to inquire, in aid of legislation, into the foreign loans contracted by the Philippine government within the last 15 years through the conduct of a debt audit."

These two initiatives are historically significant as previous attempts by civil society groups, notably the Freedom from Debt Coalition (FDC), to compel the government to critically examine foreign-funded projects have all come to naught. In 2008, then President Gloria Arroyo vetoed a GAA special provision that would have suspended the debt service of 13 foreign loans that the FDC called "fraudulent, wasteful, and/or useless."

The 2017 debt audit provision covers 20 loans from the Asian Development Bank, IBRD-World Bank, Japan International Cooperation Agency, Japan Bank for International Cooperation, Japan Eximbank, Opec Fund for International Development, French Protocol, and Raiffeisen Zentralbank Austria. But as SR 253 implies, these are but the tip of the iceberg with 481 outstanding foreign loans up for scrutiny under the Hontiveros-Pimentel initiative.

International debt campaigners regard a debt as "illegitimate" if it violates common principles of "human rights and sustainable human development, justice and fairness, accountability and responsibility, sovereignty of peoples and nations, and democratic rights." SR 253 also invokes the Unctad (United Nations Conference on Trade and Development) "principles on promoting responsible sovereign lending and borrowing."

The reasons for declaring a particular debt illegitimate are: violation of procedures mandated by law such as bribery, fraud, coercion, or misrepresentation; onerous provisions such as public guarantees of private profits; negative impact on the environment, communities and people's wellbeing, and on basic social services, human welfare, and safety; waste of funds through corruption, mismanagement, and project failures; conversion of private loans into public debts due to sovereign guarantees; subjecting the economy to shocks, unreasonable creditor demands, and financial market instabilities; and imposing conditionalities that violate national sovereignty and democratic principles.

Thus, a debt audit is "both a political tool and a process to disentangle the web of debt ... so as to reconstruct ... the series of events" that cause many nations to fall into economic and fiscal quagmires. The FDC outlines what a debt audit should look into: the context and circumstances surrounding the transactions; the process of finalizing debt contracts; the content of the contracts; the purpose of the debts; how the funds were actually used; the impacts of debt-funded policies and

projects; and the impacts of the conditionalities accompanying the debts and the debt contracts.

The projected audit of 20 illegitimate loans is a preliminary but significant step toward the cancellation of all fraudulent loans and the repeal of the law on automatic appropriations for debt servicing imposed by the dictator Ferdinand Marcos in 1977 through Presidential Decree No. 1177 and reiterated by then President Corazon Aquino through the 1987 Revised Administrative Code. As it stands, debt servicing is prioritized over any other government expenditure. The Philippines is reportedly the only country in the world with such an onerous law.

Our foreign debt now stands at P2.144 trillion. In the 2017 budget the automatic allocation for debt servicing of P335 billion (up from the 2016 total of P214.5 billion) is the second highest among all categories. The debt service for the 20 questionable loans amounts to P7.6 billion.

Such huge outlays of public funds are better used for projects that directly benefit the Filipino people, not those tainted by odious practices that bleed the country's meager resources dry.

**Eduardo C. Tadem**, - @inquirerdotnet

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- Eduardo C. Tadem, PhD., is president of the Freedom from Debt Coalition and professorial lecturer in Asian studies at the University of the Philippines Diliman.
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