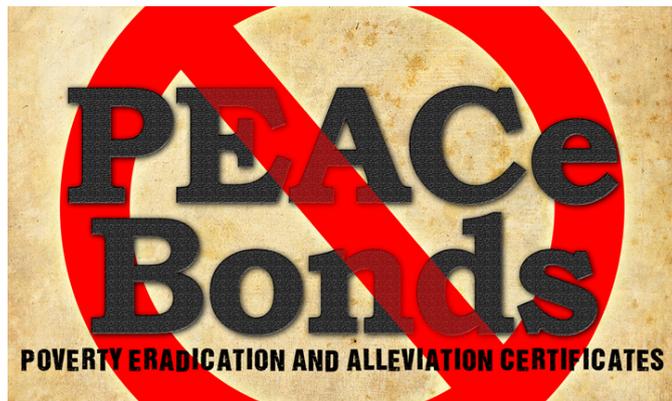


PEACe Bonds: Unresolved, Ten Years On

Written by Freedom from Debt Coalition

Saturday, 08 October 2011 15:47 - Last Updated Wednesday, 02 November 2011 03:47



Two weeks from now, the Filipino people will be Php35 billion poorer and deeper in debt from a multi-billion financial controversy brought forth by the equally controversial Arroyo government and which was deemed by its NGO beneficiary as an “innovative fund-raising mechanism” to fight poverty.

At a time when the public is reeling from the negative impact of the unmitigated increase in the prices of goods and services, and the Aquino government’s unwarranted under-spending combined with the catastrophes brought about by the recent super-typhoons, to carve out Php35 billion from the people’s coffers—which is bigger than the 2012 budget for the government’s Conditional Cash Transfer (CCT) program—is unacceptable, especially if the public will be paying for something whose regularity comes under serious question.

We talk here of the Php10 billion, 10-year treasury zero coupon notes also known as the Poverty Eradication and Alleviation Certificates or PEACe Bonds awarded by the Arroyo Government to the Rizal Commercial Banking Corporation (RCBC) in behalf of CODE-NGO whose leaders were then close to the Government, and re-sold by the organization to RCBC Capital.

Exactly ten years ago, CODE-NGO, an NGO consortium, which tacitly supported the rise to power of the Arroyo government after People Power II, participated in this auction and benefitted from the windfall of Php1.8 billion in profits from the resale of these bonds in the secondary market. CODE-NGO said that the money was used as an endowment fund to finance anti-poverty projects. However, the transaction was besieged with criticisms, some of which came from the Philippine civil society itself, to which it is a part of. While many said that the intent behind the project was laudable, it was also argued that such a deal gave the impression that an NGO was entering into an irregular and unethical transaction with the government.

Despite attempts of CODE-NGO to defend the transaction, they were hounded by the perception coming from many in the civil society community that this was nothing more than a political transaction, a “rent-seeking activity” that granted special privileges and benefits.

We, from the Freedom from Debt Coalition feel that it is precisely because of this disturbing perception that the facts must be laid bare and the truth be revealed. Being a member of the

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broad civil society community devoted to the advocacy of exacting greater transparency and accountability on the government's fiscal dealings, and which has worked closely with different NGOs and social movements, we believe our coalition has a responsibility to push fellow civil society advocates to ensure that transparency must also be present among those that seek to hold government accountable.

Reviewing the Review

For this reason, we embarked on a comprehensive review in 2002 to shed light on the Peace Bonds issue. Unfortunately, we realized that the lingering negative perception about the controversial bonds is not entirely unfounded. We found out that rules were relaxed and circumstances which tended towards rent-seeking took place which led to CODE-NGO getting the endowment of PhP1.8 billion and a commission of PhP140 million.

To refresh our memory, an FDC paper titled "On the Matter of the Peace Bonds" (2002) presented some of the alarming issues uncovered by our review.

- CODE-NGO lobbied hard with the Arroyo government to sweeten the bond with tax exemptions and eligibilities.
- It then tried to ensure its targeted PhP1 billion profit by keeping the deal all to itself in a negotiated sale.
- When that was not possible, the ensuing bidding revealed features that would favor the most prepared - CODE-NGO had worked on the deal longer than anyone else, was intimately familiar with the details, and whose bank was prepared way ahead of its rivals.
- CODE-NGO kept the sweetest eligibility to itself -- the security/statutory deposit eligibility and asset admissibility for insurance companies and sought its approval only after it had won the auction in its entirety.
- It purchased the bonds with money it did not have and sold it to investors affiliated with the very bank that underwrote the deal, namely, the Rizal Commercial Banking Corporation (RCBC). For this, it earned a staggering amount of PhP1.8 billion in gross profits. CODE-NGO then distributed its windfall, paying its financial advisers and RCBC at least PhP400 million in fees.
- Finally, it kept 10% of the PhP1.4 billion, roughly PhP140 million, for itself, then set up the Peace, Equity, and Access for Community Empowerment Foundation (Peace and Equity Foundation) with a permanent endowment of roughly PhP1.3 billion.

Straightforward Conclusions

From the aforementioned facts, we could arrive at eight (8) straightforward and irrefutable conclusions:

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1. An NGO, then close to the Arroyo government and which didn't have PhP10 billion but enjoyed exclusive information on the transaction was able to buy 10-year treasury zero coupon notes worth PhP10B and re-sell it to RCBC for PhP11.8B.
2. Other civil society organizations and social movements who may want to participate in the process and work together with eligible government securities dealers (GSEDs) were deprived of the opportunity to engage. The Arroyo government failed to do a road show for the bonds similar to what the deposed Estrada government did when it offered small-denominated bonds.
3. Virtually and singularly, CODE-NGO, without sweat earned PhP1.8B for zero coupon bonds that it bought with "zero money."
4. The auction was done manually using fax machines to submit bids instead of electronic auction. At best, the auction can be deemed irregular; at worst, it could have been rigged, as manual auctions are more open to manipulations and leakages.
5. The money earned by CODE-NGO could have been the earnings of the government if RCBC directly bought the bonds from the government for PhP11.8 B. Thus, the public was denied PhP 1.8 billion in additional earnings.
6. CODE NGO engaged in a "simulated transaction" as the real awardee of the bonds was RCBC. CODE-NGO merely acted as a conduit.
7. Being a conduit with the sole purpose of earning only windfall profits, the PEACE Bonds have no exact value for CODE-NGO. Therefore, when it lobbied for eligibilities and special features for the bonds, it acted on behalf of RCBC. CODE-NGO admitted this, saying, "it is the only way the deal with RCBC could take place."
8. CODE-NGO head Marissa Camacho and then Finance Secretary Jose Isidro Camacho are sister and brother, which raises the question of possible conflict of interest especially because CODE-NGO could enjoy undue advantage in the said deal due to information asymmetry. This was supported by no less than ex-President Gloria Macapagal-Arroyo when she issued an order directing her cabinet secretaries to prevent their relatives up to the fourth degree from deriving benefits from the said bonds.

New Questions

However, these conclusions also raised new and interesting questions, which merits no less than a full-blown appraisal of the transaction as well as the conduct of the organization and personalities involved.

For example, if indeed funds were extended to CODE-NGO by a private institution to buy the bonds, did not that financial intermediary recklessly risked its financial integrity and violated Bangko Sentral ng Pilipinas (BSP) rules on the extension of credit despite the lack of securities and safeguards, as well as a borrowing history, that would have merited the extension of credit?

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Second, what are the terms of the credit extension and where are the documentation of the facility and the acceptance of the adequate security, collaterals, undertakings and guarantees, all of which would have proven the creditworthiness of CODE-NGO?

Third, there is a legal question raised that needs to be resolved. It surrounds the legality of the bonds issued. The Department of Finance is supposed to be responsible for the review, approval and management of all public sector debt, domestic or foreign. However, then Secretary of Finance Jose Isidro Camacho, who inhibited himself from the transaction, failed to sign the approval of the bonds.

These are some of the questions. Truth is, there are more questions that need to be asked such as whether CODE-NGO paid taxes for its PhP1.8B earnings, or, at least, for the PhP140M it retained. However, this will require CODE-NGO to open all its financial statements, which we believe would be better answered by CODE-NGO on its own accord.

To give CODE-NGO its due, it did try to present its side about the transaction. It argued that the deal was “legal,” “transparent” and “pro-poor.” However, based on the facts mentioned, one cannot help but conclude that the transaction carries features of cronyism and influence-peddling in the name of the poor. Not even the argument of good intention is enough to wipe away the stain that was left by this transaction or recover the diminished public’s trust in civil society organizations.

Worse, the deal contributed to the indebtedness of the Filipino people. This 16th of October, the government is scheduled to pay PhP35 billion in interests for the matured PhP10 billion bonds. This will impact greatly on the country’s coffers especially as the government tries to fund important social services even as it is criticized for not spending enough.

This issue presents a setback in both the state’s and civil society’s efforts to establish transparency, accountability and honesty in our political culture and structures. Hence, in its campaign to make the previous administration accountable for its colossal crimes, the Aquino government must put just closure to this issue by seeking the truth and making accountable those who may have erred. This is especially important, as some of the personalities implicated in this transaction are now part of the Aquino government. If the broad civil society community is willing to open a sad chapter of its history and re-open old wounds to rectify wrongdoings, then all the more that the Aquino government should do its part to facilitate this process.

FDC believes the path towards meaningful change allows no sacred cows. It is not selective in its quest to seek the truth nor is it forgetful of past transgressions, especially those that have yet to see the light of day.

Two successive administrations have already paid the price for corruption and political patronage. One was swiftly toppled by a popular uprising, so swift that it did not have the opportunity to see its midterm life; the other, while it managed to finish its tumultuous nine-year reign, will forever be consigned by history, together with the Marcos dictatorship, as one of the darkest chapters of our political narrative.

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Since the end of the previous administration, there have been widespread sentiments that the light of truth will be shed on the transgressions of the previous leaders. The pervasive and systematic corruption of the previous government, the previous president most especially, has tainted the very institutions of government that were tasked to ensure transparency and good government. The current administration was elected precisely because of its campaign against Arroyo's legacy of corruption and its promise to be the exact opposite of the previous administration.

As such, the Aquino administration must be different. For a government that prides itself as being supported by different civil society organizations and sectors, it must heed the call of the broad civil society community and the public.

Necessary Steps that must be taken:

1. Suspension of payments pending the result of an impartial and independent investigation.

Issues bugging the PEACe bonds like those of irregularity and uncertainty about how its proceeds were spent should first be brought to closure before the Government pays the principal and interest on the bonds. Congressional inquiry into this is an imperative. But if the House Committee investigation which turned out to be partial and devoid of transparency could no longer be saved, redirected and expanded, the President can take the initiative of conducting the investigation. The investigation must also include an Audit of how the proceeds from the sale of the bonds was spent.

2. Review of Policies

We call for the thorough review of policies such as rulings of the BIR, BSP/ Monetary Board, SEC, Insurance Commission and other agencies with regulatory or quasi- regulatory powers to avoid irregular bond transactions and sweetheart deals.

3. Legislation to curb political patronage

We have seen the passage of important legislation to curb political patronage and rid government institutions of corruption. However, especially at this point in history when we are still reeling from the ill effects of corruption by the Arroyo administration, we cannot be remiss and must ensure that our laws cannot favor or benefit select groups or individuals based on their loyalty to the powers that be.

4. Civil Society and anti-corruption advocates must abide by the very principles it expects from government especially in its transaction with government.

NGOs and civil society groups' transaction and engagement with government must be marked by the principles of transparency and accountability. Those who call for clean government must abide by the same standards especially in their transactions with government. Transparency must begin with those who call for it.

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Finally, accountability must pervade the civil society community. We cannot claim the moral high ground if we do not stand by it. Those who have done wrong regardless of their politics or connections must be made accountable before our laws. ###