



## **ODA Policy in the Philippines: How Can Civil Society Engage and Contribute to its Design and Implementation?**

*Prepared for ODA Watch*

### **Introduction**

The Philippine government relies on Official Development Assistance or ODA to finance its social and economic development. However, the ODA policy implementation trends shows that it has not been effective in delivering its goals, that is, improving the life of many marginalized sectors in the country. It has even contributed to skewed development process, favoring the growth of already rich regions and ignoring the needs of the more needy sectors and areas. In comparison with other developing countries, the Philippines fared low in its use of ODA to address development needs. Many of the issues redound to massive corruption at all levels, inefficiency of the implementation process and cross-cutting issues of budget and management problems of the country.

What can the people, civil society do about this? This paper aims to orient the general public about the ODA and identify ways to influence policy process and to vigorously monitor how ODA funds, so as to make sure that these funds are used to its intended purposes. The ODA funds constitute a big chunk of the country's foreign debt.,  
*The whole nation suffers from this continually increasing debt and it is but proper that we learn more and be more pro-active about ODA and how it affects the development process of the country. It is important to get more acquainted with the policies and processes of ODA planning, implementation, monitoring and evaluation. The primer also shares ways on how the civil society sector can contribute to the effective implementation of ODA policy in the country.*



## **What is ODA?**

Official Development Assistance (ODA) is defined as resource accessed by governments either as loans, grants or technical assistance coming from developed countries like the USA or Japan. At present, non-government organizations are also accessing ODA funds.

ODA started to pour into the Philippines as grants right after World War II to help in rebuilding the nation. ODA funds came from bilateral agreements or agreements between two countries and later on came from multilateral agreements or agreements between several countries and their resultant institutions (e.g. IMF-WB). These funds composed mostly as grants but gradually became more of loans. During the Marcos period, especially during the latter part of his dictatorial regime, ODA was largely used to fund anomalous projects resulting in many white elephant projects. There are many documentations and researches on how Marcos and his cronies benefited from the faulty ODA policy which essentially gave the president almost full control on ODA funds.

The downfall of Marcos and the transition government of Aquino provided another nodal point for ODA policy. The government received a lot of ODA assistance from both bilateral and multilateral agencies. Even funds coursed through NGOs became suspect as support for insurgency activities, the transition government was chaotic and they had to grope with better policies. Many issues on structural adjustments cropped up and again, a number of NGOs raised protest to many impositions of big multilateral agencies like World Bank and International Monetary Fund. There were many political

decisions that also affected the ODA policies. Some of those who opposed the unjust structural adjustments imposed by IMF-WB were eased out of their government posts.

ODA sources can be multilateral or bilateral. Multilateral are funds from international funding agencies like World Bank, International Monetary Fund and Asian Development Bank, Bilateral sources are funds from governments, of which the Philippine government has diplomatic and trade relations with like Japan through JICA/JBIC, USA, Germany and others.

**What are the principles behind the use of ODA as a development tool? How did the Philippine ODA policy evolved?**

- **Basic Principle**

The basic principle behind the use of ODA is that there are aspects of development investments that simply can not wait for the time when the country has more funds. These are the health and educational needs of the population as well as fuel for growth like infrastructure. Many developed countries were able to use ODA to address their economic development needs. For example, many European countries, after WW II were able to effectively use their ODA to fuel the growth and development of their countries. Similarly, other Asian countries (e.g. Malaysia) were able to use their ODA funds effectively, as presented in many actual economic impact studies on ODA comparative use of ODA.

In the Philippine case, the principle is the same. Borrowing is justified when the coffer is empty but the needs of the population are urgent. Again, these are basic social

services and infrastructure needs. The main rationale has been the same for the past several decades.

Now, the main rationale, of course is shrouded with many gray areas. For example, ODA influx came about as a result of supply-driven approach of many institutions like IMF-WB. There was capital surplus in the international market therefore there was aggressive selling of capital to vulnerable countries. The Philippines is a good example, the skewed power structure made it doubly easy for international agencies to sell their excess capital.

The Philippine government took the bait, got hooked and coupled with crony capitalism – the downward spiral started. There were so many years of abuse of this development tool and it also took many years to improve the process for the people actually benefit from this tool. The government, for the past several years, has been doing a lot of policy improvement to be effective with their use of ODA.

At the end of the day, this is a rational choice since ODA is relatively a better alternative source of funding because it has concessions and grant elements. It is a cheaper source of funds than commercial loans.

- **Evolution of the ODA Policy**

R.A. 4860 (1966) was the first ODA policy that provided the authority to the Philippine President to obtain foreign loans and credits to finance economic development including re-lending to private sector. This policy resulted in many white elephant projects and means of corruption.

The term of Corazon Aquino was a period of chaotic transition on how to address the after-effect of widely abused policy implementation under the Marcos regime. This was the time of many NGO advocacy activities protesting against structural adjustment policies imposed by lending institutions such as World Bank and International Monetary Fund.

The general euphoria of EDSA 1 resulted to overwhelming support from many funding agencies. ODA funds started to be channeled to NGOs but most of these NGOs were set up just for the purpose of acquiring the money and not for the implementation of development projects and programs. There were even cases when the over-eager foreign funding agencies and foreign development agencies committed the mistake of ‘imposing’ projects to local NGOs – with the good intention but faulty development process. Faulty in a sense that they felt that development should be fast-tracked, not considering the capacity and readiness of the local organizations. Even the civil society sector has a lot to learn and reflect on from previous ODA experiences.

During Fidel Ramos' presidency the use of ODA as development tool and to rely on ODA to fund investment projects still persisted. It was during this time that the RA 8182 or ODA Act of 1996 was enacted. In 1998, RA 8555 amended RA 8182. This amendment has given the President of the Philippines discretion to modify or waive the application of any provision of law granting preferences in connection with or imposing restrictions on procurement of goods and services. This means that preferences given to Filipino suppliers and manufacturers of goods and services such as consultants, contractors, architects or other professionals may be deferred to others. This amendment also removed the provision regarding getting the approval of Congress by the Executive Department prior to negotiation and implementation of projects funded from ODA funds.

## **What are the key elements of the ODA Policy in the Philippines?**

- ODA act criteria and salient points

Below are the key elements and salient features of the ODA Policy in the Philippines. In the annual portfolio reviews done by NEDA, there have been problems with the implementation of the policy such as the distribution and utilization of ODA. Government annual budgeting fails to consider its setbacks when there are not enough provision of counterpart funds in the implementation of ODA funded projects and programs.

ODA are loans or loan grants with the following criteria:

1. It should be administered with the objective of promoting sustainable social and economic development of the Philippines.
  2. It should be contracted with the government of countries with whom the Philippines has diplomatic relations, trade relations and other multilateral agencies and institutions.
  3. There are no available financial instruments in the capital market.
  4. Each ODA loan should contain a grant element of 25% and the weighted grant element of all ODA at anytime shall not be less than 40%.
- ODA loans are excluded from the debt ceiling of US\$10B because government cannot avail of loans as prescribed in RA 4860 that has put a limit in the amount of foreign borrowing.

- ODA loans shall be used to achieve equitable development and in accordance with the government's medium-term development plan.
- Provision of counterpart funds, which is a requisite in acquiring ODA loans, should be part of the Annual Expenditure Program to be submitted by the President to Congress for appropriations within 30 days from the opening of every regular session.
- Mechanisms shall be developed and formulated to ensure that ODA loans shall be utilized and distributed equitably to all provinces.
- The three oversight agencies identified are:
  - NEDA with the tasks of conducting annual reviews of status of ODA-funded projects, identify causes of delays, reasons for bottlenecks, cost overruns and continued viability and to report to Congress not later than 30 June of each year;
  - Commission On Audit (COA) is mandated to audit each ongoing and completed projects and report to Congress no later than 30 June of each year;
  - Congressional Oversight Committee composed of the Chairmen of the Committee on Ways and Means of the Senate and the House of Representatives, five (5) majority and two (2) minority members of each from the Senate and House of Representatives.
- The President reports to Congress the amount of ODA loans and grants incurred.
- On Implementation, Restrictions, Rules and Regulations:
  - Consultants who are part of the project feasibility study and design are prohibited to take part in the implementation of the project and delegation of implementing agencies.



ODA-funded projects are not exempted from securing Environmental Compliance Certificates

### **Why do we need to know more about ODA, ODA Policies and ODA Policy Implementation?**

There is a vicious cycle here; ODA is acquired to address poverty but it even contributed to poverty and the solution (again) was to get ODA to address poverty. ODA, in principle, should be used to address development issues and improve the lives of many marginalized Filipinos. In reality, the past several decades of ODA use shows inefficient use of funds. Consider the following indicators:

- Many infrastructure projects promote skewed development – favoring already developed regions and cities.
- ODA contributes to almost 50% of Philippine external debt
- In 2004, more than 80% of the government revenues goes to debt payment, in simpler terms – Philippine government earns 5 pesos and about 4 pesos goes to payment of foreign debt
- Inefficiency and ineffectiveness of ODA implementation abounds. Proof: the Philippine government paid more than US\$7 million just for commitment fees alone. The figure for cumulative commitment fee for on-going projects as of 2004 is almost US\$50 million.
- The implementing agencies, funding agencies and oversight agencies all agree that ODA program performance needs to be improved.



### **Who are the major sources of ODA funds and how are they used?**

- Based on the 13<sup>th</sup> ODA Portfolio Review, the government of Japan through the Japan Bank for International Cooperation (JBIC) continues to be the largest source of ODA accounting for 61% (or US\$6.5B with 73 loans) of the total ODA, followed by World Bank (WB) with 13% (or US\$1.4B with 26 loans) and Asian Development Bank (ADB) accounting for 11% (or US\$ 1.1B with 35 loans). The remaining 15% came from Australia, Austria, China, DANIDA, European Investment Bank, France, Germany, IFAD, Italy, Korea, Kuwait, NORDIC, Spain and UK.
- The bulk of ODA was channeled to the Infrastructure Development, which got 69% of the total ODA loans. The Agriculture, Agrarian Reform and Natural Resources accounted for 17%. Industry and Services had 5% while Social Reform and Development Sector had 9%.
- The national government and local government units were responsible for implementing 56% (116 loans) of the ODA project loans portfolio. The government-owned and controlled corporations and government funding institutions administered 44% (60 loans).

### **Who are involved in ODA Programming?**

- NEDA Board: This is the highest social and economic planning and policy coordination body chaired by the President, co-chaired by the Secretary of NEDA with selected members of cabinet.
  
- Investment Coordinating Committee: One committee under the NEDA Board, which oversees the ODA programming. This includes the ICC secretariat, which facilitates the loan programming process. The guideline of loan programming shows the following processes:
  - 1) Around latter part of the year (usually November), there is a regular programming exercise/consultation between government and ODA agencies. During this consultation, they identify ODA priorities (guided by MTPDP). The ODA agencies, of course, provide their priority programs and interest.
  - 2) After the Consultative exercise, ICC issues proponent calls and asks the different agencies to identify eligible projects.
  - 3) Proponent agencies prepare program and project proposals, submit it to NEDA, then ICC evaluates (both technical and cabinet level evaluation) the proposal
  - 4) After the ICC clearance, the Department of Budget and Management needs to issue an ‘Obligational Authority’ – to ensure that the proponent agency would have enough fund for the required proponent agency counterpart. DBM started to ask agencies to prepare for multi-year obligational authority – this was deemed to improve efficiency in budget allocation.
  - 5) After the DBM approval, the Department of Finance will issue a certification and the Central Bank has to agree in principle.
  - 6) NEDA Board pass the proposal and prepares a resolution
  - 7) The Department of Finance constitutes a negotiating panel.
  - 8) The President issues ‘full powers’ to the negotiating panel.

- 9) The ODA agency and the negotiating panel, if both are amenable, prepare a loan agreement
  - 10) The Department of Justice issues a legal opinion
  - 11) Proponent Agency prepares all the requirements to loan effectiveness
  - 12) NEDA and ODA agency declare loan effectiveness
- The above process is the general guideline on loan programming but the reality has more complexities. NEDA experience show that it could be affected (it could be sidetracked or fast tracked) by political forces, political environment and other economic, social and political factors.

### **How is the policy implemented?**

- Implementation of the policy still continues to experience a lot of problems, which can be attributed generally to ineffective ODA programming and absorptive capacity of implementing agencies. These have resulted to additional costs as delays in implementation means additional charges such as commitment fees asked by some funding institutions such as ADB and WB.
- Based on the 13<sup>th</sup> ODA Portfolio review, the following are the implementation issues:
  1. Budget Cover – The reenacted Government Appropriations Act (GAA) did not cover the needed budget for foreign assisted projects in 2004. This also affected the implementation of most of the on-going projects with increasing budgetary requirements and new projects.

The limited budget provided for implementation of some ODA projects in the past few years led to extension of implementation schedules in projects of DPWH, DILG and DOTC. This is expected to result in cost overruns.

Based on existing grant/loan agreements with JBIC and JICA, local taxes levied on contracts funded by Japanese loans cannot be charged to the funds and have created additional costs as these are to be reimbursed by contractors to the national government.

2. Procurement – There are still a lot of problems with delays in procurement. The general reasons are:

- Failure in bidding/rebidding of contracts (DILG, NPC/TransCo, DA/BFAR, NIA, PRRC and DOTC)
- Complaints filed by losing bidders (DPWH)
- Lengthy review process
- Difficulty in compliance with documentation requirements
- Changes in project scope
- Changes in leadership

RA 9184 prescribed a timeline of 3.2 months from submission of bids to issuance to notice to proceed (NTP). Only DPWH and LWUA's procurement of civil works showed improvements. DPWH's Sustainable Environment Management in Northern Palawan project took 3.6 months.

Delays in procurement would affect the target schedule of implementing agencies and may lead to additional fees like commitment fees and penalty charges which funding institutions like ADB and WB charge.

3. MDFO/MFC Transition- Executive Order NO. 252 issued last December 2003 converted the Municipal Development Fund Office (MDFO) to Municipal Finance Corporation (MFC) which was also made an affiliate of LBP. The reenacted GAA in 2004 did not include appropriations for MDFO relending to LGUs, which has affected some projects.
4. LGU Participation – The identified problems regarding LGU participation are:
  - Lack of LGU equity is still a major problem
  - A number of LGUs withdrew participation due to national government-LGU cost-sharing scheme for LGU-devolved programs
  - Limited technical capacity of LGUs
5. Right-of-Way Acquisition – lack of availability of funds for payments to landowners continue to be experienced. Budgetary constraints contribute to this problem.
6. Increase in Cost – Thirty-one (31) projects in the ODA Portfolio were reported by implementing agencies to involve cost increases amounting to P41B. One reason for such increases has been the result of additional taxes.
7. 2004 Elections – There were slowing-down in approval of sub-projects involving LGUs as some LGU officials postponed negotiations after election also with ROW acquisition. There were changes in leadership after the 2004 election resulted to changes in LGU priorities and project management teams that may

cause delays in project implementation. There were also changes in leadership in government agencies, which resulted to delays in awarding of contracts and even changes in new project management teams.

8. Credit/Relending Facilities Issues – Government funding institutions like DBP and LBP still claim that demand for credit remained low. The wait-and-see attitude still pervades among private sector. Another problem identified is the policy on the implementation of credit programs of GFIs. The question that needs to be answered is who should benefit more on the concessionality of ODA loans: NG, GFIs or borrowers?

9. Other Problems cited are:

- Coordination between MMDA and DPWH
- Legal cases such as irregularity of bidding complaints on the case of Agno River Flood Control Project – Phase II remained pending since 2002 and was dismissed last April 2005; Mindanao Container Terminal Project.

**Commitment Fees:**

Funding institutions like Asian Development Bank and World Bank charge commitment fees. Commitment fees are incurred when the disbursement targets set by the implementing agencies at loan signing are not followed. Thus it is important that implementation targets of projects are followed. Causes of delays should be minimized such as budget counterparts of implementing agencies should be included in the annual budgets. One reason that may contribute to this is how negotiators present the capacity of implementing agencies in implementing proposed projects/programs to funding institutions.

## **What did the government do?**

- Based on the 13<sup>th</sup> ODA Portfolio Review, several measures were undertaken to improve portfolio performance in 2004. Memorandum Orders and Circular Letters were issued to correct problems encountered. These are:

1. Last December 13, 2004, the President issued Memorandum Order No. 156 Approving and Adopting the Medium-Term Philippine Development Plan (MTPDP) 2004-2010 and its accompanying Medium-term Public Investment Plan (MTPIP) as government's development framework. This means that ODA priority projects included in the 2004-2010 MTPDP/MPIP will be implemented with full budgetary support. DBM also issued in August 2004 a programming and budgeting guideline containing policies for consideration in the formulation of the MTPIP and future budgets.

2. DBM's Circular Letter No. 2004-12 on 27 October 2004 on providing a Multi-Year Obligational Authority (MYOA) to agencies that voluntarily commit to give priority to and include annual budgetary requirements of foreign-assisted projects in their annual budgets.

3. The Investment Coordination committee (ICC) and Development Budget Coordination Committee (DBCC) amended the policy of national government resulting to non-granting of subsidy/grant to devolved programs, activities and projects by the national government. This policy shall be applicable starting 2005.

4. DPWH issued Department Order No. 204 on 28 October 2004 to limit variation orders in the bid to improve efficiency in the design and implementation of foreign-assisted projects.
  
5. Project Implementation Officers (PIO) are senior officials (of Undersecretary or Assistant Secretary Rank) were tasked to closely monitor and supervise over ODA projects in their respective agencies. The PIOs together with the oversight committees met quarterly in 2004 to address issues affecting ODA project implementation, share good practices and be appraised of recent policies and procedures on ODA.
  
6. The revised ICC guidelines were adopted in August 2004 to help ensure the timeliness of the IC review and approval process.
  
7. Harmonized bidding documents for national bidding have been completed and common trainings were completed for the regions.

### **What can we do to influence ODA Policy Implementation?**

- Vigilance
  1. For the past several years, many NGOs started to engage in ODA funded programs and projects as National government Agency partners. The NGOs, who were trying to influence from within, can be more vigilant in terms of programming and implementation. This requires knowing the stages of national and regional development planning and knowing when to place pressure or when to raise advocacy activities. For example, during the annual consultative meetings of



- donor agencies and government agencies, NGOs should find a way to influence the process.
2. NGOs can be more pro-active if they have the monitoring capacity on different ODA programs and projects. The present structure and systems on ODA policy implementation has rooms for participation. NGOs should pinpoint the areas where they can participate in. Many of the policies are broad in nature, NGOs should have the capacity to influence the formulation of many implementing rules and regulations.
  3. Maximize the Existing System and Institutions:
    - Create venues for the participation of different sectors in the area of ODA programming
    - Participate in the capacity building of institutions: corruption occurs in the different levels – many entities could mitigate this by increasing the capacity of regional and local level government units. This could be done by maximizing the position of NGOs in the local development councils. The local implementing units of ODA projects will find it more difficult to tolerate anomalies if they have organizations acting not just as watchdogs but also as awareness-raising body against ODA misuse.
    - Improve implementation by ensuring more participation from different stakeholders: this would prevent problems like right of way disputes. One of the biggest sources of project delays is the right-of-way disputes. Numerous ODA Portfolio review pointed to the need of improving coordination with various stakeholders. This could simply mean inviting necessary participants

from various groups of project stakeholders during vital stages of project implementation.

- Enforcement Mechanisms: Penalties for non-performing agencies or very poor performance. Government agencies that tend to be inefficient in their project implementation should be penalized and mechanisms to justly implement this should be promoted even within an implementing body with a very collegial atmosphere. Again, the systems and structures are starting to become more transparent but there should be entities to watch the process. Transparency is useless when no one is actually taking notes on who are efficient and inefficient.
- Creation of inter-agency and inter-sectoral policy advocacy/lobby group that would serve as pressure group and watchdogs.
- Public Awareness:  
The Civil Society (CS), particularly NGOs:
  1. can include ODA issues in their public awareness and advocacy – making the bigger population more aware of its role in the country’s development.
  2. inform their constituents about their stake in ODA projects.

ODAMS: ODA Monitoring System at [www.neda.gov.ph](http://www.neda.gov.ph)

NEDA, admittedly, need support on how they can be more effective in their oversight role on ODA programs and projects

NGOs can monitor, validate and report if the information on projects are accurate and valid

ODAMS contains information on ODA programs and projects, funding agencies, implementing agencies, cost of projects, schedule of disbursement, project outputs and project accomplishments and other ODA implementation indicators.

3. also educate the masses on ODA policy – this would prevent unscrupulous politicians from exploiting ODA funds in self-promotion or worse – corruption.
  4. inform the target beneficiaries of many ODA projects, particularly in the marginalized sector, on claim-taking procedures
- Policy Process:
    1. ODA Portfolio is reviewed annually by both Houses (around June). NGOs can be more active in influencing this process.
    2. The last three ODA Portfolio Reviews (i.e., 11<sup>th</sup>, 12<sup>th</sup>, and 13<sup>th</sup>) reveal many recurring problems. Many hindrances occur during implementation but many of these are rooted from the faulty project pipelining and programming of ODA:

- 2.1 Many implementation hindrances were rooted in haphazard project development and proposal writing.
  - 2.2 The NEDA-ICC approval process could become highly political and NGO ODA engagement documentation showed that even at the implementation level – processes like procurement of services and materials can become highly politicized.
  - 2.3 NGOs can influence the national government agency level pipelining – by working on how to channel more ODA use on more high impact projects in terms of equitable and sustainable development.
3. E.O. 138 (1999) was a policy formulated by the National Credit Council. It says that all government credit programs should charge interest rates that are not lower than the market rate. This policy creates confusion because some ODA programs and projects have credit components with mandated concessions that allow lower interest rates. A case in point is the packages for agrarian reform communities. The policy contradiction results to botched development projects. For example, agrarian reform beneficiaries had access to land, training on productivity and other capacity building but because of the credit policy issues – their credit access is still problematic.
  4. Civil Society/NGOs can also monitor the ODA portfolio review and point out, without sugarcoating, the different government agency policies. The ODA Portfolio reviews provide clear indicator on how, for example, VAT resulted to financial charges (shouldered by the government) on ODA projects. The reviews show that the collegial environment among agency leaders (and representative of the NEDA Board) contributes to recurring problem. There are cases of foot dragging and general lack of negative consequences for those who botched up their ODA project implementation – unfortunately, one agency weakness could

- mean millions of dollars of commitment fees (from the government coffers) down the drain. NGOs can be the watchdog that would facilitate a more transparent programming and implementation of ODA policy.
5. Form a lobby group. For example, Indonesia has a group called International Forum for Indonesia's Development (INFID, composed of local and international NGOs). This group has successfully influenced ODA policy. They were able to take part in the annual Consultative Group for Indonesia – government and donor agency negotiation/consultation on aid policy and strategies.
    - 5.1 In the case of the Philippines, NGOs can be more pro-active in influencing the ODA programming and validate the situation/picture presented by the government negotiating panel about the absorptive capacity of different agencies.
    - 5.2 They can also provide more information for those members of negotiating panel that was given by presidential 'full powers' – how informed are they in representing the sector they negotiate for?
  6. Engage in effective lobbying by considering the following:
    - 6.1 ODA is a relatively technical policy therefore there is a need for policy stakeholders to understand the implications of policy and the way it is being implemented.
    - 6.2 There is a need to know the systems and institutions (and the key decision-makers) that influence the quality and effectiveness of ODA policy implementation.
    - 6.3 It should be remembered that once a policy lobbied for is gained – implementation and sustainability of the policy is often considered mechanical

and not just a political process. This required targeted advocacy activities; i.e., pinpointing the individual or group who should sustain the enforcement of activities.

6.4 Network with members of Congressional Oversight Committee may be established, as they are the one processing the Annual Portfolio review submitted by the President. Partnering with other lobby groups would complement the efforts of government policy implementers to provide pressure on the review committee – for them to conduct more thorough review and impact analysis.

### **How can we contribute to better Synergy of Monitoring and Evaluation of ODA Policy?**

Civil Societies, particularly NGOs:

- that have proximity and presence in the implementation area: can watch, document and do research on the ODA project – hindrances, anomalies other bottlenecks.
- can present information to other ODA policy stakeholders to promote a better and more informed decision making on ODA.
- can be more pro-active in policy implementation reviews. They can also facilitate better networking with media, to prevent media's lackluster presentation of ODA issues and problems and its consequences.