

# Unconstitutional Privilege

*The Veto Power and the National  
Government Budgets Under Gloria*



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# Veto Power

- It is a power vested with a government official or entity, preventing justifiably the furtherance of a proposed measure by another government body.
- As a legal jargon, it has a more technical definition and interpretation to it. The term **veto** (Latin for “*I forbid*”) includes the refusal of the executive officer whose assent is necessary to perfect a law which has been passed by the legislative body, and the message which is usually sent to such body by the executive, stating such refusal and reasons therefor.
- It may also refer to the power of one government branch to prohibit an action by another branch, especially a chief executive’s refusal to sign into law a bill passed by the legislature.



# Purpose of the Veto Power

- To preserve the integrity of the branch of the government in which it is vested and thus maintain an equilibrium of government powers;
- To act as a check upon corrupt or hasty and ill-considered legislation.
- When the President vetoes a bill, he is ordained by the Constitution to return the bill together with his objections to the House where the bill originated within 30 days after date of receipt thereof



# Line-Item Veto

- A more popular type of veto power is the *item veto* (as commonly known under Philippine law and jurisprudence) or the line/line-item veto (as how it is usually called in the United States).
- As the supreme law of the land, the 1987 Philippine Constitution provides that, “the President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object.



# Line Veto in the Budget Bill

- Only in the case of appropriation, revenue, and tariff bills that the President is authorized to exercise item-veto.
- The appropriation bill that is subject to item-veto is any appropriation bill and not just the general appropriation bill.
- The item veto in the 1987 Constitution is a carry-over from the 1973 and 1935 provisions, and the product of intense debate. Much of the objection to giving the power of item-veto was grounded on the fear of giving too much power to the executive and thereby allowing him to mutilate an integral legislative act to the prejudice of legislation. The defenders of the provision, however, looked on it more as a useful check on improvident legislation after the bill has left the hands of the legislature



# Item in the Budget bill that can be vetoed

- An item in a bill “is the particulars, the details, the distinct and severable parts. . .of the bill.”
- As a general rule, the President may not veto a bill in part and approve it in part. The exception is provided in paragraph 2 of Section 27 of the Constitution which grants the President the power to veto any particular item or items in an appropriation, revenue, or tariff bill. The veto in such case shall not affect the item or items to which he does not object.



# Item in the Budget bill that can be vetoed

- Without the exception, the entire appropriation or revenue measure would be nullified simply because the President disapproves even one particular item therein, and this might adversely affect the operations of the government if no funds are available or taxes cannot be collected.
- The item or items vetoed may be repassed over the veto of the President in the same manner as ordinary bills. The vetoed items shall simply be not given effect.



# Using and Abusing the Veto Power

*The Case of the 2007, 2008 and 2009  
Budgets and the Changed Effectivity  
Dates*

# The Case of the 2007 Budget

- In 2007, GMA signed the budget only on March 22, 2007. As a result, the government functioned under the 2006 budget as automatically re-enacted by law, which is warranted under Article VI, Section 25(7) of the Constitution.
- GMA vetoed Section 95 of Republic Act No. 9401 or the General Appropriations Act for Fiscal Year 2007. This section was on the effectivity of the budget, stating that, “the provisions of this Act (RA 9401) shall take effect on January one, two thousand and seven (January 1, 2007), unless otherwise provided herein.”
- The President, however, vetoed this section and instead adjusted the date of effectivity to March 22, 2007, the date when she signed the law.



# The Case of the 2007 Budget

- Based on these facts, the government, from January 2007 up to March 2007, was operating under the 2006 re-enacted budget.
- However, since the budget was drafted by Congress for the whole year of 2007 from January to December the allocated budget for that fiscal year is retained in full.
- This is due to Section 1 of the budget law as signed by the President, clearly states that, “the following sums, or so much thereof as may be necessary, are hereby appropriated out of any funds in the National Treasury of the Philippines not otherwise appropriated, for the operation of the Government of the Republic of the Philippines from **January one to December thirty-one, two thousand and seven (January 1 to December 31, 2007)**, except where otherwise specifically provided herein.



# The Case of the 2007 Budget

- Since the President did not edit this section so as to manifest that the budget shall only be applied from March 2007 to December 2007, the funds to be given to the government shall be the whole amount originally allocated by the Congress, and as signed by the President, operating as if the funds are to be used from January to December.



# The Case of the 2007 Budget

- So, even if the Fiscal Year has in effect been shortened (March 2007 to December 2007) due to the modified date of effectivity of the national budget, the funds will remain at a total amount of P1.126 Trillion.
- It's good if the President would actually return the funds in excess, but obviously that's not what has been happening. . .



# Again, on the 2008 Budget

- In January 28, 2008, Congress passed R.A. 9498 or the General Appropriations Act for Fiscal Year 2008.
- Again, President Arroyo vetoed the date of effectivity of the said Act; specifically, she directly vetoed Section 97 of R.A. No. 9498. She indicated that instead of January 1, 2008, the GAA of 2008 would be effective as of March 11, 2008, the date when she signed the GAA into law.
- Once more she adjusted the date of effectivity to a much later date, and similar to what she did in 2007, she made the whole first quarter expense of the government disappear because the funds for 2008, amounting to P1.227 Trillion remain intact and complete, even if the Fiscal Year of 2008 had been shortened to March 2008 to December 2008.



# Again, on the 2008 Budget

- In her veto message, the President tried to justify her veto by saying that, the benefits from (the government's) fiscal consolidation program may be fully optimized if this year's (2008) GAA is prospectively applied, despite recognizing in the same message that the budget of the previous fiscal year was re-enacted.



# Yet Again on the 2009 Budget

- On January 21 and 22, 2009, respectively, both the House of Representatives and the Senate passed the General Appropriations Act of 2009 or R.A. 9524.
- Yet again, GMA vetoed its date of effectivity when she deleted Section 99 of the said Act, which stated that “the provisions of the Act shall take effect on January one, two thousand and nine (January 1, 2009), unless otherwise provided herein.
- GMA set the effectivity date at March 12, 2009 again the date when she signed the GAA into law. And once again, the Budget remained full in amount, at P1.415 Trillion.
- The President then again substantiates in her veto message, similar to the two previous years, why she adjusted the effectivity date of the GAA



# Summary of GMA's Budgets

1. 2001—Last Erap Budget
2. 2002—Reenacted Budget
3. **2003—Vetoed Retroactivity Clause which paved way for the practice of vetoing effectivity clauses.**
4. 2004—Reenacted Budget
5. 2005—Vetoed and Changed effectivity date
6. 2006—Reenacted Budget
7. 2007—Vetoed and changed effectivity date
8. 2008—Vetoed and changed effectivity date
9. 2009—Vetoed and changed effectivity date



# Is it Legal?

- Whether the expenses made were legal or not, no one will actually know for sure because they were not properly accounted for.
- Now it begs the question, ***can the President legally veto the date of effectivity of a bill passed by Congress, as an exercise of her item-veto power?***



**Our Answer is NO.**



# The Date of Effectivity is NOT an Item

- As earlier stated, an item in a bill is the particulars, the details, the distinct and severable parts of the bill. It can be an entire section of a bill or a severable portion of a section.
- By express constitutional provision, the veto of any particular item or items in an appropriation, revenue or tariff bill shall not affect the item or items to which the President does not object.



# The Date of Effectivity is NOT an Item

- what the President has been vetoing for the past three fiscal years is not an item. Simply put, *an item is a specific amount of money intended for a specific purpose.*
- Obviously, the date of effectivity of a bill does not fall under this definition, or any other description mentioned above. **The date of effectivity is neither a mere detail, nor is it a distinct and severable part of the bill. Definitely it is not a specification of an amount of money. Hence, it cannot be considered an item.**



# The Date of Effectivity is NEITHER an “Inappropriate Provision” NOR a Rider

- An “inappropriate provision” may be defined as a non-appropriation item inserted in an appropriation measure.
- A provision that is constitutionally inappropriate for an appropriation bill may be singled out for veto even if it is not an appropriation or revenue “item”.



# The Date of Effectivity is NEITHER an “Inappropriate Provision” NOR a Rider

- A *rider* is a provision or enactment inserted in the general appropriations bill which does not relate to some particular appropriation therein.
- A provision, for instance, in the general appropriations law “prohibiting government officers and employees to do private work” or referring to the “calling to active duty and the reversion to inactive status of reserve officers” (Garcia v. Mata, L-33713, July 30, 1975) is a rider as it has no direct connection with any definite item of appropriation in the law. Such provision shall be of no effect. In legal contemplation, it is though it has never been passed.



# The Date of Effectivity is NEITHER an “Inappropriate Provision” NOR a Rider

- The date of effectivity in an appropriation law, does not fall within the constraints of an inappropriate provision, so as to warrant the President to item veto the date.
- The effectivity date is a crucial provision in an appropriation law, since it will set the period for which, in this case, the funds for the National Budget shall be disbursed for the operation of the government.
- How can the effectivity date be considered an inappropriate provision or a rider, when in fact it facilitates the procedure for properly allocating the funds to the government? It cannot, because the effectivity date is essential to the operation of the appropriation law, the GAA in this case.





# Conclusions and Recommendations

# Unconstitutional

- President Arroyo has been abusing this executive power to legislate.
- Once again, we have encountered another scheme to circumvent laws and jurisprudence. Clearly in our present case, with her use of the item veto on the effectivity date of the General Appropriations Act, President Arroyo has not only violated the Constitution, but also, she has blatantly ignored the long-accepted rulings of the Supreme Court.



# Not an Item or Rider

- the effectivity date of the General Appropriations Act is not an item, which can be subjected to the presidential veto, because an item should be a specific amount of money for a specified purpose in an appropriation bill; that is the general rule.
- Moreover, the effectivity date does not even fall under the purview of the exception to the general rule, which supposedly allows “inappropriate provisions” to be item-vetoed by the President, because the effectivity date is an integral part of the appropriation law.



# Not an Item or Rider

- The effectivity date is not a severable part of the law which can stand on its own. Basically, to determine whether the effectivity date may be considered an independent item or provision, this question should be answered: can the law remain unaffected when the date is changed? **The answer is most definitely NO.**
- Irregardless of whether the date of effectivity is an item or provision, any change in the date affects the law because it fixes the period for which the Fiscal Year shall be operable under the National Budget, as approved by Congress, and it also has an effect on the total amount of money which the government may use for that Fiscal Year considering all the reductions that should be made if the National Budget for the previous year shall have been re-enacted.



# Violating the Charter Means More Funds

- Therefore, changing the date of effectivity of the General Appropriations Acts of 2007 to 2009 is obviously a malicious attempt of the Arroyo administration to finance its greed and once again, deceive the Filipino people.



# Offenses

Gloria Macapagal-Arroyo is liable of the following:

- Culpable violation of the Constitution (for deliberately infringing on the limits on the exercise of the item veto as provided in the supreme law of the land, and as decided with finality by the final arbiter and interpreter of the law, the Supreme Court, which she has in effect defied),
- Possible graft and corruption (because this is another way of defrauding the people to get their hands into public funds),
- Betrayal of public trust (because she has misled the people into thinking that the National Budget has been made for the sole benefit of the Filipino and not for selfish gain



# Offenses

- The mentioned offenses that she may be prosecuted and held liable for, as provided under Section 2, Article XI of the 1987 Constitution.
- The case, however, may hold water or have significance only after the GMA finishes her term. But it is better to expose this pattern of corruption early so as to deter any of her cohorts, or any other future President from doing the same despicable act.



# Thank you!

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