

Fight the Philippine Mafia (SOBRA NA! TAMA NA!)

*Action for Economic Reforms * Focus on the Global South * Likhaan *
People & Advocacy * Faculty members from Ateneo de Manila
University, De la Salle University, and the University of the Philippines
* Concerned Businessmen, Professionals, and Individuals*

We Know the Truth

We have examined the available official documents. We have listened intently and reviewed the statements and testimonies of accusers, defenders, and witnesses in the ZTE-NBN controversy. We have taken note of the facts and circumstances, the credibility of the witnesses, and the probability or improbability of the competing versions. **We have weighed the evidence, and reached moral certainty about these ultimate facts: That grand scale corruption attended the ZTE-NBN deal, and that it went all the way up to Mrs. Gloria Macapagal-Arroyo (GMA).**

When Joey de Venecia III charged former Comelec Chairman Abalos of brokering the ZTE-NBN deal, and of offering him a bribe of US\$10,000,000 to withdraw his competing proposal, some of us approached it with circumspection. After all he was a party interested in the transaction as a competitor. However, subsequent testimonies and statements of parties involved, along with the circumstances surrounding the deal and the government actions, have provided us the quantum of proof to reach our conclusion. The testimony of former NEDA Secretary General Romulo Neri, no less than the Co-Chairman of the highest decision-making body that approves major capital projects of the Philippine government (the Investment Coordinating Council Cabinet Committee or ICC-CC), that he was directly offered by Mr. Abalos a Php200 million bribe to approve the ZTE-NBN deal, bolstered Mr. De Venecia's allegations. Finally, the candid, credible and detailed testimony of the abducted Mr. Jun Lozada that withstood the direct confrontation by those whom he accused of participation in the corrupt deal, sealed for us the moral certainty of grand-scale corruption.

But the buck does not stop with Mr. Abalos. We are likewise morally certain that direct involvement in the corrupt deal goes all the way up to GMA. In the testimony of Joey de Venecia, GMA's husband,

Jose Miguel “Mike” Arroyo, was a central figure in the deal, telling him to “back off.” Mr. Lozada also testified to his participation.

We know by necessary implication that the Mr. Arroyo’s influence is not because of his own accord, but of whom he represents: the exercise of the power and prerogatives of the highest executive of the land. Indeed, the final authority to enter into the contract emanated from GMA. On 20 April 2007, she issued the special authority designating and authorizing Secretary Leandro Mendoza to sign, execute, and deliver on behalf of the Republic of the Philippines the US\$329 million contract for the supply of equipment and service for the NBN project with ZTE. This despite: (a) a clear indication that it is overpriced, given the substantial bribery offer reported to her by Secretary Neri, and the fact that the NEDA-ICC itself did not have reliable benchmark prices for the project costs; (b) the fact that in November 2006 she had clearly expressed her preference for a BOT without government guarantees if at all a national broadband network backbone for the government is to be undertaken; and (c) the fact that there was a proposal for a BOT without government guarantee scheme.

The measures deployed by the executive to cover up a direct link to GMA on the corrupt deal are themselves circumstantial proof of such link: the firing of the PAGC investigator that disclosed their investigation on the contract; the “stolen” contract; the cancellation of the contract to tone down the controversy; the claim of executive privilege not only as to testimony but also as to production of records; and the abduction of Lozada to prevent him from testifying in the Senate.

Mafia-Like

From the details of the web of arrangements that we saw in the ZTE-NBN deal, we are now given profound insight into previous anomalies that have wracked the Arroyo government: the North Rail Project, the IMPSA deal, the “Hello Garci” controversy, etc.

They operate like organized crime – a mafia – with no less than GMA acting as the *capo di tutti capi*, the boss of bosses, the Godmother. Enforcing for her is her underboss who controls the capos or the captains of corruption crews of loyal soldiers. In a Mafia, instructions are handed down through the chain of command, thus protecting the higher ranks from incrimination. Members of a mafia are likewise governed by *omerta*, or a code of silence.

We have state capture not by the elite but by a Filipino mafia headed by GMA. The impact on the Filipino people is grave and far-reaching. The overprice of US\$130 million **in one project**, or PhP6.2 billion in peso value at the time the deal was signed, is higher than the budget of the entire University of the Philippines system. If it is used to augment the finance of the Department of Education, it can more than cover the funding gaps for 1,390 classrooms, 524,237 school seats, 2,733 teachers, and 44,234,813 books and instructional materials totaling PhP4.3 billion.

Diversionsary Tactics: Legalizing the Political

The Arroyo administration now calls on us to seek truth and justice through the legal process. Deputy Presidential Spokesman Anthony Golez said in a statement: “The legal process would now lead us to the whole truth in order to put closure in this and maintain political and economic stability. Justice should never be based on emotions but to the required due process that is dictated by our Constitution. We urge our people to respect our legal institutions who will bring justice and closure to this issue.” This is echoed by Secretary Ignacio Bunye: “the proper venue for the determination of truth and justice lies in the courts, not in an emotionally charged forum.”

What Malacañang wants to do is to impose upon us the standard of legal certainty for the exercise of our political rights. This is meant to buy time, and to shake the moral certainty that we have already achieved to act politically. Indeed many of the court cases involving Marcos, such as on ill-gotten wealth and human rights violations, remain pending or unresolved to this day. We could not have been required to wait for the judicial findings in these cases to act as we did in 1986.

We call on those swayed by this trickery not to be duped – this has been used time and again by the Arroyo administration to quell political action.

Political and legal processes co-exist—the one no less consistent with the rule of law than the other. The Constitution provides that public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives. We do not need a court process to determine for ourselves individually and collectively as a people whether President Arroyo and other government officials are living up to our trust. The Constitution in fact secures for us the mechanism to

make such judgment through the right of the people to information on matters of public concern and the state policy of full public disclosure of all transactions involving public interest – a right and duty systematically violated by the Arroyo administration itself through EO 464, executive privilege, and refusal to disclose information.

The Constitution also guarantees for us the right to act politically, through our freedom of speech, expression, of the press, and of our right peaceably to assemble and petition the government for redress of grievances. Ultimately, the Constitution declares the Philippines to be a democratic and republican state, where sovereignty resides in the people and all government authority emanates from them. In exercising our political right we do not strip Gloria Arroyo or others in government of their legal rights. Indeed judicial justice will come, affording the parties their substantive and procedural rights before the courts of law. **But the time to take political action is now!**

Corruption is a Question of Leadership

The Philippines is not lacking in laws and institutions against corruption. The 1987 Constitution devotes an entire article of 18 sections (Article XI) to provisions on accountability of public officers. The Revised Penal Code punishes malfeasance and misfeasance in office by public officers, including bribery, frauds against the public treasury, and malversation of public funds. Republic Act 3019, or the Anti-Graft and Corrupt Practices Act, expands the punishable corrupt practices even further. Republic Act 7080 defines and penalizes the crime of plunder. The country has a powerful Office of the Ombudsman, with the duty to investigate and prosecute illegal acts or omissions by public officers and employees. It also has a special court, the *Sandiganbayan*, with jurisdiction to try high-ranking public officials for graft and corruption.

The puzzle of persistent corruption in the Philippines has triggered a sizeable effort to address corruption in the country. International and bilateral financial institutions and foundations have provided resources to study the problem and introduce anti-corruption strategies and programs. Economists and policy analysts have done the same. Non-government organizations have also contributed to the efforts to address corruption. The resulting analysis and the measures adopted have been comprehensive and deep. These include regulatory reforms, agency-level reforms and capacity building, judicial reforms, changes in the procurement law, strengthening of the anti-corruption lead agencies, and introduction of various anti-corruption activities such as lifestyle checks and values

formation. To underscore the fight against graft and corruption as a priority thrust of the administration, GMA has created the Presidential Anti-Graft Commission to investigate and hear administrative cases and complaints against erring Presidential Appointees, and to assist the President in the campaign against graft and corruption.

Still, in Transparency International's corruption perceptions index, the Philippines ranked 131st most corrupt among 180 countries surveyed.

In a speech before the Filipino-Chinese General Chamber of Commerce on 15 November 2004, GMA said that "the root cause of our situation today is a festering, entrenched culture of corruption." What she means is that corruption is the way of life of Philippine society.

We reject this analysis – it is a way of making us guilty for sins we did not commit. We ask, are our children, brothers, sisters, or friends corrupt? Are the country's farmers, workers, teachers, OFWs, service workers corrupt?

In the complexity of the anti-corruption analysis and measures, what we wish to add is the simplest answer to the problem: Corruption is a question of leadership. With the country's top leadership now constituted as a mafia deeply involved in the biggest corrupt deals, it's no wonder corruption remains unabated. Under the leadership of a non-corrupt president, anti-corruption programs and institutions will be effective. Under a corrupt presidency, the same programs and institutions only become a protective veil for corruption itself.

Call to Unity and Action

We are again called upon to exercise our extraordinary sovereign power to demand that a president who has grossly betrayed the public trust step down. To be sure, there are systemic problems that require long-term solutions, if only to curb our penchant for electing corrupt leaders. Some key items include:

- Setting in motion criminal justice initiatives that can pave the way for more cases to be filed against corrupt leaders/politicians to send the signal that society will no longer tolerate plunder and Mafiosi operations.

- Reforming the electoral and appointments system, to include cleaning up the Comelec, monitoring the appointment processes and subjecting them to accountability checks, democratizing access to media for Presidential elections and requiring Presidential candidates to participate in televised and radio-broadcasted debates, reforming campaign finance, ensuring the accurate and speedy counting of votes, and passing anti-turncoatism and anti-dynasty laws.
- Immediately passing a progressive right to information law to fully implement our Constitutional guarantee.
- Getting involved in building a progressive reform party that links the middle classes with the basic sectors, which will eventually have the capacity to demand accountability from our leaders, and the ability to present to the people alternative leaders.

However, we must not lose sight of our immediate collective task: we must not allow President Arroyo to stay a minute longer. From a justice point of view that will be necessary -- it is a grave injustice if she continues on to finish her term. Even the demand for legal accountability, to prosper, will require that she step down because the prosecutorial agencies are under her control and influence. As Jun Lozada notes, we have a legal system but not a justice system under GMA.

We see spontaneous calls from various groups for GMA to step down. We know from experience that GMA is stubborn, and that her mafia will not sit idly by. But the challenge for all is to muster sufficient sovereign force and will to compel GMA to resign. This will require nothing less than unified action.

We call on the organized and unorganized, who have come to the moral conviction that enough is enough, to act in concert. We call on all Filipinos, of whatever religious belief or non-belief to initiate and participate in protest efforts that will lead to GMA's resignation. It is time to judge ourselves, our leaders, and our institutions from the viewpoint of establishing honest and democratic systems of governance. We take our first step by putting an end to the regime of the Godmother and her mafia.