



FOI PRACTICE REPORT of FREEDOM FROM DEBT COALITION: Towards Transparency and Accountability in Public Sector Debt (As of 20 February 2017)

I. ORGANIZATIONAL PROFILE

The Freedom from Debt Coalition (FDC) is a nationwide multi-sectoral, non-sectarian, and pluralist coalition conducting policy advocacy work and campaigns to realize a common framework and agenda for economic development. Formally launched in March 1988 by 90 organizations, FDC has grown over the years to more than 250 organizations and individual members in the National Capital Region and Luzon, and in seven (7) chapters in the Visayas and Mindanao.

Since its inception, FDC has led in the advocacy for the repudiation or cancellation of illegitimate debts and promotion of alternatives to anti-people economic policies and development strategies that were imposed by international financial institutions through loan conditionalities. These burdensome policies and strategies include the implementation of regressive tax measures, privatization of public utilities providing essential services, and prioritization of debt repayments over social and economic expenditures of the national government.

FDC calls for (1) official and citizens' debt audits to investigate all public sector debts and contingent liabilities and review all laws pertaining to and/or concerning public debt; (2) the immediate holding in escrow of payments for questionable loans and contracts, pending investigation, and re-negotiation and/or condonation, with appropriate sanctions against erring parties, whether governments or private entities; and (3) the repeal of the Automatic Appropriations on Debt Servicing, contained in Sec. 31 (B) of Presidential Decree 1177 and Sec. 26 (B), Book 6 of the 1987 Revised Administrative Code.

The advocacy on “freedom from illegitimate debt” took shape within the atmosphere of activism nested in a dictator’s regime. At that time, the dictator, Ferdinand Marcos, employed debt in his fiscal management to finance the government’s development programs and to fatten his pockets and those of his cronies in the midst of an economy that was falling into ruin. Debts were contracted bereft of transparency. Export-oriented industrialization was never pursued for it was more practical at that

given context to simply adopt the policy of a debt-driven growth.

With the dictator's closeness to the United States of America, he was able to smoothly avail of the funds coming from the coffers of the International Financial Institutions (IFIs), i.e. International Monetary Fund (IMF) and the World Bank (WB). Such closeness became the key to grandeur and glory of a dictator and his cohorts at the expense of the people trapped in a drama of human rights violations and poverty.

Before the Batasang Pambansa (National Assembly) elections in 1984, foreign debt was determined to be the third top predicament of the country following high cost of living and unemployment. Having this picture as a backdrop, activists, then, were left with no option but to take into account the debt issue as a constitutive dimension of the struggle for a comprehensive and meaningful change.

In 1986, the dictator was ousted through a popular uprising called "EDSA Revolution." Corazon Aquino became the President of the revolutionary government. For the advocates, it was the opportune time to lobby for the cancellation of the dictator's debt to the international lenders' community. With the international recognition of the illegitimacy of the expelled regime, debts incurred by such should have been considered illegitimate.

Unfortunately, on 18 September 1986, at the joint session of the US Congress, the pronouncement of the "honor-all-debt policy" by President Aquino was sweetly sounded within the walls of the august chamber. Consequently, Mrs. Aquino institutionalized the Presidential Decree (PD) 1177 of Marcos by integrating it into the Revised Administrative Code of 1987. PD 1177 authorized automatic appropriations for debt service, which was detrimental to the basic social services that the government should be accountable for.

Over the years, FDC has consistently recognized debt as the prism that holds the wide spectra of issues ranging from structural adjustment policies (SAPs) that the multinational financial institutions like the IMF, WB, Asian Development Bank (ADB), were imposing on the Philippines to the power sector issues, taxation, fiscal reforms, water privatization, and the deregulation of petroleum products. These imposed neo-liberal policies have been woven into the campaigns and advocacy fabric of the coalition.

In the national setting, aside from stirring up vibrant public discourse, FDC has been influential in crafting legislations ranging from the Joint Legislative-Executive Foreign Debt Council through Republic Act (RA) 6724 in 1989 to the 2008 General Appropriations Bill in which the Philippine Congress stripped away P25.9 Billion from the executive's proposal for debt servicing on account of the US dollar depreciation, the recognition of the illegitimate debts being questioned, and the premature allocation for servicing of proposed loans; and re-aligned the said amount for education and health and other essential services.

FDC exposed extensively the Bataan Nuclear Power Plant case, among others, which had emerged as a classic example of an illegitimate debt in the international community. Recognized as one of the major debt campaigners in the world, FDC played a significant role in the formation of the Jubilee South, a coalition of highly regarded debt activists among southern countries.

On 22 December 2016, President Rodrigo Duterte signed into law the P3.35-trillion budget for 2017,

along with a special provision mandating the audit of the 20 national government foreign obligations that are being challenged by FDC as illegitimate for being fraudulent, wasteful, useless, or environmentally and socially destructive. FDC's initial study on the 20 loans shows that the borrowed funds were used for large infrastructure projects tainted with corruption, bloated budgets, violations of legal procedures, and used as lender's conditionality for implementation of policies and programs that damaged the environment and distorted the nation's development.

The historic audit of Philippine public debt, considered as an unprecedented development in the more than a decade of civil society and Congressional attempts to get the government to scrutinize foreign loan-funded projects, will take on a more comprehensive coverage once Senate Resolution No. 253 is passed. Currently pending in the Senate Committee on Economic Affairs, the said resolution seeks to "inquire, in aid of legislation, into the foreign loans contracted by the Philippine Government within the last fifteen years through the conduct of a debt audit."

II. CONTEXT FOR THE DOCUMENTS REQUESTED

One of the basic principles that binds FDC is the Filipino people's right to know the details of public-sector debt because they are the ones being made to pay for it. FDC's earlier efforts for a comprehensive audit of public debt had been blocked by the successive administrations of Presidents Arroyo and Aquino III. Despite the frosty reception by the previous regimes, the Coalition continued to monitor public fiscal affairs, especially loan-funded projects and programs of the government and to prepare for continuing its campaign for a debt audit and suspension of debt service for questionable loans.

FDC planned to engage in the 2016 national budget process to once again call attention of the lawmakers on the need to audit the national government's liabilities, starting with its foreign debt, and to push for a moratorium on payments for obligations that are being challenged due to irregularities. The Coalition needed to update and beef up its compilation of illegitimate debts, 13 of which were included by the 14th Congress in the list of projects with proposed suspension of debt service.

By mid-2016, the Philippine Rural Development Project (PRDP) being implemented by the Department of Agriculture caught FDC's attention. PRDP is a six-year project (2014-2020) designed to establish the government platform for a modern, climate-smart, and market-oriented agri-fishery sector with the aim of increasing rural incomes and enhancing farm and fishery productivity in targeted areas. It has four components: 1) local and national level planning that aims to enhance the Agricultural and Fisheries Modernization Plan through science-based tools and to harmonize regional and provincial AFMP; 2) infrastructure development; 3) enterprise development; and 4) project implementation support. PRDP is being supported by a P501.25-million loan from the World Bank.

What made FDC look closely on PRDP was the 2015 report of the Commission on Audit that found more than P1.5 billion in anomalous financial transactions. Project implementation was also said to be lagging behind with only nine out of 244 approved subprojects in infrastructure development being 100% complete by July 2016. World Bank documents on the project reported that the Philippine government was already paying commitment fees due to slow disbursement of the loan.

During this time, FDC also faced the challenge of filling the gaps in its newly reconstructed database on

selected Philippine fiscal and economic statistics and on regular foreign debts of the national government particularly during the Marcos regime.

III. SPECIFIC DOCUMENTS REQUESTED

FDC requested information once from the Department of Agriculture (DA) to get details on the PRDP, and twice from the Bureau of the Treasury to ask for statistical data. Both agencies already had websites (PRDP even had its own) from which data and information could be downloaded but these were not enough for FDC's particular research needs.

1. On the PRDP

Phone inquiries were initially made with the DA to find out the current officers in charge of the PRDP in light of wave of new appointments being made by the new administration under the Duterte presidency. Asked on the process of requesting documents on the PRDP, the DA staff who answered the phone inquiry referred to the contents of the PRDP website as the only available information on the project.

On August 23, 2016, FDC wrote to the PRDP office of the DA to request for project documents aside from those already accessible through the PRDP website (www.daprdp.net), with details on the:

- complete and updated reports on the implementation of all components of the project;
- coverage area;
- target and actual beneficiaries;
- financial statements specifying how the funds were spent, programmed allocation, and actual disbursements for each project component and area;
- list of people and/or institutions responsible in decision-making for project execution and financial management; and
- all other documents on the PRDP not mentioned above that would facilitate FDC's study on the project and its impact.

The letter was hand-carried to the DA office, as well as sent through electronic mail.

2. On National Government (NG) Selected Fiscal Statistics and Regular Foreign Liabilities

FDC wrote to the Bureau of the Treasury's Statistical Data Analysis Division (SDAD) on two occasions. The first request was made on August 26, 2016 for historical data on NG cash-operations report, outstanding debt, debt service and list or schedule of regular and contingent liabilities from the time of the late President Ferdinand Marcos up to that of former President Gloria Arroyo.

On October 28, 2016, FDC sent another request to the BTr-SDAD for historical data on the National Government's foreign debt service for its regular liabilities, by creditor, from 1986 up to the present,

which would include the following details:

- Loan account
- Loan ID
- Project/Purpose
- Implementing Agencies
- Interest Rate/Type and other charges
- Last repayment date
- Principal payment
- Interest payment/other charges
- Outstanding amount

IV. RESULTS

As can be seen in the request log below, FDC received documents from the two agencies in less than a week except for the second set of statistics from the BTr-SDAD. The DA-PRDP sent pertinent documents that fulfilled information needs as identified in FDC’s letter to the project office. The documents, with a cover letter dated August 26, 2016, were hand-carried to FDC’s office by a staff of the DA a week after the agency received the request for information.

Five days after FDC’s letter, the BTr-SDAD emailed a spreadsheet of National Government Selected Fiscal Statistics from 1986 to 2015. No figures on the Marcos years were supplied. Upon inquiry, SDAD replied that it did not have statistics earlier than 1986.

Response time to the second request for statistics was slow. SDAD took 38 working days before it emailed a spreadsheet on the National Government External Debt Service from 1989 to 2016. Again, there were missing data as concerned information needs identified by FDC—no statistics were given for years 1986 to 1988.

FDC FOI PRACTICE REQUEST LOG

Agency	Documents Requested	No. of Phone Calls & No. of Referrals	No. of Letters Sent	No. of Days Waited	Documents Retrieved
1. Department of Agriculture Philippine Rural Development Project	<ul style="list-style-type: none"> • complete and updated reports on the implementation of all components of the project, • coverage area, • target and actual beneficiaries, • financial statements specifying how 	2 phone calls	1	4 working days	<ul style="list-style-type: none"> • PRDP Monthly Status Report, July 2016 Issue • Unaudited Financial Statements as of March 21, 2016 of the Philippine Rural Development Project under the Department of Agriculture

	<p>the funds were spent, programmed allocation and actual disbursements for each project component and area,</p> <ul style="list-style-type: none"> list of people and/or institutions responsible in decision-making for project execution and financial management, and all other documents on the PRDP that are not mentioned above that would facilitate FDC's study on the project and its impact 				<ul style="list-style-type: none"> List of Institutions Responsible for Decision-Making for Project Execution and Financial Management
<p>2. Bureau of the Treasury</p> <p>Statistical Data and Analysis Division</p>	<p>historical data on NG cash operations report, outstanding debt, debt service and list or schedule of regular and contingent liabilities from the time of former President Ferdinand Marcos up to that of former President Gloria Arroyo</p>	0	1	5 working days	<p>National Government Selected Fiscal Statistics from 1986 to 2015 (Spreadsheet containing NG Cash Operations Report, Outstanding Debt including contingent liabilities, and Debt Service Expenditure)</p>
	<p>historical data on the National Government's foreign debt service for its regular liabilities, by</p>	0	1	38 working days	<p>National Government External Debt Service from 1989 to 2016 (spreadsheet)</p>

	creditor, from 1986 up to the present, which would include the following details: <ul style="list-style-type: none"> • Loan account • Loan ID • Project/Purpose • Implementing Agencies • Interest Rate/Type and other charges • Last repayment date • Principal payment • Interest payment/other charges • Outstanding amount 				
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V. INSIGHTS AND RECOMMENDATIONS

Except for the data that BTr-SDAD was not able to provide, information given by the agencies fit the needs of FDC as specified in its requests. The quick availability of documents from the DA-PRDP and BTr-SDAD (on the first set of statistics) was a significant factor in facilitating the work of FDC in monitoring the fiscal situation of the national government and its borrowing activities and loan repayments. SDAD’s second spreadsheet on NG foreign debt, however, came late for FDC’s immediate use for it in 2016. But it would still be helpful in this year’s coming engagements on the audit of 20 cases of questionable foreign loans.

What was noticeable was the lack of a quick acknowledgment of receipt of requests. There was also no advice on when and how FDC’s needs for information would be fulfilled and who would be responsible for handling them. These details should be immediately provided to the requesting party so as to establish expectations on the parameters of the government agency’s actions on demands for access to information.

It is important, and should be a requirement, for agency staff members who are tasked to respond to queries to be knowledgeable of the scope of the agency’s work—operations, functions, responsibilities, among others—and what content it makes readily available on its websites. Had this been the case with the PRDP office, misinformation, which could be interpreted as a damper on any claim for access to information, could have been avoided.

Agencies should present an explanation whenever they are unable to release information expected from them or of which they are supposed to be repositories. The absence of an explanation could easily be an indication of inefficiency, lack of coordination within a department and/or among concerned agencies, and disregard for people's right to know, or worse, a curt denial of access to information.

While the responses of the DA-PRDP and BTr-SDAD are generally commendable, FDC's practice of access to information still points to the need for a legislated FOI that will cover all branches of the government, and that will put in place disciplinary actions or penalties for violations of the law. The current Executive Order on FOI opens up spaces, but still sets limits to people's enjoyment of their right to know.