

## 4.4 Role of Parliament in Defence Budgeting in the Philippines

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### Introduction: The Philippine Governmental System

The Philippine state constitutes a democratic republic based on a presidential system, a bicameral legislature and an independent judiciary. The President is both the head of state and of government. Unlike most prime ministers, the Philippine President holds a purely executive role, as s/he is not a legislative leader with membership in Congress.

The legislature, composed of the House of Representatives and the Senate, has the power of the purse. It exercises the power to screen, review, and scrutinize every single *centavo* proposed in each agency's budget. As such, the executive branch initiates the preparation of the annual national budget whereby Congress scrutinizes and approves this procedure in form of a national legislation. However, before it becomes a law, it is subject to the final approval of the President.

The 1987 Constitution also provided additional safeguards and system of checks and balances with the creation of constitutional commissions and bodies, notably the Commission on Audit (COA).

### 1. Defence Budgeting in the Philippines

#### 1.1. Legal framework

The 1987 Constitution states: "The President shall have control of all the executive departments, bureaus, and offices. He shall ensure that the laws be faithfully executed" (Sec. 17, Art. VII). As one of the departments under the executive branch directed by the President, the regular budget of the defense establishment for personnel services (PS), maintenance and other operating expenses (MOOE), as well as capital outlays (CO), is included in the national budget.

The Constitution further vests the President with the "responsibility and authority to determine the government's needs for which s/he proposes the corresponding appropriations." The President is constitutionally mandated to submit to Congress within thirty days from the opening of every regular session, a budget of expenditures and sources of financing, including receipts from existing and

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proposed revenue measures. What s/he sends to Congress serves as the basis for the General Appropriations Bill.

On the other hand, the Republic Act 7898 (RA7898) or the Armed Forces of the Philippines (AFP) Modernization Act of 1995 allocate additional resources to the AFP based on a ceiling, for the first five years, of fifty billion pesos (P50,000,000,000.00). This amount may thereafter be increased commensurate to the rise in the Gross National Product (GNP). RA 7898 made it clear that the funds - to be appropriated by Congress to the modernization program shall be treated as a distinct and separate budget item from the regular appropriation for the Department of National Defense (DND) and the AFP and shall be administered by the Secretary of National Defense. Likewise created under this law is the AFP Modernization Act Trust Fund. The said trust fund, which is used exclusively for the AFP modernization program does not include salaries and allowances and shall be funded out of the following:

- (a) Appropriations for the AFP modernization program
- (b) Proceeds from the sale, lease or joint development of military reservations authorized by Congress, including immovable and other facilities not covered by the Bases Conversion Development Authority, as provided for in Republic Act No. 7227
- (c) Shares of the AFP from the proceeds of the sale of military camps provided for under Republic Act No. 7227
- (d) Proceeds from the sale of the products of the government arsenal
- (e) The proceeds from the disposal of excess and/or uneconomically repairable equipment and other movable assets of the AFP and the government arsenal
- (f) Funds from budgetary surplus, if any, as may be authorized by Congress subject to the provisions of Section 8 of this Act; and.
- (g) All interest income of the trust fund.

## 1.2 Internal and external controls on defence spending

Tasked to ensure that government funds are duly accounted for and based on appropriations is the Commission on Audit (COA). Sec. 2 (1), Art. IX of the Constitution states:

“The Commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post- audit basis...”

The commission is deemed to function as the “fearless and efficient guardian of public treasury” (De Leon, 1997:304). The constitution likewise mandates the commission to submit to President and Congress an annual audit report of the financial condition and operation of the government, and recommend measures

to improve the effectiveness and efficiency in the utilization of public funds (Phil. Constitution Sec. 4, Art. IX).

The Constitution further mandates that::

“where the internal control system of the audited agencies is inadequate, the Commission may adopt such measures, including temporary or special pre-audit, as are necessary and appropriate to correct the deficiencies. It shall keep the general accounts of the Government and, for such period as may be provided by law, preserve the vouchers and other supporting papers pertaining thereto.” To ensure internal control of the defence spending, and of the entire government for that matter, the COA issued Circular No. 2001-004 dated October 30, 2001, better known as the National Government Accounting System or NGAS. All government accountants and comptrollers are required to follow the NGAS.

On 26 January 2003, the Government Procurement Reform Act (RA 9184) took effect. Executive Order (EO) 235 was issued on 11 September 2003. It prescribes the streamlining of rules and procedures of defense contracts. Likewise, the modernization program is governed by EO 120, which directs the National Government to adopt counter trade as a supplemental tool with respect to the importation or procurement of foreign capital equipment, machinery, products, goods and services. Additionally, the Joint Circular 4-98 of the Department of Finance (DoF), Department of Budget and Management (DBM) and Commission on Audit (COA) prescribes the procedures for the operations of the AFP Modernization Act Trust Fund.

### 1.3 Implementation of the system in practice

Despite the existence of policies for internal and external control of defence spending, corruption continues to persist in the agency. The most common form of graft is in the procurement of supplies, like in the bidding process characterized by overpricing usually committed at headquarters level, and “conversion” where supplies are converted to cash or other materials (e.g. gasoline supply converted to cash) which usually happens at the command level. The following vocabulary forms an integral part of the lingo in the defence establishment: part of the “cost of money” means “the amount a proponent pays to facilitators for making his dreams come true.” “Cleared money,” meanwhile, is “money procurement budget that has been converted (to other uses), which one could spend anywhere.” Put another way, it is “laundered money.” Of course, the rent-seeking attitude of some officers continues to land in the media headlines. COA noted many “unliquidated cash advances” during the calendar year 2006.

### 1.4. Role of the general public/media

In general, public participation in the budget process takes place through their representatives, the members of the Senate and the House of Representatives (HOR). This is not to say that civil society organizations (CSOs) and mass-movements do not play a role. They do, but outside the official budgeting

process. The parliament of the street remains the main venue of various groups for advocacy. It was only in 2007 that the participation of the CSOs was accommodated by the HOR in its budgeting process. In the case of defence budgeting, the advocacy of CSOs and mass movements, including the media, remains very limited in scope and substance.

It is safe to state that the public understanding, appreciation and advocacy of the defense budget remain very low. More often, it is not even enough to trigger a more in-depth and wider advocacy towards meaningful security sector reforms. Common advocacies focused primarily on human rights violations committed by the military, or the need to cut the military budget in order to increase resources for education.

While there are many specific campaign groups for health, education, labor, agriculture, and human rights, there is none for defence. This concern is not yet incorporated in the hierarchy of needs of the public, which are predominated by concerns over job generation food, health, and education. The formation of an advocacy group for security sector reform and defence budgeting in particular remains wanting.

The mass media remains an obstacle within the process of informing the public about defence budgeting. Often driven by commercialism, the media reports mostly newsworthy, if not sensational issues to the public, such as: corruption in the military, violation of human rights committed by men in uniform, military campaigns against insurgents, terrorists and military rebels, the promotion of generals, and command change. At best, during the budget process the media reports how much the military is getting; always in comparison with education. As to the where's and why's of the military budget, it remains to be written. This is not to say that there are no investigative media outlets in the Philippines. But those with trained media workers with research vigor are a tiny minority in the Philippine media.

## 1.5. Major Challenges

It remains an important task to make the defence establishment strictly follow the various rules and regulations on finance, and bidding. While such efforts are undertaken within the defence establishment, the vigilance of the public and the media over the finances of the agency remains crucial. There is a great need to make a public noise about the COA findings on irregularities in the use of funds of the defence establishment in order to to pressure the agency to strengthen the practice of internal control.

There is also a need to strengthen institutions tasked with formal oversight. The COA is limited in its recommendatory role. The filing of necessary charges against corrupt officials remains with the agency. The military court, as well as the Ombudsman, needs to be reformed if it seeks to be effective and speedy in dispensing justice against corrupt officials.

## 2. The Role of Parliament in Defence Budgeting

### 2.1 Legal Framework

Congress shares with the President the authority over the armed forces. It provides the necessary money and introduces the laws of governance. It plays an important role in the final determination of the defence budget, and of the entire government budget for that matter. It prepares the General Appropriations Bill based on the President's submission to Congress of the annual national government budget. Congress' power of appropriation, also known as the power of the purse, is enshrined in the 1987 Constitution. Foremost is Section 24, Article VI that states "All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments."

The above provision mandates not only the exclusive power on all appropriations, but equally important, it clearly defines the role of the House of Representatives as the initiator of the General Appropriations Bill. However, the power of the purse of Congress is not absolute. The Constitution further mandates that "the Congress may not increase the appropriations recommended by the President for the operation of the Government as specified in the budget. The form, content, and manner of budget preparation shall be prescribed by law (Section 25 (1), Article VIII). Authoritatively, Congress can cut or decrease the budget as proposed by the President. However, due to the principles of checks and balances, the Constitution confers the President the power to veto legislation passed by Congress. In addition, it sets a mechanism whereby Congress can overturn a presidential veto. As a rule, the President may not veto a bill in part and approve it in part. S/he must either approve or disapprove a bill as a whole. However, an exception is provided in the case of appropriations, revenue or tariff bills. Sect. 27 (2) article VI of the 1987 Constitution provides:

**Section 27.** (1) Every bill passed by the Congress shall, before it becomes a law, be presented to the President. If he approves the same he shall sign it; otherwise, he shall veto it and return the same with his objections to the House where it originated, which shall enter the objections at large in its Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of all the Members of such House shall agree to pass the bill, it shall be sent, together with the objections, to the other House by which it shall likewise be reconsidered, and if approved by two-thirds of all the Members of that House, it shall become a law. In all such cases, the votes of each House shall be determined by yeas or nays, and the names of the Members voting for or against shall be entered in its Journal. The President shall communicate his veto of any bill to the House where it originated within thirty days after the date of receipt thereof, otherwise, it shall become a law as if he had signed it.

(2) 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.

When the president “affixes his/her veto message and signature, the bill becomes a General Appropriations Act, a national budget for the succeeding fiscal year. Vetoed items shall simply be not given effect” (De Leon 1999).

In practice, since the restoration of democracy and the approval of the 1987 Constitution, Philippine presidents have regularly and effectively exercised their veto power over appropriations. From 1989 up to the FY 2008, presidents vetoed certain items in the General Appropriations Act (GAA) either directly or confidentially, except in FY 2005 where no veto was interposed. Congress has still to exercise its power to overturn a presidential veto of line items in the appropriation law. There are several explanations for this. Congress agreed or accepted that such presidential veto on a specific item is either based on unconstitutionality or practicality. Furthermore, there is a general understanding that the overturning of a presidential veto would prove futile given that a 2/3 majority vote in Congress (dominated by the Presidents’ party mates) is required.

In the interest of the public, and to ensure that the delivery of public services will not be taken hostage by infighting or inaction within the executive and legislative branches, the Constitution set definitive deadlines with regard to appropriations. The President must submit the budget thirty days after the opening of every regular session of Congress (Sec. 22, Art. VI). The constitution further mandates Congress to convene every year on the fourth Monday of July (sec. 15), the date of reckoning for the counting of 30 days.

During the opening of Congress, the President delivers his/her State-of-the-Nation Address, or SONA, where s/he announces the accomplishments of the government and outlines the priorities. In addition, the legislature is given a definite deadline to pass the General Appropriations Law until the end of the fiscal year, which is December 31 of every year. If it fails to do so, as it did in the not so distant past, the budget of the current year is re-enacted, until the time that the appropriation bill is passed by Congress (Sec. 25, Vi). It is not unusual that the passage of the national budget is delayed or that it is not passed at all. The 2001, 2004 and 2006 budgets are all re-enacted budgets of 2000, 2003, and 2005 respectively.

## 2.2 Functioning of Parliamentary Defence Budget Oversight in Practice

The parliamentary oversight of the defence budget, and budget in general, is primarily undertaken by the powerful Appropriations Committee of the House of Representatives and the Finance Committee of the Philippine Senate and finally by the plenary of both chambers. The House Rules of both chambers empower their respective committees to undertake the following:

**Committee on Appropriations:** “All matters directly and principally relating to the expenditures of the national government including the payment of public indebtedness, creation, abolition and classification of positions in government, and the determination of salaries, allowances and benefits of government personnel.”

**Committee on Finance:** “All matters relating to funds for the expenditures of the national Government and for the payment of public indebtedness; auditing of accounts and expenditures of the National Government; claims against the government; inter-governmental revenue sharing; and, in general, all matters relating to public expenditures.”

In the present Congress (2007-2010), with 240 members in the House of Representatives, the Committee of Appropriations is the biggest committee. It has 125 members, or roughly 52% of the entire House. The Senate Finance Committee has 17 members, which is considered many in a chamber of only 24 people. It must be noted that both chambers have their respective Committee on Defence and Security but without responsibility for appropriations. To facilitate the passage of the budget of the different agencies, the Committee on Appropriations has 20 sub-committees

### 2.3 Capacity

With its 125 members, the House of Representatives' Committee on Appropriations has a personnel of only 39 people; not even enough to fulfill basic secretarial services for its members. While members of the secretariat are considered to be professional bureaucrats, and well-seasoned in budgetary work, they – in conjunction with consultants hired by the committee – can at best only give advice to the committee leadership. In order to effectively and professionally discharge their mandate and scrutinize the budgetary process, each committee member must rely upon his/her own expertise and initiative, or on his staff and hired consultants.

However, the limited staff and the scarce resources allocated to congressional offices hinder the development of expertise in the area of defence budgeting; notwithstanding that it competes with other committees that individual legislators consider equally important. That is why committee members who have been part of the defence establishment are in a more advantageous position during the deliberation of the defence budget.

The Congressional Planning and Budget Department, which is supposed to be of technical help to the members of the House, has only limited resources for giving advice to members through the publications of its research. It remains constrained by lack of work force and resources, and insufficient time to fully scrutinize the budget and provide guidance to members of the HOR. Given this situation, only the creativity of individual members makes relevant contributions possible.

The Committee on Appropriations has to screen, review, and scrutinize the budget of 34 line agencies, and about 17 items listed as special funds. Congress has to review 50 or so budget proposals each year. The opposition, true to its role as fiscalizer, hires an outside consultancy group to provide an agency budget briefing to all its members. Congress has technically only three months to deliberate on the budget.

Given the limited time, members are forced to limit the number of budget items they would like to study and debate. While patriotism is an assumed currency for all legislators, political expediency dictates that s/he engages in a budget item that is in the interest of his immediate constituency. Unfortunately, defence is not a top priority for many legislators. More regularly interested in budget items are those with “close socialization” with the defence establishment, former military officials or civilian personnel of the defence establishment, or those with particular business interests in supplying military goods and services, or it so happens that a major military camp is located in their congressional district.

## 2.4 Major Challenges

The Congressional Planning and Budget Department of the House of Representatives came up with a publication in 2007 entitled *Governing the Philippine Bureaucracy: Issue and Challenges of Legislative Oversight*. The publication presents the major challenges of legislative oversight, as viewed by congressional insiders, to wit:

1. lack of independent third party sources of information, where data presented by the different agencies could be validated and analyzed. To hear comments that “agency reports may have been sanitized” is not unusual.
2. issuance of Executive Order 464, series of 200\_ by the President, which requires prior consent of the Chief Executive for the appearance of all government personnel, including those from the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP). Congress budget hearings have effectively prescribed congressional oversight functions. The issue remains to be solved by the Supreme Court.
3. limited in-house oversight reports and studies due to budgetary constraints
4. logistical problems for congressional offices to undertake needed research for oversight work
5. lack of inter-office cooperation in sharing of data, information, and relevant documents by either the concerned agencies or even the secretariat support group within Congress

This author agrees with the above recommendations. All of the above factors limit congressional oversight of the budget in general, and defence budget in particular. However, I wish to add that as to the specific case of defence budgeting, the following specific challenges remain:

- 1) limited detailed information accessible to the public that could serve as a basis for better policy analysis;

- 2) the tendency of the defence agency to delay the release of requested documents, even to members of Congress;
- 3) the limited capacity of many members of Congress to undertake an effective oversight of the defence establishment, which emanates from their lack of literacy about the intricacies of the defence budget in particular, and security sector reform in general.

As one observer notes “most of our legislators lack either the tool or the experience or the disposition to tackle the budget...many come upon their position without an idea of their mandate as legislators; sad to say, clueless” (Rañola, et. al.2007). This is notwithstanding the term ‘limit of a legislator’. As each term is only three years, in the first year the legislator observes the budget process, in the 2<sup>nd</sup> year he starts to participate, and in the 3<sup>rd</sup> year, he is busy campaigning again.

## **Conclusion/ General Assessment**

In the case of the Philippines, all of the needed legal infrastructures and mandates for oversight are in place. However, the practice of effective oversight remains to be desired and must be strengthened for the sake of those who are tasked with formal (Congress, audit body, courts) and informal (media, the public, CSO) oversight.

There is an urgent need to develop a stronger capacity for legislators, civil society, media, and the public to grasp the complexity inherent in the organization and budget of the defence establishment and its importance in our democratic life as a nation.

There is also a pressing need to create an independent advocacy group on defence budgeting to strengthen democratic control of the defence establishment, and push for needed security sector reforms.

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