

493-B

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
THIRTEENTH CONGRESS  
First Regular Session



HOUSE BILL NO. 4481

Introduced by Reps. SATUR C. OCAMPO, TEODORO A. CASIÑO, JOEL G. VIRADOR, CRISPIN B. BELTRAN, RAFAEL V. MARIANO, LIZA L. MAZA,

### Explanatory Note

More than nineteen years after the ouster of the late dictator Ferdinand Marcos, the Filipino people still suffer the harsh legacy of the Martial Law regime. At the time of mass repression and human rights violations, policies were enacted without popular support and projects were undertaken that did not benefit the people. Fraudulent, onerous, and illegitimate project contracts blatantly disregarded business regulations and Constitutional provisions.

By the end of 2004, the country would have paid US\$13.73 billion for all the foreign debt, interest excluded, incurred by President Marcos. Yet as of the end of 2003, the outstanding balance of foreign debt, interest excluded, still stood at US\$1.02 billion, of which last loan payment is set for 2025. Presidential Decree 1177, the Automatic Appropriations Law imposed by President Marcos in 1977 and honored by every president since, assures creditors that usurious, stringent, and onerous loans will be paid.

Before Marcos became president in 1966, the country's foreign debt was only US\$599 million. When he fled the Palace 20 years after, the foreign debt swelled to US\$28 billion, interest included, mostly incurred during Martial Law, when the debt grew by 27% per year from 1973 to 1982.

The debt due to the investors of the Bataan Nuclear Power Plant (BNPP), which has not produced a single kilowatt of electricity and is the single largest source of foreign debt contracted by Marcos, and at the time worth US\$2.3 billion (overpriced by 37.5 - 48.8%), has been serviced with an approximate US\$118.3 million a year to pay until 2018, 34 years after the completion of the plant;

An estimate of US\$4.67 billion or 32.2% of foreign loans contracted (the largest share) during the regime went to the National Power Corporation (NPC), which incurred the debt of other fraudulent, onerous, and illegitimate power plant projects besides that of the BNPP. The next two agencies to top the list are the Department of Public Works and Highways (DPWH) and the National Irrigation Authority (NIA) with US\$1.55 billion (10.7%) and US\$945 million (6.5%) contracted in loans, respectively.

A range of corporations has been implicated with incurring illegitimate debt that acquired sovereign guarantees during the Marcos regime. This is broken down below:

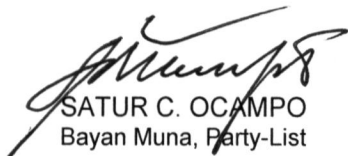
| Company                    | Government-Assumed Debt |
|----------------------------|-------------------------|
| National Power Corporation | US\$795 million         |
| PLDT                       | US\$654 million         |
| Manila Electric Company    | US\$370 million         |
| CDCP                       | US\$323 million         |
| Philippine Airlines        | US\$321 million         |
| NASTURA/PHILSUCOM          | US\$265 million         |
| Cellophil                  | US\$217 million         |
| Landoil                    | US\$165 million         |

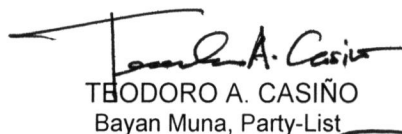
| Company                         | Government-Assumed Debt  |
|---------------------------------|--------------------------|
| Planters Products               | US\$159 million          |
| NIDC                            | US\$157 million          |
| Philippine National Oil Company | US\$123 million          |
| <b>TOTAL</b>                    | <b>US\$3.549 billion</b> |

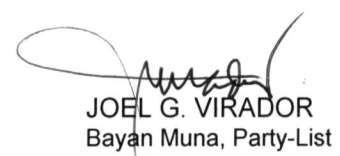
To call for the cancellation of the payments of fraudulent, onerous, and illegitimate Marcos Martial Law regime debt is valid, as supported by our very own Civil Code and by international law, which render voidable contracts involving fraud. Moreover, the right against the impairment of contracts is not absolute. It yields to police power and general welfare of the people. In the words of the 1987 Constitution: "The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands."

Debts incurred by the Marcos regime were contracted through questionable, fraudulent and illegal means, by fraudulent parties, with fraudulent terms, for fraudulent purposes.

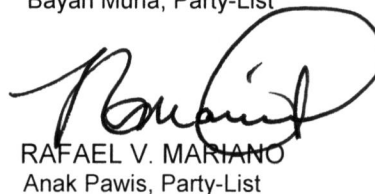
To redress this injustice, this bill requires the cancellation of servicing of unjust and fraudulent debts, the refund of the loans and interest payments already serviced, and the refund of their equivalent in past maintenance expenses plus interest thereon, net of all settlements and negotiations previously made.

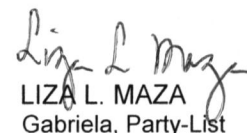
  
SATUR C. OCAMPO  
Bayan Muna, Party-List

  
TEODORO A. CASIÑO  
Bayan Muna, Party-List

  
JOEL G. VIRADOR  
Bayan Muna, Party-List

  
CRISPIN B. BELTRAN  
Anak Pawis, Party-List

  
RAFAEL V. MARIANO  
Anak Pawis, Party-List

  
LIZA L. MAZA  
Gabriela, Party-List

AN ACT CANCELLING PAYMENTS OF LOANS AND RECOVERING PREVIOUS PAYMENTS FOR THE FRAUDULENT LOANS INCURRED DURING THE  
MARCOS MARTIAL LAW REGIME DEBT

Hon. EDUARDO C. ZALUJA

District 1st Dist. One

Hon. RUSSELL L. BARINAGA

District 2ND, ZAMBO. NORTE

Hon. EDCEL C. LAGMAN

District First Dist., Albay

Hon. DEL R. DE GUZMAN

District MARIKINA CITY

Hon. TEOFISTO GUINGONAN

District 2nd Bukidnon

Hon. LORENZO R. TANABATA

District 1st DISTRICT OF QUEZON PROV.

Hon. ERNIE D. CLARETE

District 1st Dist., Mis. Occ.

Hon. Renato B. Magtubo

District PM - PL

Hon. RSUPLI CO

District DIST 5, Iloilo

Hon. JOEL WILLANUEVA

District CIBAC - PL

Hon. FRANCISCO C. DELGADO, JR.

District 4th Dist. Cebu.

Hon. JUSTIN CHIPEN

District 2nd District Laguna

Hon. LEOVIGILDO B. BANAAG

District 1st D, Agusan del Norte

Hon. ANTHONY Y. PINGOY JR.

District 20 SOUTH COTABATO.

AN ACT CANCELLING PAYMENTS OF LOANS AND RECOVERING PREVIOUS PAYMENTS FOR THE FRAUDULENT LOANS INCURRED DURING THE  
MARCOS MARTIAL LAW REGIME DEBT

Hon. \_\_\_\_\_

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District \_\_\_\_\_

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Introduced by Reps. SATUR C. OCAMPO, TEODORO A. CASIÑO, JOEL G. VIRADOR, CRISPIN B. BELTRAN, RAFAEL V. MARIANO, LIZA L. MAZA,

AN ACT

**CANCELLING PAYMENTS OF LOANS AND RECOVERING PREVIOUS PAYMENTS FOR THE FRAUDULENT  
LOANS INCURRED DURING THE MARCOS MARTIAL LAW REGIME DEBT**

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

**SECTION 1. Short Title.** This Act shall be known as the "Marcos Martial Law Regime Debt Cancellation Act".

**SECTION 2. Declaration of Policy.**

I. Sovereignty

Article I, Section VII of the 1987 Constitution: "The State shall pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination."

II. Social Justice

Article I, Section IX of the 1987 Constitution: "The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all."

III. Obligations Under Philippine Laws

(a) Article 1267, Section Two, Chapter Four, Book Four, of Republic Act 286, otherwise known as the Civil Code

"When the service has become so difficult as to be manifestly beyond the contemplation of the parties, the obligor may also be released therefrom, in whole or in part."

(b) Article 1330, Section One, Chapter Two, Book Four, of Republic Act 286, otherwise known as the Civil Code

"A contract where consent is given through mistake, violence, intimidation, undue influence, or fraud is voidable."

IV. Obligations Under International Law

(a) Article 61, Section Three, Part Five of the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations

1 *Supervening impossibility of performance*

2  
3 (1) A party may invoke the impossibility of performing a treaty as a ground for terminating  
4 or withdrawing from it if the impossibility results from the permanent disappearance or  
5 destruction of an object indispensable for the execution of the treaty. If the impossibility  
6 is temporary, it may be invoked only as a ground for suspending the operation of the  
7 treaty.

8  
9 (2) XXXX

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11 (b) Article 49, Section Two, Part Five of the Vienna Convention on the Law of Treaties  
12 between States and International Organizations or between International Organizations

13 *Fraud*

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15 "A State or an international organization induced to conclude a treaty by the fraudulent  
16 conduct of a negotiating State or a negotiating organization may invoke the fraud as  
17 invalidating its consent to be bound by the treaty."

18  
19  
20 (c) Article 50, Section Two, Part Five of the Vienna Convention on the Law of Treaties  
21 between States and International Organizations or between International Organizations

22 *Corruption of a representative of a State or of an international organization*

23  
24 "A State or an international organization the expression of whose consent to be bound by a  
25 treaty has been procured through the corruption of its representative directly or indirectly  
26 by a negotiating State or a negotiating organization may invoke such corruption as  
27 invalidating its consent to be bound by the treaty."

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29  
30 Consistent with the foregoing, it is hereby the declared policy of the State to take steps to void contracts  
31 and corresponding debts incurred fraudulently. The State shall act freely from any foreign influence in its  
32 policy formulation processes, especially relating to the economic allocation of its resources geared towards  
33 common prosperity and equitable distribution. To this effect, the State shall be independent from the  
34 dictates of foreign creditors or other entities imposing any policy, law, or practice ensuring or guaranteeing  
35 the allocation of government funds for debt service.

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38 **SECTION 3. *Debt Cancellation and Amendatory Provisions.***

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40 (a) The Debt Service Fund for Interest Payment of Republic Act No. 9336, or Annex A of what is  
41 otherwise known as the General Appropriations Act of 2005, shall hereby be amended such that  
42 the total value of debt service shall be decreased by the amount appropriated for 2005 interest  
43 payments for loans incurred by the Marcos Martial Law regime.

44  
45 (b) The Debt Service Fund for Principal Amortization, of Republic Act No. 9336, or Annex B of what is  
46 otherwise known as the General Appropriations Act of 2005, shall hereby be amended such that  
47 the total value of debt service shall be decreased by the amount appropriated for 2005 principal  
48 amortization payments for loans incurred by and related to the Marcos Martial Law regime.

49  
50 (c) Interest payments and principal amortization payments for loans incurred by and related to the  
51 Marcos Martial Law regime are hereby prohibited from being included in all succeeding General  
52 Appropriations Acts and supplementary budgets and from being charged against contingent funds  
53 upon the effectivity of this act.

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55  
56 **SECTION 4. *Negotiations for the Refund of Previous Debt Payments.***

(a) The Department of Finance is hereby directed to negotiate for the refund of all previous interest and principal amortization payments for loans incurred by or related to the Marcos Martial Law regime with the U.S. Department of Trade and all creditors of loans incurred by or related to the Marcos Martial Law regime.

(b) Terms of Negotiations

(1) Negotiations shall be concluded within one year from the formation of the team;

(2) Negotiations shall be transparent and the complete transcript of negotiations shall be made available to the Filipino citizenry through websites and publications.

#### **SECTION 5. Oversight Functions.**

The Departments of Finance and Budget and Management shall ensure the strictest compliance with this Act.

#### **SECTION 6. Penalties.**

Any violation of Section 3 (b) hereof shall subject the responsible public official/s therefore to imprisonment of eight (8) years with perpetual disqualification from holding elective and appointive office/s.

#### **SECTION 7. Repealing Clause.**

(a) Section 31 of Presidential Decree No. 1177 of July 30, 1977 entitled 'Revising The Budget Process In Order To Institutionalize The Budgetary Innovations Of The new Society' is hereby amended to read as follows:

"Section 31. *Automatic Appropriations.* All expenditures for (a) personal retirement premiums, government service insurance, and other similar fixed SOCIAL SERVICE expenditures [, (b) principal and interest on public debt, (c) national government guarantees of obligations which are drawn upon,] are automatically appropriated: provided, that no obligations shall be incurred or payments made from funds thus automatically appropriated except as issued in the form of regular budgetary allotments."

(b) Section 26, Chapter 4, Book VI of Executive Order No. 292, otherwise known as the "Administrative Code of 1987" which reiterates *in toto* Section 31 of Presidential Decree No. 1177 and similar laws, decrees, executive orders, administrative orders, or circulars is likewise hereby amended.s

(c) All other laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with any of the provisions of this Act, are hereby repealed or amended accordingly.

**SECTION 8. Separability Clause.** – If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

**SECTION 9. Effectivity.** – This Act shall take effect fifteen days after its complete publication in at least two (2) national newspapers of general circulation.

Approved,