

Understanding the “Pork Barrel”

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The public cannot appreciate what it does not understand. This truism aggravates the misconception of the Priority Development Assistance Fund (PDAF) and allied congressional initiative allocations collectively labeled as “pork barrel” in the derisive tradition of its American origin of unbridled patronage.

Many are obviously unaware or simply forget that no less than the Supreme Court in *Philippine Constitutional Association vs. Enriquez, et al.* (235 SCRA 507 [1994]) has categorically declared that the appropriation of the Countrywide Development Fund (CDF), the forerunner of the Priority Development Assistance Fund (PDAF), is a valid and constitutional exercise of the congressional “power of the purse.”

Many more fail to see that the relatively small projects implemented under the PDAF complement and link the national development goals to the countryside and grassroots as well as to depressed areas which are overlooked by central agencies which are preoccupied with mega-projects.

Even more fail to realize that since the advent of the CDF in 1990 and the institution of the PDAF in 2000 up to the present, there has been no post-audit report by the Commission on Audit (COA) directly associating any Member of Congress to a serious abuse, misuse and/or infraction in the utilization and implementation of the much-maligned congressional funds.

Almost everyone believes that the CDF or PDAF is a cash allocation personally given to Congressmen and Senators for their unlimited discretionary disposition without any constraint or accountability. This is a gross misconception because Members of Congress neither handle the funds nor implement the projects. Their authority is limited to the identification of projects and designation of beneficiaries, subject to a specific menu. The implementation is undertaken by the appropriate government agency after an open public bidding.

American ancestry of “pork barrel”

The expression “pork barrel” alludes to the fatness of pork and is equated with political largesse in American politics since the mid-1800s (American Heritage Dictionary of the English Language, 4th edition). *Wikipedia* reports that as an actual container for storing pig meat in brine, the pork barrel has been with the Americans since the early days of their Republic. The advent of refrigeration has made the actual pork barrel obsolete. However, it persists in reference to political bills that bring home the bacon to a legislator’s district and constituents.

“Even without ever having seen an actual pork barrel, Americans continue to use the term today for its vivid negative implications. A pork barrel suggests fat and grease, not only in its contents but also in those who reach for it.” (Barnhart, David K. and Allan A. Metcalf, *America in So Many Words*. Houghton Mifflin Company, 1997).

The phrase probably is derived from the pre-Civil War practice of periodically distributing salt pork to plantation slaves from huge barrels. C. C. Maxey wrote in the *National Municipal Review* in 1919:

Oftentimes the eagerness of the slaves would result in a rush upon the pork barrel, in which each would strive to grab as much as possible for himself. Members of Congress in the stampede to get their local appropriation items into the omnibus river and harbor bills behaved so much like Negro

slaves rushing the pork barrel, that these bills were facetiously styled "pork barrel" bills and the system has thus become known as the pork barrel system.

By the 1870s, congressmen were regularly referring to "pork," and the word became part of the U.S. political lexicon. *Time* magazine, noted in 1948 that one Peter J. McGuinness "fished in Tammany's pork barrel for 28 years to bring improvement to 'me people'." In a Baltimore speech on inflation in 1952, Adlai Stevenson pledged "no pork-barreling while our economy is in its present condition."

Former Senator Paul H. Douglas, Democrat of Illinois, suggests that getting rid of the practice appears impossible: "As groups win their battle for special expenditures," he said, "they lose the more important war for general economy... they are like drunkards who shout for temperance in the intervals between cocktails."

Jesse Burkhead in his treatise *Government Budgeting* wrote in the context of American politics:

In the application of its local concerns to a national budget, the Congress will necessarily engage in some reshaping and remolding. Very often this process takes the form of increases in specific appropriations for specific projects in a congressman's district. Where individual congressmen are powerful or strategically placed, as on appropriations committees, there is a resultant dipping into the pork barrel. In the semantics of American politics the 'pork barrel' is an extremely sinful kind of thing. But it should be recognized as an inevitable, and, at times, a desirable, device for reshaping national policy.

Washington journalist Brian Kelly criticized the practice of pork barrel in the American federal government in his 1993 book, "Adventures in Porkland". According to Kelly, "many people think pork is the essence of at least one theory in politics – the one that says all politics is local. This philosophy holds that an elected official's job is to take care of the folks back home, in a Washington that is a marketplace of competing factions where the strong, swift and clever will usually prevail. Pork is the politics of self-interest, and – let's be realistic about this – it's human nature. Pork is a free lunch.

It's spending other people's money. It's check without balances, school without teachers, highways without traffic cops, law without prisons."

Other countries call the practice [patronage](#), but the process is not always equated with corrupt or undesirable conduct. The use of the term pork barrel is also present in the political lexicons of the [UK](#), [Australia](#) and [New Zealand](#). (House of Representatives, New Zealand: Speakers' Rulings 1867-2005 inclusive, p. 187:4. Retrieved April 12, 2007). A similar expression – "election pork" – is used in Denmark (*valgflæsk*) and Sweden (*valfläsk*), where they stand for promises made *before* an election. (*Nationalencyklopedin*, NE Nationalencyklopedin AB. Article *Valfläsk*).

Pork Barrel System Transplanted to the Philippines

The use of pork barrel funds in the Philippines dates back to the 1930s during the U.S. colonial occupation. Wrote Patricio Diaz in a column for *MindaNews*:

The spoil system originated from American politics. Just like today, appointive positions then were the preserve of the party in power. These positions, like today, were used to pay political debts.

The pork barrel in Congress was part of this spoil system. In fact, in the 1930s, pork barrel was like the personal discretionary fund of the members of the Legislature who belonged to the ruling party.

The pork barrel system patterned after American precedents pervaded the pre-martial law Congress. In fact, "legislators who served during the said period even bragged that congressmen had greater access to pork and enjoyed uncontested latitude in its use" and claimed that because of their pork barrel they were "more feared than now!" (Salvador Miranda, "The Politics of Pork", November, 1996).

Miranda continues: "when former President Ferdinand Marcos governed through martial rule, the problem earned a new name – cronyism – and reached its height. The other difference is that at that time, the dispenser of pork was concentrated in one

person – Marcos himself – with absolutely no check on any abuse committed. The national tragedy that followed was unprecedented in the country's history."

Congressional Initiatives After the EDSA Revolution

The long years of martial rule under Marcos obliterated the legislators' "franchise" on pork barrel in the pejorative American tradition since one man controlled the legislature. Moreover, the revulsion against the profligacy and corruption during the martial law regime deterred the revival of the offensive pork barrel system. Hence, the congressional allocations instituted in the 8th Congress after the EDSA revolution, which were nonetheless dubbed, albeit inaccurately, as "pork barrel", had definitive parameters, equal apportionments, built-in accountability and clear transparency. Unlike the American pork barrel, the allocation was not a "check without balances, school without teachers, highways without traffic cops, law without prisons."

In 1989, the Mindanao Development Fund and Visayas Development Fund were created with lump sum appropriations of P480 million and P240 million, respectively. Thus, Representatives from Visayas and Mindanao were authorized to identify development projects worth P10 million per district. This prompted Senators and Representatives from Luzon to assert that they similarly needed funds for their local projects. Consequently, in 1990 the Countrywide Development Fund (CDF) was created with an initial funding of P2.3 billion for projects in all congressional districts and the national constituency of Senators.

The CDF aims to support small local infrastructure and other priority community projects which are not included in the national infrastructure program involving massive and costly projects. It has been regularly included in the annual General Appropriations Acts since 1990.

In 2000, the CDF was transformed into the Priority Development Assistance Fund (PDAF).

Legislative Supremacy in the Appropriation of Public Funds

The act of providing congressional allocations like the CDF and the PDAF is an exercise in the appropriation of public funds.

The power of the purse is constitutionally vested in the House of Representatives. This power traces its ancestry and finds its ascendancy from the very inception of our republicanism in various constitutional drafts, statutes and constitutions, namely:

- The Programa Consitucional de la Republica de Filipina, drafted by Mabini;
- The Malolos Constitution which was approved on January 20, 1899;
- The Negros Constitution when Negros became the first organized government to collaborate with the Americans. This Constitution was approved in May 1899 and was recognized by the American Military Governor in June 1899;
- The "National Constitution of the Philippine Islands" which was drafted by Cayetano Arellano, the First Chief Justice of the Supreme Court, which was submitted to the first Philippine Commission or the Schurman Commission;
- The Philippine Bill of 1902;
- The 1935 Constitution;
- The 1973 Marcos Constitution which vested the power in the Unicameral Batasan Pambansa; and
- The 1987 Cory Constitution.

All of the foregoing drafts and constitutions invariably provided for the supremacy of Congress, more particularly the House of Representatives or its earlier counterparts, over the appropriation of public funds.

The rationale for locating the power over the expenditure of public funds in the House of Representatives is more than obvious. It is the more popularly representative

chamber. It has a more direct affinity with the people whose very own money is to be spent.

The observation of James Madison in the *Federalist Papers* is instructive:

The members of the legislative department are distributed and dwell among the people at large. Their connections of blood, of friendship, and of acquaintance embrace a great proportion of the most influential part of society. The nature of their public trust implies a personal influence among the people, and that they are more immediately the confidential guardians of the rights and liberties of the people...

Verily, the power to appropriate encompasses the authority to identify projects which require funding under the General Appropriations Act or other appropriation measures. This is the essence and rationale of the CDF and the PDAF.

Supreme Court Sustains the Constitutionality of CDF (and PDAF)

Four years after the adoption of the CDF, the Philippine Constitution Association, among other petitioners, asked the Supreme Court to declare as unconstitutional and void the Countrywide Development Fund (CDF) as provided for in the General Appropriations Act of 1994. In the precedent-setting case of *Philconsa vs. Enriquez, et al.*, the High Court declared in no uncertain terms that the CDF is valid and constitutional. It was ruled that:

Under the Constitution, the spending power called by James Madison as “the power of the purse,” belongs to Congress, subject only to the veto power of the President. The President may propose the budget, but still the final say on the matter of appropriations is lodged in the Congress.

The power of appropriation carries with it the power to specify the project or activity to be funded under the appropriation law. It can be as detailed and as broad as Congress wants it to be. (Emphasis supplied).

The Countrywide Development Fund is explicit that it shall be used “for infrastructure, purchase of ambulances and computers and other priority projects and activities and credit facilities to qualified beneficiaries xxx.” It was Congress itself that determined the purposes for the appropriation.

The Supreme Court further held that:

The Constitution is a framework of a workable government and its interpretation must take into account the complexities, realities and politics attendant to the operation of the political branches of government. Prior to the GAA of 1991, there was an uneven allocation of appropriations for the constituents of the members of Congress, with the members close to the Congressional leadership or who hold cards for "horse-trading," getting more than their less favored colleagues. The members of Congress also had to reckon with an unsympathetic President, who could exercise his veto power to cancel from the appropriation bill a pet project of a Representative or Senator.

The Countrywide Development Fund attempts to make equal the unequal. It is also a recognition that individual members of Congress, far more than the President and their congressional colleagues, are likely to be knowledgeable about the needs of their respective constituents and the priority to be given each project. (Emphasis supplied).

Seven years after *Philconsa vs. Enriquez*, the Supreme Court in *Sarmiento et al. vs. The Treasurer of the Philippines, et al.* (G.R. No. 125680 & 126313, September 4, 2001) reaffirmed *in toto* its previous ruling on the constitutionality of the CDF.

“Soft” and “Hard” Projects

All congressional districts are entitled to “soft” and “hard” (infrastructure) projects in equal amounts per district to be identified by the district Representative concerned. Sectoral constituencies have the same entitlements through their party-list Representatives. Likewise, the national constituency of Senators has allocations to be identified by the respective Senators.

The “soft” projects are identified and implemented under the PDAF following a shortlist or menu of projects as presently provided for in the General Appropriations Act. These are basically non-infrastructure projects like scholarship programs, medical assistance to indigent patients in government hospitals, livelihood support programs, the purchase of IT equipment and financial assistance to local governments (LGUs) for the latter’s priority projects and programs. However, the PDAF can also be used to fund small infrastructure projects like roads, bridges, footbridges, pathways, multipurpose buildings, school buildings, potable water systems, flood control, drainage systems, irrigation facilities and electrification projects.

The “hard” projects cover relatively small infrastructure projects similar to those funded under the PDAF. These projects are reflected in the General Appropriations Act under individual district allocations and under the DPWH locally funded nationwide lump sum appropriations.

Parameters of Transparency, Accountability, Utility and Relevance

The congressional “soft” and “hard” projects are definitely far departures from the original American pork barrel system and from the practice of the old Congress before it was abolished by Marcos. Now, the utilization of the CDF or PDAF is strictly circumscribed by a shortlist or menu of qualified projects, requirement of utility and relevance, stringent procurement and public bidding procedures, accountable implementing agencies and mandatory post-audit review by the Commission on Audit (COA), among other safeguards.

In particular, Special Provision No. 1 under XLVI on Priority Development Assistance Fund (p. 950 of the General Appropriations Act for 2008) provides in full:

1. Use and Release of the Fund. The amount appropriated herein shall be used to fund priority programs and projects under the Ten-Point Legacy Agenda of the national government, and shall be released directly to the implementing agencies as indicated hereunder, to wit:

Particulars	Program/Project	Implementing Agency
A. Education	Purchase of IT Equipment Scholarship	DepEd/TESDA/CHED/SUCs/LGUs TESDA/CHED/SUCs/LGUs
B. Health	Assistance to Indigent Patients Either Confined or Out-Patients, in Hospitals Under DOH Including Specialty Hospitals Professional Fees Shall be Covered for Payment on a Case to Case Basis Upon the Recommendation of the Members of Congress Concerned Purchase of Medical Equipment Assistance to Indigent Patients at the Hospitals Devolved to LGUs and RHUs Insurance Premium	DOH/Specialty Hospitals/ UPS-PGH, WVSU Hospital DOH/Specialty Hospitals/ UPS-PGH, WVSU Hospital LGU PhilHealth
C. Livelihood/ CIDSS	Small and Medium Enterprise/ Livelihood Comprehensive Integrated Delivery of Social Services	DTI/DA/LIVECOR/CDA/OMA DSWD
D. Rural Electrification	Barangay/Rural Electrification	DOE/NEA/LGUs
E. Water Supply	Construction of Water System Installation of Pipes, Pumps, Tanks Water Supply Development for Local Water Districts	DPWH LGUs LWUA
F. Financial Assistance	Specific Programs and Projects to Address the Pro-Poor Programs of Government	LGUs
G. Public Works	Construction/Repair/Rehabilitation of the following: Roads/Bridges/Flood Control/School Buildings/Hospitals/Health Facilities/Public Markets/Multi-Purpose Buildings/Multi-Purpose	DPWH

	Pavements Construction/Repair/Rehabilitation of Academic Buildings	SUCs
H. Irrigation	Construction/Repair/Rehabilitation of Irrigation Facilities	DA-NIA
I. Peace and Order	Purchase of Vehicles, Firetrucks and Firefighting Equipment Construction/Repair of Police, Jail and Fire Stations	DILG-PNP/BFP/BJMP DILG-PNP/BFP/BJMP
J. Housing	Construction of Housing Units for Eligible Beneficiaries	NHA/LGUs
K. Forest Management	Establishment/Rehabilitation/Mainte- nance and Protection of Forest, Mangroves and Watersheds Upland Agro-Forestry Development Program specifically for the Planting of <i>Jatropha Curcas</i> L	DENR NRDC-PFC
L. Historical/ Arts/Culture	Historical Sites/Heritage	NHI

PROVIDED, That in the procurement of common-use supplies, the implementing agencies shall adhere to the price list and the rules and regulations to be issued by the Government Procurement Policy Board: x x x
PROVIDED, FURTHERMORE, That the appropriation herein authorized shall have validity of two (2) years as provided under Section 66 of the General Provisions of this Act.

Innovative Additional Safeguards

The new leadership of the House of Representatives has directed, for further transparency and accountability, the publication in a congressional website all of the projects and programs identified by House Members under their respective lists of “soft” and “hard” projects. The website will also include the progress status and accomplishment of the projects.

This innovation will afford the public the opportunity to assess the importance of and the need for the congressional projects and enhance the people's right to make reasonable protests and complaints.

Constituents Need the New Brand of "Pork Barrel"

The CDF or PDAF funds are small but significant projects and programs in the congressional districts which do not qualify under the mega concerns of the national agencies or are ignored by them for being miniscule. These minor projects bring the government closer to the people and complement the national government's agenda on the speedy and adequate delivery of basic social services as well as the promotion of infrastructure development.

In fine, the demands for the abolition of the CDF or PDAF are uncalled for. Scrapping these allocations would mean more indigent patients not getting free medical assistance, more students deprived of scholarships, more rural folk denied of livelihood support, more people without potable water and electricity, more farmers without irrigation facilities and more unemployed because of fewer infrastructure projects.

Indeed, understanding the PDAF is appreciating its necessity and import. It is not by any measure akin to the sinful "pork barrel" of the original American mold.