

Part Three of Book II:

[A People Caught in Its Own Dung](#)

By Ado Paglinawan

To avoid creating an impression that nuclear power was just some whirlwind dalliance the Philip pines got itself into, let me engage in some brief historiography on how the whole scenario grew from an egg-shaped dome in the University of the Philippines (UP) campus to the most-controversial white elephant in the whole of Southeast Asia

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To do this, I will borrow some dispassionate materials from papers written by UP professors. This could be a bit boring but is necessary to situate the points of departure many ideologists and politicians have attempted in using it to snow-job public understanding from the basic-science angle of the project.

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This narrative shows how an erstwhile worthy project that started with all best intentions can be hijacked by polemics and how ideology could become a deadly Frankenstein haunting our fiscal health for generations.

Our nuclear program started in 1955 during the Ramon Magsaysay administration when the Philippines signed up with the US Atoms-for-Peace Program.

President Carlos Garcia pushed for the creation of the Philippine Atomic Energy Commission (PAEC). On June 12, 1958, Republic Act 2067 known as "The Philippine Science Act of 1958" created the PAEC and empowered it to "conduct or cause the research and development of, among others, processes, materials and devices used in the production of atomic energy."

President Diosdado Macapagal initiated the first UN pre-investment feasibility study (1963-1965) for a nuclear-power plant in Luzon, with the Philippine government requesting the International Atomic Energy Agency (IAEA) for assistance in examining the prospects and feasibility of using nuclear energy in the country.

After the studies, the Philippine Congress passed on June 15, 1968, Republic Act 5207 known as the "Atomic Energy Regulatory and Liability Act of 1968." This law gave PAEC the power to

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issue license for the construction, possession or operation of any atomic-energy facility in the Philippines

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On June 23, 1971, President Marcos issued Administrative Order No. 293 that set up a Coordinating Committee for Nuclear Power Study (CCNPS) to prepare the initial work for a new-and-updated feasibility study.

On September 10 of the same year, the Charter of the National Power Corporation (NPC) was revised with the enactment of RA 6395, authorizing the NPC to "construct, operate and maintain power plants for the production of electricity from nuclear, geothermal and other sources." Consequently, in 1972, the CCNPS undertook a second feasibility study with assistance from the UN Development Program.

In 1973 and 1974, evaluation and selection of the best site for the plant and discussions on the appropriate type of reactor, respectively were undertaken. It was decided that a Pressurized Water Reactor (PWR) was more appropriate. Thus, in 1976, a contract for the nuclear-power plant was signed between the NPC and Westinghouse Electric Corporation that manufactures PWR

. An estimate as to the construction cost of the power plant was placed at US\$1.1-billion.

During that same year, NPC filed an application for a provisional permit to start groundwork for

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the nuclear-power plant with PAEC and was subsequently granted one.

In the following year (1977), NPC filed an application for a construction permit for the nuclear-power plant with PAEC and was also granted one. Also on that same year, President Marcos issued Presidential Decree No. 1206 that created the Ministry of Energy and attached the NPC to this new agency.

Unfortunately, construction work on the nuclear-power plant was stopped in June 1979 after the Three-Mile Island incident. A commission was formed to look into the plant's safety. Consequently, after five months of inquiry, the Commission recommended that additional safety upgrades be incorporated in the original design of the plant. Construction work resumed in September 1980. The inclusion of additional safety upgrades in the plant design lengthened the construction timetable by an additional 18 months and increased the cost of construction to around US\$1.95 billion.

The nuclear-power plant was finally completed in 1985 and the first batch of nuclear fuel was delivered.

On February 11, 1986, the Supreme Court enjoined the Philippine Atomic Energy Commission into issuing a license to the National Power Corporation that would have started the plant's commercial operations.

But two weeks later, the “EDSA Revolution” overtook events and Mr. Marcos was deposed from the presidency by an ensuing military rebellion.

President Corazon Aquino suspended the Westinghouse contract and created the Presidential Committee on the Philippine Nuclear Power Plant on August 30, 1986, five days after the Chernobyl accident.

The fate of the Philippine nuclear industry, however, did not end with the mothballing of the plant.

The first complication was defanging the industry from a commission back to the academic level. President Aquino issued Executive Order 128 the following year, which reorganized the government and downgraded PAEC as the Philippine Nuclear Research Institute under the Department of Science and Technology.

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The second complication was engaging in feisty litigation that had serious international repercussions.

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As President Aquino left the podium to the thundering applause of the joint houses of the US Congress, US Secretary of State told her “I think you just hit a home run.” She replied, “And I hope the bases are loaded.”

It should be remembered that in the speech before the US Congress in September 1986, the new Philippine chief executive was not only met with standing ovations for her commitment to democracy but also for her pledge to honor our country’s foreign obligations.

(As she left the podium to the thundering applause of the joint houses of the US Congress, US Secretary of State told her “I think you just hit a home run.” She replied, “And I hope the bases are loaded.” Indeed, the bases were loaded throughout all subsequent “innings” because Capitol thereafter passed a bill providing for \$800-million as seed money of the people of the United States
for a Multilateral Aid Initiative [MAI] to help the Philippine get back to its feet.

The American media billed this sum as the biggest “honorarium” ever in US history accorded a single speech. And where President Ronald Reagan was cooperative but with an apparent reservation because of the Reagan’s friendship with the Marcoses, his successor George Bush, Sr. was very deliberate. Bush empowered the MAI

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and appointed Ambassador Elliot Richardson as his enforcer. The

MAI

crossed boundaries and saw one of the most aggressive international economic-recovery program after the Mini-Marshall Plan of

Western Europe

after the Second World War. It was participated in by 19 countries and multilateral institutions like the United Nations, the World Bank and the Asian Development Bank.)

Many more countries outside of the US wanted to help the Philippines but President Aquino began sending the wrong signals to the world economy when she set up a Presidential Committee on Philippine Nuclear Power Plant that eventually filed a lawsuit in New Jersey in December 1988 against Westinghouse and the company Burns and Roe on charges of bribery, fraud and racketeering alleging that Westinghouse, et al, connived with then President Marcos and his crony, Herminio Disini, for the construction of the power plant.

A similar case was also filed in Switzerland for international arbitration, a move that somewhat caused a mixed bag among many-more entities that could have given more aid for the Philippines

The suits specifically claimed that Disini accepted \$17.3-million in bribes from the American firms in behalf of Mr. Marcos, and the government was asking the courts to cancel the contract and compel the firms to return money paid for the construction of the power plant, seeking \$26.6-million in damages.

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On March 4, 1992, the Aquino Administration and Westinghouse entered into a compromise agreement.

Under this agreement, Westinghouse would upgrade and refurbish the plant over a three-year period at a cost of US\$400-million and operate the plant for up to 30 years. In return, Westinghouse will be paid a management fee of US\$40-million a year and 0.029 US cent for every kilowatt-hour generated by the plant.

Westinghouse would also pay the Philippines US\$10-million in cash and US\$75-million in discounts on the upgrade and credits on non-nuclear-related equipment for the Philippines' power development program.

Immediately after being elected in May 1992, President Fidel V. Ramos asked Congress in his first State of the Nation address for emergency powers to solve the worsening crisis brought about by massive brownouts that began as early as 1989.

In 1992, Congress passed Republic Act 7638 or the Department of Energy Act of 1992 titled "An Act Creating the Department of Energy Rationalizing the Organization and Functions of Government Agencies Related to Energy and for other Purposes." The DOE comes up with Philippine Energy Plans, the most recent of which is the Philippine Energy Plan 1998-2035.

But President Ramos had a change of heart about the government's settlement with Westinghouse and used his emergency powers to reject the corporation's final offer. Succeeding articles to this series will give us an idea what motivations could have driven him to this fickle turnaround.

His decision stuck out like a sore thumb because in May 1993, the case of bribery, fraud and racketeering that the Aquino government filed in New Jersey was dismissed, as the court acquitted Westinghouse and Burns & Roe.

The Swiss Federal Supreme Court also threw out in October 1993 the same government's bribery suit against Burns & Roe, and ruled that the Philippines instead owed the US engineering firm \$1-million in damages.

In December 1993, President Ramos hinted in December 1993 that the government was still open to talks with Westinghouse and two years later on October 1995, he signed a \$100-million settlement with Westinghouse, with the government still saddled to pay \$300,000 in daily interest.

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Under the agreement, Westinghouse will pay the government \$40-million in cash and supply two new 50IF combustion turbines valued at \$30-million each, in exchange for allowing the blacklisted company to resume bidding for projects in the country.

The Philippine government also dropped the bribery case pending in the United States, and the arbitration case filed in Switzerland, but only after spending millions of dollars for lawyers and wasting a lot of international goodwill for a suit that finally proved itself to have been fueled more by emotional binging on some victimological syndrome when the country could have more strategically engaged in productive and victorious engagements with multilateral grantors that were queuing to assist the country.

In May 1995, President Ramos issued Executive Order No. 243 that created the Nuclear Power Steering Committee (NPSC). The NPSC was to "provide policies, directions, evaluation, and other functions necessary and appropriate to attain the objectives of the overall nuclear power program, and to prepare action plans, work programs and proposed timetables."

In November 1997, the Philippine Government approved the BNPP's "integrated conversion into alternative utilization for power generation using natural gas." In more specific terms, the BNPP is to be converted into a combined gas cycle plant, an option obviously arrived at as a compromise between the fear factor fomented against nuclear and the dirty air from emissions of fossil fuel but whose cost would be astronomical.

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The unspent uranium fuel was subsequently shipped out in December 1997 to its buyer, Siemens Power Corporation in the US.

Two gas turbines as part of the settlement with Westinghouse in the late 90s were also sold for only \$58.3-million.

The Philippines' recourse against so-called Marcos cronies nearly suffered another setback when Former Ombudsman Aniano Desierto thrice dismissed in 1997 charges against Herminio Disini for lack of factual-and-legal basis

On February 2003, however, the Presidential Commission of Good Government (PCGG) elevated the Desini case to the Supreme Court. The highest court eventually ordered the Sandiganbayan to file the graft raps, issued a warrant of arrest against Disini setting bail at 54,000 pesos.

The Bureau of the Treasury announced on April 13, 2007, that the country had made its final payment of \$15-million for the BNPP loans (of \$2.3-billion) and that from then on, the issue was "officially off the books," and was "just a big white elephant."

Reynato Puno, then Supreme Court Associate Justice, in a speech on April 2005 called for the immediate cessation of BNPP loan payments noting that the country was shelling out \$155,000 daily for the loans and that the payments would continue until 2018.

Filemon Condino, head of the fiscal planning and assessment division of the Bureau of the Treasury announced on April 13, 2007, the country had made its final payment of \$15-million for the BNPP loans (of \$2.3-billion) and that from then on, the issue was "officially off the books," and was "just a big white elephant."

An eight-man team from the IAEA arrived in the Philippines in January 2008 to examine whether or not plant can be rehabilitated. The IAEA team was led by Akira Omoto, director of the agency's nuclear division, with other team members, Zhang Jing, IAEA section head for Asia and the Pacific, Ki Sig Tang, technical officer at the nuclear division, David Greaves and Eric Weinstein, technical officers at the nuclear safety and security division, and three independent experts: John Rames, an Australian expert on legal infrastructure, Jose E. Brayner Costa Mattos, a Brazilian nuclear-power expert and loan Rotaru, a Romanian nuclear-power expert.

On July 3, 2008, Congressman Mark Cojuangco (Fifth District of Pangasinan) filed House Bill 4631 calling for the immediate recommissioning of Bataan Nuclear Plant. It gained the support of 190 legislators, but met fierce debate among civil society groups, some congressmen and Catholic bishops.

In December 2008, the Department of Energy through the National Power Corporation signed a memorandum of agreement with the Korea Electric Power Corp (Kepco) to conduct a feasibility study on the possible revival of the BNPP.

In March 2009, The House appropriations committee approved a P100-million allocation for a new study on the viability of commissioning the mothballed Bataan Nuclear Power Plant. Albay Rep. Edcel Lagman, senior committee vice chairman, proposed the new “validation or feasibility” study as a “compromise” to the bill of Pangasinan Rep. Marcos Cojuangco. During deliberations, it was also learned that the government continues to spend P40-million a year for the upkeep of the plant even if it has not generated a single watt of electricity.

To date, Herminio Desini remains to be a free man. Last month (October 2009), he again petitioned the anti-graft court to dismiss the criminal cases filed against him in connection with the \$18-million bribe that he allegedly solicited for the mothballed Bataan Nuclear Power Plant.

This narrative, boring to the pedestrian – but jewels to a student of history of science, corruption, incompetence and waste of government money – shows how an erstwhile worthy project starting with all best intentions can be hijacked by polemics and ideology could become a deadly Frankenstein haunting our fiscal health for generations.

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Perhaps an old Filipino adage may be relevant here –*kung gustong gawin, maraming paraan, pero kung ayaw, maraming dahilan* (if you want something done, there are many ways, but if not, there are many excuses.)

There is hardly an American idiom that translates this directly but the closest is “If it ain’t broke, don’t fix it!” # # #

E ditor’s Note: To read the earlier parts of Book Two, please click on these hyperlinks:

[After the Deluge, Soon the Return of Massive Brownouts?](#) (Part I)

[Protocols on Nuclear Security, Safety and Technology Transfer](#) (Part II)

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