
Patricia Adams

ODIOUS
DEBTS

Loose Lending, Corruption,
And the Third World's
Environmental Legacy

PROBE INTERNATIONAL

Patricia Adams

ODIOUS DEBTS

Loose Lending, Corruption,
And the Third World's
Environmental Legacy

Probe International

1991
EARTHSCAN
London . Toronto

First edition published simultaneously in the United Kingdom by Earthscan Publications Ltd., 3 Endsleigh Street, London WC1H 0DD; and in Canada by Earthscan Canada, 225 Brunswick Avenue, Toronto, Ontario M5S 2M6. Telephone (416) 978-7014, Fax (416) 978-3824

All rights reserved

British Library Cataloguing in Publication Data

Adams, Patricia

Odious Debts: Loose Lending, Corruption and the Third World's Environmental Legacy

I. Title

336.309172

I.S.B.N 1-85383-122-0

Earthscan Publications Ltd. in the United Kingdom is an editorially independent subsidiary of the International Institute for Environment and Development (IIED; charity number 800066).

Canadian Cataloguing in Publication Data

Adams, Patricia, 1953-

Odious Debts

Includes bibliographical references and index.

ISBN 0-919849-16-4 (bound). - ISBN 0-919849-14-8 (pbk.)

1. Economic development projects - Environmental aspects - Developing countries. 2. Economic development projects - Developing countries - Finance. 3. Developing countries - Economic policy - Environmental aspects. 4. Debts, External - Developing countries. 5. Developing countries - Foreign economic relations. 6. International finance - Law and legislation. I. Earthscan Canada. II. Title.

HC59. 72. E5A32 1991 332. 6'73'091724 C91-094729-5

Probe International is a research division of EPRF Energy Probe Research Foundation

Produced by Environment Matters, Toronto, Canada

Printed using recycled paper by Bookcrafters, U.S.A

Copyright© 1991 Earthscan Canada

ISBN Summary

0-919849-14-8 Softcover Canada

0-919849-16-4 Hardcover Canada

1-85383-122-0 UK Softcover

Contents

Acknowledgements	6
INTRODUCTION: The Tragedies of the Commons	10
PART I: <i>The Environment's Demise</i>	15
1. The Environmental Legacy of Yesterday's Loans	16
2. The Environment Strikes Back	25
3. The Environment Strikes Back: The Economy	35
4. The Asset Sale	41
5. The Debt Crisis' Silver Lining	49
PART II: <i>Easy Lenders</i>	
Introduction: The Queen Comes to Sicartsa	60
6. Bankers to the Third World	65
7. A Credit Union for Countries	75
8. The New Mercantilists	82
9. Givers and Takers	91
10. The Petrodollar Recyclers	95
PART III: <i>Eager Borrowers</i>	
Introduction: Ponzi Writ Large	104
11. The Business of the State	110
12. Money for the Military	119
13. Despots on the Dole	124
14. Corruption in High and Not-So High Places	132
15. The Nether Borrowers	144
16. Unchecked Governments	151
PART IV: <i>The Third World's Tax Revolt</i>	
Introduction: Illegitimate Debts	158
17. The Doctrine of Odious Debts	162
18. Mercantile Law Versus The People	171
19. The Virtues of Taxation	179
20. CONCLUSION: Tragic Commons No More	185
Sources and Further Commentary	195
Index	240

WE'VE ALL HEARD of the Third World's debt crisis, of hopelessly poor nations unable to pay their debts, and of the human suffering and environmental consequences of their desperate predicament. Amid emotional calls from some to forgive the debt outright come the sober solutions from bankers and bureaucrats, with their seemingly unending stream of Brady and Baker Plans, and bewildering variants of them.

Yet despite the raging world-wide controversy over the Third World's debt, no one has posed these most elementary questions: who lent what and to whom, where did the money go, what did it do there, and where is it now.

In this brilliant hybrid of detective work and policy analysis, Patricia Adams has unraveled a rats' nest of Third World lending to describe the debt crisis in its startling simplicity. Her conclusions are equally startling – not what many might have expected from a prominent environmentalist heading an outspoken advocacy organization.

Through a straightforward exposition of the facts, you will come to see the debt for what it is – the sum total of thousands of loans, some illegitimate, justifying repudiation, others legitimate, meriting repayment. Surprisingly, you will learn that the Third World's environment – so ravaged through decades of degradation – has often been spared by virtue of the debt. And that legal mechanisms – first used by the U.S. to repudiate Cuban debts after the Spanish-American War – are in place to resolve the debt crisis far more equitably than political solutions cooked up in Washington and the capitals of Third World countries. Odious debts are well established in international law; through this doctrine Chase Manhattan, the World Bank, and other lenders would collect on their debts – not from the people of the Third World but from the Marcoses and Mobutus who would be liable.

Patricia Adams is an economist and the author of *In the Name of Progress: The Underside of Foreign Aid*. She lives in Toronto and is the Executive Director of Probe International, a think-tank concerned with Third World aid and trade policies.

Other Books by Probe International

In The Name of Progress: The Underside of Foreign Aid (by Patricia Adams and Lawrence Solomon)

Damming The Three Gorges: What Dam-Builders Don't Want You To Know (Edited by Gráinne Ryder)

This edition made possible through grants from the Charles Stewart Mott Foundation and the Margaret Laurence Fund for Peace and the Environment.

Patricia Adams

ODIOUS DEBTS

Loose Lending, Corruption,
And the Third World's
Environmental Legacy

Probe International

1991
EARTHSCAN
London . Toronto

First edition published simultaneously in the United Kingdom by Earthscan Publications Ltd., 3 Endsleigh Street, London WC1H 0DD; and in Canada by Earthscan Canada, 225 Brunswick Avenue, Toronto, Ontario M5S 2M6. Telephone (416) 978-7014, Fax (416) 978-3824

All rights reserved

British Library Cataloguing in Publication Data

Adams, Patricia

Odious Debts: Loose Lending, Corruption and the Third World's Environmental Legacy

I. Title

336.309172

I.S.B.N 1-85383-122-0

Earthscan Publications Ltd. in the United Kingdom is an editorially independent subsidiary of the International Institute for Environment and Development (IIED; charity number 800066).

Canadian Cataloguing in Publication Data

Adams, Patricia, 1953-

Odious Debts

Includes bibliographical references and index.

ISBN 0-919849-16-4 (bound). - ISBN 0-919849-14-8 (pbk.)

1. Economic development projects - Environmental aspects - Developing countries. 2. Economic development projects - Developing countries - Finance. 3. Developing countries - Economic policy - Environmental aspects. 4. Debts, External - Developing countries. 5. Developing countries - Foreign economic relations. 6. International finance - Law and legislation. I. Earthscan Canada. II. Title.

HC59. 72. E5A32 1991 332. 6'73'091724 C91-094729-5

Probe International is a research division of EPRF Energy Probe Research Foundation

Produced by Environment Matters, Toronto, Canada

Printed using recycled paper by Bookcrafters, U.S.A

Copyright© 1991 Earthscan Canada

ISBN Summary

0-919849-14-8 Softcover Canada

0-919849-16-4 Hardcover Canada

1-85383-122-0 UK Softcover

Contents

Acknowledgements	6
INTRODUCTION: The Tragedies of the Commons	10
PART I: <i>The Environment's Demise</i>	15
1. The Environmental Legacy of Yesterday's Loans	16
2. The Environment Strikes Back	25
3. The Environment Strikes Back: The Economy	35
4. The Asset Sale	41
5. The Debt Crisis' Silver Lining	49
PART II: <i>Easy Lenders</i>	
Introduction: The Queen Comes to Sicartsa	60
6. Bankers to the Third World	65
7. A Credit Union for Countries	75
8. The New Mercantilists	82
9. Givers and Takers	91
10. The Petrodollar Recyclers	95
PART III: <i>Eager Borrowers</i>	
Introduction: Ponzi Writ Large	104
11. The Business of the State	110
12. Money for the Military	119
13. Despots on the Dole	124
14. Corruption in High and Not-So High Places	132
15. The Nether Borrowers	144
16. Unchecked Governments	151
PART IV: <i>The Third World's Tax Revolt</i>	
Introduction: Illegitimate Debts	158
17. The Doctrine of Odious Debts	162
18. Mercantile Law Versus The People	171
19. The Virtues of Taxation	179
20. CONCLUSION: Tragic Commons No More	185
Sources and Further Commentary	195
Index	240

Acknowledgements

Friends and colleagues have been exceptionally generous in helping me finish this book. Margaret Barber deserves special thanks for her painstaking research, and for her good cheer throughout. I am also especially grateful to Susan Fitzmaurice for her artistic judgment and for her commitment to the complicated task of producing this book. Both made an otherwise stressful job a joy.

To those who shaped this book with their thoughtful comments on the manuscript and their advice along the way, I am particularly indebted: Elizabeth Brubaker, Gawin Chutima, Marcus Colchester, Chad Dobson, Philip M. Fearnside, Dipak Gyawali, Mary Hallward, Peggy Hallward, Alex Kisin, Larry Lohmann, Juliette Majot, Richard Owens, Magda Renner, and Gráinne Ryder.

Several people did research on my behalf, relentlessly pursuing all manner of sources: Asheesh Advani, John Mihevc, Geoffrey Patridge, and Ann Stewart. Others provided research material in other ways. I owe thanks to Ana Banachowicz for researching and translating material on Sicartsa, to Jessica Campbell for explaining scientific matters and for 11th-hour translating, to Olga Martinez for translating legal documents, to Kole Shettima for explaining traditional Nigerian lending systems to me, to Sheila Malcolmson and Tom Adams for clarifying many questions about electric utilities and nuclear power, and to Adam White for reviewing economic arguments and for being on computer call. I am also grateful to Professor Jim Boyce, to Leonor Briones of the Freedom From Debt Coalition in the Philippines, to John Cavanagh and Robin Broad, and to Peter Bosshard from the Bern Group for keeping me up to date on the campaign to recover the Marcos money and the legal challenge with respect to the Bataan nuclear reactor. Brazilian colleagues at Friends of the Earth - Brazil, Instituto Apoio

Judicial Popular, Programa Regional De Trabajo Popular, and Instituto Brasileiro de Análises Sociais e Econômicas (IBASE) were also the source of much inspiration.

I am especially thankful to lawyers Richard Owens, Sandy Walker, and legal scholar Dotse Tsikata for patiently explaining legal first principles to me, and for challenging everything I wrote.

Kathy Kehoe's editing and proofreading of endnotes, and Rick Archbold's and Joel Brody's publishing advice, have been extremely helpful. I am also grateful to Miguel Cea for technical production and design of the book.

I consider myself lucky to have had editor Norman Houghton apply his skills to several drafts of *Odious Debts*, and for being the ultimate and ever-reliable source on editing matters. Thanks go too to Janet Case for her valuable comments and careful editing of the final draft.

The overwhelming evidence of the damage done by past loans to the Third World made this book a necessity. The irrepressible communication between Third World citizens' rights groups and their counterparts in the lending countries made it possible. To my Third World colleagues, who have been generous in spirit and patient in explaining their part of the world to me, I owe my thanks. Many of them have risked a great deal in their pursuit of peace, order, and good government; to them I also owe my profound respect.

And finally, I will always be thankful to my husband, Lawrence Solomon, without whose encouragement, companionship, and spirit this book would certainly not have been finished, and perhaps never started.

Responsibility for the analysis, opinions, and any mistakes that occur is mine alone.

Patricia Adams
July 15, 1991

To Robert Watson Adams

ODIOUS DEBTS

Loose Lending, Corruption,
And the Third World's
Environmental Legacy

INTRODUCTION

The Tragedies of the Commons

BEFORE THE WORLD BANK and other international institutions came to bring development to the remotest corners of the globe, the millions of villagers living along Northern Thailand's swiftly flowing rivers understood that they depended upon one another. Each community needed its river to irrigate its crops, water its animals, and provide for its members' personal needs. To ensure clean water for all, the communities negotiated rules governing who received how much water and when, and implemented those rules through adjustable weirs made of bamboo

and teak poles: by adding or removing poles, by raising or lowering the weirs' height, by scouring the river and irrigation beds, they rationed water among its many claimants with uncanny precision.

Housekeeping and farming practices along the river were everybody's business because they affected rates of erosion, and thus contamination of the river and irrigation systems. Upland forests, vital to bringing the rains each season and controlling runoff, couldn't be cut without permission.

Upkeep of the 1000-year-old *muang faai* water management system, as it is still called, was proportional to landholding. Taxes to maintain the system were paid in the form of labor. Newcomers bought into the system through sweat equity – they needed to put in twice the labor to compensate for the past efforts of others. Absenteeism was penalized, volunteer work rewarded with extra water and sometimes with gifts of rice from neighbors.

The principle that everyone receive enough water to survive – an ancient version of the modern day “social safety net” – was paramount. In dry years, those with distant plots difficult to irrigate would receive water first; rice, a subsistence crop, had precedence over cash crops.

Out of this shared sense of dependence came a political structure that provided what would be called “due process” by modern-day legal theory: elected irrigation committees, guided by a duty to preserve the river for existing and future generations, had formal responsibility for monitoring water distribution and administering weir and channel maintenance. Theft of water and unauthorized cutting of forests were punishable by fines which, having a social stigma attached to them, were never treated as a mere cost of doing business. While these elected officials were responsible for administering justice, all community members, as proprietors of the *muang faai* system, were expected to enforce the rules. With everyone's side-channels in plain view of commuters between village and fields, weed buildup in the waterways or illicit tree cutting never went unnoticed.

Muang faai – which survives in much of Thailand – amounts

to a system of property rights in which private rights and responsibilities have been finely tuned over the centuries to maintain equity, protect the environment, and promote prosperity. Though hardly idyllic, frequently conflict-ridden, and constantly adapting through trial and error and discussion, the system worked well to protect those who lived along the river, and the river itself. From such an accountable environment came a degree of security that allowed all who were governed by it to produce amply and diversely for their families, enriching their communities in the process.

Then came progress. Thai government officials, armed with foreign money, concrete, and plans for a made-over agricultural system, started arriving in the 1950s, engineers in tow, to replace the old-fashioned bamboo weirs with the concrete barrages foreshadowing the Green Revolution. Those dependent upon the river could no longer regulate it along its path – a giant dam and reservoir upstream would now control the flow through a less intensive system of irrigation canals. How much water would flow down the river, and where it would go, would henceforth be determined by officials in the Royal Irrigation Department. The informal governments of riverine communities and their complex set of laws were thus emasculated.

The behavior of the river, and of the inhabitants, would change too. Traditional crops, found in ecological niches along the river valley and dependent upon timely irrigation, were no longer manageable by the riverine farmers. Too risky to invest in, they soon fell into disuse, ending the extraordinary diversity of old seed varieties that had been engineered by generations of farmers as insurance against blights. Modern varieties, well suited to the new centrally controlled water regime, were now sold by large seed companies or state agricultural boards. But these new seed varieties, which depended on the unknown and unknowable government authorities providing water at the right time, also required fertilizers, pesticides, and herbicides to protect them. To buy these, the government offered farmers credit, and the farmers soon fell into debt.

As the riverine communities of Thailand lost control over

their environment, they also lost control over their economy. Remote government officials at the Royal Irrigation Department were now in charge, dispensing contracts to dam rivers and log watersheds for their own rhyme and reason. Though the Royal Irrigation Department hoped to benefit the villagers, their concrete weirs were too blunt to allocate water reliably or equitably, and they themselves were too remote to police the river's uses. Since despoilers of the watersheds (often state officials and their friends who benefited personally) went unpunished, use of watersheds became a free-for-all.

The once lawful riverine communities, witnessing the government's arbitrary licensing of logging, soon took to logging the forests as well. As the complex, self-regulated property rights regime disintegrated, so too did the economy and the environment: with deforestation, silt clogged the rivers and irrigation canals, reducing them to sludge in the dry season and causing them to flood in the rainy seasons. With water so uncertain, many farmers gave up growing rice. What had once been a river ecology whose use was regulated in common purpose, became a lawless commons to exploit.

HUMAN BEINGS DO NOT WILLINGLY DEGRADE their environment. No farmer dreams of leaving his children a ramshackle farm, top soil swept away, eroded gullies pock-marking the terrain; no community willingly subjects itself to hazardous wastes. Passing on an environmentally sound world to the next generation is part of the moral code of all cultures.

People usually exercise similar caution in their personal finances. Most parents strive to leave their children wealth, not liabilities: to do so they try to maximize their assets and minimize their debts.

To ensure children don't inherit the excesses of their parents, most societies require debts to be extinguished upon settlement of the debtor's estate: societies that allow debts to be passed on to future generations are condemned by the United Nations for practising a form of debt bondage.

But all societies tolerate debt bondage when the creation of