

FERDINAND MARCOS: APOTHEOSIS OF THE PHILIPPINE HISTORICAL TRADITION

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ABSTRACT

This paper seeks to enter into the academic debate on the nature and context of the dictatorship of Philippine President Ferdinand Marcos (1972-1986). In contrast to the entrenched view of Marcos as an exception to the Philippine political tradition, I argue, in a vein similar to John T. Sidel's recent work on "bossism," that rather than being an anomaly within the system, Marcos was in fact its apotheosis. By focusing on the relationship between Marcos and the judiciary, I reveal how the President used the court to legitimize his rule and manipulate the Cold War context to his advantage. Under the cloak of legality, Marcos thus extended the political tradition to include him, bringing it to its logical conclusion.

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I. INTRODUCTION

Historians frequently portray Ferdinand Marcos as an exception to the entrenched Philippine political tradition. Marcos's political astuteness does distinguish him from the majority of politicians that preceded him; yet upon closer inspection, Ferdinand Marcos was not so dissimilar from his kin, rather, he was the perfection of the tradition. Previous Philippine politicians had flouted the same laws as Marcos, but never to an equal degree. To his contemporary political class, Marcos departed from the mutual respect that accompanied the patronage system, whereby power merely passed back and forth in tacit agreement between the two political parties. Viewed historically, however, he merely dared further than the rest to achieve the full limit of power that the tradition and system would allow. I argue that it is above all Ferdinand Marcos's delicate and skillful manipulation of the Philippine Supreme Court, which prior Presidents and Congresses never fully achieved, that both allowed him to extend his powers and establishes him as the apex of the system, rather than the aberration.

I begin this paper with an overview of the existing literature on Marcos's rule, which I then contrast with interview data from a wide variety of individuals associated with Marcos during his rule. Following this I outline the historical background that preceded Marcos's ascent to power and upon which he built his so-called 'constitutional authoritarianism.' Marcos took advantage of the historical political tradition and the unique context of the Cold War to consolidate and maintain his power. In so doing, Marcos proved himself to be an astute politician who was aware of both the possibilities and constraints of the existing tradition. By extending these possibilities to their logical limit, Marcos's rule embodies all the ills long present in the historical Philippine political tradition.

II. LITERATURE REVIEW

With regard to the Philippine political framework, I disagree with the older scholarship, such as that of Carl Landé, which presents the history through a patron-client lens. Landé posits:

In reflection of behavioral patterns rooted in the Philippine kinship system, the Philippine polity ... is structured less by organized interest groups or by

individuals who in politics think of themselves as members of categories ... than by a network of mutual aid relationships between pairs of individuals. To a large extent the dyadic ties with significance for Philippine politics are vertical ones, i.e. bonds between prosperous patrons and their poor and dependent clients.²

With regard to the political system, I instead side with the more recent characterizations of John Sidel's 1999 work on "Bossism" and Juan J. Linz's 1998 version of Max Weber's "Sultanism." Sidel and Linz's theories dethrone the patron-client framework, which places undue importance on landholders and pairings of individuals, and instead emphasize the role of American colonialism. Their visions are of personalistic rule and of Marcos as the single, national "sultan" operating in a country of small, local "bosses." Yet, though I agree with this overall vision, I nevertheless reject Sidel's conception of Ferdinand Marcos as the aberration of the political tradition.

Mark R. Thompson, a proponent of Juan J. Linz's sultanism and a recent scholar on the Marcos years, also shares Sidel's view and argues similarly: "Marcos broke the informal rules of Philippine democracy and later changed the game altogether by launching a dictatorship ... [the game] had survived until confronted with [Marcos]."³ Though Marcos did heighten the "game," I believe it is important to view his rule as very much within the tradition, rather than as a departure from the tradition. My interpretation shifts the blame away from one individual operating within a flawed yet largely healthy system and instead draws attention to the failures of the system itself.

Arguments that Marcos should be viewed as the master of the tradition do appear in the existing scholarship. In "Cacique Democracy in the Philippines," Benedict Anderson introduces Marcos as a historical inevitability. He writes:

[I]t was only a matter of time before someone would break the rules and try and set himself up as Supreme Cacique for Life ... From one point of view, Don Ferdinand can be seen as the Master Cacique or Master Warlord, in that

² Carl H. Landé, *Leaders, Factions, and Parties: The Structure of Philippine Politics* (New Haven: Yale University, 1965).

³ Juan J. Linz and H.E. Chehabi, eds., *Sultanistic Regimes* (Baltimore: the Johns Hopkins University Press, 1998), 211.

he pushed the destructive logic of the old order to its natural conclusion.⁴

Anderson, however, also endorses a countervailing argument: “But from another viewpoint, he was an original; partly because he was highly intelligent, partly because, like his grotesque wife, he came from the lower fringes of the oligarchy.”⁵ From there, Anderson reduces Marcos’s unique excesses to a result of his non-elite standing and his understanding that “wealth serves power, and the key card is the state.”⁶

I side with Anderson’s assertion that Marcos is the perfection of the tradition, but seek to further and amend it. Firstly, I argue that the Supreme Court’s legitimization confirms that Marcos did not break the Philippine political system, but that rather, the tradition bent to include him. Secondly, unlike Anderson’s presentation of Marcos as a historical inevitability, I argue that it was external forces that uncannily provided him with the tools ultimately necessary to establishing his dictatorship. Even long after colonialism ended, U.S. interests have remained a factor in Philippine politics. Were it not for the “special relationship” with the United States and the powerful Cold War context, the Philippine people and their judiciary may not have tolerated Marcos’s abuses or bent the political tradition to include him. In this way, Marcos played upon this happy confluence, manipulating the Supreme Court, the Cold War environment and the contemporary Southeast Asian trend to authoritarianism to legitimate his regime.

A. Bossism

John Sidel’s 1999 “Bossism” theory contextualizes Third World local strongman rule and rests on Joel Migdal’s 1988 study of the local strongman. Migdal theorizes that these local bosses employ effective social control by placing themselves and their family members in critical state posts to ensure resources are allocated according to their own rules.⁷ Yet, Sidel’s theory rejects the idea that the nature of Philippine society breeds

⁴ Benedict Anderson, “Cacique Democracy in the Philippines: Origins and Dreams,” *New Left Review* 1.169 (May-June, 1988): 3-31.

⁵ *Ibid.*, p. 20.

⁶ *Ibid.*

⁷ Joel S. Migdal, *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World* (Princeton: Princeton University Press, 1988), 256.

local strongman rule. Sidel challenges such cultural analyses by evaluating the integral roles that state structures and violent coercion play in perpetuating this kind of governance. Sidel believes that the most “distinctive and decisive” force in the entrenchment of bossism in the Philippines was the colonial experience under the U.S. He describes, particularly, “the subordination of an extremely underdeveloped state apparatus to elected municipal, provincial, and national officials in the American colonial era.”⁸

Sidel notes that the established national oligarchy long fostered continual factional competition for the presidency and funded opposition candidates. This prevented a “single predatory boss” from capturing the economy. Sidel then reviews Ferdinand Marcos as precisely such a “single predatory boss” and presents Marcos as the anomaly of the political tradition. Sidel notes that Marcos was more successful in this regard than temporary lower bosses and previous politicians due to his heightened access to and dependence upon foreign loans, his exploitation of government “development” opportunities, and his exploitation of the elite’s increased reliance on government loans and favors.⁹ Sidel explains what Marcos as a single, national-level boss looked like from the declaration of martial law in 1972 to the People’s Power EDSA Revolution in 1986:

Freed from legislative interference, Marcos ruled by decree, centralizing national police forces under the Armed Forces of the Philippines, establishing quasi-government monopolies for major commodity exports, and parceling out regulatory and/or proprietary control over the other strategic sectors of the national economy...among a close circle of family members, cronies, and frontmen.¹⁰

Yet, none of these actions were new to Philippine politics.

B. Sultanism

Max Weber first espoused the theory of sultanism and Juan J. Linz later developed it for application to the Marcos regime and others such as those in Cuba, Nicaragua, Iran, Haiti, and the Dominican Republic. Weber

⁸ John T. Sidel, *Capital, Coercion, and Crime: Bossism in the Philippines* (Stanford: Stanford University Press, 1999), 12.

⁹ *Ibid.*, p. 144

¹⁰ *Ibid.*

theorized sultanism to be an extreme form of patrimonial authority, explaining the relationship and distinction to be:

Where domination is primarily traditional, even though it is exercised by virtue of the ruler's personal autonomy, it will be called patrimonial authority; where indeed it operates primarily on the basis of discretion, it will be called sultanism ... [and] consists only in an extreme development of the ruler's discretion ... which distinguishes it from every form of rational authority.¹¹

Essentially, sultanism is the developed case of personal rule, differentiated by the ruler's fusion of private and public roles, its lack of a guiding ideology, and the lack of a rule of law. Indeed, even sultanistic regimes break their own norms due to the inherently arbitrary nature of personal rule. The lack of a uniting programmatic purpose, moreover, often leads sultanist rulers, such as Ferdinand Marcos, to fabricate an ideology as propaganda and implement it by 'revolution' to remove the opposition and legitimize the regime.¹² Martial law was declared to deal with the communist Huk, but that threat was effectively eliminated by 1976. Thereafter, Marcos justified martial law as the only means to create the revolutionary, socially just, and economically equitable "New Society" he claimed to seek.¹³

There was no comprehensive, predetermined master plan for the Marcos regime. While in hindsight there may appear to be a logical progression to its development, the regime's approach was improvised to follow the path of least resistance. Marcos followed the letter of the law, but continually stretched its limits. For all his improvisation, Marcos' actions were never without precedent – thus placing him firmly within the political tradition.

III. MARCOS IN RETROSPECT

In a personal interview, I asked Atty. Ricardo J. Romulo, one of the framers of the 1987 Philippine Constitution and a leading Philippine lawyer, whether he considered Ferdinand Marcos to be the extreme of the

¹¹ Weber, Max, *Economy and Society: An Outline of Interpretive Sociology*, ed. Guenther Roth and Claus Wittich (Berkeley: University of California Press, 1978), 231-232.

¹² *Ibid.*, p. 24-25.

¹³ David Wurfel, "Martial Law in the Philippines: The Methods of Regime Survival," *Pacific Affairs* 50.1 (Spring, 1977): 5-30.

entrenched system, i.e. as the embodiment of all the ills already present, or an aberration, breaking all the norms and departing from the tradition. Romulo concludes that Marcos truly was both, “he was riding the course of history quite well and manipulated it to his advantage.”¹⁴ Analyzing the thinking that he believes led Marcos to declare martial law in 1972, Atty. Romulo recounts:

He was a brilliant man and a very, very clever politician, and I think what he did was both to look at the trends and manipulate some of it to his advantage. 1) He could not run again because he had, had two terms 2) the Communist threat really was increasing and that was the time for radicalism ... So I think he could see that he could manipulate [the] protest and radicalism to show enough danger to invoke martial law. That’s how I would look at Marcos, not so much that he was an aberration, but ... [as] the leader ... at the right place at the right time in so far as autocratic rule.¹⁵

Romulo expands upon the particular Philippine historical context:

The course of history really was, after [World War II] ... trending to [autocracy] because of the communist threat [and the] inability of the presidents to solve economic problems. President Roxas died so soon. President Quirino had an excellent economic plan, but he was not a good leader; the opposition could run circles around him ... Then there was [the] overall issue of collaboration with the Japanese [during their wartime occupancy, which]¹⁶ emphasized nationalism ... And Marcos, in the sidelines, having popularized himself as a guerilla leader, a hero, this and that [during Japanese occupation], was able to take advantage ... and present himself not only as a war hero but also as a nationalist.¹⁷

¹⁴ Atty. Ricardo J. Romulo, Personal Interview, 20 Aug. 2008.

¹⁵ Ibid.

¹⁶ Atty. Romulo listed President Jose P. Laurel and Sen. Claro M. Recto as two examples of those accused of collaboration.

¹⁷ Atty. Ricardo J. Romulo, Personal Interview, 20 Aug. 2008.

Atty. Romulo focuses primarily on the historical circumstances that gave Marcos the opportunity to go further than his predecessors, rather than pointing to larger systemic failures within the political tradition. Though the Cold War fortuitously abetted Marcos, the inveterate Philippine corruption and power grabbing provided him the comfort, training, and platform to establish his personalistic dictatorship.

When posed with the same question, Stephen CuUnjieng,¹⁸ a professional within the national elite, replied more decisively. The CuUnjiengs were intimate friends of the Marcos family – Stephen’s father played golf several times a week with Ferdinand and his mother was one of Imelda Marcos’s famous “Blue Ladies,” a group of society women that served a political function during campaigns. Yet, Stephen protested heavily against the Marcos regime until 1984 when the Marcoses personally requested that he leave the country. Reflecting on Marcos’s position within the political context, Mr. CuUnjieng argues:

He is the extreme of the system, because he came out of the system, he broke it after extending it, but he was a product of the system ... and moved up legitimately ... He wouldn’t have been tolerated and accepted if he hadn’t embodied qualities of the tradition.¹⁹

Indeed, Marcos was beloved at first. He did not immediately establish a dictatorship upon coming to power. He served his first term and built a strategy to secure a second – a historical first in a system that tacitly passed power back and forth between parties and political families – after which he resorted to more drastic measures to remain in power.

Answering the same question, the former President Fidel V. Ramos, who was the Chief of the Armed Forces, implemented martial law, and was later the Secretary of National Defense before ultimately becoming President of the Philippines in 1992, intimates a different inside opinion of Marcos. He emphasizes the influence of the First Lady, explaining:

I think it is accurate [that Marcos is the apotheosis] in hindsight, because at the time [that] he was in wealth and power he appeared to be the most brilliant of all Filipinos in the 20th century ... As a young student, top-notcher of the Bar, he was brilliant and patriotic and as far as I can remember he was a good example for Filipinos, but then

¹⁸ For full disclosure, Stephen CuUnjieng is the author’s father.

¹⁹ Stephen CuUnjieng, Personal Interview, 15 Aug. 2008.

things changed after he assumed power. Now you may recall that in his first term ... he really did a good job as President of the Philippines, then in his second term it was mixed in terms of the interest of the country as a whole, because he was already starting to plot how to prolong himself in power, the result of which was martial law. It was mixed because more and more he came under the influence of the First Lady ... being in the corridors of power for four years ... put all kinds of ideas into his head and I think that was part of it. Some people wrote books ... about the conjugal dictatorship.²⁰

Many believe that Imelda Marcos's desire to remain in power helped to lead Marcos down his eventual path. Mrs. Marcos's unabashed immoderation focused the spotlight on her. In contrast, Ferdinand Marcos was a near ascetic, who did not indulge himself in the same fineries as his wife. However, one should also note that Marcos was very skillful at handling all those around him. In the same way that he married Imelda for political reasons, it has also been suggested by observers, including President Ramos, that Marcos chose to paint her as the corrupt one to deflect attention away from himself.²¹

Amb. Stephen Bosworth, the US Ambassador to the Philippines from 1984-1987, differentiates Ferdinand Marcos from the other Filipino politicians of his time and tradition. Putting aside all theories, Bosworth simply places primary importance upon Marcos's desire to stay in power. Bosworth states plainly, "Marcos was much smarter than his contemporaries and more ruthless than his contemporaries and by the mid 1970s he was at a point when he could not envision any future for himself beyond being President of the Philippines."²² Power, indeed, drove Marcos, and though Presidents before him had been equally power hungry, Marcos was the first to even win reelection.

Striking a very different note, Atty. Estelito Mendoza, Marcos's former Solicitor General and Minister of Justice, contextualizes Ferdinand Marcos, asserting:

I think he practiced the same [patronage politics], but in a more sophisticated way. For example, it's because he was a

²⁰ President Fidel V. Ramos, Personal Interview, 2 Sept. 2008.

²¹ President Fidel V. Ramos, Personal Interview, 2 Sept. 2008.

²² Amb. Stephen Bosworth, Personal Interview, 18 Sept. 2008.

leader, a dynamic leader, and his leadership was real. He was not a leader simply because he was president, but because people believed in him. So he did not have to play the usual politics of patronage that you have now.²³

The leadership that Mendoza admires in Ferdinand Marcos is incontestable; however, his subsequent argument does not follow as clearly. Here, Mendoza is drawing a comparison to the now-former President Gloria Macapagal-Arroyo, whose 500-peso patronage handouts he deems a waste of money. In our interview, Mendoza highlighted Marcos's construction projects, which garnered him much support, as an alternative to this "usual politics of patronage."²⁴ Though the Philippines is certainly indebted to Marcos for the vast infrastructure he built and improved, Mendoza's argument ignores the heavy patronage that was central to Marcos's politics.

The former Presidential Legal Counsel to Ferdinand Marcos, Hon. Manuel Lazaro, who like Atty. Mendoza remains vigilantly pro-Marcos, also notes the superlative leadership that Ferdinand Marcos embodied. Lazaro champions Marcos as a true aberration, declaring:

He was able to change the political and domestic landscape in so many ways ... First of all, there were no elections for a long time ... I have a strong feeling [that was because] he wanted people to have more discipline, so he could emphasize the value of good leadership. He was able to dismantle goons, armies ... With his entry, there were no more warlords. Elections were only for local elections and this time anybody with talents, without money, could run.²⁵

Lazaro's benevolent depiction of Marcos rests on the belief that he was creating a "New Society," which Marcos himself presented in revolutionary terms. In this light, Marcos's true intent was not to prolong his stay in power, but to change and discipline Philippine society.

Senator Juan Ponce Enrile, the architect of martial law and Marcos's Secretary of Defense, shares Hon. Lazaro's understanding of Marcos's intent. Although Enrile eventually broke with Marcos immediately prior to the EDSA revolution, Enrile states that he did so "as a matter of

²³ Atty. Estelito Mendoza, Personal Interview, 13 Aug. 2008.

²⁴ Ibid.

²⁵ Hon. Manuel Lazaro, Personal Interview, 11 Aug. 2008.

self-protection, self-preservation.”²⁶ Enrile explains that he feared an attempt on his life should a military junta successfully overthrow Marcos, who was gravely ill at the time and unable to defend his position.²⁷ Despite his ultimate defection, it is evident that Marcos remains a hero to Senator Enrile. Yet, when posed the same question as to Marcos’s place within the Philippine political tradition, Enrile evidences a far more realistic understanding of martial law than others in the Marcos camp. As Enrile explains:

[Marcos] was skillful in playing the game and he inserted himself into the elite group because he was not really a member of the elite. He was accepted and in a sense – for a while – he allowed himself to become a tool of the elite ... At the same time, he was also planning for himself and when the time came, that’s why I suspect, I do not know this for a fact, but I would imagine that he wanted to try to control the elite in the country so then when he declared martial law it leveled off the political and social playing field. But, there are many imponderables in the life of men; he got sick and he wasn’t able to accomplish his purpose. In the meantime, absolute power corrupts absolutely. [His] relatives started to enjoy power and they thought that it would be infinite and endless and so corruption set in and that eroded the popularity of Marcos, eroded the popularity of his regime, and we all ended up with the EDSA Revolution of 1986 ... [Due to his sickness, he was not able to complete his] control of the people around him. I think if Marcos had not suffered that sickness that early, he would have succeeded in pushing through his vision of the country ... to make this country great.²⁸

Senator Enrile’s loyalty resembles that of most members of the Marcos camp. Though he does not deny Marcos’s essential corruption and self-interest, he nevertheless remains vigilantly pro-Marcos even years later. Similarly, Atty. Mendoza remains clear-eyed about the nature of Marcos’s regime, but it does not destroy his intrinsic belief that Marcos is a hero who sought to make the Philippines great.

²⁶ Sen. Juan Ponce Enrile, Personal Interview, 6 Aug. 2008.

²⁷ Ibid.

²⁸ Ibid.

Asked what he judges Marcos's intention in declaring martial law to be, Mendoza replies, "I think ... martial law, [though] initially ... only [enacted] to quell a rebellion ... became an instrument of reform, because of his instant power to enact laws."²⁹ Then, pressed as to whether martial law lasted so long because it became an instrument of reform, Mendoza admits, "Well, let's just say, maybe, [it was also] what he thought ... was necessary to keep [himself] in power."³⁰ Nevertheless, this realization does not prevent Mendoza from championing the Marcos years as "the most productive [period] in good legislation."³¹ Mendoza even asserts that "it's ... ironic that [Marcos is] called a dictator."³² In this way, to those like Lazaro and Mendoza, Marcos does not need to be forgiven for his wrongs and those wrongs do not negate his greatness. The Marcos camp's logic is that Marcos cannot be held to unreasonable moral standards contradictory to the historical political tradition, in which power-grabbing is an accepted facet of politics.

Speaking from the staunchly anti-Marcos side, Congressman Teodoro "Teddy Boy" Locsin, Jr. – descendant of a long active political family, a former journalist, a personal student of President Marcos,³³ and a speechwriter for several presidents beginning with President Corazon Aquino – believes that "Marcos is not the apotheosis of any system, he was just a guy who took advantage of the sense of limitations of every other member of the senatorial class."³⁴ Congressman Locsin elucidates the nature of the political culture:

Our political tradition really was that of a senatorial class. There were families that were in politics and you knew them. I think they took advantage of their position more to protect what they had. There were some families who were clever and were able to take advantage of national policies like the reparations ... Yet, everyone waited for his turn in power, but there were things that you did not do to

²⁹ Atty. Estelito Mendoza, Personal Interview, 13 Aug. 2008.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Cong. Locsin's family supported Ferdinand Marcos during his 1969 election and due to Cong. Locsin's avid interest in political theory at the age of 21, Ferdinand Marcos would invite him to Malacañang Palace and Ferdinand Marcos directed an informal course of study on political philosophy and theory for Cong. Locsin.

³⁴ Cong. Teodoro Locsin Jr., Personal Interview, 14 Aug. 2008.

each other: you never shot each other, you respected each other's privacy.³⁵

The grave toll that the Marcos years took on his family explains Congressman Locsin's position. His is a historically political family, therefore rather than denounce the entire political tradition that his family helped to build, he is instead inclined to emphasize its limits. Certain rules did govern the political tradition: power passed back and forth between elite factions and historical political killings occurred on a local, not national level. Marcos thus differed from the rest only in superficial terms, but in kind, he very much resembles the others of the senatorial class.

Congressman Locsin also points to several lingering vestiges of this old republicanism in Ferdinand Marcos' actions. In addition to his regime's need for an appearance of legality, Congressman Locsin attests that Marcos continually went through the charade of fake elections because he thought that doing away with them would be improper. Rather than sincere democracy, the so-called elections were merely a superficial observation of tradition. Congressman Locsin further recounts:

We later found out that he never actually touched the national treasury, although we overthrew him on that condition – that he was stealing from the government. He would take kickbacks from Japanese contractors etc., but we found out that he didn't touch the national treasury. That's another throwback of his – that you use your power to enrich yourself but you never put your hand in the public till, which is the way it was in the old Republic.³⁶

Though this may be a specious distinction, Congressman Locsin's point only further entrenches Ferdinand Marcos within the system. Marcos avoided overstepping certain traditional boundaries, even while pushing the limits of what had been done before.

IV. HISTORICAL REVIEW

In 1905, the American Governor-General James F. Smith, under the authority of the Philippine Organic Act of 1902, suspended the writ of

³⁵ Cong. Teodoro Locsin Jr., Personal Interview, 14 Aug. 2008.

³⁶ Ibid.

habeas corpus for the first time in Philippine history.³⁷ The bill – essentially the first of three constitutions imposed under American authority – ascribed suspension powers to the governor-general in Section 5, and the provision bears nearly the precise language that would later be used in the 1935 Philippine Constitution’s Article VII, Section 10, Paragraph 2:

The President shall be commander-in-chief of all armed forces of the Philippines and, whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion, insurrection, or rebellion, or imminent danger thereof; when the public safety requires it, he may suspend the privilege of the writ of *habeas corpus*, or place the Philippines or any part thereof under martial law.³⁸

Unlike the United States, the Philippines explicitly vested this power in the executive.³⁹ As a consequence, the judiciary does not enjoy the same prerogatives as the executive in cases of martial law.

In *Barcelon v. Baker* in 1905, the Philippine Supreme Court affirmed the validity of the governor-general’s basis for suspending the writ of *habeas corpus* and, more importantly, established the suspension of that writ as a political question over which the Supreme Court does not have judicial review. The Supreme Court ruled, “The findings of the executive upon which he bases his order suspending the privileges of the writ of *habeas corpus* are conclusive and final upon the Courts.”⁴⁰ On this, Philippine legal history scholar Anna Castañeda writes,

As it would in the subsequent investigations of the colonial period, Commonwealth period, and beyond, the Supreme Court “terminated” its investigation, bowing to the executive as “the sole and exclusive judge” as to whether a state of “invasion, insurrection, or rebellion, or imminent danger thereof” existed.⁴¹

³⁷ Benjamin N. Muego, *Spectator Society* (Athens: Ohio University, 1998), 31.

³⁸ *Constitution of the Philippines* (Manila: Bureau of Printing, 1969), 22.

³⁹ John H. Romani, *The Philippine Presidency* (Manila: University of the Philippines, 1956), 77.

⁴⁰ John H. Romani, *The Philippine Presidency* (Manila: University of the Philippines, 1956), 79.

⁴¹ Anna Leah Fidelis T. Castañeda, “The Origins of Philippine Judicial Review: 1900-1935,” *Ateneo Law Journal* 46.121 (2001): 121-156.

Article VIII, Sec. 2, Paragraph 1 of the 1935 Philippine Constitution granted the judiciary jurisdiction over “all cases in which the Constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question.”⁴² Subsequently, it was Justice Jose Laurel’s 1936 decision in the *Angara v. Electoral Commission*⁴³ that would become the landmark definition of judicial review. In his decision, Laurel addressed the separation of powers, writing: “In cases of conflict, the judicial department is the only Constitutional organ which can be called upon to determine the proper allocation of powers between the several departments and among the integral and constituent units thereof.”⁴⁴ Castañeda observes, however, “The bold and confident assumption by the Commonwealth Supreme Court of its role as the ‘final arbiter’ was in stark contrast to its origins.”⁴⁵ Castañeda explains,

The Supreme Court of the Philippine Islands was neither so quick nor so eager to seize upon the opportunity to exercise its judicial prerogatives, be it to strike down legislation that violated individual rights or to play gatekeeper to the Executive and Legislative departments of the Insular Government. Indeed, early enunciations of the doctrine of judicial review display restraint and deference.⁴⁶

Therefore, the later Supreme Court’s passive deference to the executive and legislature had its roots in the American colonial period.

During the 1934 Constitutional Convention, Delegate Araneta warned that the martial law provision as it stood allowed only the President to determine the existence of “lawless violence, invasion, insurrection, or imminent danger thereof.” In addition to the general Philippine distrust of executive power, Delegate Araneta feared that due to the existing judicial precedents in 1934, the Supreme Court would be unlikely to review the basis for the President’s decision to suspend the writ of *habeas corpus*.⁴⁷ It seems that Araneta was right to fear the executive’s abuse of this power.

⁴² *Constitution of the Philippines* (Manila: Bureau of Printing, 1969).

⁴³ In *Angara v. Electoral Commission*, Jose A. Angara petitioned for a writ of prohibition to restrain the Electoral Commission from acting upon the protest filed by Pedro Ynusa to bar Angara from taking office in the National Assembly.

⁴⁴ Anna Leah Fidelis T. Castañeda, “The Origins of Philippine Judicial Review: 1900-1935,” *Ateneo Law Journal* 46.121 (2001): 121-156.

⁴⁵ *Ibid.*, p. 122

⁴⁶ *Ibid.*, p. 123

⁴⁷ Benjamin N. Muego, *Spectator Society* (Athens: Ohio University, 1998), 30.

President Quirino was elected in 1950 and though his term was wild with graft, corruption, and electoral fraud, he is most remembered for his decision to suspend the writ of *habeas corpus* to fight the communist Huk rebellion. President Quirino's suspension, issued in Proclamation 220 on October 22nd, 1950, met widespread criticism and outrage despite the fact that the 1935 Philippine Constitution explicitly provided for the suspension. In August of 1952, the Supreme Court ruled in *Montenegro v. Castañeda* that the suspension was constitutional, with a decision that echoed the language of *Barcelon v. Baker* in 1905.

After each historical suspension of the writ of *habeas corpus*, beginning in 1905 with Governor-General Smith, then later in 1953 with President Quirino, and finally in 1971 with President Marcos, the Supreme Court would sustain the executive's decision. In this way, Marcos's relationship with the Supreme Court joins an unbroken historical precedent in Philippine history. He is not an aberration of the system, but merely a progression of the political tradition. Marcos was the last in a line of strong, post-colonial presidents, each of whom strengthened the executive branch alongside a weaker, complicit judicial branch.

V. MARCOS TESTS THE COURTS

On August 21st, 1971, during President Marcos's second democratically elected term and in the middle of the ongoing Constitutional Convention, Plaza Miranda was bombed. President Marcos's reaction was strong and swift. He denounced the crime and immediately suspended the writ of *habeas corpus*. He ordered high profile arrests, including those of nationalist group leaders, and 100 subsequent arrests of people allegedly involved in the Communist terrorist bomb plot.⁴⁸ While at first many believed that President Marcos had in fact been behind the plot, no concrete claims were ever substantiated against him.

Marcos's actions did warrant suspicion, however. He very quickly seized the bombing as an opportunity to turn the situation on Senator Ninoy Aquino. Ferdinand Marcos accused Aquino of aiding the communist threat by supplying weapons and ammunition. President Marcos also claimed that Aquino himself was a communist. Marcos vowed that he would do all he could to block Aquino from ascending to the presidency, even if it meant offering Mrs. Marcos as a candidate. Much like Marcos

⁴⁸ Albert F. Celoz, *Ferdinand Marcos and the Philippines: The Political Economy of Authoritarianism* (Westport: Praeger, 1997), 30.

took the advantage in painting the Communists as being on the side of disorder, and his “democratic revolution” on the side of radical reform *in addition* to order, he fomented the explosive climate to his own ends.

Lansang v. Garcia tried the validity of President Marcos’s suspension of the writ of *habeas corpus*, and the Supreme Court’s decision both verified the Communist threat and sustained President Marcos’s invocation of Article VII, Section 10, Paragraph 2. Article VII provides for the suspension of the writ of *habeas corpus* and, in the same breath, a corollary provision for the declaration of martial law. The Supreme Court unanimously stated: “We entertain ... no doubt about the existence of a group of men who have publicly risen in arms to overthrow the government and have been and are still engaged in rebellion against the government of the Philippines.”⁴⁹ The *Lansang v. Garcia* thus case abandoned the Court’s doctrine of abstaining from judging the factual basis for the President’s suspension of the writ of *habeas corpus*, a doctrine that the Court had used in previous cases and was justified on the basis of separation of powers.⁵⁰ This would seem to set a precedent for increased judicial activism, yet, in practice, deciding political questions merely placed the judiciary in the role of legitimizing Marcos’s regime, for it consistently failed to stand up to the executive branch.

The decision had profound implications as it removed any obstacle to the President’s declaration of martial law. Where it had previously merely deferred judgment, the Supreme Court now acted as a rubber stamp. Marcos would later repeatedly invoke the *Lansang v. Garcia* case to assert the constitutionality of his declaration of martial law. Atty. Romulo supports this analysis, noting:

[E]veryone feels that [*Lansang v. Garcia*] opened the door to Martial Law ultimately, because the Supreme Court believed ... that the NPA [was] really a clear and present danger to the republic, so it allowed the suspension of the writ of *habeas corpus*. That’s only one step away from martial law. When you say that there’s an imminent danger, our constitution ... [dictated that] you could then declare martial law ... Marcos ... very smartly, knew that he

⁴⁹ Rolando V. Del Carmen, “Constitutionalism and the Supreme Court in a Changing Philippine Polity,” *Asian Survey* 13.11 (1973): 1050-1061.

⁵⁰ Ibid.

couldn't declare martial law off-hand, so he laid the basis [first].⁵¹

Marcos only took this final step after September 22nd, 1972, when the Secretary of Defense, Senator Juan Ponce Enrile, was ambushed. Despite Marcos's feigned shock and worry, Senator Juan Ponce Enrile admitted at a press conference with Fidel Ramos in February 1986 that the ambush was staged.⁵² The Philippine Inquirer further reports that "[Enrile] and Ramos were part of the 'Rolex 12,' the group of military advisers who had helped Marcos plan martial law."⁵³

Martial law would far outlast its original purpose – only lifted in 1981, long after the Communists had been beaten back. In a *New York Times* interview on June 17th, 1974, President Marcos admitted that he had "largely 'neutralized' the 'public disorder and rebellion' that led him to impose martial law" in 1972.⁵⁴ However, he went on to explain that "he had not been able to complete the social and economic reforms that he said were necessary to prevent recurrence of the so-called rebellion."⁵⁵ Until he was removed from power by the People's Power Revolution of 1986, Marcos would seek to, as Rolando V. del Carmen describes, "portray to observers at home and abroad ... [that] despite the realities of martial law, constitutional procedures [had] not been abrogated and that the judiciary [was] alive and well."⁵⁶

A. Public Reactions

In a country that was a strong American ally and located very close to Vietnam, the Philippine people were very scared of what in 1972 was quite a serious Philippine Communist threat. Marcos played on that fear

⁵¹ Atty. Ricardo J. Romulo, Personal Interview, 20 Aug. 2008.

⁵² The Philippine Inquirer Headlines/Nation: Timeline, "Fake Ambush of Enrile Ushered in Martial Law," The Philippine Inquirer, January 29, 2009. http://services.inquirer.net/print/print.php?article_id=22225.

⁵³ Ibid.

⁵⁴ Sydney H. Schanberg, "Marcos Says He Must Keep Martial Law," *The New York Times*, June 17, 1974, p. 7, ProQuest Historical Newspapers The New York Times (1851-2005).

⁵⁵ Ibid.

⁵⁶ Rolando V. Del Carmen, "Constitutionalism and the Supreme Court in a Changing Philippine Polity," *Asian Survey* 13.11 (1973): 1050-1061.

very well. The Philippines and Ferdinand Marcos, however, were not alone in this situation and the trend within Southeast Asia was a move toward more authoritarian and controlled states. Echoing this sentiment, Secretary of Finance Cesar Virata, who was attending the World Bank Meeting in Washington, DC when martial law was declared, recounts that a senior reporter from the Department of State called him at about four in the afternoon and asked him if he was aware of the recent events.⁵⁷ When the reporter asked him how he felt Virata replied, “We just joined the Asian people.”⁵⁸ Mr. Virata explained this to me: “Everything here [at the time] was martial law: Korea, China, Taiwan, Malaysia, Thailand, Singapore... Malaysia had its internal security act. So I said, ‘Well, we are now part of Asia as well.’”⁵⁹ Therefore, despite Congressman Locsin’s belief that it was not in the Philippine historical tradition to take so extreme an action, there was not only a history of strong executive action in the Philippines, but also concurrent examples in the region.

President Ramos recounts, “In the beginning, those of us in the armed forces really supported the idea, but it lasted too long and became subject to abuse of power.”⁶⁰ President Ramos frames his support for martial law in terms that extend beyond merely communism, which explains his early accession into Marcos’s “Rolex 12” group:

[To] those of us in the armed forces and law enforcement, it was something that we could support because we felt that it would ... return ... the rule of law. We would be able to go after the private armies of the warlords in the provinces. [Over the first three years] we collected so many loose firearms and jailed a lot of abusive politicians who were breaking the law.⁶¹

So it seems that from the beginning, Marcos – and to a degree, the “Rolex 12” – had intended for martial law to address a variety of issues, though he argued for it legally and to the public solely in terms of the Communist threat.

Nevertheless, this was not immediately a dictatorship and the contours of Ferdinand Marcos’s authoritarianism developed only gradually, and with the protection of full – albeit perverted – legal backing. Yet, when

⁵⁷ Cesar Virata, Personal Interview, 20 Aug. 2008.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ President Fidel V. Ramos, Personal Interview, 2 Sept. 2008.

⁶¹ Ibid.

asked how early into 1971 (when Plaza Miranda was bombed) or 1972 (when Marcos promulgated Proclamation No. 1081 declaring martial law) Marcos had first begun toying with the idea, Senator Juan Ponce Enrile replied, “We started studying martial law in December of 1969” – just one month after Marcos’s second term began and a year and a half prior to his suspension of the writ of *habeas corpus*.⁶² Senator Benigno Aquino, Jr., Marcos’s archrival, expected marching in the streets when martial law was declared, but instead everyone stayed home. He said, “I was correct about Marcos, I was wrong about the Filipino people.”⁶³

B. Constitutional Authoritarianism

Marcos described his regime as “constitutional authoritarianism.” He never openly attacked the impartiality or independence of the Supreme Court and instead relied on his constitutionally vested powers to appoint judges of his choice. Having banned all political parties and Congress, Marcos openly declared his actions to be subject to the judicial review of the Supreme Court. He assured that “the judiciary shall continue to function in accordance with its present organization and personnel.”⁶⁴ Solicitor General Estelito Mendoza is quick to point out that the martial law regime readily received the suits that were brought against the government. He believes that though accepting these legal challenges seems “somewhat paradoxical” given the state of crisis, this fact evidences that Marcos left the judiciary healthy, unimpaired, and fully functioning.⁶⁵

Solicitor General Mendoza is right to point out that Marcos submitted his government to the Supreme Court’s jurisdiction, but he ignores the reasons why Marcos did so. It was not to preserve the constitutional process, which Marcos repeatedly violated, or to defend civil rights, which he ignored when it benefited him. Marcos saw the utility in leaving the courts intact; an independent judiciary was Marcos’s most useful defense against charges of foul play from the opposition. Due to his legal background, he also instinctively and sincerely hesitated to attack the courts. At no point did Marcos wish to declare to the world that he was

⁶² Sen. Juan Ponce Enrile, Personal Interview, 6 Aug. 2008.

⁶³ Stephen CuUnjieng, Personal Interview, 15 Aug. 2008.

⁶⁴ Rolando V. Del Carmen, “Constitutionalism and the Supreme Court in a Changing Philippine Polity,” *Asian Survey* 13.11 (1973): 1050-1061.

⁶⁵ Atty. Estelito Mendoza, Personal Interview, 13 Aug. 2008.

establishing a dictatorship. He took pains to cloak his actions with a semblance of legality, seeking to present to the international community and Filipino people that he had not broken the political tradition.

Hon. Lazaro provides a clear example of this, recounting: [Marcos is] one fellow who would not commit anything illegal. If you tell him that it's ... illegal he will not do it, but he will find some way to make it legal. For instance, there is a law ... which says that all government properties must be insured by the GSIS ... Roberto Benedicto, he wanted to [to be the one to] insure ... some [government] properties ... When [Marcos] was informed that, Benedicto, [despite the fact] that he was a political supporter [of Marcos], [could] not do it, because it was against the law. He had to pass the law to allow it, [which stated]: all government properties [will] be insured by the GSIS, except in cases as approved by the President ... [So] if he approves it, it's legal ... [and] no [longer] illegal. That's how legalistic [Marcos] was.⁶⁶

In his analysis, Lazaro doesn't focus on Marcos stretching the law to fit his needs. Rather, he applauds Marcos for his insistence upon obtaining legal support for his actions. Unfortunately, this entirely ignores the fact that Marcos had to first break the law and rewrite it to gain such legal backing.

C. Judicial Submission to the Marcos Constitution

When Marcos declared martial law, the Constitutional Convention had been in session, drafting a constitution to replace the 1935 Constitution that had been written under the heavy-handed auspices of the United States. In this new constitution, Marcos mandated the creation and inclusion of the Transitory Provisions, which, while calling for a National Assembly, would allow him to remain President and rule without a legislature in the interim.

Upon completion of the 1973 Constitution, Marcos called a plebiscite to ratify it. At first, the Supreme Court accepted petitions challenging Marcos's calling of a plebiscite. On January 21st, 1973, *The New York Times* cited that many were charging Marcos with "inflating the

⁶⁶ Hon. Manuel Lazaro, Personal Interview, 11 Aug. 2008.

dangers stemming from the relatively small number of Communist-led insurgents as a means of making himself into a dictator,” and that the tide was turning against Marcos and his new constitution.⁶⁷ *The New York Times* also reported on January 12th, 1973, that though martial law had at first won grudging acceptance, because “many ... welcomed an apparent sharp drop in crime and promise of real reform, including the proclamation of a new land reform measure,” this initial attitude was beginning to thin:⁶⁸

[T]he most telling evidence of dissatisfaction with the present regime in Manila can be found in President Marcos’ own recent decisions to defer a scheduled Jan. 15 plebiscite on his new Constitution and to suppress public debate on the proposed charter, which would permit an indefinite extension of martial rule.⁶⁹

President Marcos decision to postpone the plebiscite rested on his claims that the “Filipinos had slipped back into their old habits and that the enemies of the state were taking advantage of the debate to foment anxiety, confusion, discord, and subversion.”⁷⁰ After banning free debate of the charter and ordering that the spreading of rumors be punishable by death, Marcos issued Proclamation Decree No. 86 on December 31st, 1972. This organized national Citizens Assemblies for an informal referendum and open vote on the new constitution.⁷¹ With Citizens Assemblies ratifying the new constitution, the Supreme Court had no choice but to disregard the previous petitions.

In flagrant violation of electoral laws and previous promises, the constitution was ratified by “a show of hands.” On January 17th, 1973, Proclamation No. 1102 “Announcing the Ratification by the Filipino People of the Constitution Proposed by the 1971 Constitutional Convention,” declared the constitution ratified with a 95 percent vote.⁷² Marcos’s subsequent proclamations, Proclamation No. 1103 and No. 1104,

⁶⁷ Tillman Durdin, “Marcos Gets his Kind of Democracy,” *The New York Times*, January 21, 1973, p. 207, ProQuest Historical Newspapers The New York Times (1857-2005).

⁶⁸ “Dissent in Manila,” *The New York Times*, January, 12, 1973, p. 32, ProQuest Historical Newspapers The New York Times (1851-2005).

⁶⁹ Ibid.

⁷⁰ Rolando V. Del Carmen, “Constitutionalism and the Supreme Court in a Changing Philippine Polity,” *Asian Survey* 13.11 (1973): 1050-1061.

⁷¹ Ibid.

⁷² David Wurfel, “Martial Law in the Philippines: the Methods of Regime Survival,” *Pacific Affairs* 50.1 (1977): 5-30.

abolished the Transitory Provisions' call for an interim National Assembly and imposed the continuation of martial law for an indefinite period of time.⁷³

On January 22nd, 1973, the Supreme Court dismissed all ten petitions challenging Marcos' ability to substitute a plebiscite to pass the 1973 Constitution. Nine out of ten members of the Supreme Court declared the question "moot and academic," with only Justice Calixto Zaldivar dissenting.⁷⁴ It is worth noting that Zaldivar, Chief Justice Roberto Concepcion, and Justice Querube Makalintal were the only non-Marcos Supreme Court appointees at the time.⁷⁵ Marcos proclaimed that this decision had opened the way for the Constitution's full enforcement. In a public statement, he said:

Henceforth, there should be no hesitation on the part of anyone in the implementation of the new Constitution ... The ratification is an accomplished fact. The new Constitution is in full force and effect by the sanction of the people.⁷⁶

D. *Javellana v. The Executive Secretary*

The January 22nd, 1973 Supreme Court decision declaring the legality of the 1973 Constitution's ratification process a "moot and academic" question, "did not deal squarely with the legality of the new Constitution."⁷⁷ Senators Diokno, Roxas, and Aquino, the National Press Club President Eduardo Monteclaro and two private citizens therefore filed four more suits, requesting that the Supreme Court void the new charter and bar its enforcement.⁷⁸ The petitioners asked the judiciary to "save the Republic from the stark reality of a dictatorship."⁷⁹ They implored the Court to order a new plebiscite, in accordance with the 1935 Constitution, which they declared to be still in force. In response, Solicitor General

⁷³ Rolando V. Del Carmen, "Constitutionalism and the Supreme Court in a Changing Philippine Polity," *Asian Survey* 13.11 (1973), 1050-1061.

⁷⁴ Benjamin N. Muego, *Spectator Society* (Athens: Ohio University, 1988).

⁷⁵ *Ibid.*, p. 96.

⁷⁶ "Marcos Charter Challenged by 5," *The New York Times*, January 27, 1973, p. 5, ProQuest Historical Newspapers The New York Times (1857-2005).

⁷⁷ Benjamin N. Muego, *Spectator Society* (Athens: Ohio University, 1988).

⁷⁸ *Ibid.*, p. 96.

⁷⁹ *Ibid.*, p. 97.

Estelito Mendoza warned the Supreme Court not to interfere in an “essentially political question,” and maintained that the Citizens Assemblies’ ratification was in “substantial compliance” of the 1935 Constitution.⁸⁰ Mendoza recounts the various threads to his defending argument. He first asserts that it was a political question, citing that under the 1935 Constitution, various cases pertaining to revolutionary governments are exempt from judicial review.⁸¹ Then, he equates a plebiscite, referendum, and ballot vote equally, by virtue of their shared functional purpose. Mendoza explains,

What [is] the point of voting through the ballot? It is really to determine the expression of the will of the voter ... To the question ... [as to] whether the plebiscite ... is in accordance with the constitution, I would order that if the purpose of the plebiscite is to determine the will of the people ... it’s better decided by the people themselves.⁸²

In the March 31st, 1973 *Javellana v. the Executive Secretary* decision, six justices agreed that “the validity of Proclamation 1102 (announcing the ratification of the proposed Constitution) is a justiciable question,” with four justices dissenting.⁸³ According to Article XV, Section 1 of the 1935 Constitution, the only means of ratifying a new constitution is through “an election or plebiscite held in accordance with law and participated in only by qualified and duly registered voters.”⁸⁴ For this reason the Supreme Court decided that the ratification was not in “substantial compliance of the law.” Yet, the decision states:

[F]our Justices hold that the proposed Constitution has been acquiesced in by the people; two Justices hold that the people have not expressed themselves; one Justice thinks the doctrine of ‘Constitution by acquiescence’ inapplicable; while the three other justices agree that they lack the knowledge or competence to make a determination.⁸⁵

⁸⁰ Ibid.

⁸¹ Atty. Estelito Mendoza, Personal Interview, 13 Aug. 2008.

⁸² Ibid.

⁸³ Central Lawbook Publishing Co., Inc. ed., *Supreme Court Reports Annotated*, Vol. 50 01 (Manila: Central Book Supply, Inc., 1973).

⁸⁴ Ibid.

⁸⁵ Ibid.

Historian Benjamin Muego explains, “If the court’s decision appeared contradictory, it was intended to be so,”⁸⁶ because, as Rolando V. del Carmen observes, the decision was:

Strongly reminiscent of Justice [John] Marshall’s judicial technique employed in *Marbury v. Madison* where that great Chief Justice adroitly obtained pragmatic legal results without unduly forsaking idealistic allies.⁸⁷

Because the Court could not obtain the six votes required to decide whether the public had acquiesced in the constitution or to declare the new constitution not in force, the Constitution, which was in *de facto* operation, continued to be in force. Rolando V. del Carmen writes in the *Asian Survey*, “It is here that President Marcos’ unilateral ratification proclamation of January 17, 1973, assumed the proportion of a far-sighted anticipatory legal strategy.”⁸⁸ Marcos never truly implemented the new constitution, never elected a new prime minister, and in the end the Transitory Provisions ruled the country with him positioned as *de facto* dictator.

It is notable that the Supreme Court did not issue an outright endorsement for the constitution, but when given an opportunity to assert the rule of law and denounce Marcos’s actions, it crumbled. The ratification of the 1973 Constitution and the *Javellana v. Executive Secretary* case were the most pivotal Marcos victories. The Transitory Provisions granted Marcos full powers and the case legitimized his actions before the law, undercutting the opposition’s arguments against him.

The Supreme Court had long operated alongside blatant political violations of the rule of law. While a passive body with powers to decide only those cases brought before it, the Court could always turn a blind eye. Then, when confronted with the question of what was officially acceptable, the Supreme Court did not rise to assert the constitutional constraints upon the executive. As it had three times before, the Supreme Court once again bowed to the executive branch. Marcos may have been more extreme than his predecessors, but the Supreme Court’s acquiescence places him firmly within the political tradition.

⁸⁶ Benjamin N. Muego, *Spectator Society* (Athens: Ohio University, 1988).

⁸⁷ Rolando V. Del Carmen, “Constitutionalism and the Supreme Court in a Changing Philippine Polity,” *Asian Survey* 13.11 (1973): 1050-1061.

⁸⁸ Ibid.

VI. CONCLUSION

In an interview, the former First Lady Imelda Marcos characterized her husband to me as “*malakas*” (strong). Yet, she also made it known: “After Marcos became president, I asked him why he didn’t institute the death penalty and he said, ‘The art and use of power is that it should never be used, only felt.’”⁸⁹ Such a wise statement of restraint seems ironic given Marcos’s use of violence and coercion; however, it does ring true with regard to his treatment of the judiciary. *Javellana v. The Executive Secretary* was Marcos’s final triumph – it sanctified his ‘constitutional authoritarianism’ and limited the scope of the Supreme Court’s decision-making, rendering the judiciary powerless against the crisis regime.⁹⁰ Political scientist Neal C. Tate writes,

By the end of 1974 the Philippine judiciary was no longer in a position to provide any serious check on the martial law regime. Until the end of the crisis regime, the Supreme Court rendered not a single decision that posed even a mild threat to Marcos’ rule. To achieve this result, the President never had to use or threaten coercion on the judges nor did he have to replace oppositionist judges.⁹¹

Naturally, Marcos’s military support, as the Commander in Chief of the Armed Forces ruling under martial law, also convinced the judiciary that dissent would be pointless. As Atty. Romulo laments, “[President Marcos] was a first rate lawyer, a brilliant mind. Before people knew it, he established the trap and then it was too late for the Supreme Court to challenge him.”⁹²

During martial law, the judiciary was not a shield against the authoritarian regime, but rather, an extension of Marcos’s power and legitimacy. Marcos clearly saw this potential, but, at least initially, also genuinely respected the Court’s judicial powers. The Philippine public, believing Marcos to possess a legendary legal mind, allowed him great flexibility with regard to constitutional matters and trusted his expertise. This expertise allowed Marcos to gainfully manipulate the international

⁸⁹ Marcos, Imelda. Personal Interview. 12 Aug. 2008.

⁹⁰ C. Neal Tate, “Courts and Crisis regimes: A Theory Sketch with Asian Case Studies,” *Political Research Quarterly* 46.2 (1993): 311-338.

⁹¹ Ibid.

⁹² Atty. Ricardo J. Romulo, Personal Interview, 20 Aug. 2007.

Cold War context – taking an anti-communist stance under the auspices of the United States – to establish his dictatorship constitutionally, carefully, and always cloaked in a semblance of legality that would justify his actions abroad and at home.

Though the Marcos regime was not an inevitability of the Philippine political tradition, blame nevertheless falls on the system. Historical corruption and the privileging of power over policy combined to create Marcos, equipping him with the malleable political conscience and power-grabbing training that would allow him to utilize the Cold War environment for his own ends. By pushing the “moral” limits of political practice and gaining the Supreme Court’s acquiescence, Marcos revealed to the Philippines the worst flaws and tendencies of its historical political tradition.

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