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Resource Inequalities and Litigation Outcomes in the Philippine Supreme Court

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Comparative analysis of litigation outcomes has been restricted to advanced industrialized democracies. I extend the analysis to a developing country—the Philippines. The models of litigation outcomes for the United States and Great Britain suggest that courts favor the claims advanced by those with greater resources. Although income disparity is generally greater in developing nations, decisions of the Philippine Supreme Court suggest the opposite outcome—those with the least resources fare better. I argue that concerns for stability, legitimacy, and development in nonindustrialized systems lead to biases for those within society who have less. Courts in Third World nations can use their policy-making function to redistribute resources, at least within some components of their docket.

Legal systems arise because of controversies within a society that individuals cannot or will not settle outside a formal adjudication system. Once this system emerges, individuals or groups who choose to litigate must mobilize various resources available to them to end the dispute or conflict. But resources are distributed unequally within societies, and this inequality has consequences in legal disputes. Rousseau argues that inevitably and consistently the “haves” come out ahead.

The universal spirit of Laws, in all countries is to favor the strong in opposition to the weak, and to assist those who have possessions against those who have none. This inconveniency is inevitable, and without exception (Rousseau 1762, 200).

Several studies of trial courts in the United States seem to support Rousseau's assertion that those with greater resources maintain an advantage within the legal system (Galanter 1974; Owen 1971; Wanner 1975). Wheeler et al.'s (1987) study of 16 state supreme courts from 1870 to 1970 finds that the “haves” are more likely to win to a modest degree. Songer and Sheehan (1992) find those with greater resources are more likely to win in the U.S. Court of Appeals, at least for the three circuits examined for the 1986 calendar year.¹ In the single attempt to

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¹In an examination of a lengthier period of 36 years for the U. S. Supreme Court, the authors found that litigant success was more clearly related to the ideological composition of the Court rather than resource inequalities. But the federal government, with essentially endless resources, fared well before all courts (Sheehan, Mishler, and Songer 1992).

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assess resource inequalities and litigation outcomes beyond the United States, Atkins (1991) examines the English Court of Appeal. His analysis also finds that greater capability among parties in terms of various resources is significantly related to success in the British system.

At a minimal level, these works suggest that the “haves” succeed because of inequities in resources that are exacerbated by the inherent biases of the judicial system. But the empirical tests that support these hypotheses are limited to advanced industrial societies. Rousseau argues this bias is universal across all systems. I seek to evaluate this assertion by analyzing the effect of resource differentials on litigation outcomes for a nonindustrialized country, specifically, the decisions of the Philippine Supreme Court. In Third World nations where disparities between the “haves” and the “have nots” are generally more extreme, one might expect an even greater advantage to those with greater resources, but I argue that concerns for stability, legitimacy, and development in nonindustrialized systems lead to biases for those within society who have less. Systemic biases affect outcomes in both industrialized and nonindustrialized countries, but in less developed nations these biases can lead to outcomes favoring those with fewer resources. Courts in Third World nations can use their policy-making function to redistribute resources, at least within some components of their docket, thus potentially increasing their own legitimacy and stability within the political system.

Resource Inequality Theory

Resource inequality theory assumes that corporations, businesses and associations, or unions, as well as the government have greater resources, both in terms of money and litigation experience, than individuals, and thus are more likely to win. Levels of resources are assumed rather than measured directly. While there are exceptions to this rule, on average individuals have less resources available to them than do corporations, unions, or the government. Resource inequality theory has ignored the broader relationship between adjudication and social structure. Formal adjudication mechanisms reside within particular social structures which differ in industrialized and developing societies. Resource inequality theory overlooks the possibility that courts may function differently in these societies.

For advanced industrial societies, the governed accept the legitimacy of the courts to rule. Though the legal structure evolves to systematically favor the privileged, the population by and large accepts the legitimacy of the rules and the outcomes (Akers and Hawkins 1975, 43–44; Quinney 1975, 75–76). The losers agree they have lost because the legal system is believed to be a neutral evaluator of facts and rules. This legitimacy is crucial in maintaining social order and coordination (Timasheff 1939, 19–26; Bohannon 1968, 75).

This ignores the political reality of most Third World nations where many participants believe that the political system, including the courts, is corrupt and illegitimate. The decisions which favor the privileged “haves” are viewed as an inevitable result of a tainted structure.

For Third World countries, legitimacy is tied closely to the primary goals of modernizing societies: development and stability (Thompson 1992, chap. 4). Stability is assured when society at large agrees on the rules and established institutions are considered legitimate. When a large proportion of the population is continuously denied access to economic and symbolic goods, security is threatened. To limit opposition, economic and symbolic goods must be found and distributed (or redistributed), not necessarily equally, but sufficiently to ensure the acceptance of the social order. Modernization is seen as the avenue to achieve sufficient goods for sufficient numbers of the populace to ensure the stability of the governing. Alternatively, goods must be redistributed, for example through labor laws and land reform, to limit the gap between the “haves” and the “have nots.” Though rarely successful in developing nations, these laws represent at least a symbolic attempt to narrow the gulf between the rich and poor.² The inability of most Third World nations to reduce the gap between the rich and the poor propels the “cyclical pattern of rebellion” (Kessler 1989, 21). A negative spiral emerges where rebellion produces instability and decreases legitimacy. This in turn limits development and exacerbates resource inequalities.

For industrialized nations that have maintained sufficient growth, the “have nots” still acquire enough to accept the legitimacy of the social order. Thus, courts can systematically favor the privileged by law and by rule, while maintaining institutional legitimacy. In Third World nations, the extreme gap between the rich and the poor creates large portions of the governed with little access to economic goods (Ward 1978). By favoring the “haves” in decisions, courts in less-developed nations can in fact undermine their own legitimacy. But these courts must also be careful not to undermine the authority of the “haves.” Courts in Third World countries must practice a balancing act to preserve their legitimacy and to continue the acceptance of their right to rule among both the populace at large and the governing elites.

In summary, the court wishes to preserve its legitimacy, and with it society’s acceptance of its right to rule. The court is aware of the relationship between their sympathies with the underprivileged and their perceived legitimacy in society. But the court must balance the interests of the “have nots” with the extreme power of the political elite. The court’s legitimacy is crucial in maintaining its own political stability. Institutional stability, in turn, is essential for development.

The Philippine Context

The Philippine legal system is a tapestry woven of custom, Roman civil law, and the Anglo-American common law systems. Prior to the colonization of the

²Redistribution of income is one of the goals advocated by the Philippine government. For example, distribution of land has been a perpetual promise throughout the history of the Philippines. Land reform attempts have been largely unsuccessful primarily due to elite resistance and political corruption in the administration of the programs (Koppel 1987; Overholt 1987, 96–100).

Philippines by the Spanish, Filipinos lived in *barangays*, independent communities that functioned under unwritten native rules and customs. Family and property disputes were settled by these customary laws, and penal laws existed to punish violations of customary laws. The native system was displaced following the Spanish conquest in 1521 by the civil or code law, still in limited use in some areas such as family law and contract. Following the cession of the Philippines to the United States at the end of the Spanish-American War in 1898, the United States abolished all laws, both customary and civil, which were inconsistent with the U.S. Constitution. The Philippine Constitution, patterned closely after the U.S. Constitution, was ratified in 1935, while still under U.S. control. It was retained by the people of the Philippines following its independence from the United States in 1946 (Feliciano 1978, 1–4). Marcos directed the writing and adoption of the Philippine Constitution in 1973, which provides for a parliamentary form of government, but little was altered in the judiciary under the 1973 or 1987 constitutions.

The Philippine Supreme Court, initially established under military auspices following the Spanish-American War, was reconstituted as a part of the civilian government in 1901.³ Petitions for appeal were received from a system of geographically dispersed trial courts, as is true today. At the outset the Court was given full powers of judicial review over the actions of other agencies of government, including the governor-general. The justices have always been appointed by the executive and confirmed by the legislature.⁴ Prior to independence in 1946 this was the American president and Senate; after 1946, the Philippine executive and legislature selected the Supreme Court justices. The Court's mixed membership of Americans and Filipinos was replaced entirely with Filipino appointees following 1946.⁵ The 1935 constitution set membership of the Philippine Supreme Court at 11. The 1973 Constitution increased the number to 15 where it remains. Justices serve until the age of 70.

Its constitutionally defined jurisdiction⁶ places the Supreme Court atop a hierarchy of courts with general civil and criminal jurisdiction.⁷ Additionally, cases

³The following discussion draws heavily on Tate and Haynie 1993, 205–06.

⁴The 1987 Constitution vests the power to recommend judicial appointees in a Judicial and Bar Council representing many of the Court's constituencies.

⁵The American appointees always retained a majority of one, but the chief justice was always Filipino.

⁶The Court's jurisdiction was specified in the 1935, 1973, and 1987 constitutions. The specifications of the Supreme Court's power differed slightly in each of these documents, but the differences among the constitutions are not significant for this analysis.

⁷Following the abolition of the appeal to the U. S. Supreme Court in 1935, an intermediate Court of Appeals was established to assist the Philippine Supreme Court with its caseload. Below the Court of Appeals are regional trial courts and circuit criminal courts. The bottom tier of courts includes the metropolitan, municipal, or municipal circuit trial courts, juvenile and domestic relations courts. The municipal courts, as well as the justices of the peace, who existed at an earlier time, were not courts of record.

can be brought to the Court from a number of specialized courts and quasi-judicial administrative agencies.⁸

There are a number of mandatory and discretionary routes through which a case can reach the Philippine Supreme Court. Appeals from the lower courts must follow the hierarchy through the Court of Appeals unless cases involve “only an error or question of law.” Though some cases come to the Supreme Court as a matter of right, available evidence indicates that regardless of the route by which they reach the Court, cases it deems less important are routinely disposed of by unpublished “minute resolutions” that require relatively little effort to prepare.

The Court’s broad grant of review power is supplemented in Article X, Sections 1 through 12 in the 1973 constitution, which provides that the Supreme Court shall have “original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*.” In addition, the Court may “Review and revise, reverse, modify, or affirm on appeal or *certiorari* as the law or the Rules of Court may provide, final judgments and decrees of inferior courts,” concerning

1. the constitutionality of any official government pronouncement⁹
2. the legality of any “tax, impost, assessment, or toll, or any penalty imposed in relation thereto”
3. the jurisdiction of any lower court
4. criminal sentences of life imprisonment or higher
5. “only an error or question of law”
6. full administrative supervision of judges, employees of the judiciary, and the bar.

The Philippines provides an excellent laboratory to examine resource inequalities in litigation for several reasons. First, the Philippine Supreme Court, while the highest appellate court in the Philippine political system, in many ways reflects a trial court system. The court’s docket, unlike its American counterpart, contains many routine decisions generally associated with the lower courts, such as landlord–tenant disputes, property ownership disputes, and debtor/creditor disputes. This provides a broader basis for evaluating the dispute resolution process within the country as a whole than would the U.S. Supreme Court, whose agenda reflects a much more narrow set of public law issues. The Philippine legal system

⁸Since 1980 these have included the Sandiganbayan, a special “antigrift” court, the Court of Tax Appeals, and a set of Shari’a Courts with jurisdictions over some of the legal affairs of the Muslims in certain regions of the country. Before 1980 the special courts included the Court of Tax Appeals, a court of industrial relations, a court of agrarian relations, and a system of military courts, with jurisdiction limited to military personnel. Under Marcos’s martial law rule, there were also military courts and commissions with the power to try civilians for some offenses.

The agencies include the Employees Compensation Commission, National Labor Relations Commission, Commission on Audit, Energy Regulatory Board, Board of Investments, Board of Transportation, Securities and Exchange Commission, among others (Teehankee 1987, 22).

⁹Specifically, “any treaty, executive agreement, law, ordinance or executive order” (Section 5 [a]).

is accessible to the vast majority of the Philippine population. However, there is no right to counsel in civil cases and no broad legal aid program, as there is for indigents accused of crimes, nor are there large numbers of cause-oriented litigation groups. Some resource threshold is required to initiate suits. However, many of the individuals in the cases studied are truly poor, litigating frequently over a few hectares of land or leaseholds, or over minor amounts in damages in accidents, or over small amounts of debt.

Second, the Philippine Supreme Court decides four to five times as many decisions as the U.S. Supreme Court, from 500 to 700 cases or more per term year.¹⁰ This increases the representativeness of the Court's decision making. It is much more reflective of the types of disputes within the Philippine society generally than the docket of the U.S. Supreme Court.

Third, the newly developed Philippine Supreme Court data base provides an avenue to empirically evaluate litigation processes. The data base includes all the decisions reported in the *Philippine Supreme Court Reports Annotated* (SCRA) from the beginning of the publication of those reports in 1961 through 1986. More than 15 thousand decisions included in the SCRA were coded for a wide variety of political, legal, and other characteristics. A longitudinal analysis over a 26-year period assures that the results do not reflect idiosyncratic conditions that may pertain in any single year.

Last, the Philippine Supreme Court has practiced a balancing act throughout its history between concerns for its own political legitimacy and the power of the political and economic elite. Understanding the biases of the justices walking this tightrope is important in explaining success in appellate court decisions. There is no empirical measure of the attitudes of the Filipino justices currently that is independent of votes.¹¹ Without an objective measure, analysis of the effect of values on decisions is greatly restricted. However, evidence is available from extensive interviews conducted with justices who served on the Philippine Supreme Court at various times over the entire period examined (see Tate and Haynie n.d.).¹² It is clear from the interviews that the justices appointed to the bench are aware of the

¹⁰The Court disposed of 1,368 petitions in 1961 with 712 reported opinions. The Court disposed of 3,616 cases, its highest ever, in 1982 with 816 reported decisions. The average number of petitions disposed for the term years 1961 through 1986 is 2,228, and the average number of reported opinions over this period is 559.

¹¹While quantitative measures of the justices' values are preferable, obtaining these for the Philippines is problematic. Typically for the U.S. Supreme Court the political party affiliation of the justice has served as an indicator of ideology. This does not translate to the Philippines. As Overholt (1987) notes, "Political parties that have no ideological or policy differences compete almost exclusively on the basis of who can deliver the most patronage" (90). Segal and Cover (1989) developed ideology scores for the U.S. Supreme Court justices based on editorial comments at the time of their confirmation, but the appointment of justices in the Philippines does not involve the lengthy, often rancorous selection process of the United States. Absent direct quantitative measures that are independent of votes, I have turned to available evidence from interviews.

¹²Interviews were conducted by C. Neal Tate with 12 of the 14 (86%) then-incumbent justices, plus 14 of 26 (65%) living retired justices.

plight of the very poor in the Philippines and are sympathetic to their situation. Tate and Haynie (n.d.) observe that “several of the justices mentioned the social tenets of justice as a guiding force in the decisions, which go beyond constitutional definitions of right and wrong.” As one justice stated,

[W]e want to, to a certain extent, protect the downtrodden. . . . [W]e subscribe to the mandate or to the doctrine that he who has less in life should be more favored in law. Not that we will openly side with those who have less in life, no, but they need our protection because they are always at a disadvantage the moment they report a case (Tate and Haynie n.d.).

One of the justices described a decision of the Court in which an employee who had been legally terminated after an 18-year tenure was provided some compensation because

that has been the thinking of the court, an obligation of some of the tenets of social justice, so that this fellow does not get thrown out in the streets after 18 years (Tate and Haynie n.d.).

And yet the justices were aware of their limitations in confronting the Marcos regime. One justice noted that

what the critics would want is to have a frontal clash with Mr. Marcos. In a martial law regime that's practical, I don't think that's advisable. . . . [The Court] would have been abolished if it went against Marcos like that. If it went against his pet projects, I'm certain it would have been abolished (Tate and Haynie n.d.).

The comments reveal the Court's balancing of the interests of the “have nots” with the extreme power of the political elite, particularly the Marcos regime.

Operationalizing the Model

To test the effects of resource inequalities for parties before the Philippine Supreme Court, I pattern my model after Atkins' party capability model (Atkins 1991). Only by testing similar models in different systems can scholars compare results.¹³ Though I note the adjustments made to Atkins' model to correct for idiosyncratic differences between the systems, I attempt to replicate his theoretical approach as closely as possible.

I investigate all cases over the 26-year period involving the following issues: damages and injury suits, contract disputes, creditor/debtor disputes, agricultural, commercial and residential landlord/tenant disputes, labor/management disputes, workers' compensation disputes, and contempt of court appeals.¹⁴

Since the goal is to determine who wins and who loses, the outcome for the petitioner is the dependent variable, coded one if the Court favored the petitioner,

¹³Truly comparative studies would involve testing the same model across several judicial systems.

¹⁴Atkins selects divorce, child custody, contempt, commercial business, and public law issues. Because I seek to select those cases that maximally involve corporations, the government and individuals interacting, I did not address divorce or child custody issues. These almost always involve an individual against an individual, in which case it is not possible to determine resource inequality. I did not select public law issues either because many of these issues for the Philippines involve criminal appeals. I investigate only civil cases to avoid theoretically confusing the conflict resolution and social control functions of courts.

and zero otherwise.¹⁵ Petitioner types were coded as either government (national, regional, or local), corporations, or individuals to mirror Atkins' "party capability indicators."¹⁶ Absent direct measures of income, these indicators represent surrogate measures of resources available to litigants. Assumptions are made about the resources available to each of these groups as well as the interrelationship among the petitioner and the respondent. Resource inequality theory assumes that if the petitioner is either the government or a corporation and the respondent is an individual, the petitioner is more likely to win, with particular advantage to the federal government. Conversely, if the individual is challenging the government or a corporation, the success of the petitioner is less likely. I argue that the relationship of resources to litigation success varies across systems. For the Philippines, those with the least resources will have greater success than their counterparts in the United States and Great Britain.

I also explore the error correction and/or supervision functions of appellate courts. It is more likely that the Philippine Supreme Court will favor or uphold the decisions from the intermediate courts and "correct" or reverse decisions from the lower courts and government agencies, particularly because of the reputation for corruption among the latter two. Additionally, decisions by the courts of appeals itself will have presumably "corrected" lower court mistakes. Thus, the necessity for further correction is presumably less. As described earlier, some cases are appealed directly to the Supreme Court from lower courts and administrative agencies. Atkins found similar results in the British system where the Court of Appeal is more likely to overturn in cases from county courts than in appeals from the High Court. Cases appealed to the Philippine Supreme Court directly from the Court of Appeals or the Intermediate Appellate Court were coded zero; cases appealed directly from a regular trial court or Court of First Instance were coded one and cases coming directly from government agencies were coded two. A positive correlation indicates a greater likelihood of reversing lower court and bureaucratic decisions.¹⁷

I exclude judge status and panel size because they are not applicable to the Philippine Supreme Court. Only sitting judges rule on petitions before the Philippine

¹⁵For the Philippine Supreme Court, petitioner refers to those seeking specific action from the Court, rather than review. Otherwise, this variable refers to the original petitioner (plaintiff) and respondent (defendant) in the suit. This is derived from outcome for petitioner which is coded 1 for anti-petitioner, 2 for partly pro-petitioner, and 3 for pro-petitioner. The second category was collapsed into the pro-petitioner dichotomy. Because this was a somewhat arbitrary choice, the analysis was run with this category collapsed into anti-petitioner and there were no significant differences in the results. Additionally, these cases comprise only .4% of the cases (15 of 3,991).

¹⁶Per Atkins, corporations were not further delineated into small businesses versus large businesses. Unions were coded as corporations. "Status in litigation," which represented whether the petitioner won or lost, was not included. In each of these cases the petitioner had lost, at least partially, in the lower forum.

¹⁷The "error correction" component of Atkins' model is not related specifically to the resources of the litigants. However, courts interested in establishing specific policies concerning the relationship between resources and outcomes can use this as a means to correct lower court and agency decisions that deviate from the Court's approach.

Supreme Court. Semiretired or other temporary personnel sit in the British Court of Appeal. Additionally, though the Court has routinely used panels since 1973, they are unlike the British situation where more important cases are assigned to a three-judge panel as opposed to the two-judge panel that assesses lesser claims with smaller sums. For the Philippines, panels represent an equal division among the justices and do not relate to case importance. While the Philippine Supreme Court does sit *en banc* for important cases, these are too few to be theoretically significant for this analysis, particularly considering the issues involved.

Atkins finds that outcomes favor those with “dominant legal rights.” Landlords, employers, and creditors are assumed to present a superior legal position in legal challenges. Tenants, employees, and debtors are assumed to be in an inferior position. These assumptions are particularly compelling for the Philippines, and perhaps most Third World nations, where corporate growth and expansion is encouraged at the expense of labor and tenant. During the Marcos reign, wages were kept artificially low; working conditions were appalling; and strikes were illegal, all

TABLE 1

CODING SCHEME FOR PHILIPPINE SUPREME COURT VARIABLES

Forum below:	Court of Appeal or Intermediate Appellate Court = 0 Regular Trial Court or Court of First Instance = 1 2 otherwise
Issue: ^a	Torts = 1; 0 otherwise Contracts = 1; 0 otherwise Creditor/Debtor = 1; 0 otherwise Landlord/Tenant = 1; 0 otherwise Labor/Management = 1; 0 otherwise Workers' Compensation = 1; 0 otherwise Contempt = 1; 0 otherwise
Petitioner Type: ^b	Corporation (present) = 1; 0 otherwise Individual (present) = 1; 0 otherwise Government (present) = 1; 0 otherwise
Litigation Interaction:	Gov. v. Corp. (present) = 1; 0 otherwise Gov. v. Indiv. (present) = 1; 0 otherwise Corp. v. Gov. (present) = 1; 0 otherwise Corp. v. Indiv. (present) = 1; 0 otherwise Indiv. v. Gov. (present) = 1; 0 otherwise Indiv. v. Corp. (present) = 1; 0 otherwise
Superior Legal Right:	Coded 1 if petition is advanced by a creditor, landlord, or employer; 0 if advanced by debtor, tenant, or employee.

^aThe issues are coded as dummy variables, which requires one of the possibilities to be dropped from the analysis. *Contempt* was selected.

^bSimilarly, petitioner type is a dummy variable, and *Government* as the petitioner was dropped from the analysis.

TABLE 2
LOGISTIC REGRESSION COEFFICIENTS

Variable	Beta	Std. Error	p
Intercept	1.738	1.083	0.108
Forum	0.135	0.059	0.021**
Torts	0.306	0.227	0.177
Contract Disputes	0.351	0.216	0.105
Creditor/Debtor	0.931	0.235	0.001***
Landlord/Tenant	0.498	0.235	0.034**
Labor/Management	0.367	0.213	0.085*
Workers' Comp.	0.696	0.213	0.001***
Petitioner is Indiv.	-2.235	1.096	0.041**
Petitioner is Corp.	-2.093	1.094	0.056*
Government v. Corp.	-1.625	1.124	0.148
Government v. Indiv.	-1.703	1.105	0.123
Corporation v. Gov.	-1.159	0.272	0.001***
Corporation v. Indiv.	0.029	0.110	0.789
Individual v. Gov.	0.968	0.150	0.001***
Individual v. Corp.	0.720	0.131	0.001***
Sup. Legal Right	-0.486	0.099	0.001***
N = 3,991			
Chi Square = 291.37***			
Degrees Freedom = 16			

* $p < .10$, two-tailed; ** $p < .05$, two-tailed; *** $p < .01$, two-tailed.

to encourage corporate investment (see Davis 1987).¹⁸ Agricultural tenants remain “neglected by government” (Davis 1987, 51), with uncertain tenure and the perpetual threat of eviction (Kerkvliet 1987, 207). Similarly, the civil code does not place the debtor in a favorable status.¹⁹

The coding scheme for the variables is presented in table 1.

Analysis and Findings

Because of the dichotomous dependent variable, logistic regression analysis was used. The results are presented in table 2.

The results suggest that outcomes favor the individual in cases before the Philippine Supreme Court. The coefficient for legal forum is significant (beyond

¹⁸The repressive nature of martial law on the weak but emerging labor movement, including agricultural laborers (as opposed to tenants who have access to farmland), is well documented but see Kerkvliet (1979), Stauffer (1979) and Davis (1987) for general overviews.

¹⁹For example, any improvement to obligations are to benefit the creditor; the creditor retains control over alternative obligations; creditors can demand payment of any one of a number of joint and solidary obligors; and should creditors fail to accept payment, the rejection must be proved by the debtor (Tolentino 1986, 142–334).

the .05 level) and positive as expected. Those plaintiffs who appeal the decisions of the lower courts and the bureaucracy are more likely to win than those appealing decisions from the intermediate courts. The Court is less likely to reverse the decisions of the intermediate appellate courts. This also suggests that the lower courts and administrative agencies are more likely to differ in their decisions from the Court's policy preferences than are the intermediate appellate courts.

Cases involving creditor/debtor issues, landlord/tenant, labor/management, and workers' compensation disputes significantly increase the likelihood of success for the petitioner. The "error correcting" strategies of the Court seem most influenced by those cases that clearly involve superior legal rights. However, in contrast to Atkins' findings, superior legal rights do not increase the likelihood of winning; rather, they increase the likelihood of the petitioner losing. Superior legal right is highly significant (beyond the .001 level) and negatively correlated with success. The legal underdog is at a significant advantage.²⁰

Neither the individual nor the corporation as petitioner is more likely to succeed. Both are significant near or beyond the .05 level, but negatively correlated with pro-petitioner decisions. This is partly due to the fact that about 50% of the time, the petitioner loses. In general, there is no advantage to the petitioner being either a corporation or an individual.

Significance is related to not merely the petitioner, but the petitioner-respondent combination. Unlike the results for the United States and Britain, the corporation is at no advantage when facing an individual in court. The coefficient is not significant. And the corporation is most likely to lose when facing the government. The coefficient is significant beyond the .001 level and negatively related with success. Similarly, the government does not seem to be at a significant advantage, either when battling a corporation or an individual. Neither of the coefficients are significant. The big winner seems to be the individual. When facing either the government or a corporation, the likelihood of success is positive and significant beyond the .001 level if the petitioner is the individual. The model chi-square is significant beyond the .001 level.

The data can be further analyzed to determine success between litigants and issues. Wheeler et al. (1987) and Songer and Sheehan (1992) determine the success of each litigant as both petitioner and respondent. The net advantage used in this analysis is calculated by subtracting the success rate of opponents when the litigant is respondent from the litigant's success rate as petitioner.²¹

²⁰Because of the significance of workers' compensation claims in this variable, the laws relating to it were examined. The Workmen's Compensation Act (1928) (as amended) is more liberal than the previous Employer's Liability Act (1908) because the former does not require proof of negligence of the employer, however, it does provide for negation of the claim for "notorious" negligence on the part of the employee. The definition of "notorious" is left to the courts. The employee remains open to challenge by the employer. Bacungan (1971, 380) notes that "The Workmen's Compensation Act would be just so much 'paper' benefits, however, if the law is not liberally interpreted."

²¹For the U. S. Supreme Court, Sheehan, Mishler and Songer (1992) found that 67% of cases were reversed on appeal from 1953-1988 and employed a slightly different calculation to control for the

TABLE 3
NET ADVANTAGE OF PARTIES, 1961–1986 (%)

Type of Party	Success Rate as Petitioner	When Respondent, Opponent's Success Rate	Net Advantage	Averaged Success Rate as Petitioner and Respondent
Individual	57.85	44.17	13.68	56.84
Corporation	43.88	52.98	–9.11	45.45
Government	54.40	65.16	–10.76	44.62

TABLE 4
PETITIONER SUCCESS RATES AGAINST DIFFERENT RESPONDENTS (%)

Petitioner	Respondent		
	Individual (<i>N</i>)	Corporation (<i>N</i>)	Government (<i>N</i>)
Individual	43.09 (803)	64.24 (618)	71.86 (565)
Corporation	43.98 (748)	45.83 (984)	21.98 (91)
Government	52.50 (120)	54.55 (55)	85.71 (7)

The results in table 3 demonstrate the net advantages of the litigants. The individual has the greatest likelihood of success with a net advantage of 13.68 compared to –9.11 for corporations and –10.76 for government. The individual also has the highest averaged success rate of 56.84%, more than 10% higher than either corporations (45.45%) or the government (44.62%).

Table 4 examines the likelihood of success with differing pairs of litigants. Individuals won 64.24% of the time when challenging corporations and 71.86% of the time when challenging the government. Corporations failed miserably against the government, succeeding in only 21.98% of these cases, and managed to win only 43.98% of the time against individuals. The government won 52.5% of its cases challenging individuals and 54.55% of those against corporations.

In examining the net advantages for different combinations of litigants in table 5, the individual remains the consistent winner against both corporations (net advantage of 20.26%) and the government (net advantage of 19.36%). The government maintained a net advantage of 32.57% against corporations.

advantage of respondent status. This was not used for the Philippine Court which was equally likely to affirm as to reverse for this period. The Court favored the petitioner in 49% of the cases and the respondent in the remaining 51%.

TABLE 5

NET ADVANTAGE FOR DIFFERENT COMBINATIONS OF PARTIES (%)

Combination of Parties	Net Advantage
Individual v. Corporation	Individual by 20.26
Individual v. Government	Individual by 19.36
Corporation v. Government	Government by 32.57

Table 6 reveals the particular issues which drive the success of the individual. The net advantage for the individual is 57.94% for workers' compensation cases, and 10.19% for contempt cases. For tort claims, individuals' net advantage is 4.16% compared to -9.7% for corporations. Corporations have the greatest likelihood of success in landlord-tenant issues (37.99% net advantage) and a slight advantage in creditor/debtor cases (3.52% net advantage). The government has the greatest success in landlord-tenant cases (net advantage of 41.66%) and tort claims (net average of 41.26%), and little chance in workers' compensation cases with a net advantage of -57.33%. Though the individual's success depends in large part on workers' compensation outcomes, individuals do fare better than corporations in four of the six issue areas and better than the government in three of the six categories. This is significantly different than the findings for the United States or the British Court of Appeal.

Longitudinal Analysis

If judges' decisions are affected by concerns for the court's legitimacy as a political institution, shifts should occur during those periods where its legitimacy is most questioned or threatened. I argue that courts increase their support of the individual at the expense of those with greater resources during these crises. During the Marcos years, and especially during the martial law period, the Philippine Supreme Court's reputation suffered, as well as the perception of its legitimacy (Tate and Haynie n.d.). The Court remained unwilling to rule against Marcos in the key challenges to his "constitutional authoritarianism." However, the Court had the remaining bulk of its caseload to combat the perception that it supported the wealthy elites by ruling for those with fewer resources.

Figure 1 shows the overtime percentage of wins by individuals when facing either the government or corporations, and the percentage of wins by corporations when facing individuals or the government.²² During the martial law years the individual appears to be gaining at the expense of the corporation. This trend levels off toward the end of the Marcos era. Multiple interrupted time series analysis was used to assess empirically the effect of Marcos and of his imposition of martial

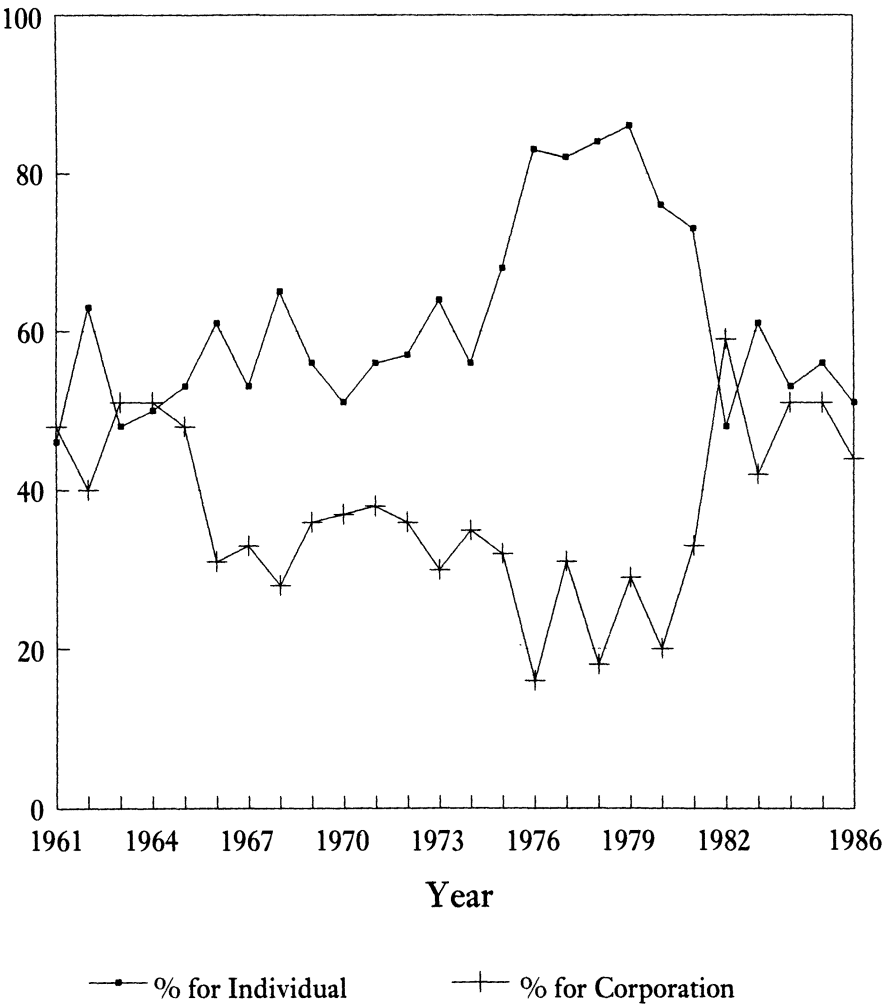
²²This eliminated cases where individuals faced individuals or corporations faced corporations. This percentage is based only on cases where an appropriate interaction existed. The percentage favoring the government is excluded from the analysis. There were too few cases for annual analysis.

TABLE 6
NET ADVANTAGE FOR PARTY BY ISSUE (%)

Type of Party	Issue ^a	Success Rate as Petitioner (N)	When Respondent, Opponents' Success Rate (N)	Net Advantage	Averaged Success Rate as Petitioner and Respondent
Individual	Torts	50.60 (494)	46.44 (450)	4.16	52.08
	Creditor/ Debtor	51.02 (196)	55.40 (213)	-4.38	47.81
	Landlord/ Tenant	38.17 (427)	42.92 (452)	-4.75	47.63
	Labor/ Management	53.06 (245)	52.99 (234)	.07	50.04
	Workers' Compensation	84.35 (553)	26.41 (284)	57.94	78.97
	Contempt	54.93 (71)	44.74 (38)	10.19	55.10
	Torts	42.93 (594)	52.63 (573)	-9.70	45.15
	Creditor/ Debtor	61.59 (138)	58.07 (124)	3.52	51.77
Corporation	Landlord/ Tenant	79.16 (48)	41.17 (17)	37.99	68.99
	Labor/ Management	45.86 (761)	46.31 (704)	-4.45	49.78
	Workers' Compensation	25.19 (262)	74.19 (217)	-49.00	25.50
	Contempt	35.00 (20)	50.00 (22)	-15.00	42.50
	Torts	69.49 (59)	28.23 (124)	41.26	70.63
	Creditor/ Debtor	65.00 (20)	47.06 (17)	17.94	58.97
	Landlord/ Tenant	83.33 (6)	41.67 (17)	41.66	70.83
	Labor/ Management	38.46 (39)	41.12 (107)	-2.66	48.67
Government	Workers' Compensation	32.14 (28)	89.47 (342)	-57.33	21.34
	Contempt	53.33 (30)	55.74 (61)	-2.41	48.80

^aTorts *N* = 1,147; Creditor/Debtor *N* = 354; Landlord/ Tenant *N* = 481; Labor/Management *N* = 1,045; Workers' Compensation *N* = 843; Contempt *N* = 121.

FIGURE 1
PERCENT FOR INDIVIDUALS AND CORPORATIONS IN LITIGANT INTERACTIONS



law on the two series. These interventions were specified in the following regression equation:

$$YI_t = b_0 + b_1 \text{Series Counter} + b_2 \text{Marcos}_t + b_3 \text{Marcos Counter}_t + b_4 \text{Martial Law}_t + b_5 \text{Martial Law Counter}_t + e_t$$

where

YI_t is the average annual percentage of cases favoring the individual when the individual faces either the government or a corporation;

Series Counter is a counter for the slope of the entire series coded 1 in 1961, 2 in 1962, . . . , and 26 in 1986;

Marcos_t is a dummy variable coded 0 prior to 1966 and 1 from 1966 through 1986;²³

Marcos Counter_t is a counter for each year following Marcos's election coded 0 prior to 1966 and 1, 2, 3, . . . from 1966 forward;

Martial Law_t is a dummy variable coded 0 prior to 1973 and 1 from 1973 forward;²⁴

Martial Law Counter_t is a counter for each year following the declaration of martial law coded 0 prior to 1972 and 1, 2, 3, . . . from 1973 forward;

b_0, b_1, b_2, b_3, b_4 and b_5 are parameters to be estimated;

and e_t is a randomly distributed error term for each year t .

Significant parameter estimates for the counter variables represent statistically significant shifts in the slopes, and for the dummy variables represent statistically significant increases (positive coefficients) or decreases (negative coefficients) in the regression intercept associated with the intervention at time t . The equation was repeated for the dependent variable $Y2_t$, the average annual percentage of cases favoring corporations when the corporation faces either the government or an individual. Each model was estimated using OLS regression, but standard regression diagnostics indicated the existence of first-order autocorrelation in both the $Y1_t$ and $Y2_t$ models. In order to correct for this, the models were reestimated using a Cochrane-Orcutt procedure, with the resulting model estimates uncontaminated by the effects of autocorrelated error terms.

The coefficients for the initial series trend show that support for individuals begins at about 49% and increases by less than 1% per year, though the slope coefficient is not significant (table 7). The trends in the series following Marcos's election and the onset of martial law indicate slightly downward tendencies in the slope after each intervention, but both are insignificant. Moreover, Marcos's election does not significantly affect the level of the series. The onset of martial law, however, has an impact on the level of the series that is very near statistical significance at the .05 level. As predicted, following the declaration of martial law, individuals' percentage of success increased more than 17%. As the perceived legitimacy of the political system, and the Court itself, declined, the success of the less advantaged increased. The R^2 for the model is .2627, suggesting that approximately 26% of the variance for the series is explained with these two interventions.

For corporations, the results are in the opposite direction, as predicted (table 8). Initially, the series trends slightly upward by almost one percentage point each year, but the coefficient is not significant. Following Marcos's election, there is a

²³Marcos was elected to his first term on November 9, 1965, and took office on January 1, 1966. Though Marcos was ousted in the relatively peaceful People's Power Revolution in February 1986, there are no time periods following this to assess the revolution's impact.

²⁴Marcos declared martial law in September 1972. The coding of this variable assumes a few months' lag for the declaration to affect the Court's decision making.

TABLE 7
MULTIPLE INTERRUPTED TIME SERIES RESULTS
FOR PERCENTAGE FAVORING INDIVIDUALS^a

Variable	Beta	Std. Error	P
Intercept	.4889	.1255	.001**
Series Counter	.0072	.0357	.421
Marcos	.0686	.1178	.283
Marcos Counter	-.0085	.0460	.429
Martial Law	.1748	.1019	.051*
Martial Law Counter	-.0116	.0261	.331
<i>N</i> = 26 <i>R</i> ² = .2627 Durbin-Watson = 1.91			

^aParameter estimates for this model were obtained using a Cochrane-Orcutt correction for first-order autocorrelated errors.

p* < .10, one-tailed; *p* < .01, one-tailed.

TABLE 8
MULTIPLE INTERRUPTED TIME SERIES RESULTS
FOR PERCENTAGE FAVORING CORPORATIONS^a

Variable	Beta	Std. Error	P
Intercept	.4503	.0950	.001**
Series Counter	.0082	.0284	.388
Marcos	-.1962	.1017	.034*
Marcos Counter	-.0030	.0338	.465
Martial Law	-.1639	.0806	.028*
Martial Law Counter	.0077	.0185	.341
<i>N</i> = 26 <i>R</i> ² = .5297 Durbin-Watson = 1.978			

^aParameter estimates for this model were obtained using a Cochrane-Orcutt correction for first-order autocorrelated errors.

p* < .05, one-tailed; *p* < .01, one-tailed.

negative change in the slope, followed by an increase in the slope of 2% with the onset of martial law, but neither of these slope changes attains conventional levels of significance. However, the intercept of the series shifts significantly downward by almost 20% following the election of Marcos and an additional 16.4% downward following the onset of martial law. The parameter estimates for the election of Marcos and the onset of martial law are significant beyond the .05 level. Following Marcos's assumption of power the support of corporations decreases by 19.6% and decreases even further following the declaration of martial law; the percentage of cases favoring corporations drops more than 16%. The *R*² for the model is .530. Marcos's election and the martial law intervention account for over 50% of the variance in the equation.

During significant shifts in the social structure that threaten the Court's legitimacy and stability, the likelihood of those with greater resources winning declined significantly. Marcos's election alone was not sufficient to alter the Court's support for individuals. However, the imposition of a radical change in the rule of law, the martial law intervention, significantly affected the relationship of resource inequalities and litigation outcomes. However, the relationship between the success of corporations and the Court's decision making shifted with both Marcos's rule and his imposition of martial law.

Discussion

Resource inequality theory has asserted that one group, the "haves," gains through economic and experiential advantages that ensure its success at the expense of the "have nots." The research on the United States and Great Britain seems to support this paradigm. The findings of this investigation suggest, at least for the Philippines, that the appellate law can serve a redistributive, or at least distributive, function for society that can potentially enhance its legitimacy as a political institution. Unlike the studies for the American and British courts, which suggest a function of maintaining, or even enhancing the status of the privileged, the opposite is found for the Philippines.

Rousseau asserted that the amount of resources available to litigants is the best predictor of success in all legal systems. For the Philippines, where huge disparities in resources exist, those with less fare significantly better before its Supreme Court than their western counterparts, particularly in some issue areas. I argue that this reflects the concerns for legitimacy and stability among developing nations, specifically the Philippines. To enhance the stability of the court in society, decisions are rendered that favor those with less, and this likelihood increases as the Court's legitimacy is threatened. This does not prevent the court from deferring to the "haves" for major political controversies, a handful of cases in any year. By balancing these interests, the court encourages the goals of stability and development in society.

The reputation and prestige of the Philippine Supreme Court is generally considered high when compared to other Filipino political institutions and, as suggested, explains in part the results. The Supreme Court is perceived as above the blatant corruption and machinations of other government bureaucracies, and it is generally well respected (see Tate and Haynie 1993, 202–204). The justices of the Court are well aware of the Court's status in Filipino society and are also aware of the plight of the "have nots." The Philippine Supreme Court is intent on maintaining its integrity and legitimacy in Filipino society; the Court clearly sees its legitimacy tied directly to its decisions (Tate and Haynie n.d.). Whether the sympathetic decisions of the Court produce a greater perception of legitimacy is an empirical question to be addressed in future research. But it is clear resource inequalities in the Philippines do not place the "haves" in an overwhelmingly advantageous position in litigation.

SUMMARY AND CONCLUSIONS

While this analysis is limited to the Philippine Supreme Court, the results suggest that appellate courts can be powerful avenues for redistributive policies in Third World countries, but much remains for future research. First, other developing nations must be investigated to determine if appellate courts in these nations are similarly sympathetic to the "have nots," or if the Philippines is an isolated case. Comparativists have all but ignored the role of courts as political institutions affecting or potentially affecting stability, legitimacy, and development. Through future research the relationship of courts to these substantive areas of concern can be further evaluated. Second, the lower courts, where the vast majority of litigation occurs, must be examined. The high bench and lower courts and administrative agencies may be affected differently by resource inequalities within developing societies. Third, while the qualitative evaluations of the justices' attitudes used in this analysis is constructive, the development of quantitative measures are necessary to empirically assess the relationship between values and outcomes before the Court. Qualitative assessments are important in establishing theoretical premises, but greater precision is necessary to develop and test fully specified models.

Further longitudinal analysis is necessary to confirm the effect of crises on the Court's decision making. After Marcos's fall, Aquino was able to reconstitute the entire Court. Many believe this increased the Court's legitimacy. Theoretically, this should lead the court to rule less frequently in favor of those with fewer resources. Further analysis of the post-Marcos Court is necessary to assess this hypothesis.

Future research should also examine the effect of varying degrees of modernization within society on success in litigation. For most Third World countries industrialized and preindustrialized societies coexist. The concept of a continuum of development, where a country can be placed somewhere along it, is simply unrealistic for these nations (and perhaps most nations). There are differing stages of development nationwide, within which the court system exists. This can be investigated further for the Philippines by comparing the province of origination in Supreme Court litigation and differentiating among outcomes. Cases arising from the more urbanized areas of Manila may reflect the biases found in more modernized western societies. In cases from particularly rural and poor provinces, the individual may be treated in a particularly sympathetic manner.

This research is an important step in understanding the effects of resource inequalities on litigation outcomes across nations. The study of resource inequality theory must be expanded to other systems to build truly comparative models. Contrary to Rousseau's assertion, this analysis indicates that appellate courts can be powerful allies in some instances for those with less who mobilize the law.

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