

STATES, SOCIETIES, AND REVOLUTIONS: LEGAL HISTORICAL ANALYSIS OF PHILIPPINE INSTITUTIONS*

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INTRODUCTION

Institutions matter. They shape political relationships, influence economic conditions, and affect rules of conduct and other forms of social control. Institutions, in spite of the notion of their permanence, are primarily human products and therefore susceptible to change and of being replaced, either gradually, as society evolves, or drastically, as in a severe upheaval. Nobel Prize-winning economist Douglass North explains the nature of institutions thus:

Institutions are **humanly devised constraints that structure human interaction.** They are made up of formal constraints (rules, laws, constitutions), informal constraints (norms of behavior, conventions and self imposed codes of conduct), and their enforcement characteristics. Together they **define the incentive structure** of societies and specifically economies.¹ (emphasis supplied)

This paper puts forward the following thesis: the institutions of society largely determine how the State interacts with the citizens or with society in general. The kind of State-society relations that develop, in turn, creates an environment that may or may not be conducive to a revolution.²

What the paper aims to do is to put these ideas in a specific context --- the Philippines --- and explain *how institutional features, power distribution schemes between state and society, and dynamic social processes can give rise to revolutions, if at all.*

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¹ Douglass North, *Economic Performance Through Time*, 84 AM. ECON. REV. 359 (1994).

² This is drawn heavily from Theda Skocpol's proposition in her book *STATES AND SOCIAL REVOLUTIONS: A COMPARATIVE ANALYSIS OF FRANCE, RUSSIA, AND CHINA* (1979).

This paper looks into the history of the Philippines and identifies key legal, political, and economic institutions that evolved as a result of the particular characteristics of a certain period. Most of such institutions, owing to their colonial origins, have worked to the disadvantage of the inhabitants and hampered the social, political, and economic development of the country. Some have in fact produced undesirable consequences --- which continue to manifest in the present day --- on the attitude and behavior of the people, especially within the sphere of politics. Those institutions which subsisted and withstood the changes in the colonial masters of the country have become peculiarly Filipino, and these are argued to have a significant impact on the current legal and constitutional framework of the Philippines.

While conceptually, the terms *state* and *government* have a fine line of distinction between them, the former referring to “a political association that establishes sovereign jurisdiction within defined territorial borders and exercises authority through a set of permanent institutions”,³ and the latter being the apparatus through which the state makes its existence manifest, the two are used interchangeably here. Note also that, for purposes of this paper, society is not treated as a single, unified entity. Rather, it is seen as containing diverse elements whose interests and actions may not always be consistent with one another. While in reality the same can also be said for the state, which is composed of distinct individuals having distinct strategies, the analysis in this paper generally treats the state as one institution.

The paper proceeds as follows. The part following the Introduction, Part I, describes various institutions that are prevalent in the Philippines. It also discusses in brief their origins and how they eventually became what they are at present. Part II tackles the impact of these institutions on the relationship and interaction of the State and society. A survey of landmark events in Philippine history that are deemed revolutionary is presented in Part III in order to determine whether or not these can indeed be called “revolutions.” The paper then concludes that a revolution is not a foregone conclusion at present.

I. THE EMERGENCE AND GROWTH OF “PHILIPPINE” INSTITUTIONS

The most logical point from which to begin a discussion of political institutions is to examine the State --- the organization⁴ that *claims*

³ ANDREW HEYWOOD, *POLITICS* 87 (2002 ed.).

⁴ Organizations, while closely related to, are nonetheless distinct from, institutions in so far as the former pertain to the players in the game, i.e., “the group of individuals bound by a common purpose to achieve objectives”. Institutions are significant determinants of the kind of organizations that arise, and

sovereignty over a given territory and holds the monopoly of using legitimate violence⁵ in order to maintain its existence. It is significant to note that this traditional view of the State as having monopoly power on the legitimate use of force can be quite inaccurate.⁶ The following statement is reflective of the general criticism of such definition:

We know historically that the veracity of such claims was not always coincident with [the states'] ex ante or ex post legitimacy...as legitimate and illegitimate communities [have risen up] from organizational structures often imposed from without.⁷

The Philippines is a republican and democratic state.⁸ One can infer from this statement that the conduct of the people in the political sphere is governed by republican and democratic principles, which basically consist of the rejection of monarchy and the corollary assertion that the people are sovereign over the government.⁹ These principles also mean that the people are vested with inalienable rights which serve to constrain the power that the government wields, and that they have the capacity to impose their will on their “agents”.¹⁰ It is also fundamental under these principles that rights and freedoms be protected and respected.¹¹ These ideas of republicanism and

organizations, in turn, enable people to “carry out complex social interactions”. See Douglass North, *The New Institutional Economics and Development*, Working Paper (1993), available at <http://129.3.20.41/eps/eh/papers/9309/9309002.pdf> (last accessed Jul. 13, 2009); Douglass North, J.J. Wallis, & Barry Weingast, *A Conceptual Framework for Interpreting Recorded Human History*, Working Paper 12795, National Bureau of Economic Research Working Paper Series (2006), available at <http://www.nber.org/papers/w12795.pdf> (last accessed Aug. 15, 2009).

⁵ Max Weber, *Politics as a Vocation* (1918); David Potter, *Framework for Analysis: Explaining Democratization*, in *DEMOCRATIZATION 5* (David Potter, David Goldblatt, Margaret Kiloh, & Paul Lewis eds. 1997).

⁶ Duncan Snidal, *International Political Economy Approaches to International Institutions*, in *ECONOMIC DIMENSIONS IN INTERNATIONAL LAW: COMPARATIVE AND EMPIRICAL PERSPECTIVES 477* (Bhandari & Sykes eds. 1997): “A standard Weberian definition of the state as possessing a monopoly on legitimate coercion is misleading for understanding institutions. [The latter] perform a multitude of functions, many of which are not closely connected to enforcement capacities.”

⁷ John Nye, *Thinking about the State: Property Rights, Trade and Changing Contractual Arrangements in a World with Coercion*, in *THE FRONTIERS OF THE NEW INSTITUTIONAL ECONOMICS 123* (Drobak & Nye eds. 1997).

⁸ CONST. art. II, § 1.

⁹ See generally GORDON WOOD, *THE CREATION OF THE AMERICAN REPUBLIC, 1776-1787* (1998); MARTIN VAN GELDEREN & QUENTIN SKINNER, *REPUBLICANISM: A SHARED EUROPEAN HERITAGE (VOL. I), REPUBLICANISM AND CONSTITUTIONALISM IN EARLY MODERN EUROPE* (2006 ed.); PHILIP PETTIT, *REPUBLICANISM: A THEORY OF FREEDOM AND GOVERNMENT* (1997).

¹⁰ JOSEPH SCHUMPETER, *CAPITALISM, SOCIALISM, AND DEMOCRACY 269* (1994 ed.): “[T]he democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote.”

¹¹ See, generally, Perfecto Fernandez, *Political Restructuring Towards the Constitutional State: A Problem of National Independence*, Dr. Gaudencio Garcia lecture, U.P. Law Center, Feb. 23, 1984, reprinted in MARCIA RUTH GABRIELA FERNANDEZ, *LAW AND SOCIETY: COLLECTED WORKS OF PERFECTO V. FERNANDEZ 10* (2005). [Professor Fernandez lays down seven key principles of the republican aim/ideal, to wit: (a) The will of the people must be truly the sovereign will; (b) The People must be guaranteed their natural and inherent powers and freedoms, through a Bill of Rights in the Constitution; (c) The Government must be operated under a system of Separation of Powers; (d) The armed forces of the State must be subject at all times to the

democracy have been “transplanted” to the Islands by the American colonizers as part of their plan to institute a government that recognizes and protects the rights of the inhabitants of the acquired territory.

McKinley’s Instructions to the Second Philippine Commission, the first Organic Act of the Philippines, provided for the recognition of the customs and habits of the natives in the enactment of laws, but it was also explicit in saying that there are these “great principles” that should take precedence over the inhabitants’ prejudices.¹² Thus, for better or for worse, the Philippines was conferred with, and continues to possess, republican and democratic features as a state. How this affects the activities of the people will be illustrated later.

A. The Strong Executive

The presidential form of government that the country presently adopts is an institutional feature that traces its origin to the Americans. The Philippine Islands was considered a territory of the United States, albeit not incorporated thereto, and over which civil government could be established.¹³ Given this unique status of the Philippines in relation to the United States after the signing of the Treaty of Paris, it had been necessary to designate an individual, the Military Governor (later the Civil Governor or Governor-General), vested with executive, legislative, and judicial authority to oversee the affairs within the territory and rule over the people.¹⁴

Here, a paradox seems to emerge, one that caused some segments of American society to raise strong objections from the moment the United States exhibited an interest in the Islands: what business does a democratic country have in acquiring territory and meddling with the lives of people who are not citizens of the Union? Furthermore, how can there be democracy when one person is supposed to hold virtually all the power to effect changes that would affect thousands of people? The existence of the offices of Military Governor and later, Governor-General, is quite

control of the Civil Authority; (e) Political offices must be held only for fixed or definite terms, the period of which must be definitely ascertainable if not actually stated; (f) The Judiciary must be independent, and constituted of highly competent and honest men; and (g) Elections for the highest offices must be held at fixed periods as provided in the fundamental law.]

¹² Vicente V. Mendoza, *The Origin and Development of the Philippine Constitutional System*, in FROM MCKINLEY’S INSTRUCTIONS TO THE NEW CONSTITUTION 7 (1978).

¹³ In *re* Shoop, 41 Phil.213, 217, Nov. 29, 1920, *citing* *Dorr v. U.S.*, 195 U.S. 138 (1904) and *The Diamond Rings*, 183 U.S. 176 (1901).

¹⁴ *Severino v. Governor-General*, 16 Phil. 366, 381-84, Aug. 3, 1910.

incompatible with the idea of a sovereign people, because the balance of power is undeniably lopsided.

Paradoxically too, between the Philippine and the American presidents, the former emerged as the relatively more powerful one. In the 1989 case of *Marcos v. Manglapus*¹⁵ the Philippine Supreme Court drew a comparison between the institution of the U.S. Presidency and its Philippine counterpart, and arrived at the conclusion that, while the latter is heavily patterned after the former, “the Philippine government established under the constitutions of 1935, 1973 and 1987 is a unitary government with general powers unlike that of the United States which is a federal government with limited and enumerated powers.”

This difference in structure results in a situation wherein the President of the Philippines wields more power than his/her American counterpart. This is particularly true at the time when the 1935 Constitution was in force, because that document gave birth to a strong executive¹⁶ --- a fact that even to this day still persists, even though the present Constitution firmly upholds the doctrine of separation of powers and the equality of all three branches. Significantly, it is in the same case that the Court, speaking through Justice Irene Cortes, introduced into Philippine jurisprudence the “residual powers thesis,” thus:

To the President, the problem [of whether or not to allow the return to the country of the family of deposed President Marcos] is one of balancing the general welfare and the common good against the exercise of rights of certain individuals. The power involved is the President's residual power to protect the general welfare of the people. It is founded on the duty of the President, as steward of the people. To paraphrase Theodore Roosevelt, it is not only the power of the President but also his duty to do anything not forbidden by the Constitution or the laws that the needs of the nation demand. It is a power borne by the President's duty to preserve and defend the Constitution. It also may be viewed as a power implicit in the President's duty to take care that the laws are faithfully executed.¹⁷

The *ponencia* further noted:

The President is not only clothed with extraordinary powers in times of emergency, but is also tasked with attending to the day-to-day

¹⁵ G.R. No. 88211, 177 SCRA 668, Sep. 15, 1989.

¹⁶ See IRENE CORTES, *THE PHILIPPINE PRESIDENCY: A STUDY OF EXECUTIVE POWER* 68-69 (1966).

¹⁷ *Marcos v. Manglapus*, G.R. No. 88211, 177 SCRA 668, 694, Sep. 15, 1989. Citations omitted.

problems of maintaining peace and order and ensuring domestic tranquility in times when no foreign foe appears on the horizon. Wide discretion, within the bounds of law, in fulfilling presidential duties in times of peace is not in any way diminished by the relative want of an emergency specified in the commander-in-chief provision. For in making the President commander-in-chief the enumeration of powers that follow cannot be said to exclude the President's exercising as Commander-in-Chief powers short of the calling of the armed forces, or suspending the privilege of the writ of *habeas corpus* or declaring martial law, in order to keep the peace, and maintain public order and security.¹⁸

Accordingly, even with the subsequent transfer of legislative authority from the Military Governor to the Philippine Commission, and the establishment of courts, the Chief Executive has remained strong and powerful, essentially untouchable. Accountability to the people back then is in-existent since the powers and duties of the Governor-General originate not from what may be considered a fundamental law, but rather from the orders of the President of the United States before Congress enacted the organic laws. In other words, the organic laws of the land “are derived from the formally and legally expressed will of the President and Congress, instead of the popular sovereign constituency which lies back of American constitutions.”¹⁹ This made it difficult, if not outright impossible, for courts to assert authority over the executive and hence provide checks on the actions of the latter.

Reading the decision of the Supreme Court in *Severino v. Governor-General*,²⁰ one would discern how the judiciary had adopted a “hands-off” policy when it comes to the executive, stating as grounds that: 1) the doctrine of separation of powers is not to be violated by trying to direct a co-equal branch to do something; and 2) the executive’s duties are discretionary in nature, meaning, he is given an extensive ambit within which to determine the wisdom and appropriateness of a certain action. For quite a long time, the Court had generally adhered to the so-called “political question doctrine” in a number of subsequent decisions that concern the exercise of executive power, although there are a couple of instances as well wherein the Court held that the issues were not political questions and thus justiciable.²¹

¹⁸ *Id.*

¹⁹ United States v. Bull, G.R. No. 5270, 15 Phil. 7, 27, Jan. 15, 1910. Emphasis supplied.

²⁰ G.R. No. 6250, 16 Phil. 366, Aug. 3, 1910.

²¹ As Justice Vicente V. Mendoza discusses, the power of the President to suspend the privilege of the writ of *habeas corpus* was initially considered by the Court in the case of *Montenegro v. Castañeda*, (G.R. No. 4221, 91 Phil. 882, 887, Aug. 30, 1952) as absolute and unqualified in that “his decision is final and conclusive on

In *Tañada v. Cuenco*,²² a political question was defined as “a matter which is to be exercised by the people in their primary political capacity, or that has been specifically delegated [through the electoral process] to some other department or particular officer of the government, with discretionary power to act.” This was quoted from the American case *In re McConaughy*.²³

Although *Tañada* actually pertained to the political question doctrine in the context of the relationship between the Judiciary and the Legislative branch (the Senate Electoral Tribunal, more specifically), the quoted pronouncement remains germane to the present discussion regarding the stance of the Court towards the Executive.²⁴ In this case also, the Supreme Court ruled that “the dispute involving the formation and composition of the Senate Electoral Tribunal [was a justiciable, and not a political question] since the Senate is not clothed with ‘full discretionary authority’ in the choice of members [of the said body] and the exercise of its power thereon is subject to constitutional limitations which are mandatory in nature.”

The confluence of these aforementioned factors --- the nature of office of the Philippine President’s progenitor, the stance of the courts towards the Executive, and other incidents in the country’s history --- gave birth to a strong executive. This fact became even more glaring a few decades later, during the Marcos regime, when the Supreme Court became a mere instrument of the President to legitimize his acts.²⁵ Throughout its long history, especially the period prior to the 1986 People Power Revolution, it can be said that the Supreme Court had adopted an attitude of restraint (to the point of submissiveness at times), albeit not a complete and unqualified one, towards the Executive. Until the second paragraph of Article VIII, Section 1 of the 1987 Constitution came into the picture.

As will later be discussed in Part III, this provision is of huge significance to Philippine society in that it provides the people with a means with which to effect change (without engaging in extra-constitutional activities) by giving “the Court the power to strike down acts amounting to

the courts.” In *Lansang v. Garcia*, (G.R. No. 33964, 149 Phil. 547, Dec. 11, 1971), however, it was decided that “the suspension of the privilege of the writ of *habeas corpus* was not a political question [and therefore subject to limits set by the Constitution].”

²² 103 Phil. 1051, 1067 (1957).

²³ 119 N.W. 408 (1909).

²⁴ Mendoza, *supra* note 12, at 221.

²⁵ PACIFICO AGABIN, *The Politics of Judicial Review over Executive Action: The Supreme Court and Social Change*, in UNCONSTITUTIONAL ESSAYS 191 (1996).

grave abuse of discretion of both the legislative and executive branches of government.”²⁶

While the Court is indeed becoming more “activist” in its rulings²⁷ with respect to the acts of the Executive, the case of *David v. Arroyo*,²⁸ somehow casts certain doubts to this assertion, as the Decision presents, at best, a soft clash only. The High Tribunal chose to limit its chastisement to the “foot-soldiers” who were said to have violated human rights in the process of implementing the issuances of the President. It did not seem to find it necessary to trace the actions of the police officers back to their superior. What resulted therefrom was an awkward situation where there was confusion as to who the real victors and the real losers were.

In light of this, therefore, there remains some truth in the fact that the President is nearly unassailable. The presence of this strong one-(wo)man executive is deemed to be crucial to state-society relations, as will be discussed subsequently.

B. The Dis-separated Church

One of the institutions that is deeply entrenched in Philippine society today is the Catholic Church. The propagation of Christianity in the Orient was one of the oft-cited reasons/excuses (besides expansion of territory, political power, and wealth) for Spain’s interest in the Islands.²⁹ The expeditions that arrived here, therefore, brought with them several missionaries from different congregations. The conversion and “liberation”³⁰ of the natives had been accomplished in no time, and it did not take long for the friars to become prominent and powerful figures in society, surpassing even the official administrators.

Historians attribute such occurrence to two basic things: *first*, the clergy outnumbered the administrative and political leaders; and *second*, the former were more successful in controlling the people through their subtle yet forceful appeal to religion and morality.³¹ Because of their indispensable role in pacifying the people, the friars were able to situate themselves in a

²⁶ Mendoza, *supra* note 12, at 229.

²⁷ See generally Artemio Panganiban, *Judicial Activism in the Philippines*, 79 PHIL. L.J. 265 (2004); Reynato Puno, *Judicial Review: Quo Vadis?*, 79 PHIL. L.J. 249 (2004).

²⁸ G.R. No. 171396, 489 SCRA 160, 272-75 (2006).

²⁹ TEODORO AGONCILLO, *HISTORY OF THE FILIPINO PEOPLE* 69 (1990 edition).

³⁰ RENATO CONSTANTINO, 1 *THE PHILIPPINES: A PAST REVISITED*, (PRE-SPANISH-1941) 10-23 (1996 ed.).

³¹ *Id.*, at 63-64.

position where the Spanish monarchy inescapably had to give them political and economic concessions. Through this process, the Church slowly crept into the realm of state affairs, and eventually there was hardly any distinction between the two entities.

Looking at the present-day Philippines, it can fairly be said that nothing much has changed. Although the separation of Church and State³² is indeed explicitly written in the fundamental law, this is unenforceable in reality. The fact that majority of the Filipinos is Catholic, and that most practices and traditions are largely influenced by this religion, make it difficult for people to discriminate between their actions and duties as Filipino citizens from their actions and duties as Catholics. In electing public officials, for example, the Roman Catholic Church may not directly tell their members who they should choose, but the “guidelines” that it releases and the unofficial statements of prominent priests have a significant impact on the people’s choice.³³

The Church is powerful in the sense that, the standards of morality that people use to assess the politicians’ actions are essentially derived from its teachings/principles. While there is nothing patently objectionable about this arrangement, it is worth noting that the influence of the Church on political matters has become so strongly established in Philippine society that it might take another four centuries before such influence could be dispensed with.

C. The Elected Dynasties

As in most democratic countries,³⁴ elections are major events in the Philippines. In theory, the reason for this is that the act of voting is an

³² CONST. Art. II, § 6: “The separation of Church and State shall be inviolable.”

³³ See, e.g., Catholic Bishops Conference of the Philippines, “Nation-building Through Elections (Pastoral Statement on Elections 2004),” Apr. 21, 2004, available at <http://www.cbcponline.net/documents/2000s/html/2004-statementonelections.html> (last accessed Jul. 21, 2007); Catholic Bishops Conference of the Philippines, “Transforming Election Through a Solidarity of Consciences,” May 4, 2010, available at http://couplesforchristglobal.org/index.php?option=com_content&view=article&id=33:cbcp-statement-transforming-election-through-a-solidarity-of-consciences-&catid=9:one-with-the-catholic-church&Itemid=5 (last accessed May 17, 2010).

³⁴ Philippe Schmitter & Terry Lynn Karl, *What Democracy is...and Not, in* THE GLOBAL RESURGENCE OF DEMOCRACY (A JOURNAL OF DEMOCRACY BOOK) 52 (1996): “The most popular definition of democracy equates it with regular elections, fairly conducted and honestly counted. Some even consider the mere fact of elections ---even ones from which specific parties or candidates are excluded, or in which substantial portions of the population cannot freely participate --- as a sufficient condition for the existence of democracy. This fallacy has [thus] been called ‘electoralism.’”

exercise of asserting the power of the sovereign people.³⁵ Ideally, elections are mechanisms through which public officials/servants are held accountable to the electorate.³⁶ Given that elective officials hold their offices for a specified term, elections serve as a reminder to the public officials/servants of the mandate granted by their constituents, and of the fact that their chance of getting re-elected is contingent on whether (and how well) they have performed their functions.³⁷ As representatives of the sovereign, politicians are expected to champion the ideas of the people and to govern in the way that is amenable to the latter.

The country's culture, colonial history, and the manner by which democracy had been instituted here, are aspects that deserve consideration since these can explain, to a certain extent, the peculiarities of the Philippine electoral system. Two such peculiarities are analyzed here. *First*, the selection is based heavily on the candidates' personal (and familial) characteristics or the size of their pockets rather than on their principles and platforms, which become nothing more than mere afterthoughts and trappings.³⁸ *Second*, running for public office is treated as if it were a business or an heirloom that gets passed from one generation to the next.³⁹

A possible explanation for the first peculiarity is the absence of genuine Philippine political parties that actually espouse plans and programs and educate voters.⁴⁰ Indeed, as one scholar aptly states, "Instead of political parties, the prime movers of [Filipinos'] political life are the political clans.

³⁵ Potter, *supra* note 5.

³⁶ Perfecto Fernandez, *The Philippine Legal System and its Adjuncts: Pathways to Development*, 67 PHIL. L.J. 21, 42 (1992).

³⁷ *Id.*, at 44.

³⁸ See JENNIFER CONROY FRANCO, ELECTIONS AND DEMOCRATIZATION IN THE PHILIPPINES (2001); DAVID WURFEL, FILIPINO POLITICS: DEVELOPMENT AND DECAY (1995); MARK THOMPSON, THE ANTI-MARCOS STRUGGLE: PERSONALISTIC RULE AND DEMOCRATIC TRANSITION IN THE PHILIPPINES (1995).

³⁹ See Alfred McCoy, *An Anarchy of Families: The Historiography of State and Family in the Philippines*, in AN ANARCHY OF FAMILIES: STATE AND FAMILY IN THE PHILIPPINES (1994); EVA-LOTTA HEDMAN & JOHN SIDEL, PHILIPPINE POLITICS AND SOCIETY IN THE TWENTIETH CENTURY: COLONIAL LEGACIES, POST-COLONIAL TRAJECTORIES (2000); SHEILA CORONEL, YVETTE CHUA, LUZ RIMBAN, & BOOMA CRUZ, THE RULEMAKERS: HOW THE WEALTHY AND WELL-BORN DOMINATE CONGRESS (2004) [*hereinafter*, CORONEL, ET AL.]. See also Carlos Conde, *Family dynasties bind politics in Philippines*, THE NEW YORK TIMES, May 11, 2007, available at <http://www.nytimes.com/2007/05/11/world/asia/11iht-phils.1.5665416.html> (last accessed Jul. 11, 2009).

⁴⁰ Paul Hutchcroft & Joel Rocamora, *Strong Demands and Weak Institutions: The Origins and Evolution of the Democratic Deficit in the Philippines*, 3 JOURNAL OF EAST ASIAN STUDIES 259 (2003); Joel Rocamora, *Changing Dimension of Philippine Elections*, 1 PHIL. INT'L REV. (1998), available at <http://www.philsol.nl/pir/JR-98a.htm> (last accessed Jul. 11, 2009).

The interests of the latter are intertwined with the business groups that control the economy.”⁴¹

Various functions are traditionally attributed to parties, among the more important of which are the *structuring of issues* and the so-called *social integration* role.⁴² *Structuring of issues* pertains to how these organizations narrow down on certain “relevant” matters and formulate the same, such that when presented to the electorate, the latter would be faced with several choices and alternatives. The second function (i.e. *social integration role*), on the other hand, refers to enabling the citizens to participate effectively in the political process.

It goes without saying that in the absence of these institutions, the voting public is divested of a more appropriate and reliable criteria with which to choose effective leaders. Hence, the resort to popularity contests, and the emergence of an awkward role for the Church, which seemed to take it upon itself to fill the void by mobilizing public opinion and sometimes even protesting against a particular regime.⁴³ This is another reason for the blurring of the Church and State divide.

At any rate, while unswerving and blind steadfastness to party ideology is not to be advocated either, it remains vital to policy making that decisions are well-grounded on stable and time-tested principles, and not just knee-jerk responses to political necessities and accommodations. Unfortunately, the problems that beset the party system today are rooted in the unusual and untimely way through which the first political parties were formed.

The first two political parties, organized at the turn of the twentieth century, are said to be compromised from the beginning, because although certain differences do exist between them, they had the common goal of earning the patronage of the American colonizers --- because the very fact of their [political parties’] creation and the ability to participate in elections

⁴¹ Randy David, *Change*, PHIL. DAILY INQUIRER, Aug. 22, 2009, available at <http://opinion.inquirer.net/inquireropinion/columns/view/20090822-221457/Change>. (last accessed Aug. 22, 2009).

⁴² Richard Gunther and Larry Diamond enumerate seven functions of political parties, namely: (1) Candidate nomination; (2) Electoral mobilization; (3) Issue structuring; (4) Societal representation; (5) Interest aggregation; (6) Forming and sustaining governments; and (7) Social integration. *Types and Functions of Parties, in POLITICAL PARTIES AND DEMOCRACY* 7-8 (2001). See also HEYWOOD, *supra* note 3 at 251-55; EDNA CO & JORGE TIGNO, PHILIPPINE DEMOCRACY ASSESSMENT: FREE AND FAIR ELECTIONS AND THE DEMOCRATIC ROLE OF POLITICAL PARTIES 75 *et seq.* (2005).

⁴³ Amado Doronila, *Pulling back from the brink*, PHIL. DAILY INQUIRER, Sep. 22, 1997, at 9 cited in J.J. Carroll, S.J., *Cracks in the Wall of Separation?: The Church, Civil Society, and the State in the Philippines*, in CIVIL SOCIETY IN SOUTHEAST ASIA 75 (2004).

were seen as grants from the colonizers --- thus, these pioneer politicians espoused ideals and interests favorable to the latter.⁴⁴ This, in turn, alienated the Filipino masses --- the people whom the political parties are supposed to cater to --- and made it difficult for the parties to create a wide and indigenous membership base. These inherited political institutions from the Americans thus explain a lot how a national oligarchy was formed and why the old *cacique* families remain entrenched in public office for more than a century now.⁴⁵

With regard to the second attribute of politics becoming a family affair, one writer fittingly describes the scenario thus: “[P]oliticians often work to bequeath power and position to their children in effect seeking to transform the public office that they have won into a private legacy for their family.”⁴⁶ By itself, this situation already poses acute problems to the conduct of various affairs in society.

Additionally, there are evils that necessarily seem to form part of the whole package, namely, those methods and practices through which the so-called “political dynasties” maintain their control of power. In this regard, a group of authors identified the “7M’s of Dynasty Building”⁴⁷ --- money, machine, media and/or movies, marriage, murder and mayhem, myth, and mergers (alliances) --- which perpetuate the rule of a limited number of individuals, thus constraining the entrance into public service of those who are more capable but lack the background, connections, or surname to win the election. This problem traces its origins to the early twentieth century, when the Philippine Islands were still under American colonial rule and electoral politics was introduced but suffrage remained the exclusive affair of the propertied and educated Filipinos.⁴⁸

To this day, notwithstanding the fact that the exercise of the right to suffrage is no longer subject to literacy, property, or other substantive requirements,⁴⁹ political dynasties remain. It has become customary to have parents, spouses, children, and siblings simultaneously or successively holding elective positions, both at the national and the local levels.⁵⁰ The

⁴⁴ See RUBY PAREDES, PHILIPPINE COLONIAL DEMOCRACY (1989), cited in CORONEL, ET AL., *supra* note 39, at 61.

⁴⁵ CORONEL, ET AL., *supra* note 39, at 61.

⁴⁶ McCoy, *supra* note 39, at 24.

⁴⁷ CORONEL, ET AL., *supra* note 39, at 86-97.

⁴⁸ *Id.*, at 48.

⁴⁹ CONST. art. V, § 1.

⁵⁰ See Karen Tiongson-Mayrina & Allan Vallarta, *13th Congress: 8 in 10 district reps hail from political families*, GMA News Research, Mar. 21, 2007, available at <http://www.gmanews.tv/story/35162/13th-Congress8-in-10-district-reps-hail-from-political-families> (last accessed Jul. 31, 2007); Philippine Center for Investigative

recent demonstration of the ills (possibly at their most extreme) that come with dynasty-building and patronage politics is the tragedy in Maguindanao where fifty-seven unarmed individuals were butchered in broad daylight, allegedly because of the long-standing political rivalry between two clans.⁵¹

The rise of political dynasties can also be attributed to the way Filipinos value the Family, the basic unit of society. For the most part, it can be said that having close family ties is a positive trait; the way that this has come to be applied in the country, however, is anything but admirable. The family (small-group) orientedness of Filipinos is rooted in the *baranganic* structure of pre-colonial society.⁵² Each of the *barangays* had its own political, economic, social and religious system, and this gave rise to a milieu characterized by insularity and autarky. The attribution of such significant value on the family is also, and more importantly, due to the insecurity (generally economic in nature) that the larger society presents --- insecurity that results from inequality.⁵³

Later in this paper, this unequal distribution of wealth and power would be discussed further as the issue of land reform is tackled. In this kind of environment, as instinct would dictate, the idea of self-preservation would prevail, and this holds for the poor and the rich alike. People holding positions in government, whether those in the lower rungs of the bureaucracy or in the prominent political offices, would have in mind this concept, thereby giving rise to the hackneyed issue of graft and corruption. *Sure, it's illegal, but it is hardly immoral...How could it be immoral to look after the welfare of one's own family?* This is the general sentiment that makes the interface of the State and the family extremely disconcerting. Admittedly, there are political families that effect progress in their respective locales, but this is the exception rather than the rule, and it does not take away the fact

Journalism, *Still a family affair*, New Political Dynasties iReport, Mar. 1, 2007, available at <http://pcij.org/stories/still-a-family-affair/> (last accessed July 31, 2007); Yvonne Chua, Luz Rimban & Avigail Olarte, *Political dynasties emerge stronger than ever*, politicalarena.com, May 14, 2010, available at <http://ph.politicalarena.com/presidential-elections/news/political-dynasties-emerge-stronger-than-ever> (last accessed May 25, 2010).

⁵¹ See Alastair McIndoe, *Behind the Philippines' Maguindanao Massacre*, TIME, Nov. 27, 2009, available at <http://www.time.com/time/world/article/0,8599,1943191,00.html> (last accessed Dec. 19, 2009). See also Soliman Santos, Jr., *The Maguindanao Massacre, the Bangsamoro Problem and the Peace Process*, Philippine Center for Investigative Journalism, Nov. 30, 2009 [relating the Massacre not only to the clientelist relations between the national government and the local government units but also to the equally problematic process by which peace is sought to be achieved in Mindanao as a whole], available at <http://pcij.org/stories/the-maguindanao-massacre-the-bangsamoro-problem-and-the-peace-process/> (last accessed Dec. 19, 2009).

⁵² MINA RAMIREZ, UNDERSTANDING PHILIPPINE SOCIAL REALITIES THROUGH THE FILIPINO FAMILY: A PHENOMENOLOGICAL APPROACH 42 (1984).

⁵³ *Id.*, at 35.

that such practice constricts the choice of the electorate and that it goes against state policy prohibiting political dynasties.⁵⁴

These peculiarities notwithstanding, the important thing to note is that the effectiveness and responsiveness of elections, or at least the people's perceptions about it, matter since this is a principal means of expressing the sovereign's ideas and opinions. Without elections that properly reflect the preferences of the public, the latter might try to find other avenues, even extra-legal ones, through which it can make its voice heard. The ongoing riots in Bangkok illustrate how a populace employs such other means of putting forward their demands, particularly when election does not appear to be a viable solution or is being restricted by those in power.⁵⁵ In contrast, Filipinos seem to have maintained some faith in the electoral process as a means of expressing their will, if the turnout of the recent elections is any indication --- and this, in spite of the difficulties, impediments, and perils that a number of voters encountered on the day of the election.⁵⁶

D. The Hands That Move Markets

On the economic side, imperfect or absent institutions (markets) give rise to a situation wherein democratic principles do not seem to apply, and all notions of fairness or equality remain just that: notions. Income inequality is a glaring problem that would probably take years to resolve, because it requires not only that sound economic policies be implemented but also that the holders of power have the political will to bring about far-reaching changes. Because of the complexity of this problem, it can actually be traced to various sources, one of which is the near-absence of markets for rural land and credit.

⁵⁴ CONST. art. II, § 26: "The State shall guarantee equal access to opportunities for public service, and prohibit political dynasties as may be defined by law."

⁵⁵ See CNN, *Thai Prime Minister defies call for his resignation*, Apr. 9, 2009, available at <http://www.cnn.com/2009/WORLD/asiapcf/04/09/thailand.protests/index.html> (last accessed May 22, 2010); Jocelyn Gecker, *Riot police in place to confront Thai protesters*, TAIWAN NEWS, Apr. 6, 2010, available at http://www.etaiwannews.com/etn/news_content.php?id=1220310&lang=eng_news&cate_img=logo_world&cate_rss=WORLD_eng (last accessed May 22, 2010).

⁵⁶ Thea Alberto, *High voter turnout --- Comelec*, Yahoo! News Philippines, May 10, 2010, available at http://ph.beta.promo.yahoo.com/purple-thumb/editors-log/article?blogid=editors_log&postid=267&viewPost=1 (last accessed May 11, 2010); Raymund Antonio, *Comelec proves critics wrong*, MANILA BULLETIN, May 11, 2010, available at <http://www.mb.com.ph/node/256929/comelec-prove> (last accessed May 11, 2010); GMANews.TV, *Pinoy resilience made May polls possible despite gov't failures --- int'l observers*, May 19, 2010, available at <http://ph.news.yahoo.com/gma/20100518/tph-pinoy-resilience-made-may-polls-poss-d6cd5cf.html> (last accessed May 19, 2010).

In the status quo, majority of the vast tracts of land in the Philippines is owned by the traditional landed gentry, the *hacenderos*, and it is not by accident that their landholdings do not seem to decrease, given that they are the same people who hold the power to legislate and mandate the transfer of such lands.⁵⁷ The small farmers are either working for these people as laborers or under a fixed-rent tenancy. There are also those engaged in sharecropping arrangements.

The reason that rural land markets rarely arise is the fact that there exists no incentive to transfer: while the farmers would want to acquire and till their own land, the *hacenderos* are not willing to sell off their assets that easily.⁵⁸ The price the latter attribute may be so high that the farmers cannot afford it. There may also be a discrepancy between the value placed upon the land by the farmers and the landlords' valuation that discourage the tillers from buying altogether. The land-owners may value the land more, in the sense that, aside from its agricultural uses, they also consider it as an "idle" investment that has the potential to bring in future benefits (from real estate developments, perhaps).

Land ownership also carries with it a certain prestige. All hope is not lost for the farmers, if only credit institutions are present and are willing to lend to them.⁵⁹ Indeed there are efforts from the government and even from the private sector to extend much-needed funds to the land-tillers, and credit cooperatives have also been formed to address the limited liability of an individual farmer.⁶⁰ The fact remains, however, that institutions are far from working properly.

⁵⁷ See Luz Rimban, *Philippine Agrarian Reform Gives Land to the Wealthy*, Land Research Action Network, Jul. 13, 2004, available at <http://www.landaction.org/display.php?article=234> (last accessed May 12, 2010); RONALD DOLAN (ed.), PHILIPPINES: A COUNTRY STUDY, *Land Tenancy and Land Reform*, (1991), available at <http://countrystudies.us/philippines/> (last accessed May 12, 2010). Official statistics from the National Statistics Office, however, shows that the average farm area decreased from 2.2 hectares per farm in 1991 to 2.0 hectares per farm in 2002, possibly indicating that there had been redistributions of land from the *hacenderos* to the farmers. Supporting this inference is the fact that nearly 80% of household members engaged in agricultural activities worked in their own holdings. Data available at <http://census.gov.ph/data/sectordata/sr04144tx.html> (last accessed May 12, 2010).

⁵⁸ See BARDHAN PRANAB & CHRISTOPHER UDRY, DEVELOPMENT MICROECONOMICS 60-63 (1999).

⁵⁹ Parikshit Ghosh, Dilip Mookherjee, & Debraj Ray, *Credit Rationing in Developing Countries: An Overview of the Theory*, in READINGS IN THE THEORY OF ECONOMIC DEVELOPMENT 283 (2001). See also MUHAMMAD YUNUS & ALAN JOLIS, BANKER TO THE POOR: MICRO-LENDING AND THE BATTLE AGAINST WORLD POVERTY (2007); BEATRIZ ARMENDARIZ DE AGHION & JONATHAN MORDUCH, THE ECONOMICS OF MICROFINANCE (2005).

⁶⁰ Republic Act No. 9520 ("An Act Amending the Cooperative Code of the Philippines to be Known as the 'Philippine Cooperative Code of 2008'") has a separate chapter on Agrarian Reform Cooperatives, which, as Art. 88 thereof states, are "organized by marginal farmers for the purpose of developing an appropriate system of land tenure, land development, land consolidation or land management in areas covered by agrarian reform."

Land reform, besides its apparent desirable outcome of reducing inequality, is theoretically good for growth as well, as it “could provide an enormous boost to output” by enhancing land productivity.⁶¹ Agrarian reform should have been completed a long time ago --- way back when the Americans were making efforts to educate the Filipinos and democratize the country. The political independence and democracy, as a whole, granted to the Philippines by the United States were significantly weakened from the very beginning because the unequal land ownership left “an electorate severely limited...by property and literacy requirements.”⁶²

Indeed, it can hardly be expected of the poor to be effective participants in the political and social arena when their most basic needs such as food and shelter cannot even be met. Needless to say, the country is still laden with the same difficulty. That the foreigners did not bother to correct the inequitable status quo before is forgivable, but the Filipino public officials that assumed power afterwards should not have deserted their countrymen. Instead, they should have taken the responsibility of improving the lot of the small farmers, who are as much a Filipino as they are.

The problem is not that there are no efforts at all to address these issues about land. The Comprehensive Agrarian Reform Law (R.A. 6657), enacted in 1988, for instance, promised not only a more equitable distribution of land, but also growth and development of the agricultural sector. At present however, whether due to bureaucratic inefficiency or the lack of political will, the sad reality is that land reform remains a work in progress.

The existence of loopholes in the law itself and various difficulties involved in actual implementation are among the commonly cited reasons for the land redistribution problem. For instance, Voluntary Land Sharing becomes a means by which landlords are able to circumvent the provisions of the law, as this scheme allows them to grant land use rights to landless workers but only on a temporary basis.⁶³ Hence, there is still no genuine change in terms of land ownership, much more so in the form of productive organization.⁶⁴

⁶¹ JOSEPH STIGLITZ, *GLOBALIZATION AND ITS DISCONTENTS* 81 (2003).

⁶² Carroll, *supra* note 43, at 75.

⁶³ Lourdes Saulo-Adriano, *A General Assessment Of The Comprehensive Agrarian Reform Program*, Philippine Institute for Development Studies Working Paper Series No. 91-13 (1991).

⁶⁴ *Id.*

Variable retention limits, the exclusion from reform of several land types, and the exemption of agribusiness plantations are other loopholes in the legal basis of the Comprehensive Agrarian Reform Program that Adriano points out in her paper.⁶⁵ Post-acquisition and distribution problems are burdening agrarian reform as well.

As an illustration, one study showed that there was no significant increase in productivity (of coconut and sugar) following transfer of land ownership when complementary support services are absent.⁶⁶ The latter refer to infrastructure facilities, irrigation systems, and new production technologies, among others.

Finally, there looms the difficulty arising (or could arise in the future) from the limited availability and sufficiency of government funds from which the just compensation of the affected landowners would be taken.

After more than a decade since the enactment of R.A. 6657, small Filipino farmers remain landless, and the abovementioned observations could explain why. The recent signing into law of the “CARP Extension with Reforms (CARPer)”⁶⁷ --- extending the program from July 1, 2009 to June 30, 2014 --- *may* be considered in good faith as an effort to pursue the noble goals of land reform. It might be an indication of a stronger political will to effect such genuine changes. On the other hand, it can be argued that the very fact of having to extend the program is an unfortunate commentary on the lack of real progress on this matter. At this point, it is too early to tell what the impact of this legislation would be; it remains to be seen how the state and society would respond, and whether or not this “promise of agrarian reform” would be fulfilled.⁶⁸

II. THE ROLE OF INSTITUTIONS IN BUILDING RELATIONSHIPS

Taken together, all of the institutions and institutional features discussed in the previous section play a major role in organizing Philippine

⁶⁵ *Id.*

⁶⁶ Ma. Piedad Geron, *The Impact of Comprehensive Agrarian Reform Program (CARP) on the Crop Sector*, Philippine Institute for Development Studies Discussion Paper Series No. 94-15, 46-48 (1994).

⁶⁷ Republic Act No. 9700 was signed into law by the President on Aug. 7, 2009, although its date of effectivity retroacts to July 1, 2009.

⁶⁸ Editorial – *The promise of agrarian reform*, THE PHIL. STAR, Aug. 8, 2009, available at <http://www.philstar.com/Article.aspx?articleId=494055>. (last accessed Aug. 23, 2009); Opinion/Editorial – *CARPer, right and wrong*, PHIL. DAILY INQUIRER, Aug. 10, 2009, available at <http://opinion.inquirer.net/inquireropinion/editorial/view/20090810-219494/CARPer%2C%20right%20and%20wrong>. (last accessed Aug. 23, 2009).

society. These determine how power is distributed, thereby determining as well how one segment of society associates with another. In theory, given the democratic and republican orientation of the country, the relationship between the people and the government can be characterized as that between principal and agent: the government is expected to carry out the orders of the people and to conduct its affairs in accordance to the rules and guidelines (the Constitution in this case) set by the people.⁶⁹

This kind of arrangement, however, is fraught with the so-called *moral hazard* problem.⁷⁰ Because the State is assumed to have its own interests to pursue that may not necessarily coincide with those of the public, and because the latter cannot monitor the activities of the former all the time, a situation may arise where the welfare of the people takes a backseat, or worse, is jeopardized, due to the state's self-serving acts.

To further complicate matters, the government cannot actually be considered merely an ordinary agent, because it has the capacity and legitimacy to impose its will upon the people it is supposed to be serving, so long as it is able to cloak such act under the authority temporarily vested on it by the sovereign people. This is where institutions are expected to matter: to make sure that the state is toeing the line and not acting to the detriment of the public. But this only happens in a utopian society obviously.

In the Philippines where most institutions are either undeveloped or underdeveloped, and society itself is fragmented, it becomes all the more difficult to ensure that the state is being faithful and diligent in its duties to the people. But this is not to say though that the public is without recourse and incapable of asserting influence or control over the government.

The Church, for example, has assumed the role of the guardian and "moral compass" of the people, especially in times of [political] crises. In the late '70s and early '80s, for instance, as the Marcos regime became more abusive and corrupt, the bishops became more aggressive in opposing

⁶⁹ A similar characterization is used by Yoram Barzel in his book *A THEORY OF THE STATE: ECONOMIC RIGHTS, LEGAL RIGHTS, AND THE SCOPE OF THE STATE* (2002 ed.), where the state is portrayed as the protector of legal rights that arose from people's inherent economic rights and also as the enforcer of agreements among the people. In order to protect themselves from this self-seeking protector-ruler, people establish mechanisms and institutions (like legal systems, voting procedures, etc.) with which they can retain control over the state.

⁷⁰ In general, the moral hazard problem, which arises from the bigger problem of information asymmetry, refers to the "tendency of one party to a contract to alter his behavior after the contract is signed in ways which could be costly [or detrimental] to the other party." CAMPBELL MCCONNELL & STANLEY BRUE, *ECONOMICS: PRINCIPLES, PROBLEMS, AND POLICIES* 637 (1999).

martial law and marshaling the people to be vigilant.⁷¹ Parenthetically, even prior to the mounting challenges to the authoritarian rule, Catholic and Protestant groups had been engaged in civic work by championing the interests of the urban poor, particularly with regard to housing.⁷² These instances illustrate the extent of involvement by religious groups in the socio-political arena and how the Church, as an institution, serves as the buffer to the excesses of the government or the provider of services that the latter fails to give attention to.

Also, in fairly recent times, Filipinos seem to have acquired better social awareness, if the emergence of several non-governmental organizations (NGOs) and interest groups is any indication. It must have come to the realization of the Filipino people after their experiences during the Martial Law period that if *democracy* is to prosper in the country, they (the *demos*) have to assume an active role and take part in governing.

As a result, the 1987 Constitution had been framed in such a way that it “[stresses] the power of the people to act directly in their capacity as sovereign people.”⁷³ In its original context, this statement referred to the provision in the Constitution on *people’s initiative*,⁷⁴ which can better be appreciated in relation to the other innovations introduced by the First EDSA Revolution. The statement is equally applicable to the provisions concerning NGOs⁷⁵ and *people’s organizations* (POs), which are “*bona fide* associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure.”⁷⁶

It can thus be seen that the fundamental law of the land had instituted several means through which the public could keep in check the State, its agent, and thereby remain masters of their fates. As a matter of fact, the delegates to the 1986 Constitutional Commission made a conscious

⁷¹ Carroll, *supra* note 43, at 59.

⁷² *Id.*

⁷³ Lambino v. Commission on Elections, G.R. No. 174153, 505 SCRA 160, 335, Oct. 25, 2006 (Puno, J., *dissenting*).

⁷⁴ CONST. art. XVII, § 2: “Amendments to this Constitution may likewise be directly proposed by the people through initiative upon a petition of at least twelve *per centum* of the total number of registered voters, of which every legislative district must be represented by at least three *per centum* of the registered votes therein. No amendment under this section shall be authorized within five years following the ratification of this Constitution nor oftener than once every five years thereafter.

The Congress shall provide for the implementation of the exercise of this right.

⁷⁵ CONST. art. II, § 23: “The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation.”

⁷⁶ CONST. art. XIII, § 15, ¶ 2: “People’s organizations are *bona fide* associations of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership, and structure.”

effort to add the word “democratic” to the first sentence of Art. II, Sec. 1 such that it reads in the present Constitution thus: “The Philippines is a *democratic* and republican State [emphasis supplied]” in order to establish the idea that the people have a substantial stake in government. One Commissioner explains the “pardonable redundancy” thus:

MR. SUAREZ: May I go very briefly in seeking clarification on some provisions. May I call attention to Section 1. I wonder who among the members of the committee would like to clarify this question regarding the use of the word “democratic” in addition to the word “republican.” Can the honorable members of the committee give us the reason or reasons for introducing this additional expression? Would the committee not be satisfied with the use of the word “republican”? What prompted it to include the word “democratic”?

x x x

MR. NOLLEDO: Madam President, I think, as a lawyer, the Commissioner knows that one of the manifestations of republicanism is the existence of the Bill of Rights and periodic elections, which already indicates that we are a democratic state. Therefore, the addition of “democratic” is what we call “pardonable redundancy,” the purpose being to emphasize that our country is republican and democratic at the same time. When we use “democratic,” we do not use it in the lingo of socialist or communist states because even they also use “democratic.” “Democratic” will attain its true meaning if we consider it in the light of the manifestations of republicanism. In the 1935 and 1973 Constitutions, “democratic” does not appear. I hope the Commissioner has no objection to that word.⁷⁷

In relation to the same question posed by another Commissioner, the following answer was offered:

MR. NOLLEDO: xxx The Commissioner will notice that I said it was a justified redundancy because some manifestations of a democratic state are already found in republicanism. But in view of the many provisions where we recognize people’s power in the form of people’s organizations, referendum, initiative, recall, where the people participate even in legislation and in the removal of public officials, I think the word “democratic” must be included and must be aligned with republicanism.⁷⁸

⁷⁷ IV RECORDS OF THE 1986 CONSTITUTIONAL COMMISSION 680 (1986).

⁷⁸ *Id.*, at 683.

A. A Mixed Paradigm of State-Society Relations

Based on the foregoing discussion, this paper posits that a suitable theoretical paradigm for understanding the role of institutions in the Philippines is a hybrid between *embedded autonomy (state corporatism)* and *concertation (social corporatism)*. This means that there is considerable space for the parties to bargain and to cooperate, although at certain points the inequality in their bargaining powers would tend to become more apparent; in which cases the law steps in and attempts to correct the imbalance.

Linda Weiss explains the concept of *embedded autonomy* as a set-up wherein the state, while *autonomous* to the extent that it is able to formulate policies based on its own goals, also has to *embed* itself in society --- in industrial networks, more specifically --- in order for the goals to be implemented effectively.⁷⁹ What is being considered here is the relationship between the business (private) sector and the government (bureaucracy).

In the Philippines, investors and entrepreneurs are highly regarded because of the acknowledgment that they have a role to play in national development. The 1987 Constitution explicitly mentions such recognition in the Declaration of State Policies.⁸⁰ There is therefore a need to align the agenda and objectives of the government and the private sector, and this can be achieved through regular consultations and interactions.

The *embedded autonomy* paradigm suits the Philippines in that it highlights the significance of social ties for the effective implementation of state policies, and Filipino culture does in fact value such ties very much, because it is akin to the close family ties that Filipinos have. When the public and private sectors come up with plans, the success of these is more likely when the people's nod of approval is obtained. The latter would willingly cooperate with the business sector and the government, and see to it that the plans get carried out. Such is not the case all the time, however.

There are instances, like in an economic crisis, when the State has to limit the participants in the decision-making process and implementation of goals. Pressures and demands from other members of society have to be shut out in order to stay focused to the task at hand and address the problem. Tax reform measures, for example, have constantly been dubbed

⁷⁹ LINDA WEISS, *THE MYTH OF THE POWERLESS STATE* 35 (1998).

⁸⁰ CONST. art. II, § 20: "The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments."

as a “bitter pill” that has to be swallowed in order to avert an impending economic crisis.⁸¹

Although the business sector itself gets affected by these measures, it is probably easier for the entrepreneurs to understand the necessity for such actions and not be too myopic about it. After all, they would be one of the main benefactors in the long-run of a healthier investment climate. The general public, on the other hand, is much harder to convince regarding the wisdom of these policies; and had their voluble opposition been heeded by the government, the country would have been thrown into a much worse quandary at present.

Every now and then, the government has to do these things and draw the line which the people cannot overstep. Sounds like *statism*? Not really. Under this proposal, the private sector, which for all intents and purposes is a part of society, still gets to influence government even if it technically is not seen as a negotiating partner. This paper contends that it is humanly impossible for the flow of influence to be unidirectional when groups are interacting with one another; no matter how slightly, the “weaker” group could still affect the “stronger” one.

The *embedded autonomy* model, to a certain extent, does not sit well with strict democratic principles, since the people seem mute and powerless in this case. Also, given the shameful tendencies of some bureaucrats to abuse their positions, there is a need to set up safeguards against such corrupt acts, and who is better suited to keep these officials in check than the people, the sovereign, who employed them?

Concertation is thus proposed to complement *embedded autonomy* in order to maintain a healthy balance of powers. *Concertation* does not differ much from the previously discussed paradigm, except that here society is given a more robust bargaining position, and there is an acknowledgment of the existence of broad and diverse interests. It is “a situation in which self-governance tends to prevail over other modes of state guidance.”⁸²

⁸¹ In Aug. 2004, a group of professors from the University of the Philippines School of Economics wrote a paper entitled, “The Deepening Crisis: The Real Score on Deficits and the Public Debt,” which basically discussed what was then thought of as an impending threat to the economy of the country and proposed several solutions to the said problem. available at <http://www.econ.upd.edu.ph/respub/dp/pdf/DP2004-09.pdf>. (last accessed Aug. 15, 2009).

⁸² WEISS, *supra* note 79, at 37.

Given that the Philippines is composed of eighty-eight million people, inevitably, a *mélange* of interests and demands arises. It does not suffice, especially in a democracy, that only a sector or two gets heard. After the dictatorial rule of former President Marcos disintegrated, groups having a variety of advocacies began to emerge. The term “civil society” became a new buzzword, and soon enough a new avenue for *political communication*⁸³ had been opened, and through the years, interest groups, non-governmental organizations, people’s organizations, etc. have flourished and have become more relevant. It is due to such observation that *corporatism* is viewed to be suitable to the Philippines as a theoretical paradigm for governance and for the participation of private sector and civil society.

In light of the fact that the history of the country has created a strong one-(wo)man executive, it is imperative for the people to be critical-minded, and to keep a vigilant position with respect to their relationship with the government. Gone are the days when state officials monopolized policy-making and the people can do nothing but acquiesce to the decisions of the former. As markets for various goods and services are being liberalized in different parts of the world today, so too should the “market for ideas” be opened up to enable the people to participate in matters that are ultimately about them. This is hardly a novel proposition; before “globalization” even became a word, political and economic theorists ranging from Adam Smith to John Locke to Thomas Jefferson have already been espousing the importance of “free exchange, or *marketplace*, of ideas” in sustaining a democracy.⁸⁴

Interest groups serve as alternatives to political parties (which in its genuine form are regrettably absent in the country) in educating the people and endorsing their intentions. The only difference though is that interest groups and non-governmental organizations cannot officially represent the people. Hence, the legislation necessary to pursue certain goals, for example, are still dependent on the elected members of Congress and on the President. In this case, it would seem that society is at the losing end, since the government still gets to have the final say. Notice, however, that it is precisely in the nature and function of civil society to limit the actions of the State while simultaneously being intertwined with the latter.⁸⁵

⁸³ “Political communication” was the concept used by Åsard and Bennett in their book *DEMOCRACY AND THE MARKETPLACE OF IDEAS: COMMUNICATION AND GOVERNMENT IN SWEDEN AND THE UNITED STATES* (1997) to refer to the interaction between the society and the government.

⁸⁴ *Id.*, at 28.

⁸⁵ See generally Tayyab Mahmud, *Postcoloniality and Mythologies of Civil(ized) Society*, 26 *CHICANA/O-LATINA/O L. REV.* 41, (2006); Edward Shils, *The Virtue of Civil Society*, 26 *GOV'T & OPPOSITION* 3 (1991).

Under the *social corporatist* model, however, social organizations are empowered as they are able to negotiate with the state. The interest groups assert their influence on the government through methods like lobbying and engaging in round table discussions with department heads. Obviously too, the most important characteristic of interest groups that puts them in a strong bargaining position is the fact of its being a collectivity consisting of members of the electorate.⁸⁶ The people in organizations such as these possess the power to vote --- which matters a lot to the people in government who presumably wish to remain there for as long as they can.

As a final note, it is important to realize that the hybrid paradigm herein proposed, while presented primarily to address certain social ills that presently afflict the country, can pose tensions to state-society relations as well. The unavoidable inequality in the bargaining power of the different social groups and the substantial interaction of the government with external actors, create an environment that is susceptible to abuse and corruption. In view of this, therefore, this paper offers possible strategies to reconcile the positive points of the abovementioned paradigms with the resulting dilemmas.

Regarding the unequal capabilities of the interest groups to communicate with and influence the government, resolution can be brought about by instituting and opening up more avenues through which the relatively disadvantaged groups can obtain access. Consultative meetings can, for example, be conducted by government agencies, and even by legislators themselves, in far-flung areas where there are no organized interest groups to speak of, but where the inhabitants certainly have equally (if not more) legitimate and urgent needs than those in the cities. It is also essential that the state be constituted in such a way that, although it is receptive of the demands of society, it remains independent and strong-willed in forming and implementing rational decisions.

The more serious problem of corruption involved in *corporatist* models can be addressed through the strengthening/development of the institutions, like those which have been discussed earlier, that increase the *accountability* of the public officials (bureaucrats and politicians).⁸⁷ The

⁸⁶ One has to be wary, however, of some pitfalls of having an overly strong civil society --- or more accurately, of strong groups with varying interests and agenda --- such as the marginalization of certain sections of the population who may not have ample power to assert their own demands. Professor Mahmud, *supra* note 86, argues that this difficulty is particularly true in postcolonial societies, whose demography and historical experience differ from that of Europe and the Western world in general.

⁸⁷ Here the author relies primarily on the work of Daniel Lederman, Norman Loayza, & Rodrigo Soares, *Accountability And Corruption: Political Institutions Matter*, Policy Research Working Paper No. 2708 (2001).

existence of institutions that facilitate the monitoring of actions of the various state actors is crucial in that this system of “checks and balances” attenuates the problem of asymmetric information. It has been constantly explained, for example, how the separation of powers among the co-equal branches of government is such a powerful doctrine because it mandates each of these branches to cooperate with one another without condoning acts, inimical to public welfare, that the other may have committed.

A particular study on the separation of powers, “which can be useful to mitigate the costs created by the opportunism of regulators,” shows that the significance of this institution is particularly greater for developing countries for the reason that transaction costs for collusion are low and inefficient tax systems give rise to high costs of public funds.⁸⁸ The *power of judicial review*,⁸⁹ the *veto power* of the President,⁹⁰ and the House of Representatives’ *power of the purse*⁹¹ are just some of the constitutionally-enshrined mechanisms through which “internal” checks and balances are effected. In the Philippines, “external” monitoring is also made possible by influential societal institutions, foremost of which is the Church. Civil society and mass media⁹² contribute in this endeavor as well. Essentially, what they do is to compel the government to become more *transparent* in conducting its affairs.

III. RE-CREATION, DESTRUCTION, OR STAGNATION?

A *revolution* is a “social movement in which participants are organized to alter drastically or replace totally existing social, economic, or political institutions.”⁹³ As explained by one author, “Revolutions occur when organizations with different interests emerge (typically as a result of dissatisfaction with the performance of existing organizations) and the fundamental conflict between organizations over institutional change cannot be mediated within the existing institutional framework.”⁹⁴

⁸⁸ See generally Jean-Jacques Laffont & Mathieu Meleu, *Separation of Powers and Development*, 64 J. OF DEV'T ECON. 129-45, (2001); SUSAN ROSE-ACKERMAN, CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES, AND REFORM 144-45 (1999).

⁸⁹ CONST. art. VIII, § 1, ¶ 2; also CONST. art. VIII, § 4(2).

⁹⁰ CONST. art. VI, § 27(2).

⁹¹ CONST. art. VI, § 24.

⁹² See generally Tim Fackler & Tse-mim Lin, *Political Corruption and Presidential Elections, 1929-1992*, 57 JOURNAL OF POLITICS 971, 975 (1995); Pier Paolo Giglioli, *Political corruption and the Media: The Tangentopoli Affair*, 48 INT'L SOC. SCI. J. 381 (1996).

⁹³ JAMES DEFRONZO, REVOLUTIONS AND REVOLUTIONARY MOVEMENTS 8 (1996 ed.). See also JACK GOLDSTONE, REVOLUTIONS: THEORETICAL, COMPARATIVE, AND HISTORICAL STUDIES (1986).

⁹⁴ North, *supra* note 4.

Based on these definitions, there are two events in Philippine history that this paper considers as revolutionary. The *first* is the revolution against the Spanish colonizers toward the end of the nineteenth century, which revolution cannot be said to have occurred at a single point in time because there are actually several interrelated episodes that resulted to this one great upheaval. The *second* revolution took almost a century thereafter to occur. This revolution involved slightly different circumstances and means, but nonetheless resulted to significant changes. In 1986, the Filipino people overthrew an authoritarian government and sought to replace the then existing oppressive institutions. The common denominator of these two temporally separate events is the fact of **Philippine society acting to preserve and assert its existence in the face of a government that attempts to scare them into silence.**

A. *The Philippine Revolution (1896-1898)*

In a nutshell, the revolution against Spain that culminated in 1898 was a fight for independence perpetrated by majority of the Filipinos, especially those in the lower rungs of the societal ladder. This is not surprising, as the brunt of abuses by the colonial master fell mostly on the so-called *indios* (Indians)⁹⁵. This is not to say however that the rich and educated Filipinos were not desirous of change --- they were, but only half-heartedly. Because they were also benefiting from the status quo, it was natural for them to have qualms about challenging and abolishing the alien institutions in the country. The peasantry, on the other hand, had nothing to lose but their lives. As in other revolutions around the world, this popular uprising in the Philippines has a myriad of reasons for its occurrence. So was this revolution a foregone conclusion? This paper maintains that it was.

The relationship between the colonial government (including the Spanish Church) and Philippine society was similar to that between master and slave, and such relationship was fraught with much maltreatment and exploitation. The *encomienda* system⁹⁶ was one institution that was instrumental in the furtherance of the colonizers' profit-driven interests.⁹⁷

⁹⁵ The derogatory term used by the Spanish rulers to refer to the natives of the Philippine Islands; similar to the use by Columbus of the term "Indians" to refer to the indigenous population of the New World. Nathan Gilbert Ocampo, *Colonial Name, Colonial Mentality and Ethnocentrism*, 17 *Kasama* 3 (July-August-September 2003), available at: <http://cpcabrisbane.org/Kasama/2003/V17n3/ColonialName.htm> (last accessed Jul. 19, 2010).

⁹⁶ "The *encomienda*, from the word *encomendar*, meaning "to entrust," was a grant from the Spanish crown to a meritorious Spaniard to exercise control over a specific place including its inhabitants. It was not a land grant as most earlier scholars believed." AGONCILLO, *supra* note 29, at 83.

⁹⁷ CONSTANTINO, *supra* note 30, at 41-44.

What was originally intended to be just an administrative mechanism turned out to be an opportunity for unscrupulous government officials to take advantage of the already poverty-stricken natives.

As if it were not enough that the Spanish officials were exacting exorbitant tributes from the *indios*, the clergy added insult to injury by usurping what little land the Filipinos have, and in some cases, even taking liberties with the women. For so long, the Filipinos had been tolerant of all these sorts of abuses, probably because they initially did not see anything bothersome with what was happening, or even if they did notice, they felt that they cannot do something about it. Opining about the ongoing cruelties was even prohibited, so the natives were really placed in a desperate situation. Basic liberties were concepts that majority of the Filipinos was not familiar with. It was only through the exposure of the *principalia/principales*⁹⁸ to these prevalent ideas abroad that these eventually got infused in the consciousness of the masses and led them to covet freedom.

This was essentially almost similar to the turn of events that led to the French Revolution a hundred years earlier: the people were made aware of the excesses by both secular and religious groups through the writings and movements of the learned few.⁹⁹ These two revolutions also share the same bloody and violent outcomes due to the fact that, to a certain extent, the masses who were the main participants were misguided. Finally, both of these events arose from a situation where society is weak and is being dominated by the state, and after some time the former, seeing no other means of freeing itself from the stranglehold of the latter, decides to destroy the present order and put in place new institutions that would be more favorable to their participation in government. ***The Philippine revolution against Spain was a genuine one insofar as several institutions were changed if not completely obliterated.***

Most of the economic institutions like the *encomiendas* and *polo y servicio* (“selection for forced labor”)¹⁰⁰ were abolished, since the new colonizers, the Americans, were espousing a different ideology that entails

⁹⁸ The Filipino upper class during the Spanish period whom the colonizers used to indirectly rule the rural areas. “This group had local wealth; high status and prestige; and certain privileges, such as exemption from taxes, lesser roles in the parish church, and appointment to local offices.” RONALD DOLAN (ed.), PHILIPPINES: A COUNTRY STUDY, *The Early Spanish Period*, (1991), available at <http://countrystudies.us/philippines/> (last accessed Jul. 19, 2010).

⁹⁹ ALEXIS DE TOCQUEVILLE, *THE OLD REGIME AND THE REVOLUTION 170-81* (John Bonner trans., 1998).

¹⁰⁰ “*Polo* actually is a corruption of the Tagalog *pulong*, originally meaning ‘meeting of persons and things’ or ‘community labor.’” AGONCILLO, *supra* note 29, at 83.

different economic strategies. On the political aspect, it can be said that there were significant changes as well. For one, the form of government that the Americans sought to erect was based on democratic principles wherein the people themselves get to choose and decide. It is worth noting however that in the first years under the control or tutelage of the United States the political scene remained constrained due to an all-powerful military governor (tasked to carry out executive, legislative, and judicial functions) and the inexperience of Filipinos with respect to the workings of a democracy. Finally, the transformation of legal institutions more or less followed the trend of their political counterparts. Much of the laws during the Spanish period were retained, and only those incompatible with democratic principles were repealed.

Illustrative of this is the case of *People v. Perfector*,¹⁰¹ where a newspaper editor was accused of *lèse majesté*¹⁰² for allegedly defaming or insulting “Ministers of the Crown,” a.k.a. the senators. The Court acquitted the defendant Mr. Perfecto based on the following grounds: *first*, the transfer of sovereignty over the Philippines from Spain to the United States had the effect of putting into application the laws and principles of the new government, and under such democratic government there is no longer “a Minister of the Crown or a person in authority of such exalted position that the citizen must speak of him only with bated breath.”¹⁰³ *Second*, a new Libel Law had the effect of repealing the provision in the Spanish Penal Code that punishes *lèse majesté*, and this being a product of American ideals, it upholds the freedom of the people to express their opinions about their public servants so long as the intention and effects are not seditious. In consonance with democratic principles, the Court therein concludes, “Our official class is not, as in monarchies, an agent of some authority greater than the people but it is an agent and servant of the people themselves.”¹⁰⁴

B. The Philippine Revolution (1986)

The widely-acclaimed People Power or EDSA Revolution in 1986 is another instance of society acting solidarily in order to alter the existing order and its institutional features. The Marcos administration most closely

¹⁰¹ G.R. No. 18463, 43 Phil. 887, Oct. 4, 1922.

¹⁰² Libel committed against public officers: A crime defined under Art.256 of the then Spanish Penal Code and committed by “Any person who, by word, deed, or writing, shall defame, abuse, or insult any Minister of the Crown or other person in authority, while engaged in the performance of official duties, or by reason of such performance, provided that the offensive conduct does not take place in the presence of such minister or person, or the offensive writing be not addressed to him.”

¹⁰³ *People v. Perfector*, 43 Phil. 887, 900, Oct. 4, 1922.

¹⁰⁴ *Id.*, at 902.

adheres to the *statist* model wherein the “participation” of society is limited to passive assents to the policies and decrees of the Executive. It is perhaps at this point in Philippine history that it became very apparent that notwithstanding the nominal adherence to the doctrine of separation of powers and the assertion that there are three *co-equal* branches of government, the fact remains that past events have given rise to an executive branch that can defy this supposed equality among the three branches.

The State prior to the revolution was strong, in a coercive sense and even in terms of its autonomy from societal pressures. Former President Marcos fashioned the State such that it was a rule on its own, that is, he saw to it that his plans (both the good and the bad) would be unobstructed by the people. He wanted to instill discipline in society in order to make the country more progressive but went a bit too far by employing violent and cruel means. In an attempt to insulate the government from popular demands, he curtailed individual freedoms, which the Filipinos have actually grown to cherish as a result of years of democratic experience. The people have also become more aware of their political environment, even if as earlier mentioned they do not really have a hand in decision-making.

The impetus to this revolution came from various sectors in society. The masses wanted the abuses to stop and their liberties and rights to be restored. The Catholic Church, by this time an already potent entity in social and political affairs, opposed the immorality of the government’s actions and actively called for the overthrow of the oppressive regime.¹⁰⁵ Then there are those sly and opportunistic public officials holding key positions who, in the nick of time, decided to shift their loyalties in favor of the people in order to save their skin and get an opportunity to grab more power for themselves. All of these factors contributed to bringing into fruition the revolution against the government in February 1986.

The EDSA Revolution showed how an overly *statist* paradigm cannot prosper in the country. Centuries of colonial rule and exploitation have caused Filipinos to be particularly protective of their rights and freedoms. This is especially true when it comes to their involvement in politics and governance. When their legitimate avenues for exercising such rights become restricted, the tendency is to look somewhere else. The most likely alternative that they would choose is that of a revolution, where drastic

¹⁰⁵ See Rosalinda Ofreneo, *The Catholic Church in Philippine Politics*, 17 JOURNAL OF CONTEMPORARY ASIA 320-338, (1987); RONALD DOLAN (ed.), PHILIPPINES: A COUNTRY STUDY, *From Aquino’s Assassination to People’s Power*, (1991), available at <http://countrystudies.us/philippines/> (last accessed Jul. 19, 2010).

changes are effected and present institutions get destroyed in the process. While some scholars qualify the People Power Revolt to be merely *political* in nature (and not *social*, where there is a realignment of power among social classes)¹⁰⁶ it is a real revolution nonetheless.

The event gave birth to several institutions that have far-reaching implications for the kind of relationship that exists, or will exist, between State and society. Here the paper focuses mainly on the present Constitution, which is one of the legacies of the said revolution and contains three notable novelties. The *power of judicial review* as enshrined in Sections 1 and 4(2) of Article VIII is one of these. Under the given provisions, “the Supreme Court has been strengthened as a check on the executive and legislative powers,”¹⁰⁷ and this provides the people an additional viable means of interacting with the government. If they perceive that the Court can help redress the wrongs done to them by the other departments, then they would not have to launch a revolution just to solve their problems.

Former Chief Justice Reynato Puno thus states, “The passivity with which the power of judicial review was wielded by the courts [during the Marcos regime] drove those who sought grievance for their complaints to take to the streets. [The EDSA Revolution exhibited how] street sovereignty reigned over the sovereignty of the parliament; the people’s tribunal determined what the rule of law ought to be and not the courts of justice...”¹⁰⁸ The exercise of the power of judicial review can thus become a means through which present institutions that are working well can be preserved, and more importantly, prevented from being mixed with the bad ones and imperiled when uprisings occur. Additionally, the same power allows the Court to protect the people’s rights, both political and economic, especially of the marginalized groups who must be protected from the onslaughts of the powerful.¹⁰⁹

The *raison d’être* of judicial review, as explained by Commissioner Roberto Concepcion, casts light on its important role of upholding rights in a democratic society, thus:

¹⁰⁶ Carroll, *supra* note 43, at 65.

¹⁰⁷ AGABIN, *supra* note 25, at 193.

¹⁰⁸ See Puno, *supra* note 27, at 259.

¹⁰⁹ Tatad v. Sec. of the Dep’t of Energy, G.R. No. 124360, 281 SCRA 330, Nov. 5, 1997, *cited in* Pacifico Agabin, *Judicial Review of Economic Policy Under the 1987 Constitution*, 72 PHIL. L.J. 176, 188 (1997).

Fellow Members of this Commission, this [Section 1 of the Article on the Judicial Department] is actually a product of our experience during martial law. As a matter of fact, it has some antecedents in the past, but the role of the judiciary during the deposed regime was marred considerably by the circumstance that in a number of cases against the government, which then had no legal defense at all, the solicitor general set up the defense of political questions and got away with it. As a consequence, certain principles concerning particularly the writ of habeas corpus, that is, the authority of courts to order the release of political detainees, and other matters related to the operation and effect of martial law failed because the government set up the defense of political question. And the Supreme Court said: "Well, since it is political, we have no authority to pass upon it." The Committee on the Judiciary feels that this was not a proper solution of the questions involved. It did not merely request an encroachment upon the rights of the people, but it, in effect, encouraged further violations thereof during the martial law regime.¹¹⁰

The Commissioner concludes:

Briefly stated, courts of justice determine the limits of power of the agencies and offices of the government as well as those of its officers. In other words, the judiciary is the final arbiter on the question whether or not a branch of government or any of its officials has acted without jurisdiction or in excess of jurisdiction, or so capriciously as to constitute an abuse of discretion amounting to excess of jurisdiction or lack of jurisdiction. This is not only a judicial power but a duty to pass judgment on matters of this nature.

This is the background of paragraph 2 of Section 1, which means that the courts cannot hereafter evade the duty to settle matters of this nature, by claiming that such matters constitute a political question.¹¹¹

Article XVII, Sec. 2 gives the people another way through which they can effect changes in the government and exercise their right as the sovereign. This provision concerns the *power of initiative* that the people can use to amend the fundamental law of the land. Although it has yet to be actually used, as previous attempts to do so did not prosper, it is important in the discussion in that it recognizes the sovereignty of the people by entrusting to them such an immense task. Again, through this process, society does not have to resort to *extra-constitutional* means like a revolution to put across its interests and demands.

¹¹⁰ I RECORDS OF THE 1986 CONSTITUTIONAL COMMISSION (1986).

¹¹¹ *Id.*

As former Chief Justice Artemio Panganiban opines, “Initiative is an alternative to bloody revolution, internal chaos and civil strife.”¹¹² The last provision that completes the triumvirate of *society’s constitutional arsenal* is that pertaining to the Role and Rights of People’s Organizations.¹¹³ As previously discussed, this formalizes the role of the people as negotiating partners of the State. With a vibrant and effective civil society, there appears to be no need for revolutions to establish and declare the power of the citizenry.

CONCLUSION

Philippine institutions are products of culture, history, and the efforts, both conscious and unconscious, of different women and men. Conversely, Philippine institutions are factors affecting the relationship between the State and society and also one of the determinants that make revolutions likely or unlikely to take place.

The present situation of the country has a few similarities to those before the two revolutions discussed above. The people’s rights to assembly and free speech are in somewhat precarious circumstances given the tendencies of the current administration to muffle the voices of its dissidents.¹¹⁴ Accounts of alleged extrajudicial and political killings (including killings of journalists) and abuses of power are likewise not uncommon.¹¹⁵

¹¹² People’s Initiative for Reform, Modernization, and Action (PIRMA) v. Commission on Elections, G.R. No. 129754, Sept. 23, 1997 (unreported), reproduced in full in *Lambino v. Commission on Elections*, G.R. No. 174153, 505 SCRA 160, 335, Oct. 25, 2006.

¹¹³ CONST. art. XIII, § 15.

¹¹⁴ See the press release of the National Telecommunications Commission and the statements of then Secretary of Justice Raul Gonzalez relating to the airing of the “Hello Garci” tapes as examined in the case of *Chavez v. Gonzalez*, G.R. No. 168338, 545 SCRA 441, Feb. 15, 2008. See also Reynato Puno, *Freedom of Press: A Touchstone of Democracy*, Speech delivered at the “Impunity and Press Freedom” conference organized by the Southeast Asian Press Alliance (SEAPA) and the Center for Media Freedom and Responsibility (CMFR) held from Feb. 27 - 29, 2008, available at <http://sc.judiciary.gov.ph/speech/02-27-08-speech.pdf> (last accessed May 16, 2010); International Freedom of Expression eXchange, *Anti-wiretapping law gags Filipino journalists, says IFJ*, Jun. 17, 2005, available at <http://www.ifex.org/philippines/2005/06/17/anti-wiretapping-law-gags-filipino/> (last accessed May 1, 2010); Alecks Pabico, *Philippines, other democracies failing to solve journalists’ murders*, Philippine Center for Investigative Journalism, May 1, 2008, available at <http://www.pcij.org/blog/?p=2307> (last accessed May 14, 2010); Randy David, *Hello Garci and Philippine democracy*, PHIL. DAILY INQUIRER, Aug. 25, 2007, available at <http://opinion.inquirer.net/inquireropinion/columns/view/20070825-84613/Hello-Garci-and-Philippine-democracy> (last accessed May 1, 2010); GManNews.TV, *Southeast Asian media back suit vs Arroyo husband*, Nov. 27, 2006, available at <http://www.gmanews.tv/print/22153> (last accessed May 2, 2010).

¹¹⁵ Philip Alston, *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development: Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, available at <http://www.pcij.org/blog/wp-docs/Philip-Alston-final-report.pdf> (last accessed May 17, 2010); Karol Ilagan, *Human rights in the Philippines: Still a ‘work in progress’*, Philippine Center for Investigative Journalism, Dec. 13, 2008, available at <http://www.pcij.org/blog/?p=3336> (last accessed May 17, 2010); Avigail Olarte, *Overstepping constitutional and legal boundaries*, Philippine Center for Investigative Journalism, Dec. 12, 2007, available at <http://www.pcij.org/blog/?p=2099> (last accessed May 13, 2010).

Many people continue to live in abject poverty and inhumane conditions in spite of quite significant economic growth.¹¹⁶ Poverty incidence among the population has in fact increased from 30.0% to 32.9% between the period 2003 and 2006; the magnitude of poor population likewise increased during the same period, negating the decline between the period 2000 and 2003.¹¹⁷ All of these are acknowledged by many scholars as factors that contribute to making revolutions more likely.¹¹⁸

Does this mean that a revolution is about to occur in the country anytime soon? This paper answers in the negative, for three reasons. *First*, it seems to be innate in Filipinos to be patient and hopeful. That is probably the reason why it took more than three centuries for them to finally revolt against the Spaniards, and about a decade before overthrowing the Marcos regime. It requires a lot (of wrongs) to elicit the fury of most Filipinos because they have with them an optimistic disposition that makes them see beyond their present hardships.

Second, forgiveness is a virtue observed by many. Even when injured heavily, Juan dela Cruz is able to understand and forget the harm done. Thus, when the government is continuously committing blatant misdeeds, so long as it “apologizes”, the people simply look away from the obvious decadence. *Finally*, and most importantly, Philippine society faces much uncertainty in staging revolutions.

At this juncture, it appears to most people that the costs of a revolt outweigh the benefits, especially as the future seems rosy enough from the way the government is currently painting it. Further, some analysts speak of a so-called “people power fatigue,” whereby the populace has gotten disillusioned with launching mass protests, inasmuch as no genuine change ever seems to have ensued therefrom.¹¹⁹

¹¹⁶ Patricia de Leon, *The Philippines in 2007: Growth, but also poverty, will linger*, GMANews.TV, available at <http://www.gmanews.tv/story/25393/The-Philippines-in-2007-Growth-but-also-poverty-will-linger> (last accessed July 14, 2007).

¹¹⁷ National Statistical Coordination Board, 2006 Philippine Poverty Statistics, available at http://www.nscb.gov.ph/poverty/2006_05mar08/table_2.asp (last accessed July 19, 2010).

¹¹⁸ See Skocpol, *supra* note 2; Louis Gottschalk, *Causes of Revolution*, 50 AM. J. OF SOCIOLOGY 1-8 (1944); Raymond Tanter & Manus Midlarsky, *A theory of revolution*, 11 JOURNAL OF CONFLICT RESOLUTION 264-280 (1967).

¹¹⁹ See Herbert Docena, *Philippines: Power, not Gloria*, ASIA TIMES ONLINE, Mar. 3, 2006, available at http://www.atimes.com/atimes/Southeast_Asia/HC03Ae03.html (last accessed May 13, 2010); Herbert Docena, *People power and the perils of democracy lite*, Philippine Center for Investigative Journalism, Mar. 1, 2006, available at <http://pcij.org/stories/people-power-and-the-perils-of-democracy-lite/> (last accessed May 13, 2010).

Presently, it cannot be said that a revolution is a foregone conclusion.¹²⁰ State-society relation is quite stable (albeit not entirely desirable), primarily because the administration is quite a good strategist: every now and then it grants the people enough democratic space and economic gains which somehow soothe the occasional sparks of discontent. This situation thus makes *evolution* ---rather than *revolution* --- the more viable means of pursuing goals of social improvement and development.¹²¹

Through such shrewd tactic, Philippine history has thus become a witness to a period that spans almost a decade with a president, who, despite her unpopularity¹²², was able to hold onto power until the very end. Such survival is interesting, given the countless allegations (most of which did not lack proper substantiation) of graft and corruption that tainted her administration, the reports of violations and abuses of human rights that were left without solutions or remedies, and her blatant disregard of legal rules: things that under ordinary circumstances --- or at least what theory suggests --- would have already sparked a revolution.

As a new decade unfolds, with the Philippines having just sworn in a new president, what remains to be seen is how her successor would deal with the problems left behind by Mrs. Arroyo, including the imminent charges to be filed against the latter. At the end of the day, the virtue of a people's revolution not having occurred to unseat her and hold her responsible lies in the fact that the standing Philippine institutions now have an opportunity to function as they are expected to, and regulate the relationship between society and state.

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¹²⁰ *And none ever occurred.* As of this writing, Mrs. Arroyo has even been proclaimed Representative of the second district of Pampanga after winning in the recently held elections. Majority of this paper was first written in July 2007, six years into the presidency of Gloria Macapagal-Arroyo: three from 2001, when she assumed the office after the ouster of Joseph Estrada through *Edsa Dos* and three from 2004, when she won the last presidential election, which was riddled with controversies of massive cheating.

¹²¹ See Apolinario Mabini, *LA REVOLUCION FILIPINA* ("THE PHILIPPINE REVOLUTION") (Leon Ma. Guerrero trans., 1969), available at <http://www.univie.ac.at/voelkerkunde/apsis/aufi/history/mabini01.htm> (last accessed May 31, 2010). [Mabini defines a "political revolution" as one that produces a violent change in the organization of the three public powers due to the people's movement; this is motivated by an *irresistible need* on the part of the people to improve their lives. In contrast, "evolution" involves a slow, gradual, or progressive movement primarily motivated by the *instinct of self-preservation*, "which restrains the impetuosities of the people."]

¹²² As per the Social Weather Stations surveys, the president had the highest satisfaction rating at +30 in March 2004 and the lowest at -50 in July 2008, available at <http://www.sws.org.ph/> (last accessed May 17, 2010).