

The Evolution of Filipino Political Institutions: Prospects for Normalization*

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The evolution of Filipino political institutions provides the background which puts the effects of Martial Law and the directions of political development in a clear perspective. An early attempt to establish the basis of Filipino political institution could be traced back to the First Philippine Republic established on 12 June 1898. The Americans, with their concept of liberal democracy, imposed their sovereignty over the Philippine Islands soon after. The political institutions established by the Americans and retained even after Independence could not eradicate the prevailing inequities and injustices. Martial Law, declared on September 1972, to protect the country against external and internal aggressors and to achieve meaningful reforms brought many changes. Political normalization is seen as the next step after Martial Law in terms of the electoral process, the legislature, the executive, the judiciary, the bureaucracy, and the local government.

Introduction

The main purpose of this paper is to discuss the evolution of Filipino political institutions, the effects of Martial Law on these institutions, and to determine the directions of political development in the future, particularly the prospects for normalization in the Philippines.

The role of the political institutions in the political system is to articulate and aggregate the demands, needs, and aspirations of the people and to convert them into goods and services for the benefit of the people. The search for the best constitution or political arrangements that can adequately perform this role has been the concern of men and nations since time immemorial. This concern is proper and imperative considering the fact that it is through these political institutions that values, such as honor, power, and wealth, are allocated among the members of the society. It is also through the political institutions that development goals and objectives are attained.

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The thesis of the paper can be stated briefly: "The democratic/representative political institutions which were established during the colonial and independence periods, except the executive, were weakened during the Martial Law years." The need now is to strengthen them and restore their integrity to achieve normalization in the country. Among the political institutions discussed in this paper are:

(1) the electoral process, political parties, interest groups, and mass media; (2) the legislature; (3) the executive; (4) the judiciary; (5) the bureaucracy; and, (6) local governments.

Evolution of Filipino Political Institutions

The search for a viable political system and for suitable political institutions for the country has not only been a long process but a difficult one as well. An early attempt to establish the basis of Filipino political institutions was made during the revolutionary period when the First Philippine Republic was established on 12 June 1898. The *Malolos Constitution* of 1899 embodied the idea of liberal democracy, representative government, and the principle of separation of powers and checks and balances. It provided that "Two or more of the (legislative, executive, and judicial) powers shall never be vested in one person or corporation, neither shall the legislative power be entrusted to a single individual" (Title II Art. 4). Apolinario Mabini, the brain of the Philippine Revolution, likened the legislature to the "brain," the executive to the "will," and the judiciary to the "conscience" of the society.¹ However, these political institutions were not made operational due to the advent of the Philippine-American War and the imposition of American sovereignty over the Islands.

The Americans brought with them their concept of liberal democracy and allowed the establishment of political institutions, such as the electoral process, the party system, the legislature, and an independent judi-

ciary. The political concepts and institutions introduced by the Americans were embodied in the Cooper Act (known later as the Philippine Bill of 1902), the Jones Law of 1916, and the Tydings-McDuffie Law (otherwise known as the Philippine Independence Act), and the 1935 Constitution. The tradition of political participation, constitutional democracy, and representative political institutions were some of the major legacies of the Americans to the Filipinos.

During the American and Independence period, a constitutional form of government where the people participated in governance, principally through the electoral process and public discussion of issues affecting their lives, was established. The citizens were generally free to vote for candidates of their choosing into the various elective positions in government. A bill of rights safeguarded the people's collective and individual freedoms.

The institutional mechanisms sanctioned by the 1935 Constitution, as amended, included: (1) a bicameral legislature composed of the Senate and the House of Representatives whose members were elected nationally and by district, respectively; (2) a Chief Executive who was elected for a fixed term of four years with the right to one reelection; and (3) an independent Judiciary which had the power to review the actions of both the Congress and the President on the basis of their constitutionality and statutory construction.

The election of the members of the Legislature and the Chief Executive and also of local officials sought to assure the accountability and responsiveness of these officials to the people. In practice, the private sector represented by interest groups, the

¹Quoted by Arturo Tolentino, in Law Center, U.P. (compiler), *1976 Amendments and the New Constitution*, (Quezon City: Law Center, U.P., 1978), p. 56.

press, and civic/religious organizations brought to bear their influence on the political decision-making bodies to protect or promote their particular objectives. In turn, the decision-makers were concerned both with attaining broad governmental objectives and reconciling conflicting interests of various individuals and groups.

However, the democratic political institutions established during the American period and retained even after Independence had been incapable of eradicating prevailing inequities and injustices and in promoting a just social order. The political structures were dominated by a relatively few public officials and leaders who came from the socio-economic elite. This dominant group tended to preserve the status and privileges and promote the interests of the elite class.

The electoral process had been distorted by the use of "guns, goons, and gold." The party system was characterized by the dominance of personalities, turncoatism or frequent party switching, and the lack of distinct political platforms among the political parties. The legislature was dominated by the oligarchs and vested interests; it failed to pass the necessary legislation to uplift the well-being of the people, especially the poor. The judiciary was also saddled with the problems of docket congestion, delays, cumbersome and expensive procedures, incompetence, graft and corruption.

The imposition of martial law in September 1972 to protect the country against external and internal aggressors and to achieve meaningful reforms, including the restructuring of political institutions, brought about a number of changes in the Philippine government. The fundamental change in the political system was the establishment of an authoritarian form of

government within the existing constitutional framework. President Marcos, whose second term of office was to expire in December 1973, assumed full political, administrative, and military powers for an indefinite period. The bicameral Congress was abolished; laws were enacted by Presidential decree; local governments were also restructured to facilitate central control over them.

Changes were also effected in the basic political and civil rights of the people. Elections were temporarily suspended; political parties were disbanded. The freedom of expression was curtailed; restrictions were imposed on the press, on public assemblies and discussions, and on the individual's right to dissent. New participative mechanisms were tried, including *barangays* or citizens' assemblies which created to provide a broader base for people's participation and the referendum instituted as a system of consultation in which national and local issues were referred to the people.

Further evolution of political institutions under martial law as sanctioned by the 1973 Constitution, as amended, led to the establishment of a semi-parliamentary system of government. Elections were restored; political parties were allowed to operate again. Four elections have been held so far: (1) In April 1978 for members of the Interim National Assembly; (2) In January 1980 for local government officials; (3) In June 1981 for the Presidency; and (4) In May 1982 for *barangay* officials. The search for suitable political institutions for the country continues.

As President Marcos pointed out: "The Western representative system, adopted unexamined upon gaining independence, had not transplanted well to a political culture of extreme factionalism, severe social inequities

and awesome problems in the attainment of modernization."² He also stated that "Our experience in democracy really began with the oligarchy already in power . . . Government has always been almost completely under the control of the oligarchy. And both the Spanish and American colonial governments promoted and reinforced these arrangements."³ Thus, the President has emphasized the need to restructure the political and economic institutions of the country. He pointed out that good political institutions are essential to political stability and economic development. He said: "One must not only have good leaders and good legislators but political institutions, the institutional framework under which they work."⁴ The adoption of new political institutions in the Philippines can be viewed as an attempt to develop political institutions suitable to the country.

The Promise and Process of Normalization

The promise to restore political normalcy in the country was made by President Marcos even before he lifted martial law on 17 January 1981. It actually began as a political pledge of the President in August 1977 before a conference of the World Law Congress in Manila. Several steps were taken, such as the lifting of the curfew throughout the country with certain exceptions, relaxing restrictions on foreign travel, and the holding of elections in 1978. Reaching this goal was

going to be a gradual and phased-in process where elections would be scheduled, military tribunals would have reduced jurisdictions, and the press could have self-censorship, among others. Political normalization then becomes akin to restoring the basic political rights of the people which were suppressed during the martial law era.

The meaning and context of normalization vary according to the users of the phrase: to President Marcos, it is merely a political stage when the conditions of emergency and crisis have been contained and the regular processes of the government (under the 1973 Constitution and its amendments) are already operating; to critics of the administration, it is an acknowledgement of the failure of martial law in solving socio-economic problems of the country; to civil and political rights advocates, it is returning the basic freedoms; and to the radicals, normalization is but a ploy and a sham to advance further the political powers of the President.

The meaning of normalization is indeed debatable because its understanding lies on whose point of view to follow. Even so, politics does not stand still and, thus, whatever changes are made in the political system are irreversible. To speak of normalization as the return to *status quo ante bellum* is desirable and yet improbable. The Philippine political system prior to 1972 has been so thoroughly altered that restoration and reconstruction through the normalization process would be costly and difficult to do. Untangling the martial law apparatus and wiping out the political indoctrination inculcated in the youth and the people in government would be a challenge. In more practical terms, the new elite in the bureaucracy, the military, and in the economic

² *Philippines Daily Express*, 12 June 1981.

³ Ferdinand E. Marcos, *An Ideology for Filipinos* (Manila: 1980), pp. 30-31.

⁴ *Philippine Daily Express*, 31 March 1981.

sector would attempt to preserve their gains and vested interests rather than give them up.

Fernandez suggested two definitions of normalization, namely: (1) the return to the old society politics; or (2) the organization and operation of the government according to the regular provisions of the 1973 Constitution.⁵ The first definition has obviously few adherents and does not provide a better solution to intractable socio-economic problems in the country. The second alternative appears reasonable and constructive. However, the 1973 Constitution itself has already been drastically altered by subsequent amendments or what Justice Palma properly calls as "revisions."⁶ In this respect, normalization is not an appropriate word. A new Constitution whose key provisions undergo frequent changes is not likely to contribute to normalization because its instability tends to foster uncertainties. The reality remains that the President retains significant powers that are beyond the scope of the present Constitution and have their origin in the 1935 Constitution. The essence of Fernandez' definition is the change in government from authoritarian rule to constitutional law. Based on this concept, it is more meaningful than establishing a government based on the 1973 Constitution. This Constitution has provided for a substantially new political system in the Philippines

which is parliamentary in form. Implementation of the specific provisions of the charter will not necessarily bring about normalization.

The promise of President Marcos to restore political normalization may be reviewed in terms of six institutions, namely: the electoral process; legislature; executive; judiciary; bureaucracy; and local government. Normalization is logically a return to something, to an *a priori* condition. However, the rejection of certain political structures by their inability to respond to the needs of society is a given assumption. While the President has emphasized that normalization does not connote a simple return to old democratic processes and institutions, still one could rightfully say that the intention is to strengthen, rather than to abandon, the democratic political processes and institutions. It must mean restoring the integrity of the electoral process, the legislature, the judiciary, and the other political institutions.

The Effects of Martial Law on Political Institutions

Martial Law admittedly brought radical changes on Philippine political institutions as well as on the attitudes of the people. However, the issue that is yet to be resolved is whether the changes were in the direction of weakening or strengthening the political institutions. This writer is of the view that, with the exception of the executive, all the other political institutions were weakened during the martial law period. The effects of martial law on six institutions will be reviewed.

The Electoral Process

The Philippine political system is based on the principle that sovereignty resides on the people and that all authority emanates from them. The

⁵ Perfecto V. Fernandez, "From Javelana to Sanidad, An Odyssey in Constitutional Experimentation," in Law Center, UP (compiler) *1976 Amendments and the New Constitution* (Quezon City: Law Center, UP, 1978).

⁶ Cecilia Muñoz Palma, "A Decade of Assaults on the Constitution," *Philconsa Newsletter*, Vol. 7, No. 5 (January-February 1982).

sovereign authority of the people is exercised by representatives who are periodically elected for a given term. Periodic elections are necessary to ensure the accountability and responsiveness of the elected officials to the people. It is, therefore, imperative that the integrity of the electoral process is maintained since it is only through the electoral process that the people directly express and exercise its sovereign authority.

The electoral process from 1946-1972 in general performed the basic function of securing an orderly transfer of political power. The two major political parties, the Liberal Party and the Nacionalista Party, succeeded to have their candidates elected into office. In fact, with the exception of President Marcos, all the other Presidents were not re-elected. While it is true that the expression of the popular will had been distorted through the corruption of the electorate and the electoral process, the fact remains that the people were generally able to choose their leaders and one could conclude that the people had the final say. In short, whatever may have been the defects of the old electoral process, it allowed a regular alternation of people in power.

The new participative mechanisms which the martial law regime attempted to develop turned out to be more of a supplement rather than a substitute for elections which were temporarily suspended. The barangays which were originally conceived as a new mechanism through which the citizens could react on public policy and program issues were transformed into an administrative arm of government as part of the delivery system of services to the people. In the case of the referendum, the manner of its administration may have inhibited meaningful people's participation.

In view of the inadequacy of the alternate participative mechanisms, the president decided to restore the electoral process. So far, since the advent of normalization, four elections have been held to give the people an opportunity to choose their own leaders:

- (1) in 1978 for members of the *Batasang Pambansa*;
- (2) in 1980 for local government officials;
- (3) in 1981 for the Presidency; and
- (4) in 1982 for officials of the *barangay* government.

Elections were held because of the clamor for it by opposition groups, human rights movement, and external pressures from abroad. The martial law administration gave in to this demand although it had argued that the time was not ripe for it yet. Elections can be postponed when the business of development has to be pushed. They stand in the way of nation-building because these are costly, divisive, and counter-productive and they have a destabilizing effect which can retard the growth of the country.

The demand for elections was far stronger than the arguments against it. Political participation is essential to development. In fact, in the long-run, political stability is enhanced with the participation of the people in selecting their own leaders. For a martial law regime, elections are neither too serious an obstacle to overcome nor too difficult a concession to make. The battle for electoral positions was not going to be on an even keel because the power of the martial law regime was not limited. The regime had the power to make the electoral rules and procedures, to place its own people in the Commission on Elections, to release the budget for offices and development projects, and to persuade the media to its side. The *Kilusang Bagong Lipunan* (KBL) became the

major — if not the only — political party to dominate whatever elections were conducted. The KBL afforded limited choice from among the candidates on its slate; for the people, it became a matter of a choice between voting for administration-supported KBL candidates or the weak opposition parties.

Elections in the end did not turn out to be a fair, honest, and decent competition among candidates for offices. The non-KBL candidates did not have an equal chance. The results of the elections were predictable: only KBL candidates won with very few exceptions. Elections became the legitimizing forum for the administration. It served the purposes of the administration but failed in winnowing the qualified from the unfit.

Even Comelec Chairman Vicente M. Santiago, Jr. said that the various election laws have not been adequate to enable the Comelec to perform its constitutional duty of ensuring free, honest, and orderly elections. Due to loopholes in the registration system, flying voters have managed to get themselves included in voter's lists. Illegal registrants have accumulated through the years, posing a serious threat to free, honest and orderly elections. Santiago therefore proposed the adoption of a new election code. He also suggested the scrapping of all existing lists of voters to eliminate once and for all a major source of poll irregularities in future elections.⁷

The political party opposition in the Philippines is disorganized, divided, and timid, if not intimidated by the dominance of the KBL. Pimentel, Jr., spoke of the "personal ambitions, the individual styles of leadership, the

piques, the animosities and the thousand and one factors that inevitably cause dissension among the ranks of the legitimate opposition."⁸ Hardly had the parties mobilized themselves when members began to jockey for recognition and positions of leadership, bringing about disunity. The opposition parties included *Laban*, *Pusyon Bisaya*, *Mindanao Alliance*, *Nacionalista Party*, *Pilipino Democratic Party*, and the *Social Democratic Party*. A system of accreditation has been established in order to recognize the political parties that registered with the Commission on Elections. The ban on party-switching, a legitimate practice now frowned upon as "turncoatism," is being challenged by certain opposition leaders as unfair and a measure designed to favor the KBL.⁹

The Legislature

The adoption of a new system of government under the 1981 constitutional amendments raises the issue of the proper role of the legislature in the Philippine political system. Under the 1935 Constitution, the executive, legislature, and the judiciary were separate, co-equal, and independent, of one another. Under the 1973 Constitution, the executive and the legislative branches were theoretically united with the provisions for a "parliamentary" system, and, in fact, the Chief Executive exercised legislative powers by presidential decrees. The 1981 amendments introduced a mixture of some of the features of the presidential and parliamentary systems of government. The President, the KBL, and most writers described it as a modified parliamentary system

⁷ *Bulletin Today*, "New Poll Listing Sought," 23 July 1982.

⁸ Aquilino Pimentel, Jr. "Oppositionist Speaks," *Bulletin Today*, 29 January 1982, page 7.

⁹ *Ibid.*

of government. The Chief Justice of the Supreme Court, Enrique Fernando, has described it as a presidential system of government.¹⁰

Most writers on the subject have observed that there is a union of the executive and the legislature under the present setup. This might be an oversimplification considering that since he shed the title of Prime Minister when Finance Minister Cesar Virata was concurrently appointed to the post, the President is no longer, if ever, a member of the legislature (*Batasang Pambansa*) and the latter cannot remove him. Executive dominance of the legislature might be a more accurate description of the present setup.

President Marcos has said that the present structure of the government was designed to prevent the "deadlock and revolving door government" and "cabinet or governmental instability in parliamentary government on the one hand and governmental ineffectability and stalemate" in the congressional system typified by the United States.¹¹

It would be too early to say whether the President has succeeded in establishing a system of government that overcomes the problem of stalemate and paralysis. Speaker Querube Makalintal points out that a stalemate might ensue in the event "the people elect a President who belongs to a party different from that which com-

mands the majority in the *Batasan*."¹²

As a countervailing force to the executive, it may be argued that the *Batasang Pambansa* is weak, in the sense, that major policy decisions are still initiated and determined by the President and members of the executive branch. The President also retains the power to issue decrees and orders when, in his own judgment, conditions require him to do so; in effect, he can bypass the legislature in policy-making. The *Batasan* has formal authority to exercise in making the budget, foreign policy, and regulatory measures. Out of deference to the President, the *Batasan* has not taken the initiative in enacting legislation in major areas of policy.

The *Batasan* may not have the capability to check the President but it can check the Prime Minister and the Cabinet. Under the 1981 amendments, the Cabinet is responsible to the *Batasan* and the Prime Minister and the Deputy Prime Minister are elected by the *Batasan* upon the nomination of the President.¹³ The *Batasan* can also remove the Prime Minister by a vote of no-confidence.

The effectiveness of the *Batasan* should not be judged on the basis of its ability to check the President but rather on its ability to check the Prime Minister and the Cabinet as well as its ability to articulate the needs and aspirations of the people. If one is to be guided merely by formal-legal arrangements, it would not seem proper to measure the effectiveness of the *Batasan* on its ability to check the Pre-

¹⁰Free Telephone Workers Union vs. The Honorable Minister of Labor and Employment, *et. al.* (1982).

¹¹Ferdinand E. Marcos, *Perspectives of Parliamentarism*, Address before the Spring Meeting of the Inter-Parliamentary Union, 21 April 1981.

¹²Querube Makalintal, "The President and the *Batasang Pambansa*," Speech delivered at UP Law Center on 18 March 1982.

¹³1973 Constitution, Article 9, Section 1.

sident because under the present system of government, the President is accountable to the people and not to the Batasan. Only the Cabinet and the Prime Minister are accountable to the Batasan, but in practice, the Prime Minister and the Batasan are answerable to the President rather than to the Batasan. Among the factors that tend to weaken the legislature, vis-a-vis the Prime Minister and Cabinet are: (1) dominance of a single political party in the legislature; (2) legislative power of the President; (3) access of the Cabinet members to the President; and (4) control of the legislative process by the Cabinet where technocrats have a significant influence.

There is no strong opposition in the Batasan and this adversely affects its capacity to fiscalize the programs submitted by the Cabinet. Only 15 seats were captured by the opposition parties out of around 200 seats in the Batasan during the national election of 7 April 1978. The legislative power of the President under amendment No. 6 also prevents the Batasan from discussing the wisdom of the laws promulgated through executive legislation.¹⁴ It also negates the normalization process in the sense that amendment No. 6 is an emergency power and its continued use also indicates that the situation is far from being normal or that the Batasan could not adequately cope with its legislative function. Professor Irene Cortes after weighing the advantages and disadvantages of executive legislation sug-

gested that there is a "need to restore fully the legislative function to the agency of government to which it appropriately belongs."¹⁵

The direct access of the Cabinet members to the President also tends to discourage any legislative inquiry on the operations of the Ministries. Furthermore, the Batasan has not actively performed its equally important function of articulating the needs and aspirations of the people by allowing the technocrats to have effective influence on the legislative process. Given the absence of the social dimension in technocratic thinking and attitudes, their perception of problems and their decisions might not truly reflect the real needs of the people.¹⁶

The Executive

Since President Marcos has announced the policy of normalization, there has been no dramatic shift as yet as to the role of the President. The President remains to be the chief executive and not the ceremonial leader as prescribed in the Constitution. He is strong and becoming stronger in his decisive role in the bureaucracy and the military. As ideally conceived, the Prime Minister is accountable to the Batasan Pambansa and manages the government. Under the present setup, the Prime Minister is answerable to both the President and Batasan which is a unique blending of the 1935 and the 1973 Constitutions. One

¹⁴ Amendment 6 to the 1973 Constitution states: "Whenever in the judgment of the President (Prime Minister), there exists a grave emergency or a threat or imminence thereof . . . , he may, in order to meet the exigency, issue the necessary decrees, orders or letters of instructions, which shall form part of the law of the land."

¹⁵ Irene R. Cortes, "Executive Legislation," *Philippine Law Journal*, Vol. 55 (March 1980), p. 31.

¹⁶ Raul P. de Guzman and Associates, "Citizen Participation and Decision-Making Under Martial Law Administration: A Search for a Viable Political System," *Philippine Journal of Public Administration*, Vol. XXI, No. 1, (January 1977).

indication of the shift is seen in the designation of the Prime Minister as chairman of the National Economic and Development Authority (NEDA) Board; but the final overseer in the economic and development planning function is still the President.

The absence of a clear policy on succession to the Presidency is seen as the basic weakness under the present system. Such a policy is considered vital in ensuring a peaceful and orderly transition in government, since by providing the clear line of succession, President Marcos is naming his successor. The issue should revolve around the 1973 constitutional provisions rather than on the issuance of a decree. The demand has also forced the President to turn to an executive committee approach which would serve as the caretaker government in the event of the death of the President.

Normalization has not resolved the issue of whether or not a stronger leadership is essential to nation-building. It has been skirted by many critics because the possibility remains that whoever replaces the President will contemplate to exercise greater political will. The strong leader will be tolerated so long as he stays responsible, honest, and motivated to do well for the benefit of the people. An executive under the parliamentary form will likely have to deal with divisive factions and splinter groups in the legislature. Consensus building will require more time and more compromises that may not necessarily bring about positive changes in public policies. To seek political normalization under such terms does not augur well for the stability of the policy. The internecine party struggles in European parliaments are to be avoided in the Philippines.

Chief Justice Fernando, in writing the decision on the case of Free Tele-

phone Workers Union vs. The Honorable Minister of Labor and Employment, *et. al.* (1982), declared that the Philippines continues to have a presidential system of government. More precisely, it is a presidential-cum-parliamentary system since the features of both systems are present. He wrote that:

The adoption of certain aspects of a parliamentary system in the amended constitution does not alter its essential character . . . There is a provision, or course, on the Prime Minister, but the constitution is explicit that while he shall be the head of the cabinet, it is the President who nominates him from among the members of the *Batasang Pambansa*, thereafter being "elected by a majority of all the members thereof." He is primarily, therefore a Presidential choice.

. . . To the Prime Minister can thus be delegated the performance of the administrative functions of the President, who can then devote more time and energy in the fulfillment of this exacting role as the national leader. As the only one whose constituency is national, it is the President who, by virtue of his election by the entire electorate, has an indisputable claim to speak for the country as a whole.

The Philippines is undoubtedly Presidential in substance with a parliamentary structure during the incumbency of President Marcos. Based on the amendments to the 1973 Constitution, President Marcos retains the powers vested by that Constitution. Nevertheless, after President Marcos, whoever assumes the presidency, may face the distinct possibility that the *Batasang Pambansa* may withdraw such additional powers. There is an open clause that allows the parliament to decide whether the President may continue to have the powers under the

¹⁷Free Telephone Workers Union vs. The Honorable Minister of Labor and Employment, *et. al.*, (1982).

1935 Constitution.¹⁸ This is possible if a weak leader who does not have the strong support of the parliament assumes the presidency. Without the loyalty of the military, a leader can be characterized as weak in the Philippines.

The Judiciary

The registration en masse of the members of the Supreme Court in March 1992 over the bar examination scandal reflected the character of the Highest Court in the Philippines. The integrity, impartiality, and wisdom of the Supreme Court was shattered by a seemingly innocuous act of a few of its members. In this particular instance, the media and public opinion were instrumental in forcing the issue to be investigated and getting the justices to resign. The majority of them were, however, reappointed by the President. Additional members were also appointed thus bringing the total membership within the constitutional size of 15 members.

The bar examination scandal which led to the resignation of the entire Supreme Court and the non-reappointment of two justices only brought to light the growing erosion of the integrity of the Judiciary. Before martial law, the Supreme Court enjoyed the respect and confidence of the people, although the inferior courts did not enjoy an equal degree of confidence.¹⁹ In recent years, the lack of respect seems to have moved upward from the inferior courts to the Highest

Court of the land. What has fueled this view is the continuing inability of the Judiciary to solve the perennial problems of congested dockets, delays, cumbersome and expensive procedures, incompetence, graft, and corruption.

The on-going reorganization of the Judiciary under Batas Pambansa No. 129 is a renewed attempt to reform the courts to weed out the corrupt and incompetent judges and to expedite action on many pending legal cases. Under the Judiciary Reorganization Act of 1980, all positions in the inferior courts are abolished and the President is empowered to appoint the new judges to be screened by the Integrity Committee. Whether the reorganization would further promote or erode the independence and integrity of the courts remains to be seen. The implementation process has been rather slow.

Under the parliamentary system, the Judiciary is argued to be the countervailing force to both the executive and legislative branches of government.²⁰ The Supreme Court has the distinct function of interpreting the constitutionality of the acts of the executive and the legislature. This power has remained intact both under the 1935 and the 1973 Constitutions. Presumably with or without political normalization, the Highest Court would act judiciously and independently from the other branches of government. Under the principle of checks and balances, the Supreme Court would promulgate decisions that would limit abuses and excesses in the exercise of executive or legislative powers.

Based on its previous decisions, the Highest Court has failed to play the

¹⁸ 1973 Constitution, Article VII, Section 16, as amended in 1981.

¹⁹ Jose W. Diokno, "Reorganizing the Judiciary," *Perspectives in Government Reorganization* (Manila: College of Public Administration, University of the Philippines, 1969), pp. 434-435.

²⁰ Edgardo J. Angara, *Bulletin Today*, 1 August 1982.

role of political balancer. In most cases involving the constitutionality of the executive acts, the Supreme Court upheld their validity. Among the major issues decided by the Court in favor of the government are: (1) validity of the suspension of the privilege of the writ of *habeas corpus*,²¹ (2) power of the President to call a plebiscite for the ratification of the Constitution,²² (3) validity and effectivity of the New Constitution,²³ (4) constitutionality of martial law,²⁴ (5) constitutionality of the referendum,²⁵ (6) validity of the creation and jurisdiction of military tribunals,²⁶ (7) power of the President to propose amendments to the Constitution,²⁷ (8) validity of the Judiciary Reorganization Act of 1980,²⁸ and (9) power of the President to exercise legislative power even after Martial Law.²⁹

The Supreme Court seems to have adopted a policy of judicial restraint rather than of judicial activism. It hesitates to act and defers to the President in interpreting the political conditions or rationale for the issuance of

decrees and orders. Its hesitation to compete for political power with the other branches does not help in maintaining an image of independence, competence, and reliability. Comparatively speaking, the Supreme Court had been bolder during the ten-year period before 1972 than during the ten-year after. It had declared invalid and unconstitutional more executive and legislative acts the decade before the advent of martial law.

Despite the normalization policy, it seems that the courts would continue to abstain from questioning issues of national security and the judgment of the President. In such sensitive issues, the courts would defer to the executive branch because national security is paramount. There lies the tenuous position of the courts, for security can cover many aspects of society, including the infringement of individual rights and freedoms.

The Bureaucracy

Among the significant changes brought about by martial law on the Philippine bureaucracy are: (1) the reorganization of the government in terms of strengthening regional and sub-regional structures to achieve better coordination and integration of the planning and implementation of the various development programs/projects; (2) development of a career orientation among senior officials and improvement of the capability of government personnel through training; and (3) reforms in fiscal management particularly in budgeting and auditing.

The martial law regime has failed, however, to arrest the perennial problem of graft and corruption. The increasing problem of graft and corruption was even recognized by some prominent members of the present political leadership. Former Industry

²¹ *Lansang vs. Garcia*, *Supreme Court Reports Annotated (SCRA)*, Vol. 42, No. 448 (1971).

²² *Planas vs. Comelec*, *SCRA*, Vol. 49, No. 105 (1973).

²³ *Javellana vs. Executive Secretary*, *SCRA*, Vol. 50, No. 30 (1973).

²⁴ *Aquino vs. Enrile*, *SCRA*, Vol. 50, No. 153 (1974).

²⁵ *Aquino vs. Comelec*, *SCRA*, Vol. 62, No. 275 (1975).

²⁶ *Aquino vs. Military Commission*, *SCRA*, Vol. 63, No. 546 (1975).

²⁷ *Sanidad vs. Comelec*, *SCRA*, Vol. 73, No. 333 (1976).

²⁸ *De la Llana vs. Alba*, 12 March 1982.

²⁹ *Legaspi vs. Minister of Finance*, 24 July 1982.

and Public Highways Minister Vicente Paterno said that "there are the officials who are wanton, brazen, callous to their own oath of office in flaunting their wealth probably ill-gotten; who behave as feudal lords to a community they are sworn to be servants of."³⁰

A recent study made by Assemblyman Vicente P. Millora estimated that the country's annual loss to graft and corruption amounts to something like 10% of the gross national product. According to the Commission on Audit, the government over the last five years lost P117.5 million due to malversation of public funds and cash shortages involving accountable officers. The Sandiganbayan also said that the government was defrauded of P130.4 million in some 3,395 graft cases filed over a three-year period (1979-1981).³¹

On 5 June 1982, President Marcos, created a special committee to make a realistic assessment of the extent, nature and dimension of the problem of graft and corruption, red tape, and inefficiency in government service. Whether this new effort would lead to minimizing this problem remains to be seen.

Local Governments

The impact of martial law had been to drastically erode the trend towards more autonomy at the local government level. The trend during the period was towards greater political centralization. Notwithstanding the guarantee of local autonomy in the 1973 Constitution, there were specific manifestations of increasing central control over local affairs and decreasing powers, functions, and responsibilities of local governments. Among

these are:

- (1) the extent and scope of presidential power over local officials
- (2) the integration of police, jails and fire services;
- (3) the centralization of regulatory powers over buildings and tourist-oriented establishments;
- (4) the central direction in the planning and implementation of development programs and projects; and
- (5) the proliferation of ministries/agencies having supervision over different aspects of local affairs.

There were also instances of decentralization during martial law, particularly the following:

- (1) creation of regional governments;
- (2) creation of regional offices;
- (3) creation of regional development councils; and
- (4) adoption of the integrated area development approach.

However, most of these decentralization measures are directed more towards the transfer of power and authority towards the field offices of line agencies which are mere extensions of central government rather than towards the local government units.

Normalization has not curtailed the tendency towards eroding local autonomy further and has even led to more usurpation of local responsibilities by the central government. The case of the ever-growing powers of the Ministry of Human Settlements in local planning, environmental protection, housing and building regulation, etc. is a case in point. The central government remains to be the major dispenser of rewards and patronage to local governments. The test of any meaningful political normalization is the return of powers and functions to local governments which are appropriate at that level. Central-local finance has to be carefully reviewed and

³⁰*The Republic*, 28 June-4 July 1982, p. 2.

³¹*Ibid.*

restructured to enable local governments to responsibly assume such functions that are restored to them.

Prospects for Normalization

As the architect of the transformation from New Society to New Republic, President Marcos established three guiding principles in his normalization policy, namely:

(1) the continuation of a strong presidency;

(2) the creation of a Parliament as the lawmaking institution from which a Prime Minister and the Cabinet will be chosen; and

(3) the promotion of a two-party system which would "present alternative programs of government to the people at regular intervals."³²

In the meantime, there is a presidential-cum-parliamentary system which is based on the political institutions elsewhere blending with the history and culture of the country.

The strong president-cum-parliament within a two-party system is a formula designed to avoid the dangers of political paralysis in a pure type of parliamentary system. The two-party system has yet to develop as a viable element in this formula. In a country noted for its intense political factionalism and personal opportunism, Lande predicts that democratic opposition will fail in the long-run!³³ Oddly enough, Marcos himself yearns for the same two-party system of the old

days.³⁴ Yet, if present conditions continue to prevail, it is unlikely for an effective two-party system to ever regenerate. Splintering will persist and the more the ideologically strong movements can gain adherents. The return of the political exiles after Marcos would not necessarily guarantee that these leaders will not resort to violent political strategies in order to deal with Philippine problems.

Political normalization must mean the restoration of the integrity of such institutions as the electoral process, the legislature, and the judiciary. Normalization is not a demand for the return of pre-martial law days with all its excesses and imperfections. It means the respect for the basic functions that political institutions can perform in society. It does not mean returning to past stage or going back to the frailties and weaknesses of the old society; but rather, normalization means restoring the best ideas and practices in our political past and putting them to good use at present. Among other things, normalization should bring about an equilibrium among various political institutions. Political power should not be centralized in one institution, i.e., the executive, but should be shared by different institutions so that it will be exercised responsibly. This idea should be enshrined once more in the Constitution. In turn, the Constitution should be given a modicum of stability and accorded due respect as a true instrument of constitutional processes and lawful political progress. Otherwise, if the Constitution and the political institutions continue to be too malleable, a tool in the hands of any one regime, they will foster cynicism and fear for the country's political future.

³²Ferdinand E. Marcos, *Perspectives of Parliamentarism*, Address before the Spring Meeting of the Inter-Parliamentary Union, 21 April 1981.

³³Carl H. Lande, "Philippine Prospects after Martial Law," *Foreign Affairs*, Vol. 59, No. 5 (Summer 1981).

³⁴Ferdinand E. Marcos, *Perspectives of Parliamentarism*, Address before the Spring Meeting of the Inter-Parliamentary Union, 21 April 1981.