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Justice in the Philippines: A Checkered Past with Implications for the Future

By: Spencer Roush

Abstract

Human rights issues remain commonplace throughout the world, but the transition from authoritarian to democratic regimes often exposes these abuses. Once a new democracy is established, the entire country is forced to reckon with abuses from the past. The different routes that countries take in these instances represent the growing field of transitional justice. Transitional justice means different things to different people, but many would agree that one of its goals is that countries should make attempts to deter similar historical abuses from reoccurring in the future. This paper uses the Philippines as a case study to look at the way transitional justice was manifest after the fall of Ferdinand Marcos in 1986. It will examine the method used and its level of success.

Keywords

Transitional Justice, The Philippines, Ferdinand Marcos, Rodrigo Duterte, Donald Trump, Paul Manafort, Alien Tort Act

Introduction

Ferdinand Marcos was democratically elected as the president of the Philippines in 1969. Following his ascent to power, Marcos successfully consolidated power, and by 1972, declared martial law under the pretext of an imminent threat from a communist insurgency (Davidson, 11). The implementation of martial law solidified Ferdinand Marcos as an authoritarian dictator of the Philippines, giving him absolute authority over every institution within the government (Davidson, 10). With unlimited authority, Marcos could now direct the military to detain anyone he considered to be a political opponent or threat to his regime (Davidson, 10). This resulted in extensive human rights violations, including forced disappearances, cases of torture and extrajudicial killings (Chua, 4). The transitional justice mechanism that the international community chose to pursue against Marcos was an Alien Tort Act lawsuit (ATA). The ATA is a United States Civil Law that allows Federal Courts to maintain jurisdiction over civil disputes between two parties who are non-citizens but are physically present in the United States (ATA, LexisNexis).

The transition from the authoritarian dictatorship in the Philippines under Ferdinand Marcos to democracy is the focus of this research. I argue that there were two conditions that led society to choose an ATA lawsuit in order to pursue justice against Marcos after he was ousted from power in February of 1986. The first condition came directly following Marcos' removal from power in 1986 in which he fled to Hawaii and, immediately upon arrival, was granted amnesty by the Reagan administration. This prevented any potential future extradition for a criminal prosecution in the Philippines from taking place (Davidson, 11). By taking one of the more obvious choices off the table, the options available to the Philippine people to pursue justice against Marcos were severely limited. The second condition, by a stroke of luck, came about thanks to an American attorney named Robert Swift. He had previously worked on an unsuccessful ATA litigation. Swift read about Marcos' arrival in Hawaii

in the *New York Times*, and he saw an opportunity to bring an ATA lawsuit against Marcos (Davidson, 12). He then took it upon himself to travel to the Philippines, where he was able to connect with a Non-Governmental Organization called SELDA. This organization was comprised of Marcos' former political opponents who were attempting to seek justice against him domestically, but had hit a roadblock with Marcos' asylum in Hawaii (Davidson, 12).

Swift successfully pitched the idea of an ATA lawsuit to SELDA. Collectively, SELDA and Swift were able to come up with two clear goals that they wanted to achieve by suing Marcos: 1) make sure that the human rights violations that Marcos committed were documented in court records through witness testimony, ensuring public acknowledgment of what Marcos had done and, 2) gain as much financial compensation for victims of Marcos' crimes, given that many lost their potential to earn income as a direct result of bodily injury that was caused by the human rights violations committed against them (Ela, 12).

With respect to the first goal, I argue that the case was largely a success. Many victims had the opportunity to testify and publicize Marcos's human rights abuses in court. With respect to the second goal, I contend that the ATA lawsuit was largely a failure because it took nearly two decades for the victims to receive any compensation from the lawsuits and the amount was only a fraction of what had been awarded by the court. The ATA lawsuit was a failure in setting an example for deterring future human rights violations, failing to help promote robust democratic institutions in the Philippines, as evidenced by the subsequent rise of current President Rodrigo Duterte in 2016.

Background of the Case

In examining this case, one must understand the nature of repression and the extent of human rights violations committed against Filipinos under Marcos. Any political opposition to Marcos from the left or from journalists made them primary targets (Chua, 2). Additionally, the impoverished who did not

align politically with Marcos were targeted. (Chua, 2). The Marcos regime justified targeting these individuals by branding them as suspected communists. The estimated number of citizens who endured human rights violations at the hands of the regime, between the 1972 and 1986, was staggering (Chua, 2). Chua explains that Amnesty International estimated during the Martial Law years that: 70,000 were imprisoned, 35,000 were tortured and 4,000 were killed (Chua, 2). When victims were detained and subjected to torture, it included, but was not limited to electric shock, "truth serum", "Russian Roulette", beating, pistol-whipping, water boarding and strangulation (Chua, 5). Women who were imprisoned and tortured were also subjected to sexual assault and rape (Chua, 7).

It is crucial to understand how Ferdinand Marcos was able to commit these egregious human rights violations from 1972 to 1986 to understand the details of his eventual downfall. Under martial law, Marcos disbanded the legislative branch and dissolved the judiciary, replacing it with a military judiciary under his direct control (Davidson, 11). This created legal justification for Marcos' actions and suspended due process (Davidson, 11). Thus, Marcos was capable of committing these extensive human rights violations without any formal check on his authority.

It is also important to discuss the role the United States, particularly under Reagan's administration, in aiding Marcos throughout this time period (Davidson, 12). President Reagan was a staunch supporter of Ferdinand Marcos, even considering him to be a personal friend (Davidson, 12). The United States' policy during this Cold War period was to give extensive support to any regime that claimed to be anti-Communist, much like Marcos' (Davidson, 12). A major component of the U.S.-Philippine alliance was extensive military aid, as well as a U.S. military presence including advisors and Central Intelligence Agency operatives who provided training to the Philippine military (Davidson, 11). "Extensive U.S military aid enabled Marcos to expand the role of the military and its sphere of influence expanded into activities that were previously reserved to local police forces. Additionally, the court

system—which was disbanded—was replaced with a military court system, *creating* a legal justification for forced detention without due process” (Davison, 11). Senator Paul Laxalt, a key Reagan supporter, was responsible for a significant investment in the Marcos military in 1985. According to the *New York Times*, “The Laxalt trip comes at a potentially critical moment for United States-Philippine relations. The Defense Department plans to invest about \$1.3 billion in Clark Air Base and Subic Bay naval station in the Philippines despite warnings by United States intelligence agencies about increased Communist guerrilla activity there” (Weinraub, 1).

By lobbying, Marcos was able to retain significant support in Washington from the Reagan Administration and Congress, despite his well-known human rights violations. In 1985, Marcos retained the services of D.C lobbying firm of Black, Manafort and Stone. Paul Manafort, the principal lobbyist on behalf of Marcos at the time, is quoted saying, “We can facilitate understanding on both sides ... I cannot speak for the Government here in Washington, but I am going to speak on behalf of the issues the Government cares about. I will be an advocate” (Manafort, 1). The extent of this lobbying relationship was detailed in an exposé on Paul Manafort published earlier this year in *The Atlantic*:

“The firm’s international business accelerated when the Philippines became a client, in 1985. President Ferdinand Marcos desperately needed a patina of legitimacy: The 1983 assassination of the chief opposition leader, Benigno Aquino Jr., had imperiled U.S. congressional support for his regime. Marcos hired Manafort to lift his image; his wife, Imelda, personally delivered an initial payment of \$60,000 to the firm while on a trip to the States” (Foer, 1).

The article continued on to describe the 1986 election where, “the late pollster Warren Mitofsky traveled to the Philippines with CBS News to ... conduct an exit poll for the election. When he returned, he told the political scientist Sam Popkin the story of how a representative of Manafort’s firm had asked

him, 'What sort of margin might make a Marcos victory legitimate?' The implication was clear, Popkin told me: 'How do we rig this thing and still satisfy the Americans?'" (Foer, 2018).

Given the close relationship between Manafort's firm and the Reagan administration, a gateway was provided that helped solidify an already blossoming relationship between Reagan and Marcos. Foer noted, "In the summer of 2016, *Politico's* Kenneth Vogel, now with *The New York Times*, wrote a rigorous exegesis of a long-standing rumor: Manafort was said to have walked away with \$10 million in cash from Ferdinand Marcos, money he promised he would deliver to Ronald Reagan's reelection campaign (which would have been illegal). Vogel relied in part on the 1996 memoir of Ed Rollins, a Republican consultant" (Foer, 1). Furthermore, the relationship was so entangled that Ronald Reagan invited Marcos to the White House and made the following remarks: "President Marcos, we have accomplished a great deal together over the years. We will all do more in the years to come. Common determination to achieve a better life doesn't mean that we need to be alike; we need only to treat one another in a spirit of generosity and mutual respect. If we do that, our continuing commitment to one another, resting as it does on many years of close areolation, will be solid now and for the future" (Regan, 1982). This alliance was critical in helping Marcos maintain control over the Philippines up until his downfall in 1986 (Davidson, 11).

Marcos' downfall in February of 1986 started with a suggestion from then ally, President Ronald Reagan. Reagan advised Marcos to hold an election in order to further legitimize his rule (Davidson, 12). Heeding Reagan's advice, Marcos held the election against his opponent, Corazon Aquino, a moderate liberal (Davidson, 12). Marcos went on to win the 1986 election with nearly 55% of the vote, but it was soon discovered that there were significant accounts of voter fraud (Davison, 13). This led to massive demonstrations and uprisings, led by opposing candidate, Corazon Aquino. The uprisings had such widespread support that they forced Marcos to step down and flee from the Philippines to Hawaii by

the end of February (Davidson, 14). In response, several prominent U.S. politicians who were election observers pressured the Reagan Administration cut all ties to Marcos (Smith, 43). Hedrick Smith writes:

“At the first reports of fraud by the Marcos side, some American observers discounted it as no worse than a Chicago election; Senator Richard Lugar was more critical...Lugar concluded that Aquino had surely won the election He felt the time had come to change the Philippine government and American Policy. Aids said he pressed that argument in a private session with President Reagan on February, 11. Reagan suggested that there had been fraud on both sides, but Lugar insisted that he had seen it only on the Marcos side...Lugar called on Reagan to telephone Marcos to ask him to resign, and his television appearances had impact...Reagan had been forced to shift. His position had been undermined both by televised scenes of massive fraud and by Lugar’s highly visible charges that the election was stolen and Marcos should go” (Smith, 43-44).

Reagan’s main intermediary, Senator Laxalt, urged Marcos to step down. Eleanor Clift of the *Los Angeles Times* wrote, “Laxalt, recalling his conversation with Marcos for reporters on Tuesday, said he replied: ‘Mr. President, I am not bound by diplomatic restraints. I am talking only for myself. I think you should cut and cut cleanly. I think the time has come’” (Clift, 1). Reagan then suggested that Marcos step down and come to Hawaii (Davison, 14). After arriving in Hawaii, it became apparent that Marcos’ long-standing relationship with Ronald Reagan had paid-off (Davison, 14). O’Leary writes, “Mr. Reagan had determined that offering asylum to Marcos and his group of about 90 associates and family members was in the best interests of U.S-Filipino relations. Mr. Marcos and his group were flown to Hickam Air Force Base, Hawaii on a U.S Military plane in the aftermath of a hotly contested Philippine election” (O’Leary, 1).

Application of Transitional Justice Theories

After following Marcos' removal from power in 1986, two main conditions shaped the Philippines' decision to pursue justice against Marcos through the vehicle of the ATA. The first was U.S. President Ronald Reagan's decision to grant Marcos, and his close associates, asylum in Hawaii (O'Leary, 1). Once Ronald Reagan granted Marcos asylum, it eliminated any chance of him being extradited back to the Philippines for potential prosecution (O'Leary, 1). The Aquino government would have requested his extradition, if possible, given Marcos' notorious record of human rights violations and possession of ill-obtained wealth that he stole from the Filipino government (Davison, 16). With extradition ruled out as a viable course of action, the chance for a domestic criminal prosecution in the Philippines was essentially eliminated. Davison writes, "neither criminal nor civil proceedings were possible in the Philippines because the law there required that the defendant be physically present in the jurisdiction" (Davidson, 12). Therefore, the choices of justice mechanisms that could be deployed were severely limited (Davidson, 16).

The other condition that led the Philippines to pursue an ATA lawsuit came from a meeting that took place between Attorney Robert Swift and SELDA in the Philippines (Davidson, 18). After reading about Ferdinand Marcos being ousted from the Philippines and gaining asylum from the Reagan administration, Robert Swift, who had previously worked on unsuccessful attempts at ATA lawsuits, thought he saw an opportunity to bring an ATA suit against Marcos (Ela, 8). Swift then took it upon himself to travel to the Philippines, where he met with SELDA (Ela, 8). SELDA was comprised of elite members of society in the Philippines who considered themselves to be political opponents of Marcos: politicians, journalists and business leaders - many of whom had been jailed during Marcos' rule (Ela, 8). SELDA's goal was to pursue justice against Marcos, but their efforts had fallen flat after Marcos gained asylum in Hawaii (Ela, 8). "Before Swift's arrival, anti-Marcos activists had not heard of the ATS or

contemplated suing Marcos in a U.S. court. This changed when Swift met with the board members of SELDA, a social movement organization that advocated victims for and detainees during the Marcos regime” (Ela, 8). At first, SELDA had reservations about supporting Swift in his efforts to file an ATA claim against Marcos in the U.S., considering the NGO inclination that the United States was an imperialistic country. Using their court system would have been contrary to many of SELDA’s founding principles (Ela, 8). However, SELDA ultimately decided to support and assist Swift in the pursuing the case as an ATA claim against Marcos appeared to be the only available option (Ela, 8).

SELDA proved to be instrumental in helping Swift fortify his case. SELDA’s use of networks on the ground in the Philippines helped to assemble 10,000 victims who would serve as the plaintiffs in the ATA lawsuit (Ela, 9). The goals that Swift and SELDA developed for the case were two-fold (Ela, 9). First was to make sure that as much information as possible would come out in court through victim testimony about the specifics of the human rights violations that Marcos had committed (Ela, 9). This would serve as an avenue to disseminate the truth to the entire world about the harsh realities of life under Marcos’ regime (Ela, 9). The second part of the goal was to gain as much compensation for the victims as possible for their suffering (Ela, 9). Swift and SELDA acknowledged that the second goal would be particularly difficult but necessary. In many cases, victims and their families had lost their incomes as a result of being physically disabled from torture or having the main income earner of a family disappeared or murdered at the hands of Marcos (Ela, 12).

The context of this case within the broader field of transitional justice, particularly transitions from authoritarian regimes to democratic regimes is important to consider. Transitional justice scholars suggest that there be an important distinction made between a ruptured transition and a pacted transition (Pion-Berlin, 105). A ruptured transition is when an authoritarian regime is forced out by an incoming democratic regime (Pion-Berlin, 105). In these transitions, the outgoing authoritarian regime

lacks negotiating power with the new regime and, as a result, often creates an opening for justice to take place, typically coming in the form of criminal prosecutions (Pion-Berlin, 106). There have been several cases where ruptured transitions have been followed by domestic criminal prosecutions, including cases in Argentina, Portugal, and Greece (Sikkink, 31).

By contrast, a pacted transition is where the outgoing authoritarian regime voluntarily steps down from power and is then able to maintain a strong negotiating position with the incoming democratic regime (Pion-Berlin, 108). Through this negotiating position, the outgoing authoritarian dictator is typically able to carve out protections for himself by creating amnesty laws (Pion-Berlin, 109). In the case of pacted transitions, there is usually no opening for justice, and empirical evidence suggests that criminal prosecutions do not follow these transitions (Pion-Berlin, 109). Prominent examples of this include Spain after Franco and Chile after Augusto Pinochet (Olsen, 336).

Another important part of transitional justice scholarship is the idea of Universal Jurisdiction and the Pinochet Precedent. Universal Jurisdiction is not codified within international law but has become a norm to some degree since 1998 with Pinochet's arrest while visiting London (Sikkink, 4). A lawyer representing former victims of Pinochet, who were living in Spain at the time, petitioned a judge for Pinochet's arrest. Under a portion of Spanish law, there is a provision for the prosecution of non-citizens accused of certain egregious crimes that have been committed outside of Spain (Sikkink, 4). The charges argued that Pinochet should be prosecuted for genocide, illegal detention, torture and that these acts fall outside the bounds of his official capacity as head of state and therefore are not protected by sovereign immunity (Sikkink, 5). After a lengthy appeals process, the United Kingdom high court ruled against Pinochet, declaring that these acts were outside the bounds of sovereign immunity and therefore, Pinochet could be prosecuted (Sikkink, 5).

Although Pinochet died before an actual trial could take place, there were three important precedents established as a result of this process (Sikkink, 5). The first is that crimes under international law cannot be considered official state acts (Sikkink, 5). Second, former heads of state can be tried for crimes committed during their time as a head of state. Third, a sitting head of state can only be tried in an international tribunal. These three decisions came to be known as Universal Jurisdiction Laws. Some countries have since adopted their own Universal Jurisdiction laws, most notably in Belgium and other Western European countries (Sikkink, 5). The United States, however, does not have a universal jurisdiction law (Sikkink, 5).

Marcos case is an outlier within the field of transitional justice. It does not fit the traditional outcome that would be expected following a ruptured transition. Marcos was forced to step down and flee, creating the rupture, but there was no criminal prosecution taken up against Marcos after the transition, which is a clear divergence from the trend of other ruptured transitions (Davidson, 11). The second way in which this case is unique is that after Marcos arrived in Hawaii, a world power (the United States) offered Marcos asylum. This prevented any chance of extradition from taking place, eliminating the possibility of a domestic criminal prosecution in the Philippines (Davidson, 11). Additionally, Marcos' case was not able to engage with the literature on Universal Jurisdiction for two reasons. First, consequential events of the Marcos case pre-dated the Pinochet arrest by over a decade and the precedents that came out of the arrest had not yet been adopted (Davidson, 11). Second, even if the Marcos case had been post-Pinochet's arrest, the United States does not abide by Universal Jurisdiction laws. Therefore, a prosecution of Marcos by the means of Universal Jurisdiction would never have been a possibility (Sikkink, 4).

Transitional Justice Mechanism Applications

The ATA is part of the civil procedure in United States federal law that was enacted in the Judiciary Act of 1789 (Kim, 389). The law states that the federal courts within the United States are the proper venue for a tort lawsuit that is brought about by a non-U.S. citizen against another non-U.S. citizen when both are physically present in the United States (ATA, LexisNexis). “The district courts shall have original jurisdiction of any civil action by an alien for a tort only committed in violation of the law of nations or a treaty of the United States (ATA, LexisNexis).

Since its inception, the ATA largely remained dormant, with the exception of two cases prior to 1980 (Kim, 390). The Foreign Sovereign Immunities Act (FISA) often protected foreign officials from being sued in U.S Federal courts (Kim, 390). This changed in the case *Filartiga v. Pena-Irala* where two citizens from Paraguay brought a lawsuit against a former state official from Paraguay for torture and wrongful death (Kim, 390). The United States Court of Appeals in the Second Circuit ruled that since torture and wrongful death are considered to be violations of international law, the ATA could be applied to this particular situation (Kim, 391). The Court used the United Nations charter and General Assembly resolutions as the basis for their decision (Kim, 391). Kim writes, “Secondly, the court ruled that although all relevant acts occurred in Paraguay and all parties were Paraguayan citizens, U.S. Federal Courts still have jurisdiction under ATS. The Second Circuit justified jurisdiction over the matter by the theory of transitory torts” (Kim, 390). This was a landmark case that provided a new interpretation to the ATA that had previously been unused. Since the United States Supreme Court had not weighed in on the issue, the exact parameters had not yet been set for the exercise of the ATA in real cases (Kim, 391).

This paved the way for Robert Swift to file the ATA lawsuit against Marcos on behalf of 10,000 victims (Kim, 391). The case was given the title: *Hilao v. Marcos* and was filed in March 1986 (Kim, 391).

At first, the Federal District Court in Hawaii dismissed the case. The judge ruled that Marcos' actions were protected by the Foreign Sovereign Immunities Act (*Hilao v. Marcos*). Swift then appealed the case to the Ninth circuit Court of Appeals. *Hilao v. Marcos*, reached the 9th Circuit Court of Appeals in 1992, and the court made several important rulings at the conclusion of the case (*Hilao v. Marcos*). First, the court ruled against the argument that the actions taken by Marcos were protected by the FISA, writing, "The Estate argues that Marcos' acts were premised on his official authority, and thus fall within FISA. However, because the allegations of complaint are taken as true for purposes of determining where an action should be dismissed, Marcos' actions should be treated as taken without official mandate pursuant to his own authority. Furthermore, we rejected the argument that Marcos' actions were official or public acts" (*Hilao v. Marcos*). The Court then wrote, in reference to a Venezuelan dictator regarding FISA: "Even though characterized as a dictator, appellant was not himself the sovereign–government – of Venezuela within the Act of state Doctrine. He was chief executive, public officer of the sovereign nation of Venezuela. It is only when officials having sovereign authority act in an official capacity that the Act of State Doctrine applies" (*Hilao v. Marcos*). Ultimately, the Court concluded that "Marcos' acts of torture, execution, and disappearance were clearly (acting) outside his authority as President" (*Hilao v. Marcos*).

After dismissing the FISA argument made by Marcos' attorneys, the court sided with Swift and the plaintiff's argument. While citing the Torture Victim Protection Act of 1991, the Court stated: "Under International law... the right to be free from official torture is fundamental and universal, a right deserving of the highest stature under international law a norm of just cogens. The Crack of the whip, the clamp of the thumb screw, the crush of the iron maiden and in these more efficient modern times, the shock of the electric cattle prod are forms of torture that the international order will not tolerate. To subject a person to such horrors is to commit one of the most egregious violations of the personal security and dignity of a human being" (*Hilao. v. Marcos*). The court then added, "The complaint alleges

that Marcos under the color of law, ordered, orchestrated directed, sanctioned and tolerated the continuous and systematic violation of human rights of the plaintiffs and the class through the military, Para-military, and intelligence forces that he controlled; that at the direction of Marcos, plaintiffs and the 10,000 class members were arrested without cause, held incommunicado and routinely subjected to tactical interrogation, a euphemism for torture during interrogation that following tactical interrogation, many class members were arbitrarily detained for a year or more with Marcos' authorization and approval" (*Hilao v. Marcos*). The court concluded its decision by stating, "On February 23, 1994, the jury awarded the plaintiffs 2.1 billion in exemplary damages" (*Hilao v. Marcos*).

Evaluation of Transitional Justice Mechanism Implementation

There are two ways to evaluate the implementation of the ATA lawsuit *Hilao v. Marcos*. The first is to evaluate it based on the goals set by Swift and SELDA when the suit was launched. The primary goal was to use the court setting to give victims an opportunity to testify and publicly describe human rights violations that Marcos had committed for court record and the international community's awareness of true situation (Ela, 8). This goal was clearly achieved, given that the court relied on that testimony when ruling that the Marcos was liable, under the ATA, to the victims. The court even included portions of testimony in the judicial opinion. Additionally, the case inspired a number of other ATA lawsuits over the next few decades following *Hilao v. Marcos* (Swift, 38). "The jury after completion of all phases of trial, returned an overall verdict for 9,539 class members for nearly \$2 billion. The judgment was affirmed by the ninth circuit and is now a landmark in American and International human rights jurisprudence" (Swift, 38).

The second goal was to obtain as much monetary compensation for the victims as possible (Ela, 8). On this front, unfortunately *Hilao v. Marcos* was not as successful. Swift commented: "The recovery of \$10 million of Marcos money in the United States after six years of protracted litigation was

fortuitous and enabled the current distribution of \$1,000 dollars to all eligible class members. The amount was not adequate compensation for the abuses committed, but it was a meaningful start” (Swift, 39). The total amount recovered two decades from when the case ended is only a fraction of the total amount that was awarded to victims in 1992. The ATA lawsuit lacked teeth and enforcement capabilities, which could potentially send signals to future perpetrators.

Another way that *Hilao v. Marcos* ought to be evaluated is within the broader context of transitional justice, outside of the specific goals set by Swift and SELDA. The effectiveness of the case at bringing about subsequent democratic reform in the Philippines must be considered. Particular justice mechanisms are evaluated within the field of transitional justice is through deterrence: did the particular trial deter future heads of state or regimes in a given country from committing the same human rights violations that the subjects of the trial did? (Sikkink, 12) Additionally, did the trial shape the way in which the country, as a whole, felt about human rights and a particular leader or regime? Sikkink writes: “Here I refer to only one of the many meanings of justice: legal accountability for a crime. This is a common way to talk about justice in domestic judicial systems. What is new is to demand justice for previously immune state officials and to envision possibility of international prosecutions in addition to domestic prosecutions” (Sikkink, 12). Unfortunately, under this criterion, *Hilao v. Marcos* has come short.

Conclusion

Within the Philippines, liberal democracy still remains imperfect. There have been six democratically elected Filipino Presidents since the removal of Marcos, and the results have been a mixed-bag (Court, 1). In 1998, a dozen years after Marcos’ was ousted, Joseph Estrada was elected President only to be ousted by the military in 2001 for financial corruption (Court, 2). The removal was outside of the constitutionally established impeachment process, a red flag that the Philippine

democratic institutions were not working properly (Court, 2). These concerns over democracy were only further exacerbated with the election of Rodrigo Duterte in 2016. Human Rights Watch recently wrote, “Philippine President Rodrigo Duterte’s murderous ‘drug war’ entered its second year in 2017 resulting in killing more than 1,200 drug suspects.” In the Human Rights Watch World Report 2018, they claim that, “Duterte has responded to increased criticism of his anti-drug campaign by impugning, harassing and threatening critics of the government and human rights defenders” (Human Rights Watch, 1).

Currently, Freedom House gives the Philippines a “Partially-Free” rating. “Governing institutions are well developed in the Philippines, but the rule of law and application of justice are haphazard and heavily favor ruling elites. Violent insurgencies have continued for decades. Impunity remains the norm for crimes against activists and journalists. President Rodrigo Duterte’s war on drugs since 2016 has led to more than 12,000 extrajudicial killings as well as vigilante justice” (Freedom House, 2018). Given this backslide, the future for democracy in the Philippines looks rather grim.

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