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FROM
AQUINO II
TO DUTERTE
(2010–2018)

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FROM
AQUINO II
TO DUTERTE
(2010–2018)

Change, Continuity—and Rupture

EDITED BY
IMELDA DEINLA
BJÖRN DRESSEL

ISEAS YUSOF ISHAK
INSTITUTE

First published in Singapore in 2019 by
ISEAS Publishing
30 Heng Mui Keng Terrace
Singapore 119614
E-mail: publish@iseas.edu.sg
Website: <http://bookshop.iseas.edu.sg>

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ISEAS Library Cataloguing-in-Publication Data

From Aquino II to Duterte (2010–2018) : Change, Continuity—and Rupture /
edited by Imelda Deinla & Björn Dressel.

1. Philippines—Politics and government—1986-
 2. Philippines—Economic conditions—21st century.
 3. Peace-building—Philippines.
 4. Philippines—Foreign relations.

I. Deinla, Imelda, editor.

II. Dressel, Björn, editor

III. Title: Change, Continuity—and Rupture

DS686.614 F931 2019

ISBN 978-981-4843-28-7 (soft cover)

ISBN 978-981-4843-29-4 (ebook, PDF)

Cover photo: Photo entry by Mylene Tiondo, for the 2018 IslamNotPhobia Photo Exhibit Project by Team Pakigsandurot of MSU-IIT.

Typeset by Superskill Graphics Pte Ltd
Printed in Singapore by Mainland Press Pte Ltd

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Undoubtedly, “change” has been a recurring theme in Philippine political, economic and social landscape—one recently pronounced under the controversial Duterte presidency. While the politics of change has also intensified in many other parts of the world as shown in the surge of populist movements and leadership, what is peculiar in the Philippine case is the frequency and intensity of narratives of change—and change rhetoric—that have animated political discourse and the everyday lives of ordinary Filipinos since post-colonial statehood.

It is against this background that this volume asks: How different is Duterte’s programme of change from the past governments, particularly from its predecessor, the Aquino II administration? Is there a shift in regime orientation and policy preferences from Aquino II to Duterte? What will this mean to the future direction of Philippine democracy, its economic development, peace and security, and relations with other countries?

This volume focuses on four critical areas—Politics and Governance; Economic Governance; Mindanao and the Peace Process; and International Relations—to illustrate continuities or discontinuities in policies and governance of institutions to explain the dynamics of change in the Philippines. It pays particular attention to the crucial period between Aquino II and the early years of Duterte. The reason is that Aquino II represents an important period for rebuilding and consolidating institutions of governance and accountability after two previous tumultuous administrations (Estrada and Macapagal Arroyo). Aquino II also demonstrates the inherent flaws of Philippine democracy and unravels the contradictory forces vying for state power that sets the scene for Duterte’s rise to the presidency.

An assemblage of expertise from the academic, practitioner and policy community came together to share their ideas for this volume. The

seed towards this intellectual endeavour has come, however, from the Philippines Update Conference on 5–6 August 2016 hosted at the College of Asia and the Pacific of the Australian National University (ANU) with the theme, “Sustaining the Momentum for Change Beyond 2016”. Special thanks are therefore in order for the conference convenors: Teresa Jopson, Nicole Curato, Imelda Deinla, and Björn Dressel. We also wish to express our deepest gratitude to various organizations at the ANU, ANU Filipino Association (ANUFA), School of Regulation and Global Governance (RegNet), the Filipino-Australian community in Canberra, volunteers, presenters and audience who came from all over Australia and the Philippines for the Philippines Update 2016. We thank our friends—Sora Lee, Janice Li, Margie Hequilan, and Mana Takahishi—who devoted valuable time in helping us prepare for the conference.

We are grateful for the generous funding support of the Department of Foreign Affairs and Trade (DFAT) of Australia and the ANU Southeast Asia Institute. The Update was made more special as it coincided with the seventieth anniversary of the Philippines-Australia bilateral relations.

We thank the ANU Philippines Project and its staff, past and present—Allinettes Adigue, Amy Hamilton, Rory MacNeil, and Kent Marjun Primor—who all have contributed towards the conference and completion of this publication, and Tanya Mark for excellent copy-editing work. We also acknowledge the continuing support of Professors Hal Hill, Veronica Taylor, Arsenio Balisacan, Paul Hutchcroft and Mina Roces. Finally, we are sincerely grateful to the ISEAS – Yusof Ishak Institute in Singapore and Ng Kok Kiong, Head of ISEAS Publishing, for the trust on this collection and making this publication a reality.

Imelda Deinla and Björn Dressel

Acronyms and Glossary

AdCom	Advocacy Commission 2006; was chaired by Lito Lorenzana, President of the Centrist Democracy Political Institute (CDPI), a political, non-profit organization, in partnership with Konrad-Adenauer-Stiftung (KAS) Philippines. Lorenzana is also Chair of the Centrist Democratic Party of the Philippines (CDP), was Chairman of the AdCom, and Secretary-General of the 2005 ConCom. Under President Gloria Macapagal Arroyo, the ConCom was tasked to revise the 1987 Constitution of the Philippines.
AFP	Armed Forces of the Philippines
AmBisyon 2040	The Philippine Development Plan (PDP) 2017–2022, the blueprint for the country's development under the Duterte administration, launched by NEDA. The PDP 2017–2022 stems from the 10-point Socioeconomic Agenda and is the first of four medium-term plans towards <i>AmBisyon Natin 2040</i> , the collective vision of Filipinos over the next 25 years.
ARF	ASEAN Regional Forum
ARMM	Autonomous Region in Muslim Mindanao; enshrined in the 1987 Constitution and established by Republic Act 9054, now comprises the provinces of Basilan, Lanao del Sur, Maguindanao, Sulu and Tawi-Tawi, and the cities of Marawi and Lamitan.

archipelagic state	Any internationally recognized state or country comprising a series of islands that form an archipelago—defined by the UN Convention on the Law of the Sea in order to define what borders such states should be allowed to claim.
ASEAN	Association of Southeast Asian Nations; formed in 1967 by Indonesia, Malaysia, the Philippines, Singapore, and Thailand to promote political and economic cooperation and regional stability. Its membership now includes Brunei, Cambodia, Laos, Myanmar and Vietnam.
AU\$	Australian dollar
BBL	Bangsamoro Basic Law
BCF	Bangsamoro Coordination Forum
BDA	Bangsamoro Development Agency
BIAF	Bangsamoro Islamic Armed Forces
BIFF	Bangsamoro Islamic Freedom Fighters
BIR	Bureau of Internal Revenue
BOL	Bangsamoro Organic Law
BPO	business process outsourcing
BSP	Bangko Sentral ng Pilipinas; central bank of the Philippines, established 3 July 1993.
BTC	Bangsamoro Transition Commission
CAB	Comprehensive Agreement on the Bangsamoro
cacique	<i>cacique</i> democracy; a term originally used by Benedict Anderson to describe the feudal political system in many parts of the Philippines where strong local leaders have almost warlord-type powers. <i>Cacique</i> is from a Taíno word <i>kassiquan</i> (to keep house)—in Taíno culture <i>cacique</i> rank was apparently established via democratic means.
CAFGUs	Civilian Armed Forces Geographical Units
CCS	Competition Commission of Singapore
CCT	Conditional Cash Transfer; a poverty alleviation targeted transfer programme where cash is directly provided to beneficiary families (usually

	mothers) on the condition that children attend school regularly and family members visit health centres regularly. CCT is locally known as <i>Pantawid Pamilya Pilipino Program</i> (or 4Ps) in the Philippines.
CDP	Centrist Democratic Party
CDPI	Centrist Democratic Party Institute; founded in 2010 to support centrist (Christian-Muslim value-oriented) democratic movements and political parties in the Philippines in their efforts to help shape policy to create major reforms. The CDPI has been a partner of the KAS since 2011.
CFO	Commission on Filipinos Overseas
Charter Change	Shortened to <i>Cha-Cha</i> ; is also known as Constitutional reform and refers to amendments or revisions in the 1987 Philippine Constitution. See <i>Rappler.com</i> , https://www.rappler.com/newsbreak/iq/193718-charter-change-explainer-philippine-constitution .
CLMV	Cambodia, Laos, Myanmar and Vietnam; the CLMV countries
CMFP	Citizens' Movement for a Federal Philippines
CNN	Communist Party of the Philippines/New People's Army/National Democratic Front
COA	Commission on Audit
COC	Code of Conduct
COMELEC	Commission on Elections
ConCom	Consultative Commission (on charter change); on 25 July 2005, in her State of the Nation Address, President Gloria Macapagal Arroyo announced the creation of the Consultative Commission on Charter Change, tasked to revise the 1987 Constitution. An Executive Order signed by President Rodrigo Duterte 7 December 2016 (re)formed ConCom on 19 February 2018, to draft a charter for shifting to a federal form of government—one of President Duterte's campaign promises.

CONFED MINDANAO	Confederation of Provincial Governors, City Mayors and Municipal Mayors and Municipal League Presidents of Mindanao
Congress	Commonly referred to as Congress, the House of Representatives of the Philippines is the lower house of the Congress of the Philippines.
Cory Constitution	Refers to the 1987 Philippine Constitution.
CPI	Corruption Perceptions Index; <i>see also</i> TI (Transparency International)
CPLA	Cordillera People's Liberation Army
CPP	Communist Party of the Philippines; the CPP-NPA-NDF rebellion refers to the ongoing conflict between the Government of the Philippines and the communist coalition of the CPP, the New People's Army (NPA), and the National Democratic Front (NDF).
CPP-NPA	Communist Party of the Philippines–New People's Army
CSC	Civil Service Commission
CSOs	civil society organizations
DAP	Disbursement Acceleration Program
DDR	Disarmament, Demobilization and Reintegration
deep democracy	Term developed by Arny Mindell in 1988. Unlike “classical” democracy, which focuses on majority rule, “deep” democracy suggests all voices, awareness, and frameworks of reality are important.
DILG	Department of the Interior and Local Government
DOC	Declaration of the Conduct of Parties in the South China Sea
DSWD	Department of Social Welfare and Development
EDCA	Enhanced Defense Cooperation Agreement; between the US and the Philippines.
EDSA	<i>Epifanio de los Santos Avenue</i> ; Philippine's People Power Revolution—over four days in February 1986, culminating in a US-sponsored flight carrying Ferdinand Marcos and his family out

	of the country and ending a dictatorship of more than twenty years.
EEZ	exclusive economic zone
EODB	Ease of Doing Business Index; ranking business regulation created by the World Bank.
ERC	Energy Regulatory Commission
EU	European Union
FAB	Framework Agreement on the Bangsamoro
FDI	foreign direct investment
FIES	Family Income and Expenditure Surveys
FPA	Final Peace Agreement
FUNDANGOs	fund-driven NGOs
GDP	gross domestic product
GONGOs	government-owned NGOs
GPH	Government of the Philippines
GRINGOs	government-run or -initiated NGOs
GRP	gross regional product
GSP	Generalised System of Preferences; a preferential tariff system which provides for a formal system of exemption from the more general rules of the World Trade Organization (WTO). Formerly the General Agreement on Tariffs and Trade (GATT).
GSP+	General System of Preferences Plus; a special incentive arrangement for sustainable development and good governance, GSP+ grants full removal of tariffs on over 66 per cent of EU tariff lines allowing vulnerable developing countries vital access to the EU market and contributing to their growth.
Hyatt 10	In 2005 during the “Hello Garci” controversy, 7 Cabinet members and 3 bureau heads resigned and called on President Gloria Macapagal Arroyo to also resign. The group announced their resignation in a press conference at the Hyatt Hotel in Pasay City.
ICJ	International Court of Justice
ICP	Independent Commission on Policing

ICT	information and communications technology (or technologies)
IDAP	Integrity Development Action Plan
IDB	International Decommissioning Body
IDR	Integrity Development Review
IEG	Independent Evaluation Group; evaluates development effectiveness of the World Bank Group.
IMP	Integrity Management Program
IMT	International Monitoring Team
IPAC	Institute for Policy Analysis of Conflict
IRA	Internal Revenue Allotment
ISO	International Organization for Standardization; an international body founded on 23 February 1947 promoting worldwide proprietary, industrial and commercial standards.
IT	information technology
JNC	Joint Normalization Committee
JPSC	Joint Peace and Security Committee
JPST	Joint Peace and Security Teams
LGU	Local Government Unit
LPI	Logistics Performance Index; an interactive tool for trade logistics created by the World Bank that scores and compares countries on efficient movement of goods.
KAS	Konrad-Adenaur-Stiftung; a German political foundation which promotes political education initiatives worldwide.
LP	Liberal Party
MAMFI	<i>Masaganang Ani para sa Magsasaka Foundation Inc.</i>
MAO	Mergers and Acquisitions Office
MAO-AD	Memorandum of Agreement on Ancestral Domain
Medium Run	A period of about 12 years during which capital stock adjusts gradually to bring the economy to long-run equilibrium, underpinned by macroeconomic principles. The Short Run is a

	period of about 3 years during which prices (and wages) adjust gradually to bring the economy to medium-run equilibrium.
MILF	Moro Islamic Liberation Front; based in Mindanao
MINCODE	Mindanao Coalition of Development NGO Networks
MNLF	Moro National Liberation Front
Moro	A member of predominantly Muslim peoples of the southern Philippines; word origin is via Spanish derived from Latin <i>Mauritius</i> (Moorish), a derivative of <i>Maurus</i> (a Moor).
MOU	Memorandum of Understanding
MRAP	Moral Renewal Action Plan
MSMEs	micro, small and medium-sized enterprises
NACPA	National Anti-Corruption Program of Action
NBN	National Broadband Network
NCR	National Capital Region; Metropolitan Manila (<i>Kalakhang Maynila, Kamaynilaan</i>) is the seat of government, one of three defined metropolitan areas of the Philippines.
NCS	National Security Council; the principal advisory body on the proper coordination and integration of plans and policies affecting national security.
NEDA	National Economic and Development Authority
NDF/P	National Democratic Front/of the Philippines; <i>see also</i> CPP
NIE	<i>Número de identidad de extranjero</i> ; Non-interest expense(?); a tax identification number
NFA	National Food Authority
NGO	non-government organization
NPA	New People's Army; <i>see also</i> CPP
NTF-DPAGs	National Task Force for the Disbandment of the Private Armed Groups
OECD	Organisation for Economic Co-operation and Development
OFW	Overseas Filipino Worker/Overseas Foreign Worker

OPAPP	Office of the Presidential Adviser on the Peace Process
OPEC	Organization of Petroleum Exporting Countries; a group of 12 of the world's major oil-exporting nations. OPEC was founded in 1960 to coordinate petroleum policies of its members, and provide member states with technical and economic aid.
PAGC	Presidential Anti-Graft Commission
PAGs	Private Armed Groups
PAMANA	<i>Payapa at Masaganang Pamayanan</i> ; a programme established in 2010 for peacebuilding and development in areas affected by and vulnerable to conflict.
<i>Pang</i> -FI	<i>Pangkabuhayan</i> Foundation Inc.
PCA	Permanent Court of Arbitration; an inter-governmental organization established by treaty in 1899, located at the Hague; PCA is an official UN observer, not a UN agency.
PCC	Philippines Competition Commission
PDP	Philippines Development Plan
PDP-Laban	Partido Demokratiko Pilipino–Lakas ng Bayan; the ruling political party in the Philippines
PEZA	Philippine Export Zone Authority
PhilGEPS	Philippine Government Electronic Procurement System
PhP	Philippine peso; since 2017, the ISO 4217 standard refers to the currency by the Filipino term “piso”. Other ways of writing the peso sign are “PHP”, “Php”, “P\$”, or “P”.
PIRMA	People’s Initiative for Reform, Modernization and Action; <i>pirma</i> is “signature” in Tagalog.
Plurality vote	or “relative majority”; describes the circumstance when a candidate polls more votes than any other, but does not receive a majority.
PNP	Philippine National Police
POs	People’s Organizations
PPP	public-private partnership

PISA	Programme for International Student Assessment; an initiative of the OECD intended to evaluate educational systems by measuring 15-year-old school pupils' understandings and skills in science, reading and mathematics to everyday situations.
PSA	Philippine Statistical Authority
PSEI	Philippine Stock Exchange Index
<i>quo warranto</i>	legal term for a writ (order) used to challenge the right to public or corporate office.
RH	Reproductive Health
RPA-ABB	Revolutionary Proletarian Army – Alex Boncayo Brigade
SCS	South China Sea
SALWS	small arms and light weapons
SDPFFI	Social Development Program for Farmers Development
SMEs	small and medium enterprises
SONA	State of the Nation Address
SWS	Social Weather Stations; a private non-profit, non-stock research institution established in 1985 with members called Fellows who are social scientists in economics, political science, sociology, statistics, market research, and other fields
TAG	Transparent Accountable Governance
TESDA	Technical Education and Skills Development Authority
TI	Transparency International; an international non-government organization based in Berlin, Germany.
TI CPI	Transparency International Corruption Perceptions Index; TI has published the CPI since 1995, ranking countries each year "by their perceived levels of corruption, as determined by expert assessments and opinion surveys". The CPI generally defines corruption as "the misuse of public power for private benefit".

	The Philippines was ranked 111/180 and scored 34/100 in the 2017 CPI.
TIMSS	Trends in International Mathematics and Science Study; an initiative of the International Association for the Evaluation of Educational Achievement (IEA); examines how well Year 4 and Year 8 students have mastered factual and procedural knowledge taught in school mathematics and science curricula.
TJRC	Transitional Justice and Reconciliation Commission
TRAIN	Tax Reform for Acceleration and Inclusion
UAE	United Arab Emirates
UBJP	United Bangsamoro Justice Party
UK	United Kingdom
ULAP	Union of Local Authorities of the Philippines
UN	United Nations
UNCAC	United Nations Convention Against Corruption
UNCTAD	United Nations Conference on Trade and Development; the main UN body dealing with trade, investment and development issues.
UNCLOS	United Nations Convention on the Law of the Sea; also called the Law of the Sea Convention or the Law of the Sea treaty—an international agreement from the third UN Conference on the Law of the Sea (UNCLOS III), that took place between 1973 and 1982.
UP	University of the Philippines
US	United States
USAID	United States Agency for International Development
US\$	United States dollar
UXOs	unexploded ordnances
VACC	Volunteers Against Crime and Corruption
VAT	value-added tax; a consumption tax placed on a product whenever value is added at each stage of the supply chain, from production to point of sale.

VoPI	Volume of Production Index
WDR	World Development Report
WGI	Worldwide Governance Indicators; a set of composite indicators covering six dimensions of governance for over 200 countries from 1996 to 2016.
WJP	World Justice Project Rule of Law Index; world's leading source for original, independent data on the rule of law.
WPS	West Philippine Sea
WTO	World Trade Organization
ZTE	ZTE Corporation is a Chinese multinational telecommunications equipment and systems company.

Contributors

Aries A. Arugay is Associate Professor of Political Science in the University of the Philippines-Diliman. He is also Co-convenor of the Strategic Studies Program of the University of the Philippines Center for Integrative and Development Studies and Research Fellow at the Asia Pacific Pathways to Progress Foundation, Inc. He has done research and published on topics such as civil society, contentious politics, democratic erosion, and performative populism using cases from Southeast Asia and Latin America.

Rachel Burgess is a lecturer in competition and consumer law at the University of Southern Queensland and a research fellow at the Deakin University IPA-Deakin SME Research Centre. She holds a Bachelor of Laws (Hons) from the Queensland University of Technology and a Master of Laws in Public International Law (with Merit) from the University of London.

Christopher Cabuay is an Australia Awards Scholar taking his PhD in Economics at the Crawford School of Public Policy, Australian National University. He finished his Bachelor of Science in Applied Economics and Masters of Science in Economics at the De La Salle University School of Economics.

Imelda Deinla is Research Fellow at the School of Regulation and Global Governance at the Australian National University (ANU), and Director of the ANU Philippines Project, a policy-engaged research initiative on economics, trade, politics and governance on the Philippines.

Björn Dressel is Associate Professor at the Crawford School of Public Policy at the Australian National University, and previously held an Australian Research Council Early Career Researcher Award (2013–2018).

Georgi Engelbrecht has been working in the Southern Philippines for the last seven years primarily on civilian protection and human rights/humanitarian law and is having a legal and political science perspective on the conflict in Mindanao, as well as the peace process. He is a German national and currently assisting the European Union's peacebuilding programmes in Mindanao.

Maria Socorro Gochoco-Bautista is the Bangko Sentral ng Pilipinas Sterling Chair Professor of Monetary Economics at the University of the Philippines School of Economics. She is a member and former Chair of the Asian Shadow Financial Regulatory Committee and an Associate Editor of Asian Economic Papers.

Hal Hill is the H.W. Arndt Professor Emeritus of Southeast Asian Economies in the Arndt Corden Department of Economics, Crawford School of Public Policy, ANU College of Asia and the Pacific, the Australian National University. His main research interest is the economic development of Southeast Asia.

Noel M. Morada is Director (Regional Diplomacy and Capacity Building) Asia Pacific Centre for the Responsibility to Protect (R2P), School of Political Science and International Studies, The University of Queensland.

Steven Rood was formerly the Asia Foundation's country representative for the Philippines and Pacific Island Nations. In his concurrent role as regional advisor for Local Governance, he helped build local government, decentralization, and municipal government programmes throughout the region.

Kidjie Saguin is a PhD student at the Lee Kuan Yew School of Public Policy, National University of Singapore (NUS). He holds a Master in Public Policy (Social Policy) from NUS and a BA in Public Administration (cum laude) from the University of the Philippines.

Matthew Stephens is a senior social development specialist at the World Bank in Washington, D.C. He was formerly assigned in the Philippines working on conflict, security, and development.

Mark R. Thompson is professor of politics at the City University of Hong Kong, where he is head of the Department of Asian and International Studies (AIS) and also director of the Southeast Asia Research Centre.

Introduction

From Aquino II to Duterte: Change, Continuity—and Rupture

Imelda Deinla and Björn Dressel

Democratic practices of the Philippines, Asia's oldest democracy and the second most populous country in the ASEAN region, have been a puzzle to many scholars and observers of democracy. While vibrant in terms of voter turnout, civic engagement, and institutional protections, there are widespread flaws in Philippine democratic processes—illustrated by persistent pernicious elite politics, continued institutional weakness, and widespread abuse of public office.¹

The country's economic record is as patchy as its democracy. The long-standing description of the Philippines as the "sick man of Asia" has been rebutted by the country's rapid economic growth over the last decade (2007–17). However, with regular boom and bust cycles, and persistent deep-seated poverty and inequality, concerns remain about the equity and sustainability of this type of growth in the Philippines.² Built on the legacies of Spanish and United States colonial rule, the Philippine state remains confronted by constant challenges to its legitimacy—including Asia's longest communist rebellion, Muslim separatist insurgencies in Mindanao, and large-scale public protests such as the first and second *Epifanio de los Santos Avenue* (EDSA 1 and 2), Philippine's People Power Revolution that forced changes in leadership through extra-constitutional processes.³

“Change” has therefore been a recurring theme in Philippine political, economic, and social discourses. The discourse of change holds considerable appeal and permeates the everyday lives of ordinary Filipinos with remarkable intensity and frequency. The discourse informs the thinking of political observers who identify competing reformist and populist narratives of change in Philippine politics.⁴ Change seems to characterize the transition from the administration of Aquino II (2010–16) to the administration of current president Rodrigo Roa Duterte (2016–). Aquino II was elected on a technocratic “straight path” (*daang matuwid*) reform platform that challenged the widespread abuse of public office under the presidency of Gloria Macapagal Arroyo (2001–10). Duterte—a maverick former mayor of Davao city in Mindanao—rode high on a campaign promise in the 2016 presidential election of bringing about law and order in a swift and decisive manner, embodied in his slogan “Change Is Coming”.

But how much change has actually taken place? What kind of change is unfolding and for whom? Are we simply witnessing business-as-usual, fragmented Filipino elite politics, as a feature of discordant democracy in the Philippines? Or has there indeed been change—a rupture in the transition to illiberal, undemocratic practices?

Since the People Power Revolution (EDSA 1) that toppled the Marcos dictatorship in 1986, the Philippines has frequently cycled through recurrent reforms and populism. But changes being introduced by the Duterte administration seem unusually deep and far-reaching—suggesting a concerted attempt to reorganize, or indeed replace, the liberal state-society relations that previously characterized the post-1986 political settlement. Academic observers have therefore described the election of Duterte as a point of historical rupture, rather than merely another instance of populism sweeping the world.⁵

After more than two years in office, Duterte seems to be leading the Philippines towards illiberalism. First and foremost, violence has defined his rule. While the Philippines has experienced political violence and extrajudicial killings, Duterte’s war on drugs since assuming office in June 2017 has claimed more than 20,000 lives. Most of these deaths happened as a result of police operations or were perpetrated by unknown assailants. Dubbed as a “war against the poor”, most of the victims have come from poor villages or squatter areas in Manila and nearby provinces.⁶ Extrajudicial killings of suspected communist rebels, journalists and local politicians continue to dominate headlines.

Another concerning development under Duterte has been sustained and concerted attacks on independent constitutional bodies. Examples of these attacks include the filing of impeachment procedures and subsequent removal of the Chief Justice of the Supreme Court, Maria Lourdes Sereno, based on a *quo warranto* proceeding, a legal procedure for removing public officials on the grounds that the officials have no legal right to continue holding office.⁷ Impeachment complaints have also been filed against the Ombudsman and the vice president based on scant and trivial evidence. Legislative threats and harassment were also directed against the Commission on Human Rights and its officials, one example being when the lower house voted to give the Commission a budget of PhP1,000 (approximately AUD20).

The Philippine Supreme Court, regarded as the bastion of democracy, is now embroiled in contentious elite politics—undermining its independence and further weakening constitutional checks and balances. The participation of five members of the bench in the impeachment proceedings against Chief Justice Sereno—pre-empting the Senate decision by ruling on the *quo warranto* proceeding—has put a spotlight on the deep politicization of the judiciary and the impact of this on constitutional principles and the rule of law. Decisions of the Court involving important political issues show a pattern of “judicial docility”⁸ that favours executive preferences or deferment to political decision making. Examples of such cases include the burial of the late authoritarian ruler Ferdinand Marcos, and the imposition and further extension of martial law in Mindanao.

An ongoing constitutional reform initiative is in progress to facilitate a shift from a unitary presidential to a federal parliamentary system. This initiative—despite the absence of public support towards a federal form of government⁹—is backed by the political rhetoric that federalism offers the solution to oligarchic control by “imperial Manila” of the country’s politics and the economy. A draft federal constitution formulated by the Consultative Committee (Con-Com)—the body created by the president to study and propose amendments to the 1987 Constitution—was submitted in 2018 to the legislature and the president.

Martial law was imposed across Mindanao in response to the Marawi City siege in 2017, with threats from the Duterte administration to declare a revolutionary form of government and place the entire country under martial law. Freedom of the press—except publications that favour the Duterte administration—is under assault, as illustrated by revocation of

the licence of the critical media platform Rappler.com. Many mainstream media outlets, meanwhile, such as *CNN*, *Philippines Daily Inquirer*, *Philippines Star*, etc.—although traditionally considered the most vibrant in Asia—are now often seen as practising self-censorship.¹⁰

Despite arbitrary, coercive, or overt violent actions by the Duterte administration, many of the developments eroding Philippine democracy have been met with surprisingly little resistance from either political elites or civil society actors. A majority of Filipinos have expressed continuing approval of, and trust in, President Duterte and his administration.¹¹

Contributing authors in this volume thus address the following questions: What has allowed the Duterte administration to dismantle the post-Marcos political settlement so rapidly and with little opposition? Have Philippine elites abandoned their support for grounding the political system in liberal-constitutional democracy and institutions? Or is this political settlement not about agreement on liberal democracy per se but merely a casual arrangement among the elites to facilitate transfer of power and maintain their political salience? And why has the country's broad and vibrant civil society—previously a compelling force in any efforts to weaken democracy and its institutions—failed to respond effectively to Duterte's attacks on the rule of law and human rights?

As further highlighted by the contributions to this volume, we believe that some of the remarkable economic and political gains made under the Aquino II administration had unintended consequences that laid the foundation for Duterte's illiberal democracy. The paradoxes of elite democracy and unequal development brought to the fore latent illiberal features that had previously surfaced in the form of authoritarianism during the Marcos years. We thus argue that growing social and economic insecurity in middle-class constituencies—rather than elite fragmentation—has undermined the ability of civil society to act collectively, thus accelerating the trend towards illiberalism.¹²

To explain the resurgence of anti-liberal forces in the Philippine political landscape, this chapter begins by mapping the fault-lines in the failures of the Aquino II administration. We then discuss the assault on liberal institutions before focusing on the elite and civil society dynamics that made this assault possible. Proceeding in this manner does not simply fulfil an academic purpose. It also seeks to identify existing societal spaces with the strength and capacity to resist—and even stand up against—the debilitating impact of the new and dangerous monopoly of power.

I. A SHORT MARCH INTO ILLIBERAL DEMOCRACY: FROM AQUINO II TO DUTERTE

Since the late 1990s, assumptions that economic development and liberal democracy go hand in hand in Asia can no longer be sustained. As one of the most diverse regions in the world in terms of governance—socialist, democratic, semi-authoritarian and authoritarian—the region has seen authoritarian and illiberal democracies emerge alongside rapid capitalist development. While both modes of democracy may recognize the vibrancy of a capitalist economy, authoritarian regimes generally deny free and fair electoral processes. Illiberal democracies, on the other hand—although adorned with the institutional and procedural trappings of democracy—have low levels of participation and inclusiveness.¹³ Dominated by elites—or controlled by an oligarchy—illiberal democracies also tend to demonstrate persistent patterns of violence, gross human rights violations, and a culture of impunity—which narrows and ultimately eliminates avenues for political dissent and reconfiguring state and institutional arrangements. While in many countries this scenario has led to outright authoritarianism, there has been a trend in some Southeast Asian nations—particularly Singapore and Malaysia—to combine features of liberalism and authoritarianism, by segregating politics from economics and pursuing some social and economic redistributive projects.¹⁴ This type of regime is, however, not unique to the Southeast Asian region. Countries in this region have undergone alternating phases of authoritarian and liberal governments, or coexistence of the two types of regime¹⁵—vulnerable, however, to further authoritarian backsliding, particularly when institutions are weak and civil society is divided, as in the case of Cambodia.¹⁶

The situation in the Philippines exemplifies the phenomenon of illiberal democracy. Duterte disavows being an authoritarian as do his throngs of supporters who continue to profess allegiance to “democratic” values.¹⁷ Democracy with a liberal democratic constitution on paper does not preclude the emergence of an illiberal or authoritarian order. In fact, in the last quarter century, democratic practices are increasingly flourishing side-by-side with illiberal regimes in the region.¹⁸ A rearticulation of the meaning of democracy is evident in the Philippines—neither an idealized version, nor merely part of a “populist tide”. As political, economic and social processes have become more dynamic and interwoven in the region,

it is necessary to revisit binary conceptions of liberal versus authoritarian regimes.

Except for the Marcos dictatorship from 1965 to 1986, the Philippines seems to have shunned attempts at absolute authoritarian or illiberal governments—with several unsuccessful military-led *coup d'états* since Aquino I. The Philippines has been described as “cacique democracy”¹⁹ or “low-quality democracy”²⁰—notions based on the disproportionate influence of traditional political elites and dynasties on political institutions. Effective participation and true representation are therefore largely illusory with elites taking turns in power nationally and locally. Political structures that emerged from US colonial rule are characterized by disenfranchisement of the masses, unstable patronage-infested political parties, dominance of political dynasties, and a spoils system that has eroded bureaucratic autonomy.²¹

These patterns of dynastic democracy and systemic institutional weakness have proven remarkably stable. Despite the occasional emergence of elite fractures—triggering new institutional arrangements as in the post-Marcos 1987 Constitution—political elites in the Philippines have remained consistent in their social composition and in their control over state institutions. The political elites have proven resilient—colluding when necessary—and emerging unscathed through political fractures. In the 2013 elections, it has been suggested that 74 per cent of the elected members of the House of Representatives came from political dynasties.²²

The dominance of dynastic families has been so pervasive that the Philippines has been cited to have one of the highest concentrations of political dynasties in Asia.²³ In a landmark 2012 study, Mendoza et al. found districts controlled by political dynasties tended to have significantly higher incidences of poverty.²⁴ In our view, this happens because these families have been adroitly capable at reaching accommodation amongst themselves and with other political actors, despite electoral competition and growing demands from civil society. Moreover, liberal features of the post-1987 political settlement are maintained because most elites have more or less equal access to legal and political institutions to generate economic rents—thus lessening genuine elite conflicts.

Are these descriptions still accurate? Recent developments suggest Duterte has actively erected an illiberal democracy by taking advantage of weaknesses in the post-1987 liberal reformist order.²⁵ Duterte also flirts openly with a populist form of authoritarianism—examples such

as his suggestion of a revolutionary government or his recent statement prioritizing “human lives over human rights”²⁶ reminding some observers of past-fascist patterns in Europe.²⁷

Consideration of elite–civil society dynamics are thus central to understanding the current dynamics under the Duterte regime—whether civil society is cohesive or fragmented often determines regime stability or change.²⁸ For instance, the cohesion of civil society and alliances formed among segments of the elite generated regime change and resistance to authoritarian tendencies in the Philippines such as EDSA 1 and 2. From this vantage point, the divisions within civil society generated by Duterte’s broader appeal for change seem problematic as his use of rhetoric particularly resonates among the Filipino middle class, the traditional backbone of civil society activism in the Philippines.²⁹

Duterte was not, however, the first president to challenge the liberal post-EDSA political settlement. There have been regular coup attempts by conservative factions particularly during the administration of the first post-Marcos democratic leader, Corazon Aquino (1986–92). Although Fidel Ramos (1993–99) is generally credited with having presided over a stable and progressive political and economic administration, his administration did launch—albeit unsuccessfully—the Charter Change initiative to revise the 1986 “Freedom Constitution”.

Challenges have also emerged from flagrant abuses of public office. The second People Power revolution (EDSA 2) was mounted against the government of President Joseph Estrada (1999–2001), whose moral authority to govern was questioned based on massive corruption. Similarly, hopes for Estrada’s successor—President Macapagal Arroyo (2001–10), a former civil society and democracy champion—were quickly dashed by accusations of large-scale corruption and allegations of rigged presidential elections to which she responded by declaring a state of emergency and attempted to curtail rights of assembly.³⁰ Macapagal Arroyo was accused of committing plunder or large-scale corruption in 2012 after she stepped down from power but was acquitted in 2017 of the charge by the Supreme Court.

During the period of strong clamour for change in governance, a relatively inexperienced Benigno Aquino Jr., son of democracy icon Cory Aquino, was elected president in 2010 on a reformist platform to bring *daang matuwid* to government. Benigno Aquino is widely credited with restoring economic growth and political stability in the Philippines. During Aquino II’s administration, the country averaged 6.5 per cent annual GDP

growth, and reforms were initiated in budgeting, delivery of services to the poor, and disaster preparedness.³¹ Aquino II enabled independent oversight institutions such as the Ombudsman and the Supreme Court to have larger roles—with both institutions forcefully holding public officials to account on many occasions. The Supreme Court in particular—riding on a wave of strong public support—combatted the main source of political patronage, the congressional pork barrel much to the irritation of President Benigno Aquino II.³²

Yet the reformist drive of the Aquino II administration was also beset with failures, neglect, and miscalculation—failures that culminated in Duterte’s presidency. Filipinos are known to elect presidents who do not belong to the incumbent’s party, with the exception of the Marcos presidency. One of the Aquino II administration’s critical failures was its inability to pass the Bangsamoro Basic Law (BBL) following peace negotiations with the Muslim secessionist Moro Islamic Liberation Front (MILF). This failure to pass the BBL was in large part due to Congress’ refusal to prioritize the bill after forty-four policemen were killed in the Mamasapano clash in Maguindanao that was criticized by the public nationwide.³³ Public perception that economic growth had not improved the situation of low-income groups—and that oligarchs continued to monopolize power and wealth throughout the country—was rife.³⁴ Poor delivery of basic services most obviously in transport and communications, high cost of living, and concerns over personal safety contributed to the perception that the Aquino II administration had failed. Such issues resonated deeply with not only the poor, but perhaps even more so with the urban middle classes who have been particularly receptive to Duterte’s strong-man rhetoric on “rapid change”.

II. THE DUTERTE PRESIDENCY: ERODING RULE OF LAW MECHANISMS?

With so much attention focused on Duterte’s shadowy “war on drugs”, a far more worrying trend unfolded before the public’s eye—a systematic assault on and erosion of the salience of independent institutions and institutions of the rule of law. Rule of law has been perennially weak in the Philippines, with episodic periods of displays of independence by the Supreme Court. A survey by a business organization in 2014 and 2015

revealed that lower courts and the appellate court, the Court of Appeals, are perceived as one of the weakest performing government institutions in the Philippines.³⁵ The rule of law index by the World Justice Project illustrates the continuous deterioration of many aspects of the rule of law since Duterte's assumption to power.³⁶

The Supreme Court—the highest court in the Philippines—has become the particular object of vicious politics and politicization. In the first two years of his presidency, Duterte's allies within and outside Congress have moved to remove, through impeachment, four high-ranking officials—Vice President Leni Robredo, Commission on Elections Chair Andres Bautista, Chief Justice Lourdes Sereno, and Ombudsman Conchita Carpio Morales. These public officials stood firmly while performing their functions and criticizing government policies. These impeachment initiatives are commonly being used, or abused, to target critical voices within the government and to dismantle accountability mechanisms of the post-Marcos liberal constitutional architecture.³⁷

Aggressive use of impeachment proceedings did not originate with the Duterte administration. The Philippine Constitution—adopted in 1987 after the 1986 revolution that ousted Ferdinand Marcos—provided for a stronger tripartite system of checks and balances while creating independent Constitutional Commissions and the Office of the Ombudsman (Section 2, Art IX, 1987 Constitution). The President and Vice President, members of the Constitutional Commissions, the Ombudsman, Chief Justice, and Justices of the Supreme Court can only be removed by impeachment under this provision. This instrument has been formally used a number of times. The Philippine House of Representatives impeached former president Joseph Estrada (1998–2001) in 2000 though procedural matters ended his trial prematurely. Impeachment charges were filed against Estrada's successor, Gloria Macapagal Arroyo (2001–10) in 2005, 2006, 2007, and 2008, though none prospered. In 2011, the House impeached both Ombudsman Merceditas Gutierrez and Chief Justice Renato Corona. Gutierrez resigned before the Senate convened the impeachment court, so Corona's 2012 conviction by the Senate for the betrayal of public trust is the only successful impeachment case under the 1987 Constitution.

History illuminates the extraordinary nature of impeachment, the primary function of which is to prevent those who hold power from abusing their authority and subverting constitutional order. Criteria for successful prosecution are deliberately set high as impeachment overturns

the electoral and appointive procedures that brought the highest officials to power. The 1987 Constitution limits the grounds for impeachment to “high crimes and misdemeanours” (Art. IX)—that is, culpable violation of the Constitution, graft and corruption, and betrayal of public trust. While the definition in the 1987 Constitution does not obscure the fact that impeachment is inherently political, adherence to strict legal standards has prevented or short-circuited many previous attempts at impeachment.

In the Philippine context, impeachment was precisely directed against the resurgence of authoritarian rule and arbitrary use of government powers by high officials. It is not intended to remove officials because they disagree with the executive leadership. Due to this anti-authoritarian rationale for impeachment, Bueza opined that procedures at the lower house, the House of Representatives, were set so low even citizens could set in motion proceedings for impeachment.³⁸ This is now the crux of how this procedure became a weapon to remove critics and, ironically, to institute unimpeded state power.

Increasing politicization of the process and a deliberate lowering of legal standards—illustrated by cases filed in 2017—are therefore obvious. Impeachment complaints filed against Vice President Leni Robredo in March 2017 charged betrayal of public trust and culpable violation of the constitution, based on Robredo’s video message to the United Nations criticizing the administration’s war on drugs, especially extrajudicial killings. The complaint against Commission on Elections Chair Andres Bautista filed in September 2017 by the Volunteers Against Crime and Corruption (VACC)—allied with Duterte—charged with failure to declare certain properties in his statements of assets and measures put in place to prevent hacking of the Commission on Elections website in 2016. Although the House Committee on Justice dismissed the complaint—and Bautista had by then announced his resignation—the House voted 137–75 to overturn the Committee dismissal and transmitted articles of impeachment to the Senate for trial. In the same month, a case was also prepared against Ombudsman Conchita Carpio Morales—shortly after the Ombudsman’s Office announced it was investigating the Duterte family’s alleged multibillion-peso wealth—and the president threatened an impeachment complaint, charging Morales with selective justice and use of falsified documents.

The most significant effort of impeachment to date has been the removal of Chief Justice Maria Lourdes Sereno from office—by her own

colleagues—through a *quo warranto* proceeding. The *quo warranto*, a legal instrument to remove a public official from office, is predicated on the illegality of the office holder to hold office in the first instance. The *quo warranto* proceeding against Sereno, filed by the Office of the Solicitor General, the government’s chief legal counsel, sidestepped the pending impeachment proceeding against the Chief Justice before the House of Representatives while using some of the grounds in the impeachment. In an unprecedented ruling, the vote of 8–6 in the Supreme Court made a distinction between impeachment and *quo warranto* proceeding, thus paving the way for the Chief Justice’s removal by reason of non-declaration of her statement of assets and liabilities.³⁹

Looking at the impeachment proceeding initiated against Sereno—in conjunction with the *quo warranto* suit—it is clear the aim was to remove a government critic and ensure a pliant judiciary. In two separate complaints, Sereno is accused of culpable violation of the Constitution, corruption, and other high crimes. Charges include: failure to disclose assets truthfully, delay in acting on retirement benefits for judges, falsifying Supreme Court resolutions, manipulating the Judicial and Bar Council, and extravagant use of public funds on a vehicle and official travel.

Chief Justice Sereno is also charged with betrayal of public trust for her public reply to President Duterte’s allegations linking judges to the drug trade. Other charges include: (a) criticizing the imposition of martial law; (b) preventing Court of Appeals Justices from making courtesy calls on the president; and (c) favouring some judicial personnel over others. While Duterte disavows any hand in the proceedings, he has ordered speeding up the impeachment process⁴⁰—and filing of a new complaint for Sereno’s failure to declare her earnings prior to entering government service.

Working at the intersection between law and politics, ouster efforts draw critical attention to Duterte’s agenda for a political reordering of the post-Marcos liberal architecture. What might first appear to be simply a personal impulse of the president is instead calculated and strategic—Duterte’s allies are using legal processes such as impeachment and *quo warranto* proceedings to silence critics and dismantle critical veto gates in the institutional system. Removal of the Chief Justice, for instance, would clear a path for control of the Supreme Court in order to diminish both the possibility that it would derail political plans for constitutional change and its opposition to controversial policies such as the war on drugs and martial law in Mindanao. The removal of an independent Ombudsman and

Election Commissioner tampers with horizontal accountability mechanisms that could control excessive presidential powers. The disproportionate power of the president is a result of weak party politics and presidential control of discretionary funds that can be allocated to favoured politicians. Moreover, the removal of the vice president would eliminate the possibility of an agenda-threatening leadership change should President Duterte's ill health deteriorate further.

The Sereno ouster highlighted the fragile state of the institution of the rule of law that is the bulwark against illiberal rule. It exposed the deep politicization and division within the judiciary, with five justices even testifying against Sereno in the impeachment proceeding in Congress. The fragmentation in the bench can be seen as a rift between those who are more accepting of claimed executive prerogatives and those who seek to subject government actions to greater constitutional scrutiny—as shown in the cases on martial law, the burial of Marcos and dismissal of plunder charges against Duterte's allies. The retirement of several justices has meanwhile exacerbated concerns about a court stacked with Duterte nominees as, during his term, the president will most likely appoint eleven out of fifteen justices. At stake is therefore nothing less than the independence of the judiciary, which has been the main safeguard against executive abuse in the post-Marcos era.

III. EXPLAINING CHANGE: THE CURRENT FRAGMENTATION OF ELITES AND CIVIL SOCIETY

Philippine democracy lacks the essential mechanisms of institutional and social controls necessary to curb elite appetites for perpetuating power. The constitutional safeguards of checks and balances are largely unreliable because of structural and institutional infirmities. Civil society previously filled this gap by pushing liberal agenda from the bottom up and acting as a form of vertical accountability through elections and extraconstitutional means. During the campaign and since Duterte's election, civil society has, however, become deeply divided—with voices from the left initially in tactical alliance with the president's party during the campaign and up to Duterte's first year in office.

At present, there is no voice loud enough to effectively resist Duterte's illiberal policies. Looking at the impact of Sereno's ouster as a measure of

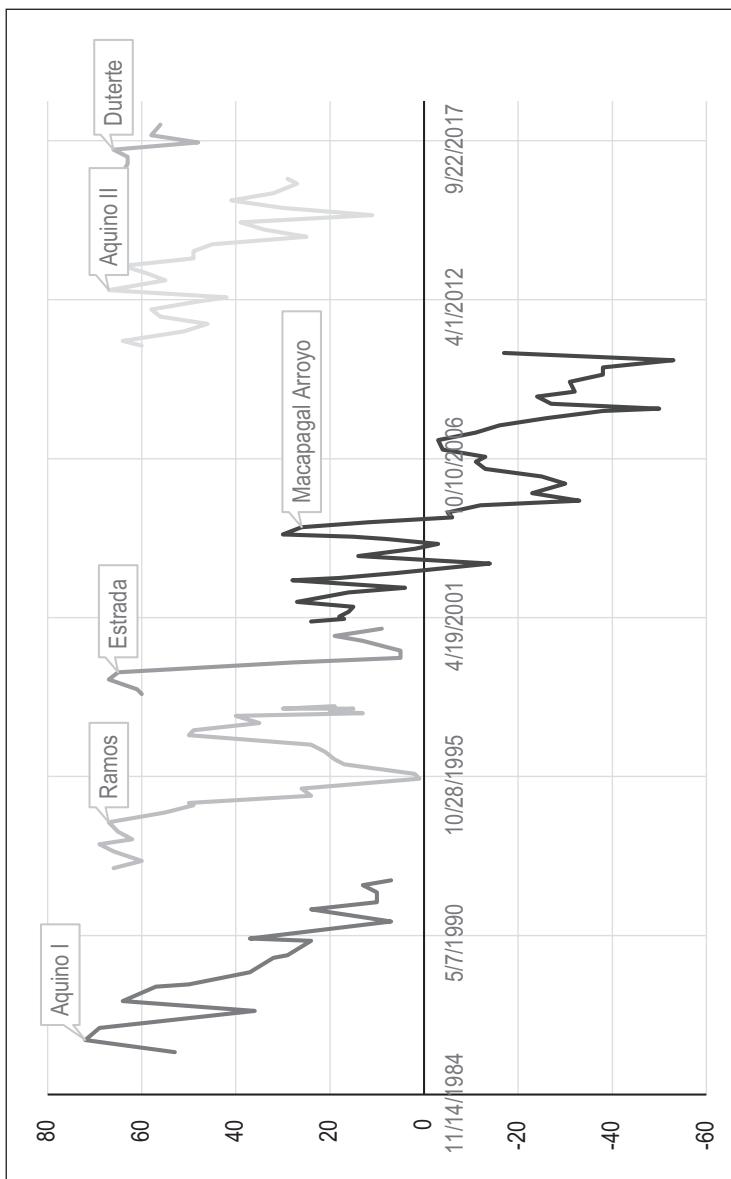
the influence of civil society in political decision making, it is evident that protest actions and opposition are still too weak to affect the actions of political—and judicial—actors. Sereno’s removal, however, engendered a common ground and a platform, the Coalition for Justice, through which various splintered groups, lawyers, students, churches and non-government organizations (NGOs), come together as a single voice to denounce erosion of the rule of law and democratic institutions.

The 1987 Constitution put in place a system of separation of powers with checks and balances, yet the executive always held the balance of power because of control over the national budget and finance. Julio Teehankee observed that a president who enjoys public support will also enjoy the backing of a malleable Congress.⁴¹ As a populist leader, Duterte relies on a high popularity rating, backed by a propaganda machine—promoting his achievements, defending him, and disparaging or threatening critics through social media. The huge popularity that Duterte enjoys allows him to count on temporary loyalties of members of Congress and enable congressional allies to push his agenda with little opposition. See Figure I.1.

There is also a mass movement being created called “Dutertismo” embodying Duterte’s so-called vision of a “final solution” to the country’s ills through drastic measures.⁴² According to Randy David, Dutertismo is a contingent product of a culture that views leadership as the domain of a few, rather than a leadership of shared responsibility—a belief bred by a hierarchical system that “separates the powerful elites from the impoverished masses”. The Dutertismo brand of leadership translates to governance with little or no regard for the rule of law and constitutional processes.

The lack of strong institutional and regulatory controls in Philippine politics is demonstrated by the inability of Congress to pass anti-dynasty legislation or provide a penalty for party-switching, which is the current norm rather than the exception.⁴³ Political dynasties are barred under the 1987 Constitution⁴⁴ thus, politicians who were members of or identified with the party of former president Aquino—the Liberal Party—readily shifted allegiance to the new power-brokers, the *Partido Demokratiko Pilipino–Lakas ng Bayan* (PDP-Laban). In the May 2016 elections, there were originally only three legislators who were members of the PDP-Laban. Once Duterte assumed office in July 2016, 105 more members switched to PDP-Laban, 71 of them from the Liberal Party.⁴⁵ Duterte’s coalition comprised a “supermajority” in the lower house, placing him in a position of great

FIGURE I.1
Net Satisfaction Ratings, Presidents since 1984



Source: SWS Net Satisfaction Surveys (1984-2018).

strength and allowing martial law to be imposed without the legislature and Supreme Court undertaking a stringent review, plus basing the conduct of impeachment proceedings against Sereno on lower legal standards. In September 2017, 119 members—against 32 opposed—voted to slash the Commission on Human Rights budget to just PhP1,000 (approximately AU\$20) although the budget was restored after a major public outcry.⁴⁶

Even so-called “left” politicians joined the PDP-Laban coalition, especially those with the National Democratic Front (NDF) purportedly in the hope that Duterte would make good on his promises to undermine the oligarchs, adopt substantive redistributive programmes, and pursue a peace agreement with the Communist Party of the Philippines–New People’s Army (CPP-NPA).⁴⁷ The NDF and PDP-Laban alliance has since evaporated—as have negotiations with the CPP-NPA for a peace settlement.⁴⁸ The Duterte administration has in fact moved to declare the CPP-NPA a terrorist organization. As a result, since mid-2017, a string of suspected leftist rebels or supporters have been killed by unknown assailants, and criminal charges are being revived against well-known political left leaders.⁴⁹

The continued dominance of political dynasties has been a fixture of the Philippine Congress post-EDSA.⁵⁰ Many political dynasties were built by members of the opposition in the Marcos years, with some newer members erecting their own dynasties during the later resurgence of liberal democracy. The Marcos family and their allies have been undertaking a political renaissance—aligning themselves with other marginalized elites of the post-Marcos period—the same elites cast aside after the Estrada impeachment, and those from Gloria Macapagal Arroyo’s exit from power. This latter group and the elites that coalesced around Duterte in his run for the presidency are seen by the public as populating Duterte’s new elite coalition.

The 17th Congress under Duterte is composed of political dynasties. Of the 293 House members, 153 (52 per cent) are serving their second or third term, and only 140 (47 per cent) are first-time representatives.⁵¹ Many of the first-time representatives have experience in local government and relatives who are politicians. An estimated 190 representatives have links to political dynasties by either blood or marriage—at least 131 with relatives actively serving in a political position and another 25 with relatives who previously served. In the Senate, 13 of 24 members have links to political dynasties—8 of these have relatives currently occupying another political

seat, and 5 succeeded a relative as senator. There is also a “minority bloc” in the House whose members are mostly party-list representatives.⁵² Unsurprisingly, those in the “majority bloc” are solid supporters of Duterte’s agenda. Former president Gloria Macapagal Arroyo—now Duterte’s key ally—recently wrested control of the Congress on 23 July 2018 on the occasion of the president’s second State of the Nation Address (SONA) by being elected Speaker after a brief power struggle.

The Senate, however, remains diverse, as PDP-Laban accounts for only five of twenty-three members. Consequently, the Senate elections in 2019 will be critical in determining whether Duterte will control the whole Congress.

Civil society in the Philippines is not monolithic—tending to be ideologically diverse.⁵³ Civil society groups have in the past been willing to come together on major political issues to advocate for or oppose important government policies particularly initiatives that risk undermining constitutional democracy. Civil society has also been influential in shaping public opinion—contributing to the government in reconsidering policies—or the courts invalidating policy measures.

To manage civil society, Duterte has adopted a divide-and-rule strategy that relies heavily on co-optation, for example, appointing civil society activists to the Cabinet.⁵⁴ Duterte has also devoted considerable time espousing issues advocated by civil society groups, for example, speaking out publicly on the importance of environmental protection and the eradication of illicit drugs and crimes.⁵⁵ The effect has been to widen existing divisions in civil society. The former presidential spokesperson, Harry Roque, was a well-known human rights lawyer and university professor—expelled by his own party-list organization, Kabayan, for pronouncements contradicting party principles.⁵⁶

The wedge between those who support Duterte and those critical of him has become very wide—reflecting polarization in civil society. Duterte’s supporters call his detractors “*dilawan*”, for supporters of the previous administration and the Liberal Party.⁵⁷ Duterte’s critics call his supporters *Dutertards* and accusing Duterte supporters of being dumb.⁵⁸ Social media has become the battleground of competing ideas and norms among civil society and within groups and families. The little space available for safe and robust discourse has made it even more difficult for embattled institutions and officials to harness support from the public—critical in influencing or mitigating the Duterte administration’s policies.

Civil society fragmentation, however, reflects deep-rooted structural issues. The period between Aquino II and Duterte created more opportunity for poor and middle-class Filipinos to express their political views. Strong economic growth during the Aquino II presidency resulted in an explosion of jobs and income, which helped to expand the country's base of middle-income earners—many of them young, technologically adept, and seeking a good life.⁵⁹ Many Filipinos who now have considerable disposable incomes are in their late twenties to early forties.⁶⁰ This demographic is most open in expressing opinions and their dissatisfaction with poor delivery of services, painful traffic problems in Manila, anomalies at airports, and slow and expensive internet connectivity.⁶¹ This group also blames the failure of the law and the rule of law when there are no effective government services, in the face of rampant corruption, and privileging the influential and rich.⁶²

Income disparities in the Philippines are extremely wide. Standard practice for market and opinion researchers is to classify respondents into socioeconomic classes of A, B, C, D, and E—a classification based on proxy measures for income, wealth and assets—such as conditions in the community where homes are located, materials used in construction of the home, furnishings, and whether respondents own or rent.⁶³ In 2009 Social Weather Stations (SWS) released a report, “Family Income Distribution in the Philippines from 1985 to 2009”, with percentages of the Filipino population by class in 1985 and in 2009.⁶⁴ Key results of the SWS report are included in Table I.1, demonstrating stark income inequality problems in the Philippines.

TABLE I.1
Percentage Distribution of Families and Incomes,
by Modified Socioeconomic Class, 2009

Class	Population Percentage	Average Annual Income	Proportion of National Income
AB	1%	PhP1,857,000 (US\$38,579)	9%
C	9%	PhP603,000 (US\$12,527)	26%
D	60%	PhP191,000 (US\$3,968)	56%
E	30%	PhP62,000 (US\$1,288)	9%

A new survey by the National Economic and Development Authority (NEDA) in 2016 found that the typical Filipino had “middle-class aspirations” to live a “simple and comfortable life”.⁶⁵ In practical terms, this means owning a medium-sized home and a car, enough money to cover daily needs, and being able to afford a good education for their children. According to NEDA, to achieve this dream per capita annual income must be at least US\$11,000—roughly the same as the middle-income earners in Class C. However, those in this category are still “at risk” and in an unstable position because of the high cost of living and the constant uncertainty about economic conditions in the Philippines. This group of Filipinos are typically concerned about crime and corruption, ineffective government services, systemic justice and serious flaws in the administration of justice. The fragility of this class is expressed in their desire to lead a deep-rooted, comfortable, and secure life.

Duterte has considerable support from the middle class and more educated Filipinos. As Julio Teehankee remarked: “The Duterte phenomenon is elite-driven. It is not the revolt of the poor. It is the angry protest of the new middle class: BPO workers, Uber drivers, and OFWs.”⁶⁶ The exit polls in 2016 presidential elections showed Duterte was elected by voters from a variety of socioeconomic backgrounds—but the majority of votes for him were from larger percentages of more affluent and educated people.⁶⁷ Since Duterte took office, this group has continued to support him and his policies clearly demonstrated by his trust and satisfaction ratings over time. Figures I.2 to I.4 illustrate that Duterte has enjoyed particularly strong support from Filipinos aged twenty-five to forty-five, the high-middle-income earners, and college graduates.

The division in civil society can also be inferred from examining Duterte’s supporters. Members of this group—although not formally organized—demonstrate collective aspirations through social media that is effectively harnessed by the government to support its policies and measures. Duterte admitted that his presidential campaign utilized social media campaigners,⁶⁸ but denied the government currently employs an army of social media bloggers and “trolls”.⁶⁹ However, several enthusiastic bloggers—such as Mocha Uson and Trixie de Guzman—have been appointed to the government.⁷⁰ Many Duterte supporters are very active in social media, particularly Facebook—known for trolling and vilifying Duterte’s critics, and sometimes aggressively threatening people with violence.

FIGURE I.2
Net Satisfaction Ratings for Rodrigo Duterte by Age: September 2016 – June 2018

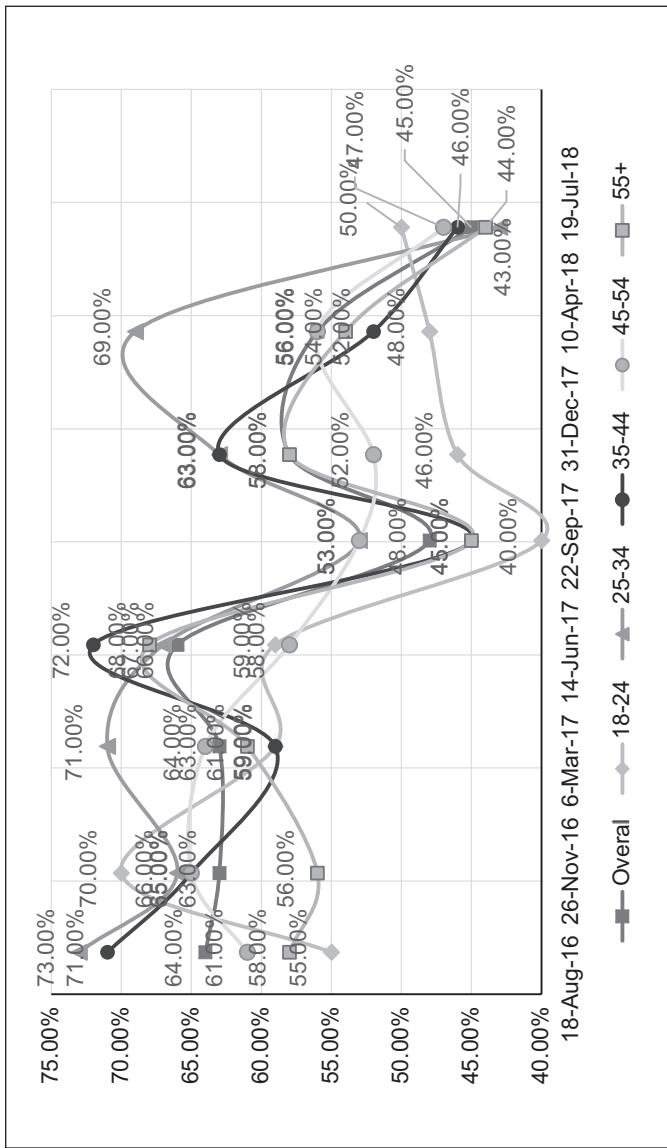


FIGURE I.3
Net Satisfaction Ratings for Rodrigo Duterte by Class: September 2016 – June 2018

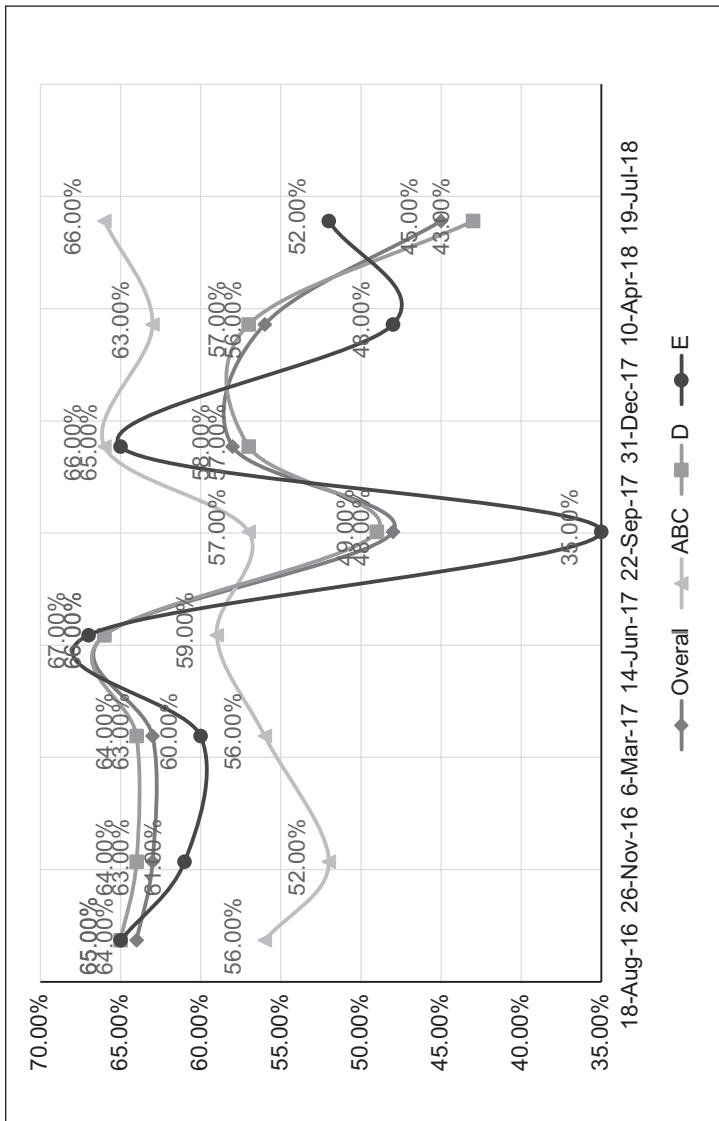
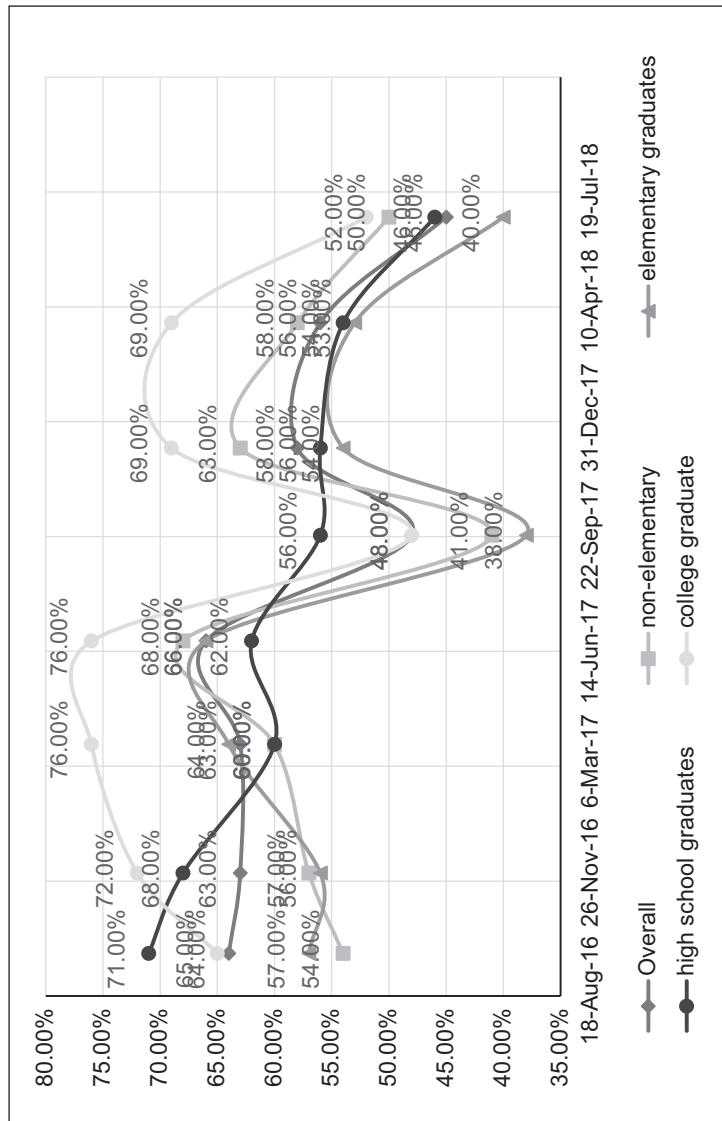


FIGURE I.4
Net Satisfaction Ratings for Rodrigo Duterte by Education: September 2016 – June 2018



IV. STRUCTURE OF THE BOOK

The introductory chapter draws attention to patterns of continuity and rupture as the Philippines transitioned from Aquino II to the Duterte administration. The goal of the contributors of this book is to enrich debates on Philippine politics and society with much-needed recognition of the unfolding of an uncertain political trajectory. With the unravelling of the post-1986 political settlement and seeming illiberal turn of the Duterte government—and consolidation of a new elite coalition—there is much food for thought. What is of concern is the growing fragmentation of civil society that has traditionally been the champion of liberal values and democratic institutions. This is in part because of the Philippines middle class' divided stance of the president's law and order agenda and his declarations in eradicating the oligarchy. Since the dismantling of the Marcos dictatorship in 1986, the Philippine Supreme Court—hailed as the “bulwark of democracy” for its previous records of resisting constitutional encroachments and attempts at eroding protection of civil liberties—is now at its weakest point.

With all this in mind, what do individual contributions in this volume offer? Authors were invited for their informative insights into issues identified in four critical areas.

Part I brings together contributions on *politics and governance*:

- *Mark R. Thompson* discusses recent developments in the Philippines from a comparative perspective, and draws attention to how the rise of illiberal democracy is embodied in President Rodrigo Duterte's "right" populism—using Duterte's violent war on drugs as the central case study. Comparing contemporary Hungary with the Philippines, Thompson suggests why and how Duterte has been able to establish illiberal democracy in the Philippines, and considers this illiberalism in the context of formally democratic institutions. The chapter concludes with a forecast and proviso that, despite some setbacks—given Duterte's continued popularity and new "friends" abroad (closer relations with China and Donald Trump's approaches to his fellow "populist")—violent strongman rule is likely to continue in the Philippines for some time.

- *Steven Rood's* contribution further explores recent political and institutional changes in the Philippines based on in-depth study of the federalism debate that has dominated recent public discussions on constitutional reform. Rood argues that the politics of the move to federalism should be understood in terms of three main issues: (1) the concerns of the national (= Manila-centric) elites who have long blocked political-institutional change; (2) the perspective of democracy advocates worried that change will merely entrench local elites; and (3) the concerns of business people about the uncertainty of increased local regulation. Rood concludes by discussing the potentially complex relationship between the thrust for federalism and the Bangsamoro peace process.
- *Kidjie Saguin* offers insights into the capacity to combat corruption of the administrations of Gloria Macapagal Arroyo and Benigno S. Aquino III. Saguin argues that what is most critical in controlling corruption is the legitimacy of political leaders and leaders of anticorruption agencies. Saguin's chapter invites critical reflection on the Duterte administration's recent attacks on oversight agencies despite its formal commitment to eradicating corruption.

Part II analyses economic governance:

- *Maria Socorro Gochoco-Bautista* examines the Duterte administration's 10-Point Socioeconomic Agenda, intended to promote inclusive growth. Gochoco-Bautista presents her analysis in the context of the push towards federalism—Duterte intends to use federalism to promote regional development, and as a means to decentralize political and economic power away from "Imperial Manila". Noting major policy changes are underway, Gochoco-Bautista questions whether the move towards federalism will deliver on the inclusive growth agenda any better than a unitary government.
- *Christopher Cabuay and Hal Hill's* chapter with a narrative of the country's recent economic performance complements Gochoco-Bautista's critical analysis. Hill looks at the Philippine's rapid economic growth during the Aquino II administration and the

continuing dynamism under Duterte—the country having now outgrown its description as the “sick man of Asia”. Cabuay and Hill explore some of the main development challenges for the Philippine in particular the need to map a path to more inclusive and peaceful growth.

- Part II ends with a detailed case study by *Rachel Burgess* on competition law and inclusive growth. In force since 2017, the Philippine Competition Act was envisioned to break down cartels and reduce the price of goods and services to consumers especially the millions of Filipinos living below the poverty line. Yet, as Burgess makes clear, whether the law succeeds in promoting inclusive growth will ultimately depend on uncertain exogenous factors. Burgess specifies the importance of technical expertise, acceptance by Filipino business, and the actual and perceived success of the regulator—the Philippines Competition Commission (PCC)—in applying the law fairly and transparently.

Part III focuses on the unfolding *peace process in Mindanao*:

- *Matthew Stephens* draws attention to aspects of the Duterte administration’s approach to building peace in Mindanao—including convergence between the two major Moro fronts, putting constitutional change on the table, and offering the prospect of federalism. Stephens expresses concern that these approaches fail to address deficits in local governance and the role of local governments perpetuating a status quo of instability and poverty. Stephens considers the situation in Mindanao has been worsened by the lack of a credible plan for socioeconomic recovery—requiring fifteen to twenty years of dedicated financial and technical assistance—and concludes the root causes of conflict in Mindanao cannot be resolved during the term of this government.
- *Georgi Engelbrecht* complements Stephens’s perspective with a detailed study of the peace agreement between the government and the Moro Islamic Liberation Front (MILF) signed in 2014, seeking to establish a meaningful form of self-governance in the “autonomous” region of the Bangsamoro. Engelbrecht points out serious failures

that led to the current situation. Central to these failures is the Aquino II administration not passing the Bangsamoro Basic Law (BBL), resulting in MILF forces not having been decommissioned. As a consequence, the national military was not redeployed. In essence, the critical security component of “normalization” never occurred—nor is it likely. Engelbrecht then raises questions about the best way forward as Duterte charts a new path for the peace process based on ambitious goals of the recently passed Bangsamoro Organic Law and inclusivity.

Part IV concludes the contributions by drawing attention to the *international environment*:

- *Noel M. Morada* explores the prospects for Philippine-China relations under Duterte, noting the Philippines has traditionally used bilateral and multilateral (mainly ASEAN) mechanisms to deal with China on issues arising in the South China Sea (SCS) and the West Philippines Sea (WPS). Morada also considers the implications of the Permanent Court of Arbitration’s decision favourable to the Philippines. After drawing attention to internal and external factors that could influence policy on the SCS/WPS, Morada examines the challenges the Philippines confronts in attempting to effectively enforce the decision of the international court and defend its maritime claims.
- *Aries A. Arugay* provides a sober analysis on the potential of civil society in the Philippines. Looking at the period 2001–10—otherwise known as Philippine democracy’s lost decade—Arugay argues several events further fragmented civil society, decreased legitimacy to challenge state authority and embody popular interests, and weakened the position of civil society to influence policy. Filipino civil society has been significantly weakened since 2010—and unable to influence key political outcomes during the Aquino II administration as seen in cases such as the pork-barrel scandal, the Reproductive Health Law debate, and the 2013 mid-term elections. Arugay ends his chapter by discussing prospects of civil society action and resistance against the current erosion of liberal democracy in the Philippines under the Duterte administration.

CONCLUSION

The contributions of this volume demonstrate the Philippines has entered a critical period—one of continuity and rupture in significant policy areas. Now in its third year, the Duterte administration is shaking up the entire spectrum of Philippine society with “unconventional” approaches to solving what Duterte perceives as the nation’s ills. An illiberal democratic regime is being fashioned in a systematic way under the façade of anti-Manila, anti-oligarchy, and anti-church rhetoric—facilitated in part by Duterte’s populist appeal and well-oiled propaganda machine—and encouraged by a rising insecure middle class that continues to give high support to his administration’s policies.

Illiberal democracy and liberal capitalism are not mutually exclusive and indeed can coexist. These terms have been used by many strongmen and illiberal regimes in their “playbooks”—to induce the public into giving up fundamental rights and dignity—in return for promised prosperity and security. This also explains the disjuncture between economics and politics that sees continuity and expansion of liberal economic policymaking yet drastic shifts and breaks in the political arena. As history has shown, most populist—or authoritarian leaderships—have failed in both political participation and economic redistribution.⁷¹ Worse, these types of governments have compromised legal and institutional constraints on executive power. The Philippines only need look back at the time of Marcos when his family and cronies plundered the Philippines, curtailed human rights and emasculated the rule of law.

As the authors have shown, we are witnessing continuity of Aquino II policies that stimulated economic growth and directed government agencies to deliver more inclusive, pro-poor growth. Duterte’s first two years sustained robust economic growth—6.9 per cent in 2016 and 6.7 per cent in 2017. Management of the economy was largely left to technocrats, thus ensuring continuity with the previous administration. The same can be said for high-profile pro-poor social development programmes like the 4Ps—*Pantawid Pamilya Pilipino Program*—conditional cash transfer and the *AmBisyon 2040* agenda. There have been, however, criticisms over slow and disjointed progress on the agenda which are growing—particularly with regard to health and education.⁷² A major infrastructure programme, *Build Build Build*, has been announced in 2018 to fast track big infrastructure projects and spur growth. Significant tax reform legislation, and the Tax

Reform for Acceleration and Inclusion (TRAIN) law, have also been passed to enhance and increase tax collection while exempting low-income groups. However, this new tax initiative has been blamed for the rapid acceleration of inflation now affecting prices of major commodities such as rice and petroleum.⁷³

On the other hand, there has been a distinct break in the political narrative—almost a rupture with the past. The president has made a deliberate, sweeping effort to replace the liberal constitutional order with an illiberal model. “Dutertismo” targets dissent in independent media and the opposition and shows little regard for the rule of law and institutional checks and balances. The politicized use of impeachment procedures and other legal processes against the Chief Justice of the Supreme Court and members of constitutional bodies has undermined the system of checks and balances and mechanisms of accountability. This politicization has also eroded the professionalism—and even the functioning—of critical independent oversight agencies at a time when the country is confronted by unrestrained use of power—demonstrated by the war on drugs and the ever-growing number of related extrajudicial killings.

These developments are not new *per se*. In the past, there have been presidential assaults on institutions, declarations of martial law, and allegations of corruption such as those of Fidel Ramos (1992–98), Joseph Estrada (1999–2001) and Gloria Macapagal Arroyo (2001–10). Current political developments however, show a more decisive push towards illiberal rule that started with the bloody war on drugs. What sets Duterte apart from his populist predecessor Joseph Estrada is his unapologetic endorsement of violence and—as with Marcos—his unabashed contempt for institutions and legal processes.

While the draft federal constitution calls for institutional strengthening—including political parties—the political policies and actions of the Duterte administration demonstrate dismal regard for institutions and legal processes. Added to these developments is the restoration to power of those accused of large-scale corruption, whose cases against them were dismissed. Following the retirement of Ombudsman Conchita Carpio-Morales in July 2018—highly regarded for her integrity and independence—the newly appointed Ombudsman Samuel Martires moved to remove personnel who investigated Duterte for allegedly holding bank accounts not declared in his assets,⁷⁴ despite the Duterte government’s bold campaign promises to end corruption. The appointment of Ombudsman Samuel Martires on 26 July

2018 raises concerns about the future of democracy in the Philippines and its current development trajectory.

Perhaps it is too early to evaluate long-term damage to legal institutions. However, undermining the courts has obviously created politicization—and divisions among members of the bench and the legal profession. The decision of the Supreme Court in *quo warranto* is perceived by many to be politically motivated rather than a reasoned independent legal judgement.⁷⁵ Such a ruling could have severe consequences for an independent judiciary and salience of the rule of law in securing liberal democracy.

Broad dissatisfaction with systematic injustice bred discontent with the previous political system—thus propelling Duterte to power in the first place. The politicization—or as some Philippine commentators would term “weaponizing”⁷⁶—of legal mechanisms is counter-intuitive. Politicization of legal mechanisms might also jeopardize the sustainability of the current trajectory of policy and growth over the next few years which depends on stability and effectiveness of legal rules and regulation. As the Philippine government mounts regular assaults on critical institutions of independent oversight and justice, the Philippines’ ranking on the 2017 Corruption Perceptions Index (CPI), Transparency International (TI) has fallen from 101st in 2016 to 111th in 2017.⁷⁷

The divisions within civil society that have made collective action largely ineffectual are of particular concern. Although civil society did foment a public uproar over proposed cuts to the budget of the Human Rights Commission and the Sereno ouster initiative, more sustained and broad opposition seems unlikely at this point in time. This lack of opposition is due in large part to waning participation of traditional middle class in civil society advocacies, and implicit endorsement of Duterte policies that could promote “safety” and economic well-being for the middle class in more ways than a liberal democracy. There is little indication that the broader political reordering now underway might be opposed by political elites—who seem committed to accommodation as long as Duterte’s approval ratings stay high and the economy continues to expand.

The lack of opposition by political elites does not necessarily mean that authoritarian backsliding is unstoppable. Heated public debates about the impeachment of the Chief Justice and proposed far-reaching constitutional changes also suggest there may be limits to the potential for illiberal excesses. Since the Marcos regime, both the middle class and the elites supported independent institutions like the Supreme Court

(though not necessarily for the same reasons), allowing the judiciary to rise above “politics”, particularly when constitutional stability was threatened. This did not happen, however, in the Sereno ouster even when the issue provoked a constitutional confrontation with the Senate.

With a deeply divided civil society—including the legal profession—the Senate adopted restraint in so far as it only called the Supreme Court to reconsider its decision on the Sereno ouster. The Court, confident there will be no effective repercussions against their action, stayed firm on their ruling. This issue, however, has revitalized the civil society and brought new alliances. The Coalition for Justice was loosely formed around “justice and rule of law” to denounce the impeachment and subsequent removal of Sereno. Whether this can be sustained and potentially expand into broad-based activism or opposition is something that is uncertain—given the Filipino tendency for forgetting vital issues and penchant for salacious controversies.

The Philippine Congress—like most opportunistic political dynasties—has been known to follow the direction of power. However, the Congress has been known to resist—or turn against—executive power when the president’s popularity declines (as in Joseph Estrada’s fall from power) or when public opinion is strong (as in the non-passage of the BBL during Aquino II). Duterte’s illiberal turn is contingent on the continued support of the Congress—and the public. Similarly, the post-1987 consensus on building up oversight and justice institutions, for example, independent budgets, more transparent appointment processes, collegiality, and the post-EDSA legacy, was due to benefits on offer for resolving elite conflict as well as addressing middle-class concerns about abuse by powerful interests. If the process of deinstitutionalization further deteriorates, these two constituencies—the Congress and the people—might reunite to combat illiberalism—although by then the damage to important constitutional institutions may be irreversible.

The Philippines is now at a critical juncture of continuity and change having seen continuity of economic growth. Whether such growth will translate into equitable and redistributive development depends, however, on how politics is shaped in pursuit of this goal. The popular appeal of illiberal or authoritarian regimes has depended on the leader’s promises to deliver on economic redistribution and greater political participation. With methodical circulation of fake news and ingenious use of social media, present-day authoritarian leaders may attain more longevity than their

predecessors—and not deliver on their promises. As currently witnessed in the Philippines, institutional and legal safeguards can easily be dismantled with an ill-informed citizenry who value “quick fixes” rather than the building of stable and effective institutions.

Much is at stake for the Philippines as the Duterte presidency unfolds. External changes are also unravelling—as documented in the compilation of these chapters. A realignment in the Philippine’s foreign relations policy—aimed at fostering closer relations with non-traditional allies such as China and Russia—is also causing internal unease among the general population. Duterte’s constant praise of China and seeming lack of interest to enforce the Philippine’s legal victory in the international court of arbitration case involving the South China Sea (see Morada in Chapter 9), is of particular concern. External powers (e.g., United States, Japan, Australia) are watching this development with great interest and are aware of the high stakes involved—regional peace and stability, freedom of navigation, and the international rule of law.

ACKNOWLEDGMENTS

The authors would like to thank Rory MacNeil and Kent Marjun Primor for providing research and editing assistance.

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