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Introduction: Contesting the Philippines

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The Duterte administration in the Philippines (2016–22) marked the return of authoritarian rule in the Philippines. It was also accompanied by an economic recovery that was better than many expected, at least until the onset of the COVID-19 pandemic. Both during and following the Duterte period, the country was buffeted by a series of internal and external shocks that called into question the state’s legal and social policy contract with its citizens.

We think of this as “contesting the Philippines”—an intense normative and practical struggle to shape (or reshape) some of the Philippines’ most critical institutions: the Constitution, the presidency, the Supreme Court, the free press, regional autonomy and independent regulatory institutions. That contestation intensified under the Duterte administration and continues to the present.

One of President Rodrigo Roa Duterte’s signatures was a Manila-centric show of strength through martial law in Mindanao, the roll-out of a punitive anti-drugs policy and asserting executive control over other branches of government and independent agencies. Not surprisingly, the

national commitment to the rule of law and human rights was called into question. President Duterte aimed to remove the executive from the constraints of both domestic and international rule of law while using law as a repressive policy tool. The most dramatic expression of this was Duterte's "war on drugs", which targeted drug dealers but also swept up men in the streets, with the police acting with apparent impunity. At the same time, the administration launched legal attacks on media outlets, journalists and politicians critical of their policies. This period also saw the administration apparently abandoning international law, announcing a withdrawal from the International Criminal Court and declining to exploit the Philippines' arbitral tribunal victory over China regarding territorial claims in the South China Sea. The result was a precipitous decline in the Philippines' ranking in the World Justice Project's Rule of Law Index.

At the same time, the Philippines is also particularly vulnerable to regional and transnational influences. The Duterte government initially embraced China as its bilateral partner of choice, notwithstanding China's incursion into Filipino maritime territory. But, by the end of Duterte's term, relations with the United States had improved. The 2017 Marawi siege and its aftermath underscored the vulnerability of the southern Philippines to external terrorist groups, becoming a major setback to achieving sustainable peace in Mindanao and affecting the political settlement in Muslim Mindanao (the Bangsamoro).

All of these developments energized many other domestic policy actors: technocrats, the business sector, civil society organizations, the police and the military, armed groups and religious leaders across the spectrum of Filipino politics.

The following chapters, drawn from a conference in 2018, consider some of the key sites of contestation since 2016 between and among domestic policy actors, including the executive. The authors analyse the key institutions under stress and the actors competing to reshape them in the aftermath of the Duterte presidency.

ECONOMIC RESURGENCE

The Philippines' economy has unequivocally shed its image as "the sick man of Asia". The opening chapter of this volume is based on the conference's keynote address. In chapter 2, Finance Secretary Benjamin

E. Diokno outlined the (then) Duterte administration's medium-term goals to drastically reduce the incidence of poverty to 14 per cent by 2022 through fiscal initiatives, an expansionary policy for an economy that would outgrow its debt burden, comprehensive tax reform (begun with the 2017 Tax Reform for Acceleration and Inclusion [TRAIN] law) and a rapid expansion of spending on infrastructure to 7.3 per cent of GDP by the end of its term in 2022. These policies were to be paired with an increase in social sector spending to 9.2 per cent. A host of reforms in public finance management were pursued, including a cash-based budget beginning in 2019. In this way, the administration aimed for public spending that could drive growth in the Philippines while addressing poverty and inequality. The continuing role of Diokno illustrates continuity in economic policymaking: during the Duterte administration, Diokno became the Governor of the *Bangko Sentral ng Pilipinas* (Central Bank of the Philippines) and, since 2022, in the new administration of Ferdinand Marcos Jr., he has been Secretary of Finance.

In chapter 3, Ronald U. Mendoza assesses two full years of the Duterte administration as of the middle of 2018. Writing before the politicking towards the May 2019 mid-term elections had heated up, the political update discussion focuses on the efforts (ultimately unavailing) towards a federal constitution, a long-term advocacy priority of President Duterte. The economic update focuses on how the economy continues to be robust—as it has been for some years—and the tax reform and infrastructure emphasis outlined by Secretary Diokno in his chapter. The 2018 rise in inflation is noted, particularly the impact on the poor. The replacement of quantitative restrictions on the import of rice with more liberal trade with a tariff imposed (“tariffication”) was aimed at easing this problem. In the end, the question is: can more than 6 per cent growth be sustained over a couple of decades, and can economic growth become more inclusive?

Myrna Austria in chapter 4 presents the other side of this improved economic performance, with some concerns about short-term disturbances such as a weakening peso, inflation and the trade deficit. The Philippines' sustained growth has been driven by more investment than in the past, along with growth in manufacturing. The peso's weakening has been largely the result of global conditions and

can contribute to inflation as imports become more expensive in peso terms. Inflation surged and then receded in 2018 as the effects of the TRAIN law took effect, and a rice shortage briefly hit the country in mid-year. The trade deficit is driven by an expanding economy and the importation of equipment and materials for the government's focus on infrastructure under its "Build, Build, Build" initiative. In the face of these economic challenges and uncertainties, she outlines reforms the government can take, including its Manufacturing Resurgence Program.

In chapter 5, Antoinette R. Raquiza picks up the story of the Manufacturing Resurgence Plan, launched in 2014 and continued by the current Marcos administration. She analyses the rise in the export of services from the Philippines, which may be under threat from current global economic trends and growing protectionism. She describes how government initiatives helped business process outsourcing and how the emphasis on manufacturing has led to faster growth and the belated beginning of a structural shift in the economy, with slower growth in services.

Manuel P.S. Solis in chapter 6 highlights the challenges of achieving policy coherence in the energy sector, given the trilemma among energy security, energy equity and environmental sustainability, while pursuing growth policies. Solis looks at the prospect of a transition to a low-carbon energy regime in light of the 2001 Electric Power Industry Reform Act (EPIRA) and the 2008 Renewable Energy Act. The growing issue of climate change was partly addressed in the Philippines through the 2009 Climate Change Act. However, there are evident contradictions between, for instance, government projections of increased use of coal for power generation and the aspirations of the Renewable Energy Act.

In chapter 7, Mina Roces focuses on some unanticipated consequences of affluence in the Philippines. She explores a cultural practice evolving out of Filipino labour migration and remittances over the past decades—the recently invented tradition of *balikbayan* boxes (large boxes full of gifts and food) sent by overseas Filipino workers to their families at home. The practice has shifted the traditional norm of reciprocity since this is a one-way flow of gifts. Sending the boxes has become both a symbol of love and proof that the worker overseas is successful. The pressures of this consumption behaviour

also undermine individual capacity for investment or better financial management. This requires another norm change—“How to say ‘No’” to both the cultural practice and the expectations of relatives.

WAGING LAWFARE IN THE PHILIPPINES

Part of the international perception of a steep decline in the quality of the rule of law in the Philippines was shaped by the events surrounding the removal of the chief justice of the Philippine Supreme Court in mid-2018. Cristina Regina Bonoan and Björn Dressel in chapter 8 address the problems caused when impeachment, a tool intended as an accountability mechanism, is wielded in an authoritarian manner by a presidential administration as a weapon against critics who would otherwise be in a position to hold the executive accountable. They review the history of impeachment attempts in the Philippines under the 1987 Constitution, both successful and unsuccessful. Under the Duterte administration, impeachment attempts were launched against Vice President Leni Robredo (the running mate of one of Duterte’s opponents during the 2016 elections) and three Constitutional officers: Commission on Elections Chair Andres Bautista, Ombudsman Conchita Carpio-Morales and (then) Supreme Court Chief Justice Lourdes Sereno. This last attempt was overtaken by the novel *quo warranto* proceedings, where the Supreme Court ruled that Sereno’s appointment as chief justice was invalid. Bonoan and Dressel are critical of the reliance on impeachment as a tool of legal governance when it is politicized in the way it has been in the Philippines. They argue that the ability of the president at the time to wield a supermajority in the legislature and influence the Supreme Court to achieve this result point to a “weakness in Philippine democratic practice”.

In chapter 9, Imelda Deinla and Maria Lulu Reyes go deeper into the removal from office of the chief justice of the Supreme Court of the Philippines, something that they argue has become intertwined with the presidential transitions since the turn of the millennium. Their chapter looks at how impeachment and other legal tools have evolved from mechanisms of legal accountability to ones of political weaponry, directed particularly against chief justices. They examine the confluence of politics, leadership and personalities within the court,

the legislature and the presidential palace that have allowed the law to be used in this way, both within and outside the Supreme Court.

In chapter 10, Nicole Curato and Bianca Ysabelle Franco begin with the central fact about the war on drugs launched nationwide by Duterte immediately upon being elected in 2016: that thousands have been killed extrajudicially. Yet, surveys showed that the effort was popular among citizens. Then they go beyond this simple narrative to look into contestation about truth, politics and ethics. Rooted in, but different from, Duterte's previous efforts as mayor of Davao City, the national drug war's first site of contestation was numbers, both of addicts and deaths involved. Political contestation occurred as officials declined to cooperate with the bloody campaign and through social protests that expressed solidarity with victims or pointed to connections to authoritarianism of the past and possible future. Ethical stances discovered in their fieldwork in urban poor communities range from unqualified support for the "war on drugs" through ambivalence to outright dissent based on violations of due process and the inequities of a campaign in which victims were largely the poor. The authors end by raising questions for democratic practice embodied in the contestations and the capacity of elites to learn from the war on drugs experience.

In chapter 11, Clarke Jones and Raymund Narag are concerned with some of the ways in which the Duterte administration's tough-on-crime stance also corrodes the correctional system in the Philippines. Jones and Narag use the issue of violent extremist offenders in the Philippines' correctional system as a lens to examine vulnerabilities in corrections that are compounded by the higher prison and jail populations. Overcrowding impacts prisoner mental and physical health but also erodes correctional management efforts by government agencies. Inmates must rely on their own resources and informal coping mechanisms such as gang co-management of facilities. International actors looking to help the Philippines with its "war on terror" must first address overcrowding as part of any effort to deal with high-risk offenders. The authors suggest that beyond addressing the issue of overcrowding, the informal mechanisms that have grown up in Filipino prisons might be formalized in a shared governance model that reduces discretion and possible abuses.

RESHAPING THE STATE UNDER DUTERTE

Part of the legacy of President Duterte's predecessor, President Benigno Aquino, was the unresolved issue of securing an end to the civil conflict in Mindanao and a sustainable peace that would allow for full regional autonomy and a power-sharing arrangement with Manila. Duterte delivered that deal, and Imelda Deinla, Steven Rood and Veronica Taylor analyse progress to date in chapter 15 of this volume. What no one could have anticipated, however, was the interpolation of an Islamic State-influenced terror attack in 2017 on the Islamic City of Marawi, followed by a five-month military siege of the city.

The after-effects of that military action have been far-reaching, and in chapter 12 Rosalie Arcala Hall evaluates some of the lessons of the siege by analysing civil-military relations during that emergency. She tells a story of frayed coordination, with separate military and civilian coordination platforms evolving (including those of the Philippine government and UN cluster system). The military undertook its own relief operations, both because of the fraught security situation and to improve its image with local civilians. Non-government organizations and local governments distributed aid via their channels, encountering some restrictions from the military. Coordination forums that had been set up were ignored. By the end of 2018, progress on the reconstruction of the main battle area was minimal.

In chapter 13, Gail Tan Ilagan assesses the capacity to provide emergency mental health during emergencies, reflecting on the experience of Marawi's internally displaced persons (IDPs). During the five-month siege of Marawi City in 2017, the needs of the more than 300,000 IDPs strained the systems attempting to respond. Ilagan focuses on mental health and psychosocial support (MHPSS). The Department of Health is the lead agency for this service in the Philippines' disaster management structure but generally lacks resources. Ilagan traces some of the weaknesses in the system—reaching home-based IDPs (the vast majority in this instance), difficulties of government systems coordinating with non-government organizations and lack of skills among organizations that have a presence on the ground in the affected areas. She indicates that more activity addressing IDPs' trauma was accomplished than was reflected in reporting by official government or international organizations and concludes that the

Department of Health must enhance its working relationships with community-based organizations. She also argues that local governments must emphasize MHPSS services to a greater degree in anticipation of future emergencies.

All conflicts, however, are not created equal. Georgi Englebrecht in chapter 14 reminds us that there remains considerable variation in the history and trajectory of violence within and across communities within Muslim-majority Mindanao. Englebrecht leverages his on-the-ground experience with other data sources to compare and contrast the situation since 2012 in two municipalities in Maguindanao province. While the framing (and most international attention) concerns violence between armed rebels and the state, there are also incidents of “horizontal” conflict among clans or over resources, as well as political violence related to elections and political offices. These are crowded spaces: a heavy government military presence and many different actors (including the Moro Islamic Liberation Front, private armed groups and the Bangsamoro Islamic Freedom Fighters) make it hard to control conflict in a volatile environment. Particular incidents over recent years highlight how violence can flare up and change direction. Some progress on peace at the local level is being made, particularly in Datu Piang municipality, where local governance is more robust. Englebrecht discusses the contributing factors to this.

This volume closes with an analysis of one of the high points of the Duterte administration to date—a relatively successful plebiscite on regional autonomy in early 2019 and the implementation phases of the Bangsamoro peace deal for the warring actors in Muslim Mindanao. In chapter 15, Imelda Deinla, Steven Rood and Veronica Taylor analyse the new agreement and its anticipated contribution to remaking Muslim autonomy in Mindanao. They consider what legal and political institutional reforms this will require and think whether and how the current administration is likely to deliver these.

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