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## EUROPEIZATION OR “RUSSIANIZATION”? DILEMMAS OVER REFORMING THE PHILIPPINES POLITICAL SYSTEM<sup>1</sup>

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**Abstract:** The article focuses on one of the most crucial political discourses in the Philippines. Since the 1987 Constitution was enacted in great haste after collapse of Marcos' regime, there has been an ongoing debate on fundamental reshape of the political system. The article considers Philippines struggles with the redefinition of the central figure in that system – the President. It presents political context of the constitutional debate in a historical perspective. Moreover, it indicates the most important arguments of adherents and opponents of the constitutional change. It focuses on the constitutional position of the president and his relations with other major political actors.

**Key words:** the Philippines, constitution, debate, political system.

Apart from institutional and neoinstitutional perspectives we can distinguish two main ways of thinking about an institution in social science. The first recognized institutions mainly as dependent variables shaped by historical processes and culture of a certain society. Max Weber's study on development of bureaucratization in modern societies seems to be an instructive example here. The other approach focuses more on institutions as independent variables. Ultimately, it is commonly agreed that institutional settings shape political culture. This is not a coincidence that Great Britain and the United States of America have both single-winner voting system and a two-party system at the same time. Thus, many policymakers and dissatisfied voters have strong desire to change a most influential legal act – the Constitution – in order to radically rebuild a political culture. This kind of tensions can be found very easily in the Philippines. In this article, I intend to explore this process treating the Constitution as both, dependent and independent variable. More precisely, I focus largely on the constitutional position of the president and his relations with other major political actors. In order to accomplish the task, I divided my article into two parts. Since the situation in the Philippines is relatively not well known, I show at the beginning historic, legal and political background of the

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current discussion. Then, I present the most important arguments of adherents and opponents of the Charter change.

From the first point of view – where an institution is a dependent variable – we can identify two main factors which shaped current political system in the Philippines framed by the Constitution adopted in 1987. First of all, it is American legacy. The uniqueness of the Philippines arose from the fact that it is the oldest Asian democracy and former American colony. During the Spanish-American War in 1898 Americans helped Filipinos to bring to an end the period of Spanish domination that had lasted for over three hundred years. In consequence, the First Philippine Republic was proclaimed in Malolos City, north of Manila. However, because it was not recognized by the United States of America, Spain and other countries, the state lasted less than three years. Due to mounting impact of the U.S., much more hostile American-Philippines War began soon and in 1902 the Philippines became formally colony of the United States of America. This period impacted the Philippines in several ways. One of them is visible in the 1935 Commonwealth Constitution. It was adopted after the United States Congress had passed Tydings-McDuffie Act and later on Hare-Hawes-Cutting Act promising the Philippines (under several economic and military conditions) independence in 10 years period. The Constitution approved by Franklin D. Roosevelt imitated the Constitution of the United States with its strong presidential system as a main characteristic. In 1940 the Constitution was amended into even more American manner. Four-years-long presidential tenure with possibility of re-election was introduced instead of a single six-years-long term.<sup>2</sup> Moreover, with the amendment an executive branch was reorganized by establishment of the Senate and House of Representatives instead of unicameral National Assembly. Even though, the Presidential character of the state was preserved.<sup>3</sup> The 1935 Constitution with above amendments was in force from 1946, after independence had been regained by the Philippines, up to 1973 (except three-years-long period of Japanese occupation).

Second source of institutional legacy may be traced in the era of Ferdinand Marcos. Due to his initial popularity, he was the first post-war Philippine President who won re-election. However, he is much more remembered for Martial Law imposed in 1972. The end of Marcos second term was expected in 1973. It provoked works over replacement of the 1935 Constitution and Marcos publicly called to suspend the relics of colonial order represented by it. As a result, the 1973 Constitution was designed as parliamentary system, characteristic rather for European states than for the United States, with a strong government and the President as the symbolic head

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<sup>2</sup> It is interesting that until the Twenty-Second Amendment ratification in 1951 to the American Constitution, the model for the Philippine Charter has not limited terms for the President. The limitations set in the Philippines regulations might be seen as a tool for securing transition of power in a country without long-standing democratic traditions.

<sup>3</sup> See P. Abinales, D. Amoroso, *State and Society in the Philippines*, Rowman & Littlefield Publishers, New York 2005, pp. 134-167; J. Ruland, Constitutional debates in the Philippines: From Presidentialism to Parliamentarism, *Asian Survey* 2003, Vol. 3, pp. 461-484.

of the state. He was elected for a six-year term from the Members of the single-chamber National Assembly which replaced bicameral Congress. Executive power was exercised by the Prime Minister who was also elected from the Members of the National Assembly. The Prime Minister was not only the head of government and Commander-in-Chief of the armed forces. Marcos became the Prime Minister and concurrent the President. Therefore, façade parliamentary style with token opposition in the National Assembly was needed as an evidence of democratic character in a new regime. The name of the executive branch referred to the initial nomenclature of 1935 Constitution. It was a way of legitimizing the new order by showing its symbolic embeddedness in the political tradition.

The Marcos era ended at the beginning of 1986. Widespread public unrest resulted in massive non-violent demonstrations in Metropolitan Manila. People supported by Church hierarchies and some generals who transferred their loyalty forced Marcos to leave the post and the country. He was replaced in the office by Corazon Aquino, a particularly popular wife of the opposition leader shot during Marcos dictatorship. In an important and controversial article published in *Atlantic Monthly* in the same year James Fallows stated: "In a sociological sense the elevation of Corazon Aquino through the EDSA revolution should probably be seen not as a revolution but as the restoration of the old order. Marcos's rise represented the triumph of the nouveau riche. He was, of course, an Ilocano, from the tough, frugal Ilocos region, in the northwest corner of Luzon. Many of those whom he enriched were also outsiders to the old-money, old-family elite that had long dominated the country's politics (...) Corazon Aquino's family, the Cojuangcos, is part of this landowning elite. (...) Many of her first Cabinet appointees and sponsored candidates for the Senate bear old, familiar names".<sup>4</sup>

Signs of restoration observed by Fallows in 1987 are visible in Constitution enacted in the same year. Typical of a political transition, the 1987 Constitution, which still is in force, was drafted in great haste. In less than six months Constitutional Commission drafted the act which refers to the Constitutional order from 1935 and learns from 1973 Constitution parliamentary tradition. The President directly elected by the people is the official head of the state and has duties in the domain of foreign relations, as in many other states. Moreover, he or she exercises considerable executive power as a head of the cabinet and is recognized as the commander-in-chief of the armed forces. The President nominates extensive number of officers and, differently than in the United States, even appoints fifteen judges of Supreme Court without subject to legislative scrutiny and approval. As with the amended 1935 Constitution, the term of office of the President lasts six years. As within the American governmental system, the legislative branch is vested in bicameral Congress which consists of the Senate and House of the Representatives. However, comparing with the amended Commonwealth Constitution, the term of the representatives has been shortened

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<sup>4</sup> J. Fallows, A damaged culture: A new Philippines?, *Atlantic Monthly*, 1.11.1987.

from four to three years while the number of them has grown from a hundred up to over two hundred and fifty. In the upper house twenty-four Senators serve six-year tenure. The law enacted in the parliament is subject to the veto of the President, which may nonetheless be overturned by two-thirds votes of the Congress.

The 1987 Constitution might be a good example of an institutional learning process understood as a situation, where “error is detected and corrected in ways that involve the modification of an organization’s underlying norms, policies and objectives”.<sup>5</sup> It learns from Marcos’ dictatorship and limits much more than previous Constitution the President’s ability to keep the country under the martial law or in a state of emergency. Moreover, the new Charter adopted the 1935 Constitution’s initial limitation for only one Presidential term without possibility of re-election. Maintenance of the presidential system might be also explained from the institutional learning perspective. Presidentialism does not collide with democracy in such countries as the United States and used to be effective in the Philippines before Marcos. Furthermore, Marcos decided eventually to adopt the parliamentary system in order to implement his regime.

Debates over amendment of the 1987 Constitution started from the very beginning of the fifth Republic. Twice, in 1991 and in 1993, the House of Representatives carried a resolution endorsing the shift to parliamentary government. President Fidel Ramos, who succeeded Corazon Aquino in the office, in his inaugural speech in 1992 emphasized his preference for parliamentarianism. Also his successor, Joseph Estrada, called for Constitutional amendment. After his impeachment due to accusation of bribery the new President Gloria Macapagal-Arroyo expressed the need of passing amendments to the 1987 Constitution. The Cha-Cha, as Filipinos call the Charter Change, was considered as a high priority in Macapagal-Arroyo’s election campaign during the 2004 elections. Since then the Constitution issue has been still present in the political life. The tension toward changing the Constitution is caused not only by its ambiguities, inconsistencies and even grammar errors, which may be blamed on the short time of work by Constitutional Commission just after People’s Power Revolution in 1986.<sup>6</sup> There is a wide range of propositions for amendments such as economic liberalization,<sup>7</sup> federalism issue or implementation of cheaper and

<sup>5</sup> C. Argyris, D. Schon, *Organizational Learning: A Theory of Action Perspective*, Addison-Wesley, Reading 1978, pp. 3, 23.

<sup>6</sup> Joaquin Bernas shows an instructive example of great haste leading to inconsistencies: “When the present formula was approved the Constitutional Commission was still thinking in terms of a unicameral legislative body. Thus the text is almost verbatim copy of the text of the 1973 Constitution for a unicameral Batasang Pambansa. In the rush, it was not adjusted to the ultimate decision to have a bicameral Congress”, J. Bernas, *A Living Constitution: The Troubled Arroyo Presidency*, Ateneo de Manila University Press, Manila 2007, p. 192. As Jurgen Ruland found, in the Constitutional Commission bicameralists prevailed over unicameralists only by one vote, J. Ruland, *op. cit.*, p. 464.

<sup>7</sup> The most debatable related to economy article of the current Constitution states: “All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State.

more efficient unicameral legislative branch. However, I intend to focus here on the issue of a shift from Presidential to parliamentary system.

Adherents of the parliamentary system in the Philippines use several arguments to support the change. First of all, the supporters of the Cha-Cha recognize the President's fixed term of office as a key problem. In the Presidential system the executive branch is not responsible to the parliament and dismiss process cannot be triggered by a vote of no-confidence. The only way of expelling the head of state is through an impeachment trial. That guarantees a six-year-long term even for a weak and incompetent President. Moreover, in case of wide distrust to a head of government, "in a Presidential system a government crisis, almost by definition, becomes a regime crisis".<sup>8</sup>

Secondly, in the view of supporters of a parliamentary, a rigid Presidential system may be menacing due to concentration of executive power in one's hands. Joel Rocamora, the expert of think tank Institute of Popular Democracy, puts it this way: "The Philippine presidency is an extremely powerful position, even more powerful than its model, the American presidency. (...) The Philippine President appoints a large number of people in the bureaucracy, over a hundred thousand positions by some estimates (...) the President's control over government finances is similarly extensive. Although Congress theoretically has the 'power of the purse', the President's line item veto, and control over disbursement gives him much greater power than Congress".<sup>9</sup>

Thirdly, Rocamora, among other supporters of the Charter change, believes that the parliamentary system will also strengthen public mobilization in the Philippines, where party system is weak. He argues that "If voters choose between parties instead of individual candidates, it will lessen the intensity of personal and clan contests which are the main sources of violence and money politics. Parties will then be required to strengthen the organizational and programmatic requirements for electoral victory. Minimally, parties will be forced to distinguish themselves from each other enough for voters to make choice. The shift in the center of gravity of organizational work away from individual candidates will force parties to strengthen themselves organizationally".<sup>10</sup> In other words, parliamentary

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With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens." *The Constitution of the Republic of the Philippines*, art. XII, sec. 2.

<sup>8</sup> See. J. Ruland, *op. cit.*, p. 467.

<sup>9</sup> J. Rocamora, Philippine political parties, electoral system and political reform, *Philippines International Review* 1998, Vol. 1, No. 1, <http://www.philsol.nl/pir/JR-98a.htm> (28.10.2009); B. Van de Loo, The failure of the Philippines presidential system, *Asia Europe Journal* 2004, Vol. 2, p. 293.

<sup>10</sup> J. Rocamora, *Political Parties in Constitutional Reform*, [www.ipd.ph/features/july\\_2003/political\\_parties.html](http://www.ipd.ph/features/july_2003/political_parties.html) (28.10.2009).

system with strong parties is perceived as a remedy for “crony capitalism” and “turncoatism”, which means bandwagoning on the Presidential party after election.<sup>11</sup> In this view “the Philippines’ central institutional problem is the lack of program-based political parties – those emphasizing policy over personality and governing principle over patronage”.<sup>12</sup> This long durable tradition is sometimes called partyless democracy.<sup>13</sup>

The fierce supporter of a parliamentary system is the current President Gloria Macapagal-Arroyo. According to her “the system clearly needs fundamental change — and the sooner, the better.”<sup>14</sup> Jurgen Ruland claims that after she became the President “among political scientists, Constitutional lawyers, journalists, and politicians, the clamor for major Constitutional amendments and even a complete rewriting of the Constitution has been rapidly growing. The desire for major changes includes a widely shared understanding that the country’s time-honored Presidential system should be replaced by a parliamentary form of government.”<sup>15</sup> Also scholars outside the Philippines advice the Constitution change. Dutch researcher Bastian van de Loo in the article *The Failure of the Philippines Presidential system* states that “as long as the current Presidential system continues to exist in the Philippines the chances for building a strong state are slight.”<sup>16</sup> In his view, like in Rocamora case, the Presidential system prevents elected members of legislative to take a more independent position from post-colonial oligarchy.<sup>17</sup> He quotes David Wurfel, Canadian scholar, who claims that “an executive-dominated Constitutional system facilitated intra-elite competition and (...) almost never implemented policies contrary to the interest of men of great wealth.”<sup>18</sup>

It is striking that all the Presidents elected after the enactment of the 1987 Constitution have made attempts to reshape political system. As mentioned above, Presidents Ramos and Macapagal-Arroyo firmly endorsed a shift to a parliamentary system. The more complex is the case of President Estrada. He was not completely clear what were his objectives for the Cha-Cha. He declared that his motives were mainly economic in nature, but political issues such as introducing of re-election indirectly occurred as well and public opinion was afraid of the unannounced political change. Moreover, until the impeachment of Estrada in 2001, Macapagal-Arroyo, the keen adherent of parliamentarism, served as his vice-President. What is

<sup>11</sup> See: *ibidem*, p. 273, and J. Ruland, *op. cit.*, p. 468.

<sup>12</sup> P. Abinales, D. Amoroso, *op. cit.*, p. 292.

<sup>13</sup> See: A. Doronilla, *The State, Economic Transformation and Political Change in the Philippines 1946-1972*, Oxford University Press, Singapore 1992.

<sup>14</sup> Arroyo urges shift to parliamentary government, *New York Times*, 5.07.2005.

<sup>15</sup> J. Ruland, *op. cit.*, pp. 462-463.

<sup>16</sup> B. Van de Loo, *op. cit.*, p. 257.

<sup>17</sup> *Ibidem*, p. 260.

<sup>18</sup> D. Wurfel, *Filipino Politics. Development and Decay*, Cornell University Press, Ithaca 1988, p. 328,

more interesting, few years after Macapagal-Arroyo had been sworn into office and become conflicted with Estrada, he joined the Charter change opposition.<sup>19</sup>

It would be strange if the ruling elite changed the Constitution which gives them, according to Van de Loo and Wurfel claims, such a huge power. Perhaps the fixed term of executive branch typical of a presidential system is not such a bad solution. It is criticized for lack of an opportunity to dismiss President except for impeachment trial in case of breaking the law. But on the other hand, the fixed term prevents from overextending the term of the office. It seems to be an important feature in countries like the Philippines, where doubts over stability of democracy are expressed regularly.

In a parliamentary system, the power can be maintained by election fraud for a long period of time without conclusive evidence of undemocratic practices. The discussion if the head of government has broken the law is indeterminate. In case of the Presidential system, it is much easier to find if the fixed term was exceeded. Particularly in the case of the Philippines, where the Constitution prohibits from re-election. The single-term limitation explains why some politicians want to change the Constitution. However, it also explains why ordinary Filipinos are not so eager for the change. Even if, as it was mentioned, politician scientists, journalists and politicians themselves from many different reasons opt for revision of the Charter, majority of voters are against it. The Social Weather Station Survey reports indicate that opposition to Constitutional amendment amounted from 77 up to 86% in 1996, around 67% in 2006 and 80% in April 2009. Moreover,  $\frac{2}{3}$  of Filipinos believe the Cha-Cha is projected to extend President Macapagal-Arroyo term beyond the 2010 election.<sup>20</sup> Perhaps they are overcautious, but at least they learn the lesson from the beginning of the Marcos regime, when he introduced parliamentary system in the 1973 Constitution.

The head of government elected directly by the people for a fixed term typical of a Presidential system has one more advantage over a Prime Minister in the parliamentary system. There is no possibility to sworn into the office a figurehead manipulated from behind the scene by, for example, generals. The will of the people always indicates the head of government. Moreover, due to separation of powers, he is not dependent upon the legislative branch. The Presidential system brings stability but, as it was visible in Rocamora writings, is accused of overconcentration of executive power in a single person, the President. However, perhaps Jurgen Ruland is right claiming that “compared to other Presidential system, in the Philippines,

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<sup>19</sup> J. Bernas, *A Living Constitution: The Abbreviated Estrada Presidency*, Ateneo de Manila University Press, Manila 2003, pp. 203-211; <http://www.gmanews.tv/story/139688/Estrada-vows-to-lead-nationwide-anti-Chacha-drive> (10.10.2009).

<sup>20</sup> J. Bernas, *op. cit.*, p. 211, M. Mangahas, “No” Vote in Cha-Cha Plebiscite Rises to 67%, SWS Media Release: 13 July 2006, <http://www.sws.org.ph/pr060713.htm> (28.10.2009), P. de Coro, 2 of 3 Pinoy Believe Cha-cha Aims to Extend Arroyo Term, <http://www.gmanews.tv/story/163860/2-of-3-Pinoys-believe-Cha-cha-aims-to-extend-Arroyo-term-IBON> (28.10.2009).

Presidents can hardly be considered overly powerful. As a legacy of the Marcos regime, the Presidential position has been weakened considerably. Compared to the 1935 (amended – F.C.) Constitution, Philippines are restricted to only one term and their emergency powers are subjected to tight legislative supervision. Moreover, unlike some of their Latin America and Central Asian counterparts, they do not have decree-making powers (...) the vice Presidential post elected on a split ticket may also help curb Presidential power, especially if coming from an opposition party.”<sup>21</sup> Thus, it seems that Filipino political system joins the stability needed when separatist movements are present in the state with limitation of executive power which protect from authoritarianism.

The Rocamora’s main argument in favour of parliamentary system suggests that it helps to create strong party system which, in turn, impacts positively on public mobilization. However, on the one hand, as the cases of Thailand and India among others show, the parliamentary system does not guarantee the strong party system and, on the other hand, the Presidential system is not necessary obstacle for it, as show the experiences of Chile, Costa Rica and Uruguay.<sup>22</sup> It seems that a party system is more determinate by an election procedure than by a characteristic of an executive power. At the end of the day, a political system in the United States is much more similar to the Westminster parliamentary political system in Great Britain than to another Presidential system in France. Moreover, public participation in the public life seems to constitute a problem not only in the Philippines and other presidential republics. In the age of post-politics, as Slavoj Žižek calls it, characterized by mediatization of reality and the end of age of ideology, political programs are more and more similar. Therefore, parties rather manage their image than struggle over ideological visions.<sup>23</sup> As an outcome, people mobilize only in short election period, when they are bombarded continuously by political advertisements. Hence, low public mobilization in the politics seems to pose the problem of modern democracies and parliamentary systems are not better immunized against it than presidential system, as Rocamora claims.

Summing up, I would like to refer to the question in the title of the article. Will the implementation of parliamentary system bring the higher social mobilization and less horse-trading politics attributed, with some simplification, to European developed democracies as Rocamora and Van de Loo want? Or, will the Russian scenario, where the former President Vladimir Putin can maintain the power without limits as a Prime Minister come true? In other words, is the repetition of the Marcos’ Constitution scenario, which scars many Filipinos, possible? In my view both scenarios are exaggerated. In modern, complicated political systems even the most

<sup>21</sup> J. Ruland, *op. cit.*, p. 469.

<sup>22</sup> See *ibidem*, p. 473.

<sup>23</sup> See S. Žižek, *The Ticklish Subject: The Absent Center of Political Ontology*, Verso, London 1999, pp. 198-204.



important legal act is alone not enough for absolute determination of the political reality. Behaviorist John B. Watson said “Give me a dozen healthy infants, well-formed, and my own specified world to bring them up in and I’ll guarantee to take any one at random and train him to become any type of specialist I might select – doctor, lawyer, artist, merchant-chief and, yes, even beggar-man.”<sup>24</sup> Similarly, some experts and politicians think that the Constitution amendment is the certain way to change the reality in an intended direction. However, the reality seems to be much more complex. Changing a Constitution is not a magic pill. It is troublesome process especially in the Philippines, where amendment procedures are not completely clear. What is more important, “Constitution acquires legitimacy with age, frequent amendments undermine the trust of the people in the highest law of the land.”<sup>25</sup> Therefore, I agree with Ruland that electoral reforms and other important reorganizations do not require Constitutional amendments and are easier to pass. Nevertheless, perhaps some minor amendments in the Constitution should be done. Fears of the Charter change opponents, on the other hand, seem to be equally exaggerated as dreams of adherents of the amendment. The Constitution change itself cannot just introduce an illegal actions. Usually, a new Constitution is an outcome, not the reason, of an undemocratic regime.

The Constitution seems not to be the main obstacle of Philippines development. As long as there is an issue of Muslim and communist rebellions, as long as there exists patrimonial political culture, the change of the Constitution will not bring real improvement. However, the Constitution, as a fundamental legal act, is the easy point to focus the attention of politics and public opinion on. It does not mean that the Constitutional debate is an artificial problem. The Constitution reflects and shapes values of a certain society, but just as one of many factors. The old true of social sciences says that monocausal explanations are simplifications. Constitutional analyses in political science and sociology are needed, but we shall remember that it is only a part of the more complex story.

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<sup>24</sup> J. Watson, *Behaviorism*, Transactions Publishers, New Brunswick 2009, p. 82.

<sup>25</sup> J. Ruland, *op. cit.*, p. 478.

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## **EUROPEIZACJA CZY „ROSJANIZACJA”? DYLEMATY ZWIĄZANE Z REFORMĄ SYSTEMU POLITYCZNEGO NA FILIPINACH**

**Streszczenie:** Artykuł podejmuje temat jednej z najistotniejszych debat politycznych toczonych obecnie na Filipinach. Od 1987 r., kiedy po upadku reżimu Ferdinanda Marcosa w szybkim tempie przyjęto konstytucję, nieustannie pojawiają się pomysły radykalnego przekształcenia ustroju politycznego. Artykuł opisuje z perspektywy historycznej polityczny kontekst tej debaty. Ponadto wskazuje główne argumenty zwolenników i przeciwników zmiany konstytucji.