

Counter-Revolution in the 'New Society'

A. 'Intercepting the Forces of Change' and 'Priority of Origination over Functionalization' (*continued*)

Amidst the 'chaos' of *origination* conflicts, and with the masses' 'poverty' and 'ignorance' functionalized by varied groups, Marcos and the so-called September 21 movement moved to intercept the swing of power to the revolutionary Left. And after he had declared martial law (September 1972), his right-wing clique instituted sweeping measures and policies which forcibly restructured state-oriented relationships. To make this regime's *tour de force* acceptable to the Filipinos, however, the 'democratic revolution' was to rationalize and sublimate a de-constitutionalizing or de-hegemonizing of folk-charismatic relationships. They were what we have called a 'doubly centripetal' strategy. Needless to say, the dynamics of such changes were underpinned by such purposes as to moralize and legalize the concentration of *puissance* and *pouvoir* in the martial law regime. But the manner of fixing ultimate responsibility followed that--at least verbally--of the Old Society's constitutional ordering and habitual usages of legal authority. The struggle for 'sovereignty' had been won.

What is the significance of all this in relation to 'revolutionary change'? Among others, based on the regime's *functionalization* scheme the significance of Marcos's manoeuvring may be described according to its level of rationality or usefulness--that is, whether formal or substantive. (Basically understood, there is 'formal rationality' when the efficiency or usefulness of the *means* is of such a degree as to enable one to achieve given *ends*. But 'substantive rationality' refers to what are *generally accepted* as desirable or beneficial ends by those concerned, given certain assumptions.) In relating one to the other within a specific type of social

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formation,¹ it may be justifiable to say that the substantive needs and rights of the masses will determine the government's formal strategies--or that they ought to do so. This is the same as saying that the choice of any means, *ceteris paribus*, will always depend upon (and are to be determined by) the kind of ends to be achieved. But, in fact, this was not the *functionalization-over-origination* priority model of the New Society. Neither was it the case of *origination-over-functionalization* rationalizing. In truth, as the regime became secure the relations between substantive and formal rationalities were reversed and thus, for the masses, became contradictory. The formal was now going to determine the substantive; and whatever ends it might realize, entail certain effects for them. This was due to the fact that *functionalization* was nothing but a *camouflage* for the regime.

Accordingly, the regime's *functionalization* (specifically, the 'means') may be directly linked or contraposed to its *origination* relations (the 'effects'). Among other instances, Marcos's 'democratization' (i.e., of power, wealth) materialized through the institutional removal and exclusion of the so-called oligarchs from their traditional, charismatic positions of power and authority in state-oriented relationships. But far from benefiting the plebeian masses, it led to the unprecedented concentration of political power and of enormous wealth in himself, his family and relatives, and their close associates. The 'emancipation' of the people from the alleged injustices of the Old Society resulted in their more conspicuous bondage to the New Society's ordering--or what Quijano de Manila calls 'the living death that faced us with Marcos and after'.² And his professed policy towards the 'conquest of poverty' gave rise to even more widespread impoverishment and extreme inequality of income among them at least from the early 1980s onwards--with increased overseas indebtedness, dependent development, and the so-called crony capitalism. In sum, the so-called democratic

¹ The typology of 'social formation', for our purposes, depends mainly on the *locus* of sovereignty. See the analysis of this concept in chapter 3, *supra*.

² Quijano, *The Quartet of the Tiger Moon* (n.p.: Book Stop, 1986), 106.

revolution (with or without 'priority', whatever its merits) gave way--or facilitated the people's 'consent'--to the absolutist counter-revolution; that is, no sooner had it been already a *fait accompli* with or without a 'de-hegemonizing' revolution. In these specific ways of *origination* and *functionalization* the regime did establish the New Society. It *consolidated* its power over the government, *suppressed* dissent by the opposition, and, in instituting crony capitalism, *expanded* economic activity. How did all this happen?

B. Further 'Provocations': Building the New Society

No sooner had Filipino society come under martial law than President Marcos, his wife, First Lady Imelda Romualdez-Marcos, and crony bureaucrats and landlords effectually secured and stabilized the regime's newly-acquired sovereign authority--purportedly, to institute 'drastic and substantial reforms in all spheres of national life'. *In what ways could these means be rationalized formally? And what were their significant effects especially for the masses?* In 'political-legal' terms, *de jure* authority was already his (that is, Marcos's) from the moment he proclaimed martial law in 1972. Philippine constitutional law and jurisprudence explicitly provided for it; and the Supreme Court subsequently upheld him in the so-called martial law cases.³ But based on the old (1935) Constitution, both his lawful authority and the martial law regime itself (under which such authority was to be exercised) would have remained merely 'constitutional'--no more than a limited *pouvoir constitue*--and which would have ended in any case with the expiration of his tenure in December 1973.⁴ In spite of this, it soon became apparent that they did not intend to

³ See, e.g., such cases as *Aquino v. Ponce Enrile*, 59 SCRA 183; *Javellana v. Executive Secretary*, 50 SCRA 30; *Planas v. Commission on Elections*, 49 SCRA 105; *Aquino v. Military Commission No. 2*, 63 SCRA 546; *Sanidad v. Commission on Elections*, 73 SCRA 333, and others. See also Rolando V. del Carmen, 'Constitutionality and Judicial Politics', in *Marcos and Martial Law in the Philippines*, ed. David A. Rosenberg (Ithaca and London: Cornell Univ. Press, 1979), 89.

⁴ See, e.g., T. J. S. George, 'Ferdinand Marcos on a fateful move', *Far Eastern Economic Review*, Sept. 30, 1972, 12, for an interview with Marcos.

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relinquish their power and authority in so short a time, even as clearly sufficient means had already been acquired by them to commandeer the whole State's bureaucracy and enable themselves to become the *pouvoir constituant*. Thus, the *de jure* martial law inevitably passed into *de facto* sovereign martial law--and constitutional mediation was taken over by non-constitutional mediation.

Nonetheless, the old *de jure* forms of 'positive opportunity' in the legal order were, nevertheless, verbally invoked to justify martial law according to the New Order's standards of conventional lawfulness and validity. And this was so even though the regime's absolutism had already swept away all constraints within the moral order. In so doing the regime retained *pro forma* the Old Society's constitutional ordering and juridical forms of justification as well as its customary usages of 'legal authority'. As a result the regime was able to exercise sovereign power at the same time that it appeared (or at least argued effectually) to have lawful authority. At least in the early stages of the regime's counter-revolution, apparently, most Filipinos (whether rich or poor) did not oppose him;⁵ neither did the United States' Nixon administration.⁶ Marcos's 'double-talk' strategy had thus paid off. Anyhow, even as he verbally took up the cause of the poor and ignorant, it once seemed he had based the regime's survival and progress towards the 'Right of Center': that is, the 'conservative military, medium and small landowners and large urban entrepreneurs and their

5 See T. J. S. George, 'Mr. Marcos and a reverse revolution', *Far Eastern Economic Review*, Sept. 30, 1972, 11. See also William H. Overholt, 'The Rise and Fall of Ferdinand Marcos', *Asian Survey* 26 (Oct. 1986): 1140, 1142.

6 See a discussion of U.S. involvement--i.e., under Presidents Nixon, Ford, and Carter--with the Marcos regime in Noam Chomsky and Edward S. Herman, *The Washington Connection and Third World Fascism, The Political Economy of Human Rights* (Boston: South End, 1979), 1: 230-242. On various support schemes, see Stauffer, *op cit.*, ch. 1, 1 et seq. And on the Reagan Administration's attitude towards the Marcos regime, see Robert A. Manning, 'The Philippines in Crisis', *Foreign Affairs* 63 (winter 1984-85): 405 et seq.; and Fred Poole and Max Vanzi, *Revolution in the Philippines* (New York: McGraw-Hill, 1984), ch. 5, 57-83. Cf. Douglas J. McDonald, review of *Waltzing with a Dictator: The Marcoses and the Making of American Policy*, by Raymond Bonner, *The Journal of Politics* 50 (Feb. 1988): 246-248.

managerial technocrats'.⁷ Following upon all this, contemporary state-oriented relations were restructured, even as elite-plebeian social roles in folk-charismatic relationships were being continually re-determined.

On the other hand, a new draft constitution was approved by the Constitutional Convention (which Marcos had by now dominated) in November 1972--two months after Proclamation no. 1081, declaring martial law, went into effect. It was then overwhelmingly 'ratified' by the 35,000 hastily-organized Citizens' Assemblies between January 10 and 15, 1973: 14,976,561 members (or 97%) voting for its adoption and 743,869 (or 3%) against. Nominally, it became the 'fundamental law' of the new legal order, and afterwards took effect as the main outward basis of constitutional mediation. It was then judicially confirmed by the Supreme Court.⁸ Yet whatever else it might (not) be, it could not have been meant (functionally or logically) to delimit Marcos's absolutist powers--but to validate them *ex post facto*. And in constitutional-law terms, the regime was 'despotic government'.

Accordingly, all proclamations, orders, decrees, and other writs and commands which were already issued--as well as to be issued, especially under the 1976 amendments--by Marcos and his authorized agents obtained constitutional fiat.⁹ In fact, he was also given, besides his powers under the 1935 Constitution, such other powers and prerogatives as were now vested in the president and prime minister under the recently-adopted constitution.¹⁰ This composite executive jurisdiction (which the Supreme Court decided also included 'constituent powers') dovetailed with the legislative powers which he had already been exercising as the martial law commander in chief of the Armed Forces. And even after the lifting of martial law in January 1981, Marcos continued to have considerable

⁷ See, e.g., Jose Veloso Abueva, 'Ideology and Practice in the "New Society"', in Rosenberg, *op cit.*, 55.

⁸ In particular, see *Planas v. Commission on Elections*, 49 SCRA 105; *Javellana v. Executive Secretary*, 50 SCRA 30; and *Roxas v. Melchor*, L-36165. See also Proclamations no. 1102 and 1103, both dated Jan. 17, 1973.

⁹ See Phil. Constitution (1973), art. 17, sec. 3(2).

¹⁰ See *ibid.*, art 9, sec. 3(1), and sec. 16.

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constitutional and legal powers. As a matter of fact, under the 1976 amendments, he could continue to rule by decree whenever in his judgment, 'there exists a grave emergency or a threat or imminence thereof, or whenever the *Interim Batasang Pambansa* or the regular National Assembly fails or is unable to act adequately'.¹¹ The fact that the *Batasan* had already been convened since 1978 and the National Assembly, which superseded the *Batasan*, in 1984--as 'duly' constituted legislative bodies--did not detract much from his authoritarian powers. As he might possibly have seen fit to do, he could still veto their decisions or enactments just as decisively, or even dissolve them outright--but no less constitutionally in any event. His legislative-executive powers, therefore, had always been insurmountable; and, seemingly, those of his regime's were--to use Bodin's expression--'absolute and perpetual'.

Still, Marcos sought to install 'non-constitutional/despotic' sets of institutions and relationships. These absolutist schemes required the 'politicization' of both the military or armed forces and the economic relations of production as well as distribution. But by all means both of them were to remain under his 'constitutional' control. Towards this end, therefore, his propagandists had made up and extolled his 'leadership' and 'charismatic' qualities. Among others, his supposedly outstanding background--as a student, lawyer, soldier--had for long become all but legendary. And his tactical and rhetorical skills had convinced many Filipinos--besides millions of his *kababayan* (province-mates) in the so-called Solid North (i.e., the clannish *Ilocanos*)--to continue their faith and trust in his political vision and ingenuity. (Indeed, he had been widely known as the most decorated Filipino war hero in World War II, an exceptionally brilliant lawyer, etc.) He was, as Romulo said, the 'whole man'; and 'the philosopher and politician, the soldier and statesman'.¹² As the all-powerful leader of the New Society, he portrayed himself as the 'one who rules sternly with justice but who will use all the

¹¹ Rodney Tasker, 'The president's new clothes', *Far Eastern Economic Review*, Oct. 17, 1980, 26.

¹² Carlos P. Romulo, foreword to *The Democratic Revolution in the Philippines*, by Ferdinand E. Marcos (n.p., n.d.), 22 and 25, respectively.

coercive power of the state to maintain order'.¹³

Thus, amidst public criticism of contemporary politicians and a notoriously corrupt bureaucracy, his New Society ideology and his supposed Augustan-like 'charisma'--along with his 'unique' martial law--seemed to have contributed much in bringing about an effective apologia and sanction for the regime's absolutist *pouvoir constituant*. In the mid-1960s and the early 1970s, he had seemed to many Filipinos to fulfill their hope for a virtual 'Chosen One' or a political 'Messiah'--or at least a *facile princeps* (no doubt, an exaggerated 'optimistic personality cult'). And it was as if the whole body politic had become what one writer called 'archetypal common folk . . . doomed by fate not to care beyond what was immediate and to hand'.¹⁴ And so, in effect, it seemed the people consented; and Marcos had secured a new mandate. The politicization of the military and economic sectors had by then become effectual.

a. Consolidating his Power over the Government; and Usurping the *Ilustrada's* Traditional Authority

As soon as martial law had taken effect, large-scale institutional and functional changes occurred. He cashiered the vice presidency which had been occupied since 1965 by now the 'oligarch-antagonist' Fernando Lopez. He also abolished both houses of Congress, namely, the Senate and the House of Representatives, where oligarchic interests had had powerful representation. The judiciary was overhauled, and the Supreme Court's jurisdiction (both original and appellate) restricted.¹⁵ Other constitutional offices, such as the Commission on

¹³ Stauffer, op cit., 46. He considers this as characteristic of the Marcos regime's 'corporatist' tendencies. On the whole, different sectors (e.g., economic, mass media, labor, etc.) had been 'rationalized'; or otherwise organized into broad-based but unified institutions under the coercive leadership of the regime. See *ibid.*, ch. 3, 44-54.

¹⁴ See Carmen Navarro Pedrosa, *The Rise and Fall of Imelda Marcos* (Manila, 1987), 1.

¹⁵ It could not, for instance, review a case covered by a Preventive Detention Action (PDA). See General Order (GO) no. 3, Sept. 22, 1972; and GO 3-A, Sept. 24, 1972. And see Presidential Decree (PD) no. 185, 7 May 1973. Also see *The Asia Letter*, no. 999 (Aug. 16, 1983).

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Elections (COMELEC) and the Commission on Audit (COA), were likewise revamped. As a matter of course, however, numerous military tribunals were created and their jurisdictions defined from time to time.¹⁶ And in a sweeping manner he commanded that the national government, local governments, and public corporations 'shall continue to function . . . until otherwise ordered by me or by my duly designated representative'.¹⁷ As a result, all government institutions as well as their entire staff--that is, if they remained part of the bureaucracy--retained their new status only at the absolute discretion of the president and his martial law regime. Three years after, one Asian periodical noted that 'the Philippines is almost certainly the most stable country in Southeast Asia . . . and that President Marcos is more firmly in the saddle than ever before'.¹⁸

Yet numerous other changes occurred. With much greater emphasis now being placed on the regime's need for their loyalty to it and also for higher levels of efficiency, the military and paramilitary forces, as well as the police and intelligence networks, had been integrated and refurbished with massive aid by the United States.¹⁹ (The military forces alone had been increased from approximately 60,000 troops in 1972 to more than 250,000 by 1975. Their operational budgets had also increased many times over, but so did their average salaries.) Additional powers and jurisdiction were given to the minister of defense and other high-ranking military officers. And many of those who had already retired were recalled and

¹⁶ See GO no. 8, Sept. 27, 1972; GO no. 12, Sept. 30, 1972; GO no. 12-A, Oct. 2, 1972; GO no. 12-B, Nov. 7, 1972; GO no. 12-C, Nov. 9, 1972; GO no. 49, Oct. 4, 1974. They were disbanded upon the lifting of martial law on Jan. 17, 1981: See GO no. 69, Jan. 12, 1981, and Procl. no. 2045, Jan. 17, 1981.

¹⁷ GO no. 3, Sept. 22, 1972. See also Phil. Constitution (1973), art. 17, sec. 9.

¹⁸ See Peter Bathurst, 'New Directions for the New Society', *Far Eastern Economic Review*, *Philippines '75 Focus*, June 13, 1975, 7.

¹⁹ See Geoffrey Arlin, 'The Organizers', *Far Eastern Economic Review*, July 2, 1973, 16, 20-22, in which he claimed that the U.S. AID/OPS had been involved 'in reorganizing, funding and training the Philippine police apparatus both in the Philippines and the US from 1965 to September 21, 1972'.

appointed to state corporations and agencies. Expanding the economic planning process as well, the National Economic Development Authority (NEDA), Board of Investments (BOI), Development Academy of the Philippines (DAP), and other administrative agencies were created or reorganized to insure centralized direction to the task of 'development'.

Within five years of martial law's declaration, the *Barangay* and *Sanggunian* systems (including their sectoral representation) were organized as *pro forma* representative adjuncts of the regime. And in 1978 regional 'autonomous' governments (regions IX and XII) were set up according to the 1976 Tripoli Agreement with the *Moro* National Liberation Front (MNLF), and based on the proposal of the national *Batasang Bayan* (Legislative Council) which had been organized in 1976. Apart from all this, Imelda Marcos assumed an even more powerful role. Among diverse positions which she already held, she was appointed in 1975 as the governor of Metro Manila (made up of the City of Manila and other adjacent cities and municipalities). And in 1978 she was named minister of human settlements which meant, in effect, that 'she would be governor of all the cities and towns in the Philippines'.²⁰ Thus, as the executive branch was drastically transformed, Marcos was able to take complete control of what he called 'political authority'.

**b. Suppressing Dissent and Opposition
and Formalizing the 'Consent' of the
People to the Regime's 'Authority'**

Meanwhile, the regime had suspended civil liberties, banned the activities of political parties, and instituted a number of other security measures. It also closed down--or forcibly took over--privately-owned newspapers, radio and television stations as well as other media of communication, purportedly, to prevent their use against the government. Actually, only those which had opposed Marcos and his erstwhile pre-martial

²⁰ 'Philippines, Politics and Social Affairs', *Far Eastern Economic Review*, 1979 Yearbook, 281. See also Overholt, op cit., 1148, in which he said that 'as Minister of Human Settlements, she possessed the right to seize any urban property without recourse'.

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law administration were targeted (e.g., the *Manila Times*) or those owned by his oligarch-antagonists (e.g., the Lopezes' *ABS-CBN*) or some militant Church-based publications (e.g., *Signs of the Times*). Takeovers by the cronies of Marcos's and the enforcement of so-called self-censorship subsequently transformed but undermined the credibility of news production. Many Opposition politicians (notably, Senators Benigno Aquino Jr., Jose W. Diokno, etc.) and Constitutional Convention delegates (e.g., Voltaire Garcia, etc.) were rounded up; and so also were many Catholic priests and other religious (e.g., Fr. Edicio de la Torre, etc.), journalists, labor and student leaders, and other activists. Indeed, a few weeks after martial law was announced, about 30,000 people had been arrested and detained without due process. By November 1975 the total number was 50,000. All through the 1970s and down to the 1980s there had been numerous reported incidents of torture and maltreatment of detainees, 'salvaging' (i.e., summary execution of political prisoners), and disappearances (i.e., political detainees who vanished from military custody).²¹

An intensified military campaign was launched both against the communists and the secessionists, although an amnesty was offered to the latter in June and August 1975; and a ceasefire took effect between government troops and the MNLF from December 1976 until late 1977. Before the end of the 1970s, virtually all principal leaders of the CPP-ML and NPA were already in custody. Jose Maria Sison (allegedly Amado Guerrero) himself was captured in November 1977, and Bernabe Buscayno (alias Commander Dante) the year before. And in 1982 military strategists shifted 'the focus of the anti-dissident campaign [to] the communist organizers under the NDF'.²² In April 1983 Horacio (Boy) Morales, the

21 See Amnesty International, *Report of an Amnesty International Mission to the Republic of the Philippines*, 11-28 November 1981 (London: Amnesty International, 1982), 3 et seq.

22 'Philippines, Politics/Social Affairs', *Asia 1983 Yearbook*, 231-232. The NDF (acronym for 'National Democratic Front') was the 'illegal CPP-led umbrella organization which coordinates the activities of different cause-oriented leftist bodies'. See Guy Sacerdoti and Philip Bowring, 'Marx, Mao and Marcos', *Far Eastern Economic Review*, Nov. 21, 1985, 53; and Justus M. van der Kroef, 'ASEAN Security and Development: Some Paradoxes and Symbols', *Asian Affairs* 9 (1978): 145-146.

NDF's chairman, was also seized along with many other dissidents. But as other dissident leaders took their places in the underground, the regime continued to pursue what it called its 'national struggle' against subversion; and it generally suspected nearly any dissent as vaguely subversive or as equivalent to being so.

Meanwhile, by April 1981 the regime had already carried out six national plebiscites and referendums. After the plebiscite in January 1973 in which the new Constitution was ratified in mass meetings, a referendum was held on July 27 of that year: whether Marcos was to continue as president even after December 1973 (that is, when his current four-year term would have lapsed). A massive 90.7% of the votes cast turned in a 'yes' verdict. There was yet another on February 27, 1975--this time at specified polling stations and under regular voting procedures--to approve, among others, the way Marcos was administering martial law (87.6%: 'Yes'), and the continuation of martial law itself (86.7%: 'Yes'). Following the same procedure as in this last vote, a referendum-plebiscite was called on October 16-17, 1976 to approve, among others, the continuation of martial law (97.9%: 'Yes'), and certain constitutional amendments enabling Marcos to establish a new legislature (90.6%: 'Yes'). According to government sources the turnout of registered voters was an incredible 97.2%. On December 17-19, 1977 the issue in another one was whether Marcos should continue as president and prime minister after the organization of the *Interim Batasang Pambansa* (90%: 'Yes'). Finally, on April 7, 1981 certain constitutional amendments about political party accreditation and other matters were affirmed (79%: 'Yes').

At other times elections were also held. On April 7, 1978 *Batasan* members were elected--the first such proceedings since martial law had taken effect. Almost all the one hundred and sixty winning candidates belonged to Marcos's *Kilusang Bagong Lipunan* (KBL) or New Society Movement. In fact, in Metro Manila all the KBL candidates won, and the highest number of votes went to Imelda Marcos. As a result, all of the opposition *Lakas ng Bayan* (People's Power) candidates lost, including the popular Aquino himself, who had run even while being imprisoned at the Armed Forces' Fort Bonifacio. In the local elections in January 1980 KBL

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politicians won 95% of all the elective seats. And in May 1982 *barangay* officials were elected with comparable results. Marcos himself won an easy landslide victory in the presidential election on June 16, 1981--which the moderate (Right) Opposition (e.g., UNIDO) boycotted--obtaining not less than 80% of the total votes cast. Three years later, in May 1984, KBL candidates still won two-thirds of the elective seats in the National Assembly; but the assassination of Aquino in August 1983 had significantly bolstered the Opposition. Through each one of these proceedings--plebiscite, referendum, or election--the regime sought to prove that it had always had the consent of and the mandate from the people.

c. **'Emancipating' the People from the Old Society; and Binding them to the New Society's 'Dependent Development' and 'Crony Capitalism'**

Within a month after martial law was announced, the whole country was proclaimed a 'land reform area'; and all tenant farmers were decreed emancipated from the 'bondage of the soil'.²³ As of the end of April 1974, 250,000 land transfer certificates had allegedly been issued, which covered 360,000 hectares and involved 200,000 tenant-farmers.²⁴ And all tenanted lands covered by the law were to be subdivided among one million small independent farmers before 1980.²⁵ In the aftermath of the food crisis in 1973, long-standing agricultural needs were met with increased credits, fertilizers, irrigation spending, which, in due course, brought impressive results in grain production and output. Rice-sufficiency was supposedly attained by 1977.²⁶ A number of peasant groupings were

23 PD no. 2, Sept. 26, 1972; and PD no. 27, Oct. 21, 1972, respectively. See also Marcos, *op cit.*, 226.

24 See *ibid.*, 227.

25 *Ibid.*

26 See Bernardo Villegas, 'The 5th Column', *Far Eastern Economic Review*, Oct. 31, 1985, 120. See also Philip Bowring, 'The poverty puzzle', *Far Eastern Economic Review*, March 27, 1981, 128; and Carl H. Lande and Richard Hooley, 'Aquino Takes Charge', *Foreign Affairs* 64 (summer 1986): 1088-1090.

created as Non-Government Organizations (NGOs), for instance, FAITH, FFF, FLRF, *Samahang Nayan*, and others. (Nevertheless, 'corporate farming' had also been encouraged since 1974. And this policy brought about results that ran 'counter to the redistribution concept behind the existing agrarian reform program'.²⁷)

Meanwhile, the labor sector had been restructured and unified by industry and region. The right to strike was prohibited under martial law, and remained so in so-called vital industries even after it (i.e., martial law) was lifted in 1981. Instead, compulsory arbitration governed industrial disputes. (For instance, out of some 6,244 cases during martial law, Blas Ople, who was then the minister of labor, said that '75% ended in decisions in favour of the workers, while 23% favoured management and 2% were pending'.²⁸ Labor unions, however, claimed otherwise.) The peace and order campaign was intensified; that is, against common criminals, anti-government radicals, and corrupt government personnel. (For instance, according to Marcos himself, upon lifting martial law on January 17, 1981: '[U]nder Martial law the authorities disarmed 250 criminal syndicates, defused threats of subversion, sedition, rebellion and secession and dismantled 200 private armies, which yielded 650,000 firearms'.²⁹) Among other matters, Marcos also claimed that 'under Martial law the poor had been reached by nutrition and health and family planning programs'.³⁰ In education, more emphasis

²⁷ Eduardo C. Tadem, 'Philippine Rural Development: Corporate Farming or Land Reform?' *Philippine Sociological Review* 29 (Jan.-Dec. 1981): 33.

²⁸ Sheilah Ocampo, 'Striking out alone', *Far Eastern Economic Review*, June 5, 1981, 65. See also PD no. 823, on 'voluntary and compulsory arbitration', dated Nov. 3, 1975; and PD no. 849, Dec. 16, 1975.

²⁹ Ferdinand E. Marcos, 'Encounter with Destiny' (speech proclaiming the termination of the State of Martial law on January 17, 1981, Heroes Hall, Malacanang). See also Sheilah Ocampo, 'The testing time after martial law', *Far Eastern Economic Review*, Jan. 23, 1981, 8, quoting Marcos upon issuing Proclamation no. 2045.

³⁰ *Ibid.* In addition, 'a million homes now have enjoyed electricity. . . . Filipinos were now assured of expeditious, inexpensive, fair justice through the *barangay* (local council) courts', etc. The United Democratic Opposition (UNIDO), however, denied Marcos's 'claims of progress'.

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was given to vocational and technical courses to meet the needs of national economic development; and among other benefits, 4,000 scholarships were offered to Muslims.³¹ Tax collection was reorganized and intensified, and public revenues were raised by various means. In sum, tax revenue increased to the equivalent of 16% of Gross National Product (GNP) compared to 11% in the late 1960s.³² The 'emancipation' of the people from the Old Society was thus supposedly under way.

In 1973 Dr. Gerardo Sicat, then director of the NEDA, was quoted as saying: 'With the new setting for development, with the attractiveness we have already set for the country as a model for foreign investments, and the expansion of opportunities for domestic investment, our country will have the makings of a new economic miracle in Asia'.³³ He was, of course, referring to the new conditions brought about by the martial law regime. Indeed, with its (i.e., martial law's) declaration, massive efforts were made towards laying the agricultural infrastructure, and enhancing economic growth as well as promoting (possibly) 'social equality'. President Marcos had enlisted the expertise of such highly-regarded technocrats as Sicat himself, Cesar Virata, Roberto Ongpin, Alejandro Melchor, and many others. He also had a very select circle of associates or cronies who shared--or had at least known--his supposed vision of emulating Japan's 'Zaibatsu'.³⁴ Among the most formidable of them were Eduardo Cojuangco (a cousin of Corazon Aquino, Benigno's wife), Roberto Benedicto, Rodolfo Cuenca, and Herminio Disini. The former group worked for 'dependent development';³⁵ the latter pursued 'crony

31 See Marcos, *Democratic Revolution*, op cit., 225.

32 See Marcos, 'Encounter', op cit., 7.

33 Philip Bowring, 'Asia's next miracle?' *Far Eastern Economic Review*, Sept. 3, 1973, 39. See also the same writer, 'Test of strength in the Philippines', *Far Eastern Economic Review*, April 4, 1975, 51-54. Cf. Charles W. Lindsay, 'In Search of Dynamism: Foreign Investment in the Philippines under Martial Law', *Pacific Affairs* 56 (fall 1983): 477-494.

34 See Manning, op cit., 395 et seq. See also Overholt, op cit., 1141, in which he said that Marcos sponsored the formation of a group of large conglomerates run by trusted associates (e.g., CDCP) in order to provide the Philippines with analogues of South Korea's Hyundai, Daewoo, and Samsung.

35 See the discussion of 'dependency theory' by Randolph S. David, 'Philippine Underdevelopment and Dependency Theory', *Philippine*

capitalism'.³⁶

This regime also combined with mainly American and Japanese interest groups as well as foreign institutions (e.g., the International Monetary Fund [IMF], the World Bank [WB], etc.) to assure even more stable and lucrative operations for foreign businesses in--and to attract them to--the Philippines. In so doing they opened up banking facilities to foreign interests and encouraged domestic joint-ventureships with transnational corporations (TNCs). And the cronies made vast business empires and enormous fortunes through exclusive import and export rights, tax exemptions, and monopolies (e.g., the sugar and coconut industries under Benedicto and Cojuangco, respectively). But in order to support the national economy (that is, to finance the massive development projects and for stabilization purposes), the regime embarked on so-called deficit financing. Thus, public borrowing became the measure of its commitment to development. And the State's foreign debt rose from \$US2.2 billion in 1972 to \$US29 billion by 1985. As Stauffer puts it, there ensued 'a more complete integration of the Philippine economy into the world market system . . . than at any time in Philippine history'.³⁷

Sociological Review 28 (Jan-Dec. 1980): 81-87. On the role of the technocrats in the Marcos regime, see R. S. Milne, 'Technocrats and Politics in the ASEAN Countries', *Pacific Affairs* 55 (fall 1982): esp. 410-417. For a brief but significant discussion of the role of TNCs, see Robyn Lim, 'Foreign Investment and Philippine "Development"', in *Transnational Corporations in South East Asia and the Pacific*, ed. Ernst Utrecht (Sydney: TCRP, Univ. of Sydney, 1982), 4: 97-120.

³⁶ See Guy Sacerdoti, 'Friends of the first family', *Far Eastern Economic Review*, Oct. 31, 1985, 104: 'Many of the economic ills facing the country are blamed on crony capitalism, a system built by President Marcos during the 1972-81 martial-law years designed to place key economic sectors under the control of trusted friends'.

³⁷ Stauffer, op cit., 47, wherein he says that 'corporatist tendencies' had been associated with such integration, greater penetration by transnational corporations, and a variety of multi-lateral banking consortia, etc.

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C. Towards Realizing 'Revolution as Effect': The 'Weakness' of the Conservatives Again?

Between Marcos's martial law proclamation in 1972 until the collapse of the regime in February 1986, the 'revolutionary situation' which had built up in the late 1960s and the early 1970s irretrievably aggravated. Try as it could have to avert it (but had in fact not), the regime produced such effects in the practice of *origination* as could only have been without 'substantive rationality' under its *functionalization* scheme. Contrary to such rationality, there was even no showing that the regime recognized seemingly 'constant' values in such ideals as justice and peace, agrarian democracy, democratization of power and wealth, or the constitutional 'blessings of democracy under a regime of justice, peace, liberty, and equality'.³⁸ In fact, as other 'observers' (such as foreign media) have noted and a great many 'participants' (e.g., opponents of the regime) have suffered from: 'After 1975, the reform drive stagnated, even reversed',³⁹ 'the system [of rule] became a self-serving autocracy',⁴⁰ and the State economy broke under Marcos's 'politics in command'.⁴¹

By any measure they contradicted most basic rights and expectations the masses could have had or hoped for--that is, either according to their constitutionally 'sovereign' will in the New Society or their need of social justice from the Old. Yet, for all this the regime's policies or Marcos's mode of governing was not without 'formal rationality'. This much is obvious. Among other instances, that Marcos and his cronies had conspired to monopolize state power in themselves and to amass enormous wealth for themselves could be proved--circumstantially at least--by the arbitrary actions and policies as well as the effects of over twenty years (1965-1986) in which they held control over the political-economic institutions. In

38 This phrase appears in the Preamble to the 1973 Constitution which starts with 'We, the sovereign Filipino people . . .' Cf. the 1935 and 1986 Constitutions. See, e.g., Jose N. Nollado, *The Constitution of the Philippines* (Manila: National Book Store, 1986), 1.

39 Overholt, op cit., 1143.

40 Lande and Hooley, op cit., 1087.

41 Manning, op cit., 398. See also Villegas, op cit., 120-121.

fact, as one foreign writer has noted: '[T]he regime created vast monopolies that squeezed the Philippine poor to the physical limit'.⁴² As a result of all this, non-rational and contradictory effects became unavoidable and insuperable for the masses.

Towards the mid-1980s, the State's economy had faltered and went bankrupt; and the Republic itself became indebted--up to \$US29 billion: 1985--to about 500 foreign creditors.⁴³ But despite public and foreign borrowings for 'development' (e.g., from the IBRD-WB, ADB, etc.) and for 'stabilization' (e.g., from the IMF), neither development nor stability (whether social, political, or economic) materialized.⁴⁴ Especially since the latter part of the 1970s, the dubious political-economic policies of the regime combined with the short shrift effects of the international economy and trade (e.g., the expiration of the Laurel-Langley agreement: 1974; oil price increases: 1970s; recession in the US: 1980s) and produced even more chaotic state-oriented relationships.

Accordingly, industrial and agricultural production declined severely, as also did export and import trade levels. And after the assassination of Aquino in August 1983, more and more foreign and domestic capital (e.g., already over \$US800 million by year's end) pulled out of the country. Still the economy had other features: Among others, for instance, the GNP growth rate sank (i.e., down to 1.39%: 1983; negative performance: 1984; 1985); the peso devalued (e.g., P9.06-\$US1: 1982; P14-\$US1: 1983; P25.5-\$US1: 1985); inflation skyrocketed (e.g., up to 50.3%: 1984; 30%: 1985); unemployment and underemployment worsened (e.g., over 14.7% and 36% respectively--work force: over 20 million: 1985); and average living standards remained low (e.g., medical and health facilities and services very inadequate: 1980s). All in all, this unprecedented economic downturn hit

42 Overholt, op cit., 1144. See also Chomsky and Hernan, op cit., 233: 'Although Marcos spoke of leading a "revolution of the poor", this was cynical demagoguery--he has led a counter-revolution of a rich and expatriate elite'.

43 See, e.g., Rene E. Ofreneo, 'The Philippines: Debt Crisis and the Politics of Succession', *Philippine Sociological Review* 32 (Jan-Dec. 1984), 7.

44 See *The Asia Letter, Special Reports*, no. 998 (Aug. 9, 1983); no. 1052 (Aug. 21, 1984); and no. 1110 (Oct. 1, 1985).

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some already blighted areas hardest (e.g., Negros, Samar, etc.);⁴⁵ and the Philippines' economy as a whole was now the worst--a so-called basket case⁴⁶--in Southeast Asia and the Pacific. Unavoidably, it worsened the endemic disvalues and dysfunctions within folk-charismatic relationships (especially, the population growth rate and neo-colonial educational ideology). Needless to say, in all this the plebeian masses had borne the brunt of the government's political-economic costs and losses; namely, poverty, un-freedom, social injustice--canalized in so-called nineteenth-century-travellers'-tales conditions in the *origination*.⁴⁷ The regime's commitment to 'orthodox forms of dependent development'--carried on through such debilitating measures as 'deficit financing' and 'cronyism'--had thus produced contradictory results for the masses.

On the other hand, from the mid-1960s and increasingly after 1972, billions of dollars had been spent on infrastructure projects (e.g., dams, roads, irrigation) and alternative energy schemes (e.g., hydroelectric, geothermal). But since the mid-1970s capital outlays also went to Imelda's extravagant projects, and the construction of luxurious government offices and five-star hotels, the Disini-negotiated \$US2 billion nuclear reactor in Bataan, a number of export processing zones, and other crony-initiated unproductive schemes.⁴⁸ In fact, since 1977 the trend in public capital expenditures shifted towards the latter and away from the former. Meanwhile, Marcos-associated crony mega-

45 For illustrative discussions, see, e.g., Bowring, 'Poverty puzzle', op cit., 125-131; and Guy Sacerdoti and Jose Galang, 'The seeds of change', *Far Eastern Economic Review*, Oct. 31, 1985, 103-107.

46 See, e.g., Villegas, op cit., 120.

47 On the effects of 'dependent development', see David, op cit., 84; and also see Bowring, 'Poverty puzzle', op cit., 125-131. But even before the economic downturn in the 1980s, the increasing gap between the rich and poor in the Philippines had been conspicuous: See, e.g., Geoffrey B. Hainsworth, 'Economic Growth and Poverty in Southeast Asia: Malaysia, Indonesia and the Philippines', *Pacific Affairs* 52 (spring 1972): 5 et seq.

48 See Villegas, op cit., 120-121; and Manning, op cit., 395. See also *The Asia Letter*, no. 980 (April 5, 1983) on the 'folly' of the Export Processing Zone (EPZ) programs. Cf. *The Asia Letter*, no. 991 (June 21, 1983).

monopolies--which, by the way, the technocrats opposed--among which were Benedicto's PHILSUCOM and NASUTRA and Cojuangco's PCA and UCPB, milked farmers dry and 'lost' billions of dollars in revenue.⁴⁹ They and other cronies also worked themselves into military-backed grants of huge capital-intensive projects, gained access to credits through patronage (e.g., from the PNB, DBP, etc.), and took in huge foreign borrowings (which 'could be siphoned off to Swiss bank accounts' or clandestinely invested 'in real estate and other assets abroad'⁵⁰). But steeped in corruption and scandal throughout Marcos's rule (e.g., Dewey Dee's \$US80 million in unpaid debts: 1981), many of their firms eventually foundered (e.g., CDCP, Herdis Group, Silverio Group). Against the advice of the technocrats, they were then bailed out by the government (at the cost of over P5 billion).⁵¹ In the midst of these excesses and despite the huge inflow of foreign aid and borrowing, the regime's priorities failed or, due to lack of sufficient controls, became prohibitive and disvaluable: among others, the *Masagana 99*, Operation Land Transfer (Land Reform), *Kilusang Kabuhayan at Kaunlaran*. The regime's bureaucracy was also conniving with the TNCs against local entrepreneurs and workers, and graft and corruption in the government mounted (estimated at 10% of the GNP lost annually, e.g., P8 billion: 1982).

In spite of the economic downturn--or rather, as its main cause--super benefits and privileges (e.g., absolutist power/authority, billions of pesos/dollars) continued to be preempted by the Marcoses and their cronies and cohorts. In addition to their massive holdings and other properties within the Philippines, they could have had clandestine accounts and investments elsewhere.⁵² Also important, however, were the

49 See Sacerdoti and Galang, 'Seeds of change', op cit., 105; and Manning, op cit., 396.

50 See Overholt, op cit., 1143; and Nayan Chanda, 'A piece of American pie', *Far Eastern Economic Review*, Jan. 2, 1986, 12-13.

51 See Manning, op cit., 396.

52 See, e.g., "'Comparative Tabulation of Hidden Wealth of the Marcos Family and its Cronies", Released by *Bayang Nagkaisa sa Diwa at Layunin* (BANDILA), . . . September 21, 1985', in Javate-de Dios, Daroy, and Kalaw-Tirol, op cit., 582-584.

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super profits from 'foreign investment' in the Philippines which were funnelled back to the TNCs.⁵³ Between them, in fact, the amount of wealth involved might well be incalculable. But compared to each other (that is, the cronies and the TNCs), as one Filipino writer has remarked: '[T]he main beneficiaries of martial law are not the cronies, which through the World Bank-IMF-US government pressures are collapsing anyway, but the American, Japanese and European transnational corporations which are shopping for cheap sites for their labor intensive, low-technology and segmented jobs as well as new agricultural areas for the production of export-oriented agribusiness products and raw materials required by their industries'.⁵⁴ And, finally, by no means to be missed in this allocation of costs and benefits of 'development' were the IMF, WB, and other lending institutions; and the US, Japan, and other creditor countries all of which had made well-heeled profits. The national economy was then also being reorganized 'along the World Bank-IMF dictated agro-industrial thrust of export orientation and reliance of foreign investment'.⁵⁵ In this way, then, were 'counter-values' to the democratic revolution realized. And to no avail did the martial law-ordained Constitution (1973) set amongst its goals 'the blessings of democracy under a regime of justice, peace, liberty, and equality'. As the *means* of the regime, its *functionalization* scheme thus produced such *effects* as these in the practice of *origination*. Together with all these, however, other contradictory developments (or contrapositions) were also taking shape.

a. **Polarization I: The Marcos Regime, the Neo-*Ilustrado* Opposition Alliances, the Left Insurgency . . .**

In spite of the drastic changes that the regime instituted under martial law, the *origination* relations had absorbed the erstwhile dominant upper-class 'world views' from the Old

53 See Lim, op cit., 116.

54 Ofreneo, op cit., 14.

55 The author observes that such reorganization was the 'main cause of the . . . economic crisis' in the 1980s. Ibid.

Society, as well as renewed the 'relations of production' between the landed oligarchy and the peasantry. As we already know, it also retained, *inter alia*, its policy thrusts of neo-colonial 'dependent development'. Its socio-economic structure and ideological values and relations had thus largely remained effectual, even though the institutional organization of power changed. Very importantly, for instance, the more powerful landowning classes continued to enjoy the security and prestige of agriculture-produced wealth. They remained unwilling to run large-scale risks in industry (e.g., high technology, capital-intensive), while continuing to benefit from their close ties with foreign capital. They had thus only been too willing to engage in such relations as joint ventures with the TNCs and to allow them to maintain control of technology and dominate production.⁵⁶

In continuing elite-class dominance and at the same time also entrenching his regime, Marcos had run down those whom he considered to be his oligarch-antagonists and their underlings. His legal-absolutist strategies proved unstoppable. Among other instances, a number of them were incarcerated, their properties taken over, their businesses made unprofitable.⁵⁷ But although opposition to his regime was generally muzzled, he appeared to have had no strong desire to eliminate them altogether, though, certainly, he made many of them ineffectual, dependent, and helpless. Meanwhile, the new monopolistic group of cronies built up on economic patronage under the aegis of the State, and with Marcos himself as the legal-political superordinate. All this was accomplished seemingly with the approval--or at least without the opposition--of the Nixon administration, even as vested American interests (e.g., the military bases, post-'parity rights' investments, etc.) had been secured. Thus, they (i.e., the cronies) were able to effectively replace and take over from the old landowning oligarchy. Having now become the new feudal overlords and comprador magnates, they were also the new political 'bosses'.

Among other results, state-oriented groupings within the *clase ilustrada* split mainly between the regime's New

⁵⁶ See, e.g., Lindsay, op cit., esp. 478 and 491-493; and Lande and Hooley, op cit., 1106-1107.

⁵⁷ See, e.g., Overholt, op cit., 1147; and Roth, op cit., 818.

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Society Movement partisans (e.g., the KBL political party, crony monopolies and conglomerates, the military [AFP] upper-class), and the largely power-shorn but still non-violent, neo-*ilustrado* Opposition alliances (e.g., the well-organized UNIDO, PDP-Laban, NAMFREL). In the 1970s and 1980s the latter were still dominated by the likes of such Old Society rightist politicians as Aquino, Laurel, Kalaw, Tanada, within the Philippines; and elsewhere, anti-Marcos movements were spearheaded by such expatriates as Manglapus, Alvarez, and others. They also succeeded in aligning with influential segments of the Catholic Church (e.g., the CBCP, AMRSP) which had increasingly turned anti-regime since the mid-1970s.

Yet until the mid-1980s, the Opposition had remained largely disorganized and at times wracked with factional squabbling and power struggles and jockeying. For the most part of Marcos's rule, however, they kept up their political opposition mainly in two ways; namely, through the courts (including the military commissions before 1981), and through elections (e.g., for the *Batasang Pambansa* in 1978, etc.). Thus, in terms of constitutional mediation, this new realignment of personalities and groupings had also brought to most Filipinos a restoration--however *pro forma* or distorted their consciousness of it--of the so-called electoral democracy.⁵⁸ Even in these conditions, it enabled them to vent their accustomed patron-client or personality-centred attitudes during elections. By and large, however, this was the politics of the Right--namely, reactionaries, *status quo*-ists, and conservative reformists.⁵⁹

58 See, e.g., Sacerdoti and Bowring, 'Marx, Mao and Marcos', op cit., 53.

59 In an atmosphere of increasing polarization of interests (not values), it seems reasonable to classify the position of Filipinos as to whether or not they supported the basic structure (or the 'orders', institutions) of state-oriented and folk-charismatic relationships. Even the reformists, let alone other rightists, assumed the validity of such structure (even if in varying degrees) but emphasized the need or chances of making improvements. On the other hand, the Left would change that structure--that is, at least, the *political*. This structure was itself that of interests, to which values were mere rationalizations. All those, therefore, who still put value on 'fair and honest' elections implicitly endorsed that structure and the underlying relationships. To them the 'structure' was not at issue.

On the other hand, to a steadily increasing number of Filipinos, the democracy-shorn *origination* practice more than ever helped shift the foci of their political consciousness and experience. From the tradition-bound narratives of feudalism-based social roles and dependence relations at one end, we find at the other an alienating perception of inevitable class contradictions and struggles. Over that spectrum there had emerged a number of activist, cause-oriented movements (e.g., BCCs, Task Force Detainees) and new exigencies (e.g., Human Rights abuses, US Military Bases). More ominously, in the extreme Left's struggle against 'US imperialism, feudalism and bureaucrat capitalism',⁶⁰ the CPP-NPA had waged their 'people's war' since the late 1960s. 'It is a national-democratic revolution', writes Guerrero, 'a revolution seeking the liberation of the Filipino people from foreign and feudal oppression and exploitation'.⁶¹ Feeding upon the regime's gross abuses (e.g., massacres in Northern Samar, Kalinga-Apayao, etc. by paramilitary forces, 'hamletization' of *barangays* in Mindanao, etc.), the CPP had already expanded in the mid-1980s with about 20,000 members, while the NPA grew to about 16,500 armed guerrillas but, including part-time guerrillas and local militia, could bring the total to 30,000.⁶² They were operating in 62 of the 73 provinces, in control of about 8,000 (20 per cent) rural barrios or *barangays*, and expanding at about 20 per cent a year.⁶³ Meanwhile, besides what they called the 'basic alliance' between the working class and the peasantry, the CPP-NPA were also consolidating their leadership in the illegal, urban, umbrella organization 'National Democratic Front' (NDF) and its legal counterpart the *Bagong Alyansang Makabayan* (BAYAN).

Equally important was the shift among the Muslim Filipinos from their uncertain acquiescence and powerlessness; that is, as a result of their long-oppressed minority status and such a *modus vivendi* as the so-called cultural and religious

60 Guerrero, op cit., ch. 2, 63-128, and passim.

61 Ibid., 129.

62 See *TIME*, Dec. 16, 1985, 9-10. Also see Sacerdoti and Bowring, 'Marx, Mao and Marcos', op cit., 53.

63 Ibid.

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diversity with the much more numerous Christians.⁶⁴ Now they had become distrustful and were increasingly conscious of their 'national interests' being incompatible with those of the Christian 'colonizers'.⁶⁵ They demanded 'independence' and rose in arms. At the beginning of martial law, hostilities flared between the MNLF and the AFP. But even though it was once estimated to have had about 30,000 men, their military arm, the *Bangsa Moro* army, was reported in the early 1980s as having only between 6,000 and 12,000 armed men.⁶⁶ Compounding heavy casualties on the field, Marcos's adroit manoeuvrings had the effect of reducing the insurrection to minor proportions.

b. Polarization II: Breakdown of Constitutional Mediation

In the face of worsening social and economic conditions as well as the resurgence of rightist and leftist opposition to the regime, Marcos and his crony monopolists became less and less capable of sustaining their outward (or putative) authority. Already bilked in certain areas by the growing Communist insurgency as well as Muslim secessionists, both through non-constitutional mediation, they were becoming increasingly alienated from the regime's Right constituency. Towards the mid-1980s, the New Society seemed to have become bereft of both substantive and formal rationalities.⁶⁷ And as its outward legitimacy continued to erode, long-simmering grievances surfaced and accelerated--

⁶⁴ See, e.g., Alejandro Melchor, 'The Task Is to Weld Diverse Cultures', interview by (not identified), *Archipelago* 1 (May 1974): 13-15. For a brief background, see Leon Ma. Guerrero, 'Encounter of Cultures: The Muslims in the Philippines', *Archipelago* 1 (May 1974): 8-12.

⁶⁵ See Rodney Tasker, 'Cotabato: Marcos' Offensive', *Far Eastern Economic Review*, Feb. 21, 1975, 10-12. 'The Muslim's primary motive in their [*sic*] campaign for secession is economic.' *Ibid.*, 12.

⁶⁶ See Richard Vokey, 'Islands under the gun', *Far Eastern Economic Review*, May 8, 1981, 36.

⁶⁷ Which means that from that time onwards, the regime's manoeuvrings (i.e., policies, strategies, etc.) could no more serve the 'interests' of either the powers that be (specifically, Marcos himself and the cronies) or the masses. Its *means* had become ineffective; and its *ends* inapplicable. Only the effects stood out.

both within and outside the Philippines. The arena of conflict between the regime and the rightist Opposition was also shifting from non-violent constitutional mediation. Throughout Marcos's rule, however, the rightist Opposition's struggle for power had mainly gravitated towards a single issue, namely, *succession*.⁶⁸ The neo-*ilustrado* leaders had virtually accepted--or had long acquiesced in--Marcos's 'right' of tenure. (In time they would also 'forgive'--by not taking criminal action--the high crimes of his regime.) But now they were certainly more interested in the 'inevitable' post-Marcos transfer of power to them, of which they had been denied since 1973. Their main strategy (of attrition) called for non-violent resistance to the regime, seeking the support of the U.S. government, and pressing for 'fair and honest' elections.

On the other hand, Marcos had always wanted to stay in power for as long as he could and by any available means; and when he went he would be succeeded by his wife, Imelda, and the New Society would continue. Thus, in itself the economic ordering in the society was not at issue; neither were the moral and legal orders. But what he did to the *political*--more specifically, by excluding them (i.e., the rightists)--became the essence of the succession struggle. And as Marcos's control of state-oriented relationships in the 1980s was giving way, the New Society Movement (KBL) and the revived Old Society alliances clashed again in the National Assembly elections (1984) and the presidential elections (1986): one side (the opposition) pressing to succeed, the other (the regime) holding it off. In sum, according to broad fundamental bases (i.e., moral, economic, and political), they were quite simply contesting the right--or the power--to exercise 'legal authority'.

What could we make of the moral and legal orders within the New Society? What were the effects of their co-optation (or pre-emption) into this Society? (And what could

⁶⁸ See Sheila Ocampo, 'Election without fever', *Far Eastern Economic Review*, June 5, 1981, 33, in which Benigno Aquino's manoeuvrings with the MNLF chairman Nur Misuari, UNIDO boss Salvador Laurel, and Marcos were discussed. See also *The Asia Letter*, no. 1013 (Nov. 22, 1983). And see Richard Nations, 'Giving peace a chance', *Far Eastern Economic Review*, Jan. 16, 1981, 8, in which Aquino was quoted thus: 'We have two options. One is to take the route of violence and revolution, in which case we stop all talks. The other option is political accommodation'.

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we make of its relevance to, say, the concept of 'rule of law' or 'rule of justice'?) On the one hand, moral principles and rules not being readily pliable to the regime's political-economic interests, the meaning and force of moral norms and values (e.g., freedom, Human Rights) tended to be minimized or at least neutralized by it. Just as in this Society the regime had de-constitutionalized folk-charismatic relationships, so moral values (e.g., Human Rights) were camouflaged by its *functionalization* scheme. But appearances and the facts varied. The regime's apologists⁶⁹ outwardly appealed to morality, justice, tradition, and even Christian tenets just as readily as its functionaries⁷⁰ would act in spite of them but with impunity. The regime, therefore, ignored or shunned their limitations on *origination* relations; but within its *functionalization* it remained wary of its importance among the masses and kept up the appearance of keeping within its supposed limits (e.g., the anti-'backsliding' decree) to justify its conduct. In effect, within the latter and especially against the Opposition, Marcos sought to make out much of the moral order as a non-issue.

On the other hand, as an irreducible facet of his leadership, the legal order had to be co-opted as a function of the concentration of conventional power in the regime. This needed a transformation of such an ordering by its constitutions and Marcos's decrees, as well as by the workings

69 See, e.g., Overholt, op cit., 1148: 'In a characteristic justification for destroying the institution of law, Supreme Court Justice Barredo declared that the country must move beyond the rule of law to the rule of justice'. More importantly, O. D. Corpuz said: 'It [the New Society] holds . . . that we as a people are not destitute of talent and deprived of hope, provided that we apply to both our public and private roles all of the good that is in us as a nation'. Corpuz, 'Liberty and Government in the New Society', *Archipelago* 1 (Sept. 1974): 35-46.

70 See, e.g., Manning, op cit., 392: 'The brutal murder of Aquino and the subsequent attempt at cover-up transgressed the unwritten rules of Philippine politics, implying an absence of limits on official power, and a complete lack of accountability'. Some instances also come under what were called the Presidential Commitment Order (PCO) and, subsequently, the Presidential Detention Action (PDA) which superseded it. But both gave Marcos the same powers 'after he ended Martial law to enable him to have anybody locked up for almost any reason'. See *The Asia Letter*, no. 997 (Aug. 2, 1983); and *The Asia Letter*, no. 999 (Aug. 16, 1983).

of the courts and the top echelons of the bureaucracy (within the re-structuring of state-oriented relations). Nevertheless, legal authorization in the *origination* practice was expressed through this new form of legal ordering--even as it was at once substantively in 'inverse order' within the *functionalization* scheme. Beyond appearances, then, the weight of authority followed--or was coterminous with--the extent of the power of Marcos and the regime's. Accordingly, both the *law* and *authority* had acquired a unified source and basis; that is, Marcos's over-determining (or the regime's sovereign) *pouvoir constituant*. In this way both the 'legal order' and 'legal authority' had become fundamental issues.

How did all this happen? The legal order, indeed, underwent qualitative changes: among others, concerning *legal rules* (or the 'public law') in general, and *legal remedies* (or the 'private law') in particular.⁷¹ In some ways, these changes showed up the regime's 'looking-glass' narratives, and were turning some forms of non-constitutional mediation as likely reactions of the Right Opposition. In the first place, the 'legal rules' would have remained formally binding and effective at the 'operative' level of the constitutional-legal order, regardless of how they were validly enacted at its 'constitutive' level.⁷² (It is to be noted, however, that although, strictly speaking, the same normative rules do not always apply to both levels, it is always the case that, consistent with the idea of the 'rule of law', they ought to be subsumed by normative rule-categories.) Thus, the laws would have applied in a formal way to actual cases, even as they must have been invoked at the pre-enactment stage in an exclusively *instrumental* way. The constraints of 'legality' would have been no less subserved.

But matters had been quite different. *As were the cases with many a functionary of the regime, both the operative and constitutive levels of law-regarding relationships had been sources of discretionary power--that is, especially in their*

⁷¹ For a definition of terms, see, e.g., Harry Woolf, 'Public law-Private law: Why the Divide? A Personal View', *Public Law*, summer 1986, 220 et seq.

⁷² For a general but relevant discussion, see, e.g., Robert Baldwin and John Houghton, 'Circular Arguments: The Status and Legitimacy of Administrative Rules', *Public Law*, summer 1986, 239-284.

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dealings with the opponents of the regime (e.g., under the National Security Code and the Public Order Act). Having been empowered to enforce a 'legal rule' (or decree), they would also have had the power to set the extent and manner of its application, or whether (if at all) it was going to apply in a given case. Much of this was due to Marcos's wide-ranging practice of delegating rule-making power, of condoning the exercise of *de facto* rule-less power, and even of making *ad hoc* exceptions to the applicability of rules. This had either been done overtly and formally (e.g., by decree) or by withholding sanctions (e.g., such as from those who abused their authority), prospective and retrospective in effect, or by cover-up and failure to prosecute. As a result, even at the operative level 'legal rules' were undergoing in every case a continual process of 're-constitution' or 're-interpretation'.

Secondly, the accessibility of remedies under the law to settle social conflicts and the clash of individual wills or reliefs of grievances and wrongs against the regime or the powers that be underwent dramatic changes. From such cases as suspicions of subversion (e.g., under the PCOs and the PDAs) to Imelda Marcos's beautification projects (e.g., by means of forcible relocation) to prosecutions on behalf of the cronies (e.g., against the 'Negros Nine'), the enhancement of the regime's power structure took priority over all other bases of 'judicial review' and the 'rule of law'. In the once previously different setting,⁷³ however, these remedies would have been deemed proper to assert or vindicate 'legal rights' with and mete out due rewards and punishments. Equally important would have been the previous legal order's capacity--especially when it was seen as just or legitimate--to avert (or minimize) the chances of violent or forcible resolutions of dispute. It could also have kept a few aggrieved parties from 'taking the law into their own hands'. *All this notwithstanding, the legal remedies--and the legal system as a whole--had now been stacked to favour the priorities of the regime.* And Marcos could, of course, ill afford to lose; so also was the case with the cronies and the military.

⁷³ Quijano de Manila compares the 'Old Society' with the Marcos regime, saying: 'Before him, yes, there had been a long history of "violence and corruption", but even that history had been an effort, an attempt, an impulse, however shy, at the democratic way of life'. Quijano, op cit., 106.

So the regime, perforce, had been victorious in the martial law cases and the plebiscite and ratification cases in the 1970s, and in the elections (1978, 1981, etc.), Aquino's subversion and his own murder cases, the impeachment motion against Marcos (1985), and others. There was even a 'constitutional guarantee of immunity from law suits during, and even after, his [Marcos's] tenure for "official acts" carried out by him "and by others pursuant to his specific orders"'.⁷⁴ Consequently, constitutional rights lost their *formal* validity and legal relationships themselves became *instrumentalized* to the regime's behoof.

Thirdly, and by way of an *excursus*, what body of remedial laws was available could not have become a sufficient basis by which 'legal science' might reform (or even revolutionize) the structuring and working of the legal system. True, by themselves they were important, but a commitment to uphold them (which the regime did not have) was even more important, and the lack of power to subvert them (which it had) the most. In fact, whatever legal science could have done with the body of legal rules would have been all but futile, inasmuch as these rules, including remedies, were over-determined by the absolutist powers of Marcos's and, in certain cases, by the constitutive power of his functionaries'. Yet it is also true in every case that some power form-structure (which the regime had) always underpins the legal system, and serves as a precondition to its coercive efficacy. *But even more important to scientific inquiry--as it is to 'justice', 'authority', being their source and basis--is the 'constitutional-legal order' itself, its moral principles and institutions, and its system of rights, duties, remedies, and techniques* (which the regime only dubiously had). Indeed, without them legal science becomes irrelevant and useless in resolving legal disputes and issues. And social-political conflicts could not be resolved through the institutionalized resolution of conflicts in authoritative legal texts.⁷⁵--namely, statutes, judicial precedents, doctrinal writings, and others.

⁷⁴ See Sheilah Ocampo, 'A Stronger Strongman', *Far Eastern Economic Review*, March 20, 1981, 24.

⁷⁵ Which is one way to understand the notion of 'legal science'. For relevant discussion, see, e.g., Berman, *op cit.*, esp. 930-941.

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Moreover, such a constitutional-legal order could also be a formal basis or source of rule-of-law doctrines (even if it could itself be based instrumentally on the concept of 'rule [or supremacy] of law'). With such idea of rule of law, we may derive what we call 'rules of conduct'--that is, whether they are deemed as 'just rules of conduct' or 'rules of just conduct'.⁷⁶ They are two ways by which the 'rule of law' can be correlated to the 'rule of justice'. All in all, it may be true to say that legal rules in such an order either do control the decisions and actions of the officials concerned, or that they ought to control them.⁷⁷ But Marcos's regime, being itself sovereign (i.e., 'coercive'), was above the law. Neither could it be controlled by rules, nor allow remedies that would jeopardize its interests, nor still recognize its limitations according to doctrine. As it gave short shrift to the substantive rationality of the masses--no justice, no peace; so, therefore, there was no rule of law and no legal science too.

Thus, already much burdened by patron-client relations in the Old Society, under martial law in the New Society the plebeian masses ceased to have any meaningful participation. Towards the early 1980s, the regime had already *contracted* the economy, *polarized* state-oriented relationships, and *destabilized* not only such relationships but, even more ominously, folk-charismatic relationships. In the mid-1980s, the people's anti-Marcos clamor for change reached a climactic pitch. Both the Right reformists and the Left extremists vied for leadership of the people. Finally, the beginnings of the *explosion* stage of the 'revolutionary mood' that had built up in the early 1970s--and forcibly held back by the martial law regime--had come to hand. The regime clashed with the 'people's power' uprising, which the rightist neo-*ilustrado* Opposition now led. Constitutional mediation having inevitably broken down, the arena of conflict shifted to non-constitutional mediation.

76 Briefly, 'just rules of conduct' is defined as referring to 'expressions of substantive norms and values in universal or absolute terms; that is, they are deemed applicable to every individual in every situation'. But 'rules of just conduct' are 'expressions of formal norms and values which may be in absolute terms or substantively in relative terms'. Padua, op cit., ch. 3, esp. 87 and 90.

77 See, e.g., Harris, op cit., 1-10.