

# **FACADE DEMOCRACY: MARTIAL LAW AND THE MYTH OF DEMOCRACY**

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## **INTRODUCTION**

Martial law, "Philippine style", has mainly been criticized as the end of democracy in the Philippines. This attack has come primarily from the constitutionalists, civil libertarians and legalists. This conclusion is based mainly in the fusion in one-man of all powers of government, resulting in the destruction of the legal institutions and their underlying principles consistent with a democratic state.

Essential to their criterion of a democratic state is the existence of certain legal institutions. These are mainly, a constitution which outlines the structure of government and defines its power, a tripartite structure of government and a system of popular elections.

The theory underlying these institutions is that government exists for the people, their sovereign will embodied in a constitution, insuring that their representatives who are chosen through popular elections shall pursue their interests and keep within the limits set therein. Furthermore, that the governmental structure consisting of three co-equal departments co-exist under the principle of check and balance, seeing to it that each branch does not exceed the bounds set by the fundamental law and by statutes.

The value of these legal institutions in any modern day society is without question. However, it is their ability to function in accordance to their avowed purpose under given socio-economic relations which is subject to serious examination.

Wittingly or unwittingly, the above view seriously implies that democracy was an existing fact previous to martial law. It tends to assert that martial law is an accident in our legal processes. That it is a reaction to the socio-political events of the 70's and the threat it posed upon the political power held by a definite man or a group of men.

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Obscured by the above view is the fact that these institutions are merely part of the state. The central power structure which throughout history has been dominated by society's economic elite. It has been the means by which their interests have been protected and expanded.

As "differences in property are also differences in power"<sup>1</sup> the state which stands on an economic base reflects the power relationships and inequalities of its base.

Therefore as long as the state and its legal institutions are under the control of a small group of economic, political or military elite, democracy is an illusion. It is a myth utilized to maintain the existing imbalance of power in society. A myth which is sustained by legal structures and processes.

The exercise of emergency powers under the 1935 Philippine Constitution was an attempt in re-vitalizing the eroding belief of the Filipino people in the myth.

Mac Iver explains the nature and function of myths by saying that they are "value-impregnated beliefs and notions that men hold, that they live by or live for. Every society is held together by a myth-system, a complex of dominating thought-forms that determines and sustains all its activities."<sup>2</sup>

Unfortunately, seven years of martial law has been a process of myth unmasking. It has become a concrete political education for our people on the true nature of the state and the interests it truly represents.

From a historical viewpoint, martial law is the final stage of a long drawn historical process of our people's struggle for political independence and economic development. It is a stage in the decolonization process where the prevailing neo-colonial interests are being exposed and are unable to peacefully pursue their economic interests vis-a-vis the rising forces of nationalism and liberation.

#### THE STATE AND ITS MYTHS

The economic system is the central and most important social institution in a given society.

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<sup>1</sup> MACIVER, *THE WEB OF GOVERNMENT* 105 (1965).

<sup>2</sup> *Id.*, at 37.

According to Engels, it is a system consisting of "the production of the means to support human life and, next to production, the exchange of things produced" it is in fact "the basis of every social order."<sup>3</sup> The interaction of man with man within the economic sphere and of man with nature, utilizing and transforming it to meet his needs, defines the type of society and the different institutions arising therefrom. As explained by Marx:

In the social production of their existence, men enter into definite, and necessary relations, which are independent of their will, namely, relations of production corresponding to a determinate stage of development of their material forces of production. The totality of these relations of production constitutes the economic structure of society, the real foundation on which there corresponds definite forms of social consciousness. The mode of production of material life conditions the social, political and intellectual life-process in general.<sup>4</sup>

With the development of production came the development of production relations, a relationship arising out of one's place in the process of production. Meaning, either one owns the means of production or one merely is part of that means. Generally therefore one's place in the process of production is determinant of the class to which he belongs.

An essential aspect of this view is the fact that the economic conflict among these classes usually reflect themselves in legal or political struggles. Seldom are economic issues brought to the fore. It is also this conflict between these economic classes that pushes society's development. It is the means by which the balance of forces in society is radically altered.

According to Engels the division of society into classes, signified the birth of the state. When "wealth is praised and respected as the highest treasure . . . Only one thing was missing: an institution that would not only safeguard the newly acquired property of private individuals" but also "would perpetuate, not only the newly-rising class divisions of society but also the right of the possessing class to exploit the non-possessing classes and the rule of the former over the latter, and this institution arrived. The state was invented."<sup>5</sup>

Throughout history the state has assumed a variety of forms. As in France it came under the *ancien regime*, an absolute monarchy. In 18th

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<sup>3</sup> Engels, *Socialism; Utopian and Scientific*, in 3 CORNFORTH, *HISTORICAL MATERIALISM* 35 (1962).

<sup>4</sup> MARX, *PREFACE AND INTRODUCTION TO A CONTRIBUTION TO THE CRITIQUE OF POLITICAL ECONOMY* 3 (1976).

<sup>5</sup> Engels, *Origin of the Family, Private Property and State*, in 3 MARX & ENGELS, *SELECTED WORKS* 275 (1977).

century England it was a narrow oligarchy. In modern day the state comes in the form of what we call a democracy.<sup>6</sup> Its substance has however remained the same. Whether in a slave, feudal or capitalist society, it has consistently been composed of "a group of persons who ruled, who commanded, who dominated and who for the maintenance of their power possessed an apparatus of physical coercion."<sup>7</sup>

Brute physical force as a means of ruling over people as in the slave period, has transformed into more subtle forms. Justifying the existence of social and political privilege has had many variations. A historical example is the divine right of kings. Rule by consensus is another, and the republican form of government is its modern day development of which democracy is its abused synonym. But whether by virtue of special traits, divine right or consensus, these justifications for privileged rule of the state, had to have institutional foundations. As expressed by Cornforth: "Class domination cannot continue unless the ruling class can establish ruling institutions according to its own ideas, and by general acceptance of its institutions and rule. To maintain its material rule, the ruling class must always maintain its rule over the minds of men."<sup>8</sup>

In considering the development of the Philippine state however, we should consider that while it was still in its primitive form in some parts of the archipelago, it was integrated into the colonial economic order.

The development of the state and the elites which controlled it were at various instances in our history, dominated by foreigners. Only when their ideas were institutionalized were the local populace allowed to participate, but only in a minimal way.

The development of the Philippine economic and legal system was therefore a structured one. It was made to conform to the interests of colonialism at one time and to monopoly capitalism at another.

Our legal institutions are therefore vestiges of this colonial legacy and the continuing neo-colonial domination.

Institutions on the base are therefore the material expressions of the ruling ideas in a given epoch. Structures are necessary to propagate these ideas and shield the stark reality for their existence. Foremost of these structures are the legal institutions of a society. Engels explains their purpose in relation to the economic base and the state in these words:

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<sup>6</sup> LASKI, *AUTHORITY IN THE MODERN STATE* 26 (1968).

<sup>7</sup> LENIN, *THE STATE* 28 (1975).

<sup>8</sup> 2 CORNFORTH, *HISTORICAL MATERIALISM* 100 (1962).

But once the state has become an independent power vis-a-vis society, it produces forthwith a further ideology. It is indeed among professional politicians, theorists of public law and jurists of private law that the connections with economic facts gets lost for fair. Since in each particular case the economic facts must assume the form of juristic motives in order to receive legal sanction; and since, in so doing, consideration of course has to be given to the whole legal system already in operation, the juristic form is, in consequence made everything and the economic content nothing.<sup>9</sup>

The legal institutions and the myths they propagate are therefore "directed at obscuring the bitter struggle between social classes, and at articulating in consciousness the view that the law is unaligned with any given interest."<sup>10</sup>

The more the myth is accepted the stronger the institution becomes, and consequently the more secure the position of the elite within the economic and legal system is assured.

Behind the institution and the consensus it has been given lurks the physical power which comes to the rescue the moment the myth is doubted or its institution is threatened. "A coercive apparatus (police and army) is generally available, ready to move at the command of the power holders, for the purpose of compelling obedience to orders and exacting compliance with rules."<sup>11</sup> This act of the state is at times called the political myth, "which refers to any moral justification of a government's right to direct human behavior and if necessary, to use physical violence as an aid to this direction."<sup>12</sup> The organ through which this political myth is exercised consist generally of "the army, the courts, prisons, the police, intelligence and counter intelligence" and most of all the government which controls them.<sup>13</sup>

All of these legal institutions maintain a facade that democracy exists and is available to all.

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<sup>9</sup> Engels, Ludwig Feurbach and the End of Classical German Philosophy, *op. cit.*, note 5 at 371.

<sup>10</sup> Cloke, *Law is illegal in RADICAL LAWYERS* 27 (1971).

<sup>11</sup> Fernandez, *Law and Policy: Towards a Systems Concept of Legal Validity*, 46 *PHIL. L.J.* 388 (1971).

<sup>12</sup> CASSINELLI, *AN ANALYSIS OF THE MODERN DEMOCRATIC STATE* 102 (1961).

<sup>13</sup> BOGULAVSKY & OTHERS, *A B C OF DIALECTICAL MATERIALISM* 39 (1978).

The judiciary as the final arbiter of disputes is "a forum for the resolution of class disputes, it is an attempt to control the outcome . . . by making sure that those with greater wealth stand the better chance of winning."<sup>14</sup>

The law or all legal relationships for that matter are "relations of power for the purpose of maintaining existing property relationships and increasing advantages to some by decreasing it for others."<sup>15</sup> The legality of law is in its recognition and preservation of inequality. "The law" as Anatole France has proclaimed "in its majestic equality forbids the rich as well as the poor to sleep under bridges, to beg in the streets and to steal bread."<sup>16</sup>

At times however the law and their processes do conform to the interests of the people. These are but exceptions and are mere concessions or compromises designed to strengthen the myth. They hardly if ever affect the power structure of society. There are times also when the poor get elected into high office. These are "accidents" designed by the system itself, only to add credibility to the myth. Ultimately however as MacIver explains, the poor who is elected is psychologically metamorphosed. Subjected to new conditions, opportunities and atmosphere, "they may acquire new interests more favorable to the cause of the wealthy than to the poor."<sup>17</sup>

Let it not be said however that these legal institutions are useless. That they can be totally done away with. The ideals these institutions represent are good. The necessity however arises in providing an economic and social base which would transform the myth into reality. As expressed by one writer: "we cannot wholly escape the history of institutions. But we must learn to use, not be used by it."<sup>18</sup>

Democracy is perhaps the most emotive word in the English language and as Crick would say the most promiscuous in the world of public affairs. For although she is illicitly shared by others, she manages to retain her magic.<sup>19</sup>

Democracy remains a valid goal in modern day societies. In the words of Constantino, "it is a social process never completed . . . as a goal, is

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<sup>14</sup> Cloke, *op. cit.*, at 37.

<sup>15</sup> *Id.*, at 36.

<sup>16</sup> Quoted in 1-b HUBERMAN, *SOCIALIST ANALYSIS OF CAPITALISM* 86 (1972).

<sup>17</sup> MACIVER, *op. cit.*, note 1 at 105.

<sup>18</sup> Pound, *The Task of the Law in the Atomic Age*, in ENGELS & METALL, *LAW, STATE AND INTERNATIONAL LEGAL ORDER* 238 (1964).

<sup>19</sup> CRICK, *IN DEFENSE OF POLITICS* 59 (1977).

never completely achieved, for every gain is but a stage in a continuous process . . . That higher forms of democracy must be constantly fought so that mankind may achieve the new freedom which a higher stage of development makes possible." <sup>20</sup>

The legal and social institutions which represent democracy at a stage, when they turn into fetters, should therefore be discarded and new ones provided.

The "Rule of Law" can generally be said to be the ultimate goal of democracy. As expressed by the International Commission of Jurists in 1959:

\* \* \* it is based on the values of a free society, by which is understood a society providing an ordered framework within which the free spirit of all its individual members may find fullest expression. A free society is one which recognizes the supreme value of human personality and conceives of all social institutions, and in particular the state, as the servants rather than the masters of individuals. . . <sup>21</sup>

#### THE PHILIPPINE STATE: ITS USE AND MISUSE

"To foretell the destiny of a nation" Rizal tells us "it is necessary to open the book that tells us her past." <sup>22</sup>

Philippine history is rich with examples of the state's use and misuse by the ruling class.

The historical development of the Philippine state and its legal institutions is inexorably linked with our colonial and neo-colonial domination by Spain and the United States. Our history is a continuous line of elite domination of the Philippine state, either by Filipinos or by foreigners. Under the Spanish, American and Japanese occupation, the state and all its might was used to establish a regime favorable to their economic interests which in turn brought untold sufferings on our people. With the exception of the Spanish and Japanese occupations, the Filipinos were able

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<sup>20</sup> CONSTANTINO, *DISSENT AND COUNTER CONSCIOUSNESS* 1 (1971).

<sup>21</sup> International Commission of Jurists, *The Rule of Law in a Free Society* 193 (Marsh & Norman ed. 1959).

<sup>22</sup> Rizal, *The Philippines A Century Hence*, in AGONCILLO, *FILIPINO NATIONALISM 1872-1972* 139 (1974).

to grasp the essence of their presence on Philippine soil. It is unfortunate that through the public school system introduced by the Americans, the Filipinos have lost sight of their revolutionary past and saw the United States as liberators rather than conquerors.

As a general trend, the Filipino elite throughout history exhibited its enthusiasm in supporting or joining whatever side would better advance its interests. Our quest to establish an independent republic shows this.

The ilustrado's alliance with the Philippine Revolutionary movement of 1898 came only after they were denied participation in government, thwarting their economic and political ambitions. Liberty, the glorious slogan of the Filipino revolutionaries against Spanish theocratic oppression and exploitation, meant more particularly a struggle for power and status for the elite, perceived in terms of nationalism and liberal democracy.<sup>23</sup> Their interest in power pure and simple is shown by the struggle for leadership within the revolutionary movement. The Tejeros Convention which could probably be called the first elite dominated election in our history, saw the unseating of Bonifacio as the head of the Katipunan for being "uneducated". Posing a threat to the Cavite leadership, composed mainly of ilustrados, "who wanted to seize control of the entire Revolution",<sup>24</sup> Bonifacio was eventually executed.

The facility by which the ilustrado class was able to bargain off the interests of the many for their own, during this period is exemplified by the Pact of Biak-na-Bato. For the initial sum of ₱400,000 deposited in a Hong Kong Bank, the revolution was repudiated.

The constitutional history of the Philippines starts with the Malolos Constitution. It framed a republican form of government that was "popular, representative, alternative and responsible", with "three distinct powers, called the legislative, the executive, and the judicial."<sup>25</sup>

In examining the Malolos Constitution or any constitution or statute for that matter, we should be reminded that a "clear distinction must be made between what is laid down by articles in a constitution and their class

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<sup>23</sup> AGPALO, *THE ORGANIC-HIERARCHICAL PARADIGM AND POLITICS IN THE PHILIPPINES* 7 (1973).

<sup>24</sup> CONSTANTINO, *THE PHILIPPINES A PAST REVISITED* 185 (1975).

<sup>25</sup> MALOLOS CONST., Title II, art. 4.



content. Legal forms must not be confused with reality of the social relationships which they express." <sup>26</sup>

The Malolos Constitution was itself a document embodying ilustrado ideals and interests. Its distrust for the people's participation is shown by Calderon's *Memorias*, where he justifies the strength of the unicameral legislative body on the basis that it would be a congress "composed of the most intelligent elements of the nation," an oligarchy of intelligence. <sup>27</sup>

The provision on the separation of the church and state was on one side a direct reaction to the theocratic rule by the Catholic Church during the Spanish regime. From the ilustrado's viewpoint however it would mean a legal assurance that their power will from then on be free from church intervention.

The intervening era from the Malolos Constitution to the 1935 Constitution, saw the structuring of the Philippine economic, political and social system to fit into the neo-colonial ends of the United States.

Philippine independence was short-lived. It was nipped in the bud by the American occupation. The Malolos Constitution was never really given a chance to institutionalize the structures it contained. The state, again with all its legal and military structures were utilized to pacify people fighting for their independence. It is ironical that the United States fought Filipino revolutionaries in the name of democracy. The "Benevolent assimilation" Proclamation was an imperialist assimilation scheme which instructed "the American military commanders to extend the sovereignty of the United States over the whole country, by force if necessary." <sup>28</sup>

What followed was an era which Agoncillo call "The Period of Suppressed Nationalism." <sup>29</sup> The legal institutions were now used to suppress the Filipino nationalist and anti-imperialist movement. Laws were used by the American authorities to this end. These laws consisted mainly of the Sedition Law of 1902 which punished seditious in whatever form seditious to the U.S. government or to the Insular Government. There was also the Brigandage Act and the Reconcentration Act. One punishing membership in any armed organization, while the other sought at isolating these groups from the local populace typical of the strategic hamlet technique used during

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<sup>26</sup> MAKHNENKO, THE STATE LAW OF SOCIALIST COUNTRIES 51 (1976).

<sup>27</sup> MAJUL, THE POLITICAL AND CONSTITUTIONAL IDEAS OF THE PHILIPPINE REVOLUTION 163 (1967).

<sup>28</sup> CONSTANTINO, *op. cit.*, note at 217.

<sup>29</sup> AGONCILLO, HISTORY OF THE FILIPINO PEOPLE 280 (1973).

the Vietnam War. Another law was the Flag Law of 1907 which prohibited mere display of any memento symbolizing or signifying the Katipunan or resistance against the United States.<sup>30</sup> To the Filipino people the issue of human rights therefore is not a new one.

Side-by-side with the repressive acts of the state during the American occupation was a seemingly unimportant institution — the public school system.

American policy makers realized that continued coercion would only generate resistance and that continued direct colonial rule would only unify the people. As an adjunct therefore to military operations, education was utilized as a means of conquering the Filipino people. As we entered the Commonwealth period, the United States was now ready to grant "independence" to Filipinos whom Constantino calls a captive generation who thought and acted like Americans.<sup>31</sup>

The 1935 Constitution was a product of this captive generation. It was the final act in the institutionalization of the democratic myth into our legal system.

Through the Tydings-McDuffie Law, the Filipinos were allowed to draft a constitution which first had to pass the approval of the U.S. President before it could be ratified by the Filipino people. Laurel saw through this imperialist ploy and called attention to this fact saying:

\* \* \* no other constitution of a free and sovereign nation in the world today . . . has had to be written and adopted by mandate of another power, and passed and approved by the highest official of that power.<sup>32</sup>

He criticized this further, saying:

That it has many wise provisions is beside the point, that it is among the best-written charters of nations in the world today . . . should not blind the Filipinos of today to the obvious imperfections of the Constitution, to the tenor of subservience to a foreign power, and to its numerous imitative provisions.<sup>33</sup>

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<sup>30</sup> *Id.*, at 291-293.

<sup>31</sup> CONSTANTINO, *THE FILIPINOS IN THE PHILIPPINES* 43 (1972).

<sup>32</sup> CONSTANTINO, *THE MAKING OF A FILIPINO* 106 (1979).

<sup>33</sup> *Ibid.*

Recto in 1924 also had the same view as Laurel, saying that "a constitutional assembly should never be called while the American flag still waved over the Philippine soil."<sup>34</sup> But as the politician in Recto, Constantino explains, got the better of him, he not only assumed Presidency of the Constitutional Convention but exalted the draft as

\* \* \* a creation of the people themselves exactly as we wished it to be at the very outset of our labors, and also as the sincere friends of the Philippines wished it to be.<sup>35</sup>

Before the drafting of the 1935 Constitution, the United States through the Cooper Act more popularly known as the Philippine Bill of 1902, established a legislative body for the Filipinos. This body as a classroom for the education in "self-government," was in reality an education in colonial subservience or what Constantino calls a debating society to channel the energies of the ilustrados along innocuous lines.<sup>36</sup>

It also created the myth of representation and peoples participation in government. A myth which Recto explains as:

\* \* \* a government with a semblance of Filipino representation through trusted Filipino agents enjoying the support of the people because of their social position or intellectual reputation.<sup>37</sup>

From this debating society arose the political parties which dominated Philippine politics until the declaration of martial law. Recto in his speech at the University of the Philippines in 1960 indicted these political parties as mere "tools of colonial rule and less the interpreters of the people's will and ideals."<sup>38</sup>

These developments in the legal sphere dovetailed with the activities of the United States in our economy. With the Payne-Aldrich Act of 1909, free trade was inaugurated between the Philippines and the U.S. Under this law the United States could export into the Philippine market all kinds of goods without any restrictions. The Philippines on the other hand was subject to quota regulations which was later lifted through the Underwood-Simons Act of 1913.

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<sup>34</sup> *Id.*, at 103.

<sup>35</sup> *Id.*, at 105.

<sup>36</sup> *Id.*, at 112-113.

<sup>37</sup> *Id.*, at 293.

<sup>38</sup> *Ibid.*

One writer sums up the effect of free trade between the countries in these words:

The free trade between these types of commodities (finished goods and raw materials) perpetuated the colonial agrarian economy. The increasing avalanche of finished goods into the country crushed local handicrafts and manufacturers and furthermore compelled the people to buy these finished goods and to produce raw materials mainly.<sup>39</sup>

This development in the economic sphere did not in any way adversely affect the economic landed elite. It in fact benefited them monetarily and it also strengthened their semi-feudal base in the Philippine economy.

After the war Manuel Roxas, as President of the Republic, entered into four agreements with the U.S. Congress. The first was the Philippine Trade Act better known as the Bell Trade Act which assured continued free trade and also pegged the Philippine peso to the dollar. The second was the Tydings Rehabilitation Act with its infamous rider, the parity amendment. This was an odious document of blackmail which conditioned the release of \$620,000,000 for war damages only if the agreement is accepted by the Philippines. And until such time no amount in excess of \$500 would be released.<sup>40</sup>

The last two Acts were the Military Bases Agreement and the Military Assistance Agreement. One has kept the Philippines under constant military occupation and under constant threat of attack from the enemies of the United States. The other has exposed all our military secrets to foreign eyes.

The four agreements, acting together sealed the fate of the Philippines as a neo-colony of the United States, the reality hidden behind the myth of democracy, independence and sovereignty.

The myth was created, institutionalized and secured.

#### THE MYTH IS SHATTERED

History attests to the fact that one cannot fool everyone all the time. Even a myth loses its mystique, especially when one is exposed to the

<sup>39</sup> GUERRERO, *PHILIPPINE SOCIETY AND REVOLUTION* 23 (1977).

<sup>40</sup> AGONCILLO, *op. cit.*, note 29 at 495.

inequities it perpetuates. As there are believers in the myth there are dis-believers; as there are proponents of the myth, there are opponents.

Despite of the vast array of instruments at the disposal of the neo-colonial state it has been unable to fool everyone. There have always been Filipinos who never succumbed to the myth, but continued the struggle for liberation in various ways.

The advent of the 60's and the 70's saw the widening ranks of the doubters, dis-believers and opponents of the myth. Even the ruling class was not spared of the trend. Recto was the best example. His awakening is what Constantino calls "The Making of a Filipino"<sup>41</sup> and further explains that:

Having liberated himself from the fetters of colonial mentality, he was fully aware that in many aspects of our national life, . . . our policies were guided not by our best interests but by alien interests whose word we took for gospel truth.

In the following words, Recto declared his new stand:

Colonies are acquired, colonies are governed, independence and freedom of nations are destroyed, withheld or curtailed in the name of liberty or democracy, or of so-called 'manifest destinies.' Likewise, civil liberties or rights of the individuals have been suppressed or impaired in the very name of freedom and democracy.<sup>42</sup>

Seven years of martial law will be viewed mainly from its effect on the state and the essential legal institutions within it, and also its effect upon the central institution of any social order — the economy and the main social classes within it.

In the legal sphere martial law has been a consolidation of state power, by utilizing the legal institutions, into the hands of a few political, economic and military elite.

This in no way implies that the other elites of pre-martial law days have been eliminated. They merely have been neutralized by denying them institutions through which they may exercise political power. These institutions are Congress and elections. They remain however a powerful lot. The martial law government has not in any way adversely affected their

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<sup>41</sup> CONSTANTINO, *op. cit.*, note 32 at 290.

<sup>42</sup> *Id.*, at 291.

economic power. Their source of wealth is preserved and continues to grow in the light of increasing business opportunities, so long as they do not challenge the regime.

However there have been exceptions. For those who pose a threat to the regime, the power of the state has been made to bear upon them. We find a few in prisons, others have been charged in the military tribunals for various crimes such as illegal possession, assassination attempts and subversion. This not only acts as a warning to the other elites. It also bolsters the claim that the New Society is out to eliminate the oligarchic elite of pre-martial law days "who would promote their selfish interests through indirect or irresponsible exercise of public and private power."<sup>43</sup> In short it is the "breakthrough of one segment of that oligarchy which has gone on to abolish the rules by which the oligarchs jointly dominated in the past."<sup>44</sup> This consolidation of power is also what Stauffer calls "refeudalization". He explains this as "the heightened dominance of very special groups and elites within society, and the increased integration — economically, politically and even militarily — of the Philippine society as a whole in that ever expanding economic and political metropolis the controlling center of which is the United States."<sup>45</sup>

There is however a new group which has joined the ranks of the oligarchy under martial law. This consists of the high ranking officers of the military bureaucracy. Relegated to the background previous to martial law, this coercive instrument of the Philippine state has now become more visible and more powerful.

Their value and necessity to the martial law government is obvious. They are the teeth of the tiger called martial law. Under seven years of martial law they have increased in number and with it the cost of their maintenance. According to an average percentage distribution of national government expenditures for the years 1975-1977, the military under the heading of defense received the second highest allocation amounting to 16.12 per cent.<sup>46</sup>

This elite group, perhaps because of its ability to shift its loyalty from one ruling group to another is said to be "potentially the United

<sup>43</sup> MARCOS, *TODAY'S REVOLUTION: DEMOCRACY* 96 (1971).

<sup>44</sup> Race, *Whither The Philippines?* in PRISMA: *INDONESIAN J. OF SOCIAL AND ECO. AFFAIRS* 30 (1977).

<sup>45</sup> STAUFFER, *PHILIPPINE MARTIAL LAW: THE POLITICAL ECONOMY OF REFEUDALIZATION*, WSCF Dossier No. 10, December 1975, p. ii.

<sup>46</sup> National Secretariat of Social Action, Justice and Peace (NASSA), *SITUATIONER*, April-June 1979, p. 13 (mimeo.).

States most reliable and powerful ally today."<sup>47</sup> Another reason may be because many of its top officers amounting to eighty three, from 1970-1975<sup>48</sup> have undergone special military training in selected U.S. military schools.

The military as the enforcer of the policies of the regime, has had adverse impact upon human rights. Thus, there have been arrests without warrants, tortures and abuses under interrogation at some instances resulting in death.<sup>49</sup>

Despite these violations of human rights and the Carter policy on human rights (Sec. 502 (B) of the Foreign Assistance Act states that except under extraordinary circumstances no military assistance shall be provided to governments engaged in consistent patterns of gross violations of human rights),<sup>50</sup> the Philippine armed forces has had an outstanding increase in military aid during martial law.

In 1973 the first year of martial law alone, it received \$45.3 million, more than twice the amount in 1972 which was only \$18.5 million. To draw a clearer picture: from 1969-1972 military aid to the Philippines totalled to only \$80.8 million. During the first four years of martial law that is, 1973-1976 the total rose to \$166.3 million.<sup>51</sup>

This institution because of its monopoly of arms and independent structure, is a decisive force in any future political action.

The political elite under martial law are not an absolutely cohesive group. Contradictions have beset their ranks. Whether caused by the pursuit of private interests or due to disillusionment these contradictions do not help the viability of the elite group, they are in fact detrimental to its existence. An example of contradictions within the elite are the three most publicized instances of elite defection. The cases of Mijares, Maceda and Morales. All top technocrats in government, their reasons for defection was mainly disillusionment. The steps they took thereafter varied depending upon their perception of the myth and the manner in which change

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<sup>47</sup> Kolko, *The Philippines Another Vietnam?* Commonwealth, January 1973, p. 323.

<sup>48</sup> Bello & Rivera, *The Logistics of Repression*, in LOGISTICS OF REPRESSION, 18 (Bello & Rivera ed. 1977).

<sup>49</sup> INTERNATIONAL COMMISSION OF JURISTS, THE DECLINE OF DEMOCRACY IN THE PHILIPPINES 32-37 (1977).

<sup>50</sup> U.S. Congress, 4 Foreign Assistance Legislation for Fiscal Year 1979, Hearings Before The Subcommittee on International Organizations, House of Representatives, February-March 1978, p.

<sup>51</sup> Bello, *op. cit.*, note 48 at 7-8.

could be brought about. One of them left the country and launched a propaganda campaign against the regime in the U.S. He also testified before the U.S. Congress on "behalf of my 45 million countrymen now groaning under the yoke of a ruthless dictator."<sup>52</sup>

The other joined the ranks of the oppositionists under the Laban Party and fought it out in a futile election battle against his former fellow technocrats. After an inevitable defeat, he left the country.

The third defector was not only able to perceive the reality behind the myth, but unlike that the other two, his disillusionment led him to join the ranks of the revolutionary underground movement in the Philippines.

Citing the rise of the dissident movement as a reason President Marcos imposed martial law on September 21, 1972.<sup>53</sup>

In the seven years of its existence martial law has been unable to deal a fatal blow upon the New Peoples Army. Although the government claims to have captured or killed its leaders, its ranks continue to grow. Such growth is shown by the *Philippine Collegian* editorial of August 1, 1979, wherein it reported that the NPA "has taken hold of 85% of Eastern Samar and 60% of Western Samar."<sup>54</sup>

The early years of martial law saw the rise of new legal institutions and processes. The essential one's are namely: the new constitution, the barangays, referendums, local government restructuring, military tribunals and possibly the most important structure which sits at the apex of all these new institutions, is the executive department or particularly the Office of the President.

It is necessary to emphasize that first, these legal institutions are new only in name, structure and internal processes. As part of the state structure of our society they continue to stand or more accurately float on a semi-colonial and semi-feudal economic base. And since the base reflects in its superstructures the balance of power in society has therefore not been essentially altered. The ruling class prior to martial law still finds itself entrenched within these structures.

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<sup>52</sup> U.S. Congress, Human Rights in South Korea and the Philippines: Implications for U.S. Policy, Hearings Before Subcommittee on International Organizations, House of Representatives, May-June, 1975, p. 278.

<sup>53</sup> Pres. Proclamation No. 1081 on September 21, 1972.

<sup>54</sup> The Philippine Collegian, Aug. 1, 1979, p. 8, col. 1.



Secondly, the creation of these structures and processes have had but one purpose in mind, which is the consolidation of state power in the ruling class.

In spite of the rendering of the new constitution in a state of anesthesia, to borrow Justice Barredo's words,<sup>55</sup> and the closure of Congress, the wavering myth of democracy has been kept barely alive through the barangays, referendums and the creation of the Interim Batasang Pambansa.

The absence of a legislative body and the exercise by the president of legislative powers, although validated by the Supreme Court in the case of *Aquino Jr. v. Comelec*,<sup>56</sup> was a constant source of criticism against the regime from local as well as international sources. The barangays and referendums<sup>57</sup> were therefore created as a facade of direct citizens' participation in governmental policy-making. This claim of democracy is easily exposed by the fact that freedom of speech and press was only a temporary grant during referendums,<sup>58</sup> which at anytime could be revoked.

In a study of the 1973 referendum by De Guzman and Associates, of the U.P. College of Public Administration they came to the conclusion that the referendum was a managed affair that "gave a semblance of citizens participation in public affairs" which was "necessary to provide legitimacy to the martial law regime."<sup>59</sup> In analysing the barangays, De Guzman and Associates observed that the citizens "did not have any . . . meaningful participation in the decision making process."<sup>60</sup> They noted: The curtailment of the freedom of opinion nullifies meaningful participation. When there is fear of reprisal, citizens cannot freely discuss their views as well as those of the administration.<sup>61</sup>

The creation of a new debating society under martial law has also been a way of bolstering the legitimacy of the regime. The attitudes of the people to the elections for the Interim Batasang Pambansa on April 7, 1978 were varied. Some claimed it to be a step to normalcy. Others knowing the regime's purpose for the elections, nevertheless participated in it by putting up the Laban party as a means of legitimately exposing the

<sup>55</sup> *Aquino, Jr. v. Enrile*, G.R. No. 35546, Sept. 17, 1974, 59 SCRA 183 (1974).

<sup>56</sup> 59 SCRA 183 (1974).

<sup>57</sup> Pres. Decree No. 86 (1972) as amended by Pres. Decree No. 86-A (1973).

<sup>58</sup> Three referendums that have been called since the declaration of martial law are the following: July 27-28, 1973; February 27-28, 1975; and October 16-17, 1976.

<sup>59</sup> Abueva, *Ideology and Practice in the "New Society"* in MARCOS AND MARTIAL LAW IN THE PHILIPPINES 47-48 (ROSENBERG, Ed., 1979).

<sup>60</sup> *Id.*, at 53.

<sup>61</sup> *Ibid.*

myth. There was a great number, however, who called for a boycott. The view of these people is possibly best exemplified by former Senator Diokno's statement clarifying the rumors that he was running in the elections. He had this to say:

\* \* \* my personal opinion is that the coming 'polls' are sham elections intended, not to dismantle but to disguise martial law, creating a sham democracy to deceive our people and the world, and to further not only the interests of the martial law administration, but also the economic, military and political interests of the government of the United States, at the expense of the welfare of our people. I want no part in such fraud.<sup>62</sup>

In effect the Interim Batasang Pambansa did not in any way alter the political structure of the martial law regime. Power still lay in the hands of the ruling class. In this regard one writer commented on the rights to suffrage in a class society; "universal suffrage, a Constituent Assembly, parliament are merely a form, a sort of promissory note, which does not alter the essence of the matter."<sup>63</sup>

The restructuring of local governments was a further step in consolidating state power and a means of breaking the backbone of any effective opposition from the local political warlords, whose basis of political power lay in these structures. In connection therewith, the police organization of the country was integrated and supervision and control over them was directly placed under the executive department. The provincial officials therefore are now mere appointees who continue in service at the president's discretion.

Fr. Bernas, former Dean of the Ateneo College of Law, called attention to the process by which "a personality cult of certain high officials of the martial law regime," is being effected through the training seminars of the Barangay Brigades which are part of the Barangay structures in every town or city.<sup>64</sup>

The judicial department is possibly structurally the least affected by seven years of martial law. It has been observed that the independence of the judiciary however upon which it finds its strength and effectiveness, has under martial law been undermined. The judiciary in the Philippines has according to the Amnesty International "become totally ineffective in

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<sup>62</sup> Diokno, Statement Jan. 25, 1978, Makati Rizal.

<sup>63</sup> Lenin, *op. cit.*, note 7 at 20.

<sup>64</sup> Appendix A.

preventing the violations of human rights . . . the rule of law under martial law is authoritarian presidential — military rule, unchecked by constitutional guarantee or limitations.”<sup>65</sup>

The judiciary has in the main validated the powers exercised by the martial law regime. Thus through its decisions it has rendered the declaration of martial law valid;<sup>66</sup> recognized the power of the chief executive to issue decrees with force of law;<sup>67</sup> conceded to the chief executive the power to propose amendments to the constitution and to call for a plebiscite to approve the proposed amendments.<sup>68</sup>

The creation of military tribunals can be said to have two main effects. One is to show the general populace that the state may use its military powers either directly or indirectly to deal with any opposition. The second (which is of greater significance), is that it poses a threat upon the regular existing judicial structure because they can replace the former with courts martial.

As one writer observes:

The Philippine Supreme Court has made its choice and like the proverbial Oriental bamboo, it has understandably chosen to bend with the wind in an effort to survive. With its pinions clipped and its head bowed slightly in situational submission, the court can be said to have experienced and passed the apex of its institutional crisis. On the balance sheet the court has done the president more service than disservice, more good than harm. As long as the court stays tractable, the president will find it in his interest to keep it open and operational.<sup>69</sup>

### *The Philippine Economy*

Seven years of martial law has only led to exacerbating the Philippine economic crisis. It is a shattering of the myth of economic independence and the illusion of industrial development through an open door policy towards foreign investments. In short it has exposed the fact that we are not only a neo-colony politically but moreover economically.

<sup>65</sup> Quoted in Abueva, *op. cit.*, note 59 at 72.

<sup>66</sup> Aquino, Jr. v. Enrile, G.R. No. 35546, Sept. 17, 1974, 59 SCRA 183 (1974).

<sup>67</sup> Aquino, Jr. v. Comelec, G.R. No. 40004, Jan. 31, 1975, 62 SCRA 275 (1975).

<sup>68</sup> Sanidad v. Comelec, G.R. No. L-44640, Oct. 12, 1976, 73 SCRA 333 (1976).

<sup>69</sup> Del Carmen, *Constitutionality and Judicial Politics*, in *MARCOS AND MARTIAL LAW IN THE PHILIPPINES* 112 (ROSENBERG, Ed., 1979).

"Industrialization", "self-reliance", "economic development", these are the avowed goals of the martial law regime. It has even at times justified the denial of political rights as a sacrifice for economic development. Seven years of martial law has however failed to show any bright signs towards these goals.

During the past seven years our external debt has grown to a staggering amount. As of March 31, 1979 it amounted to \$8.375 billion.<sup>70</sup>

To the World Bank alone the Philippines as of November 30, 1978 has drawn the total amount of \$1080.75 million and has been "the only country in Asia which has availed itself of the extended fund facility . . . ordinarily nations avoid applying under this program because of its onerous conditions."<sup>71</sup>

This debt-trap, as it is called by Payer,<sup>72</sup> has resulted in undermining our right as a nation to chart the course of our own economic development. Our economic development policies have therefore to undergo scrutiny and approval by the World Bank before its implementation. At times, approval need not be sought considering that these plans were made by the Bank itself. As Bello explains, our development strategy after the declaration of martial law is not only "congenial to the Bank, it has actually been framed with the active participation of the Bank."<sup>73</sup> As proof of this he cites a confidential draft of a World Bank country program paper on the Philippines referred to as the Gould memorandum,<sup>74</sup> which states that the Bank:

\*\*\* continues to have a close working relationship with the Government and to play an important role in supporting the country's development effort. The (Bank's) basic economic report proposes a broad framework for future development, which the Government has accepted as a basis for its future economic plans.

A resulting economic policy out of this dependence on World Bank loans is our open door policy towards foreign investments, a consequence of which is the domination of our economy by transnational corporations.

<sup>70</sup> Bulletin Today, April 5, 1979, cited in IBON Facts and Figures, May 31, 1979, p. 1.

<sup>71</sup> Villegas, *The Philippines and the IMF-World Bank Conglomerate*, in *THE PHILIPPINES IN THE THIRD WORLD PAPERS* No. 17, 5 (1979).

<sup>72</sup> PAYER, *THE DEBT TRAP* (1974).

<sup>73</sup> Bello, *Development and Dictatorship: Marcos and The World Bank*, in *LOGISTICS OF REPRESSION* 97 (BELLO, Ed. 1975).

<sup>74</sup> *Ibid.*

The favorable climate for foreign investments in the Philippines is generally guaranteed by three laws, namely: the Foreign Business Regulations Act,<sup>75</sup> the Investments Incentives Act,<sup>76</sup> and the Export Incentives Act.<sup>77</sup> During the first half of 1978, out of a total foreign investment of \$82.1 million, \$55.29 were made under the Foreign Business Regulations Act, and \$13.56 million were made under the other two laws named above.<sup>78</sup>

The term foreign investment if understood as an amount brought by transnational corporations into our country and which contributes to our dollar earnings, is a misconception. In reality foreign investors only bring into our country a minimal amount. A great bulk of the investment comes from domestic resources through loans. Hence from 1969-1972 total direct foreign investments amounted only to \$750.67 million, while total domestic borrowings amounted to \$3619.44 million. During the first four years of martial law, 1973-1976, foreign direct investment lowered to \$481.33, but domestic borrowings on the other hand amounted to \$11045.72 million.<sup>79</sup>

To compound the above, the laws earlier mentioned allow repatriation of their profits earned in the original currency in which it was invested.<sup>80</sup> In the years 1975 and 1976 therefore according to a U.P. Law Center study,<sup>81</sup> for every dollar invested by a foreign investor he was able to earn \$3.58, of which \$2.00 has been repatriated. Gone therefore is the idea that we earn dollars thru foreign investments.

The claim on the other hand that the loans we have acquired has contributed greatly to our industrialization is disputed by Villegas,<sup>82</sup> who says that on the contrary these loans have been mainly designed to maintain the Philippines as "basically an agricultural producing country and consequently, exporter of raw materials and processed agricultural products." His study further shows where World Bank Loans have really been channeled from 1957-1978:

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<sup>75</sup> Rep. Act No. 5455 (1968), as amended by Pres. Decree No. 92 (1973).

<sup>76</sup> Rep. Act No. 5186 (1967), as amended by Pres. Decree No. 92 (1973).

<sup>77</sup> Rep. Act No. 6135 (1970), as amended by Pres. Decree No. 92 (1973) and by Pres. Decree No. 485 (1974).

<sup>78</sup> NASSA, *SITUATIONER*, *op. cit.*, note 46 at 6.

<sup>79</sup> Department of Economic Research, Central Bank, cited in Villegas, *op. cit.* note 71.

<sup>80</sup> Rep. Act No. 5186, Sec. 4, as amended by Pres. Decree No. 92 (1973).

<sup>81</sup> U.P. Law Center, *The Impact of Transnational Corporations in the Philippines* (1978), cited in *Civil Liberties Union of the Philippines, Notes on Neo Colonialism* (1979) p. 6.

<sup>82</sup> Villegas, *op. cit.*, note 71 at 14.

1. \$441.4 m. — 19 agricultural projects like irrigation, tree planting, livestock;
2. \$410.8 m. — 18 infrastructure projects like roads, dams etc.;
3. \$211.7 m. — 6 power generation for electrification of rural areas, running of sugar mills, etc.;
4. \$137 m. — general development projects;
5. \$25 m. — for population control;
6. \$58 m. — for education; and
7. \$77.33 m. — for industry.

*The Peasantry And The Working Class Under Martial Law*

The Philippine peasantry has been the main target of reforms by the martial law government. This is in recognition of the historical fact that the Philippine peasantry which is the most numerous social class has continuously been the source of social unrest and rebellion. Even the present rebellion which the martial law government has sought to quell is itself basically an agrarian problem.

On October 21, 1972 exactly a month after the imposition of martial law, Pres. Marcos signed into law Pres. Decree No. 27, which proclaimed the emancipation of all tenants and farmers. The importance of this decree lies in the President's statement that: "The land reform program is the only gauge for the success or failure of the New Society. If land reform fails, there is no New Society."<sup>83</sup>

An analysis of the land reform program is therefore necessary to determine the record of martial law during the past seven years.

A mere reading of the Emancipation Decree however, would show substantial internal inconsistencies. As Kerkvliet explains, the decree promises either 3 hectares of irrigated land or 5 hectares of unirrigated land to an estimated 1 million tenant families occupying rice and corn land is arithmetically impossible. Since there are only about 1.3–1.5 million hectares of the said land available for distribution, each family will only receive an average of two hectares.<sup>84</sup>

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<sup>83</sup> Daily Express, October 23, 1973, p. 1.

<sup>84</sup> Kerkvliet, *Land Reform: Emancipation or counterinsurgency*, in MARCOS AND MARTIAL LAW IN THE PHILIPPINES, 114 (ROSENBERG, Ed. 1979).

Another inconsistency is that although the purpose of the decree is to sell the land to the peasant at a low price, through its amortization scheme of 15 years the land turns out to be dearer.<sup>85</sup>

Kerkvliet further explains that the claim by P.D. 27 that it will "emancipate all tenant farmers" is a myth.<sup>86</sup> Since the decree covers only rice and corn lands it excludes all tenants of other types of lands. Further excluded from the coverage of the decree are tenants in lands which although are rice and corn lands are nevertheless 7 hectares or less. It should be noted that according to 1974 studies of the Department of Agrarian Reform, excluded in the decree is about 920,000 hectares planted with other agricultural products. Also excluded is close to 3 million hectares of land consisting mainly of U.S. agricultural interests.<sup>87</sup>

These circumstances have led one writer to conclude that the land reform program "is basically an American program in conception, and that the main goal remain that of diffusing agrarian unrest."<sup>88</sup>

A further tie-up between the land reform program and U.S. business interests is in the sale of machinery and fertilizers which is necessary for the productivity of those "miracle seeds". These seeds demand a careful irrigation and water control which only 10-20% of Asian farmers have.<sup>89</sup>

Members of the landlord class who have been affected "accidentally" by Presidential Decree No. 27 have not taken things sitting down. According to a Department of Agrarian Reform<sup>90</sup> report these landlords have used all the means at their disposal to repel the decree. Landowners have therefore used the legal processes, which naturally is to their advantage, by filing criminal charges against their tenants on various grounds, resulting in the arrest and imprisonment of peasants.

Assessing the land reform program of the New Society therefore, Kervliet comes to the conclusion that it "is a means the government uses to maximize stability and its legitimacy with minimum concessions to the rural masses at the expense of wealthy elites and foreign investors."<sup>91</sup>

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<sup>85</sup> See Appendix B.

<sup>86</sup> Kerkvliet, *op. cit.*, note 84 at 130.

<sup>87</sup> Cited in Rocamora and O'Connor, *The U.S. Land Reform and Rural Development in the Philippines*, in *LOGISTICS OF REPRESSION* 72 (Bello Ed. 1975).

<sup>88</sup> *Id.*, at 64.

<sup>89</sup> Farmers Assistance Board Incorporated, *Green Revolution and Imperialism* 8 (1978).

<sup>90</sup> Kerkvliet, *op. cit.*, note 84 at 125-127.

<sup>91</sup> *Id.*, at 119.

After seven years of martial rule the land reform program has failed to show any positive signs of improving the plight of the much oppressed and exploited peasantry. Their conditions have further worsened considering the economic crisis our country is in.

Presidential Decree No. 27 as the third land reform program enacted by the Philippine state, has simply exposed the myth that land reform can simply be effected by statutory legislation.

The second social group which has been greatly affected by the martial law government is the labor sector. Under a neo-colonial set-up their cheap labor is one of the main reasons for the presence of foreign investments in our country.

Their condition has worsened under seven years of martial rule. They have been generally denied the right to strike and some of them the right even to organize because they do not conform to the statutory or jurisprudential definition of an employee. In a capitalist system the right to strike is the only power the workers have against the capitalist class and against capital itself.

This right was denied the working class a day after the declaration of martial law through General Order No. 5.<sup>92</sup> Its subsequent amendments were embodied in Presidential Decree No. 823<sup>93</sup> as amended by Presidential Decree No. 849.<sup>94</sup> The anti-labor policy of the state shows the interests it seeks to protect — foreign investors. A government advertisement in the New York Times in July 28, 1974<sup>94</sup> is proof of this interest, the ad read:

Recent Presidential decrees have simplified conciliations and arbitration of labor disputes (both strikes and lockouts are prohibited), lifted work restrictions during Sundays and holidays, liberalized the employment of women and children, and expanded the scope of apprenticeship program. Labor costs for the foreign company setting up plant in Manila would work out from 35 to 50 per cent lower than they would either in Hong Kong or Singapore.

In spite of the ban on strikes there has been a number of strikes. According to a Church study,<sup>95</sup> the most abusive and repressive manage-

<sup>92</sup> Gen. Order No. 5, September 22, 1979.

<sup>93</sup> Pres. Decree No. 823 (1975), as amended by Pres. Decree No. 849 (1975).

<sup>94</sup> Quoted in Bello, *op. cit.*, note 73 at 129.

<sup>95</sup> Institute for Philippine Culture, Labor and the Church: An Exploratory Study, in Bello, *op. cit.*, note 73 at 118-119.



ments consist of the foreign investors themselves. The study reports that as a result of a strike in one American garment export firm, 126 active union members were laid off and a Philippine Constabulary Group now resides inside the company grounds.

The low wages of the workers is another matter compounding their situation.

Under Presidential Decree No. 1614<sup>96</sup> workers were given a wage increase effective April 1, 1979. This gave the industrial workers in Metro Manila ₱13; industrial workers outside Metro Manila ₱12; plantation agricultural workers ₱10; and non plantation agricultural workers ₱9. A recent study by the Asia Pacific Compensation Survey shows however, that despite the increase "the Philippine wage structure is still the lowest among 10 countries in the Asia-Pacific region."<sup>97</sup> The countries included in the survey were Australia, Indonesia, Japan, Korea, Malaysia, Singapore, Taiwan and Thailand.

Even with such low wages a study shows that in Metro-Manila in 1976, out of a sampling of some firms "some 73 per cent and 83 per cent paid a maximum wage of only ₱5.00 or less a day for male and female workers respectively."<sup>98</sup>

The galloping inflationary rate of our economy further aggravates the workers plight. According to Jurado<sup>99</sup> the real wages of the worker in Metro-Manila has dropped from ₱7.30 in 1977 to ₱4.20 in 1978; and that the skilled worker in Metro Manila in 1978 needs ₱26.18 per day to survive at the poverty threshold while supporting a family of six, but in reality the said worker for 1978 earned only ₱15.40 which is 56 per cent of what he needed.

Foreign investments have neither contributed to the unemployment problem of our country. A restricted economic report on the Philippines by the Asian Development Bank<sup>100</sup> showed that the number of unemployed is continuing to grow. In 1974, there were 510,000 workers unemployed, in 1976 according to the report the unemployed labor force were 805,000.

<sup>96</sup> Pres. Decree No. 1614 (1979).

<sup>97</sup> Cited in Lichauco, *Inflation and Underdevelopment in the Philippines*, in *LIBERAL PARTY NEWSLETTER* 1 (1979).

<sup>98</sup> Jurado, *Price Increase and Government Policy: A Discussion*, in 16 *THE PHILIPPINES IN THE THIRD WORLD PAPERS* 2 (1979).

<sup>99</sup> *Id.*, at 5.

<sup>100</sup> Asian Development Bank, *Economic Report on the Philippines*, March 1978, p. 12.

The same report states that our manufacturing sector indicates a relatively poor absorption capacity.

The policies the martial law government has adopted towards the working class have the effect of being anti-labor and for the benefit of foreign capitalist and their local partners.

In the light of these policies and in spite of the states monopoly of force, the working class in Philippine society has time and again defied the strike ban. This seems to indicate that the coercive power of the state can no longer overrun and overcome the worker's legitimate claim to a more decent existence.

#### CONCLUSION

History has shown us that martial law is but a stage in the process of the neo-colonial domination of our economic and political order. That foreign interests interacting with our economic, political or military elite have built a state structure with legal and social institutions to perpetuate and protect their interests.

Democracy therefore in such a social order is but a myth used to disguise neo-colonial exploitation and oppression.

The myth of democracy which is our society's primary myth, is sustained and nurtured by other minor myths, e.g. the myth of economic independence, political sovereignty, peasant emancipation, industrialization through foreign investments etc. All of these myths interacting with one another are the psychological fetters that prevents Philippine society to develop and progress.

Although our history has at numerous instances exposed the realities behind the myth still it is difficult to escape Hegel's dictum that "history teaches man, that man learns nothing from history."

The members of the legal profession are not exempt from the operation of Hegel's maxim. Their continuous debates on the legality or propriety of the doctrines enunciated in the Martial Law Cases, without first realizing and exposing the myth, are but actions which lend legitimacy and credibility to the myth that under martial law we have freedom of speech and press. For them we say: "While ignorance of the law is deemed to be no excuse, ignorance of reality is apparently quite excusable."<sup>101</sup>

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<sup>101</sup> Cloke, *op. cit.*, note 10 at 29.

## APPENDIX A \*

BARANGAY BRIGADE  
TRAINING MANUAL

— April 3-7, 1979

*[The May 25, 1979 issue of ICHTHYS carried a letter by Fr. Joaquin G. Bernas, SJ on the Barangay Brigade or Barangay Kawal. We are publishing here a copy of the Barangay Brigade Training Manual which demonstrates that the fears expressed in Fr. Bernas' letter are well based. For those of our readers who may not have seen this letter, we are republishing it here with the Manual. It would be good to consider the points for reflection raised in this letter after reading the Manual.]*

*Association of Major Religious Superiors of Men in the Philippines  
Manila*

May 22, 1979

TO: The Members of the Catholic Bishops Conference  
of the Philippines

The Major Religious Superiors of Men  
in the Philippines

The Major Religious Superiors of Women  
in the Philippines

Enclosed is a report on a recent development which might be affecting your territorial jurisdiction. Because of the significance of these reported developments, I have taken the liberty to send the report to you with the request for verification by your priests or religious or lay leaders and lay leaders and with the request for comment. I do this both in order to elert you about the human rights implications of the report and to solicit your guidance.

(Sgd.) JOAQUIN G. BERNAS, SJ  
Chairman  
Executive Board

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\* ICHTHYS, Vol. II No. 29, July 27, 1979.

Since March of this year, reports from many parts of the Philippines, in connection with training seminars for the Barangay Brigades of the martial law regime, and specifically for the "Barangay Kawal" programme, have given many citizens cause for grave apprehension that there is probably a nationwide pattern of preparation for totalitarian rule, based on a personality cult of certain high officials of the martial law regime. These reports are from Nueva Ecija, Zambales, Pampanga, Laguna, Batangas, Iloilo City, Antique, Misamis Oriental, Iligan City and Zamboanga. The events they recount follow the same general pattern.

This pattern begins with an invitation to a four to five-day training seminar for Barangay Brigade leaders. Participation are recruited with varying degrees of pressure, often not too subtle, often accompanied by veiled threats in case of refusal.

During the seminar itself, nothing remarkable generally happens until the closing night. Before that there are the expected lectures and discussions, on nationalism, discipline, community involvement government programmes and the like, albeit strongly favoring the viewpoint of the New Society.

On the last night, however, the seminar takes on a new twist, an atmosphere of mystery and suspense. As the night deepens, the participants are blindfolded and led by circuitous and confusing routes for about 15 minutes, to another place of assembly. When their blindfolds are removed, they usually find themselves in a hall in which the only light comes from torches which flank a full-length picture of President Ferdinand E. Marcos. This picture is invariably of heroic, more than life-sized proportions, and is sometimes also accompanied by a picture of Mrs. Imelda Romualdez-Marcos, and sometimes also by that of the mayor of the locality. Often some flags or banners flank the picture or pictures. In the foreground there is a red-covered book of one of Mr. Marcos' writings, upon a decorated stand, together with some oath forms for signature. A human skull often completes the setting.

After a brief exhortation, touching on the greatness and benefits of the New Society and its exalted leader, a presiding officer then begins to inform the participants that they are being inducted into the Barangay Kawal. They are then told that as Barangay Kawal they will be sworn to defend with their lives and their total commitment, the "Supremo" and "Primer Ministro" of the New Society, Ferdinand E. Marcos. The participants are then enjoined to strict secrecy regarding the dramatic events of that night.

... Then follows a formal call for those who do not wish to take the oaths, to say. (All those reluctant to take the oaths were afraid to say so, in the occasions covered by our reports.) And so the oaths are administered — one of total commitment to the Supremo, and one to strict secrecy. Many participants at this point take the oath under duress, being afraid of the consequences of refusing, and being still in a state of disorientation from the suddenness of these developments.

The participants are then requested to affix their signatures to the oath forms or to the red-covered book of Mr. Marcos' writings, ostensibly so that they could be summoned to fulfill the obligations of the oath they have taken, whenever necessary. In some instances they are told to sign their names in their own blood, and many do so. Toward the end of the ceremony, the participants take part in burning an effigy of the Old Society and its evils.

In all these reported seminars, local government officials, especially those at the Barangay level, were prominent in organizing and recruiting for the seminars. In a significant number of seminars reported, local Iglesia ni Kristo ministers and/or leaders were active in recruiting and staffing the seminars, and in exhorting and inducting the members of the Barangay Kawal.

It is improbable that these seminars are merely spontaneous local phenomena. The reports are too widespread and similar, indicating a deliberate government-sponsored or government-supported pattern or policy, probably nationwide in scope.

The terms of the oaths in these seminars far transcend the oaths to defend the Constitution and democratic rights and freedoms, and to tell the truth, to which we are used in a democratic political system. Instead, the oaths in these Barangay Kawal seminars and the setting in which they are held, convey the strong impression of a personality cult demanding absolute loyalty — a totalitarian propensity contrary to the spirit of the 1935 Constitution.

The active role of elements of a religious denomination in these seminars bears close watching. Does this indicate massive support by that denomination for the martial law regime? On what terms?

More significantly, we ask ourselves, do these reports indicate the beginnings of an attempt to set up a totalitarian regime, based on a personality cult of Mr. Marcos and his associates, with the complicity of a religious sect, and backed up by the Barangay Kawal acting as a paramilitary force, in conjunction with the regular Armed Forces?

If the defense and promotion of human rights is already so risky and difficult under the present authoritarian government, how much more will it be under a totalitarian government, with all the forces of coercion and surveillance at its command?

In addition, is there here an attempt to establish a government-sponsored religion?

As Christians committed by the Gospel to the defense and promotion of human rights, ought we not to be more watchful, and take a strong stand now against any move towards deepening authoritarianism and especially towards totalitarianism?

Finally, and most importantly, what concretely do we do about these developments?

#### APPENDIX B \*

##### THE COST OF LAND

PD 27 stipulates that XXX the value of the land sold be equivalent to two and one half times the average harvest of three normal crop years immediately preceeding the promulgation of this decree (October 21, 1972). Thus —

First step:	Average Gross Harvest
	1969 — 80 cavans
	1970 — 100 cavans
	1971 — 90 cavans
	Total . . . 270 cavans
Second step:	270 cavans divided by 3 equals 90 cavans times
	₱50.00 (prevailing price per cavan of palay)
	times two and one half equals price of land
	equals . . . . . ₱11,250.00
	₱11,250.00 divided by 15 years equals price of
	the annual amortization . . . . . ₱ 750.00

\* National Secretariat of Social Action, Justice and Peace (NASSA) Papers on Philippine Peasantry.

The total cost of land is paid by the tenant with an interest rate of six percentum (6%) per annum for 15 years in 15 equal annual (amortization) payment. (A Primer On Agrarian Reform, MAR, August 1973).

YEAR	DOWN	BALANCE	INTEREST (6%)
First	15 cavans - P750.	P10,500.00	
Second	15 cavans - P750.	P11,175.00	P675.00
		- 750.00	
		<u>P10,425.00</u>	
Third	7 cavans - P350.	+1,049.00	P424.00 Interest
	lack 8 cavans - P400.	P11,474.00	of credit
	+ 6% interest - P 24.	- 350.00	P625.00 Interest
	<u>P424.</u>	<u>P11,124.00</u>	of 10,425.00
			P1,049.00 Total
			payment
Fourth	10 cavans - P500.	P11,124.00	P265. Interest
	lack 5 cavans - P250.	932.00	of credit
	+ 6% interest - P 15.	P12,056.00	P667. Interest
	<u>P265.</u>	- 500.00	of P11,124.00
		<u>P11,556.00</u>	P932.00 Total
			Payment
Fifth	8 cavans - P400.	+ + 1,064.00	P371. Interest
	lack 7 cavans - P350.	P12,620.00	of credit
	+ 6% interest - P 21.	- 400.00	P693. Interest
	<u>P371.</u>	<u>P12,220.00</u>	of P11,556.00
			P1,064.00 Total
			Payment
Fifteenth year . . . .			
	15 cavans - P750.	P10,109.00	P606.44
		- 750.00	
		<u>P 9,359.00</u>	
		+ 606.00	
		<u>P 9,965.00</u>	

The computation shows that the amortizing peasant would, at the end of the fifth year, will have to pay P12,220.00. P970.00 more than P11,250.00 which is the total cost of the land. Considering that after the fifth year there is a good harvest (no pest, no calamities etc.) for the preceding 10 years (six to fifteenth) and the tenant farmer is paying the whole amount

(P750.00) of his annual due. There will still be a deficit of P9,965.00. This shows that the amount of the land (P11,250.00) at the end of the fifteenth year has almost doubled. Aside from this, the farmer had been paying the Samahang Nayon dues — SN membership fee of P10.00 and annual dues of P5.00 and an annual contribution of one cavan of palay per hectare. The farmer will have to pay a fine of P2.00 for every absence in a Samahang Nayon meeting. (Profile of the Rice and Corn Area, Lussa Report, 1979).

Furthermore, it should be stressed that the certificate of Land Transfer is not a deed or title to the land, but merely a verification that the tenant is the tiller of the land and that the next step, valuation can now be undertaken.