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THE PHILIPPINE CRISIS (1986 - 1987)

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The Military and the Insurgency in a Deadly Race

TWO POWERFUL forces in the Philippines are in a race to dislodge the present government from the seat of authority and set that country on a new course. The communist insurgency, the first of the contenders, began its challenge more than thirty years ago, pursuing through most of the that time a spotty career of pillage and violence. The more recent one, mutiny in the armed forces, threw down the gauntlet by way of a coup d'etat attempt four months after the present administration was installed. The impact of the two forces on the government could be disastrous to the nation. Indeed, caught between the two forces, the nation now awaits, in the words of the Wall Street Journal, "the final blow."

Although the turmoil which the Philippines is now experiencing has caused peril of a magnitude previously unknown, thoughtful Filipinos look at it with sadness rather than a sense of shock. They foresaw the catastrophe looming over the country today when the events that led to it were just beginning and were alarmed even then. Now, in place of the outrage and terror that would have been their natural reaction to such turbulence, they can only lament the failure to heed the warnings about its coming.

The Making of a Crisis

THE PHILIPPINE CRISIS today was entirely predictable at the time, less than two years ago, when the extraordinary step was taken to give the communist insurgency hospitable accommodation in national policy. The crisis was visible even from that distance when the government began restricting the ability of the armed forces to repel increasingly forceful incursions of the New People's Army (NPA) into towns and cities. As if there were not alarming enough, the government program of reconciliation, designed to put the good nature of the new government on public display, curiously excluded and brutalized some elements of the population, sowed fear and hate with a unique instrument called "sequestration," and invited discontent by removing thousands from their government jobs through a series of dismissals and layoffs programmed ostensibly to rescue the bureaucracy from incompetence and corruption.

How could one see all these signs and not know that the country was headed for a crisis, the present crisis? To be sure, there have been expressions of concern from responsible individuals aware of the dangers of complacency and, worse, of self-deception. More than six months ago, the U.S. Undersecretary of Defense, Richard Armitage, testified before

the U.S. Congress, at a meeting of its Asia-Pacific subcommittee, that "the Aquino government has failed to develop a comprehensive plan to put down the communist insurgency in the Philippines." His appraisal, spiced with the observation that "some members of the administration believe that they can rely almost exclusively on symbolic political acts to solve the insurgency," was specially significant because other voices in the American government had something else to say, and it was their judgment that the media almost always favored.

The evidence on which the Armitage testimony was based, if one took the trouble of looking at the facts beneath the surface, told the alarming story that the communist insurgency had developed a momentum powerful enough, unless halted soon, to bring down the government. At the time, the communist armed force, the New People's Army, had 24,430 members. A more recent published estimate puts it at 26,000. Numbers alone, however, do not show the full extent of the communist insurgency today. More revealing are the ease with which the NPA now gains new territory; the increasing boldness with which the communist terrorist squads, the so-called "Sparrow Units," carry out assassinations in towns and cities, most of them before the eyes of residents, amounting to public execution; and the "taxes" now being collected with impunity from terrified businessmen and homeowners in many areas, including some just outside Manila.

At the time he delivered his assessment to the U.S. Congress, Mr. Armitage reported that the communists and their military arm had increased the scope of their influence by 21% since the Aquino administration began, "bringing total barangays (village communities) affected by communist presence to 8,496 or 20% of rural areas." The chief of staff of the armed forces, Gen. Fidel Ramos, himself reported after the Armitage testimony that the communists had effective influence over 62% of the villages.

Taken together, the countryside and the urban influence or control exercised with increasing ferocity by the insurgents cannot but indicate the failure of the policy of negotiation on which the administration anchored its rather puzzling treatment of the communist insurgency problem.

This began with the sweet-faced slogan, "Give peace a chance!" and has since then been a curious blend of self-satisfaction and aggressiveness, displayed alternately, one, when the new leadership is encouraged to wear for the public to behold the halo of popularity; the other, when criticism or dissent threatens to expose its feet of clay. This is the patchwork that has been assailed as non-policy, especially by a significant part of the military establishment which in the months since the attempted coup of July 6, 1986 has waged a

a series of similar attempts culminating in the particularly ominous mutiny led on August twenty eight this year by Col. Gregorio ("Gringo") Honasan.

In his assessment of the communist insurgency, Ramos observed that "it is a dangerous half-truth which has within it the seeds of destruction" to say that "people power" would solve the insurgency problem. He took care to point out that this delusion was shared by "many people, including some government authorities." The statement, a reiteration of the unheeded call sounded by the armed forces and many citizens for an honest-to-goodness program against the communist insurgency, could not have been more timely. For in March (1987), in an interview with the Japan Kyodo News, a communist spokesperson, Carolina Malay, revealed that the Communist Party of the Philippines (CPP) was ready to set up a "national provisional revolutionary government." Miss Malay announced that provisional governments were to be established in Luzon and the Visayas, the northern and central regions of the country. She was speaking as chief of staff of the National Democratic Front (NDF), a coalition of various communist-sponsored radical elements, including a large part of the clergy (40% of the Catholic priests in the Philippines are communists or communist sympathizers, according to the papal nuncio, Monsignor Bruno Torpigliani, and official American sources). The NDF had earlier organized a provisional government for Mindanao, the southern region.

The Military Loses the Upperhand

EVENTS IN subsequent months would show that Miss Malay's published statements were not mere psy-war effusions. With increasing frequency, NPA regulars have marched in varying numbers into important towns and cities, thus carrying the war to the government forces. More and more units of the Philippine armed forces have been successfully ambushed or attacked in their camps, including one raid in a southern Luzon camp which, apparently by pre-arrangement, was extensively covered by the local and foreign media, which were at the scene of the ambush before it happened and published pictures of the carnage afterwards. Towns only a few miles outside of Manila have been successfully attacked, some of them in their town halls and in some instances with little or no resistance. At the start of the ill-conceived ceasefire agreement between the government and the communists, an entire municipality in one of the central Luzon provinces literally played host to a large contingent of NPA warriors, all awesomely accoutred, who paraded around town virtually under the protection of the government (which had ordered its troops to refrain from carrying out

operations against the communists), and with the open support of a Catholic bishop whose sympathy for the insurgents was an open secret.

More recently, 500 communist rebels succeeded in isolating the Bicol region south of Manila by blowing up bridges and destroying the railway tracks, a display of power and arrogance that has since been repeated in other assaults (and numerous assassinations) around the country. Just outside Clark Air Force Base, three Americans and a Filipino were killed in broad daylight by gunmen believed to be members of the NPA's Sparrow Units.

Taxes collected by the communists apparently do not bother the government, even when one sitting assemblyman was assassinated for failing to pay the assessed tax on his private business. Gen. Ramos did at one time remark upon the continuing taxation enjoyed by the NPA which, as he announced, had at the time already collected 138 million pesos. His apprehension, however, could not alter the cold silence with which the government reacted to quizzical statements in the press: partly by sending collection letters, and the campaign continues unchallenged. The administration took no umbrage even when the chairman of the NDF, Saturnino Ocampo (Miss Malay's husband), snorted at Gen. Ramos' account and published the terse "explanation" that the NPA-imposed taxes were "part of the revolution being waged by the insurgents."

Communists Find a Supportive Ally

THERE IS no question that this revolution gained velocity following the installation of the new government, and that the crisis that now threatens to bear the country apart owes itself not to any superior quality in the communist cause but to the opportunities for growth and victory handed to the insurgents by the government itself. A relationship of cause and effect must surely be apparent to anyone who witnessed, on one hand, the release from detention of communist leaders like Jose Ma. Sison and Bernabe Buscayno, the shackling of the military during the 60-day ceasefire, and the virtual deification of communist negotiators by influential government and church representatives in that crucial period; and, on the other hand, the increasing ability of the communist rebels to taunt the government and, in many encounters initiated by them, inflict telling losses on the military and the civilian population. The armed forces chief of staff confirmed about a month after the August 28 attempted coup that an average of 4.4 soldiers were dying in daily encounters with the NPA, compared to three before that.

Without benefit of these signals, I saw years ago that the communist ascendancy now shaping up was a consequence to be expected if the government lost its will to contend forcefully with the communist challenge or traded the responsibility of subduing it for the imagined pleasures of cohabitation with the communist cause.

To the credit of the military establishment, from the former minister of national defense to the unit commanders in the field, it resisted the idea, when it was proposed, that the Communist Party and the NPA leaders detained under the previous administration be set free -- to "give peace a chance." Peace, of course, had no chance from the moment the communist leaders received the government's gift of liberty and the country; under policy makers who cannot be said to be terribly eager to break the back of the insurgency, has seen how swiftly the NPA has grown from a struggling band to a powerful army. As the experience of other countries had shown earlier, the ceasefire gave the insurgents an opportunity to preach and recruit, build up their arsenal, win more territory, and acquire the appearance, if not the status, of a government. The insurgency, in fact, gained the aura of legitimacy through a series of press conferences and interviews given by NDF officials who succeeded in making the government serve them hand and foot during the peace negotiations.

How all this could take place in a country commended to the stewardship of an administration portrayed as having divine provenance can be understood only in terms of its actual performance in the worldly business of governing and policy making. Those functions have from the outset been carried out by highly placed administrators whose affinity to the communist movement was a matter of record long before they gained the cabinet and sub-cabinet positions that gave them manipulative powers in government. The advantage this gave the communist insurgency was not lost even to other highly placed (but obviously less influential) officials of the administration, who tried in vain to steer policy away from its demonstrated bias for communists. The insurgents and their high-powered operatives in the core of the national government continued to prepare for full-scale war while appearing to put much store by peaceful negotiation, and before the end of the 60-day ceasefire it was plain at least to some that events were taking place according to an agenda that gave enormous satisfaction not only to the insurgents but to some members of the administration as well.

In the past the people and the government built material and spiritual assets that reinforced the program to keep the communist menace at bay, and even in the most extreme circumstances of government inaction and social discontent -- the fatal combination --

it would have taken considerable time to produce the crisis that, in less than two years, has now developed in the country.

In contrast, the insurgent forces are today close to attaining their long-cherished objective of complete control of the country. The slide from euphoria to catastrophe was hastened by the frustration and anger that followed when, in the name of liberation and reform, the government stifled peaceful protest and allowed, some say ordered, the killing of demonstrators; government employees were without just cause and in defiance of civil service rules removed from office; political foes were hounded and humiliated; property was "sequestered" and the respondents presumed guilty; soldiers were called to account for violation of human rights in combat operations while insurgents who inflicted torture on capture soldiers or killed them in ambushes were declared immune from criticism or indictment; media representatives who criticized the government were silenced; and officials and relatives denounced for unprecedented degrees of corruption were protected by an impenetrable wall of silence.

Reacting Too Late

THERE IS NO COMFORT to be found in the government's recent display of anti-communist feeling because many see it as calculated to catch the eye and soothe the nerves of the administration's American sponsors. Artifice is specially useful in moments of despair, and the Aquino government, alarmed by the nearly successful coup led by Honasan and the growing discontent, is desperate to keep American patronage for its political and financial security.

It has not escaped the notice of some, however, that while it seems important to keep in the good graces of American policy makers, the Aquino administration has also accused certain "elements" in the U.S. government of having had a hand in the planning and launching of the mutiny. Many Filipinos likewise see that the insurgents reaped an enormous advantage from the mutiny, especially because the rebel leaders lost no time proclaiming their resolve to "exploit" the fragmentation of the armed forces. In their party organ, the "Ang Bayan," the communists announced after the August 28 mutiny that they were mounting more attacks on the armed forces "to take advantage of the disarray within the ranks of the reactionary forces of the enemy." That they have followed through is evident; encounters between the NPA and the armed forces, according to reports, increased by 140 per cent.

It is startling anyhow that the principal tool of the government against subversion has now been used to subvert it, unless the complaint of the military that the government has spurned calls to develop an anti-insurgency program is understood to mean that it is the duty of the armed forces to resist an administration seen as having virtually worked hand in glove with the communists. If one retraces the course of the present Philippine leadership over the past 19 months, the preeminence of known communists in the upper and middle levels of government and the opportunities for rapid growth offered the communist rebels are road signs that cannot possibly be misread. At the same time, set against the frequent declarations by the administration and its sponsors that it is devoted to the restoration of democracy and the safekeeping of the people's most prized values, the same signs can be a source of confusion. Many of those who saw a good deal of promise and a world of good in the new administration now feel thoroughly disoriented; while those who have always been skeptical about the present leadership see the same signs as a confirmation of their worst fears.

The Coup Attempt - A Deeper Reason

ONE THING the coup attempts have done, therefore, is to sharpen the existing lines of division and expose new fissures, including of course the deep breach in the armed forces that reveals the hostility in military ranks to the government's spineless anti-insurgency program. The coup attempts did not discover the crisis created by the communist insurgency and the feeble government action against the rebels inasmuch as the crisis was foreseeable and the government's impotence is precisely what the coup attempts were intended to rectify. What these attempts may well have done is to discover that the belief among some Filipinos and foreigners, especially in the United States, that the communist insurgency can be waved away as by a magic wand in someone's hand, could after all not last very long. The Honasan mutiny, for instance, elicited from no less than the country's vice-president, Salvador Laurel, the verdict that "the country is on fire," clearly putting its second highest official in the camp of the discontented. A member of Madam Aquino's constitutional convention, Blas F. Ople, has pronounced the Philippine situation "irreversible," and says this condition came about because the administration leads "a hand to mouth existence, politically and intellectually."

Coming from well-known political leaders, one in the government, the other from a large sector of the opposition, those statements are singularly expressive of the country's

present condition as it teeters on the edge of disaster. What they don't depict is the danger to world peace and stability that a communist victory in the Philippine would pose.

Global Stakes - The Importance of the Philippines

THE STRATEGIC VALUE of the Philippines owing to its location has long been recognized, and accordingly much of the planning and the action in the superpower contest has been conditioned by the importance of gaining and enlarging access to the archipelago and waters close by. Until now it has been possible to keep the struggle for supremacy in the area beneath the geniality and reasonableness that have so far marked the surface of U.S.-Soviet relations but the striving for strategic advantage is nevertheless sinister and unrelenting.

Both major powers have in fact on occasion given intimations of their rival aims. Last year, in Vladivostok, Soviet General Secretary Mikhail Gorbachev spoke of the Russian government's fresh initiatives in Asia. Gorbachev's lengthy speech is memorable chiefly for its pronouncement that "the Soviet Union is also an Asian and Pacific country," which appeared to some a significant rejoinder to America's earlier proclamation that "The Pacific is an American lake."

The Philippines unquestionably looms large in these official perceptions, a fact prefigured by the remark of Alfred T. Mahan several decades ago that the sea and air lanes leading from the Pacific, through the South China Sea and the Malacca Strait to the Indian Ocean and the Hormuz Strait between the Persian Gulf and the Gulf of Oman, are vital to global security and economy. The Philippines lies on this route and its sea passages which Mahan saw as crucial "choke points," control of which would give a nation priceless advantage in the unceasing struggle for economic and military dominance. Strategists and some world leaders have long acknowledged that the Philippines is the most strategically located country in its part of the world. For this reason alone, the Philippines would be coveted, as in fact it is, by the big powers. As it happens, the country is also rich source of materials of strategic value, much of which still lies untapped.

Siezure of the government by communist insurgents in the Philippines will trigger a civil war which in turn will immediately tear off the veneer of amiability between the big powers in this part of the world. Control of the Philippines is too much of a temptation to resist then, and one of the two options will inevitably have to be made. The two

superpowers may choose to carry out the struggle through their surrogates, with the civil war as their arena, surely on a scale as large as Vietnam's; or to engage each other directly in a confrontation that cannot but have worldwide implications. In either case, the prize is the ability to dictate the terms of passage on the corridor between Cam Ranh Bay and Zambales, through narrow Philippine channels like Balintang, the Balabac Strait and the San Bernardino Strait, and down through the Malacca, Sunda and Sumatra Straits to the Indian Ocean, where even now there is restless activity by the major powers to achieve naval superiority.

Both the American and Soviet governments have indicated by the pattern of their military preparations in and around Asia that possession points immediately east and west of Mahan's line is an immutable principle that yields to few, if any, others in importance in their respective strategies. When he says that "the Soviet goal in Asia is power," Rick Fisher of the Heritage Foundation in the United States actually repeats what had long been a platitude before Gorbachev spoke in Vladivostok. The communist victory in the Vietnam war added a powerful thrust to the Soviet pursuit of its goal in Asia; it can hardly be denied that Cam Ranh's facilities, built by the United States to begin with, could, if circumstances had been different, be in American hands now, with so much difference in the balance of power in Asia today. Should the Philippines fall into Communist hands, the sea lane between this country and Vietnam could be barricaded by the Soviet Navy for its exclusive use. A vital route that links Japan as well as the western coast of the United States to the Middle East can thus be denied to the rest of the world.

It is not surprising then that the United States in various ways has made it known that it means to keep Clark and Subic bases, notwithstanding an agreement of special relationship between the U.S. and Palau, and official rumors that Palau will be developed as an alternative. That this resolve will stay can hardly be doubted. Through a key official, the United States has already announced that it will fight for its bases in the Philippines. Indeed, anyone who gives Mahan's map a second glance is not likely to miss the point that Palau has no strategic advantage comparable to that of the Philippines, especially if it is assumed that with the Philippines in communist hands, Cam Ranh and Subic and therefore the waters between and around would then be in the service of Soviet strategy.

Both major powers concede the strategic importance of the Philippines. Before its fall, South Vietnam similarly held the fierce attention of U.S. and Soviet planners, and the world has witnessed the intensity of the contest for possession and control of the country, even if one participant, ironically the one that ultimately copped the prize, fought

the Vietnam war throughout through a surrogate. A prize not less important awaits the victor in a second encounter and it is not likely that either contestant will voluntarily give up the chance to win it. In recent days, it has been fashionable to depict American participation in another such struggle as measured action in a so-called "low intensity conflict," a euphemism coined to signify careful avoidance of the use of such large units of U.S. troops as were poured into Vietnam. In the long run, with its inherent dependence on "native" manpower and its necessarily protracted nature, a low intensity conflict may surpass the scale of the Vietnam war in its toll on the endurance and spirit of people and nations.

This is not to say that those committed to the anti-communist struggle in a country where a "second Vietnam" may be fought, in this case the Philippines, will hesitate to carry on the war with their soldiers and resources alone, unaided by foreign armies. But avoiding a civil war is an exceedingly more patriotic task than fighting one, and this not the aim served by awaiting the pleasure of an enemy driven by a passion for violent change. The present crisis or even a global war; the struggle, then, will not be for Filipinos to decide.

The situation created by the failure to deal a hard blow to the insurgents comes in the wake of several upheavals in the third world that delivered whole countries into communist hands. Whether by design or neglect, this failure to cope with the communist challenge, to correct which has been the driving force behind successive attempts at a coup d'etat, has brought the Philippines very close to the same fate that overtook the governments of Cuba, Vietnam, Cambodia, Angola, Ehtiopia, Iran, Nicaragua, South Yemen, and Mozambique, so that the specter of another communist takeover is haunting enough. Yet the change that looms over the nation does not seem to portend disaster in the judgment of the present administration; nor, indeed, to some of its Filipino and foreign sponsors who to this day find its performance in office a continuing object of praise and support. The clapping, however, can no longer conceal the urgency of taking swift and purposeful action to halt the advance of th communist forces which have brought a large part of the country to heel and all but paralyzed the rest with terror.

The Insurgency Continues to Grow

EVEN WERE the insurgents to call off further armed operations and active recruitment in exchange for the government's early favors, their gains in membership will continue without

any perceptible slackening. The momentum they have achieved in past months is sufficiently strong to carry off to their camp the thousands forced into greater misery by the stagnant economy. The Foreign Trade Administration of the U.S. Department of Commerce has seen the dismal condition of the economy and reported that the Philippines had a negative growth of 1% in 1986. The government did not help the situation at all when it virtually encouraged strikes in the labor sector, driving investments away and forcing shutdowns in industry.

Layoffs in the private and public sectors in the first nine months of the administration reached at least 1.5 million, raising to an unprecedented number the country's unemployed to 2.7 million in December 1986, more than twice the figure, 1.3 million, in 1985. Forced retrenchments and more dismissals took place in 1987; communist influence and urban terrorism have grown; investors are skeptical about the government's frequent announcements of coming prosperity; and attempted coups have multiplied. In none of these can one discern any prospect that fewer persons will be jobless or desperation less acute at the end of 1987.

Stagflation and Corruption

THE UNABATING increase in prices of commodities has likewise been a bonanza to the communist cause, as families already impoverished by unemployment grow weary in the struggle to cope with the weight of inflation, which grew 385 per cent in 1986 over the 1985 level. In the first year of the present administration the price of rice rose from P2.70 to P10.00 a kilo; fish from P16 to P42; chicken from P15 to P45. The peso has steadily deteriorated, so much so that the exchange rate today is P22.30 to \$1, from P18.60 in 1985 and P20.30 in 1986. This has been accompanied by dwindling support for farmers and medium-scale industries, reversing a revered and long-standing policy in the past administration. Along with inflation, these factors have dragged per capita income down to \$572 in 1986, from the 1985 level of \$1,400.

Stagnation and ruin are similarly evident in the affairs and services of the government. Although revenue collection is reported by the government to have increased by about 15.5% in 1986, the budgetary deficit in that year, P27.85 billion, was more than twice the size of the deficit in 1985 (11.8 billion). Equally bewildering is the nearly total absence of physical accomplishments, despite the claim that some P41.5 billion, 67% more than 1985, was expended in 1986 for the construction of roads, bridges, ports, and airports and for

other capital outlays. Instead, some of the infrastructure assiduously built in the previous administration is in disrepair, some facilities have merely been renamed after new heroes, and no construction that had not been planned, funded or commenced before 1986 has been undertaken.

The variance between stated revenue and visible accomplishment has raised questions, chiefly the logical one about what useful ends have been served by the money spent for items the government has chosen not to identify. People may be asked to understand, of course, that these invisible items will serve them somehow, at some time; but for the moment it apparently serves the purposes of the administration to leave them undefined and unexplained. In an atmosphere that is not conducive to scrutiny anyway, one need not reach too vigorously for answers.

It must be said however that it is the essence of public accountability that a correspondence must be evident at all times between the record of public money and the concrete results of its use. When the previous administration abruptly ended in February, 1986, it had in the treasury a total of 28 billion pesos, which included amounts for scheduled projects in 1986, like payments for workers and producers of sugar in the island of Negros, and earnings for land reform, casino trust funds, and infrastructure projects throughout the country. With respect to infrastructure, all the funds appropriated in previous years are still visible today in the form of public facilities of every variety constructed between 1966 and 1985, such as schoolhouses, irrigation dams and canals, hydroelectric and thermal plants, roads and bridges, ports and airports, markets and public buildings.

The Allegation of Misuse of Public Funds

AS TO FUNDS constituting American assistance to the Philippines, no less than the U.S. General Accounting Office has certified to their proper utilization by the past administration. Prompted repeated charges that these funds had been misused, the GAO, which conducts investigations for the U.S. Congress, examined all relevant documents and made ocular inspections of projects financed by U.S. aid and special project funds. Their report in May, 1986 said in part: "In the Philippines, we reviewed selected files and records provided by the AID and, to a limited extent, by the GOP; visited ESF project sites; and obtained independent cost analysis of selected ESF construction activities which showed the amounts paid for the facilities were reasonable..."

We reviewed several allegations concerning misuse of U.S. assistance. None of these could be substantiated (underlining supplied). We also reviewed documents ex-President Ferdinand Marcos and others had brought with them to the United States. None of these referred to U.S. assistance."

There has been an intense concentration, both in government and the media, on an effort to rewrite history at the expense of personalities in the past administration, and part of that effort has been not only to conceal the GAO report from the public but also to repeat the same allegations that the report had found baseless. One can't help being amazed at the reserve of inventiveness that makes this possible, but it must surely at some time dawn upon the fair-minded that some private need may have compelled the present leadership to maintain this campaign of misrepresentation and unremitting accusation.

A Study in Contrast

IT WOULD be highly entertaining were it not for the very real danger that it has helped to create. A communist victory is closer today than it could ever be in the past not merely because of the obvious lack of will in the political leadership to subdue the communist rebellion. It is also being helped along by the failure of the government, despite much rhetoric and repeated promises, to provide the basic services that no society can do without. The economy is a shambles. Consequently, no new constructions have been started. Irrigation service has ceased. The government has made no effort to meet the needs of a growing population for adequate sources of electric power, for orderly transport, for better nutrition, for more classrooms, for greater farm and industrial productivity, for less dependence on imported oil, for an expanded housing program, and for more medical and rural health facilities and services. A responsibility so basic as garbage collection has been neglected even in Manila, the premier city.

Such neglect must, of course, be shielded from the public view, and this has been done with both skill and determination. The administration has busied itself with large gestures like abolition of the Batasang Pambansa (parliament); the rewriting of the Constitution; the election of a new Congress; the dismissal of judges and the appointment of an entire new judiciary -- all scintillating acts that have left undone the tedious and prosaic job of serving the needs of the public from day to day. Inevitably the effervescence spent itself, and the fear that nothing had been gained from all the fizz began to spread. The

communist insurgents alone continued to be elated; they saw, gratefully, that beneath the surface of drumbeats and speeches poverty was growing and creating the resentment and despair upon which communism continually feeds.

The gratification from all this that is evident in the ranks of the insurgents has served in turn to fan the anger and rebellious spirit of significant numbers of officers and soldiers in the armed forces and, for that matter, among countless citizens. It is not surprising that the country, in the words of its own vice-president, is "on fire."

This is precisely the condition that the past administration endeavored at every step to prevent by means of a program, commenced in its first year, to eradicate the causes of just grievance and to that extent curtail the growth of the communist movement in the country. The conditions of the country twenty years ago unfortunately showed that communist propaganda was not entirely wrong in trumpeting the claim that social injustice was widespread. If the insurgency that had begun long before that was not to move forward and engage the armed forces in a life-or-death struggle as it does today, the administration beginning in 1966 had to rouse government from the easygoing attitude that had over many years permitted the growth of inequitable conditions in society. The programs between 1966 and 1985 were premised on the axiom that communism can flourish only in a climate of sustained injustice.

The energies of government consequently took on a new focus in education, health, agriculture and public services.

In 1965 the Philippine literacy rate was 65%. This went up to 72% in 1972 and to 93% in 1985, one of the highest literacy rates in the world. This was achieved through government support to education by ways of subsidies to private schools and the construction of more than 100,000 public school buildings.

In 1965 the calorie intake (as a percent of requirement) per capita was one of the lowest in Asia and the developed world. In 1972 per capita calorie intake was 88%, enabling the Philippines to overtake Thailand, Indonesia and Bangladesh. By 1985, with 99.6%, we had overtaken Taiwan and Hongkong.

A land reform program was undertaken for the first time in the Philippines on October 21, 1972. Between then and 1985, 657,623 lessee-farmers became landowners and some 533,808 tenant-farmers converted into leasehold, a total of 1,191,431 farmers benefitted by land

reform. The program, covering more than a million hectares of rice and corn lands in 1985, provided farm subsidies and irrigation facilities to ensure production during the dry months of January and May. In 1965 some 571,375 hectares of land were under irrigation; in 1985, some 1,300,000 hectares were.

Some 161,000 kilometers of roads built between 1966 and 1985 gave the Philippines one of the most modern road systems in East Asia, complemented by a large number of bridges and ports all over the country.

The Philippines in 1965 imported 100% of her oil requirements. In 1985 our oil dependence was reduced to 50% with the construction of hydro, dendro and geothermal plants. Today the Philippines ranks second to United States in geothermal energy utilization. In 1965 only 6% of the towns and cities had access to electrical energy; some 92% had been energized by 1985.

Government public spending, by priming the economy, enabled the Philippines to withstand the oil shocks of 1974 and 1981 that wrecked the economies of some other nations.

Hand in hand with public services, military action was taken whenever this was dictated by acts of terrorism resorted to by the insurgents in a desperate attempt to compensate for the failure to make a propaganda breakthrough on account of the government's extensive social action.

Although all that effort in the social and economic fields is etched on every facility and project, from infrastructure still serving the country today to new institutions and agencies, the present administration has chosen, as though that were possible, to expunge it from public consciousness. The 20-year record of infrastructure building and other social and economic measures does not of course fit into the picture of squalor drawn by the present government to dramatize, in its euphoric first days, the claim that the communist insurgency was nourished by the inaction of the previous administration. The otherwise squashy assertion that "as soon as Marcos is gone most of (the communist insurgents) will come down from the hills," was cleverly crafted to substantiate that claim, but it may instead have served to describe the exodus of the NPA to the towns and cities today to feast upon the cordiality of the new administration. In any case, the advertising line has succeeded in sounding like a requiem not for the man it has endlessly maligned but for the program he pursued to hold back the communist insurgency.

The Military Challenge and the Illusion of the Aquino Government

THIS HAS BECOME increasingly apparent in the strong effort exerted by the military to highlight, by means of successive coup attempts, the failure of the present administration's anti-communist "program." It is an effort that daily seems to grow in terms of military capability and public support. Both the mutinous conduct of the armed forces and the public sentiment in support of the latest coup attempt belie the administration's claim that it has unified the Filipino people. It is a claim calculated to summarize the enormous change that is supposed to have taken place in the country, constantly pictured in the media as having been despoiled and riven in the preceding twenty years. The claim rests on the other illusion that democracy reigns at last in the country, unifying the people as they had ever been before under a leadership to which the amazing Cardinal Jaime Sin has more than once attributed divine qualities. The crisis in the country today in no way opens a window to this awesome vista.

Like the communist challenge to government authority, the military challenge has grown in strength and apparently in its ability to seize power. The communist insurgency has over the past months gained more civilian support and combat power, an increase in the capacity to succeed which it has arrogantly displayed in more and more towns and cities. The armed forces rebellion has likewise accelerated over the same period, mounting a series of other attempted coups that altogether portend more powerful challenges. The growth in the power and the determination of the two forces threatening to overthrow the government is the best evidenced that national unity has suffered rather than been enhanced.

It is increase in the chances of a communist victory and the consequent death of democracy, however, that many perceive as the most grievous problem bred by the events of the past year and a half. but ironically those who would suffer most visibly from the passing of the government into communist hands and condemn it most vocally have given the most consistent and methodical assistance to the present leadership in the Philippines. Having sponsored and overseen the installation of the new administration, the media and a powerful sector of the U.S. government saw fit to shower it with plaudits even while it became increasingly evident that owing to the government's irresolute response to the insurgency problem, the communists were moving swiftly to claim the triumph thoroughly denied them in previous years. The new government was heralded as the avenging angel alighting on a wretched nation to restore happiness and democracy. but obviously this encomium does not match the picture of itself that has emerged from its relations with the

communist leaders. It is unthinkable that its sponsors could fail to see this, yet their endorsement of its competence and intentions invites no other conclusion than that indeed its friendly relations with the insurgents have gone unperceived.

Rhetoric versus Reality

IT IS CRUCIAL to the Filipino people and to the free world that the gap between the rhetoric and the performance of the present administration be recognized now, for the contradiction between appearance and reality raises the issue that must be resolved at once -- the survival or fall of democracy in the Philippines. At the outset I said that civil war was certain to follow if the seizure of the government by the communists takes place or comes within easy reach. I am confident that this is so because there is a strong segment in Filipino society that is contemptuous of the communist doctrine that the people's deliverance from poverty and injustice is to be achieved only by means of an abrupt and violent change. As the standard bearer of democracy, this segment will be forced to desert its commitment to a peaceful revolution and apply itself instead to the inescapable task of ensuring its survival by any means. It was to forestall this social inferno that the communist challenge was confronted under the past administration with the implements of democracy, a variety of economic and community welfare measures that would build up immunity to communist pretensions by destroying the roots of social inequity and discontent. Then as now, the struggle to preserve democracy required more exertion than orations and televised prayers.

Vexed now by the consequences of an incomprehensible policy and aggrieved by signs of waning popularity, Madam Aquino recently sought to electrify the nation anew with the edifying promise that "henceforth I shall rule directly as President." The evidence that the conduct of government indeed did not bear the stamp of her personality and wisdom was visible in all areas of the national life. Her stated resolve to change that regrettable situation, while worthy of acclaim, has also prompted others to ask who, then, ruled as President through all the months since her swift ascent to her exalted office. The puzzle need not be unraveled immediately, for the results of a non-performing presidency summon us all to address all our energies to the problems that it created.

Drawing the Superpowers to an Imminent Conflict

ON THE LARGER scale of superpower relations, it is equally important that the true position of the Philippine government on the problem of communist insurgency be understood now, because as I pointed out earlier, both the United States and the Soviet Union may find a civil war ensuing from the present crisis an irresistible temptation to participate openly in the conflict. Military intervention may not be avoided on account of the great stakes involved, surely greater than the interests that ignited the Vietnam war because of the respective claims the major powers accumulated before and since at the western edge of the Pacific. Such intervention is furthermore not unlikely despite our fervent wishes because of existing models of superpower intervention in other parts of the world, like Afghanistan and Grenada.

It is quite true, on the otherhand, that the United States for its part may choose, as the fashionable doctrine of low-intensity conflict suggests, to avoid a massive deployment of its troops on foreign soil and instead seek other solutions. For President Richard Nixon, for one, has echoed America's "new isolationists" with the advice that "nobody wants another Vietnam" and that "we should limit our role to foreign aid programs and diplomatic initiatives." How pervasive his thinking is on the higher levels of the American government is open to speculation, but one may remind himself that neo-isolationism has not prevented the U.S. government from maintaining its Nicaraguan policy notwithstanding the recent five-nation peace initiative in Central America. In any case, a civil war in the Philippines erupting on account of an actual or approaching communist seizure of government poses a greater problem to the United States and to democracy than the present situation in Nicaragua. The U.S. and the rest of the free world cannot be expected to sit on their hands and watch Asian countries fall, possibly one after the other, under communist control in the wake of a communist victory in the Philippines. Such a spectacle is foreseen by Dr. John Whitehall of Australia. "A nexus of pro-Soviet Philippines and Vietnam," Whitehall writes, "would put intolerable pressure on surrounding government by means of revitalized local revolutionary movements. It is likely, for instance, that Thailand would be affected within a short time. The Philippines is physically close to Indonesia and the smuggling of weapons into that country would present little problem."

Faced with a situation like that, the United States may see no other recourse than the use of military power, with its grave implications for world peace and the fate of democracy. Intervention of this nature may be inevitable at that point, yet that point need

not be reached had it been understood in time that the conduct of the present government gave the communist side of the struggle the strength and the opportunity it had long needed to win in the Philippines and thus provide the springboard for conflict on a larger scale. The time for dangerous international engagement need not come, provided it is recognized before the crisis becomes truly irreversible that the government touted as the savior of democracy in the Philippines has itself lit the flames to consume it.

But perhaps, the greatest of all ironies is the fact the insurgency movement in the Philippines could not have grown so radically fast within the last twenty months without the assistance of America. For doesn't the answer seem to be that we must now admit that the United States is funding communism in the Philippines. This assertion is not unfounded because incontrovertible evidences show that it was government money that was used in the training of a ten thousand man "Yellow Army" in the Hacienda Luisita of Madame Aquino. Moreover, it was government money that was used to procure arms for the yellow army although some may have come from the private arsenal of the Cojuangcos. A further insult has been injected to the great military tradition of the Philippines with the inclusion into its rosters of Aquino's private force, the yellow army.

It is possible then that the present administration has been so naive, so impossible to teach, that even the simple principles lead to only one thing. And that is, that the American government has actually been financing, supplying and strengthening the Communist Party of the Philippines. And this has been done so with the casual, although sanctimonious participation of the leader of the present administration. The Filipino people must now simply stand their ground and declare that they have suffered enough. Many of our countrymen have been killed and many of our soldiers have been degraded. We have been deceived enough!

The Consequences of a Communist Victory

A COMMUNIST VICTORY in the present crisis would lay to waste the foundation of social and economic uplift that had been painstakingly built in the years past. The scene for its destruction has indeed been set already by the growing power of the insurgent army, by the fury and restlessness of discontented elements in the armed forces, and by the increasing neglect of public services by the government. In 1966, the past administration commenced a program of modernization that in twenty years, despite its imperfections, produced more

tools against poverty, illiteracy, disease, insecurity and inequality for the Filipino people than all the years of Spanish and American occupation and the three decades that followed. A vast network of roads; thousands of new schoolhouses; medical services without precedent in kind and quantity; varied sources of electric power; vast areas grown more productive; an extensive housing program; and cultural facilities -- admittedly inadequate to satisfy all the requirements of a long deprived and fast growing population, these nevertheless embodied the keen resolve of the government to elevate society and put it beyond the clutches of communism, whose unceasing objective is to convert poverty and inequity into dramatic opportunities for the conquest of communities and nations. Today many of the safeguards built earlier against poverty and inequity are the organized object of ridicule, roadbuilding has ceased and social programs discontinued, and communist recruiters are rushing merrily into the vacuum to accomplish the swift revolutionary change that communism promises.

Concluding Thoughts

THE REVOLUTIONARY CHANGE that, as President, I endeavored to achieve needed democracy to provide suitable climate. It is this climate that will be lost to the nation if the present crisis is not resolved on the side of democracy. It was my "figthing faith," as I expressed it in my book, "Today's Revolution: Democracy," that our realization of the common peril, our complete understanding of our national condition, will unite us in a democratic revolution." The belief that democracy is the revolution propelled the programs with which, as a developing nation, we strived to compress in as few years as possible the centuries-long modernization process that brought the western world to its present stability and eminence. Properly understood, democracy is a hard taskmaster that considers growth a national as well as a personal obligation, for otherwise a country is condemned to suffer continuing underdevelopment and frustration, a permanently unreached potential -- in essence, the communist condition.

The present crisis therefore threatens to remove the chief source of our people's hope for authentic change -- their own unity. Filipinos have throughout their history always relied on a sense of solidarity to overcome their problems, including the problem of survival. The 1896 revolution derived its power and endurance from this source. Unity enabled people, though humiliated and beleaguered, to live with pride and honor through the Japanese occupation. In 1950 and again in 1972, Filipinos acting in unison thwarted the earlier attempts of communist insurgents to overthrow the government. The gravest problem of the moment

Res. No. 799

Republic of the Philippines
First Batasang Pambansa

First Session

Began and held in Quezon City, Metropolitan Manila, on
Monday, the twenty-third day of July, nineteen hundred
and eighty-four

RESOLUTION NO. 38

**RESOLUTION PROCLAIMING FERDINAND E. MARCOS
AND ARTURO M. TOLENTINO AS THE DULY
ELECTED PRESIDENT AND VICE-PRESIDENT OF
THE PHILIPPINES, RESPECTIVELY**

WHEREAS, in pursuance of the provisions of the Constitution, as amended, and of Batas Pambansa Blg. 881, the Speaker, assisted by the Board of Tellers, has canvassed the returns and publicly counted the votes cast at the election for the offices of the President and Vice-President of the Philippines held last February 7, 1986, and has found that FERDINAND E. MARCOS and ARTURO M. TOLENTINO have received the highest number of votes for the offices of President and Vice-President, respectively: Now, therefore, be it

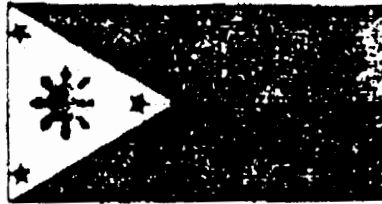
Resolved by the Batasang Pambansa. By virtue of the result of the canvass of election returns of the election held on February 7, 1986, to proclaim, as it hereby proclaims, FERDINAND E. MARCOS as the duly elected President of the Philippines, and ARTURO M. TOLENTINO as the duly elected Vice-President of the Philippines.

Adopted.

NICANOR E. YSIGUEZ
Speaker

This Resolution was adopted by the First Batasang Pambansa on February 15, 1986.


ANTONIO M. DE GUZMAN
Secretary-General



Oath of Office

I do solemnly swear that I will faithfully and conscientiously fulfill my duties as _____
President of the Philippines, preserve and defend its Constitution, execute its laws, do justice to every man and consecrate myself to the service of the Nation.

So help me God.

Ferdinand E. Marcos

Residence Certificate No. 1

Issued at Manila

Issued on January 2, 1986

Signed and sworn before me this 25th day of February, 1986, A.D., in Manila,

Stamp

Samon C. Aquino

Chief Justice

REPUBLIC OF THE PHILIPPINES
FIRST BATASANG PAMBANSA
METRO MANILA

Second Regular Session

Resolution No. 644

Introduced by Honorables J. B. Laurel, Jr., E. Cea, N. Gonzales,
M. Fernan, A. Cuenco, H. Adaza, C. Alfelor, R. Andaya, H. Aquino,
J. Atienza, R. Bafias, E. Belo, N. Beltran, C. Bolaños, E. dela Paz,
D. Cagas, F. Caram, J. Fernandez, C. Fernandez, N. Daluz, A.
Defensor, H. de Pedro, D. Demetria, M. Domingo, J. Ferrer,
W. Gamboa, R. Garcia, R. Ignacio, E. Kalaw, R. Lazatin,
E. Lingad, G. Lopez, R. Marcellana, R. Marcial, B. Marquez,
A. Martinez, O. Mercado, R. Mercado, R. Mitra, C. Muarip,
J. Nepomuceno, R. Padilla, C. Muñoz Palma, H. Perez, G. Puyat,
I. Real, R. Recto, Z. Respecio, V. Robles, A. Romulo, A. Sanchez,
O. Santos, F. Sison, F. Sumulong, E. Tanjuatco, V. Ziga,
H. Quintana, L. Villafuerte

RESOLUTION

CALLING FOR THE IMPEACHMENT OF FERDINAND E. MARCOS,
PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, FOR GRAFT
AND CORRUPTION, CULPABLE VIOLATION OF THE CONSTITUTION,
GROSS VIOLATION OF HIS OATH OF OFFICE AND OTHER HIGH CRIMES

BELIEVING in the principle of accountability of public officers
as expressed in the constitutional provision that "A public office
is a public trust; public officers and employees shall serve with the
highest degree of responsibility, integrity, loyalty, and efficiency,
and shall remain accountable to the people." (Art. XIII, Sec. 1,
1973 Constitution);

CONSCIOUS of the heavy sense of responsibility in the
exercise of the impeachment power of the Batasang Pambansa;

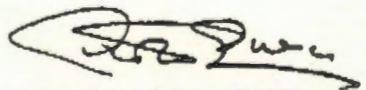
BURDENED with the greater obligation of maintaining
fidelity to their solemn covenant with the Filipino people;

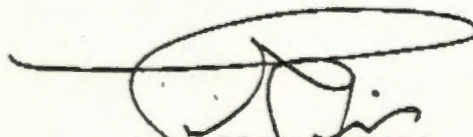
RESPONDING to numerous demands from various segments of Philippine society for the impeachment of President Ferdinand E. Marcos as shown by the attached Annex "A" representing such a segment;

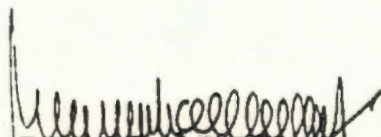
CONVINCED that there exists clear and convincing evidence that President Ferdinand E. Marcos is guilty of graft and corruption, culpable violation of the Constitution, gross violation of his oath of office and other high crimes as specified in a verified complaint which this resolution incorporates en toto by way of reference: Now therefore, be it

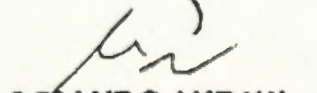
RESOLVED by the Batasang Pambansa to call, as it hereby calls for the impeachment of Ferdinand E. Marcos, President of the Republic of the Philippines on the following grounds: graft and corruption, culpable violation of the Constitution, gross violation of his oath of office and other high crimes.

Adopted in Quezon City, Metro Manila, Philippines, this 8th day of August 1985.

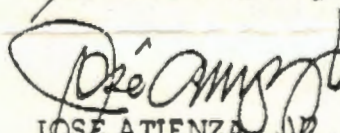

ANTONIO V. CUENCO



HOMOBONO ADAZA

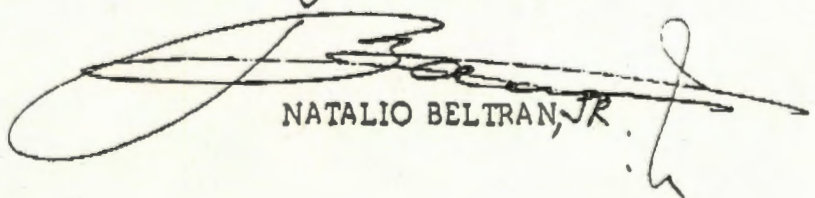

CIRILACO ALFELOR


ROLANDO ANDAYA


HONORATO AQUINO


JOSE ATIENZA JR.


RUFINO BAÑAS


NATALIO BELTRAN, JR.

Impeachment Resolution

Cesar V. Bolanos
CESAR V. BOLANOS

Douglas R. Cagas
DOUGLAS R. CAGAS

Fermín A. Caray
FERMIN A. CARAY

Emerson B. Cea
EMERSON B. CEA

Nenita C. Daluz
NENITA C. DALUZ

Arthur D. Defensor
ARTHUR D. DEFENSOR

Emilio N. Dela Paz
EMILIO N. DELA PAZ

Hilario de Pedro
HILARIO DE PEDRO

Demetrio G. Demetria
DEMETRIO G. DEMETRIA

Manuel C. Domingo
MANUEL C. DOMINGO

Marcelo B. Fernan
MARCELO B. FERNAN

Carlos C. Fernandez
CARLOS C. FERNANDEZ

Jolly T. Fernandez
JOLLY T. FERNANDEZ

Jaime N. Ferrer
JAIME N. FERRER

Wilson P. Gamboa
WILSON P. GAMBOA

Rogelio Garcia
ROGELIO GARCIA

Nestali A. Gonzales
NESTALI A. GONZALES

Rolito L. Ignacio
ROLITO L. IGNACIO

Eva Estrada Kalaw
EVA ESTRADA KALAW

Jose B. Laurel, Jr.
JOSE B. LAUREL, JR.

Rafael L. Lazatin
RAFAEL L. LAZATIN

DIED
RAFAEL B. LEGASPI

Emigdio L. Lingad
EMIGDIO L. LINGAD

Gemiliano C. Lopez, Jr.
GEMILIANO C. LOPEZ, JR.

Pedro M. Marcellana, Jr.
PEDRO M. MARCELLANA, JR.

Rolando C. Marcial
ROLANDO C. MARCIAL

Beinvenido Marquez
BEINVENIDO MARQUEZ

Antonio C. Martinez
ANTONIO C. MARTINEZ

Orlando S. Mercado
ORLANDO S. MERCADO

Rogaciano M. Mercado
ROGACIANO M. MERCADO

Ramon W. Mitra, Jr.
RAMON W. MITRA, JR.

Gandu I. Muarip
GANDU I. MUARIP

Juanita L. Nepomuceno
JUANITA L. NEPOMUCENO

Roy B. Padilla
ROY B. PADILLA

Cecilia Muñoz Palma
CECILIA MUÑOZ PALMA

Hernando B. Perez
HERNANDO B. PEREZ

Gonzalo G. Puyat II
GONZALO G. PUYAT II

Hjalmar P. Quintana
HJALMAR P. QUINTANA

Isidoro E. Real, Jr.
ISIDORO E. REAL, Jr.

Rafael Recto
RAFAEL RECTO

Zafiro L. Respicio
ZAFIRO L. RESPICIO

Virgilio P. Robles
VIRGILIO P. ROBLES

Alberto G. Romulo
ALBERTO G. ROMULO

Augusto S. Sanchez
AUGUSTO S. SANCHEZ

Oscar F. Santos
OSCAR F. SANTOS

Fabian Sison
FABIAN SISON

Francisco S. Sumulong
FRANCISCO S. SUMULONG

Emigdio S. Tanjuatco
EMIGDIO S. TANJUATCO

LUIS R. VILLAFUERTE
LUIS R. VILLAFUERTE

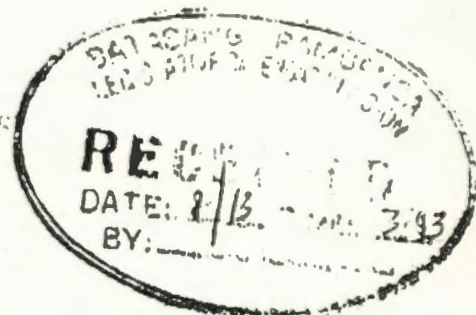
Victor Ziga
VICTOR ZIGA

ENRIQUE M. BEL
(Suspended...)

REPUBLIC OF THE PHILIPPINES
FIRST BATASANG PAMBANSA
METRO MANILA

Second Regular Session

RESOLUTION NO. 645



Introduced by Hon. Aspiras, Cendaña, Estrella, De Vera, Singson, Ortega, Dominguez, Raquiza, Dangwa, Barbero, Bateria, Enrile, Perez (L.), Albano, Faberes, Pucos, Reyno, Jr., Bello, Sr., Carag, Domingo (S.), Jr., Dulay, Hipolito, Ople, Teodoro, Roman, Jr., Canlas, Diaz (A.), Diaz (L.), Garcia (M.S.), Natividad, Joson, Gordon, Sawit, Concepcion, Virata, Brion, Yulo, Collantes, Mendiola, Lagumbay, Dragon, Reyes, Morente, Etcubanez, Escudero III, Alberto, Ortiz, Sabido, Montelibano, Pacificador, Britanico, Gatuslao (R.), Gatuslao (A.), Varela, Escolin, Maraon, Monfort, Golez, Patalinjug, Calderon, Durano III, Macias III, Bustamante, Abiera, Asok, Tirol, Chatto, Maambong, Sitoy, Roñe, Veloso (A.), Mate, Molgazo, Valley, Veloso (F.), Del Valle, Aldaba, Cerilles, Ebarle, Loong, Lood, Palma, Gaite, Benitez (J.), Mathay, Jr., Cayetano, Tanchanco, Ongpin, Alba, Zubiri, Jr., Dinlayan, Neri, Regalado, Amante, Plaza, Diel, Del Rosario, Liaguno, Sarmiento, Rabat, Almendras, Datumanong, Dimaporo (A.), Cajelo, Duque, Baga, Jr., Cabili, Dimaporo (M.), Dianalan

RESOLUTION

EXPRESSING THE SENSE OF THE BATASANG PAMBANSA THAT THE RESOLUTION INITIATING THE IMPEACHMENT OF THE INCUMBENT PRESIDENT OF THE PHILIPPINES IS NOTHING MORE THAN A PRODUCT OF UNSUBSTANTIATED NEWS REPORTS, IRRESPONSIBLE SPECULATIONS AND GOSSIPS, AND BASELESS CONCLUSIONS MOTIVATED BY PETTY PARTISAN INTENTIONS AND DOES NOT CONFORM WITH THE SERIOUS STANDARDS AND GROUNDS FOR FILING IMPEACHMENT PROCEEDINGS PROVIDED IN THE CONSTITUTION AND THE RULES OF THE BATASANG PAMBANSA.

WHEREAS, a resolution calling for the impeachment of the incumbent President of the Republic of the Philippines has been filed by some members of the opposition in the Batasang Pambansa;

WHEREAS, the Batasan Rules of Procedure in Impeachment Proceedings provide, among others, that a resolution initiating impeachment must be filed by at least one-fifth of all Members of the Batasang Pambansa supported by a verified complaint of a Member of the Batasang Pambansa or any citizen alleging ultimate facts constituting adequate ground or grounds for impeachment under the Constitution or applicable law; second, that the Committee on Justice, Human Rights and Good Government must, by a vote of the majority of all its members, determine the existence of probable cause and submit a resolution setting forth the Articles of Impeachment; third, that a majority vote of all the Members of the Batasan is necessary for the approval of said resolution setting forth the Articles of Impeachment; and, finally, after due trial, that a vote of two-thirds of all the Members of the Batasan is required to sustain the impeachment and render a judgment of conviction;

WHEREAS, in view of the foregoing and considering that the grounds stated in the resolution initiating impeachment against the incumbent President are products of unsubstantiated news reports, irresponsible speculations and gossips, and baseless conclusions motivated by petty partisan intentions, a protracted consideration of and debate on said resolution for impeachment cannot be but futile and invariably a waste of the Batasang Pambansa's time;

WHEREAS, the same resolution for impeachment can only serve to distract if not deter the Assembly from taking immediate action on legislative priorities that are of more concrete, positive and urgent significance to the people at present, such as measures addressed to the problems of economic stability and recovery, insurgency, and development;

WHEREAS, it is apparent that the Opposition's resolution for impeachment was immediately precipitated by a mere procedural issue arising out of the Batasan's legislative session of 24 July 1985, the circumstances of which may be recalled as follows:

- a) The Honorable Homobono Adaza of Misamis Oriental and the Batasan Minority stood purportedly on a matter of personal and collective privilege in order to answer or rebut the State of the Nation Address delivered by the President of the Philippines before the Assembly on the opening of its second regular session two days earlier;
- b) The Honorable MP Adaza was subsequently declared out of order by the Chair, considering that the subject of said assemblyman's intended speech did not constitute valid grounds or cause to rise on a matter of personal and collective privilege, as provided under the Rules of the Batasang Pambansa;
- c) Acting on representations of the minority for the Chair to reconsider its ruling, the latter called for a division of the House, whereupon the previous decision of the Chair was upheld;
- d) During his explanation of vote under the 3-minute rule, the Honorable Minority Floor Leader declared that, because of the incident and the alleged provocation levelled at the opposition, the latter would proceed to file an impeachment resolution against the President of the Republic;

WHEREAS, in the August 8, 1985 live presentation of "Tell the People" on Channel 9, where one of the principal authors of the impeachment resolution, MP Homobono Adaza, appeared as guest, the transcript of the dialogue between the said Assemblyman and the TV Host attest to the utterances of the following remarks:

Julie Daza; "People in the Opposition know that the Resolution might not get anywhere because of the superiority in the number of KBL."

MP Adaza; "No, Julie, as a matter of fact, the international attention that has been focused..... You have to take into consideration that more important than the conviction of Mr. Marcos by the Batasang Pambansa is his conviction by the international community and the Filipino people....."

Julie Daza; "You are convicting him by publicity, then."

and the foregoing primarily demonstrate that the principal purpose of the impeachment resolution is merely one of a cheap and insidious propaganda stunt where it is the Opposition's end to subject the President to a domestic and international conviction by publicity;

WHEREAS, the foregoing circumstances indicate that the initiation of impeachment proceedings against the President of the Philippines by several Members of the Batasan is dictated by impassioned partisan sensibilities as well as an intent to pursue certain political ends that do not represent the true lofty mission of this Assembly nor conform with the serious standards and grounds provided by the Constitution and the Rules of this Assembly relative to the filing of impeachment proceedings against the President of the Philippines;

WHEREAS, as against the number opposed to it, this resolution of impeachment will not in any manner prosper whatsoever and that the conclusion, is therefore, ineluctable that the petition is principally intended for harassment, blackmail, personal vindictiveness, grandstand playing and publicity hunting as it is not prompted by the highest and the noblest of motives but by sheer, simple, vicious and vengeful vindictiveness against the ruling issued by the presiding officer on the right of an opposition Member to rise on a question of privilege and thus, motivated, to malign and discredit the President locally and internationally and deceitfully attempt to convict him by mere publicity and black propaganda: Now, therefore, be it

Resolved by the Batasang Pambansa, To express, as it hereby expresses, the sense of the Batasang Pambansa that the resolution initiating the impeachment of the incumbent President of the Philippines filed by some Members of the Opposition is nothing more than a product of unsubstantiated

news reports, irresponsible speculations and gossips, and baseless conclusions motivated by petty partisan intentions and does not conform with the serious standards and ground for filing impeachment proceedings provided in the Constitution and the Rules of the Batasang Pambansa;

Resolved, further, To express the hope that the Committee on Justice, Human Rights and Good Government shall exercise the utmost prudence and discretion in considering the resolution initiating such impeachment, subsequently rendering judgment thereon on the basis of true merit or cause or the absence thereof, with appropriate dispatch and sense of urgency, and to urge said Committee to accordingly report its findings to the Batasang Pambansa without delay.

Adopted,

(Sgd.) GREGORIO S. CENDANA	(Sgd.) JOSE D. ASPIRAS
(Sgd.) CONRADO F. ESTRELLA	(Sgd.) FELIPE P. DE VERA
(Sgd.) ERIC D. SINGSON	(Sgd.) JOAQUIN L. ORTEGA
(Sgd.) VICTOR S. DOMINGUEZ	(Sgd.) ANTONIO V. RAQUIZA
(Sgd.) SAMUEL M. DANGWA	(Sgd.) ARTURO V. BARBERO
(Sgd.) SALACHTB F. BATERINA	(Sgd.) JUAN PONCE ENRILE
(Sgd.) LEONARDO B. PEREZ	(Sgd.) RODOLFO B. ALBANO
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(Sgd.) DAMIAN V. ALDABA	(Sgd.) VICENTE M. CERILLES
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(Sgd.) HENRY Y. REGALADO	(Sgd.) EDELMIRO A. AMANTE
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VIA TELEX

HIS EXCELLENCY
FERDINAND E. MARCOS
MALACANANG, MANILA

MIS-59-86 (URGENT)

IN A MEETING TONIGHT WITH SECRETARY OF STATE GEORGE SHULTZ, WHO WAS ASSISTED BY MICHAEL ARMACOST, MR. SHULTZ INFORMED ME AS YOUR PERSONAL REPRESENTATIVE HERE IN WASHINGTON THAT PRESIDENT REAGAN HAD SENT YOU AN URGENT MESSAGE THROUGH AMBASSADOR STEPHEN BOSWORTH. I ASSUME THE CONTENTS OF THIS MESSAGE ARE BY KNOWN TO THE PRESIDENT.

THE SECRETARY ASKED ME TO ASSURE YOU THAT THE MESSAGE REFLECTS PRESIDENT REAGAN'S DEEP CONCERN FOR THE FILIPINO PEOPLE AND THAT IT HAS ARRIVED AT WITH GREAT PERSONAL PAIN CONSIDERING THE FRIENDSHIP THAT HE FELT FOR YOU AND YOUR FAMILY.

THE MESSAGE FOLLOWS:

"THE CURRENT SITUATION HAS PRESENTED US WITH A NEW SET OF CONDITIONS.

"THE ELECTION EVENTS, THE CONFRONTATION AND THE VIOLENCE HAVE DEEPLY AFFECTED THE AMERICAN PUBLIC AND GOVERNMENT.

"IF VIOLENCE IS EMPLOYED AGAINST ELEMENTS OF THE PHILIPPINE ARMED FORCES, WE WILL NOT BE ABLE TO CONTINUE MILITARY ASSISTANCE. IN ADDITION, THERE WILL BE STRONG -- PERHAPS IRRESISTIBLE -- PRESSURES FROM CONGRESS TO SUSPEND ECONOMIC AID AS WELL.

"WE WANT TO HELP, BUT YOU MUST RECOGNIZE IT DOESN'T NOW MATTER HOW STRONGLY YOU FEEL ABOUT HAVING WON THE ELECTION. BUT THE PERCEPTION OF YOUR PEOPLE AND THE AMERICAN PEOPLE IS THAT THE ELECTION WAS BADLY FLAWED.

"THE PRESIDENT IS DEEPLY CONCERNED AND WANTS TO KNOW WHAT SCENARIOS YOU ENVISION FOR A NEW GOVERNMENT THAT WILL HELP DEFUSE THE VIOLENT SITUATION NOW EVIDENT.

"HE WISHES TO HELP YOU MAKE THIS TRANSITION SO THAT THE GOVERNMENT AND THE PEOPLE OF THE PHILIPPINES CAN FACE THE SEVERE PROBLEMS IN THE ECONOMY AND THE THREAT OF COMMUNIST EXPLOITATION OF THIS SITUATION.

"OUR HELP AS A GOOD FAITH INTERLOCUTOR WITH THE VARIOUS ELEMENTS IN YOUR CONFRONTATION CAN ONLY BE EFFECTIVE IF YOU HAVE REACHED THE SAME CONCLUSIONS AS WE HAVE.

"IN THIS REGARD HE IS GENUINELY CONCERNED THAT YOU UNDERSTAND WE ARE READY TO FACILITATE THE SAFETY AND WELL-BEING OF YOU, YOUR IMMEDIATE FAMILY AND CLOSE ASSOCIATES IN THE PHILIPPINES." END OF MESSAGE.

ONLY AFTER THE GREATEST DELIBERATION IN A TWO-HOUR MEETING EARLIER TODAY WHEN PRESIDENT REAGAN MET WITH HIM, AMBASSADOR PHILIP HABIB, ASSISTANT SECRETARY ARMACOST AND OTHER OFFICIALS IN CHARGE OF US POLICY TOWARDS THE PHILIPPINES.

HE SAID THE PRESIDENT, BY STEPPING ASIDE AND PREPARING A TRANSITION GOVERNMENT, WILL SAVE THE COUNTRY FROM BEING SPLIT ASUNDER AND PROBABLY FROM A BLOODY CIVIL WAR WHICH THE COMMUNISTS WILL RUTHLESSLY EXPLOIT.

WHEN I ASKED WHETHER THE TRANSITION GOVERNMENT CONTEMPLATED BY PRESIDENT MEANT THAT A GOVERNMENT HEADED BY CORAZON AGUIÑO AND SALVADOR LAUREL WOULD REPLACE THE GOVERNMENT OF MARCOS AND TOLENTINO, HE SAID THE UNITED STATES WOULD LIKE TO SEE THE FORMULA DEVELOPED BY THE FILIPINO LEADERS THEMSELVES.

I STRONGLY PUT FORWARD OUR POSITION THAT THERE WAS ONLY ONE LEGITIMATELY ELECTED PRESIDENT AND ONE VICE PRESIDENT UNDER THE PHILIPPINE CONSTITUTION. I SAID I CONSIDERED IT MOST IMPROBABLE THAT PRESIDENT MARCOS, WHO IS NOTED FOR HIS STRONG SENSE OF DUTY, WOULD ABDICATE ON THE SAY-SO OF CRITICS, BOTH INTERNAL AND EXTERNAL. I SAID THAT TO HEAL THE NATION'S WOUNDS HE COULD CONSIDER FORMING A BROAD NATIONAL UNITY REGIME IN WHICH VARIOUS POLITICAL INTERESTS CAN BE PRESENTED.

BUT SECRETARY SHULTZ EMPHASIZED THE MIND OF PRESIDENT REAGAN IS FIRMLY MADE UP.

I SHARED FIVE TELEVISION INTERVIEW TODAY WITH SENATOR LUGAR, CONGRESSMAN BOLARZ, SENATOR DURENBERGER, JUDY POWELL, DAVID BRINKLEY AND GEORGE WILL, EMPHASIZING THE PRESIDENT'S EXCLUSIVE LEGITIMACY AND PARAMOUNTCY OF THE CONSTITUTION.

I HAVE BEEN MEETING WITH RANKING SENATORS AND CONGRESSMEN AS SCHEDULED.

I SHALL DEEPLY APPRECIATE REACTIONS I SHOULD CONVEY TO PRESIDENT REAGAN THROUGH SECRETARY SHULTZ AND ANY FURTHER INSTRUCTIONS.

MOST RESPECTFULLY,

MINISTER BLAS F. OPLE

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Globe-Mackay Cable and Radio Corporation TEL 50-60-81

FROM: DIRECTOR, OCSA TO: SECRETARY, OCSA

FOR THE PRESIDENT


25 FEBRUARY 1986

S I R :

THE DUTY OFFICER OF THE U.S. EMBASSY CALLED UP TO RELAY A MESSAGE FROM AMBASSADOR STEPHEN BOSHORTH STATING THAT THE AMERICAN EMBASSY IS MONITORING THE SITUATION IN THE COUNTRY, PARTICULARLY THE RECENT SHOOTING INCIDENT AT NAGTAHAN AT ABOUT MIDNIGHT (FEB. 25).

ACCORDING TO THE SAME DUTY OFFICER, THE AMBASSADOR ALSO SAID THAT THE WHITE HOUSE IS CONCERNED OVER VIOLENT INCIDENTS TRIGGERED BY THE TENSE POLITICAL SITUATION IN THE PHILIPPINES AND THAT SHOULD MASSIVE VIOLENCE CONTINUE THE U.S. MARINES STATIONED HERE MAY BE FIELDED OUT TO PREVENT A SLAUGHTER.

WE ARE WONDERING WHY THE AMBASSADOR SHOULD COURSE HIS MESSAGE TO THE GOVERNMENT THROUGH A MINOR FUNCTIONARY WHO RELAYED THIS MESSAGE TO OUR OFFICE AND NOT THROUGH PROPER DIPLOMATIC CHANNELS IN ACCORDANCE WITH PROTOCOL.


CALIXTO FERNANDEZ
Executive Editor
Central Editorial Desk
Presidential Press Staff

OFFICE OF



MEDIA AFFAIRS

26 February 1985

His Excellency
Ferdinand E. Marcos

Dear Ferdinand,

Rarely is a national leader called upon to make a single decision as crucial to the future of his country as the one which you reached yesterday. I believe that you have chosen wisely and that your decision, although encompassing considerable personal sacrifice, reflects your deep concern for the safety, welfare and security of the Filipino people.

From your days as a decorated patriot in World War II until the present moment, you have shown yourself to be a brave and courageous leader. You have been a good friend of the United States and the free world, through thick and thin, and we do not readily forget our friends. You have been a strong believer in the alliance between the United States and the Philippines.

In your departure from power, you have demonstrated the very same remarkable courage and determination--you have chosen peace over confrontation, and democracy over anarchy. I believe that after all is said and done, your countrymen will remember you for this deed above all others.

Sincerely,

Ronald Reagan

26 February 1986

Over the last several days, you have demonstrated a courage and restraint that prove beyond doubt the depth of your love of your country and your sense of honor.

A choice of enormous magnitude for the future of the Filipino people lay in your hands. You have chosen wisely, and I want you to know that I deeply respect that decision.

In your long years as president, you have proven yourself to be a staunch friend and ally of the United States. Your commitment to reason and your decision to avoid violence and bloodshed does us all honor, and will be remembered by both the American and Filipino people as an act of patriotism.

Sincerely yours,

George P. Shultz

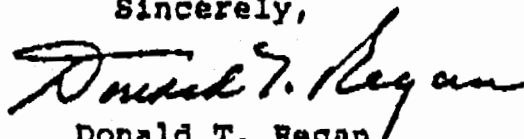
THE WHITE HOUSE
WASHINGTON

February 26, 1986

Dear Mr. Secretary:

The President has designated Ferdinand Marcos as a distinguished foreign visitor to the United States and accordingly, pursuant to 18 U.S.C. 3056 (a), you are hereby directed to provide United States Secret Service protection to him commencing immediately and to continue for no more than thirty days.

Sincerely,



Donald T. Regan
Chief of Staff to the
President of the United States

The Honorable James A. Baker, III
Secretary of the Treasury
Washington, DC 20220

GAO

Briefing Report to
Senator Edward M. Kennedy

A

May 1986

THE PHILIPPINES

Accountability and Control of U.S. Economic Assistance





UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

NATIONAL SECURITY AND
INTERNATIONAL AFFAIRS DIVISION

May 2, 1986

B-222719

The Honorable Edward M. Kennedy
United States Senate

Dear Senator Kennedy:

In response to your November 7, 1985 letter, we have examined the accountability and control over U.S. assistance given to the Philippines since 1978. This report discusses economic assistance. We are providing you a separate report on military assistance used to purchase U.S. defense articles, training, and related services.

Between fiscal years 1978 and 1985, the United States made available to the Philippines almost \$1.3 billion in Economic Support Fund (ESF), Development Assistance (DA), Public Law 480 food aid, and military assistance. The Agency for International Development (AID) monitors ESF and DA project activities, the related expenditures, and food aid.

In recent years, the bulk of development-related assistance has been provided through the ESF program under which the United States periodically transfers U.S. dollars to the Treasury of the government of the Philippines (GOP). The dollar transfers are not tied to any specific purpose but may be used for repaying the Philippines' foreign debt or financing imported goods or services or for other purposes. When the U.S. funds are transferred, the GOP deposits an equivalent amount of its currency in separate special accounts to fund agreed-upon "nonproject" and "project" development activities. Nonproject assistance is to be used as the GOP's contribution to a selected group of World Bank, Asian Development Bank, and DA projects. Project assistance, on the other hand, is used to fund development activities, such as construction of schools and roads, which can be directly attributed to the ESF program.

NO CONTROL OVER
U.S. DOLLAR TRANSFERS

We did not determine the disposition or use of ESF dollar transfers (\$226.6 million as of Feb. 28, 1986) because the funds were commingled with other receipts in a general fund of the GOP Treasury. In keeping with its development priorities and as agreed with the GOP, AID monitors only the local currency expenditures associated with the implementation of the ESF projects.

Allegations concerning massive diversions, misuses and transfers of funds out of the Philippines highlights questions we have previously raised concerning transferring U.S. dollars to ESF recipients without measures to account for and control them. For example, in 1984, we reviewed such transfers to three Central American countries. At that time, the dollars were deposited directly to the recipients' bank accounts where they were commingled with funds from other sources. The Congress subsequently legislated that in one of these countries, El Salvador, a separate account be established for such transfers. Proceeds from the account are used to import eligible goods and services from the United States and other designated sources. AID subsequently reviews disbursements from the account for eligibility. The account must be reimbursed for any ineligible purchases. While the process provides a semblance of control, it does not preclude using ESF assistance to replace U.S. dollars from other sources, which could then be misused or diverted.

Our previous reviews of ESF programs, particularly the report on three Central American countries, also raised questions about the degree of control which is practical considering U.S. economic, political, and security objectives in a particular country. In the Philippines, for example, the ESF program was initiated to ensure continued U.S. access to Subic Naval Base, Clark Air Base, and other military facilities.

We believe these questions about accountability and control, and the relationship to other U.S. objectives remain valid.

NONPROJECT ASSISTANCE IS NOT CLOSELY MONITORED

The United States has provided \$92.5 million in ESF dollars for nonproject assistance--\$47.5 million was transferred in December 1984 and \$45 million in December 1985. Upon receipt, the GOP deposited an equivalent amount of its currency in a special account for nonproject assistance. The equivalent of the initial \$47.5 million was transferred to the GOP general fund, as agreed, after AID approved the activities to receive this type of assistance. According to AID the equivalent of \$11.2 million of that transfer has been disbursed from the general fund for agreed-upon nonproject activities. The remaining equivalent of \$36.3 million should still be on deposit in the general fund, commingled with other GOP receipts. The equivalent of the second transfer was reported by AID to still be on deposit in a special account. The Agency does not review, approve or account for final expenditures or reconcile account balances with bank records and reported transfers. At the time of our fieldwork, the GOP declined to give us a detailed

accounting of the expended and unexpended funds. AID relies mainly on quarterly GOP reports on the disposition of nonproject assistance local currency. We could not independently verify the expended and unexpended balances, because of the change of government near the end of our fieldwork. We are continuing our efforts to confirm the balances and will report the results to you as soon as possible.

It should be noted that AID transferred the additional \$45 million in December 1985, although only the equivalent of \$11.2 million of the initial \$47.5 million had reportedly been used. According to AID, the GOP needed the additional funds to meet International Monetary Fund (IMF) guidelines for continued assistance from that organization.

USE OF LOCAL CURRENCY PROJECT ASSISTANCE

Unlike the U.S. dollar transfers, which are commingled with other funds, and ESF nonproject assistance, which requires only quarterly reports and is not closely monitored, AID must concur in all requests for local currency disbursements of ESF project assistance before the funds can be withdrawn from the special accounts. Concurrence is based on compliance with project agreements, inspections, and progress reports. All documents were properly reviewed and approved and reimbursements processed for three construction projects we examined in detail.

As of February 28, 1986, the GOP had disbursed an equivalent of \$111.9 million of the \$134.1 million for project assistance, leaving an unexpended balance of the equivalent of \$22.2 million.

OTHER U.S. AND MULTILATERAL ASSISTANCE

Established procedures govern monitoring of DA project expenditures and food assistance. Prior GAO and AID Inspector General reports generally were intended to evaluate the management of U.S. development assistance to the Philippines and did not focus on misuse of that assistance. Two AID reports, however, did disclose that funds had not been used for intended purposes.

The principal multilateral organizations, of which the United States is a member, have made about \$7.1 billion in assistance available to the Philippines between 1978 and 1985. These organizations have several mechanisms to account for and control assistance. However, we did not test these systems in operation because we have no audit authority to examine the operations of these organizations.

VIEWS OF RESPONSIBLE AGENCY OFFICIALS

A draft of this report was reviewed by AID's mission in Manila. The mission stated that it was in broad agreement with the report, and noted that we found no evidence of diversions of U.S. economic assistance to the Philippines. It generally agreed, however, that the report raises concerns about whether the agency's requirements for oversight are "optimal" where there is the potential for officially sanctioned diversions and misuses of public resources, and that commingling of financial resources defeats control and tracking systems. The mission said that in the Philippines, AID is in the difficult position of balancing its responsibility to account for and control expenditures of economic assistance against (1) U.S. foreign policy interests, (2) the GOP's view that ESF assistance is compensation for allowing continued U.S. access to air and naval facilities, and (3) U.S. economic and development objectives. The mission stated that there are risks associated with working in such an environment, and there are no proven techniques for fully eliminating such risks. While we agree, we believe the risks of diversions and misuses should be minimized to the extent possible. The mission stated that it is initiating checks of the quarterly reports on nonproject assistance, including the equivalent of \$11.2 million which has been expended. We believe this positive step should, at a minimum, include sufficient verification to assure that the funds were disbursed for the intended purposes.

We also discussed the draft of this report with State Department and AID officials in Washington. All comments were incorporated where appropriate.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our principle objectives were to identify (1) amounts and purposes of economic and other nonmilitary assistance the United States gave the Philippines between 1978 and 1985, (2) diversions of funds for unintended purposes, and (3) control and monitoring mechanisms for the assistance. We conducted our review in two phases. During November and December 1985, we did preliminary work in Washington and the Philippines to ascertain the extent we could respond to your concerns. During January and February 1986, we returned to the Philippines to continue our evaluation. During both visits, our ability to obtain information from host government officials was constrained by their reluctance to discuss sensitive issues.

During our second visit, this problem was compounded by their involvement in the ongoing political campaign. We could

not conduct all planned ESP project site visits because of violence and unrest in certain areas. We did, however, meet with several host country representatives, including the then-Chairman of the Commission on Audit and other GOP representatives.

We also interviewed State Department and AID officials in Washington and Manila. In the Philippines, we reviewed selected files and records provided by AID and, to a limited extent, by the GOP; visited ESP project sites, and obtained independent cost analyses of selected ESP construction activities which showed the amounts paid for the facilities were reasonable.

We reviewed several allegations concerning misuse of U.S. assistance. None of these could be substantiated. We also reviewed documents ex-President Ferdinand Marcos and others had brought with them to the United States. None of these referred to U.S. assistance.

We conducted this review in accordance with generally accepted government auditing standards.

Details of our findings are contained in appendixes I to IV.

We are sending copies of this report to the Department of State, AID, appropriate congressional committees and making copies available to others upon request.

Sincerely yours,

Frank C. Conahan

Frank C. Conahan

EXCERPTS FROM THE G.A.O. REPORT OF MAY 1986

Page 21, first paragraph:

Financial and administrative controls were adequate to ensure that ESF local currency disbursements for project activities were justified. Our limited review of selected financial transactions showed approved amounts had been disbursed and received by contractors.

Page 24, last paragraph:

During his political campaign, ex-President Marcos referred to numerous development activities which would be funded with ESF resources. In mid-January, AID's field engineers noted that construction of schools and markets at numerous sites had begun. None of the projects, however, were approved by AID. Furthermore, normal bidding procedures were not followed in many instances and price exceeded cost estimates.

Page 25, first paragraph:

There was no indication of withdrawals from the accounts for unauthorized construction activities. Evidently, the funds came from other GOP resources.

Second paragraph:

We received several allegations concerning the misuse of U.S. assistance, such as incomplete or nonexistent facilities, overcharges and substandard construction. We inter-

viewed the individuals making the allegations and tried to document instances of abuse. We could not substantiate the charges. One allegation centered on a particular region. We planned to visit AID projects there but were precluded because of travel restrictions imposed by the U.S. embassy for security reasons. As an alternative, however, we spoke with AID's engineer responsible for the area and reviewed AID inspection reports. We found that the projects were visited regularly and construction was reported as progressing. The same person related instances of substandard construction of a major highway linking the region to the Manila area. AID did not fund that major highway project in the Philippines.

Page 25, paragraph 3:

We also received an allegation that cost estimates for ESF projects were substantially inflated and that contractors and GOP officials were profiting from the practice. We engaged the services of a consultant familiar with construction activities in the Philippines. . . . The consultant reported that documents related to the market showed

". . . there was no evidence of misdirected wrongdoing or misinformation on this project."

Regarding the road project, the consultant reported:

". . . we did not determine a misrepresentation of overall costs nor does it appear to have taken place from information provided. The overall total price appears within

reason given the scope of the work."

Page 26

Regarding the school project, the consultant's report stated:

". . . the project appears reasonable for the total project effort being provided."

In summary, the consultant did not determine any major difficulties with procurement procedures or with diversion or misappropriation of funds for the three projects analyzed. Also the Secretariat's cost estimates and contractors' bids appeared reasonable.

Page 28, paragraph 2

We reviewed 20 of our reports and 31 AID IG reports issued between 1977 and 1985 which concerned development assistance and food aid to the Philippines. Except for the IG's recent audit of disaster assistance, which is summarized below, none were primarily intended to focus on diversion of U.S. assistance.

Page 30, last paragraph:

None of the officials of the multilateral organizations we spoke with were aware of diversions of assistance.

FILED

FOR PUBLICATION

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JUN 4 1987

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

* * * * *
 THE REPUBLIC OF THE PHILIPPINES,
 Plaintiff/Appellee,
 v.
 FERDINAND E. MARCOS, et al.,
 Defendants/Appellants.
 * * * * *

Nos. 86-6091
 86-6093

 D.C. No.
 CV-86-3859-MRP

OPINION

Appeal from the United States District Court
 For the Central District of California
 Mariana R. Pfaelzer, District Judge, Presiding

Argued and Submitted October 3, 1986
 San Francisco, California

Before: NELSON, HALL and KOZINSKI, Circuit Judges.

KOZINSKI, Circuit Judge.

THE DECISION OF THE UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT IN DIGEST FORM

The following points in digest form are the findings of
the U.S. Ninth Circuit Court of Appeals:

(1) The Filipino revolutionary government of Madame Corazon Aquino "provides no direct evidence to support" its litany of offenses alleged to have been committed by Mr. Marcos. The only knowledge of "these "facts" comes from "countless newspaper and firsthand [hearsay] accounts" relating them." [p. 17]

The Aquino government claims that "practically everything the Marcoses own must have been stolen and therefore belongs to the Philippines." It alleges through a sworn statement of its representative, Rafael Fernando, that there were "bribes, kickbacks, interests in business ventures, and other things of value in exchange for the grant of government favors, contracts, licenses, franchises, loans" and at the same time "expropriating outright private property for the benefit of persons beholden to or fronting for Mr. Marcos, the said expropriation being at times effected by violence or the threat of violence or incarceration" and the "direct raiding of the public treasury." [p. 17, 2nd par.]

The Court answering this claim issued the ruling that "Mr. Fernando provides no direct evidence to support this litany of offenses; his only knowledge of these "facts" comes from "countless newspaper and firsthand [hearsay] accounts" relating them." [Ibid.]

(2) The Court, citing the case of Hatch v. Baez, 7 Hun. 600, ruled that "the fact that the defendant has ceased to be president does not destroy his immunity. That springs from the capacity in which the acts were done, and protects the individual who did them, because they emanated from a foreign and friendly government." [p. 29, last par.]

(3) The Court concluded that the heart of the case was the assertion of the plaintiff Aquino government and the district court's assumption that all of the Marcoses wealth must have been stolen.

It concluded that the claim and the cause of action of the Aquino government is dismissed under the act of state and political question doctrines. Under either of these doctrines, the plaintiff Aquino government's claim collapses, and with it, its probability of success on the merits. Quoting the case of Underhill v. Hernandez, 168 U.S. 250, 252 (1897), under the act of state doctrine: "Every sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not sit in judgement on the acts of the government of another done within its own territory. See also Hatch v. Baez, 7 Hun. 596, 599 (N.Y. App. Div. 1876) (by the universal comity of nations and the established rules of international law, the courts of one country are bound to abstain from sitting in judgement on the acts of another government done within its own territory)." [p. 19, 1st par.]

The case brought by the Aquino government "implicates the act of state doctrine in its most fundamental sense. In order

to resolve its various claims against Marcos, the Court will have to adjudicate whether Marcos' actions as President were lawful under Philippine law. A number of acts which its challenges are purely governmental ones. These were not merely the acts of Ferdinand Marcos, private citizen, while he happened to be President; they were an exercise of his authority as the country's head of state, and as such, were the sovereign acts of the Philippines." [p. 20, 1st par.]

(4) As to the plaintiff Aquino government's allegation that the act of state doctrine is inapplicable because Marcos' acts were ultra vires and not public acts undertaken in the exercise of governmental authority, and that Marcos' actions were not the sovereign acts of the Philippines because they were not authorized by Philippine law, the Court in rejecting this argument, citing the case of Banco de Espana v. Federal Reserve Bank, 114 F.2d 438 (2d Cir. 1940), stressed that "so long as the act is the act of the foreign sovereign, it matters not how grossly the sovereign had transgressed its own laws. By a "governmental act" is meant no more than a step physically taken by persons capable of exercising the sovereign authority of the foreign nation. The officials of the then-recognized Spanish government possessed such authority. If they purported to act in their official capacity, that physical fact precludes us from examining the validity of their acts under local law." [p. 24-26]

The Court also stressed that "as plaintiff admits, Mr. Marcos was the country's ruler for some two decades. He clearly was "capable of exercising the sovereign authority" of the Phil-

ippines during that time. In Underhill v. Fernando, the court noted that the act of state doctrine "[cannot] be confined to lawful or recognized governments The immunity of individuals from suits brought in foreign tribunals for acts done within their own states, in the exercise of governmental authority, whether as civil officers or as military commanders, must necessarily extend to the agents of governments ruling by paramount force as a matter of fact." This would seem to apply a fortiori to Mr. Marcos, who was the recognized head of the Philippine government throughout the relevant period." [p. 26, 1st par

(5) In answer to the allegation of the Aquino government that the act of state doctrine does not apply because the acts in question were not in the "public interests" of the Philippines, the Court noted that "not everything a public official does is an official act; to the extent Mr. Marcos engaged in actions as a private citizen, he is subject to suit like anyone else. Thus, if he entered the public treasury at gunpoint and walked out with money or property belonging to the Philippines, he would not be protected by the act of state doctrine. However, if he gained access to the public monies by statute, decree, resolution or order, or some other "governmental act" as President, the act of state doctrine would be triggered. Once the acts in question are identified as governmental in character, our courts have uniformly refused to question the integrity or nobility of the reasons underlying them. "Such inquiries by this court into the authenticity and motivation of the acts of foreign sovereigns would be the very sources of diplo-

matic friction and complication that the act of state doctrine aims to avert." Occidental Petrol Corp. v. Buttes Gas & Oil Co., 331 F.Supp. 92, 110 (C.D. Cal. 1971). That one of the motives behind a particular governmental act may have been selfish, or that it was intended to serve otherwise improper ends, does not make that act any less a pronouncement of the sovereign or render it any less entitled to respect as such from other government. It would greatly weaken the act of state doctrine if parties could put in question the validity of official government acts simply by attacking the motives of the government officials who undertake them." [p. 28- 29, 1st par.]

(6) The Court also rejected the claim of the Aquino government that the act of state doctrine has no force and effect in this case because it is the Philippines itself that is asking the courts to look into the actions of its former ruler. The Court stated: "We cannot shut our eyes to the political realities that give rise to this litigation, nor to the potential effects of its conduct and resolution. Mr. Marcos and President Aquino represent only two of the competing political factions engaged in a struggle for control of the Philippines. While the struggle seems to be resolving itself in favor of President Aquino, this may not be the end of the matter. Only four years ago, the tables were turned, with Mr. Marcos in power and Mrs. Aquino and her husband in exile in the United States. While we are in no position to judge these things, we cannot rule out the possibility that the pendulum will swing again, or that some third force will prevail." [p.31, 1st par.]

(7) The Court also observed that the plaintiff Aquino government presented issues that were different in character, not merely in degree, from the normal cases brought under the RICO statute because it claims that "the Philippine government headed by Marcos was a criminal enterprise under United States law. Its claim is "based upon transactions that take place fully or partly outside the United States." Therefore, an inquiry as to whether United States law was meant to reach the conduct in question insofar as it is extraterritorial in nature must be made. The Court ruled that the alleged offenses by Mr. Marcos and his confederates "took place in the Philippines and quite probably that conduct CANNOT be reached by U.S. law." [p. 13, 1st par. and p. 11, 1st par.]

(8) Furthermore, the Court considered significant that the law being applied ^{by} the Aquino government in determining whether Marcos' actions were legal is that of a foreign nation. The Court stated: "It is not the Philippines' private law we would be interpreting, but important aspects of its public law. The question of whether Mr. Marcos properly invoked martial law, or whether he exercised it properly, if it has an answer in Philippine law at all, is no doubt of considerable importance and sensitivity to that country and its people. So is Mr. Marcos' invocation of presidential immunity. Were we to answer this latter question, it would be as if Nixon v. Fitzgerald, 457 U.S. 731 (1982), defining the immunity of American presidents, had been decided by the Supreme Court of the Philippines." [p. 14]

"We must take as given that Mr. Marcos was the country's president, that he was recognized as its head of state by our

government and that, as plaintiff so bluntly admits, he and his wife were 'permitted . . . to remain in positions of power and to conduct the affairs of the Philippines virtually unchecked.' It is simply beyond the capacity of our courts to adjudicate." [p. 39, 2nd par., to p. 40]

(9) The Court concluded: "in light of these considerations, we hold that the district court erred in concluding that plaintiff is likely to succeed on the merits of its state claims, or its federal claims for that matter. To succeed under those claims as they are now presented, plaintiff would have to establish that practically all of Mr. Marcos' wealth was stolen. In light of the plaintiff's own claims and assertions, we believe that it will be unable to do so because, as to many of the assets in question, adjudication will be barred by the act of state doctrine, the political question doctrine or both. Since plaintiff has not sought to trace specific assets to specific alleged misdeeds, the exclusions of large portions of Mr. Marcos' wealth from adjudication will defeat plaintiff's net worth analysis, and with it, its case. In these circumstances, we cannot even say the Republic has the 'fair chance of success on the merits' needed to remand for a balancing of the hardships." [p. 40, 1st par.]

(10) The preliminary injunction which enjoined the transferring, conveying, encumbering, dissipating, converting, concealing or otherwise disposing of in any manner any funds, assets, claims or other property or assets owned or controlled by, or in possession or custody of such individuals or entities,

held by or in any way on behalf of or for the benefit of Ferdinand or Imelda Marcos is ordered vacated and the order granting preliminary injunction is REVERSED. [p. 41]

(11) OF significant importance is Justice Hall's concurring opinion wherein she stated that the district court had no subject matter jurisdiction because "when it passed RICO, Congress was concerned with the harmful effect of organized crime on the economy of the United States:

The Congress finds that (1) organized crime in the United States is a highly sophisticated, diversified, and wide-spread activity that annually drains billions of dollars from America's economy . . . (3) this money and power are increasingly used to infiltrate and corrupt legitimate businesses and labor unions and to subvert and corrupt our democratic processes; (4) organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the Nation and its citizens . . .

RICO Statement of Findings and Purpose, Pub. L. No. 91-452, 84 Stat. 922 (1970), 91st Congress, 2d Sess., reprinted in 1970 U.S. Code Cong. & Admin. News 1073, 1073 (emphasis added). See also United States v. Bagnariol, 665 F.2d 877, 892 (9th Cir. 1981) (effect on commerce is an essential element of a RICO violation), cert. denied, 456 U.S. 962 (1982). Thus in order to maintain a lawsuit under RICO, plaintiff must demonstrate that the transactions in question adversely affected the economy of the United States." [p. 2-3 of Concurring Opinion]

"As the plaintiff [Aquino government] conceded at oral argument, the investment of funds in the United States was no more injurious in the Philippines than if the funds had been

kept in a mattress in the Philippines." (p. 4, 2nd to the last sentence)

(11) Equally important, but not included in this decision, is the United States General Accounting Office (GAO) investigation commissioned by Senator Edward Kennedy which looked into the misuse, overpayment, illegal disbursements for commissions and kickbacks, and bribes with respect to the Economic Support Fund, Development Assistance, Public Law 480 Food Aid, and military assistance extended by the United States. It concluded that none of these could be substantiated in its report dated May 2, 1986.

In the same light, the charges of raiding the public treasury, plundering the nation's wealth, taking over business enterprises of political opponents, creating public monopolies, bribery, and ill-gotten wealth through the use of Marcos' presidential powers were the subject of hearings and open debates on the floor of the Parliament in which the opposition members of Parliament numbering about 60 out of a total membership of 180 and the Aquino militants in Parliament had to admit that they had no evidence except newspaper accounts, irresponsible speculations and gossips. The Parliament passed Resolution 945 on August 13, 1985 throwing out the resolution for impeachment and has resulted in cases for perjury against those who swore to the impeachment resolution claiming they personally knew the truth and veracity of the facts alleged in the resolution for impeachment. In open debates, they admitted that they had no personal knowledge of these facts. The resolution dismissing the petition for impeachment of Marcos was raised

on appeal to the Supreme Court which dismissed the petition.

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