

PERSPECTIVE

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Ignoring the Curve: President Duterte's First Year in Office

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EXECUTIVE SUMMARY

- Philippine President Rodrigo Duterte has adopted a personalised approach to the presidency modelled on his decades as mayor and head of a local political dynasty in Davao City.
- His political history, undiminished popularity and large Congressional majorities weigh heavily against any change being made in approach.
- In the first year of his presidential term this approach has contributed to legislative inertia and mixed and confused messages on key policies.
- Statements by the president and leaders in Congress questioning the authority of the Supreme Court in relation to martial law, and supporting constitutional revision put into question the future of the current Philippine political system.

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INTRODUCTION

After his clear and surprise victory in the 9 May 2016 election, many observers, both critical and sympathetic, argued that Rodrigo Duterte would face a steep learning curve when he took his seat in Malacañang (the presidential palace) on 30 June 2016.¹ Being president of the Philippines is very different than being mayor of Davao City in southern Mindanao. Learning curve proponents argue that his success in mounting this curve from mayor and local political boss to president would be decisive for the success of his administration and its political legacy.

A year into his single six-year term as president, it appears not only that President Duterte has not mounted this steep learning curve, he has rejected the purported need and benefits of doing so.² While there may be powerful political reasons for this rejection, the impact on the Duterte administration and its likely legacy appears quite decisive. The longer President Duterte continues with his mayoral approach to the presidency, the clearer this impact and its negative influence on Philippine policy-making and broader political governance becomes.

COMPONENTS OF THE CURVE

Three differences between being mayor and local political boss and being president are particularly important for Philippine domestic politics. In all three cases the required transition has been absent or limited.

Executive-legislative Relations

The first is effectively managing executive-legislative relations to turn policy into law. On the minus side for President Duterte, the legislative process in the Philippines is slow and cumbersome with key reform bills often languishing in legislative purgatory for decades. And, President Duterte came to office with a very ambitious reform agenda. On the plus side, executive-legislative cooperation under President Duterte should benefit from a loyal super-majority in the House of Representatives (out of the 291 sitting members, only 7 are

¹ Examples include Rafael M. Alunan III, "A steep learning curve", *BusinessWorld*, 25 October 2016 <http://www.bworldonline.com/content.php?section=Opinion&title=a-steep-learning-curve&id=135358> ; "Challenges ahead: Duterte faces learning curve, checks and balances", *ABS-CBN News*, 3 June 2016 <http://news.abs-cbn.com/halalan2016/focus/06/03/16/challenge-ahead-duterte-faces-learning-curve-checks-and-balances> ; DJ Yap, "Have faith, Duterte will learn diplomacy", *The Philippine Daily Inquirer*, 27 May 2016 <http://newsinfo.inquirer.net/787778/have-faith-duterte-will-learn-diplomacy>; RG Cruz, "Shut up and say sorry, allies tell Duterte", *ABS-CBN News*, 3 October 2016 <http://news.abs-cbn.com/news/10/03/16/shut-up-and-say-sorry-allies-tell-duterte>

² Marites Vitug, a senior national affairs journalist, in a stinging appraisal argues that President Duterte is unable to mount this curve. Marites D. Vitug, "The year of living with autocracy and incompetence", *Rappler*, 20 June 2017 <http://www.rappler.com/thought-leaders/173311-duterte-one-year-autocracy-incompetence>

part of the official opposition minority) and a strong majority in the Senate (only 6 of 24 sitting senators are in the minority bloc).

House Speaker Pantaleon Alvarez in his acceptance speech stated that,

“If this legislative agenda seem overly ambitious to some, it is only because of inertia... Let us be instruments of change and apply the other side of the law of inertia – a body on the move tends to move indefinitely... Our mission, in this 17th Congress, is clear: to enact laws that will deliver to our nation and our peoples a future better than yesterday’s and brighter than today’s.”³

None of the first four legislative priorities listed by Alvarez in this speech – reinstating the death penalty, lowering the minimum age of criminal responsibility to 9 years old, revising the General Procurement Act and passing a Freedom of Information Law – have been achieved. In the first eleven months of the Duterte administration, only four bills were signed into law, including one postponing local elections.⁴

Presidential Statements

The second learning curve component is the acceptance that presidential public statements are treated as official policy statements. President Duterte’s colloquial, shoot-from-the-hip style of communication, which is central to his broad and deep popularity, poses a particular challenge here and one that has not been overcome. On 5 October 2016, after a presidential declaration about cutting ties with the US, presidential spokesperson Ernesto Abella counselled journalists not to take President Duterte literally but to use their ‘creative imagination’ to interpret his statements and their emotional context.⁵

On 8 February 2017, President Duterte, during an address to the Bureau of Customs, noted that only two of the five things he says as president are true with the other three being ‘foolishness’. A day later, Abella tried to clarify the implications of this presidential statement this way,

“Well, technically, what we do emphasize in the press conferences are vetted and properly vetted.”... “I’m not saying [the President’s statements are] not properly vetted. I’m simply saying that at this stage, when we say it, it simply means to say we have gone through the process of discerning whether it was a joke or not. When there’s a particular statement that needs to be, for example, if it tends to be a policy... it would be underlined during the press conferences.”⁶

³ “Speaker Alvarez’s Acceptance Speech”, 25 July 2016, House of Representatives <http://www.congress.gov.ph/press/details.php?pressid=9691>

⁴ Camille Elemia, “Senate, House end 1st year with 4 laws passed”, *Rappler*, 5 June 2017 <http://www.rappler.com/nation/171969-17th-congress-1st-year-4-laws>

⁵ Cited in Genalyn D. Kabling, “Use ‘creative imagination’ - Abella”, *Manila Bulletin*, 6 October 2016 <http://news.mb.com.ph/2016/10/06/use-creative-imagination-abella/>

⁶ Cited in Marlon Ramos, “3 of 5 Duterte remarks ‘foolishness’”, *Philippine Daily Inquirer*, 10 February 2017 <http://newsinfo.inquirer.net/870123/3-of-5-duterte-remarks-foolishness>

A number of presidential statements, even when deemed unfoolish, have needed substantial clarification or rebuttal, showing that they are the opposite of the conclusion of a proper policy-making process. On 27 September 2016, President Duterte accused the US government of manipulating the value of the Philippine peso. The next day, Budget Secretary Benjamin Diokno claimed that there had been no US manipulation.⁷ On 6 April 2017, the president stated that Filipinos should ‘live on’ the vacant, unoccupied land features in the Spratlys. The same day, Defense Secretary Delfin Lorenzana clarified that President Duterte wanted to further develop land features already occupied by the Philippines. The next day, the office of president affirmed Secretary Lorenzana’s clarification.⁸

Limits of Power

The third component – the acceptance that the presidency is one of three co-equal branches of government – is the most important both for the conduct of the Duterte administration and for its likely legacy. Philippine mayors, particularly those who are the scions of a local political dynasty, have few local checks on their power.⁹ The super-majority in the House of Representatives and the large majority in the Senate reduce the chances for potential executive-legislature clashes. Within the first year, there were no clashes between the Supreme Court and the executive either.

However, statements by President Duterte, particularly pertaining to martial law and to his crusade-like war on drugs and a number of other presidential decisions, have created doubts about his full embrace of the limits on presidential power. Rather, they suggest a tendency to centralize power in the office of the president. In August 2016, President Duterte successfully called for the postponement of local elections, claiming without providing evidence that 40% of the over 40,000 elected village (barangay) chiefs are involved in the illegal drugs trade and that the Philippines was at risk of becoming a narco-state. Currently, work is being done on a law to further delay these elections and permit President Duterte to appoint stand-in village chiefs and councils.¹⁰ In the same month, after the Chief Justice of the Supreme Court wrote a letter questioning the means used in the president’s bloody war on drugs, President Duterte responded by threatening to impose martial law.

In September 2016, after a terrorist bombing in his hometown of Davao City, President Duterte declared a nation-wide indefinite state of emergency (one stage before the

⁷ Cited in Christine O. Avendaño, “Diokno contradicts Duterte claim: US not manipulating peso”, *Philippine Daily Inquirer*, 28 September 2016, <http://business.inquirer.net/215555/diokno-contradicts-duterte-claim-us-not-manipulating-peso>

⁸ Cited in Nestor Corrales, “Palace: Duterte wants to develop already occupied islands”, *Philippine Daily Inquirer*, 7 April 2017 <http://newsinfo.inquirer.net/887453/palace-duterte-wants-to-develop-already-occupied-islands>

⁹ For background into the largely unfettered power of local political bosses in the post-Marcos political system, see John T. Sidel “Philippine Politics in Town, District and Province: Bossism in Cavite and Cebu”, *The Journal of Asian Studies*, Vol 56, No 4, 1997, 947-966.

¹⁰ Martin Perry and Neil Jerome Morales, “Duterte allies seek to take over Philippine village councils as part of war on drugs”, 31 March 2017 *Reuters*, <http://www.reuters.com/article/us-philippines-politics-duterte-idUSKBN1720FN>

declaration of martial law) that is still in operation. At the announcement of this state of emergency, President Duterte declared that, “It’s not martial law but I am inviting now the Armed Forces of the Philippines, the military and the police to run the country in accordance with my specifications.”¹¹

On 23 May 2017, President Duterte declared martial law and suspended the writ of habeas corpus for all of Mindanao (about 22% of the national population) for 60 days after clashes commenced between terrorist groups and the armed forces and police in Marawi City. On 27 May, President Duterte, while addressing soldiers, stated that “Until the police and the armed forces say the Philippines is safe, this martial law will continue. I will not listen to others. The Supreme Court, Congress, they are not here,”¹²

The next day, presidential spokesperson Abella clarified that the president would not defy a Supreme Court ruling against martial law, a position the president himself later affirmed. Yet on 11 November 2016, when discussing the possibility of suspending the writ of habeas corpus in Mindanao due to the terrorist threat, President Duterte again said he may not stop the suspension even if the Supreme Court ruled against it.¹³

MAYOR OF THE PHILIPPINES

During the presidential election campaign in 2015-2016, candidate Duterte repeatedly said if he were to win he would be the Mayor of the Philippines and asked people to continue to call him mayor and not president, strongly suggesting that he saw few decisive differences between the roles of mayor and president. On Sunday 4 December 2016, when Secretary of the Cabinet ‘Jun’ Evasco texted Vice-President Leni Robredo to inform her that President Duterte had banned her from future Cabinet meetings, Evasco referred to President Duterte as ‘Mayor Rody Duterte’.¹⁴

There are good reasons for President Duterte to ignore the purported learning curve from mayor and local political boss to president. He was a successful and very popular mayor and vice-mayor of Davao City for most of the last three decades and the first presidential candidate to win coming directly from a local political position.¹⁵ He made his mayoral

¹¹ Cited in “ON 35 OCCASIONS: President Duterte has been talking about Martial Law in public since Aug. 2016”, *Interaksyon*, 25 May 2017 <http://www.interaksyon.com/duterte-talking-about-martial-law-in-public-during-at-least-33-occasions-since-aug-2016/>

¹² Cited in “Philippines’ Duterte vows to ignore Supreme Court on martial law”, *Agence France Press*, 29 May 2017 <http://www.channelnewsasia.com/news/asiapacific/philippines--duterte-vows-to-ignore-supreme-court-on-martial-law--8890262>

¹³ Cited in Genalyn Kabling, “Duterte threatens suspending writ of habeas corpus”, *Manila Bulletin*, 12 November 2016 <http://news.mb.com.ph/2016/11/12/duterte-threatens-suspending-writ-of-habeas-corpus/>

¹⁴ Bea Cupin, “How did Duterte break with Robredo? Through text message”, *Rappler*, 4 December 2016 <http://www.rappler.com/nation/154508-duterte-robredo-evasco-text-message>

¹⁵ In the 2016 mayor elections in Davao City, President Duterte’s daughter, Indaysara Duterte, won over 99% of the vote and Pulong Duterte, President Duterte’s con, won the vice-mayoral election by acclamation.

achievements a major part of his campaign platform. The 2016 election results show that President Duterte over-performed in urban areas, including winning 15 of 16 voting districts in Metro Manila, indicating that many urban voters hope he will do for their cities what he claims to have done for Davao City.¹⁶

President Duterte, despite or because he has ignored the learning curve, has remained very popular. According to the quarterly Social Weather Stations' polls on satisfaction with the performance of the president, there has been no statistically significant decline over the first nine months of President Duterte's term.¹⁷ In September 2016, the president had a net satisfaction rating (% satisfied minus % dissatisfied) of +64%, followed by +63% in December 2016 and + 63% in March 2017. In the March 2017 survey 75% expressed satisfaction with the president, including 76% in Metro Manila, 85% of college graduates, and 89% in Mindanao.

President Duterte's large majorities in Congress and the splintering of the Liberal Party means that he faces no credible political opposition. He has faced no large-scale demonstrations despite favouring the burial of former President Marcos in the Cemetery of Heroes, conducting a war on drugs with a death toll in the thousands, and repeatedly criticizing the Catholic Church. President Duterte as 'Mayor of the Philippines' appears to be politically bullet-proof. Expectations that the office of the president would change President Duterte more than he would change the conduct of that office have not been realized. There are no signs that things will be different anytime soon.

THREE RESULTING PROBLEMS

President Duterte's surprise election victory as the 'outsider' candidate and continued political popularity has certainly opened up the Philippine political system by undercutting conventional wisdom about who can become president in the Philippines. This is clearly a good thing.

However, if this highly personalised mayoral approach to the presidency persists for the remainder of President Duterte's term, as appears very likely, three problems with longer-term effects on the Philippine political system are likely to grow:

- If the legislative process continues to pass so few laws, President Duterte's ambitious multi-front reform agenda will be undermined. Comprehensive tax reform to broaden the tax base and simplify the tax code is both needed and the centrepiece of the Duterte administration's economic agenda. The decision to break this reform up into five separate and sequenced bills would test even a fast-moving and unencumbered Congress. So far, only one of the twenty legislative stages involved in this approach to tax reform – the House of Representatives' version of the first bill – has been passed, and on the last day of their sitting in the first year of the Duterte administration.

¹⁶ Malcolm Cook and Lorraine Salazar, "The Differences Duterte Relied Upon to Win", *ISEAS Perspective No 34*, 22 June 2016

https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2016_34.pdf

¹⁷ This was also true for the presidential terms of Corazon Aquino, Fidel Ramos and Joseph Estrada.

- If presidential statements continue to require rebuttal or creative imagination to interpret, then policy signals will remain unclear and open to very different understandings. It could lead to a situation where two parallel and not consistent policy processes are occurring simultaneously; the regular execution of understood policy at the departmental level, and presidential policy statements that have not been the result of any ascertainable policy-making process.

One sign of this dissonance is US counter-terrorism support in Mindanao. In September 2016, President Duterte announced that US troops in Mindanao should leave. This was never followed up with any written order and the troops stayed. In October 2016, in China, President Duterte went further and announced his personal separation from the US militarily and economically. However, in June 2017, the Armed Forces of the Philippines requested additional US counter-terrorism support to help address the Marawi City siege that the US followed through on. President Duterte claimed that he was not aware of this request for the enhancement of US military support in Mindanao or the US's positive response.

- Continued presidential statements questioning the legal limits on presidential powers undermine the normative basis for the division of powers which is the core of the Philippine presidential system as set out in the 1987 Constitution. President Duterte plans to revise the 1987 Constitution that was written in the immediate aftermath of the Marcos dictatorship and the imposition of martial law, and aims to stop this history being repeated. He has criticised the Constitutional requirements for the imposition of martial law as a hindrance to proper presidential powers.¹⁸ Recent strong criticisms of the Supreme Court, and the Court of Appeals, by Speaker Alvarez are a worrying sign of a broadening of this challenge within the Duterte administration to the existing system of government and law in the Philippines.¹⁹

¹⁸ Jun A. Malig, "Duterte: Give president sole power to declare martial law", *Rappler*, 23 December 2016 <http://www.rappler.com/nation/156346-duterte-martial-law-constitution>

¹⁹ Llanesca T. Panti, "Alvarez: House will defy SC in the name of martial law", *The Manila Times*, 8 June 2017 <http://www.manilatimes.net/alvarez-house-will-defy-sc-name-martial-law/331637/>; DJ Yap, "Speaker Alvarez threatens to dissolve Court of Appeals", *Philippine Daily Inquirer*, 17 June 2017 <http://newsinfo.inquirer.net/906252/speaker-alvarez-threatens-to-dissolve-court-of-appeals-2>

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