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## Authoritarianism and the Functions of Courts: A Time Series Analysis of the Philippine Supreme Court, 1961–1987

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Focusing on the independent and powerful pre-martial law Philippine Supreme Court, we investigate the impact of the establishment and breakdown of authoritarianism on the court's performance of the functions of conflict resolution, social control, and administration. We develop hypotheses concerning and models of the impacts of the onset, consolidation, and breakdown of martial law authoritarianism under Ferdinand Marcos on that court's handling of the three functions. Using Box-Jenkins time series analysis methods, we assess the impacts of the onset, consolidation, and breakdown of Marcos's authoritarianism on the Supreme Court's functional performance. In our analysis, authoritarianism had no impact on the Court's performance of the conflict resolution function; authoritarianism's onset increased and its breakdown decreased the Court's performance of the routine administrative function; and authoritarianism's onset decreased but its consolidation increased the Court's performance of the social control function.

**W**e seek to build empirically based theory about the institutional performance of courts, especially in the context of authoritarian rule. This is a tall order, for there is precious little foundation in the literature of public law/judicial politics or comparative politics on which to build theory about the performance of courts even in democratic regimes (Tate 1987; Verner 1984; Epp 1992). With such a weak foundation, we have little confidence in our ability to construct the full-fledged theory that is needed. What we can do, however, is begin the construction of empirical theory about the institutional performance of courts by (1) identifying candidate concepts that can be employed to structure a portion of such theory, (2) suggesting how these concepts might be operationalized with actual data,

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The research on which this article is based was funded by a Fulbright-Hays Senior Research Fellowship to the Philippines and National Science Foundation Grant #SES-8710051 funded jointly by the Law and Social Science and Political Science programs of NSF. We are grateful to Harold D. Clarke for his invaluable advice and to Karandeep Singh for his multiple contributions to the research. The analyses and opinions contained herein are those of the authors, and are not necessarily those of the Fulbright program, the National Science Foundation, or those who have assisted us with the research. Address correspondence to Professor C. Neal Tate, Department of Political Science, University of North Texas, Denton, Texas 76203-5338.

and (3) testing some plausible hypotheses using these concepts to explore the performance of one important court under a transition from a democratic to an authoritarian regime.

Conceptually, we concentrate on aspects of the performance of courts as institutions that theorists have discussed (Shapiro 1975, 1981; Becker 1970; Waltman 1988; Schmidhauser 1987; Tate 1993; and the studies cited in Tate 1987) but only rarely, if ever, measured or submitted to rigorous empirical inquiry. Empirically, we (1) operationalize from the decisionmaking of an important national court measures of three functions Shapiro (1975) attributes to courts, (2) describe the patterns of performance of those functions over a 26½-year period, and (3) analyze the changes in the performance of these functions that theory leads us to expect as a result of a change from democratic to authoritarian government. We analyze the Supreme Court of the Philippines, which underwent, after the declaration of martial law by President Ferdinand Marcos in September 1972, a 13½-year period of authoritarian rule in what had previously been a highly competitive democratic political system.

## The Philippine Supreme Court

### Political Significance

Before turning to the theoretical and empirical substance of our analysis, we should explain why we are investigating the Philippine Supreme Court. First, observations of its political power and policy significance in the pre-Marcos era confirm that the Philippine Supreme Court was one of the world's most independent, important, and prestigious supreme courts.<sup>1</sup> Tate and Sittiwong (1986:1–2) cite authorities who at various times in the pre-martial law period proclaimed the Philippine Supreme Court as having “the respect and confidence of the Philippine people” (the Wood-Forbes Report as cited in Worcester 1930:748), as “one of the cohesive elements in the nation state that is being developed in the Philippines” (Hayden 1942:239), as “a special repository of the Filipino’s faith in legitimacy and legality” (Araneta & Carroll 1968:57), and “the most important legitimizing institution in the Philippines” (Grossholtz 1964:127).

The Supreme Court’s prestige in the pre-martial law period did not result from a tendency to stay above the political battles that accompany the making of serious public policy decisions. Indeed, Becker (1970:159–60) singles out the Philippine Supreme Court for its independence and political temerity

<sup>1</sup> The following discussion draws heavily on Tate & Sittiwong 1986:1–6.

even in the most heated controversies. Furthermore, Wurfel (1964:737) characterizes the Court as “willing to decide on political questions framed in legal terms to a much greater degree than its American prototype.”<sup>2</sup> While it remained above the struggle of partisan politics, the Court was often in the thick of important public policy disputes in the pre-martial law period. Tate and Sittiwong (1986:3–6) seek to demonstrate this point by citing examples of the Supreme Court’s involvement in numerous politically explosive conflicts,<sup>3</sup> including

1. A heated dispute between the American colonial administration and Filipino nationalist politicians in the 1920s over control of government corporations that came to symbolize Philippine aspirations for independence and self-government and conservative opposition to those aspirations
2. The bitter running controversy over the legal status and trial of accused collaborators with the Japanese after World War II
3. The postwar struggle over adoption of the U.S.-backed “Parity Amendment”<sup>4</sup> to the Philippine Constitution that helped ensure Philippine economic dependency on the United States
4. The early 1950s battle between President Elpidio Quirino and the Congress over his continued exercise of World War II emergency powers
5. The waging of the war against the leftist *Hukbalahap* rebels by President Ramon Magsaysay’s regime in the 1950s
6. An extended conflict with President Diosdado Macapagal in the early 1960s over the appointments and programs of his “New Era” administration that the presi-

<sup>2</sup> Grossholtz (1964) seems to hold the opposite view of the power of the pre-martial law Court. In her assessment of Philippine politics (p. 127), she states that Philippine courts, including the Supreme Court, “do not ‘legislate’ in the sense that the American Supreme Court does. The higher judicial roles are free of political involvement and are the most clearly defined in the political system.” We take this statement to mean that Philippine Supreme Court justices were usually less closely tied to partisan politics than their American counterparts; that is clearly correct. But if the statement means that in the exercise of its basic function of rule adjudication the Philippine Supreme Court did not greatly affect public policy, while the American Supreme Court did, it would seem clearly to be wrong. The Philippine Supreme Court was politically involved and did “legislate” on important matters of public policy in the pre-martial law era, as the text demonstrates.

<sup>3</sup> For an indigenous perspective on this issue, see Concepcion 1955.

<sup>4</sup> The Parity Amendment provided for American citizens the rights to participate in the Philippine economy enjoyed by Filipinos. It was strongly supported by the United States and vigorously opposed by Philippine political and economic nationalists. To ensure its adoption, several anti-Parity senators were denied their seats in the postwar Congress. The Supreme Court upheld their ouster and thus cleared the way for the Parity Amendment.

dent openly compared to that of Franklin Roosevelt with the United States Supreme Court

7. The controversy in the 1965 presidential campaign between Macapagal and challenger Ferdinand Marcos that resulted when the national board of censors sought to ban a dramatic motion picture that “tried to portray Marcos as a man of destiny” (Becker 1970:160; also see Becker 1971)
8. An effort to speed up the resolution of election protests by adopting the legally unheard of proposition that results could be thrown out if they were patently contrary to “statistical probability”
9. The contention in the early 1970s between nationalists and the Marcos administration over further extension of the rights of American citizens to purchase new Philippine lands
10. The validity of Marcos’s suspension of the writ of habeas corpus after the bombing of an opposition party rally in the early 1970s

These examples, plus dozens of others that might be cited, provide dramatic evidence of the policy significance of the Philippine Supreme Court prior to the period of Marcos’s authoritarianism.

### Theory-building Potential

Given its political significance, another reason for focusing on the Philippine Supreme Court is that its experience provides the opportunity to build empirical theory about the functions of courts. Prior to the shift to authoritarianism<sup>5</sup> that occurred with Ferdinand Marcos’s declaration of martial law in September 1972, the Philippine Supreme Court had functioned with prestige, independence, and power in an occasionally corrupt, but vigorously democratic, regime. The Philippine turn to authoritarianism structured a natural “interrupted time series” design (McDowall et al. 1980) that will allow investigation of how independent courts adapt to the “breakdown of democracy” (see Linz & Stepan 1978) and the imposition of authoritarianism. The place and function of courts in authoritarian regimes is too little discussed. The Philippine experience

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<sup>5</sup> Technically, Ferdinand Marcos was a martial law ruler from September 1972 to 1981, when he declared the formal end of martial law while altering the constitution to ensure that his one-man rule would continue unchallenged. Practically, there was little or no difference in the degree of his personal control of the regime during or after formal martial law. Thus, we take the liberty of referring to the whole period from his martial law declaration until his downfall as the period of “Marcos authoritarianism.” Whether there would be differences between the impact of Marcos authoritarianism and that of other varieties of authoritarian rule is an empirical question.

gives us the opportunity to enhance empirical understanding of that topic.

### Jurisdiction and Decisionmaking Discretion

Before turning to considerations of theory that guide our analysis of the functional performance of the Philippine Supreme Court, we need to explain its jurisdiction. An understanding of that jurisdiction should help readers evaluate the indicators of functional performance that we operationalize from the Court's formal decisionmaking record.

The 1987 Constitution of the Philippines specifies a substantial jurisdiction for the Supreme Court. The Constitution begins (art. VIII, sec. 1) by defining "judicial power" as including the power "to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government." Legal commentators have noted the special significance of the language concerning "grave abuse of discretion" in the context of the post-Marcos Philippines. They argue that it effectively removes the ability of authorities to defend themselves against challenges by "invoking the political nature of their acts or pronouncements" (De Leon 1987:317) and gives the Supreme Court "the power to rule upon even the wisdom of the decisions of the executive and the legislature and to declare their acts invalid because tainted with grave abuse of discretion" (Cruz 1987:219).<sup>6</sup>

This broad grant of review power to the Supreme Court is supplemented by a set of specific jurisdictions in article VIII, section 5 (2), of the 1987 Constitution. This section provides that the Supreme Court shall have "original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*." It also provides that the Court may "[r]eview, revise, reverse, modify, or affirm on appeal or *certiorari* as the law or the Rules of Court may provide, final judgments and orders of lower courts," concerning (1) the constitu-

<sup>6</sup> The Philippines' earlier constitutions, i.e., those of 1973 and 1936, provided slightly, but not greatly, different specifications of the Supreme Court's power. With the possible exception of the current constitution's provision that the Court shall have the power to consider "grave abuses of discretion amounting to a lack or excess of jurisdiction," it does not appear that the differences among the constitutions have any significant consequences for our analysis. Thus we focus on the provisions of the current constitution. Even with respect to the Court's new power to consider grave abuses of discretion, Isagani Cruz, a member of the Philippine Supreme Court since 1986, notes that "grave abuse of discretion" is "a very elastic phrase that can expand or contract" according to whether the Supreme Court is "assertive and activist" or "timorous" (Cruz 1987:219).

tionality of any official government pronouncement,<sup>7</sup> (2) the “legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto,” (3) the jurisdiction of any lower court, (4) criminal sentences of life imprisonment (*reclusion perpetua*) or higher, and (5) “only an error or question of law.” Since the Constitution grants the Supreme Court full administrative supervision over judges, employees of the judiciary, and the bar (Constitution 1987, art. VIII, sec. 5 (3)), the Court also resolves a broad set of administrative and disciplinary issues related to these matters.

The Supreme Court is the apex of a multilevel hierarchy of regular courts of general civil and criminal jurisdiction.<sup>8</sup> Unless they involve “only an error or question of law” (Constitution 1987, art. VIII, sec. 5), appeals from these courts must follow the hierarchy, and reach the Supreme Court only from the Court of Appeals. In addition, the Supreme Court serves as the principal court of appeal for a number of specialized courts<sup>9</sup> and quasijudicial administrative agencies.<sup>10</sup>

The Constitution, statutes, and Rules of Court specify a mix of “mandatory” and discretionary routes through which a case can reach the Philippine Supreme Court. But even though some of these cases come to the Supreme Court as a matter of right, available evidence indicates that the Court, like the United States Supreme Court, has a great deal of control over the amount of attention it gives particular cases. Regardless of the route through which they reach the Court, cases it deems less important are routinely disposed of by unpublished “minute resolutions” that require relatively little effort to prepare or propagate. In the late 1980s, the Court annually disposed of over 3,000 cases. During this period, from 73% to 80% of all

<sup>7</sup> Specifically, “any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation” (Constitution of 1987, art. VIII, sec. 5(2)(a)).

<sup>8</sup> The top of the lower courts hierarchy is the Court of Appeals. Below it are regional trial courts and circuit criminal courts. Below these are metropolitan, municipal, or municipal circuit trial courts. Previously, the courts below the Court of Appeals were styled courts of first instance, circuit criminal courts, and city, municipal, or municipal circuit courts, and juvenile and domestic relations courts. The municipal courts, as well as the justices of the peace, who held office at an earlier time, were not courts of record.

<sup>9</sup> Since 1980, these have included a special “antigrift” court, the Sandiganbayan, a Court of Tax Appeals, and a set of Shari’a Courts with jurisdictions over some of the legal affairs of Muslims in certain regions of the country. Prior to 1980, the special courts included the Court of Tax Appeals, a Court of Industrial Relations, and a Court of Agrarian Relations. Under Marcos’s martial law rule, there were also military courts and commissions with the power to try civilians for some offenses. Finally, there has always been a system of military courts martial, with jurisdiction limited to military personnel.

<sup>10</sup> Currently, these include the Employees Compensation Commission, National Labor Relations Commission, Commission on Audit, Energy Regulatory Board, Board of Investments, Board of Transportation, Securities and Exchange Commission, and Civil Aeronautics Board, among others (Teehankee [1987]:22).

cases were disposed of through such very brief resolutions rather than by “extended opinions.”<sup>11</sup>

## Theory

Shapiro’s (1975) influential analysis assigns three general functions<sup>12</sup> to courts:

1. Resolving specific conflicts between individuals or groups in a manner which may have some chance of being acceptable even to the loser
2. Serving as a social controller on behalf of the regime
3. Serving as an extension of the administration, performing a variety of administrative tasks not involving inter-personal/group conflict.<sup>13</sup>

Like most functionalist arguments, Shapiro’s implies that all courts perform these functions but that individual courts do so to greater or lesser degrees. The factors that may affect the extent to which a court performs the functions are no doubt multiple. But they must include the type of regime in which the court operates: To put it simply, we expect courts as institutions to perform differently under democratic and authoritarian political systems.

Specifying the nature of the differences to be expected in the functional performance of courts under democratic and au-

<sup>11</sup> Data on the Supreme Court’s total workload are sparse and difficult to come by, but see the discussion in Fernando [1984]:2–7. For the 1961–87 period analyzed here, the available data are presented in the appendix.

<sup>12</sup> Strictly, Shapiro’s typology considers administration to be a component of social control, and also includes an additional, very important function of courts, law, or policymaking. Because Shapiro’s work discusses administration at considerable length, and because we perceive that there are significant differences between core social control activities and “routine” administration, we have taken the liberty of breaking out “serving as an extension of the administration” as a separate function. We do not, in this work, address the policymaking of the Philippine Supreme Court because it requires operationalizations that are quite different from those for conflict resolution, social control, and administration that would expand the scope of this analysis too greatly. We plan to address change in the Court’s policymaking function in other work.

<sup>13</sup> Waltman (1988:216) suggests a trio of functions that “all societies require the courts to perform” that is similar to Shapiro’s in important ways: (1) dispute settlement, (2) serving as a part of the “system of administration of criminal justice,” and (3) providing a “symbolic legitimacy” for government. We take Waltman’s point (1) to be identical to Shapiro’s “conflict resolution/dispute processing,” while we see his point (2) as overlapping Shapiro’s “social control” and “routine administration.” Waltman’s third function seems to be qualitatively different from any of Shapiro’s three, or, indeed, from his own points (1) and (2), because it focuses on what courts mean to political systems, rather than on what functions they perform. The legitimizing function is no doubt very important, however, and we have selected the Philippine Supreme Court for analysis in part because it was alleged to have played this function very successfully prior to the period of Ferdinand Marcos’s authoritarian rule.

We should also note that in focusing on the conflict resolution, social control, and administration functions of courts, we do not imply that these are the only or even the most important dimensions along which courts may be compared. For example, in other analyses (Tate & Haynie 1988; Tate 1993) we address the Philippine Supreme Court’s independence, impartiality, legitimacy, and decisionmaking scope and depth.

thoritarian regimes is not easy. For theoretical guidance, we have turned to comparative politics literature on nondemocratic governments. The utility of this literature for our present purposes is limited because it is both sketchy and too much focused on the independence of courts, rather than on their functional performance. Nevertheless, it offers clues that can structure our theoretical expectations concerning the changes in functional performance that might be expected as a powerful democratic court adjusts to authoritarian rule.

The picture one gets of the relations between courts and nondemocratic governments varies by whether the courts face totalitarian, authoritarian, or crisis (dictatorial) governments.<sup>14</sup> It is usually alleged that in totalitarian regimes—the most repressive and controlling political systems—courts will *not* be independent of the executive but, rather, politicized extensions of the administration charged with implementing the ideological or political directives of the regime (see Friedrich & Brzezinski 1956:35, 146–47, 186–87, 299; Finer 1956:674, 845; Hitchner & Levine 1967:218–19; Dragnich 1971:410–11; Linz 1975:224). This would certainly appear to rule out court performance of Shapiro's conflict resolution function, if that function includes the expectation that the resolutions to adjudicated conflicts may have some chance of being acceptable even to the loser.

However, some scholars have maintained that, even in putatively totalitarian regimes, the courts may be left to operate independently and impartially in resolving some disputes that do not affect the core political interests of the regime.<sup>15</sup> In au-

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<sup>14</sup> The distinction we make is based specifically on the literature summary and discussion of Juan J. Linz (1975). Tate (1993) defines crisis regime as "a political system which is initiated by the sudden seizure of new or drastically expanded executive powers by a political leader for the purpose of coping with the demands of a leader-proclaimed extraordinary crisis" and discusses three types: military caretakers, martial law rulers, and emergency powers executives.

<sup>15</sup> Herman Finer's (1956:845) characterization of the Stalinist Soviet judiciary is striking in this regard:

[T]he true role of the Soviet judicial system . . . is *not* regarded as an independent power *vis-a-vis* the Executive, the Legislature, and still less of the Communist Party leadership.

It can best be envisaged as the performance of the judicial function in a colonial territory by an absolutely dominant old-fashioned, imperial master. The system of law is imposed, according to the policy of the imperial ruler, without consultation with the native population. Then, in judging cases *between individuals* (contracts, torts), the judge may be perfectly upright, perfectly independent, perfectly uncorrupt. He may mete out even-handed justice between the litigants, on the basis of the law prevalent. This law, as regards such interpersonal matters of theft from each other or assault or rape or fraud or breach of contract or obscenity or trespass or even family relations (for example, a parent's right to thrash an errant youngster) may be sensible, humane, not retributive, but corrective, rehabilitating, and educative. This is generally true of the Soviet system and is a considerable advance on the Czarist judiciary and its code of laws. . . .

The moment, however, the march of the economy and the domination of



thoritarian, as opposed to totalitarian, systems, this tendency is expanded: The regular judiciary may be left to “its traditional degree of independence,” while “politically relevant cases” are shifted to special, often military, courts (Linz 1975, citing Toharia 1974).<sup>16</sup> This implies that, unless there are a large number of “politically relevant cases,” there may be little discernable change in the overall extent to which a court performs the conflict resolution function under an authoritarian regime.

The different needs of crisis governments are likely to present such regimes with a dilemma in their relations with their courts. They justify their seizing of dictatorial power as temporary but necessary to preserve the nation, its constitution, or the rule of law in a time of crisis. Hence they are much concerned to present an appearance of acting moderately and constitutionally. That appearance would clearly be harmed by too obvious an effort to take control of independent courts, which are likely to be perceived as defenders of constitutionalism and the rule of law, or to radically change the pattern of such courts’ performance of the conflict resolution function by routing politically sensitive cases through an alternative court hierarchy the crisis regime controls. On the other hand, its grasp of governmental power is likely to be more precarious and the possible threat to that power posed by an independent court more serious than in an established authoritarian regime. The need to preserve and consolidate power would push the regime to try to reduce the extent to which the previously independent courts are involved in resolving serious conflicts.

Our discussion suggests that, whatever the reactions to courts of totalitarian and authoritarian rulers, crisis regime rulers like Ferdinand Marcos are likely to have the most ambiva-

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the dictatorial system of “socialism” is touched by any case, the colonial nature of justice grimly emerges: the defendant is not on a par with the colonial power.

<sup>16</sup> Dragnich (1971:410–11) summarizes:

Dictatorial regimes . . . must be able to control the courts just as they control the legislature. . . . As an arm of the administrative apparatus, the judicial system in a dictatorship seeks to preserve the regime and to facilitate the implementation of its programs; conversely, it seeks to strike down all those who might stand in the way. . . . In a dictatorship, as in a democratic system, however, disputes between individuals must be settled, and the laws that pertain to these disputes must be interpreted and applied. In this respect, every dictatorship provides its own system of order among private claimants, performing functions essentially similar to those exercised by the courts in democratic countries when they adjudicate private controversies.

The need to reserve some “politically relevant” cases for special courts was apparently felt even by the Nazis, who did not recognize any degree of independence for the regular courts. Friedrich and Brzezinski (1956:187) note that even though the Nazis had transformed the regular judiciary into “a branch of the administrative service, subject to continuous interference by the party this was not enough. In order to handle certain kinds of criminal prosecutions, which even this kind of judiciary would not attend to, the Nazi regime organized . . . special tribunals . . . in which only expediency in terms of Nazi standards served as a basis for judgment.”

lent attitudes toward the performance of the conflict resolution function by previously independent courts. To capture this ambiguity, we hypothesize that in the case of the Marcos crisis regime:

**Hypothesis 1.** Authoritarian rule had no impact on the performance of the conflict resolution function by the Philippine Supreme Court in ordinary cases.<sup>17</sup>

The performance of the social control function by independent courts not necessarily inclined to follow the control policies of the authoritarian rulers could, like conflict resolution, pose an initial challenge to the authoritarians' control. Such a challenge would be of very little significance to totalitarians, who exercise overwhelming social control on their own, and of not much greater importance to authoritarians, who have little need to justify their rule on constitutional grounds. Both would more or less freely use or threaten coercion to replace or enforce their wishes on judges whose social control activities were inconsistent with their ideology. Crisis rulers, given that they normally take power through means that impose an immediate need for strong social control, would hardly be expected to welcome the exercise of social control functions by an independent judicial institution. It is clear, for example, that initially the Marcos martial law regime in the Philippines wished to have social control fixed firmly in the hands of the military. On the other hand, because of their need to be perceived as acting legitimately, crisis rulers can hardly afford to use coercion directly on a court whose existence sustains their fragile claims to a right to rule.

The successful consolidation of an authoritarian regime may change the crisis ruler's need to exercise social control, at least for relatively routine matters. After consolidation, having the courts become more effective social control mechanisms would serve the regime's interest in appearing to be constitutional, provide a useful service, and pose little threat to the authoritarian rulers.

Maintaining the appearance of constitutionality was very important to Ferdinand Marcos (see Tate & Haynie 1988 for evidence). Whether it would be equally important to other authoritarians is uncertain. But the literature on the role of military authoritarians strongly implies that they would prefer to avoid being saddled, long run, with the responsibility for maintaining law and order (Nordlinger 1977). By extension, they could be assumed to prefer to hand the social control activities

<sup>17</sup> "Ordinary cases" are all conflict resolution cases for which the Supreme Court prepared a reported opinion. (See our operationalization discussion below.) In "politically sensitive cases," we would expect even crisis authoritarian rule to decrease the performance of the conflict resolution function. However, we are not in a position to identify and analyze such cases here.

represented by criminal case processing back to civilian courts, once their control was solidified. As a result, we hypothesize:

**Hypothesis 2A.** Authoritarian rule initially decreased the performance of *social control activities* by the Philippine Supreme Court.

**Hypothesis 2B.** After its consolidation, authoritarian rule increased the performance of *social control activities* by the Philippine Supreme Court.

When we turn to the courts' performance of routine administrative duties, it is logical to assume that the courts, like the administrative departments, are usually not removed or substantially structurally altered by new authoritarian regimes because replacing the essential bureaucratic/legal skills of their personnel would be difficult or impossible.<sup>18</sup> Indeed, such regimes would probably be inclined to turn the courts toward an ever increasing routine administrative load and orientation to ensure that they could not pose a policy challenge to the regime.

A constitutional revision coinciding with Marcos's establishment of martial law significantly increased the possibility for the Philippine Supreme Court to be occupied with performance of the administration function by expanding the Court's administrative authority to supervise the judicial and legal systems. Some such supervision has always been a part of the Supreme Court's responsibility. But supported by both President Marcos and the Supreme Court, the change enhanced the scope of the Court's decisionmaking authority while it magnified the potential for routine cases involving the discipline of judges, employees of the judiciary, and members of the legal profession to be litigated in and reported on by the Supreme Court—to consume decisionmaking agenda space that might otherwise have been devoted to matters more threatening to the dictator and his regime. Such a development would have been pleasing to the authoritarian ruler. Thus we hypothesize:

**Hypothesis 3.** Authoritarian rule increased the performance of *routine administrative activities* by the Philippine Supreme Court.

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<sup>18</sup> We are not aware of any empirical assessment of the frequency with which authoritarians abolish courts and replace judges, but it is our impression, based on years of study and teaching about military coups and governments, that courts are far less likely to be abolished, significantly restructured, or subjected to close control by authoritarians than are assemblies, political parties, interest groups, especially labor unions, and mass media. Of course, there are exceptions. President Alberto Fujimoro's recent *autogolpe* in Peru was aimed rather directly at an allegedly corrupt judiciary, for example.

## Data Base and Operationalizations

We analyze the Philippine Supreme Court's conflict resolution, social control, and routine administrative performance using time series measures we have aggregated from a data base including all the decisions reported in the current reporter of record for the court, the *Philippine Supreme Court Reports Annotated* (SCRA), from 1961 (the beginning of the publication of those reports) through the second quarter of 1987. Over 15,000 decisions included in the SCRA were coded for a wide variety of political, legal, and other characteristics.<sup>19</sup>

### Measuring Supreme Court Functional Performance

A major purpose of our analysis of the complete decision-making record of the Philippine Supreme Court over the period 1961–87 was to code the content of the decisions so as to measure the court's performance of Shapiro's three functions, conflict resolution, social control, and routine administration. Most criminal decisions are social control activities, for example. Civil cases involving suits of all kinds between or among individuals, groups, and government are conflict-resolving activities. Administrative hearings related to the operation of the legal system or cases ratifying decisions made by other administrative bodies are examples of the performance of routine administrative activities by the court.

Here, the legal and substantive issues raised in the decisions rendered by the Philippine Supreme Court from 1961 through mid-1987 have been coded to allow measurement of the quantity of decisions involving social control, conflict resolving, and routine administrative functions of that court. Specifically,

- We operationalize conflict-resolving activities by the number<sup>20</sup> of Supreme Court decisions involving civil suits between conflicting parties
- We operationalize social control activities by the number

<sup>19</sup> The Philippine Supreme Court data base was created by the senior author and a team of 23 research assistants/coders during his affiliation as a Visiting Research Associate of the Institute of Philippine Culture (IPC) at the Ateneo de Manila University in Metro Manila, 1 Sept. 1987–15 Jan. 1988. The enthusiasm and hard work of this team and the support of the IPC staff made the project a pleasure, and we gratefully acknowledge their assistance.

<sup>20</sup> We use the number, rather than the percentage, of reported cases involving conflict resolution, social control, and administration, because we are interested in the Philippine Supreme Court's total performance of each discrete function, rather than in the share each function constitutes of total reported decisions. We have noted that the Court has very substantial control over the number of, as well as which, particular kinds of cases it chooses as the subject of extended or reported decisions. Given that control, we think that a focus on the number of reported decisions better captures our dependent variables. Our use of Box-Jenkins time series analysis methods controls for patterns of growth and decline in our dependent variables that may be the product of

of criminal cases (including cases claiming violation of criminal procedure rights<sup>21</sup>)

- We operationalize routine administration activities by the number of administrative cases involving the governance of the bar and judiciary, essentially administrative matters.

Certainly we do not contend that it is possible to operationalize conflict resolution, social control, and routine administration using only the measures we have created. For example, in operationalizing the performance of Shapiro's administrative function narrowly using an indicator based on cases involving the Supreme Court's administrative supervision of the judiciary and legal system, we do not imply that this indicator taps the full meaning of "administration," as defined by Shapiro. One might also argue that this indicator is as much a measure of the regime's interest in controlling the bar and the judiciary as it is of its desire to divert the Supreme Court's attention from more threatening activities. Our response is that it can serve as both, since controlling the bar through such a means does in fact divert the Court from more threatening activities. The number of administrative cases involving the governance of the bar and judiciary can thus serve as one acceptable indicator of the Supreme Court's performance of the routine administration function.

Despite the reservations just expressed, we contend that the operational measures we use are plausible, valid on their face, and thus appropriate for beginning an effort to build theory about the functions of courts that is based on empirical results rather than only on historical examples and speculation.

To create the dependent-variable time series, the data-base decisions were aggregated on a quarterly basis. To capture the impact of discrete events on the Philippine Supreme Court's decisionmaking and to maximize the statistical robustness of our analysis, we wanted to aggregate the data across as small a time period as feasible. The total number of cases available and the relatively broad categories of cases we used to operationalize the three functional behaviors made a quarterly, but not a monthly, aggregation feasible.<sup>22</sup> Figures 1–4 show the quarterly aggregation for all cases and for the three functions.

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time-related influences other than the independent variables whose impacts we analyze.

We have also computed and examined times series consisting of the percentages of reported cases involving conflict resolution, social control, and routine administration. These series look very different, and any analysis of them would take us well beyond the scope of this article.

<sup>21</sup> Such cases constitute only a small portion of the Philippine Supreme Court's decisionmaking, in contrast to the United States, where they comprise the vast majority of the criminal decisions considered by the Supreme Court (see Tate 1989).

<sup>22</sup> A quarterly aggregation also would have revealed the existence of seasonality in the dependent variable data series. For the U.S. Supreme Court, seasonal effects

The quarterly aggregation produced the three variable series we use here to operationalize the conflict resolution/dispute processing, social control, and routine administrative functions of the Philippine Supreme Court. Figure 2 presents a plot of the Supreme Court's performance of the conflict resolution function for 1961–87.<sup>23</sup> Figure 2 reveals a time series that fluctuates somewhat but has a higher mean level in earlier than in later quarters. If one smooths the quarterly series using a four-quarter moving average to dilute the impact of outliers, the low in the smoothed series (not shown) occurs in the first quarter of 1973, immediately after Marcos's declaration of martial law.

Unlike the social control and administration series we shall soon discuss, the conflict resolution series clearly tracks the total series (Fig. 1).<sup>24</sup> We are unable to say whether this occurs because the conflict resolution series is driven by the total, or whether, conversely, the total is driven by the fluctuations in its largest subcomponent, conflict resolution. Fortunately, testing the hypotheses of interest in this article does not require a resolution of the causal relationship between the two series.<sup>25</sup>

Figure 3 presents the social control time series plot. Unlike conflict resolution, it exhibits a lower mean and relative stability for the earlier quarters and growth to a higher mean in the latter quarters of the series. Its values are clearly not driven by the total number of cases reported by the court.

Figure 4 plots the routine administration cases reported by the Philippine Supreme Court for 1961–87. It features a low initial level of administration cases followed by two periods of explosive growth and decline. It shows that the previously discussed potential for the Supreme Court to shift its decision-making attention to routine administrative matters was realized in the 1970s and 1980s. The number of such cases, and by inference the Supreme Court's performance of the administration function, increased sharply. This number is clearly not driven by the total number of reported cases.

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would be very pronounced, given its term year schedule. However, none of the Philippine data series showed any evidence of seasonality. The work of the Philippine Supreme Court seems consistent across seasons.

<sup>23</sup> To attain the series stationarity required by ARIMA analysis, the data analyses presented in the next section use the natural logarithms of the raw series reported in Figs. 1–4. Plots of the logged series are omitted to save space.

<sup>24</sup> The simple  $r$  between the two series is .83.

<sup>25</sup> The directionality issue could be addressed via a test for Granger causality (see Granger 1980; Granger & Newbold 1977; Freeman 1983).

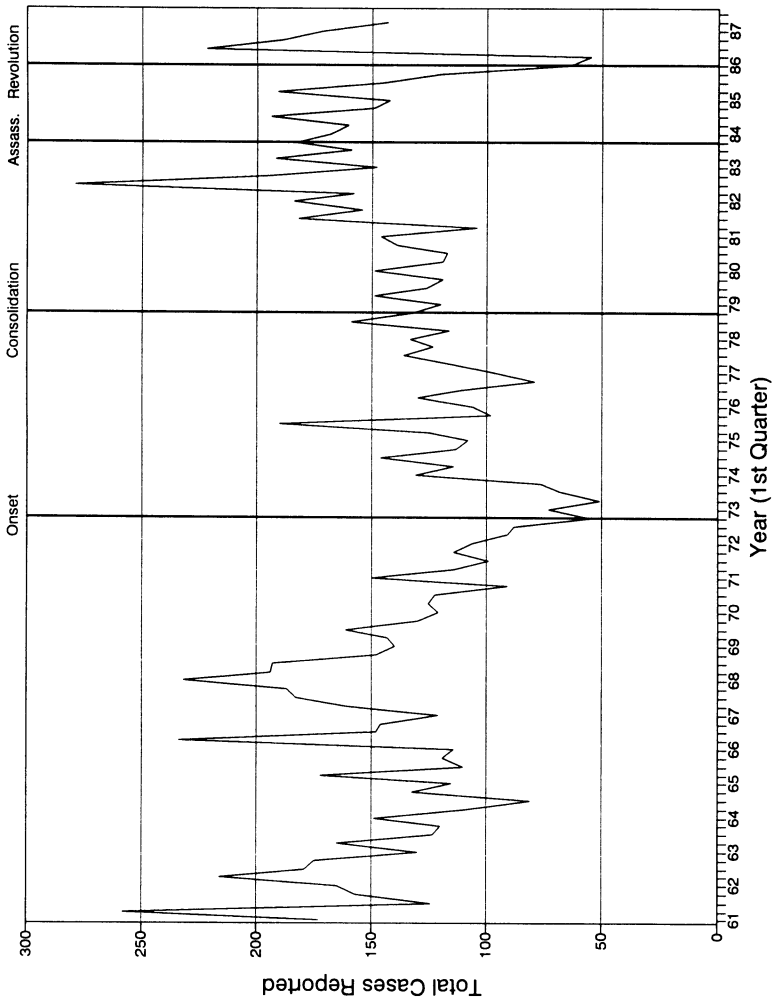


Figure 1. Caseload of the Philippine Supreme Court, 1961–1987 (cases reported quarterly)

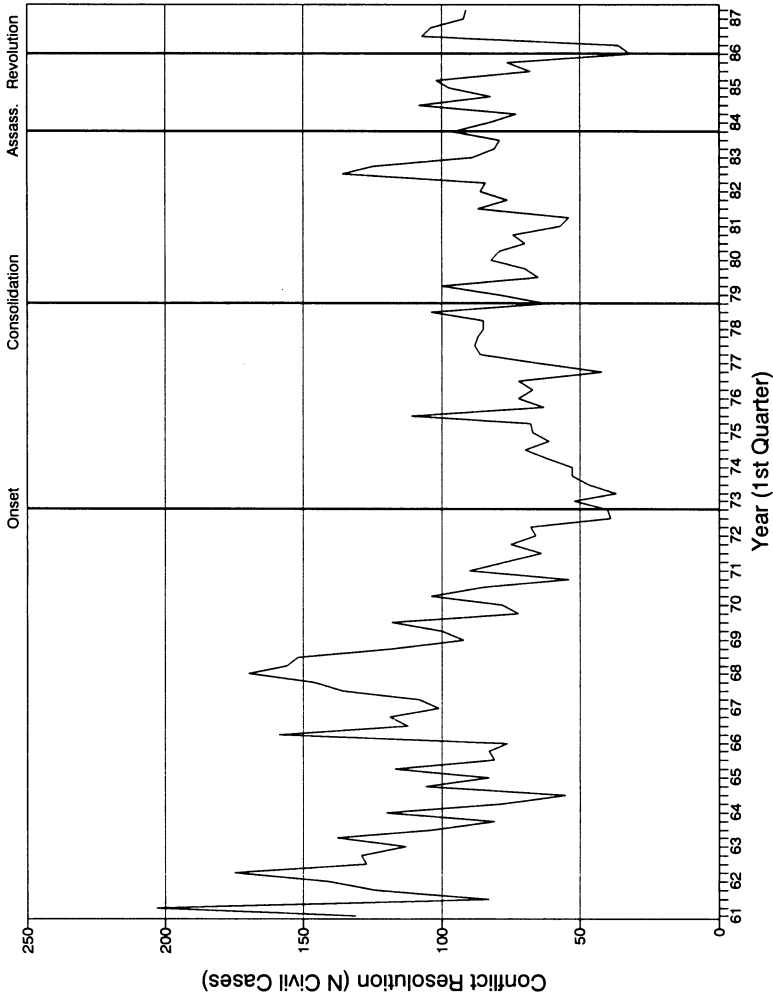


Figure 2. Philippine Supreme Court's performance of the conflict resolution function (civil cases), 1961–1987 (cases reported quarterly)



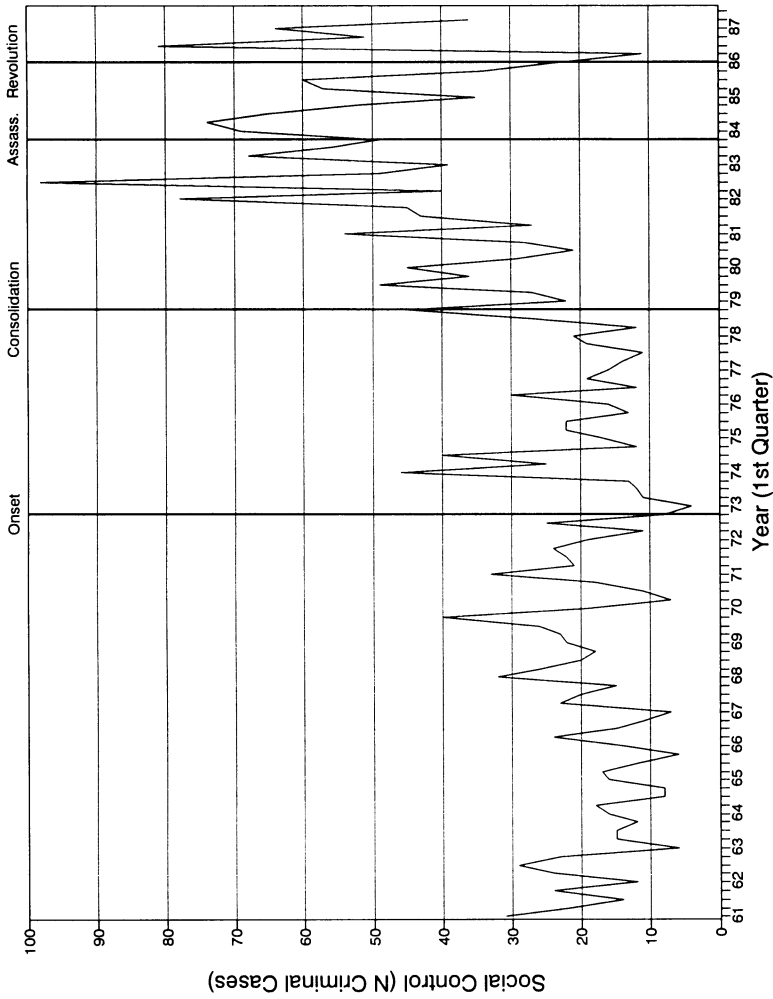


Figure 3. Philippine Supreme Court's performance of the social control function (criminal cases), 1961–1987 (cases reported quarterly)

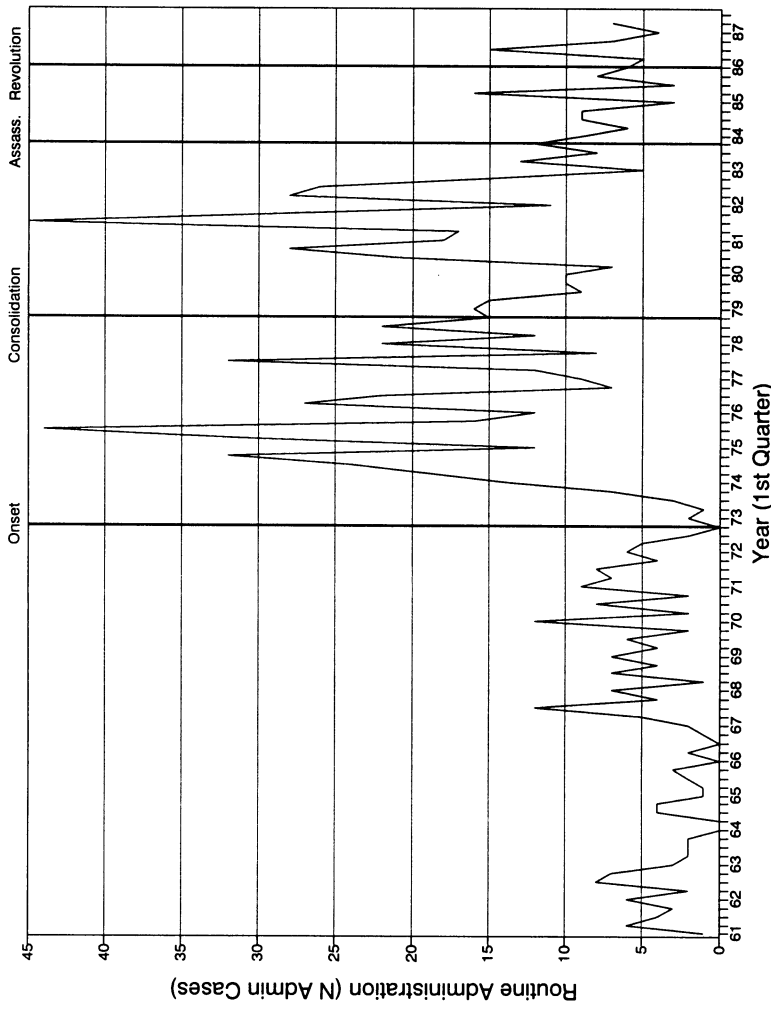


Figure 4. Philippine Supreme Court's performance of the administrative function (administrative cases), 1961-1987 (cases reported quarterly)

## Measuring the Impact of Authoritarianism

The theoretically important independent variable whose impact we investigate is President Marcos's martial law authoritarianism. The effects of authoritarianism are operationalized using several time series "interventions."<sup>26</sup> The first intervention represents the *onset* of martial law authoritarianism. It begins in the fourth quarter of 1972, since the date of the imposition of martial law was 22 September 1972.<sup>27</sup> We gave considerable thought to the timing and form of the potential impact of martial law authoritarianism on the Court's conflict resolution/dispute settlement, social control, and routine administrative performance. Details of our decisions about timing and form are reported in the analysis section below.

We do not expect the full impact of Marcos's authoritarianism to be captured by the intervention measuring its onset. We also expect its impact to be changed or intensified once that authoritarianism was firmly established. Our second effort to capture the effects of Marcos's authoritarianism focuses on the *consolidation* of his martial law authoritarianism. Consolidation may be said to have occurred when the regime felt secure in its rule and willing to entertain different ideas about how to govern and how the Supreme Court might operate. Consolidation of authoritarianism is especially relevant to our hypothesis concerning the Court's social control performance, since we suggest that the regime changed its view of the desirability of the Court's involvement in social control activities after its rule was secured.

In contrast to the beginning of martial law, no specific date can be cited unambiguously to mark the beginning of the intervention representing the consolidation of Marcos's authoritarian rule. It seems clear that it could not have been in the three years following the beginning of martial law (1973–75), since the regime's actions, especially the authority of the military courts it established, were still being regularly and seriously challenged in this period. It also seems clear that it occurred well before 1981, when Marcos implemented major constitutional changes and declared the formal end of martial law, although not of the constitutional rules and political mechanisms that supported his authoritarian rule. The most appro-

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<sup>26</sup> A time series intervention is an event variable whose value is 0 for those time periods before the date of its occurrence or after it ceases to occur, and 1 for those periods from the time of its occurrence until the time (if any) when it no longer exists.

<sup>27</sup> The official date on the martial law proclamation is 21 Sept. 1972, allegedly because of Marcos's superstitious regard for his lucky number 7 and its multiples. The first actions which implemented martial law began on 22 Sept. Except for a few arrested political opponents, the public did not learn of its imposition until 23 Sept. (see Bonner 1987:92–111). Given these dates, the impact of martial law on the Supreme Court could not have been significant before the fourth quarter of 1972.

appropriate date for consolidation is late fourth quarter 1978, six years after martial law's beginning. By that time Marcos felt secure enough in his rule to create his own political party and provide for the establishment of a puppet national assembly, elected in April, and seated later in the year.

Our final effort to analyze the impact of authoritarianism on the functional performance of the Philippine Supreme Court focuses on the *breakdown* of Marcos's rule. We examine two independent variables that are intended to allow us to assess the impact of that breakdown. The first of these is an intervention whose beginning is marked by the assassination of Senator Benigno Aquino, Marcos's longtime principal opponent and husband of his successor as Philippine president, Corazon Aquino. Benigno Aquino was assassinated as he was being escorted by military guards down the steps of the China Air Lines jet which had returned him to the Philippines after several years of medical treatment and exile in the United States. His assassination, on 21 August 1983, caused an immediate popular uproar and, in the view of most analysts, marked the beginning of the end of the Marcos regime. After Aquino's assassination, opposition to Marcos became increasingly open and vigorous. Hypothetically, the Aquino assassination could mark a significant change in the impact of Marcos's authoritarianism on the Philippine Supreme Court's functional performance.

Aquino's assassination occurred late in the third quarter of 1983. His funeral and the political unrest surrounding it lasted for several weeks thereafter. Consequently, we have marked the beginning of the Aquino assassination intervention in the fourth quarter of 1983.

Our second measure of the breakdown of authoritarianism, also an intervention, marks the 1986 "People Power Revolution," which brought down the Marcos regime and installed Corazon Aquino as the Philippines's first woman president. Key events leading up to the Revolution included the campaign for the presidential election Marcos called for 7 February and the subsequent reaction to the regime's efforts to steal that election from Aquino. The most crucial events of the Revolution occurred 22–25 February 1986; Aquino was inaugurated and the Marcoses left the country on 25 February. The Supreme Court was reconstituted by Aquino in the next month. The Revolution intervention, therefore, begins in the first quarter of 1986. Marking the end of authoritarianism, it could have effected a turnaround in the functional performance of the Philippine Supreme Court.

The hypotheses specified above focus on the establishment—the onset and consolidation—of authoritarianism. The impacts of the breakdown of authoritarianism are generally expected to be opposite in sign from those associated with its es-

tablishment. In the case of conflict resolution and routine administration, that means that we expect the breakdown of authoritarianism to increase the Supreme Court's performance of the conflict resolution function and decrease its performance of the administration function. In the case of social control, where the onset of authoritarianism was hypothesized to decrease and its consolidation to increase the performance of the function, we require any impacts of the breakdown of martial law authoritarianism to be statistically significant on a two-tailed test, since either a positive or a negative impact of breakdown would be opposite to one of the hypothesized effects of the establishment of authoritarianism.

## Data Analysis and Findings

Time series analysis of the impact of events or interventions in the Box-Jenkins tradition (Box & Jenkins 1976; Box & Tiao 1975) divides a dependent time series into two basic components: time-dependent or stochastic processes and the impact(s) of the intervention(s) or deterministic components. The Box-Jenkins model is typically denoted as

$$Y_t = f(I_t) + N_t,$$

where the dependent times series ( $Y_t$ ) is the result of the deterministic component or intervention(s) ( $I_t$ ) and the stochastic noise component ( $N_t$ ). Here, the estimation of both components was accomplished with the BMDP 2T software, which provides one of the fullest implementations of Box-Jenkins analysis available (see Liu 1988).

The first stage in the analysis is the identification, estimation, and diagnosis of an ARIMA (AutoRegressive Integrated Moving Average)<sup>28</sup> noise model (see McCleary & Hay 1980). The noise model accounts for components or "causes" of the variation in the time series that depend on time. To appropriately assess the hypothesized impact of the independent variables on the series, these stochastic processes are removed through the estimation of the ARIMA model.

The second stage involves the addition of independent vari-

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<sup>28</sup> Identification of the ARIMA model involves determination of the three parameters ( $p$ ,  $d$ ,  $q$ ) that describe the appropriate noise model. The  $p$  parameter indicates the number of autoregressive (AR) parameters necessary to fit the time series,  $d$  the number of times the series must be differenced or "integrated," and  $q$  the number of moving average parameters (MA) required to fit the time series, i.e., to turn it into "white noise." A white noise time series is one that exhibits both mean and variance "stationarity." Mean stationarity requires that the individual time series points not be statistically significantly different from the mean of the time series. Variance stationarity is homoskedasticity, the failure of the variance to differ to a statistically significant degree across the various ranges of the time series. To achieve stationarity, each of the series analyzed here was converted to its natural logarithms. Details are available on request from the authors.

ables or interventions to the ARIMA model (see McCleary & Hay 1980:ch. 3; Liu 1988:457–66). We have already discussed the interventions measuring the onset, consolidation, and breakdown of authoritarianism. We estimate the impact of these measures in the three models of the functional performance of the Philippine Supreme Court presented below.

Once one has decided on the interventions to be included in a model, one must then decide on the form each intervention should take. The specification of an intervention's form is determined by the magnitudes of two effect parameter estimates,  $\omega_0$  and  $\delta$ . The omega parameter ( $\omega_0$ ) represents the impact of the event on the series while the delta parameter ( $\delta$ ) estimates the rate of growth or decay in the level of the series following the event. The larger the value of  $\delta$ , the more gradual the intervention's onset (see Liu 1988:447–50; McCleary & Hay 1980:145–68).

The impact of an intervention need not begin during the time period when the intervention begins. Often it will make very good theoretical and statistical sense to assume that an intervention's impact begins only after a delay of some duration. In such cases, the onset of the intervention may be assumed to be lagged by one or more time periods.

To assess the impacts of martial law onset, consolidation, and breakdown on the Philippine Supreme Court's performance of the conflict resolution, social control, and routine administration functions, we had to cope with the fact that the four martial law interventions were sufficiently collinear to cause estimation problems in multivariate equations. To manage this collinearity problem, we first calculated models relating each independent intervention singly to each dependent functional performance variable. Then we calculated, for each performance measure, a multivariate model relating it to all the interventions simultaneously. Finally, we calculated the models actually reported in the tables we discuss below. These include only the interventions jointly demonstrating effects on the dependent variables at some level of statistical significance worthy of discussion.

### **Conflict Resolution/Dispute-deciding Performance**

The ambiguity of available theory, especially regarding crisis regimes, led us to hypothesize that authoritarianism would have no effect on the performance of conflict resolution activities by the Philippine Supreme Court. When we modeled the individual (uncontrolled) effects of the onset, consolidation, and breakdown of martial law, we found that none of the martial law interventions had a statistically significant impact on the Supreme Court's performance of conflict resolution. The

strongest single relationship (reported in Table 1) is that for the onset of martial law: it decreases by 11.9%<sup>29</sup> the average number of civil cases reported each quarter in the preintervention quarters. But this impact is not statistically significantly at even the .10 level, using the requisite two-tailed test ( $T = -1.51$ ).

**Table 1.** Box-Jenkins Model of the Conflict Resolution Functional Performance of the Philippine Supreme Court, 1961–1987

Predictor	Parameter	Estimate	% Change <sup>a</sup>	T-Ratio
Martial law onset	$\omega_0$	-0.1271	-11.9	-1.51 <sup>ns</sup>
First-order autoregression	$\phi_1$	0.5828		7.37*

Residual sum of squares = 8.002535 (103 df); residual mean square = 0.077750

<sup>a</sup> Percentage change in the expected value of the time series after the effect of the intervention.

<sup>ns</sup> Not significant at .10 (two-tailed).

\*  $p \leq .05$  (two-tailed).

In the multivariate model testing the combined effects of martial law onset, consolidation, and breakdown, the direction of the coefficient for the onset of martial law supports the view that the Court's conflict resolution function was reduced by the onset of authoritarianism. However, neither the onset, consolidation, nor breakdown of martial law demonstrated a statistically significant impact. Our results for conflict resolution are thus consistent with the null hypothesis we put forward.<sup>30</sup> The ambiguity reflected in the literature appears to result from empirical reality, at least in the Philippines. Whatever the causes for the Philippine Supreme Court's variable performance of the conflict resolution function, those causes do not demonstrably include the onset, consolidation, or breakdown of martial law.

<sup>29</sup> This value is obtained by exponentiating  $e$  (the base of the natural logarithm used to transform the raw series) to the value of the parameter for the intervention, subtracting 1 from the result, and converting the proportion obtained to a percentage (see McCleary & Hay 1980:171–75). This effectively restores the measure of the impact of the intervention to raw score units, allowing it to be interpreted as the percentage change in the expected value of the preintervention series that results from the onset of the intervention. In this case, the relevant calculation is

$$(e^{-.1271} - 1) \times 100\% = -11.9\%.$$

Similar calculations are used to convert the parameters in subsequent equations to percentage changes in the expected value of the preintervention time series.

<sup>30</sup> A close examination of the plot of the conflict measure in Fig. 2 suggests a possible reason for the failure of this effect to reach statistical significance. There is actually a decrease in the number of conflict resolution decisions that parallels the general decrease in total cases disposed of and begins before martial law, roughly with the beginning of Ferdinand Marcos's second elected term in 1969. We can think of no theoretically defensible interpretation for this decline. In addition, a Box-Jenkins analysis of the conflict resolution series atheoretically modeling an intervention beginning in the first quarter of 1969 does not produce markedly better results than the theoretically driven martial law onset intervention: the  $t$  for the first quarter 1969 intervention is  $-1.80$ , still not significant at the two-tailed .05 level required by our null hypothesis.

### Social Control Performance

Our hypothesis suggested that the performance of social control activities by the Philippine Supreme Court cases declined with the onset of authoritarianism but later increased as a result of its consolidation. Our analyses of the individual impacts of the onset, consolidation, and breakdown of martial law on social control performance produced statistically significant results for onset and consolidation, but not for breakdown. The individual effects for onset and consolidation remained significant in the multivariate model including all the intervention measures. Because the breakdown measures were not significant in either the single-variable or multivariate analyses, we dropped them from the analysis we report in Table 2.

**Table 2.** Box-Jenkins Model of the Social Control Functional Performance of the Philippine Supreme Court, 1961–1987

Predictor	Parameter	Estimate	% Change <sup>a</sup>	T-Ratio
Martial law onset	$\omega_1$	-0.2681	-23.6	-1.74**
Martial law consolidation	$\omega_1$	0.2009	100.7 <sup>b</sup>	1.34*
Consolidation rate parameter	$\delta$	0.8004		5.27**
First-order autoregression	$\phi_1$	0.3738		4.00†

Residual sum of squares = 24.00915 (100 df); residual mean square = 0.240092

<sup>a</sup> Percentage change in the expected value of the time series after the effect of the intervention.

<sup>b</sup> Includes asymptotic impact of rate parameter.

\*  $p \leq .10$  (one-tailed)      \*\*  $p \leq .05$  (one-tailed)      †  $p \leq .05$  (two-tailed)

As noted, the onset of martial law had a statistically significant impact ( $p \leq .05$ , one-tailed,  $T=1.74$ ) on the Supreme Court's performance of the social control function. Its impact parameter,  $-.2681$ , implies that martial law's onset produced a 23.6% decrease in the expected number of criminal cases per quarter, after a lag of one quarter that conceptually allowed almost completely processed cases to move through the system (see Table 2). The effort to model a satisfactory rate parameter for the onset of martial law failed—probably not surprisingly, given the one-quarter lag in its initial impact and the results for martial law consolidation, discussed below. Thus our model depicts the influence of the onset of martial law as immediate and continuing.

The consolidation of martial law, after a lag of one quarter, produced an total increase of 100.7%<sup>31</sup> in the social control performance expected per quarter after the onset of martial law, once its gradually increasing impact had reached its full growth. The parameter for the impact of the consolidation of

<sup>31</sup> Including the asymptotic impact of the rate parameter associated with the impact of martial law consolidation.



martial law is statistically significant only at the .10 level (one-tailed,  $T=1.34$ ), but its rate parameter is highly significant ( $T=5.27$ ). These joint results strongly support the inclusion of the consolidation of authoritarianism in the social control model. They show the consolidation of martial law to be an important influence on the Philippine Supreme Court's performance of the social control function.

Our expectation that impact of the breakdown of authoritarianism, operationalized by the Aquino assassination and People Power Revolution interventions, would run counter to either the impact of martial law onset or consolidation was not fulfilled. Neither breakdown intervention produced a statistically significant result. Thus the model for social control performance includes impact parameters for the onset and consolidation of martial law and a rate parameter for the latter, but none for the breakdown of authoritarianism.

Since the residuals for the social control model in Table 2 (not shown) are white noise, these results are statistically satisfactory and perfectly consistent with our hypothesis concerning the impact of the authoritarian Marcos regime on the performance of the social control function by the Supreme Court. In the Philippines, it appears that the authoritarian regime, while initially restrictive, may have come to realize, after it was consolidated, that the social control functions of a Supreme Court are not a threat to its control but, in fact, are useful to its rule. Thus the Court's performance of the social control function was shaped, in part and in the predicted directions, by both the onset and consolidation of martial law.

### **Routine Administration Performance**

The individual variable models for the impact of the onset, consolidation, and breakdown of martial law on the performance of the routine administration function by the Philippine Supreme Court produced statistically significant impacts for the onset and Aquino assassination interventions, but not for consolidation or the People Power Revolution measure of breakdown. The multivariate model of the interventions' joint impact contained significant impacts only for onset and the Aquino assassination. Thus a reduced equation including these two interventions is reported in Table 3.

The impact parameter for martial law onset in Table 3 confirms that it significantly increased the routine administrative performance of the Court, after a lag of one year. We interpret this lag of four quarters for the impact of the onset of martial law as reflecting a brief period required to bring the full weight of martial law to the Court's administrative case decisionmaking. One year after it occurred, the martial law intervention

produced an increase of 155.9% in the expected number of administrative cases reported by the Court each quarter (significant at the .05 level, one-tailed;  $T=3.19$ ). As hypothesized, we see that authoritarianism increased the Philippine Supreme Court's performance of routine administrative decisionmaking. The impact of the onset of authoritarianism was in fact sudden and direct, requiring no rate parameter. Furthermore, it was not further increased by the consolidation of martial law: The impact parameter for consolidation was not statistically significant.

In contrast to our earlier analyses, our efforts to model the impact of the breakdown of martial law produced some positive results. We expected that the breakdown of martial law would reduce the Court's concern with routine administration as it turned its attention to other matters made relevant by that breakdown. Empirically, our results indicate that the Aquino assassination did produce, after a one-quarter lag, the expected decline in routine administrative performance. In the wake of the political outcry of the Filipino people that followed the Aquino assassination, the Court's willingness to attend to routine administrative matters decreased.

The beginning of the breakdown of martial law (measured by the assassination of Aquino) decreased the quarterly number of administrative cases reported by the Court by 44.7% from that expected after the impact of the martial law intervention had been absorbed. With a  $T$ -ratio of  $-1.29$ , the estimate of the negative impact of the assassination of Benigno Aquino in September 1983 is statistically significant at the .10 level (one-tailed). Addition of the Aquino assassination intervention improved the overall fit of the model and enhanced the statistical potency of the martial law onset intervention parameter. The model's residuals (not shown) also depict a white noise series.

These results suggest strongly that the breakdown of martial law, as operationalized by the Aquino assassination intervention, belongs in the routine administration model.<sup>32</sup> The traumatic assassination of Aquino that began the breakdown of martial law succeeded in decreasing the Supreme Court's attention to routine administration. On the other hand, the other indicator of the breakdown of authoritarianism, the People Power Revolution intervention, did not produce positive results. As in the previous two models, its parameter estimate was not statistically significant.

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<sup>32</sup> The fact that it occurs late in the series—it has only 13 time points following it when lagged by one quarter—probably accounts for the marginal statistical significance of its impact.

**Table 3.** Box-Jenkins Model of the Routine Administration Functional Performance of the Philippine Supreme Court, 1961–1987

Predictor	Parameter	Estimate	% Change <sup>a</sup>	T-Ratio
Martial law onset	$\omega_4$	0.9396	155.9	3.19**
Aquino assassination	$\omega_1$	-0.5905	-44.7	-1.29*
First-order autoregressive	$\phi_1$	0.3133		3.28†
Second-order autoregressive	$\phi_2$	0.3609		3.54†
Moving average (lag 4)	$\theta_4$	-0.2943		-2.84†
Moving average (lag 6)	$\theta_6$	0.2205		2.20†

Residual sum of squares = 43.67959 (94 df); residual mean square = 0.464676

<sup>a</sup> Percentage change in the expected value of the time series after the effect of the intervention.

\*  $p \leq .10$  (one-tailed)

\*\*  $p \leq .05$  (one-tailed)

†  $p \leq .05$  (two-tailed)

## Discussion

### The Results

Our empirical results speak directly to the hypotheses we posited to describe the likely impacts of authoritarianism on the functional performance of courts, in particular, the Supreme Court of the Philippines. Martial law authoritarianism—whether measured from its onset, its consolidation, or its breakdown—had no impact on the Supreme Court's performance of the conflict resolution function. The onset of martial law initially decreased the Court's performance of the social control function but increased its performance of the routine administration function. The consolidation of martial law authoritarianism increased the Philippine Supreme Court's performance of social control activities but had no impact on its routine administration performance. The breakdown of authoritarianism, beginning with the Aquino assassination, decreased the Court's performance of routine administration but had no impact on social control. The final breakdown of authoritarianism, occurring in the People Power Revolution, had no measurable impact on any of the functional performance areas.

Theory was too vague to allow us to posit a specific prediction for the impact of authoritarianism on conflict resolution, and our results indicated that reality was equally intractable: No martial law intervention measure survived two-tailed testing for statistical significance. For social control performance, our hypotheses regarding the onset and consolidation of martial law authoritarianism were confirmed, but our expectations for its breakdown were not. Finally, for routine administration performance, the hypothesized relationships for the onset and breakdown of martial law were confirmed, but there was no additional impact of its consolidation.

We have offered theoretical arguments concerning the relationships between authoritarian rulers and courts that make these results generally sensible and gratifying. What remains is for us to confront the instances in which our expectations went unfulfilled and to posit a mechanism for the impact of authoritarianism on Supreme Court performance.

Our hypotheses posited, or in the case of conflict resolution allowed (if a two-tailed significance test could be passed), specific effects for the onset of martial law authoritarianism. In the case of social control, the hypothesis also posited a separate and opposite effect for its consolidation. In the case of conflict resolution and routine administration, we had no strong reason to expect consolidation to have any separate impact beyond that estimated for authoritarianism's onset, and we found none. We had other expectations for the breakdown of martial law, however. The logic of our hypotheses led us to expect that the breakdown of martial law should produce impacts opposite in sign to the principal impacts of the onset and consolidation of authoritarianism. Only in the case of routine administration and only for the Aquino assassination intervention operationalization of martial law's breakdown were our expectations fulfilled.

Much of the failure of the breakdown measures to have statistically significant impact on the Philippine Supreme Court's functional performance in conflict resolution or social control (or on administration, in the case of the People Power Revolution) may be attributed to the small number of time points in our series that follow these interventions. With the Aquino assassination lagged by one quarter, there are only 13 quarters remaining for it to have any impact. The situation is much worse for the People Power Revolution; only five time points follow it. It is statistically very difficult for an intervention that is followed by so few time points to have an impact on time series that have run for 90 or more quarters before the intervention. Only extension of the time series and further analyses can tell us whether these important events have had the expected anti-authoritarian impacts in the long term. On the other hand, we consider in the next section the possibility that the failure of our expectations might also be due in part to a political reality that resulted from the appointment process for Supreme Court justices under Ferdinand Marcos.

### **Mechanisms for the Impact of Authoritarianism**

Our results document patterns of effects for the onset, consolidation, and breakdown of martial law authoritarianism on the functional performance of the Philippine Supreme Court. They do not, however, indicate the mechanisms through which

these effects occurred, that is, how the events representing the onset, consolidation, and breakdown of martial law could have changed the collective behavior of Supreme Court justices who were not even direct participants in the events.

Part of the answer is, as it would be for most authoritarians, that the *fear of coercion* causes at least some judges to alter their decisionmaking in ways pleasing to the ruler(s). There is no evidence that Ferdinand Marcos ever directly coerced or threatened members of the Supreme Court. But there is every reason to believe and some concrete evidence<sup>33</sup> to indicate that at least some justices did fear the president's potential wrath and its consequences for the Supreme Court's institutional survival, if not for their personal safety.

Another mechanism, especially for crisis regime authoritarians like that of Marcos, is *policy agreement* between the ruler and the justices. In the Philippines, it was clear that some Supreme Court justices accepted the president's definition of the national crisis that justified his declaring martial law. These justices would have supported changes in the Court's institutional performance that pleased the ruler because they agreed with the objectives and policies of his authoritarian rule.<sup>34</sup>

A final mechanism through which authoritarianism can change the collective behavior of a Supreme Court is *judicial appointment*. In the Philippines, a judicial recruitment system that brings many justices to the Supreme Court only a short while before their constitutionally mandated retirement age (see Tate 1971) meant that even before he declared martial law, Ferdinand Marcos had appointed a majority of the Supreme Court justices, with the approval of a Congress-based Commission on Appointments. Even before the consolidation of his rule, he had appointed them all. Somewhat later, no longer required to present his appointees for approval by any other authority, he had further ensured that a substantial majority of the justices were his personal and political cronies.

Marcos's crony majority ultimately produced a Supreme Court that was quite compliant to his wishes. This majority was firmly in control of the Court when the Aquino assassination occurred and the breakdown of Marcos's authoritarianism began. There is thus the likelihood that the failure of the Aquino assassination intervention to have any impact on conflict resolution and social control and its marginal impact on routine administration may reflect not only a small *n* problem but political reality as well. Long before 1983, the Supreme Court was controlled by justices so close to Marcos that they did not share

<sup>33</sup> In interviews Tate conducted in late 1987 with Philippine Supreme Court justices.

<sup>34</sup> Although this is not the place to present it, there are both interview and case opinion data to support this conclusion.

the disillusionment and outrage that pervaded much of Philippine society in the wake of Aquino's assassination: they were not affected by the beginning of the breakdown of authoritarianism.

This situation changed after the People Power Revolution, when Corazon Aquino remade the Supreme Court with her own appointees and reappointees. In this case, the judicial appointment process would have provided the mechanism for an expected impact of the breakdown of authoritarianism on Supreme Court functional performance. Unfortunately, the People Power Revolution occurred so late in our time series that it would be almost impossible for it to show its expected impact.

### Implications

Beyond the implications of these findings for an understanding of Philippine politics and the broader theory from which our hypotheses are derived, our hypotheses and empirical results have important implications for our understanding of courts' ability to perform their basic functions under authoritarian, rather than democratic, conditions. Our results do not rule out the possibility that the patterns we have attributed to the impact of authoritarianism may actually be due to the influence of other collinear or unmeasured influences. But Box-Jenkins analysis helps rule out many possibilities that plague time series. A proper Box-Jenkins ARIMA model has already controlled for the impact of common variables that themselves vary with time. Thus, we are confident that our results are robust and that they provide a substantial explanation of the functional performance of the Supreme Court under Philippine authoritarianism.

Are there implications of this analysis beyond the case of the Philippine Supreme Court? We suggest several possibilities. Methodologically, we believe this study can serve as an example of how important theoretical approaches to courts and their institutional performance can be operationalized and rigorously analyzed. Substantively, we think it sheds light on the possible and actual interactions that govern the relations between courts and executives, especially when those executives are authoritarians who may find courts useful but potentially troublesome or dangerous competing institutions. It confirms specific hypotheses that now should be tested against other samples of data on the functional performance of courts in authoritarian regimes. Its hypotheses can, perhaps, also be modified to provide predictions about the functional performance of courts in nonauthoritarian regimes.

The study has limitations, of course. Its time series, though

reasonably long for intervention impact analysis, still are too short to allow confident assessment of important events that led to the breakdown of Marcos's authoritarian rule. Furthermore, at this point our analysis of the functional performance of the Philippine Supreme Court is limited to intervention impact analysis. It is certainly possible that various continuous time series that might serve as independent variables have much to do with explaining the Court's functional performance. For example, measures of the performance of the macroeconomy and even of the state of public opinion often play important roles in time series analysis of policy impacts and other dependent variables. Unfortunately, while it would be possible to develop hypotheses about the impacts of such variables on the functional performance of the Philippine Supreme Court, it is impossible to obtain measures of them on a quarterly (or even an annual) basis for long periods. The same situation would exist in most Third World and authoritarian nations. Outside these settings, however, it may be possible to build time series models of the performance of courts that are more complete and sophisticated than those offered here. We hope this article will stimulate the production of such research.

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## Statute

Constitution of the Republic of the Philippines 1987.

**Appendix**

## Workload of the Philippine Supreme Court, 1961–1987

Year	Cases Disposed of	Extended Opinions <sup>a</sup>	Minute Resolutions	Reported Opinions
1961	1,368	N.A.	N.A.	712
1962	N.A.	N.A.	N.A.	735
1963	N.A.	N.A.	N.A.	538
1964	1,302	N.A.	N.A.	472
1965	1,265	N.A.	N.A.	516
1966	1,560	N.A.	N.A.	642
1967	1,355	N.A.	N.A.	651
1968	N.A.	N.A.	N.A.	768
1969	N.A.	N.A.	N.A.	574
1970	N.A.	N.A.	N.A.	459
1971	N.A.	N.A.	N.A.	477
1972	1,416	381	1,035	340
1973	1,841	318	1,523	268
1974	2,099	546	1,553	504
1975	2,386	504	1,882	521
1976	2,784	318	2,466	426
1977	2,302	427	1,875	470
1978	2,177	473	1,704	540
1979	2,411	533	1,878	514
1980	2,487	474	2,013	524
1981	2,934	577	2,357	586
1982	3,616	881	2,735	816
1983	3,522	687	2,835	682
1984	N.A.	N.A.	N.A.	671
1985	N.A.	N.A.	N.A.	598
1986	3,281 <sup>b</sup>	N.A.	N.A.	529
1987	1,523 <sup>c</sup>	N.A.	N.A.	656

<sup>a</sup> “Extended opinions,” for the most part, appear to be reported decisions. Not all extended opinions are necessarily very extended, however. The median length of a reported decision in the period 1961–87 was 7 pages; 25% of the reports were less than 5 pages long and 25% greater than 11 pages long.

<sup>b</sup> In 1986, the Supreme Court also disposed of an additional 1,404 agenda items that were not decisions or resolutions (Teehanke 1987:23).

<sup>c</sup> Through second quarter only.