

Editorial

Philippines: The last taboo

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THE last taboo of the newly restored democracy the Filipino people put in place in 1986 was broken Friday evening when President Macapagal-Arroyo signed a proclamation placing Maguindanao—except for MILF camps—under martial law. Previous presidents had considered themselves bound by a broad, post-Marcos consensus: the exercise of utmost discretion in wielding certain constitutional powers—like the power to declare martial law. For this reason, even in the face of coup attempts, President Cory Aquino conscientiously asked for emergency powers from Congress instead of arrogating them unto herself.

Ms Arroyo has been on a path of increasingly aggressive political and legal encroachments on the separation of powers (e.g., calibrated preemptive response, Executive Order 464 in September 2005; state of emergency in February 2006). At 9 p.m. last Friday, she finally crossed the last remaining line separating post-Edsa I from the means and methods of Ferdinand E. Marcos.

Under the Constitution, Congress ought to convene a joint session within 48 hours from the martial law proclamation to determine if such declaration is justified. Instead, Speaker Prospero Nograles—after saying earlier he thought the state of emergency in Maguindanao sufficed—declared that it would be difficult for the House of Representatives to muster a quorum; that even if it could, there would be widespread support for the President's move among legislators; and that finally, the earliest Congress could hold a joint session would be Tuesday after caucuses by each congressional chamber tomorrow. This first official reaction by a co-equal branch of the government is so muted as to be beyond meek and simply sycophantic, even though common sense (and statesmanship) should have led it to convene sooner than later.

The Executive Department's justifications range from the contradictory (a province caught up in a total breakdown of government tantamount to a rebellion, or on the verge of rebellion, said Justice Agnes Devanadera in Saturday's press conference) to the disingenuous (government needed to undertake warrantless arrests, which sidesteps the question of why a state of emergency fortified by the suspension of the writ of habeas corpus wasn't enough. The President has declared the writ's suspension and martial law; Marcos allowed at least a year to pass between the former and the latter.)

The quibbling in official circles betrayed, on one hand, the unwillingness of the President's allies to question her game plan and, on the other, how her critics feel stymied by the popularity of the martial law proclamation in a country exasperated by the stalemate between the Ampatuans and the national government.

In a sense, it doesn't matter that Congress drags its heels in convening a joint session to pass judgment on the President's action; or whether the Supreme Court—which can't receive petitions questioning the basis for martial law in Maguindanao until Monday—does anything beyond going through the motions of oversight. The President has acted: the Armed Forces, police and the bureaucracy have obeyed. The Palace insists the public hails its decision; on the other hand, many voices condemn the President's action as rash, ill-considered and unjustified.

Meanwhile, government has taken to trumpeting its martial law as a “smiling one,” remarkably free of untoward incidents, yet responsive to the public clamor for justice in Maguindanao.

Few doubt that the ruling coalition in Congress has the numbers to endorse the President’s declaration. But we must ask: Is the martial law proclamation justified? In Congress, it will not be enough for legislators to rubber-stamp the President’s arguments. The public must be walked through the report, so as to judge the President and Congress. And while we believe the Supreme Court remains a bulwark against a possible “conspiracy” between the President and Congress, the public should consider the implications of the President breaking this last taboo from the days of the dictatorship.

Ms Arroyo could have invoked the Human Security Act; she could have suspended the writ; she could have taken other steps before going whole hog.

Is the proclamation then an attempt to play to the gallery, to put a lid on the mounting domestic and foreign criticisms of her coddling the Ampatuans?

It does seem to recklessly put in danger our ongoing democratic project—one she has repeatedly tried to scuttle time and again.

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Ampatuans to tell all? And other motives

OTHER political figures have weighed in on the declaration of martial law in Maguindanao.

North Cotabato Vice Gov. Manny Piñol, a former ally of President Macapagal-Arroyo, told the *Inquirer* on the phone that the imposition of martial law was “a case of overkill.”

“If the objective is to arrest the Ampatuans, [the government] could have done that if it really wanted to without resorting to martial law,” Piñol said.

But what he heard was that the Ampatuans had threatened to “tell all they knew about electoral cheating” if Ms Arroyo “stops supporting them,” he said.

Said detained Brig. Gen. Danilo Lim, an LP senatorial candidate:

“Will the declaration of martial law in Maguindanao help in answering why stocks and piles of arms and munitions—officially purchased by our military and police establishment—were found in the possession of the Ampatuans?”

“This administration is paying the price for coddling warlords. The government’s motive in declaring martial law in Maguindanao is not to restore peace and normalcy, but to whitewash its own involvement in the status quo of fear and terror in Mindanao.

“When will we get to answer the question the Magdalo soldiers have asked years back: Why are our soldiers killed by our own bullets?”

Former Sen. Francisco Tatad, who, as press secretary of the late dictator Ferdinand Marcos, read the proclamation of martial law in September 1972, said that if Ms Arroyo could declare martial law in Maguindanao without the constitutional requirements of invasion or rebellion, then she could impose it in other parts of the country.

“If we will allow that martial law, now it’s Maguindanao. Tomorrow, where?” Tatad said at the Kapihan sa Sulo forum.

Ironic

Makati Mayor Jejomar Binay, the running mate of Pwersa ng Masa standard-bearer Joseph Estrada, said: “It is ironic that the Arroyo administration now considers martial law as a last recourse to discipline a political ally.”

He said Ms Arroyo has tolerated the misdeeds of political allies like the Ampatuans for so long that they considered themselves above the law.

But Palawan Rep. Antonio Alvarez, spokesperson of the ruling Lakas-Kampi-CMD, said martial law should have been imposed sooner in Maguindanao.

The fact that it took Ms Arroyo several days to declare it shows that the decision was well thought out and carefully calculated, he said.

* *Philippine Daily Inquirer*. First Posted 00:42:00 12/06/2009.
