

Martial law in Maguindanao

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PRESIDENT MACAPAGAL ARROYO'S Proclamation 1959 is the first time the martial law provision of the 1987 Constitution has ever been used. Compared to the 1935 Constitution under which Ferdinand Marcos declared martial law in 1972, the present constitution is stricter in its definition of the conditions under which the emergency powers of the State may be invoked. But, despite this, some gray areas remain, which can only be clarified when these powers are actually used, and cases are filed and resolved by the Supreme Court. This is what worries human rights advocates and other citizens who have seen how President Macapagal-Arroyo routinely tests the limits of executive prerogative. How the high court rules on martial law in Maguindanao will define the parameters by which martial law can be declared in the rest of the country.

The government has exploited the strong public reaction to the Nov. 23 barbaric massacre of civilians in Maguindanao to justify the use of martial law powers in dealing with lawlessness in that province. Civil libertarians warn that we should take care that our collective outrage over this horrific incident does not condition us to accept the easy resort to extraordinary powers when confronting various forms and degrees of lawlessness. It is a warning that we should take seriously.

But, I have a slightly different perspective on this issue. I am not convinced that Ms Arroyo's declaration of martial law in Maguindanao is a prelude to proclaiming it in the rest of the country. I do not think her game plan goes that far, although, to be sure, this scenario cannot be totally discounted. Her tenuous grip on the military would make her think twice.

I am more inclined to think that the sudden imposition of martial law in Maguindanao is Ms Arroyo's way of neutralizing the fallout from her well-publicized close relationship with the Ampatuan clan. It is her way of demonstrating not just a setting aside of personal and political ties, but a radical dissociation from everything the Ampatuans have done in Mindanao. She expects martial law to erase all the images of leniency and accommodation that attended the government's initial handling of the Ampatuan suspects in the wake of this gruesome massacre. But more than this, I think that Ms Arroyo is fully aware that this event can quickly get out of hand and re-ignite interest in the re-opening of the highly-disputed 2004 Maguindanao election returns that, according to the "Garci tapes," ultimately gave her the presidency. Martial law gives her the breathing space she needs to deal with this risk in a more methodical way.

The continuing cooperation of the Ampatuan clan is crucial to this defensive maneuver. It is not in Ms Arroyo's interest to permanently alienate the Ampatuans, who performed electoral miracles for her in 2004 and 2007. If this premise is correct, then there is basis for thinking that charging the Ampatuan patriarch and the other members of the clan (except Ampatuan Jr.) with rebellion rather than complicity in mass murder is a favor being extended to a loyal ally. Rebellion is aailable offense, murder is not. Rebels are entitled to amnesty, murderers are not. Martial law in Maguindanao precisely supplies the legal cover for treating acts of murder as acts of rebellion. But, in this case, it is not rebellion that led to martial law; rather, it is martial law that conjures rebellion out of simple crimes. The Ampatuans and their private armies are not rebels.

They are warlords in an unruled landscape—local strongmen who emerged from the decline of the traditional Moro sultanates. Their power does not reside in any form of moral authority; it rests solely in their command of the means of violence, protection and patronage. Successive governments in Manila have found it useful to strike a Faustian bargain with them, giving them arms, money and official titles in exchange for their support in the war against the real rebels who have been fighting for a separate homeland.

But Gloria Macapagal-Arroyo's coddling of the Ampatuans highlights a particular element in this relationship—warlord control of a docile electorate, whose votes could determine the outcome in closely contested national elections

. Historically, such votes were delivered wholesale in every election to the highest bidders. But the Arroyo administration took a monopoly position in this dubious trade by integrating the whole Ampatuan clan into the ruling party. The clan managed to assimilate the local institutions of the State into their little fiefdoms, and they became untouchable. Maguindanao's governor is Andal Ampatuan Sr. and his son Zaldy Ampatuan is the governor of the Autonomous Region in Muslim Mindanao. Eighteen of the 36 mayors of Maguindanao belong to the clan. Thus, they were able to achieve by collusion with national politicians what the rebels of the Moro Islamic Liberation Front (MILF) could not obtain through war or through negotiation.

Viewed in this light, the declaration of martial law and the filing of charges of rebellion against Ampatuan Sr. and his sons by the same administration that nurtured them into what they are today seem such a cynical misuse of the powers of government that one wonders if there is any respect left for our institutions. I foresee that martial law in Maguindanao will be lifted well before the 60-day period is over, not because the "rebellion" will have been quelled but because the regime will have created the climate it needed to create. Warlordism in Maguindanao will not end with the Ampatuans; it will merely reopen under new management.

By Randy David

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