

System of Checks and Balances in the Philippine Presidential Form of Government

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Abstract

The dominance of any branch of the Philippine government is a threat to both principle of separation of powers and independence of each body which may lead to a constitutional crisis. Several studies pointed out the existence of executive supremacy, but a comprehensive study on how each branch interacts with other branches has not been delved into. This study analyzed the system of checks and balances as practiced by the three main branches of government in the post-EDSA period under the 1987 Constitution. A data mining approach was employed to analyze the political dynamics of the main governmental branches. The findings revealed that the system of checks and balances is ill-practiced in the Philippine presidential form of government resulting to the existence of executive supremacy. This hyperpresidentialism was a result of the political patronage and strong executive influence exercised by the president. This study will suffice the need to ensure accountability and balance of power among the main branches of government.

Keywords: accountability, hyperpresidentialism, patronage, power, supremacy

Introduction

The essence of a presidential form of government is the adoption of the principle of separation of powers and a system of checks and balances (Ayson & Reyes, 2000; Heywood, 2002; Ranney, 2003). Legal luminaries are of the agreement that the monopoly of power is fatally inimical to the principle of democracy. This resulted to a tripartite structure of government in the Philippines under the 1987 Constitution: legislative, executive, and the judiciary. Each branch performs different functions (i.e. legislative makes, alters and repeals laws; executive implements laws; judiciary applies and interprets laws).

Under the separation of powers doctrine, governmental power cannot be possessed by one person or body only to prevent the concentration of power or group of persons as this may lead to its abuse and to tyranny (Manuel, 1999). In the Philippines, this doctrine occupies a safe place in our constitutional history. In his book, *La Revolucion Filipina*, Apolinario Mabini stresses the importance of soul-authority in a society. This authority needs the following to ensure a balance of government power: an intellect to direct it (legislative power); a will that is active and a resolve to make it work (executive power); and a conscience that judges and punishes what is bad (judicial power) (Ople, 1998).

Corollary to the doctrine of separation of powers is the system of checks and balances. Montesquieu, a French political philosopher, believes that power should be a check to power. As stressed by Santiago (2000), the three separate branches of government cannot be compartmentalized. In the case of Francisco et al. vs. House of Representatives et al., G.R. No. 160261, November 10, 2003 (Supreme Court of the Philippines, 2003), the Supreme Court emphasized "the doctrine of separation of powers is clearly related with the principles of checks and balances." This corollary principle is provided by the Constitution to secure coordination between and among the branches of government. In *Vargas v. Rilloraza*, the Supreme Court has used this principle in the resolution of conflict arising from acts that impinge on the mutual interdependence of the three branches of government (Candelaria & Gesmundo, 2012). However, the two

doctrines function distinctively and separately. When the doctrine of separation of powers is practiced well, it does not mean that the system of checks and balances is also observed. As in the Philippine case, the doctrine of the separation of powers is practiced, however, the system of checks and balances is ill-practiced because some constitutional and legal structures designed to check and balance the President are subverted (Rose-Ackerman et al., 2010). It happens when the president or any branch of government for that matter justifies its unilateral action by invoking the principle of separation of powers but when checked of its action, it still invokes the same principle.

According to Linz (1990), presidential governments create a strong and stable executive. This is reiterated by Rose-Ackerman et al. (2010) when they claimed that “hyperpresidentialism” or executive supremacy exists in the Philippines. Hyperpresidentialism is a condition wherein the executive branch becomes the most supreme among the branches of government. They demonstrate how determined presidents have repeatedly undermined institutional efforts to limit their powers either by finding legal loopholes or by pushing the boundaries of the law. In their studies, they have found the “perils of presidentialism redux”.

In new democracies, Case (2011) observes that legislators are uninterested in rigorously checking the executive while the executives remain less tolerant of any checks that legislators might seek to impose. This situation is evident in the formation of an outsized majority, particularly in the Philippines, since most of the members of Congress join in support of the president’s party despite the fluidity among political parties in the country.

In the part of the judicial department, the Supreme Court, under the 1987 Constitution, is relatively weak in the exercise of its power due to structural and contextual effects (Haynie, 2004). The author finds that the expanded power of the Supreme Court and its internal structure pose a problem. Accordingly, the increasing bureaucratic power of the High Court also increases the complexity of remaining independent. The High Court has become a “third component” of the legislative process because it litigates almost issues that reach the Court; and the appointments in the judiciary have been politically motivated. Furthermore, the Supreme

Court has had little success in restraining excessive presidential power but only after these excesses have ripened into justiciable controversies (Rose-Ackerman et al., 2010). The authors have found out that some of these “presidential excesses like the use of budgetary authority and the conduct of administrative reorganizations have remained unchallenged”.

There were studies that pointed out the existence of executive supremacy (Rose-Ackerman et al., 2010; Case, 2011; Haynie, 2004). However, there is a need to provide a comprehensive study on how each branch interacts with other branches to have a clear understanding on the role of these branches in ensuring accountability and balance of power. Hence, this study aims to analyze the practice of the checks and balances among the three branches of government in the post-EDSA period which covers from the administration of Corazon Aquino until the present administration of Benigno Simeon Aquino III.

Materials and Methods

The data mining approach was employed in this study with information obtained from primary and secondary data sources from Philippine Supreme Court decisions, journals, books and other scholarly researched materials. Three rounds of analysis (Legislative vis-a-vis Executive; Executive vis-a-vis Judiciary; Legislative vis-a-vis Judiciary) were done on how the three branches of the government checked and counterchecked each other during the post-EDSA period which covers from the administration of Corazon Aquino until the present administration of her son, Benigno Simeon Aquino III.

Results and Discussion

Legislative vis-a-vis Executive

Analysis of the system of checks and balances between the legislative and executive branches revealed the existence of hyperpresidentialism as a result to the political patronage which is a common value system in the Philippine political culture where one gains favor, promotion or political appointment through affiliation or friendship. This political patronage is exercised by the president.

The legislative branch fails to exercise its specific checking powers that include power to override vetoed bills, power to reject appointments, and power to impeach.

The power of the legislative branch to override the veto power of the president could have been a real check to the executive's destructive participation in the law-making process; however, records showed that the legislative branch or Congress has never overridden any vetoed bill. As reported by Villanueva (2010), there have been 200 bills passed by the 15th Congress since July of 2010 and out of these 200 bills, 65 were vetoed by the President. Four of these vetoed bills are of national importance while the rest of the bills are only of local application particularly changing the names of streets and towns. The four vetoed bills of national significance are the following: Senate Bill 3328 (Centenarian Act); Senate Bill 2496 (The Magna Carta for the Poor); Senate Bill 3317 (The Rights of Internally Displaced Persons Act); and Senate Bill 3217 (An Act Repealing the Minimum Height Requirement for Applicants to the Philippine National Police [PNP], Bureau of Fire Protection [BFP], and Bureau of Jail Management and Penology [BJMP]). Among these vetoed bills, the Senate attempted only to override the Senate Bill 3217, however, this move did not succeed because of lack of support from other members.

In the Philippines where party politics matters (Kasuya, 2009; Case, 2011), overriding of vetoed bills is impossible to happen because members of Congress almost always cling to the political party of the incumbent president. The party politics results to the "formation of an outsized majority" (Case, 2011) and this majority always sides with the incumbent president. The set-up is due to the weakness of the party system of the Philippines where political turncoatism or party-switching is an established rule of the game. Turncoatism is another feature of Philippine political culture where a politician transfers to another party which he can benefit from.

The power of the legislative branch to confirm or reject appointments is also a constitutional check of the legislature over the executive through the creation of a twenty-five member Commission on Appointments. To ensure that the nominees personally selected by the

President undergo a deliberative process of selection, the Commission has been restored under the 1987 Constitution. Contrary to popular conception, the Commission is an independent body, separate and distinct from the legislature, although its membership is confined to members of Congress. The Commission on Appointments is a vital tool for accountability check on the executive because appointments to some bodies that perform oversight functions on the Executive (e.g. Constitutional Commissions) require the Commission's consent. It is the mandate of the Constitution that the Commission's power to approve or disapprove presidential appointments "shall be discharged with impartiality, without partisan consideration and with only one impelling motive, which is the harmonious and efficient functioning of the government" (Commission on Appointments, 2014).

However, for the past decades, the Commission has faced several criticisms for being highly partisan considering that membership of the Commission was drawn along party lines (De Leon & De Leon, 2011). Rampant favor-swapping, undue pressure, patronage, and even corruption have cast doubts on the integrity of the Commission (Jimeno, 1999). The twelve senators, twelve representatives and Senate President, who compose the Commission, are all politicians subject to party politics and executive's influence.

Eight out of 25 members belong to the same political party (Liberal Party) of the president in the current 16th Congress (Table 1). Specifically, three senators and five representatives belong to the Liberal Party. This number is double as compared to Nacionalista and Nationalist People's Coalition (NPC). It must be understood that the party composition of the Commission is not randomly selected. Rather, the members are "elected by each House on the basis of proportional representation from the political parties or organizations registered under the party-list system xxx." (1987 Philippine Constitution, Art. VI, Sec.18). However, the proportional representation only gives more seats to those who compose a lot in both Houses.

It must be recalled that the arithmetic on the formation of the Commission has occasioned a number of controversies (Bernas, 2003). Although the intention of proportional representation is

noble and democratic, it must be emphasized that in the case of *Coseteng v. Mitra Jr.*, G.R. No. 86649, July 12, 1990, not all political parties, especially the smallest ones, are given representation in the Commission (The Lawphil Project, 1990). The more members a party has in Congress, the more seats they have in the Commission. It is also not unlikely that a lot of the members of Congress cling to the political party of the sitting President as proven during Gloria Arroyo and the incumbent Aquino administration (De Guzman, 2012).

This party composition of the Commission is crucial in the appointing process because appointment is both merit-based and a number game. Most of the time, the latter supersedes the former. Critics of the Commission describe it as a "horse-trading agency and completely political agency" (Jimeno, 1999).

Table 1. Party Composition of the Members of the Commission on Appointments (16th Congress).

Party	No. of Members	Percentage (%)
1. Liberal Party	8	32
2. Nacionalista	4	16
3. NPC	4	16
4. UNA	2	8
5. PRP	1	4
6. NUP	1	4
7. CDP	1	4
8. Abono	1	4
9. ABS	1	4
10. PDP-Laban	1	4
11. Independent	1	4
Total	25	100

Note: Retrieved from www.comappt.gov.ph

In addition, the Commission's rejection to presidential appointments serves futile because the president can still renew the appointment until confirmation is achieved. Whoever qualifies, one is still a presidential appointee subject to executive influence. The Supreme Court has interpreted the appointing power of the president so

broadly. The Court has recognized the president's power to appoint in an acting capacity as a "stop-gap" measure to fill the office for a limited time until the appointment of a permanent occupant to the office as in the case of *Aquilino et al. v. Executive Secretary et al.*, G.R. No. 158088, July 6, 2005 (Supreme Court of the Philippines, 2005). This broad interpretation of the Court limits the checking capacity of the Commission (Rose-Ackerman et al., 2010).

This culture of bypassing appointments in the Commission does not make the Commission effective in checking ill-considered appointments because the President can still reappoint these officials as many times as he wants. There is no limitation on the constitutional power of the President to reappoint officers. Even if the appointments are bypassed, the officers still continue to serve under the pleasure of the President albeit in an acting capacity. For example, Miriam Santiago's appointment as Secretary of Agrarian Reform had been bypassed several times by the Commission on Appointments during the time of President Corazon Aquino (Philippine Center for Investigative Journalism [PCIJ], 2007). However, Santiago still functioned as the acting secretary of the said department under the pleasure of the president.

During the administration of Fidel V. Ramos, his appointment to Manolo B. Gorospe and Graduacion R. Claravall as COMELEC Commissioners was also bypassed by the Commission on Appointments seven times (PCIJ, 2007). However, Ramos kept on appointing them until the two got confirmed. During Arroyo's time, Jose "Lito" L. Atienza and Angelo T. Reyes suffered bypassed appointments from the Commission (Diaz, 2009). The appointments of Atienza, as environment secretary, and Reyes as energy secretary were bypassed by the Commission for many times (Legaspi, 2009). Mining and logging issues hounded Atienza; while Reyes was jumping from one department to another (Diaz, 2009).

President Benigno S. Aquino III's appointments were also not spared from being bypassed by the Commission. Appointments of his four top officials had been bypassed by the Commission: Leila De Lima (Department of Justice - DOJ), Dinky Soliman (Department of Social Work and Development - DSWD), Ramon Paje (Department of Environment and Natural Resources - DENR) and Carlos Jericho Petilla

(Department of Energy - DOE). De Lima and Soliman have been appointed since President Aquino took over in the office in 2010 making the two the most-bypassed secretaries (Villanueva, 2013). It was only in June 2014 that the appointments of De Lima, Soliman and Paje were confirmed (Antiporda, 2014).

The power of Congress to impeach the President is one if not the most important measure to make the President accountable of his actions. The Constitution gives the House of Representatives the exclusive power to initiate impeachment, and the Senate the sole power to try and decide such a case (1987 Philippine Constitution, Art. XI, Section 3). However, impeachment is just a “numbers game.”

President Joseph E. Estrada, popularly known as “Erap,” was the first Asian head of state to be tried under an impeachment court (Tordesillas & Hutchinson, 2001). The House of Representatives impeached him because of corruption and maladministration. A vote of at least one-third (1/3) of all members of the House in favor of Estrada’s impeachment, as per requirement of the Constitution, was obtained despite Estrada’s popularity. However, his allies in the Senate supported him as manifested in the debates on the opening of the second envelope. In a vote of 11-10 in favor of not opening the envelope, Estrada escaped from the opening of his own “Pandora's box”. Estrada’s ouster was never finalized by Congress but instead, by the resumption of street protests labeled People Power II, and by the sanction given by the military and the Supreme Court (Case, 2011).

What makes Arroyo’s administration different from Estrada’s is the fact that the former held stronger allies in the Lower House. Arroyo started as ‘crowd favorite’ backed up by loyalty of the military. She gained popularity from Estrada’s unpopularity. Yet, when the “Hello Garci” scandal was publicized, some of her political allies and the people in general began to lose their trust in her presidency that resulted to the filing of the impeachment case against the highest official in the land. Expectedly, the complaint was defeated with a vote of 158-52 in favor of Arroyo. With even greater care, Arroyo would parry the next three impeachment complaints - one introduced every year, just as the constitution permits (Case, 2011). The House could not possibly muster the required minimum number of votes. The impeachment of Arroyo

was described to be like ‘an antacid dropped on stale water’ because it ‘sizzles and then fizzes’ (Uy, 2010).

The one-year ban rule of impeachment proceedings can also be abused. Under the Constitution, “no impeachment proceedings shall be initiated against the same official more than once within a period of one year” (Article XI, Section 1). In the case of Arroyo, most of the impeachment complaints lacked substance. A certain lawyer in the name of Atty. Oliver O. Lozano filed impeachment complaints against Arroyo since 2005 until 2008 but none of these complaints prospered in the House. The filing of these insubstantial impeachment complaints may hinder stronger complaints to be filed. The insubstantial complaints can be a potential source of presidential abuse. Once an impeachment proceeding is initiated by the House, the President is entitled of immunity from other impeachment proceedings for one year. The situation was the concern of United Nationalist Alliance (UNA) secretary-general Tobias “Toby” M. Tiangco when Atty. Lozano, known for his weak complaints, filed an impeachment case against President Benigno Aquino III (Clapano, 2013).

In our history, there has been no Philippine president ousted from office through impeachment. Any president feels confident on the unlikely occurrence of impeachment cases. In fact, President Benigno Aquino III audaciously challenged those who accused him of misusing public funds to file an impeachment case against him (Calica, 2013). The impeachment as a legislative tool for executive accountability is but futile. As a quasi-political process, impeachment is highly partisan rather than any serious exercise in accountability (Case, 2011).

It is through nurturing political patronage that the president gets his confidence. It is what makes him ‘strong’ (Quimpo, 2010). Political patronage serves as the president's shield on executive accountability by the legislature. One example is the executive's control in distributing government funds. Such control is one of the most important powers of the president (Rocamora, 1998). The president once controlled the Philippine Development Assistance Fund (PDAF) or commonly known as the ‘pork barrel’, before the Supreme Court declared it as unconstitutional (Diolla, 2013). The president has the sole discretion as to whom shall these funds be given (Carino & Javellana, 2006).

Estrada took advantage in this presidential privilege. During his term, he was able to secure a sizable majority in Congress by wielding patronage (Quimpo, 2010). However, he was betrayed by his men in Congress when he was impeached in the Lower House. Meanwhile, Arroyo's case was different. She was more adept in both patronage and "transactional politics" than Estrada (Quimpo, 2010), which must be the reason she was able to build an impeachment-proof Lower House during her time (Porcalla, 2008; Tatad, 2014).

Since the Supreme Court has declared the PDAF as unconstitutional, another mechanism of the President that can hold the independence of the lawmakers is the creation of the Disbursement Acceleration Program (DAP) which according to Malacañang is different from PDAF (Panganiban, 2013). DAP is a stimulus package under the Aquino administration designed to fast-track public spending and push economic growth (Official Gazette, 2014). However, many are dubious as to the intent and purpose of this program because like PDAF, the release of the funds is still subject to the president's discretion. In fact, the Supreme Court declared some provisions of DAP as unconstitutional (Postrado, 2014). Certainly, both PDAF and DAP can be good sources of political patronage by the President. This political patronage enables the president to escape from any accountability measures conducted by the legislative.

As a summary for the check and balance between the legislative and the executive, the Philippine Congress is institutionally powerful because many constitutional checks vest it against the executive branch. However, a powerful legislature is not a guarantee of effectiveness. It can be an unmixed blessing for democratization (Fish, 2009). In fact, Case (2011) observed that in new democracies, executives may be held less accountable by the legislature than under electoral authoritarianism. The Executive appears to be resistant and less tolerant on legislative checks. The presidential "spell" of political patronage poisoned the legislature. Much of the president's power relies on informal rules like political patronage.

Executive vis-a-vis Judiciary

Executive supremacy was evident between the executive and judicial branches of the government. The constitutional power of the president in appointing members of the judiciary coupled with strong executive influence has resulted to the existence of supremacy. Hence, the judicial branch fails to exercise its power of judicial review as a means to check accountability of the executive branch.

The independence of the judiciary is a manifestation of the supremacy of the Constitution (Santiago, 2000). The courts are given the power to check the acts of the legislative and executive branches as mandated in the constitution, in particular, to preserve the constitutional rights whether it conforms to the most fundamental law of the land or not. Such power is the most fundamental protection afforded by the doctrine of separation of powers that strengthens the independence of the judiciary as evident in the case of *Bixby v. Pierno*, 4 Cal.3d 130, February 23, 1971 (Supreme Court of California, 2009). If the act is not in conformity with the constitutional rights, it is declared null and void making the Supreme Court as the final interpreter of the Constitution. In a sense, “the Constitution is what the Supreme Court says it is” (Santiago, 2000). Hence, it only shows that the supremacy of the Constitution is enforced and upheld. As stressed by Lazo (2009a), the Constitution has assigned the court the obligation to identify and settle conflicting claims of authority. The Constitution also empowers the court to establish to conflicting parties the rights that are guaranteed in the Constitution for them (Lazo, 2009b).

The power of judicial review is the greatest judicial tool for making the Executive accountable. The Supreme Court has had declared several executive acts as unconstitutional. The following cases were decided during the administration of Arroyo: *David et al. v. Arroyo et al.*, G.R. No. 171396, May 3, 2006 (Supreme Court of the Philippines, 2006); *Metropolitan Manila Development Authority et al. v. Concerned Residents of Manila Bay et al.*, G.R. No. 171947-48, December 18, 2008 (Supreme Court of the Philippines, 2008a); *Province of North Cotabato et al. v. Government of the Republic of the Philippines Peace Panel et al.*, G.R. No. 183591, October 14, 2008 (Supreme Court of the Philippines, 2008b). The challenges on the exercise of the checking

power of the Supreme Court arose most notably during President Arroyo's administration. Presidential Decree No. 1017 [PD 1017] (Official Gazette, 2006) and Presidential Proclamation No. 1959 [PP 1959] (Official Gazette, 2009) illustrate the risks of unchallenged emergency powers of the President. PD 1017 placed the country in a "state of national emergency", while PP 1959 put Maguindanao in a "state of martial law." Questions arose as to the constitutionality of said executive acts. There were seven petitions that challenged the constitutionality of PD 1017. However, the Supreme Court declared its constitutionality partially. While PP 1959 was revoked by President Arroyo herself before the Court could rule and before Congress could take a formal vote (Rose-Ackerman et al., 2010). It must be recalled that PP 1959 was the first use of the president's power to declare martial law under the 1987 Constitution.

Another equally controversial declaration of President Arroyo that shocked Congress and the public was the issuance of Executive Order No. 464 (Official Gazette, 2005) that prohibited her cabinet members from appearing before any congressional hearings without the consent of the President. Similar to the case of PD 1017, the Court declared EO 464 partially unconstitutional. In both cases of PD 1017 and EO 464, the Court never rendered an absolute unconstitutionality. The Supreme Court was composed of Arroyo appointees at the time when the cases were decided, thus, labeling the Court as the "Arroyo Court." The rigid structural design on handling with emergencies under the 1987 Constitution may have appeared well-tailored in theory. However, in practice, the president can still escape from these constraints through her deft use of political influence over the key majorities in Congress and Supreme Court (Rose-Ackerman et al., 2010).

As a co-equal branch of government, the judiciary retains its independence and checking power on executive accountability. However, the power of the judiciary is put to test when the President, exercising as the sole possessor of executive authority, exhibits a strong influence. Presidential appointments to the bench are the president's strong weapons against judicial check on executive accountability. The Constitution bestows the power to the president to appoint members of

the Supreme Court and judges of lower courts (1987 Philippine Constitution, Art. VIII, Sec. 9). Unlike the appointments of other officials such as cabinet secretaries, the Commission on Appointment has to confirm these appointments. However, this power is limited by the Judicial and Bar Council (JBC) whose sole task is to submit nominees to the president. As stipulated in Article VIII, Sec. 8 of the Constitution, the Chief Justice as *ex officio* chairman, the Secretary of Justice, a representative of the Congress as *ex officio* member, a representative of the Integrated Bar, a professor of law, a retired Member of the Supreme Court, and a representative of the private sector compose the JBC. The president is banned from appointing anybody who is not in the list. Despite the broad-based membership of the Council to help ensure quality appointments to the judiciary, the nomination and selection process has not completely removed politics and outside influence in the process (De Leon & De Leon, 2011).

During Ramos' administration, he named eight associate justices of Court of Appeals and two judges on March 11, 1998 and March 30, 1998 respectively. The Supreme Court ruled that the appointments of the two judges were unconstitutional because they violated the appointment ban which was two months before the next presidential election. However, the Court confirmed the appointment of the associate justices. The Supreme Court reversed its ruling on the appointment ban in 2010.

President Estrada admitted that business tycoon Lucio Tan lobbied the appointment of Hilario G. Davide Jr. to be the successor of Chief Justice Narvasa (VERA Files, 2012) and heeded Tan's request by appointing Davide (Meruenas, 2012). Davide joined with Estrada in a dinner invitation of Tan to Estrada at Century Park Hotel (VERA Files, 2012).

Problems in the judicial appointments became worst during Arroyo's administration. One of Arroyo's controversial judicial appointments was her appointment of Associate Justice Renato Corona to be the next Chief Justice. In appointing Corona, Arroyo bypassed Antonio T. Carpio, who was the most senior associate justice (VERA Files, 2012). This action of Arroyo broke the tradition of seniority in judicial appointments. In our history, it was only Marcos and Arroyo who broke this tradition prior to Benigno Aquino's

administration. President Arroyo rejected twice the list of JBC and asked for another list sometime in 2009 (Rose-Ackerman et al., 2010). Although constitutionally allowed, this provision can be a home for presidential abuses, thus, limiting the checking ability of the Council towards appointing power of the president.

There seems an imbalance in the composition of the JBC, which favors the Chief Executive (Barcena, 2010). Four out of eight members of the JBC are considered to be regular members. These four members include an Integrated Bar representative, a law professor, a retired member of the Supreme Court, and a private sector representative, and it was the president who appointed them. The President also appoints the Secretary of Justice serving as an ex-officio member. There is a great possibility that either or both of the representatives of the Senate and House of Representatives can be of the same party with the President (Barcena, 2010).

Presidential appointments can become a source of loyalty among appointed members of the bench. These presidential appointees inevitably become the president's political stalwarts in the vulnerable judiciary. The Arroyo administration proved this one. It was difficult to hold the president accountable because most institutions constitutionally designed to check the president's exercise of power contain at least a majority of her appointees, and quality of the checking process suffered (Barcena, 2010). Obviously, the Supreme Court is one of those institutions.

The administration of Benigno S. Aquino III was not exempted from scrutiny. Like his predecessors, he also broke the seniority tradition in judicial appointments. The ranking in the short list submitted by JBC does not guarantee the President's blessings. Taking for instance, President Aquino appointed someone who was lower in rank when the vacancy for associate justice position occurred after Corona became the Chief Justice. Aquino appointed Maria Lourdes Sereno who was last on the list with four votes, together with CA Associate Justice Abdulwahid Hakim and Elections Commissioner Rene Sarmiento. It was Court of Appeals Associate Justice Japar Dimaampao who was the top in the list with six votes, followed by the Former University of the Philippines

College of Law dean Raul Pangalangan and CA Associate Justice Noel Tijam with five votes.

There was a strong executive influence when Chief Justice Renato C. Corona was impeached in 2012. President Aquino has been very vocal of his opposition to the appointment of Chief Justice Corona. In fact, President Aquino broke the tradition when his oath of office took place before an Associate Justice and not before the Chief Justice. The conviction of the Chief Justice was due to his failure to declare his Statement of Assets, Liabilities, and the Net worth (SALN) properly. The Court had done the practice since 1989 when it had exempted itself, through a resolution, from disclosing the SALNs of justices and judges (Vitug, 2012). Though it was supposed to be a legislative show, politically, President Aquino played a significant role in the conviction of the highest officer in the bench. As a 'number game', the impeachment case is a quasi-political process. From the Corona trial until conviction, the president with his strong political persona as the most influential man in the country was able to disrobe the most-learned man, at least by position, of the judiciary.

As a summary for the check and balance between the judiciary and the executive, the former has had little success on its exercise of judicial review. However, it remains its sharpest weapon for accountability check. For several times, this weapon has been challenged by the executive. Presidential appointments are the executive's decoy for perpetuating its strong influence in the judiciary. The Arroyo administration proved that the Supreme Court could also be a president's court instead of being the people's court. History has also proven that a strong executive influence can impeach the head of the judiciary with the legislature as an accomplice who is also a victim of political patronage nurtured by the president.

Judiciary vis-à-vis Legislative

The system of checks and balances between the judicial and legislative branches showed a political dynamics. The constitutional power of the judiciary is to determine any grave abuse of discretion aggravating to excess or lack of jurisdiction in the part of the legislative

branch. The legislative has the power to impeach the members of the Supreme Court.

Under the 1987 Philippine Constitution, the judiciary enjoys more powers that are classified into three: 1) the traditional concept of judicial power that is the power to settle actual disputes involving rights that are judicially demandable and enforceable; 2) power of judicial review or the authority of courts to declare void any action of any branch that is in conflict with the constitution and; 3) the expanded certiorari jurisdiction or the power to invalidate any act or any branch or instrumentality of the government when done in grave abuse of discretion amounting to lack or excess of jurisdiction (Largo, 2013).

Being the first in our constitutional history, the Supreme Court exercised the power of expanded certiorari jurisdiction in the landmark case of Francisco et al. v. House of Representatives et al. (Supreme Court of the Philippines, 2003) In the case, the High Court ruled the second impeachment complaint against Chief Justice Hilario Davide Jr. as a violation of Article XI, Section 3 (5). Facts say that President Joseph Estrada filed an impeachment case against Chief Justice Davide on June 2, 2003. However, it was dismissed in the House Committee on Justice on October 22, 2003. On the following day, October 23, a second impeachment complaint was filed by a group of representatives headed by Representatives Gilberto C. Teodoro and Felix William B. Fuentebella. Unlike the first one, this second complaint was endorsed by at least 1/3 of the members of the House of Representatives that was enough to meet the required number of votes as stipulated in the Constitution. Motions were filed before the Supreme Court questioning the legality of the second complaint as it violated Article XI, Sec. 3(5). It resulted to the High Court's issuance of a status quo ante order halting the impeachment proceedings of the Lower House (Fonbuena, 2012). This intervention of the High Court caused so much controversy and even confusion to the legal community and to the legislators.

The Constitution gives exclusive power to initiate all cases of impeachment to the House of Representatives (Art. XI, Sec. 3[1]), and the sole power to do trials and make decisions in all impeachment cases to the Senate (Art. XI, Sec. 3[6]). In this manner, impeachment, as a

political process, is beyond the jurisdiction of the Court as widely perceived. However, the Supreme Court did not perceive it in the same way. In the case of Francisco et al. v. House of Representatives et al. (Supreme Court of the Philippines, 2003), the ruling of the High Court emphasizes that this authority is not only considered as a judicial power, but an obligation to declare judgment on impeachment matters, thereby, legitimizing its role in the impeachment process by invoking its power of expanded certiorari. The High Court further contends that formal judgment on legal questions associated to impeachment is based on judicially-discoverable standards. Thus, impeachment is no longer a purely political process and no longer exclusive for the legislative branch.

The clash of the judicial and legislative branches did not only happen in the 2003 ruling. In the course of the impeachment trial of Chief Justice Corona, the Supreme Court ordered a temporary restraining order (TRO) to stop the Senate from examining the dollar accounts of the Chief Justice (Meruenas, 2012). This judicial intervention was described as "brazen effort to derail the proceedings" (Legaspi, 2012). However, following the Francisco decision, the High Court's TRO issuance seemed to be unquestionable and legitimate.

The greatest vindication of the role of the legislature in the impeachment trial vis-a-vis judicial intervention was the conviction of the highest officer of the Judiciary. Chief Justice Renato Corona was convicted with 20-3 votes for not fully disclosing his assets in his SALN (Tan, 2012). As a checking power, the power to impeach erring officers in the judiciary particularly the Supreme Court was fully consummated by the Senate serving as the impeachment court in the Corona conviction. For the record, it was the first time in the entire history of the Philippine Supreme Court that the Chief Justice was impeached. The conviction of Corona rang a bell to the ears of the justices who have been so untouchable. As an institution of secrecy, seclusion, hierarchy and traditions, the Supreme Court's impenetrability was already shattered in a certain degree. Right after the conviction, the Supreme Court issued a statement that the justices will disclose their 2011 SALN. This act of disclosing the SALNs among justices was new to the

Supreme Court because they never disclosed their SALNs as decided by the body several years ago through passing a resolution (Vitug, 2010).

The analysis of the Corona impeachment will never be complete without highlighting the role of the president in his capacity as the Chief Executive and being the most politically influential officer of the land. President Aquino III has been very vocal of his opposition to the appointment of Chief Justice Corona. In fact, the President broke the tradition when he opted to take his oath of office before an Associate Justice and not before the Chief Justice. Though it was supposedly a legislative show, President Aquino III played a significant role in the conviction of the highest officer in the bench politically. Many were anxious that this participation of the President in the impeachment case will cause a “chilling effect” on the judiciary (Candelaria & Gesmundo, 2012).

As a summary for the check and balance between the judiciary and the legislative branches, the former was able to intervene in the political process of impeachment through the Francisco decision which surprised the legislators as they considered impeachment purely political. However, the participation of the president in the impeachment made the process even more political since he possessed a strong executive influence among members of Congress where partisanship was always the rule of the game.

Conclusion and Recommendations

Analysis of several documents and papers reveals that the system of checks and balances in the Philippines is ill-practiced resulting to the existence of executive supremacy in legislative and judicial branches. In the legislative-executive relations, the president showed dominance because of political patronage and strong executive influence. The appointing power of the president to the bench undermined the checking powers of judiciary to the executive branch. Executive interference was evident in judicial-legislative relations. This hyperpresidentialism was a result of the political patronage and strong executive influence exercised by the president. The three branches of government are not exercising well their checking powers to other branches. The existence of executive

supremacy was evident in the practice of the system of making these branches accountable to each other.

Constitutional reforms must be introduced since most of the loopholes in the application of the system of checks and balances are constitutionally allowed. Specifically, reforms should include the apparent limitations of the emergency powers of the president and the one-year ban rule of the impeachment proceeding. Legislators should make use of the legislative committees (e.g. Committee on Oversight, Committee on Good Government, Committee on Ethics, and the Committee on Justice) to oversee the actions of the executive as part of the promotion of the institutionalization of oversight culture by the legislative department. Membership of the Judicial and Bar Council shall be further depoliticized by adopting a non-partisan court plan to ensure real judicial independence. No elected politician shall be allowed to participate in the selection or election of the possible members. Further studies shall be conducted particularly on voting patterns and behavior in the Commission on Appointments and the patterns of preference in the selection process of the President vis-a-vis JBC shortlist. Lastly, a more proper work ethic must be integrated in the government to promote basic moral virtues such as accountability, integrity, honesty, responsibility, efficiency and others in public service and governance especially those enshrined in the Constitution

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