The Global Economy and the Erosion of Civil Rights: The Case of the Philippines

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Abstract: *Today, democracy is widely accepted, almost religiously so, as the best possible form of governance. Yet, despite these widely held beliefs, it is becoming apparent that in an increasing number of instances democratic governments in developing countries have overridden some of the very rights that they are obliged to protect in manners not unlike their authoritarian predecessors. There is now growing awareness of the fact that democratically elected governments in developing countries are often guilty of violating the rights of their people. What is not as well understood is how external pressures can lead to some of these abuses. Using the Philippines as a case study, this essay illustrates how external pressures indeed can lead to situations in which a government condones the violations of certain rights. This occurs when the government is in the middle of a two stage game in which external interests and domestic interests are at odds with each other and the government is in a position in which it must favour the external interests over the domestic.*

Key words: *Civil Rights, Democracy, Globalization, IMF, Philippines, World Bank*

In his 1997 essay entitled "The Rise of Illiberal Democracy," Fareed Zakaria expresses a great deal of concern for what happens in the new democracies after the elections (Zakaria 1997: 23). Zakaria notes that quite a number of the new democracies have duly elected governments that, in one way or another, have acted in authoritarian manners. At times, elected leaders have adopted practices such as circumventing their constitutions, abusing the civil rights of their people, and politicizing their judiciaries. Zakaria's concern echoes Guillermo O'Donnell (1994) who

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believes that a new type of unconsolidated, but enduring, form of democracy has been emerging. In many instances in the developing world, democratization has brought elections, but little else. While, according to the Freedom House, there are 117 democracies in the world today, many of those same democracies are trampling on the basic rights of their constituents with varying degrees of regularity (Zakaria 1997: 22). Zakaria estimates that 35% of the 117 democracies in the world, and 50% of all newly established democracies are illiberal.[1] Worst of all, both O'Donnell and Zakaria believe that these unconsolidated and/or illiberal democracies are not getting better, and in some cases are actually deteriorating.

This essay argues that constraints emanating from the global economy can, on many occasions, create pressures in which democratic governments will adopt authoritarian practices. For the purposes of this paper, the practice of overriding certain rights of their people, or looking the other way if other actors within their jurisdiction take similar actions will be considered an authoritarian practice as it is considered behavior one would expect from more authoritarian governments. When democratic governments adopt this type of behavior, it necessarily erodes the quality of democracy within the country. Using the case of the Philippines, this essay illustrates how the global economy has developed certain mechanisms that can push national governments to follow certain patterns of behavior that are deemed correct. Importantly, this paper will explain why such pressures have led to the overriding of civil rights in the Philippines.

Democracy and the Global Economy in Developing Countries

Today, the most popular definition of democracy is the one developed by Diamond, Linz and Lipset (1995) which holds that democracy is a system of government in which leaders are installed through free and fair elections, with high levels of contestation, and a sufficient level of political and civil rights to ensure the smooth functioning of the political system (Diamond *et al.* 1995: 6-7). This is a very minimal, or procedural, definition, yet it tends to be the most popular conception of democracy employed in modern studies of the developing world. Diamond *et. al.* along with Rustow (1970), Huntington (1991, 1997), Przeworski (1999) and Diamond, Hartlyn, Linz and Lipset (1999) form the core of a very conservative strand of literature that has had significant influence on US and Western foreign policy. According to this literature, democracy emerges through a process of inter-elite competition within a single country (Rustow 1970; Huntington 1991). A successful transition to democracy is the result of skilled leadership determined to make it happen while breakdowns of democracy in individual countries are often attributed to a lack of leadership skill, or simply because individual leaders sought self aggrandizement. At the same time, the literature seeks to separate democracy from many of the contextual and environmental factors in which the systems are to operate in. This separation prevents the authors from any serious attempt at theory building. If structural and contextual factors are addressed, it tends to be done in isolation and the reader is left to guess how the variables might interact with each other.

The shortcomings in this literature are significant and increasingly well known. Among the most serious problems is the highly voluntaristic quality to the literature. The literature assumes that democracy can be implanted in any country and in nearly any circumstance. Yet despite the heavy emphasis placed on leadership to bring about democratization, the literature rarely offers satisfactory explanations regarding the motivation of the various actors involved in the process. For example, Diamond *et al.* (1995) criticized former Philippine President Corazon Aquino as far too timid and unable to cope with the problems she faced during her presidency, including economic failure, social inequality, and attempted military coups. Yet the authors could not produce any satisfactory explanation regarding why the Aquino government found it difficult to cope. This failure, plus the unwillingness to discuss the limitation posed by structural factors, or even explore relationships between the variables, renders the literature largely descriptive. At one point in *The Third Wave*, Huntington abandoned any pretense of academic research and, by his own admission, became a 'political consultant' by specifically offering "Guidelines for Democratizers" to would be readers on five separate occasions (Huntington 1991: xv).

As the authors working on transitions to democracy prefer to discuss democracy on its own - without relating it to other contextual factors – the literature does not adequately examine how globalization affects democracy. Yet, globalization has been profoundly altering the economic, social and cultural structures of countries to the extent one can not overlook its impact on democracy. Among the theorists who argue that globalization and democracy are compatible are Rhee (1997), Kim (2000) and Kapstein and Landa (2000). Here, democracy and market capitalism are regarded as similar phenomena as both involve choice. In the same way consumers select the goods they want from among the available choices, voters are thought to select leaders from the selection of candidates that offer themselves to their constituents. Through this ability to choose, it is argued that voters and consumers have the same sort of 'sovereignty' over the respective system (Rhee 1997). Kim and Kapstein and Landa believe that the development of the global economy is essentially good in that it promotes open markets, economic efficiency and growth. In particular, Kim notes that globalization limits the ability of national governments to shield particular interests, especially domestic firms, from market forces. Likewise, the power of international actors such as the IMF can have positive effects up to, and including, facilitating the demise of dictators like former Indonesian president Suharto (Kim, 2000: 126). Reforms advocated by the international financial institutions (IFIs) can facilitate democracy by promoting a more open and transparent system of governance that discourages collusion between business and government. In essence, Kim, like the IFIs and many Western economists, believes that the global economy has a valuable disciplining effect on national governments.

All of this can facilitate the development of democracy, but the connection is not automatic. Kapstein and Landa believe that globalization can harm democracy if the widening inequality resulting from globalization grows to the point that it produces social instability. In developing countries this is a significant problem as a result of the considerable difficulties that poor people have in obtaining the necessary education and borrowing the necessary funds to better themselves. Thus, Kapstein and Landa argue that all countries should enhance their capital markets, especially human-capital markets, in order to ensure that all members of society can benefit from the global economy. Thus, while expressing some reservations, the authors do not believe that there are any fundamental contradictions that would prevent democracy and capitalism from coexisting side by side. Yet, despite the cautionary note sounded by Kapstein and Landa, the authors cannot account for many of the more authoritarian practices adopted by some governments. If there is no fundamental contradiction between democracy and the global economy, why has democracy developed imperfectly in many developing countries? Why are civil rights violations prevalent in so many countries?

To understand why these problems exist, it becomes necessary to study how the global economy interfaces with developing countries. Unlike Kim who saw the role of the IFIs as one that could facilitate democracy, both Thandika Mkandawire (1999) and Rita Abrahamsen (2000) argue that the involvement of the IFIs significantly affects both the policy content and policymaking style adopted by national governments, and this pressure can have a very negative effect on democracy. Governments that are clients of the IFIs will generally comply with the policy prescriptions that are attached to the loans in order to gain international credibility and foreign loans. Mkandawire argues that, in order to implement structural adjustment policies, technocrats have been placed in most of the key policy making positions in the governments of the recipient countries and are shielded from political pressure. But, this process of placing major components of policy in the hands of an insulated cabal of bureaucrats may well result in the development of Janus-faced polities in which politics are democratic but the business of governing is much more authoritarian (Mkandawire 1999: 126-27). In many cases, as a result of external pressure, economic policy choices have often been narrowed to implementing structural adjustment programs quickly - often referred to as 'shock therapy' - or implementing the same programs more gradually.

It is this lack of choice that led Abrahamsen to conclude that the influence of external actors has a definite detrimental effect on democracy. This is because the rise of the IFIs and the influence they can have over recipient governments has created a whole new 'constituency' for national governments. Even though most of these actors do not reside in the country, and do not vote, they have the power to reward and punish national governments. Their influence demands that national governments take their interests very seriously and be responsive to their needs and demands. The real problems occur when the goals and interests of the domestic constituency and the external constituency clash. Whose interests does the government respond to? Quite often, the power of the external actors are able to push national governments to be much more responsive to their interests and this responsiveness often comes at the cost of neglecting the interests of the country's domestic constituents – the constituents that actually vote in elections.

Abrahamsen directs the bulk of her criticisms towards the World Bank. Bank sponsored structural adjustment programs, Abrahamsen argues, has facilitated democracy, but a very disciplined and delimited form of democracy. In the process of democratization, Western governments actively support parties that advocate market reforms and economic liberalization. In addition to Abrahamsen and Mkandawire, Boron (1995), Oxhorn and Ducatenzeiler (1998), Gash (1999) and Costilla (2000) all maintain that the operation of the global economy has a negative impact on democracy. Costilla, like Mkandawire, notes that the executive branches of most governments have been amassing policymaking control in the hands of technocrats. Technocrats in national governments are now exercising control in the areas of investment, exchange rates, interest rates, loans, social spending, taxes, fiscal exemptions and foreign and domestic trade. Oxhorn and Ducatenzeiler have also noted this process, dubbing it 'hyper-presidentialism' (1998: 237), which has resulted in the diminishing of governmental accountability and citizen participation. With respect to the issue of human rights, Gash (1999) notes that there is an uneasy relationship between economic globalization and human rights, to the extent that a broad conception of human rights can be seen as a challenge to the project of economic globalization (Gash 1999: 250). While globalization has brought prosperity to some, the fruits have been distributed very unequally and there are sizeable portions of the globe that have not enjoyed the benefits in any meaningful way. For this reason, ideas of human dignity, just conditions of work, right to welfare, respect for cultural and economic rights, protection of the environment and indigenous people often run against the idea of the primacy of the market upon which global economy is built. Economic actors, particularly large corporations often try to bypass or negate some of these ideas. To the extent that globalization weakens the state, the capacity of corporations and other economic actors to violate these rights increases (Gash 1999: 260). As a result, it is no surprise that Boron draws the conclusion that a combination of governmental impotence, rising inequality and de-legitimization in the eyes of the popular sectors will lead many to conclude, sooner or later, that democracy is little more than a sham.

Thus, for developing countries, the rise of the global economy has two crucial implications. First, lenders, investors and corporate executives are becoming the arbiters of what is considered to be correct government policy. Consequently, good government has increasingly become associated with the ability of a government to design and implement market-friendly policies. Second, when faced with policy regimes that they find unsatisfactory, corporate executives and other investors have the option of 'voting' against such policies by simply moving their assets elsewhere. Advances in computer, transportation and telecommunications technology have greatly enhanced the ability of capital to flow around the globe, and this has contributed greatly to the power of capital to affect government policies.

At the core of the problem is that while capital has become increasingly mobile, the state remains spatially fixed and this places the state at a structural disadvantage on a more or less permanent basis. Capital flows from locales where it is treated poorly to jurisdictions where it is treated well. This means that, in order to acquire capital, national governments must develop policies that capitalists consider to be 'market friendly' and conducive to attracting foreign capital, knowledge and technology into their countries. This is a particularly significant problem for a country such as the Philippines which, as the balance of this essay will reveal, cannot afford to neglect its external constituents. Moreover, it will be argued that the necessity to satisfy their external constituents will, at times, lead national governments to commit and/or permit the abuse of fundamental rights and freedoms of its own people. In the Philippines, workers and indigenous people have been among the victims of rights violations that can be traced to the government's need to satisfy its external constituents.

The Philippines and its External Constituents

Both Zakaria and John Linantud (2005) identify the Philippines as an illiberal democracy; that is a country with a freely elected government, but where political procedures for decision-making and/or fundamental rights and freedoms are either not fully established or not fully protected. Over the past two decades, the Philippines has been extremely dependent on foreign actors. To use Abrahamsen's terms, it can be said that the Philippines is dependent on a host of external constituents. While Abrahamsen focused primarily on the IFIs and Western donors, one could easily expand the concept of external constituents to include multinational corporations (MNCs), the international banks and the like. This is clearly appropriate in the case of the Philippines as in both the mining and manufacturing sectors, the country has been dependent on foreign investment to act as the primary agent that stimulates economic growth.[2] Moreover, the problems posed by largely empty government coffers and low savings rates has meant that the Philippines depends on foreign investment to not only develop the mining sector and its export oriented industrialization (EOI) strategy, but also to build many of the government's infrastructure projects. Since 1992, numerous foreign firms have entered the country to build projects such as the North Luzon Expressway, the EDSA light rail line (Tan 1996), as well as numerous electrical generating facilities under the build-operate-transfer scheme. As the following discussion will reveal, the pressures generated by this heavy dependence create the conditions in which the Philippine government violates and/or condones the violation of basic rights and freedoms.

The IFIs, Corporations and Labour

Of the external constituents, the most noteworthy have been the IMF and the World Bank, with whom the Philippines has been dealing with since at least 1962. The influence of these organizations was greatly enhanced when the World Bank introduced its own structural adjustment loans in 1980. The World Bank loans are generally only extended to those countries that have already agreed to terms with the IMF, and consequently, the phenomenon of 'cross conditionality' was born. Countries with both loans have agreed to two sets of conditions. If it were to break either set, the results are often a suspension of both loans and an economic boycott by the international financial markets (Green, 1995: 44). At times, these conditions can call for very significant changes in the structure of the recipient's economy.

The close relationship between the Philippines and the IMF and World Bank has been a result of the weak state of the country's finances. Between 1973 and 1999, the Philippines negotiated 14 IMF agreements and around

10 World Bank structural adjustment loans. As a result of this near continuous relationship, the IMF and the World Bank have managed to facilitate a significant shift in the economic development strategy of the Philippines. For example, among the conditions the IFIs attached to their Philippine loans was that the country should replace its long standing import substitution industrialization strategy with export oriented industrialization (EOI). After the Philippines recorded a balance-of-payments deficit of US$570 million in 1979, the World Bank put together its first Structural Adjustment Loan for the Philippines and began to advise that the Philippines should take advantage of the fact that its wage levels had "declined significantly relative to those competing ... countries," particularly Hong Kong and South Korea (Broad and Cavanagh 1988: 86). In other words, the Bank recommended that the country adopt EOI because it believed the Philippines was in a position to compete as a supplier of low cost labour and its 1980 loan package specifically indicated that the Philippines should adopt an EOI path of development (Broad and Cavanagh 1988: 84).

As a consequence of this move to primary EOI, a number of observers have commented that despite the array of labour rights afforded Philippine workers on paper, "violations of labour standards are widespread" (Frenkel and Kuruvilla, 2002) in the Philippines as "some of the standards are observed more in the breach" (Ofreneo, 1996: 284). At the heart of the matter, Kuruvilla (1996a, 1996b) asserts that the manner in which labour is treated depends on the overall development strategy adopted by the national government. EOI as it is practiced in the Philippines can best be described as primary EOI, characterized by light, labour-intensive manufacturing products such garments, electronics and footwear for export. In this strategy, the principal source of competitiveness is the low cost of labour and production (Kuruvilla 1996a: 637). Productivity is enhanced primarily through the intensification of work and the extension of working hours. This is why it is very important to keep unit labour costs to a minimum and why controls and restrictions are placed on labour to ensure that the per unit cost of labour remains low to ensure the country remains competitive relative to other exporting countries (Bjorkman *et. al.*, 1988: 76).

In the Philippines, there have been concerted efforts to ensure that labour costs remain low enough to support primary EOI. Importantly, these efforts have included the use of illegal measures such as labour-only contracting and no union, no strike policies in the special economic zones. Despite the fact that these types of practices are illegal and contravene the rights of Philippine workers, their use has been widespread. Labour-only contracting, for example, emerged as one of many hiring practices designed to enable employers to adjust their staffing levels in accordance to market demand. Among the non-traditional types of employment being adopted are the use of part-time workers, apprenticeships, trainees, labour-only contracting as well as subcontracting arrangements. While a number of these practices are legitimate forms of flexible employment practices, by all accounts labour-only contracting is an illegal and deceitful form of employment, which has become very popular in the Philippines.[3] Specifically labour-only contracting occurs when:

> a subcontractor does not have substantial capital or investment in the form of machinery or equipment, but recruits workers and places them in another business to do work that is directly related to the principal business or operations of the employer in which workers are habitually employed (Kuruvilla *et. al.* 2000: 37).

Despite the fact that this practice is illegal under the Labor Code of the Philippines, labour-only contracting has grown throughout the 1990s to the point where it is now a leading source of conflict in labour-management relations, both inside and outside the special economic zones.

Labor-only contracting arose out of a loop hole in the Labor Code which permits a probationary period of no more than six months for all newly hired workers. The proviso is that, after six months, probationary workers are to become regular workers. After becoming regular workers, workers must receive all of the rights and benefits offered by the Labor Code, including security of tenure, 13th month pay, overtime pay, social security contributions, retirement benefits, the right to organize into unions, etc. (Lloyd and Salter 1999: 7-8). In practice, however, what actually happens is that many workers are hired for periods less than six months and then dismissed, one way or another, after which new workers are hired to replace them, again, for a period of less than six months. Often this is done specifically to evade the provision mandating that workers that have been on the job for six months become regular workers, and, the burden of having to provide the benefits they are entitled to as regular workers.[4] In addition to a lack of security of tenure and other rights provided by the Labor Code, many contractual workers do not even receive the minimum wage (Ofreneo 1995: 37; Tujan 1998; SAPRIN 1999). Yet, it is becoming common for the same workers to be rehired by the same employer on a new contract for the same job on the same terms and conditions as before (Barranco-Fernando n.d.: 13; Ofreneo and Wallace, 1997). In short, what is happening is that instead of becoming regular workers, large numbers of workers have become permanent contractual workers.

It is very difficult to say how many workers are employed on a labour-only contracting basis. In some instances, workers hired through agencies outnumber regular workers directly hired by a firm. For example, one of the largest department store chains in the Philippines, Shoe Mart (or SM), has around 20,000 employees; however, only 1,731 of them are regular employees covered by a collective bargaining agreement (Tujan, 1998). On a broader level, in 1990, the International Labour Organization calculated that about 36% of all employers hire temporary labour as an alternative to regular workers (Kuruvilla *et. al.* 2000: 45). Between 1994 and 1998, Department of Labor and Employment (DOLE) reported that the number of firms using contractual labour increased 51%, most of them large employers (ICFTU 1999). As of 1995 there were 252 registered employment agencies which placed 49,055 workers, while the number of unlicenced agencies operating in the country is believed to be double this number (Tujan, 1998). Currently, the Kilusang Mayo Uno (KMU), one of the major union federations in the Philippines, maintains that only one in seven workers in the Philippines today can be considered to be regular workers under the law.[5] If the KMU is correct, this would mean that six out of every seven workers, about 85%, do not enjoy the protection provided by the Labor Code. By all accounts the numbers are quite large and are still growing.

But employers could not get away with nearly as much as they have if the Philippine government was not also involved on some level. Until now, it has largely been silent on the issue and there is no evidence that the Philippine government has taken any steps to punish companies who liberally use labour-only contracting.[6] Rather, the Philippine government appears to be quite supportive of the trend towards the widespread use of contractual labour. Former President Fidel Ramos openly supported labour-only contracting as a means to keep special economic zones 'strike free' (IBON 1994: 2). This is because the bulk of the foreign direct investment the Philippines has received since the 1990s has located in one of these zones (*Asian Wall Street Journal* 1998: 2), and it is here that over 80% of the Philippines' exports are produced (McKay 2006: 47). Thus, by allowing labour-only contracting to occur, the Philippine government is helping EOI firms in the country to be competitive by keeping labour costs down. The extent to which labour-only contracting aids EOI can be reflected in the fact that virtually all workers in the special economic zones are either contractuals or people in highly skilled technical jobs.[7]

The second mechanism employed to help keep labour costs down is the prevalence of 'no union, no strike' policies in Philippine special economic zones. During the dictatorship of former President Ferdinand Marcos, prohibitions on strikes was explicit government policy. Since the downfall of Marcos, changes have been more in form than in substance since violations continue to exist. Under democratic governance, violations of labour rights tend to be much more covert. 'No union, no strike' policies constitute a perfect example of this type of clandestine type policy, so much so, it is difficult to fully ascertain the exact role of the national government in the implementation of the policy. The KMU believes that the national government has been responsible for creating and maintaining the policy. Others attribute it to provincial and local officials acting on their own. Despite this debate,[8] there is quite a bit of evidence from a number of sources to suggest that government officials can be implicated in aggravating the plight of workers. If it is the case of local officials acting on their own, the question would then arise, what has the Philippine government done to stop the practice? Although it would be extremely difficult to ascertain, with any decree of certainty, exactly where such policies originated, what is certain is that 'no union, no strike' policies do exist in the Philippine special economic zones.[9]

In most cases, the actual implementation of 'no union, no strike' policies have been carried out by local and provincial governments and zone administrators. What happens is that local governors and/or zone administrators decree that unions and strikes will not be tolerated in their zones, and put into place measures to discourage unionization.[10] While, in theory, all national laws apply in the zones, in practice the Philippine Export Zone Authority (PEZA) and local zone administrations act as filters to protect zone firms from the scrutiny of other government agencies, particularly the Department of Labor and Employment (McKay 2006: 46). Zone administrators, in effect, bar government inspectors (as well as union officials) from their zones. Beyond this, some local governors have attempted to promote the zones in their jurisdictions by guaranteeing investors a union free, strike free environment by adopting harsh and authoritarian measures to enforce their policies. Here, former Cavite governor Juanito Remulla (governor 1979-1986, 1988-1995) stands out as prime example of this type of behavior. Remulla declared Cavite an "Industrial Peace and Productivity Zone" and brutally suppressed any hint of union activity. Remulla created a special police force, responsible to himself alone that patrolled the province's zones. The unit made its presence felt by intimidating union members across the province (Sidel 1998: 5; Sidel 1999: 77). Persistent rumours about labour leaders 'disappearing' and turning up dead discouraged even the biggest and strongest union federations from attempting to organize workers in Cavite (Sidel 1999: 77; McKay 2006: 48).

Interestingly, the Philippine government appears to have condoned the behavior of the zone administrators and local politicians. In 1991, then President Corazon Aquino praised Cavite province as an "industrial peace zone" and pressed other provincial and local governments to follow its example (*Asiaweek* 1994: 49). Likewise, President Ramos sought to promote all of the country's special economic zones as 'strike free' zones (IBON 1994: 2). To understand why this would be so, it must be remembered that the special economic zones have formed the vanguard of the country's foreign investment strategy (McKay 2006: 46). While the IFIs pressured the Philippines to adopt EOI, success of the strategy depends on foreign MNCs to drive the industrialization process. From the 1990s onwards, the Philippine government has become a major actor pushing for EOI and, as a result, it dislikes workers asserting their right to collective action (Gonzalez 1998: 181). For their part, the MNCs see the Philippines primarily as a supplier of cheap labour and, as a result, they tend to locate their lowest end assembly and testing functions in countries like the Philippines and higher end processes in places such as Malaysia (Kuruvilla 1996b). These low end activities contribute very little value-added to the manufacturing process (Broad and Cavanagh 1988: 88; Chant and McIlwaine, 1995: 65). With such a thin margin, there is not much room for any significant improvements in the conditions of employment for workers. If unions were to form in the zone firms, this could push up the cost of production as a result of higher wage settlements, which, in turn, could reduce the competitiveness of the Philippines and firms operating in the country thereby jeopardizing the basis of the entire primary EOI strategy.

Beyond considerations over labour costs, there is at least one further factor that the Philippine government must always be mindful of. As Japan is now the single largest foreign investor in the Philippines, the country must be mindful of the particular fears and concerns of Japanese investors. The biggest fear that Japanese investors have are factors that may interrupt production, of which strikes are one of the biggest concerns. According to the executive director of the Department of Trade and Industry's Center of Industrial Competitiveness, "Many locators want a 'guarantee' of no strikes. Without it, they won't locate here" (McKay 2006: 46). The end result is that the role of the Philippine government is to develop and enforce a low-wage 'industrial peace' labour regime (McKay 2006: 46). Both the Philippine government and individual firm owners are very aware of the ability of the latter to relocate should the investment conditions of a host country deteriorate (Beeson and Hadiz 1998: 301). Consequently, capital has acquired the ability to 'demand' favourable climates for investment (Beeson and Hadiz 1998: 292).

The role played by the Philippine government should not just be interpreted as a sign of a weak and ineffectual government. Rather, it should be seen as part of a general trend towards forsaking the interests of workers in order to attract and retain foreign corporations. The trajectory labour rights took in the Philippines has been played out in numerous developing countries from Bangladesh to Costa Rica. It then should come as no surprise that a number of governments that have ratified International Labour Organization conventions have found themselves violating the terms of the conventions as a means to help attract foreign direct investment (Rasiah 2000: 947).

Mining Corporations and Indigenous People

The primary difference between the indigenous Filipinos and the rest of Philippine society is that the latter had become Hispanized during the colonial era and the former had resisted the Spanish and retained their pre-existing ways of life (IBON 1999: 5-6). The issue of land is at the heart of the conflicts between the Philippine government and the indigenous people (Hughes 2000: 13). Land is immensely important to both sides. For indigenous people, their livelihood, their culture, and their survival are directly and intimately connected to the land on which they live. Unlike modern commercial society, indigenous people do not regard land as something that can be subdivided into plots and sold off in exchange for goods and services. Rather, land belongs to the community as a whole, providing all of the necessities of life. At the same time, it has long been known that the upland regions, which the indigenous communities call home, are rich in natural resources containing much of the country's mineral and forest wealth and the majority of the suitable sites for hydro-electric projects, all of which the Philippine government is anxious to develop (Hughes 2000: 4). Because of the wealth of resources in the upland regions, the Philippine government is very anxious to promote development in these areas. Yet, this desire to promote economic development is increasingly bringing the Philippine government into conflict with indigenous communities.

This conflict between development and indigenous people provides a vivid illustration of Abrahamsen's conception of the problems that arise when interests of the external constituents collides with the interests of domestic constituents. Generally speaking, in cases involving indigenous people, the Philippine government, as far as possible, sides with the interests of its external constituents, and it is not uncommon for development projects to be designed and approved without consultations with the indigenous groups that would be affected. For example, in Bukidnon a reforestation project co-organized by Filipino and New Zealand interests was developed with virtually no consultation with the indigenous communities living on the land that was to be developed. Rather, officials from the Department of Environment and Natural Resources (DENR) arrived after the deal was made and pressured the Lumads of the Libertad Clan of Kalasungay, Malaybalay, who had had a lease for 402 hectares of pasture land since 1950, into waiving their lease. DENR officials told the latter that the project had been agreed upon by the Philippine and New Zealand governments, and that they alone had not agreed to the project, and that it would be very problematic if they were to be the cause of delays in the project (Manaligod 1990: 29-30). Upon hearing this, the Libertad Clan signed the necessary documents.

Perhaps the most overt example of authoritarian type of behaviour has been the use of militarization in support of development projects in the countryside. On a number of occasions there is evidence that the Armed Forces of the Philippines (AFP) have attacked indigenous communities to force them to relocate in order to suppress opposition to the activities of the mining companies (*Multinational Monitor* 1992; Brown, 1994; SAGIP 1996a; Tujan and Guzman 1998). In one such incident, B'laan communities in Southern Mindinao were essentially tricked into giving their consent to allow Western Mining Corporation to develop a gold mine on land they consider their ancestral domain. By tricked it is meant that government and company authorities had B'laan leaders sign documents they did not fully understand or could benefit from (Stavenhagen 2003: 15). When, the B'laan people resisted, the AFP attacked B'laan villages in Southern Mindanao on two occasions in 1996, ransacking stores, destroying crops and, in the end, forcibly evicting the people from the land (Tujan and Guzman, 1998: 174; Solidarity Philippines Australia Network 1998). In this respect, actions taken by the Government would seem to violate the right to security, indeed the right to life, of many indigenous communities.

Nor was the B'laan attack a one off incident. In Zamboanga del Norte, the Subanon people have complained about violations committed by security guards employed by Canadian based Toronto Ventures Incorporated (TVI). TVI's security guards were essentially a special CAFGU[11] unit trained by the AFP and paid for by TVI itself. The AFP supplied TVI's special CAFGU unit with military equipment including high-powered weapons and a 105 millimeter field gun (Patenaude 1999: 76; Coumans and Nettleton 2000: 69). While TVI claimed that the special CAFGU was employed to protect the company and local community from banditry and paramilitary activity, the activities of the special CAFGU suggested that its primary function was to convince the Subanen and local small-scale miners and to move out of the area.[12] In theory, such units are to operate under the supervision of an AFP unit, are subject to military rules and regulations and are meant to be utilized in the event of local emergencies (Silliman 1994: 129). In reality, the special CAFGU unit acted as a private army. The unit has harassed the small scale miners, destroying their property and preventing miners from exporting their mine tailings out of the area. When the resistance of the miners proved to be more solid than expected, TVI instructed its special CAFGU unit to institute a total economic blockade in which all goods, fuel and equipment, up to and including food was prevented from entering the area (Patenaude 1999: 76-77; Coumans and Nettleton 2000: 69-70).

In another incident which occurred in the early 1990s, 67 T'Boli families were evicted from their land by a private company in order to make way for a government-approved coffee plantation (Stavenhagen 2003: 14). Although the subject of the dispute was a plantation rather than a mine, the pattern of behavior remained the same. In all cases, indigenous people were treated little more than as obstacles in the path of economic development. A recent United Nations sponsored study found that the AFP often conducted military operations in lands occupied by indigenous people to clear the way for development projects, be they logging, mining or large-scale plantations. Tribal lands can sometimes be combed several times over and local indigenous people have been subjected to forced displacement, abuse, torture, arbitrary detention, destruction of houses and property, bombing of villages and 'hamleting' (Stavenhagen 2003: 17).

Often, the use of force to displace or subdue tribal peoples has been explained away by the Government as part of the struggle against armed insurgents. But, on many occasions, indigenous people have argued that there has often been insufficient guerrilla activity in their areas to warrant such a heavy military presence (*Multinational Monitor* 1992; SAGIP 1996b; Cordillera Peoples Alliance 1998). Thus, if the attacks are not occurring in connection with fighting insurgents, why do these types of attacks occur? Essentially, these types of military activities in the upland areas can be regarded as a form of insurance that firms will not have their operations delayed or derailed by local opposition. On one occasion, an AFP general went as far as to admit that this was his role, arguing: "It's true, one of our roles is to insure that the economic activities [sic] of these companies will be able to be pushed through. If we don't militarize the area, then the companies cannot pursue their economic activities" (quoted in *Multinational Monitor* 1992). More recently, Col. Francisco Simbajon suggested during a dialogue with a group of local residents that one of the duties of the military is to 'clear' the area (countryside) of 'problems' to allow the smooth entry of development projects (*MindaNews* 2001). The 'problems' the colonel was referring to are generally regarded to be all forms of resistance to government initiatives.

To better understand why these situations have invited military action, it is necessary to appreciate the state of the Philippine mining industry and the Philippine economy in general. In 1980 mining accounted for 21.3% of the country's export receipts (CASA, n.d.: 4), but since then, the industry has been in a state of decline. Prior to the passage of the *Philippine Mining Act of 1995* that sought to liberalize the industry, the mining sector had been considered a sunset industry characterized by insufficient investment, technology and the inability to exploit economies of scale (Tujan and Guzman 1998: 86). Between 1970 and 1974, mineral exports accounted for 21.7% of total exports. However, by the end of the 1986-95 period, the number had fallen to 7.25%. In 1988, the Philippines was the seventh largest gold producer and the tenth largest copper producer in the world only to fall to 17th place in gold production and 22nd in copper by 1997 (Coumans and Nettleton 2000: 56). Similarly, the number of firms engaged in mining activities dropped by nearly 50% between the early 1980s and 1995 (*Mining Journal* 1995: 118).

The *Philippine Mining Act of 1995* was specifically designed to bolster the mining industry through attracting foreign multinational corporations and relying on them to provide the very impetus for growth. The Mining act formed a component of President Ramos' Medium Term Philippine Development Plan, commonly known as 'Philippines 2000' as is sought to turn the country into a NIC by the year 2000. Through a device known as a Financial and Technical Assistance Agreement (FTAA), the Act offers foreign firms a host of incentives to invest in the Philippines, including: 100% foreign ownership of mining projects, the ability to claim up to 81,000 hectares of land to explore and develop, full repatriation of profits, the right to sell gold right on to the market, and ancillary rights such as logging rights and 'easement' rights which allow the removal of settlements and farms and communities that may be in the way of mining activities (Coumans and Nettleton 2000: 58). The legislation allows firms to apply for FTAAs with a minimum investment of US$50 million. Agreements are valid for 25 years, renewable for an additional 25 years.

This major liberalization effort was driven by a new appreciation of the needs of the mining industry. From a geological perspective, many of the sought after commodities such as copper, gold, lead, nickel, silver and zinc are considered rare. This means the probability of finding a deposit of these materials in quantities rich enough to warrant profitable extraction is quite low (Holden 2005: 422). This is important because, through the act of mining, a company will ultimately consume the sources of its livelihood. Therefore, the continued search for economically viable concentrations of minerals is absolutely essential for the survival of mining firms. Hence, for this reason firms dislike anything that would restrict their access to land. Given that virtually all of the remaining untapped natural resources in the Philippines lie on, or under, ancestral lands of indigenous peoples (Corpuz 1996: 99), this helps explain much of the conflict and violence that occurs in the Philippine countryside. Mining firms view the denial of access by indigenous communities as a threat to their future and a serious impediment to the industry as a whole (Holden 2005: 422). Even if the Philippine government doesn't specifically argue along these lines, its actions often favour mining firms over all other competing interests. This stems from the fact that mining firms need as much access to land as possible because and from the fact that, even in a favourable investment climate, it often takes several years of exploration and research in order to get a mine up and running.

For their part, mining companies had been pressuring the Philippine government for liberalization, informing the latter that they can relocate to Indonesia or elsewhere where, they claimed, governments are more receptive (Coumans and Nettleton 2000: 57). The *Mining Act*, itself, represented a concerted effort on the part of the Philippine government to revitalize the dilapidated mining industry. The Act is a testament of the influence of the external constituents in that virtually all of the conditions and recommendations proposed by the World Bank and the Asia Development Bank and mining firms were incorporated in the Act (CASA n.d.: 6-8). WMC's FTAA was one of the very first granted under the *Mining Act*, and it could rightly be considered as a kind of test case and was followed very closely by the Philippine government and other mining firms. The Philippine government was anxious for the FTAA succeed as it could send strong signals to international community about the desirability of mining in the Philippines. It was in this environment that the attack on the B'laan occurred.

On a broader level, it must be remembered that in the context of the global economy, the Philippines must compete with a host of other developing countries for foreign investment. In reality, the bulk of foreign direct investment and portfolio capital flows to the developing world only reach a select group of about 15 countries; and the Philippines is not one of them (see Heredia 1997). This means that the Philippines, and the other 150 or so developing countries, must compete for the remaining capital flows. And in order to attract this remainder, it must be acutely sensitive to the needs of capital. This explains why the government does everything it can to attract foreign MNCs, up to and including the use of the military to repress local opposition and tolerating illegal practices such as labour-only contracting, 'no union, no strike' policies in support of economic development.

The evidence presented here suggests that the need to be preoccupied with foreign investors and the IFIs has led to situations whereby the Philippine government has taken measures to ensure that the popular classes and indigenous people are rendered incapable of challenging the interests of the external constituents. This is why the Philippine government has allowed for violations of civil rights and it explains why, in 1999, Estrada responded to the departure of some foreign investors by ordering the development of "more investment-friendly and job-creating" labour policies (*Philippine Daily Inquirer* 1999).

Conclusions

Without a doubt, the Philippines' place in the global economy is very tenuous at best and, as a result, the Philippine government must be very sensitive to the needs of its external constituents. The constant need for IFI loans has left the Philippines very susceptible to their pressure, which have brought about substantial changes in the country's economy; the adoption of primary EOI being a case in point. High debts, low savings and empty government coffers has left the Philippines highly dependent on foreign investment to build its infrastructure, provide jobs and, more basically, ignite economic growth. The desperate need for foreign capital means that the Philippines must continually be working to provide a good environment for foreign capital. Moreover, in both manufacturing and in mining, the need for economic development gives a great deal of leverage to another set of external constituents, foreign MNCs. The Philippine government is aware of how much it depends on its external constituents and the ability of these constituents to walk away if they perceive conditions as too unfavourable. Hence, when the interests of ordinary Filipinos conflict with the goals of the government and their external constituents, it should not come as a surprise that the Philippine government very often backs the interests of its external constituents. Generally the Philippine government is guilty of looking the other way when violations occur, but there is also evidence that it has protected firms that have breached the law (Francisco n.d.). At times, this conflict can result in violence, particularly in the countryside. As a result of this willingness to allow the rights of ordinary Filipinos to be violated in both the manufacturing sector and in connection with mining industry, it is safe to conclude that the Philippines cannot be considered to be a liberal democracy.

On a broader level, the authoritarian practice of allowing rights to be violated to facilitate development can also be regarded as a survival tool for national governments.[13] With globalization, national governments are often finding themselves in the center of a two level game in which they must deal with the contradictory pressures emerging from their domestic constituents and the external constituents. At times, it may be extremely difficult to resolve these conflicts through democratic processes. Should all of these disputes and battles have to be resolved through normal democratic procedures, the debates could be protracted and there is no guarantee that foreign investors would not just invest in other more accommodating countries. When the conflict is between doing what is necessary to create a favourable environment for investment and doing what is in the interests of the domestic constituents, authoritarian practices allow a national government to impose a solution that it feels would best serve the interests of the country, particularly when the decision is to side with external actors. ❖

Notes

[1] Zakaria used the Freedom House's (1997) data in order to draw these conclusions. Using the Freedom House's measure for political rights as a proxy for democracy and it's measure for civil liberties as a proxy for constitutional liberalism, Zakaria concluded that if a country measured better on political rights than on civil liberties, then the development of the rights and freedoms that constitutes liberal democracy was clearly lagging and, therefore, the country was an illiberal democracy.

[2] Interview with Danilo Arao, January 15, 2001.

[3] Interview with Eman Villanueva; See also Ofreneo, 1995a.

[4] Interview with Eman Villanueva.

[5] Interview with Crispin Beltran.

[6] Interview with Eman Villanueva.

[7] Interview with Rene Ofreneo.

[8] In interviews, Danilo Arao, Crispin Beltran, Rene Ofreneo and Eman Villanueva all confirmed the existence of 'no union, no strike' policies within special economic zones. However, Arao and Ofreneo believed the policies were developed by local governments operating on their own, while Beltran and Villanueva maintained that 'no union, no strikes' policies originated with the national government in Manila.

[9] US Department of State, 2000; ICFTU, 1999; IWRAW, 1997; Also, interviews with Crispin Beltran, Danilo Arao, Rene Ofreneo and Eman Villanueva.

[10] For more on the exact methods employed by local officials see Sidel 1999; Skene 2002.

[11] Essentially CAFGUs (Citizen Armed Force Geographical Units) are civilian militia units established by the AFP comprised of military personnel and qualified reservists from a certain locale. CAGFUs were established under the Aquino government as a cost effective way to combat guerrilla forces (Silliman 1994: 123). By 1989 there were 720 CAFGU units with 64,000 members and these units have played prominent roles in combat operations.

[12] Some Subanen people, an indigenous group in Zamboanga del Norte province, became small scale miners, but not all. Relations between the miners and the Subanen were generally congenial. See Coumans and Nettleton (2000).

[13] This point is based in part on an interview with Steve Hellinger, November 7, 2001.

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