

BOOK REVIEW:

MARITES DAÑGUILAN VITUG, *SHADOW OF DOUBT: PROBING THE SUPREME COURT*

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I. INTRODUCTION

In the words of C. Neal Tate, since the late 1980s, the Philippines have become, “[a]side from India . . . the only nation in Afro-Asia where the expansion of judicial power can be said to be a significant, current political development.”¹ Indeed, the Supreme Court of the Philippines has struck down significant economic reforms, issued new rules to assist human rights victims, thwarted constitutional amendments, and even helped overthrow a president. Until recently, the Court was even one of the most popular institutions in the country.² Despite these developments, there has been remarkably little scholarship about the Court as a political institution from either Filipinos or foreign observers.³

Legal developments in the Philippines should be of particular interest to American comparative law scholars. The United States colonial period heavily influenced Filipino law and legal institutions. Filipino lawyers have pursued LL.M. degrees at American law schools. Justice Antonio Carpio of the Supreme Court of the Philippines has even given new justices books on the history of the U.S. Supreme Court because he considers it a role model.⁴ Yet, despite these links to the U.S., the Supreme Court of the Philippines faces unique political and institutional challenges. Likewise, although the Court frequently cites U.S. case law,⁵ its own jurisprudence has gone in directions that would bewilder many American jurists.⁶ Indeed, the country is a prime example of how local political cultures can reinterpret and reshape foreign legal transplants.

¹ C. Neal Tate, *The Philippines and Southeast Asia*, in *THE GLOBAL EXPANSION OF JUDICIAL POWER* 461, 461 (C. Neal Tate and Torbjörn Vallinder eds., 1995). Since the publication of Tate’s work, several other constitutional courts have become more prominent, particularly those of South Africa and Thailand.

² For example, in a 2005 survey, the Supreme Court enjoyed a net +54 performance rating among lawyers. See Linda Luz Guerrero, Mahar Mangahas, & Marlon Manuel, *New SWS Study of the Judiciary and the Legal Profession Sees Some Improvements, But Also Recurring Problems*, SOCIAL WEATHER STATIONS (Jan. 25, 2005), available at <http://www.sws.org.ph/pro50125.htm>.

³ For work by American scholars, see, e.g., C. Neal Tate & Stacia L. Haynie, *Authoritarianism and the Functions of Courts: A Time Series Analysis of the Philippine Supreme Court, 1961–1987*, 27(4) L. & SOC. REV. 707 (1993); and Stacia Haynie, *Paradise Lost: Politicization of the Philippine Supreme Court in the Post-Marcos Era*, 22(4) ASIAN STUD. REV. 459 (1998). Much of the scholarship focuses on the Philippine Supreme Court’s jurisprudence.

⁴ Marites Dañguilan Vitug, *SHADOW OF DOUBT* 213 (2010).

⁵ See, e.g., *Kilosbayan v. Morato*, G.R. No. 118910 (S.C. July 17, 1995), available at http://www.lawphil.net/judjuris/juri1995/jul1995/gr_118910_1995.html (quoting *Baker v. Carr*, 369 U.S. 186 (1962) in explaining the special role of standing in constitutional litigation).

⁶ This trend appears most infamously in *Oposa v. Factoran*, where the Court’s dicta stated that unborn minors possess an intergenerational right to environmental protection. G.R. No. 101083 (S.C. July 30, 1993), available at http://www.lawphil.net/judjuris/juri1993/jul1993/gr_101083_1993.html.

This makes Marites Dañguilan Vitug's *Shadow of Doubt: Probing the Supreme Court* an invaluable glimpse into the inner workings of the Supreme Court of the Philippines.⁷ Vitug, an investigative journalist and Editor-in-Chief of *Newsbreak* magazine, focuses not on the jurisprudence but rather on the justices themselves. The book documents the political maneuverings and negotiations behind the bench. With the fervor of an iconoclast, she portrays the Court as an institution very much enmeshed in the world of the Philippine political elite, where familial relationships and patronage networks often influence voting patterns.

Shadow of Doubt is filled with dozens of revealing anecdotes; relating them all would be beyond the scope of this review. The following discussion covers some of the most important cases and themes mentioned in the book. First, because *Shadow of Doubt* focuses primarily on the past decade and presumes knowledge of Philippine history, in Part II of this Note, I provide some background on the Supreme Court of the Philippines. In Part III, I summarize Vitug's major allegations against the Court, particularly with regards to politicization and corruption. In Part IV, I employ Vitug's insights to examine a controversial case recently decided by the Supreme Court of the Philippines. Finally, I conclude with thoughts on how well the book explains the Supreme Court's political dynamics and questions for future research.

II. BACKGROUND ON THE SUPREME COURT OF THE PHILIPPINES

The Philippines established its first high court, the *Royal Audiencia*, during Spanish colonialism. For most of its history the high court was chaired and staffed directly by the governor-general and Spanish attorneys.⁸ With the U.S. annexation of the Philippines in 1898, American lawyers sought to reduce the influence of Spanish civil law and introduce common law features, particularly adversarial trials. On June 11, 1901, the Taft Commission vested judicial powers in a new Supreme Court. However, the justices on this court served at the pleasure of the colonial administration, and its decisions on constitutional law were subject to review by the U.S. Supreme Court.⁹ Furthermore, until 1935, American lawyers dominated the bench, holding four out of the seven seats.¹⁰

⁷ More information and commentary about *Shadow of Doubt* is available on the book's promotional website at <http://www.shadowofdoubt.info/>.

⁸ Maria Ela L. Atienza and Ferdinand C. Baylon, *The Judiciary*, in *PHILIPPINE POLITICS AND GOVERNANCE: AN INTRODUCTION* 333, 339–40 (Noel Morada ed., 2006).

⁹ Notably, the United States Constitution did not automatically apply in the Philippine Colony. *Pepke v. U.S.*, 183 U.S. 176, 179 (1901) (finding that the dormant commerce clause did not apply to customs on jewelry from the Philippines).

¹⁰ Atienza, *supra* note 8, at 341–44. Governor William Howard Taft, later U.S. president and Supreme Court Chief Justice, declared that “no Filipino judiciary could have any adequate conception of what practical civil liberty is,” and “with a few notable

In the mid-1930s, the U.S. established a commonwealth in the Philippines and allowed Filipinos to draft their own constitution. The new 1935 Constitution gave Court justices security of tenure until mandatory retirement at the age of seventy.¹¹ It also explicitly granted the Court the power of judicial review.¹² After the Philippines achieved independence in 1946, the Court tended to defer to the Congress and the President on several issues, citing the political question doctrine.¹³ According to Maria E. Atienza and Ferdinand Baylon, political scientists at the University of the Philippines, most of the justices came from the social and economic elite, and thus shared the same policy preferences as the country's politicians.¹⁴ As such, the few cases in which the Court did exercise judicial review often invalidated populist socioeconomic regulations.¹⁵

The election of Ferdinand Marcos to the presidency in 1965 marked the beginning of a steep decline into authoritarianism and subversion of judicial independence. On September 21, 1972, Marcos declared martial law and proposed a new constitution. The 1973 Constitution gave him sole authority to appoint all judges.¹⁶ Even so, he occasionally "reorganized" the judiciary to purge dissenting judges. He even allegedly kept signed but undated resignation letters from each justice for use as blackmail.¹⁷ For its part, the Court dismissed challenges against Marcos' martial law regime.¹⁸ The Court's nadir came in *Javellana v. Executive Secretary*, when it failed to question the highly irregular ratification of the 1973 Constitution, which involved Marcos-appointed "citizens assemblies" voting overwhelmingly for the Constitution by raising their hands in public—and therefore monitored—meetings.¹⁹

exceptions, there is not a single Filipino lawyer who could be trusted to resist the temptation of a bribe were he raised to the bench." *Id.* at 343.

¹¹ CONST. (1935), Art. VIII, § 11 (Phil.); see also *Borromeo v. Mariano*, G. R. No. 16808 (S.C. Jan. 3, 1921), available at <http://www.chanrobles.com/cralaw1921.htm> (holding that a judge could not be transferred to another court without his consent).

¹² CONST. (1935), Art. VIII, § 2(1) (Phil.).

¹³ Atienza, *supra* note 8, at 347-48; see also *Mabanag v. Lopez Vito*, G.R. No. L-1123 (S.C. Mar. 5, 1947), available at http://www.lawphil.net/judjuris/juri1947/mar1947/gr_l-1123_1947.html (refusing to rule on Congress' exclusion of alleged communist senators and representatives during a vote on a constitutional amendment).

¹⁴ *Id.* at 348.

¹⁵ *Id.* at 344, 348-49.

¹⁶ CONST. (1973), Art. X, § 4(1) (Phil.).

¹⁷ Atienza, *supra* note 8, at 350.

¹⁸ See, e.g., *Aquino v. Military Commission No. 2*, G. R. No. L-37364 (S.C. May 9, 1975), available at http://www.lawphil.net/judjuris/juri1975/may1975/gr_37364_1975.html (holding that military tribunals fall within the president's authority as commander-in-chief during an emergency).

¹⁹ *Javellana v. Executive Secretary*, G.R. No. L-36142, (S.C. Mar. 31, 1973). While a majority of the justices did not support the process, the Court did not reach the ten out

In the aftermath of the assassination of popular opposition leader Senator Benigno Aquino, Marcos called for snap elections in early 1986. When allegations spread that he had committed voter fraud against the opposition candidate Cory Aquino, Senator Aquino's widow, mass protests and elite defections drove Marcos from power. The Court quickly confirmed Aquino as the president. President Aquino proceeded to appoint a Constitutional Commission to draft a new constitution that would enshrine the progressive values of the "people power" revolution, the 1987 Constitution.

Under the 1987 Constitution, the Court consists of fifteen justices, all of whom must retire at age seventy.²⁰ The justices have constitutionally stipulated security of tenure and fiscal autonomy.²¹ The Judicial and Bar Council ("JBC"), composed of the Supreme Court Chief Justice, Secretary of Justice, representatives from Congress, the Integrated Bar of the Philippines (IBP), legal academia, and the private sector, screens judicial candidates and prepares a list of at least three nominees that the president may select to replace a retiring justice.²²

The Supreme Court can hear cases either as a five-judge division or *en banc*.²³ Litigants who are not satisfied with a five-judge division opinion may file a motion for reconsideration ("MR") for the court to rehear the case *en banc*. A raffle committee composed of three other justices selected on the basis of seniority randomly assigns one justice, known as the *ponente*, to study the arguments closely and prepare a draft decision, known as the *ponencia*.²⁴ While the other justices are not bound by the decision of the *ponente*, they generally rely heavily on the *ponente*'s analysis.²⁵

The drafters of the 1987 Constitution, distrustful of traditional Filipino politicians, explicitly expanded judicial power²⁶ so as to free the Court from the political question doctrine.²⁷ In addition, the justices were acutely aware that the Court's behavior during martial law tarnished its reputation.²⁸ During

of fifteen supermajority required to rule on constitutional questions under the 1973 Constitution. CONST. (1973), Art. X, § 2(2) (Phil.).

²⁰ CONST. (1987), Art. VIII, § 11 (Phil.).

²¹ CONST. (1987), Art. VIII, § 2 (Phil.).

²² CONST. (1987), Art. VIII, §§ 8(1) and 9 (Phil.).

²³ CONST. (1987), Art. VIII, § 4(1) (Phil.).

²⁴ Vitug, *supra* note 4, at 27-28.

²⁵ *Id.* at 154-55.

²⁶ The drafters did so by more widely defining the judicial power in the 1987 Constitution. See CONST. (1987), Art. VIII, § 1 (Phil.).

²⁷ Raul C. Pangalangan, "Government by Judiciary" in *the Philippines: Ideological and Doctrinal Framework*, in ADMINISTRATIVE LAW AND GOVERNANCE IN ASIA: COMPARATIVE PERSPECTIVES 313, 318-19 (Tom Ginsburg and Albert H.Y. Chen eds., 2008).

²⁸ Tate, *supra* note 1, at 474. The Court's reputation was dealt another blow after the 1992 case of *Philippine Long Distance Telephone Company (PLDT) v. Eastern Telephone*

the 1990s, their jurisprudence became both more progressive and activist. For example, where the Court had previously followed U.S. jurisprudence on *locus standi*, it now allows generalized standing for constitutional litigation.²⁹ The justices also struck down major economic initiatives on the grounds that they violated the constitution's protectionist provisions.³⁰ For a time, this strategy worked; according to Social Weather Stations polls, the Court's net favorability ratings rose from +10 in 1993 to +30 in 2000.³¹

In addition to adjudicating cases, the Court also manages the lower courts, the Judiciary Development Fund, and access to justice programs, such as Justice on Wheels.³² The Court has also established its own think-tank, the Philippine Judicial Academy, which prepares policy papers on judicial-sector reform.

III. CORRUPTION, COLLUSION, AND COURTS

Vitug's account in *Shadow of Doubt* starts at the beginning of the twenty-first century and continues up to present-day. Vitug argues that despite the progressive and upright reputation the Court had earned during the 1990s, it has not been immune to the partisanship and corruption. *Shadow of Doubt*

Philippines, G.R. No. 94374 (S.C. Aug. 27, 1991), available at http://www.lawphil.net/judjuris/juri1999/jul1999/gr_104600_1999.html. Justice Gutierrez had allowed PLDT's attorneys to draft the opinion. While the Court took no disciplinary action, Justice Gutierrez retired early.

²⁹ *Chavez v. Presidential Commission on Good Government*, G.R. No. 130716 (S.C. Dec. 9, 1998), available at http://www.lawphil.net/judjuris/juri1998/dec1998/gr_130716_1998.html (finding standing for a citizen to bring a taxpayer's suit to recover Marcos' hidden wealth).

³⁰ See, e.g., *Garcia v. Board of Investments*, G.R. No. 92024 (S.C. Nov. 9, 1990), available at http://www.lawphil.net/judjuris/juri1990/nov1990/gr_92024_1990.html (prohibiting investors from relocating a petrochemical plant); *Manila Prince Hotel v. GSIS*, G.R. No. 122156 (S.C. Feb. 3, 1997), available at http://www.lawphil.net/judjuris/juri1997/feb1997/gr_122156_1997.html (allowing a losing Filipino bidder to match *post hoc* the bid of a Malaysian for the historic Manila Hotel, citing the constitutional provision granting preferential rights to nationals); and *Tatad v. Secretary of Energy*, G.R. No. 124360 (S.C. Nov. 5, 1997), available at http://www.lawphil.net/judjuris/juri1997/nov1997/gr_124360_1997.html (striking down the Oil Industry Deregulation Law for failing to carry out the constitutional mandate against monopolies). For more examples, see Tate, *supra* note 1, at 475-78.

³¹ Atienza, *supra* note 8, at 372-75. Newspaper editorials often considered it the branch of national government "that the public seems to hold in highest esteem." See Tate, *supra* note 1, at 473.

³² Justice on Wheels became particularly prominent during the last few years of Chief Justice Puno's tenure. From late 2007 to October 2009, it released 2500 inmates, mediated over 5000 cases, and held seminars in twenty-four cities and provinces for 12,000 barangay officials. Vitug, *supra* note 4, at 219.

contains few accusations of outright bribery, but it does detail more subtle forms of questionable behavior arising out of the justices' lack of transparency and *ex parte* relationships with political elites. This section recounts some of Vitug's particularly compelling allegations of politicization and nepotism.

A. Political and Politicized Judicial Activism

During the 1990s, the Supreme Court of the Philippines found itself frequently involved in political disputes, most notably when it halted President Fidel Ramos's initiative to convert the country's tripartite presidential republic into a parliamentary system.³³ However, by the 2000s, the justices were not only adjudicating political cases, but also playing politics and becoming politicians. During the impeachment of President Joseph "Erap" Estrada, the Court arguably became kingmaker. As military officials deserted Estrada and protesters filled the streets in Manila, the president lost control over his government. Even though Estrada had not yet resigned, much less had been convicted of any crimes, in January 2001, then-Vice President Gloria Macapagal Arroyo wrote a letter to the Court stating that Estrada was "permanently incapable of performing the duties of his office resulting in his permanent disability to govern."³⁴

The justices met and concurred that Chief Justice Hilario Davide should swear Arroyo in as president. Unfortunately, they did not agree on whether Arroyo would assume office as *de jure* president or merely as "acting" president.³⁵ According to Vitug, most justices preferred the latter option, but they permitted Davide to exercise his discretion.³⁶ To their surprise, on January 20, Davide swore Arroyo in as president of the Philippines. When confronted by his fellow justices, Davide claimed that he was overwhelmed by the crowds on Epifanio Delos Santos Avenue, a major artery in Manila, as well as the popular acclamation for Arroyo.³⁷ Indeed, after the inauguration, Davide's approval ratings soared to +46, the second highest ever for a chief justice.³⁸ Despite their concerns, the justices later unanimously dismissed any

³³ People's Initiative for Reform, Modernization and Action v. Commission on Elections, G.R. 129754 (S.C. Sept. 23, 1997).

³⁴ Vitug, *supra* note 4, at 52.

³⁵ While the Constitution distinguishes between president and acting president, it appears the latter can exercise the complete authority of the presidency. See CONST. (1987), Art. VII, § 11 (Phil.).

³⁶ Justice Bernardo Pardo even wrote "or Acting President" in parenthesis the final draft of the oath of office. Vitug, *supra* note 4, at 53, 54.

³⁷ *Id.* at 55.

³⁸ *Id.* at 54. Justice Claudio Teehankee received his highest approval ratings after he administered Cory Aquino's oath of office.

lawsuits challenging the legitimacy of Arroyo's accession.³⁹

However, in ousting the popularly elected Estrada, the justices gained new enemies. In 2003, the former president's congressional allies tried unsuccessfully to impeach Davide along with seven other justices for unconstitutionally installing Arroyo as president. Later that year, Representative Felix William "Wimpy" Fuentebella and several Court employees charged Davide with misappropriating the Judiciary Development Fund's resources by carrying out expensive renovations of the Court building.⁴⁰ Despite the obvious need for such renovations (at the time, the Court had a leaky roof and only single-sex bathrooms) the accusations gained support in Congress.⁴¹

Ultimately, the Court decided to short-circuit the process. On November 10, in an eleven-to-three vote, it issued an injunction against the impeachment proceedings.⁴² According to the 1987 Constitution, Congress can only file one impeachment complaint against the same government official per year; this would have been the second against Davide.⁴³ While the justices avoided impeachment, the Court's approval ratings fell. By the time Davide departed the bench in 2005, his popularity was at an all time low of -5.⁴⁴

Supreme Court politics went in new and unexpected directions under Chief Justice Reynato Puno's tenure. Vitug describes Puno as a man obsessed with his popularity and visibility. When he became chief justice in 2006, few Filipinos had heard of him. Within months he appeared everywhere, from the scene of a hostage crisis to reading children's books to orphans. He gave at least three public speeches per month, a record for a Court justice.⁴⁵ Moreover, he became a prominent critic of human rights abuses against progressive activists. In July 2007, he hosted a high-profile summit on extrajudicial killings and promulgated new writs to aid human rights attorneys.⁴⁶

³⁹ Estrada v. Arroyo, G.R. No. 146710-15 (S.C. Mar. 2, 2001), available at http://sc.judiciary.gov.ph/jurisprudence/2001/mar2001/146710_15.htm.

⁴⁰ Some employees were frustrated that they were not included in the Judiciary Compensation Bill of 2001, which increased the salary of judges but not staff members. Furthermore, as the number of employees expanded, they were concerned that their twenty percent share of JDF funds would become diluted over a larger pool. Vitug, *supra* note 4, at 61, 62. However, auditors later found that the Court did allocated twenty percent of the JDF to employees as required. *Id.* at 69-70.

⁴¹ *Id.* at 64-66. When Fuentebella circulated his bill of impeachment, ninety-six congressmen signed on—twenty more than needed under the Constitution. *Id.* at 74.

⁴² Ernesto Francisco Jr. v. The House of Representatives, G.R. No. 160261 (S.C. Nov. 10, 2003), available at <http://sc.judiciary.gov.ph/jurisprudence/2003/nov2003/160261.htm>.

⁴³ CONST. (1987), Art. XI, § 3(5) (Phil.).

⁴⁴ Atienza, *supra* note 8, at 374-75.

⁴⁵ Vitug, *supra* note 4, at 157-58.

⁴⁶ The writs included *amparo* and *habeas data*. The former is an order to produce detained persons, the latter is an order to produce withheld information. However, only seven out of fifty-two *amparo* petitions filed had been granted as of February 2009. *Id.* at 160-61. See also Supreme Court Public Information Office, A CONSPIRACY OF HOPE:

At one point Puno was not just acting like a politician, but also considering becoming one. He gave speeches calling for a new "moral force" of competent, honest government officials. Puno, a Methodist preacher, attracted considerable evangelical support. At one Jesus Is Our Shield⁴⁷ rally, the preacher introduced Puno as the next president of the Philippines.⁴⁸ While Puno publically disavowed any intentions of running for president, Justice Secretary Raul Gonzalez claimed, "[The Chief Justice] says he's not running but he can be titillated."⁴⁹ Frustrated with corruption and human rights abuses, a group of influential leftists even sought to convince Puno to lead an extra-constitutional caretaker government.⁵⁰ Vitug acknowledges that the extent of Puno's involvement remains unclear, but he apparently did not rebuff plotters outright and met with them on subsequent occasions. Puno also sat down with National Security Advisor Norberto Gonzales about a separate extra-constitutional transition council, which would include President Arroyo.⁵¹ Puno was eventually forced to publicly confirm these meetings, causing his hard-earned popularity to drop.⁵²

B. Networks and Nepotism

Scholars of the Philippines have long highlighted the importance of familial and patronage relationships in the country's politics.⁵³ According to Vitug, the Court is no exception. Much of *Shadow of Doubt* details the intricate relationships between the justices and their families, political patrons, and

REPORT ON THE NATIONAL CONSULTATIVE SUMMIT ON EXTRAJUDICIAL KILLINGS AND ENFORCED DISAPPEARANCES (2007).

⁴⁷ Jesus Is Our Shield is an apostolic group active in the Philippines.

⁴⁸ Vitug, *supra* note 4, at 175-79.

⁴⁹ *Id.* at 181. There was also much public speculation that he would run. See, e.g., Aries Rufo, 'Puno for president' could lead to 'Chief Justice Corona', ABS-CBN NEWS, Jan. 20, 2009, available at <http://www.abs-cbnnews.com/nation/01/19/09/puno-president-could-lead-chief-justice-corona>.

⁵⁰ The group modeled its plot on recent events in Bolivia, where Chief Justice Eduardo Rodriguez served as caretaker after the disputed 2005 presidential elections. Hector Tobar, *Bolivian Supreme Court Chief Named President*, LOS ANGELES TIMES, June 10, 2005, available at <http://articles.latimes.com/2005/jun/10/world/fg-bolivia10>.

⁵¹ Vitug, *supra* note 4, at 184-88.

⁵² *Id.* Puno's standing suffered and by the time he stepped down from the Court his net favorability rating was neutral. *March 2010 Pre-Election Survey: Vice-President De Castro +14, Senate President Enrile +19, Chief Justice Puno net zero, Speaker Nograles -19*, SOCIAL WEATHER STATIONS, June 28, 2010, available at <http://www.sws.org.ph/pr20100628.htm>.

⁵³ The dominance of a select group of families over Philippine politics is vividly illustrated in Alfred McCoy, *AN ANARCHY OF FAMILIES: STATE AND FAMILY IN THE PHILIPPINES* (2009).

former law partners. As Vitug explains, judicial candidates needed to be *malakad* (adept at utilizing connections) in order to get nominated to the bench.⁵⁴ For instance, after President Arroyo faced allegations of voter fraud and corruption in 2004, her administration required a judicial candidate to have more than one politically influential backer to be considered for nomination.⁵⁵ In 2005, this led Arroyo to defy traditions and bypass Justice Puno, the most senior justice, for chief justice because Justice Artemio Panganiban had more supporters (including Justice Davide, Catholic bishops, and the mining industry).⁵⁶

Vitug highlights the case of Justice Ruben Reyes to demonstrate how *malakad* operated and compromised the integrity of the Court. Before joining the Court, Reyes was the presiding justice on the Court of Appeals. He had a notably high reversal rate of thirty percent. However, Reyes found prominent allies amongst Protestant activists, such as Iglesia ni Cristo, and First Gentleman Miguel "Mike" Arroyo. Once on the Court, Reyes left thousands of cases undecided before retiring after just two years.⁵⁷ In addition, he leaked the *ponencia* for *Paras v. Limkaichong*, an election-qualification dispute, to one of the litigants. Upon learning of the offense, the Court fined Reyes 500,000 pesos and barred him from the practice of law.⁵⁸

While Reyes' transgressions might have been extreme, Vitug notes that several justices have had problematic relationships with potential litigants before the Court. For example, before joining the Court, Chief Justice Puno was a student and colleague of Estelito Mendoza, a prominent appellate lawyer. Puno did not recuse himself from cases in which Mendoza's clients were parties until Puno became chief justice.⁵⁹ Technically, according to the Court's rules, decisions to recuse are left to the justice's *delicadeza* (moral judgment), unless one of the parties is a blood relative or former law partner of a justice. However, Vitug notes that out of the thirteen cases argued by Mendoza before Puno, Puno voted against his former professor and supervisor only twice.⁶⁰ In fact, Puno attended Mendoza's eightieth birthday party while

⁵⁴ Vitug, *supra* note 4, at 99–101.

⁵⁵ *Id.* at 98. While the Judicial and Bar Council screens nominees, it lacks the resources to conduct investigations into each candidate and as such often fails to uncover potentially compromising information. *Id.* at 111.

⁵⁶ Since Marcos, Cory Aquino's selection of Claudio Teehankee, the sole dissenter during the Marcos era, was the only other time a recent president bypassed a more senior justice. *Id.* at 150. After the publication of *Shadow of Doubt*, Arroyo would do this again in bypassing Antonio Carpio in favor of Renato Corona. See *infra* Part IV.

⁵⁷ *Id.* at 99–100.

⁵⁸ Gleo Sp. Guerra, *Retired SC Justice Indefinitely Suspended from the Practice of Law*, BENCHMARK ONLINE, Aug. 2009, <http://sc.judiciary.gov.ph/publications/benchmark/2009/08/080914.php>.

⁵⁹ Vitug, *supra* note 4, at 164–68.

⁶⁰ Puno even stated, "I have voted more times against Mendoza than for him," but Vitug challenges this assertion in his book. *Id.* at 165.

the latter had a case pending before the Court.⁶¹ In most instances, there was no definitive evidence that Mendoza attempted to influence the justice's vote,⁶² but the cases raised serious questions about the Court's approach toward *ex parte* contacts.

IV. CONSTITUTIONAL CHAOS

Even though *Shadow of Doubt* was published in early 2010 and covers events as recent as January 2010, keeping pace with Filipino judicial politics is a difficult task. In fact, on the same day of Vitug's book launch, March 17, the Court issued a decision allowing President Arroyo to appoint a new chief justice. This was controversial because many Filipino lawyers believed that the 1987 Constitution banned any appointments during the election season.⁶³ This coincidence underscores how Vitug's book can shed light on potential motivations behind the Court's verdict. The following section will summarize what Vitug uncovers about the dispute's two protagonists and discuss the decision itself.

A. A Tale of Two Justices

While Vitug did not anticipate that the controversy that would engulf the Court, she did realize that Chief Justice Puno's successor would likely be either Justice Antonio Carpio or Justice Renato Corona, the next most senior justices, and provided short biographical sketches of both justices in *Shadow of Doubt*. At first glance, the two men led remarkably similar lives.⁶⁴ Justice Carpio began his career in private practice and founded the powerhouse firm Carpio, Villaraza, Cruz in 1980. When Ramos became president in 1992, Ramos enlisted Carpio as his legal counsel.⁶⁵ Carpio oversaw the administration's efforts to deregulate the Philippine economy.⁶⁶ He later resigned in protest over Ramos' attempts to amend the Constitution to extend his term.⁶⁷ When

⁶¹ *Id.* at 147.

⁶² Vitug recounts other instances in which Puno met litigants in informal settings, including El Shaddai's Brother Mike Velarde, who was then on trial for plunder. Former congressman Harry Angping noted of Puno, "Loyalty is his virtue." *Id.* at 169-71.

⁶³ At the time, the next election fell on May 10.

⁶⁴ For more information about the relationship between these two justices, see Marichu Villanueva, *Corona to support Carpio as chief justice*, THE PHIL. STAR, Apr. 15, 2010, available at <http://www.philstar.com/Article.aspx?articleId=566610&publicationSubCategoryId=63>.

⁶⁵ Vitug, *supra* note 4, at 196.

⁶⁶ Although some later accused Carpio of brokering deals that benefited his former firm, Vitug cites an independent study absolving him. *Id.* at 200.

⁶⁷ *Id.* at 204-05.

President Arroyo assumed office in 2001, Carpio briefly served as chief of staff before becoming her first nominee to the Court.

Justice Corona also began in the private sector, but wrote to Carpio after Ramos' election seeking to join the new administration. When Carpio resigned, Corona replaced him as legal counsel. Towards the end of Ramos' term, Corona was nominated to the Court.⁶⁸ Unfortunately, the vacancy opened in May 1998, the same month as the presidential election. According to Article VII, Section 15 of the 1987 Constitution, "Two months immediately before the next presidential elections and up to the end of his term, [the president] shall not make appointments."⁶⁹ Ramos argued that this applied only to executive, not judicial, appointments, because the Constitution also required the president to fill any Court vacancy within ninety days.⁷⁰ However, the justices rejected this argument.⁷¹ Defeated, Corona then served under Vice President Arroyo as chief of staff and spokesman. After Arroyo became president, Corona succeeded Carpio as Arroyo's chief of staff, and joined Carpio on the Court the following year.

Despite similar career trajectories, the two justices held different opinions on many legal issues. Carpio ruled against his former patron quite frequently. Arroyo's most significant setback came in 2006, when Carpio wrote the eight-to-seven majority opinion in *Lambino v. Commission on Elections*, which forestalled the administration's attempts to amend the Constitution.⁷² Arroyo was allegedly offended by the "vivid words" Carpio chose for the opinion.⁷³ By contrast, Corona possessed a much closer relationship with the President Arroyo than Carpio. She had even taken care of a hospital bill for his back pain at one point.⁷⁴ On the bench, Corona gained a reputation as a loyal supporter of Arroyo and generally voted for the administration in important cases, including *Lambino*.⁷⁵ By March 2010, Corona and Carpio found themselves on opposite sides of the ideological spectrum on the bench.

⁶⁸ *Id.* at 196-97.

⁶⁹ CONST. (1987), Art. VII, § 15 (Phil.).

⁷⁰ CONST. (1987), Art. VIII, § 4(1) (Phil.).

⁷¹ Vitug, *supra* note 4, at 197-99.

⁷² *Lambino v. Commission on Elections*, G.R. No. 174153 (S.C. Oct. 25, 2006), available at <http://sc.judiciary.gov.ph/jurisprudence/2006/october2006/174153.htm>.

⁷³ Vitug, *supra* note 4, at 41-42.

⁷⁴ *Id.* at 201.

⁷⁵ *Lambino v. Commission on Elections*, G.R. No. 174153 (S.C. Oct. 25, 2006) (Corona, J. dissenting), available at http://sc.judiciary.gov.ph/jurisprudence/2006/october2006/174153_corona.htm. According to Vitug, even before Corona's appointment, some in the legal community believed that he would be "a Malacañang lackey." Vitug, *supra* note 4, at 201. According to *Newsbreak*, through 2008 Corona sided with Arroyo's administration position in seventy-eight percent of cases, whereas Carpio did so only in forty-two percent of cases. Purple S. Romero, *Voting Pattern of Supreme Court Justices*, ABS-CBN NEWS, Oct. 24, 2008, available at <http://www.abs-cbnnews.com/research/10/23/08/voting-pattern-supreme-court-justices>; Purple S. Romero, *Justice Corona's record favors*

B. De Castro v. Judicial and Bar Council

The most recent judicial crisis arose due to a poorly timed birthday. Under the 1987 Constitution, Supreme Court justices must resign when they reach the age of seventy.⁷⁶ Chief Justice Puno's seventieth birthday fell on May 17, 2010, just a week after the upcoming general elections. In 1998, the same year the Court thwarted Corona's first nomination, it also issued *In re Valenzuela*, which seemed to definitively declare that the Constitution's ban on midnight appointments extended to the judiciary.⁷⁷ Indeed, in her book, Vitug had assumed the next president would choose Puno's successor.⁷⁸ However, Arroyo wanted to choose between Corona and Carpio. When the Judicial and Bar Council refused to submit a list of nominees to the president, the administration's allies brought a suit to compel submission. Chief Justice Puno, as well as Justices Corona and Carpio, abstained from the proceedings.

In *De Castro v. Judicial and Bar Council*,⁷⁹ the Court balanced the constitutional ban on midnight appointments against the mandate in Article VIII, Section 4(1), which requires the president to fill any vacancy on the bench within ninety days.⁸⁰ This time, the Court reasoned that Article VII, Section 15 was ambiguous in whether it even applied to the judiciary and the ninety-day limit created a firm mandate.⁸¹ Furthermore, the Court noted that both Sections 14 and 16 of Article VII set out limitations on executive appointments

Arroyo, ABS-CBN NEWS, Feb. 4, 2010, available at <http://www.abs-cbnnews.com/special-report/02/04/10/justice-coronas-voting-record-favors-arroyo>.

⁷⁶ CONST. (1987), Art. VIII, § 11 (Phil.).

⁷⁷ *In Re Appointments Dated March 30, 1998 of Hon. Mateo A. Valenzuela and Hon. Placido B. Vallarta as Judges of the Regional Trial Court of Branch 62, Bago City and of Branch 24, Cabanatuan City, respectively* (Valenzuela), A.M. No. 98-5-01-SC (S.C. Nov. 9, 1998), available at http://sc.judiciary.gov.ph/jurisprudence/1998/nov1998/98_5_01_sc.htm.

⁷⁸ Vitug, *supra* note 4, at 196.

⁷⁹ See *De Castro v. JBC*, G.R. No. 191002 (S.C. Mar. 17, 2010), available at <http://sc.judiciary.gov.ph/jurisprudence/2010/march2010/191002.htm>. The justices found that the petitioners had standing as "citizens" engaged in constitutional litigation. They also ruled the controversy judiciable because its resolution was necessary in order for the JBC to begin interviewing candidates. *Id.*

⁸⁰ Article VIII, Section 4(1) states, "The Supreme Court shall be composed of a Chief Justice and fourteen Associate Justices. It may sit *en banc* or in its discretion, in division of three, five, or seven Members. Any vacancy shall be filled within ninety days from the occurrence thereof." CONST. (1987), Art. VIII, § 4(1) (Phil.).

⁸¹ While in this case the new president would still have had forty-five days to appoint Puno's successor, the Court reasoned that in other situations the prohibition period could last as long as 105 to 115 days and completely overlap with the 90 days to fill the vacancy. *Id.* However, the Supreme Court had survived without a chief justice for weeks at a time on at least four separate occasions since the country's independence. Vitug, *supra* note 4, at 243-44.

alone. In this context, the Court assumed that the Constitutional Commission would not have inserted a government-wide ban on appointments in between more limited provisions without making that distinction clearer.

The justices also reasoned that the policy rationale behind Article VII, Section 15 simply did not apply to the Supreme Court. The Constitutional Commission proposed the ban in order to prevent midnight appointments intended to buy votes or influence the outcome of an upcoming election. However, the Judicial and Bar Council screened and nominated all Court candidates, which according to the justices, “eliminates the danger that appointments to the Judiciary can be made for the purpose of buying votes in a coming presidential election, or of satisfying partisan considerations.”⁸² They even addressed concerns that the new chief justice would feel beholden to Arroyo by noting that there was less risk of undue loyalty to a former president who no longer wields the levers of power than to an incumbent.⁸³

Thus, the Court reversed *Valenzuela* and ruled nine-to-one in favor of Arroyo appointing the next chief justice (two justices wrote separate opinions agreeing with the conclusion but dissenting on other issues).⁸⁴ Given the implications for Justice Corona, it is safe to assume he would have voted with the majority. For reasons discussed below, it seems likely that Chief Justice Puno would also have voted with the majority. The only dissenter was Justice Conchita Carpio-Morales.⁸⁵ On April 20, the Court dismissed a motion for reconsideration,⁸⁶ as well as a second motion filed by the Philippine Bar Association several months later.⁸⁷ With its newfound authority, the Judicial and Bar Council nominated Justice Corona as the next chief justice. Arroyo confirmed the nomination on May 12.

C. Midnight Appointment Madness

De Castro v. JBC led to a minor constitutional crisis and was frequently attacked on the campaign trail. Noting that all of the justices except for Chief

⁸² *De Castro*, G.R. No. 191002 at 78.

⁸³ *Id.* at 84.

⁸⁴ *De Castro v. JBC*, G.R. No. 191002 (S.C. Mar. 17, 2010) (opinion of Nachura, J.), available at http://sc.judiciary.gov.ph/jurisprudence/2010/march2010/191002_nachura.htm; *De Castro v. JBC*, G.R. No. 191002 (S.C. Mar. 17, 2010) (opinion of Brion, J.), available at http://sc.judiciary.gov.ph/jurisprudence/2010/march2010/191002_brion.htm.

⁸⁵ *De Castro v. JBC*, G.R. No. 191002 (S.C. Mar. 17, 2010) (Carpio-Morales, J., dissenting), available at http://sc.judiciary.gov.ph/jurisprudence/2010/march2010/191002_carpio-morales.htm.

⁸⁶ *De Castro v. JBC*, G.R. No. 191002 (S.C. Apr. 20, 2010) (Mot. for Recons.), available at <http://sc.judiciary.gov.ph/jurisprudence/2010/april2010/191002.htm>.

⁸⁷ Dona Pazzibugan, SC: *Corona Is It, With Finality*, PHIL. DAILY INQ., (June 16, 2010), available at <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100616-275822/SC-Corona-is-it-with-finality>.

Justice Puno were Arroyo appointees, critics tend to portray the outcome as cronies supporting a political patron. Christian Monsod, a member of the 1986 Constitution Commission, compared the current Court with that of Ferdinand Marcos.⁸⁸ Progressive lawyers warned that Puno's decision not to rally the Court against Arroyo would tarnish his legacy.⁸⁹ Senator Benigno "Noynoy" Aquino III, son of Cory Aquino and eventual winner of the 2010 presidential election, even threatened justices in the majority with impeachment.⁹⁰

Arroyo's critics accused the president of Machiavellian intentions. Many Filipinos, including Vitug, believe that given the various accusations of corruption and human rights abuses leveled at her, Arroyo hoped to stack the Court in order to evade any future prosecution.⁹¹ At the time, one prominent senator speculated that Arroyo appointed Corona as part of a "grand plan" to remain in power.⁹² Meanwhile, Carpio-Morales was lauded as a champion of judicial independence.⁹³ Aquino even selected her instead of the new Chief Justice, the traditional choice, to preside over his inauguration.⁹⁴

However, Vitug's characterization of the justices suggests subtler reasons behind the vote count rather than blatant partisanship; after all, the same Court had voted on other occasions against Arroyo. Given the importance of personal relationships in *Shadow of Doubt*, it is crucial to understand how Justice Carpio and Corona were viewed by their colleagues. While Vitug seems to admire Carpio, she also relates anecdotes that question his popularity. She describes him as "not a very sociable person . . . not a person whom one warms up to easily."⁹⁵ One Court employee informed Vitug that, while Carpio earned

⁸⁸ Sophia Dedace, *Christian Monsod: SC Under Arroyo Is Like a Marcos Court*, GMA NEWS.TV, Mar. 18, 2010, available at <http://www.gmanews.tv/story/186447/christian-monsod-sc-under-arroyo-is-like-a-marcos-court>.

⁸⁹ Purple S. Romero, *Puno's Legacy: SC's Questionable Independence*, NEWSBREAK, May 18, 2010, available at <http://www.abs-cbnnews.com/-depth/05/18/10/puno's-legacy-sc-s-questionable-independence>.

⁹⁰ See Delon Porcalla, *Noynoy Vows to Void All Unlawful Appointments*, PHIL. STAR, Apr. 5, 2010, available at <http://www.philstar.com/Article.aspx?articleid=563724>.

⁹¹ See, e.g., Marites Dañguilan Vitug, *Judicial Lessons for the Philippines*, ASIA SENTINEL, Mar. 10, 2010, available at http://www.asiasentinel.com/index.php?option=com_content&task=view&id=2337&Itemid=187; Amado P. Macasaet, *Arroyo Court*, MALAYA, Aug. 2, 2010, available at <http://www.malaya.com.ph/08022010/columnbusii.html>.

⁹² Miriam Desacada and Delon Porcalla, *Critics Warn of GMA's Grand Plan to Remain in Power*, PHIL. STAR, Mar. 20, 2010, available at <http://www.philstar.com/Article.aspx?articleId=559634&publicationSubCategoryId=63>.

⁹³ See Rey O. Arcilla, *Carpio, Morales for Chief Justice*, MALAYA, Mar. 22, 2010, available at <http://globalbalita.com/2010/03/22/carpio-morales-for-chief-justice/>.

⁹⁴ Dona Pazzibugan et al., *Despite Aquino Snub, Corona Shows Up*, PHIL. DAILY INQ., July 1, 2010, available at <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100701-278543/Despite-Aquino-snub-Corona-shows-up>.

⁹⁵ Vitug, *supra* note 4, at 208.

respect for his work, he “wasn’t approachable.”⁹⁶ Indeed, even attorneys from his former firm describe him as “an acquired taste.”⁹⁷ Vitug also claims that Puno’s “intense dislike of the man” and differences over reform programs left Carpio marginalized.⁹⁸ It is notable, and probably not a coincidence, that the lone dissenter in *De Castro v. JBC* was Conchita Carpio-Morales, Antonio Carpio’s cousin.⁹⁹

By contrast, one attorney who opposed Corona’s nomination described him as “a gentleman, soft-spoken and likable.”¹⁰⁰ Vitug claims that Corona’s loyalty and geniality gained him many powerful backers, including both Ramos and Arroyo. One former Ramos cabinet secretary claimed that Corona was “a good staff member . . . and he worked faithfully for [Ramos].”¹⁰¹ Vitug also describes Corona as quite open with his colleagues on the Court. Of course, not everyone praised him; Vitug states, “[t]hose who have worked with both Carpio and Corona say the intellectual gap is wide and their work ethic notches apart.”¹⁰² Still, there is a sense among some observers that the vote in *De Castro v. JBC* was simply an expression of support for Corona as their next chief justice.

Furthermore, *De Castro v. JBC* might also reflect the justices’ belief in what Vitug calls the Supreme Court’s “exceptionalism.” At the beginning of the book, Vitug recounts an article she had written about a box of money that had suspiciously appeared in Justice Consuelo Ynares-Santiago’s office. Rather than investigate the allegations, a committee of retired justices suggested, “[p]erhaps [the justices] deserve some different kind of treatment [compared to politicians].”¹⁰³ The majority opinion in *De Castro* stressed the uniqueness of the Judicial and Bar Council nomination process and maintained that it resolved the concerns that prompted the ban on midnight appointments. This exceptionalism became even more apparent when, a few days after the decision, Justice Jose Midas Marquez stressed that *De Castro* applied only to

⁹⁶ *Id.* at 209.

⁹⁷ *Id.* at 208.

⁹⁸ *Id.* at 233. As legal counsel to Ramos, Carpio refused to recommend Puno to the Court, concerned that Puno would vote for Mendoza’s clients. *Id.* at 148.

⁹⁹ In fact, some Arroyo allies called upon Carpio-Morales to recuse herself from *De Castro v. JBC*. Purple S. Romero, *Carpio-Morales Must Inhibit from New Chief Justice Case*, ABS-CBN NEWS, Jan. 26, 2010, available at <http://www.abs-cbnnews.com/nation/01/26/10/carpio-morales-must-inhibit-new-chief-justice-case>.

¹⁰⁰ Ironically, that attorney was Ma. Lourdes Aranal-Sereno, Aquino’s first appointee to the Court. Nikko Dizon, *Sereno Among Opposed to Arroyo’s Move to Appoint New SC Justice*, PHIL. DAILY INQ., Aug. 16, 2010, available at <http://newsinfo.inquirer.net/breakingnews/nation/view/20100816-287168/Sereno-among-opposed-to-Arroyos-move-to-appoint-new-SC-justice>.

¹⁰¹ Vitug, *supra* note 4, at 201.

¹⁰² *Id.* at 196.

¹⁰³ *Id.* at 9–12.

Supreme Court appointments, not to the rest of the judiciary or the executive branch.¹⁰⁴

Finally, Arroyo probably sought to appoint Corona not for purposes of usurping power or avoiding prosecution; rather, she may have simply wanted to reward allies and punish enemies. During her troubled presidency, she warded off several coup attempts, two impeachment complaints, mass protests, and dealt with the lowest approval ratings of any president since Marcos.¹⁰⁵ To stay in power, she accumulated many political debts. As mentioned above, her administration made a practice of requiring at least two political supporters for any Court nominee. Indeed, Arroyo appointed nearly a thousand friends and benefactors to the bureaucracy during her last months in office.¹⁰⁶ From this perspective, the chief justice vacancy was simply another piece of valuable patronage that she could use to pay off debts.¹⁰⁷

Unfortunately, we will probably have to await a sequel to *Shadow of Doubt* to learn the full story behind *De Castro v. JBC*. However, the case has cast a shadow over the Supreme Court's relationship with Aquino. In late 2010, the Court declared several of the administration's key projects unconstitutional.¹⁰⁸ The final blow came last November when it overturned a watchlist order prohibiting Arroyo from leaving the country.¹⁰⁹ While Arroyo claimed to need medical treatment abroad, critics alleged she sought to flee pending corruption charges.¹¹⁰ Justice Secretary Leila de Lima ordered immigration officials to prevent Arroyo from boarding her flight and had her arrested several days

¹⁰⁴ Tetch Torres, *Arroyo Cannot Appoint Judges, CA Justices—SC*, PHIL. INQ.net, Mar. 30, 2010, available at <http://newsinfo.inquirer.net/breakingnews/nation/view/20100330-261632/Arroyo-cannot-appoint-judges-CA-justicesSC>. Indeed, Justice Brion had even written a separate opinion disagreeing with the notion that the exception covered the whole judiciary. *De Castro v. JBC*, G.R. No. 191002 (S.C. Mar. 17, 2010) (Opinion of Brion, J. separate opinion), available at http://sc.judiciary.gov.ph/jurisprudence/2010/march2010/191002_brion.htm.

¹⁰⁵ For a summary of the challenges the former president has had to face, see generally Melanie S. Milo, *Philippines in 2008: A Decoupling of Economics and Politics?* 2009 SOUTHEAST ASIAN AFF. 245 (2009).

¹⁰⁶ Tita C. Valderama, *Illicit List? Arroyo's 977 Midnight' Appointees*, PHILIPPINE CENTER FOR INVESTIGATIVE JOURNALISM (July 19, 2010), available at <http://pcij.org/stories/illicit-list-arroyo-s-977-midnight-appointees/>.

¹⁰⁷ Vitug, *supra* note 4, at 41.

¹⁰⁸ Including a Truth and Reconciliation Commission established to investigate crimes under the Arroyo administration. *Louis "Barok" C. Biraogo v. Philippine Truth Commission of 2010*, G.R. No. 192935 & 193036 (S.C. Dec. 7, 2010), available at <http://sc.judiciary.gov.ph/jurisprudence/2010/december2010/192935.htm>.

¹⁰⁹ *In the Matter of the Petition for the Writ of Amparo and Habeas Data in favor of Rodriguez vs. Gloria-Macapagal Arroyo*, G.R. No. 193160 (S.C. Nov. 15, 2011), available at <http://sc.judiciary.gov.ph/jurisprudence/2011/november2011/191805.htm>.

¹¹⁰ See, e.g., Harry Roque, *Arroyo's Rights*, HARRY ROQUE'S BLOG, Nov. 10, 2011, available at <http://harryroque.com/2011/11/10/arroyo-s-rights/>.

later.¹¹¹ A month later Aquino's allies in the House of Representatives voted 188-96 to impeach Chief Justice Corona.¹¹² As the trial moved to the Senate, attention shifted towards allegations of corruption.¹¹³ As of this writing, the Senate is poised to proceed, despite petitions asking the Supreme Court to order a halt to the trial.¹¹⁴

V. CONCLUSIONS

Shadow of Doubt never fully addresses the root causes of the Court's alleged politicization and nepotism. Vitug's focus on *delicadeza* and *malakad* suggests that she views the individual personalities of the justices as the key determinant in Court politics. However, she leaves several plausible institutional and historical variables unexplored. For example, while she discusses the professional backgrounds of several justices at length, she does not systematically compare them to their voting records. It is interesting to note that several of the most independent justices possessed a power base outside of the presidency. For example, Carpio's primary network of support seemed to have come from the law firm he founded.¹¹⁵ Upon becoming chief justice, Puno quickly built a following among progressive activists and evangelical Christians.¹¹⁶ By contrast, most other justices served on the lower courts or in the executive branch before their nomination to the Court.¹¹⁷

It is also important to remember that, despite the real and serious ethical breaches Vitug documents, the Supreme Court of the Philippines still has fared

¹¹¹ Floyd Whaley, *Philippines' Ex-President Is Arrested on Fraud Charges*, N.Y. TIMES, Nov. 18, 2011, available at <http://www.nytimes.com/2011/11/19/world/asia/philippines-arrests-ex-president-gloria-macapagal-arroyo.html>.

¹¹² Balana, Cynthia D., & Cabacungan Jr., Gil C., *188 solons impeach CJ Corona*, PHIL. INQ.net, Dec. 13, 2012, available at <http://newsinfo.inquirer.net/109793/188-solons-impeach-cj-corona>.

¹¹³ The most damaging accusation is that Corona lied on his Statement of Assets, Liabilities, and Net Worth. Ager, Malia, *Corona lied in his SALN, says prosecution*, PHIL. INQ.net, Jan 19, 2012, available at <http://newsinfo.inquirer.net/130995/corona-lied-in-his-saln-says-prosecution>. Another potential scandal involved World Bank memo asking the Supreme Court to return a total of \$199,000 (8.6 million pesos) in "ineligible" funds. Posted on Romero, Purple S., *Return P8.6-M, World Bank tells SC*, RAPPLER.com, Jan 13, 2012, available at <http://www.rappler.com/nation/845-return-p8-6-m,-world-bank-tells-sc>.

¹¹⁴ Yamsuan, Cathy C., & Aning, Jerome, *Enrile: No one can stop impeachment court now*, PHIL. INQ.net, Jan. 20, 2012, available at <http://newsinfo.inquirer.net/131133/enrile-no-one-can-stop-impeachment-court-now>.

¹¹⁵ Vitug, *supra* note 4, at 196.

¹¹⁶ *Id.* at 175-79.

¹¹⁷ Biographies of the current justices are available on the Supreme Court's website at <http://sc.judiciary.gov.ph/justices/index.php>.

better than many of its regional counterparts. Unlike the highest courts in neighboring countries, it has garnered domestic and international praise. The American Bar Association ranks the judicial appointment process and qualification of judges positively, although it expresses concern over improper influences in adjudication.¹¹⁸ The Asian Development Bank praises past chief justices for computerizing case management and decentralizing judicial administration.¹¹⁹ Some studies confirm that the justices do in fact frequently rule against the president.¹²⁰ Overall, the Court is one of the few high courts in the region internationally recognized for its vocal support of constitutional rights.¹²¹ While Filipinos remain skeptical of politicians, the Court has consistently ranked relatively well in opinion polls.¹²²

Few of these outcomes seem to stem from the type of elite lobbying featured in *Shadow of Doubt*. It would be interesting to learn how Vitug interprets these developments. She implies that some of the justices' activism, particularly Puno's championing of human rights, stems from their desire to become more popular or to disassociate themselves with the Court's Marcos-era legacy.¹²³ Filipino law scholar Raul Pangalangan agrees that, at times, the Court seems more enamored with its popular legitimacy than jurisprudential reasoning.¹²⁴ Unfortunately, this issue remains underexplored in *Shadow of Doubt*.

While *Shadow of Doubt* contains relatively few instances of bribery or criminal misconduct, the book proves a useful corrective to the sometimes rose-tinted portraits of the Supreme Court of the Philippines. As one of the few insider accounts of a high court anywhere in the region,¹²⁵ *Shadow of Doubt* is a valuable contribution to the literature on the Supreme Court of the Philippines.

¹¹⁸ American Bar Association, PHILIPPINES JUDICIAL REFORM INDEX 11–18, 35–36 (Mar. 2006).

¹¹⁹ Asian Development Bank, BACKGROUND NOTE ON THE JUSTICE SECTOR OF THE PHILIPPINES 27–29 (2009).

¹²⁰ See generally Tate, *supra* note 1.

¹²¹ International environmental lawyers hailed the 1993 *Oposa v. Factoran* opinion as one of the first instances of any court finding an intergenerational right to environmental protection. See Oliver A. Houck, *Light from the Trees: The Stories of Minors Oposa and the Russian Forest Cases*, 14 GEO. INT'L ENVTL. L. REV. 321 (2007).

¹²² In one survey, the Supreme Court received a net +37 rating for its sincerity in fighting corruption. Jesus F. Llanto, *Customs, BIR, DPWH Most Insincere in Fighting Corruption—SWS Survey*, NEWBREAK, Nov. 21, 2008, available at http://newsbreak.com.ph/index.php?option=com_content&task=view&id=5607&Itemid=88889051. However, as mentioned already, the Court's popularity suffered considerably after its decision in *De Castro v. JBC*. See Social Weather Stations, *supra* note 52.

¹²³ Puno worked in the Solicitor General's Office under Marcos and was even known as one of the dictator's "bright legal minds." Vitug, *supra* note 4, at 145–47.

¹²⁴ Pangalangan, *supra* note 27, at 371.

¹²⁵ One notable exception is Sebastiaan Pompe's excellent study of the Indonesian Supreme Court during the New Order. Sebastiaan Pompe, *THE INDONESIAN SUPREME COURT: A STUDY OF INSTITUTIONAL COLLAPSE* (2005).

