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# **Controlling political dynasties in the Philippines:** A breach or a promotion of freedom?

Erica Yu

Maguindanao is a province in the South of the Philippines notorious for the politically motivated massacre of fifty-eight people in broad daylight (Jorgio and Griffiths 2019). On November 23, 2009, the Ampatuan political family carried out this brutal attack to stop a political opponent from challenging a member of the family for the top office in the province. It took ten years of lengthy trials for the two most prominent members of the family to be convicted for their role in the massacre. However, this did not stop thirty members of the Ampatuan clan from being newly elected for positions all over Maguindanao in the same year (Commission on Elections 2019).

The example above illustrates how a political dynasty is able to self-perpetuate in politics despite their demonstrated abuses of power. Political dynasties are defined as families wherein several members hold elected office simultaneously.<sup>1</sup> The Ampatuan family, for example, is a political dynasty as thirty members currently hold elected positions in Maguindanao.

Political dynasties are present in many democracies,<sup>2</sup> but the concentration of dynastic politicians in the Philippines is especially remarkable in both the national and local levels: The percentage of dynastic politicians in the national legislature is 66.67%, in the provincial level 80.25%, and in the city level 53.38% (Mendoza, Jaminola, and Yap 2019, 3).<sup>3</sup> This is all despite the following directive being clearly stated in the Philippine Constitution: "The State shall guarantee equal access to opportunities for public service, and prohibit dynasties as may be defined by law" (Article II Section 26).

Legislators have been attempting to pass a law that would fulfill this directive and ban dynasties, but so far to no avail. The arguments brought against such a law run as follows:<sup>4</sup>

Premise 1: Prohibiting individuals from running for elected office goes against their freedom of access to opportunities for public service.

Premise 2: Political dynasties are not necessarily bad for society; some dynasties have even done well for the people under their rule.

Premise 3: There are already mechanisms in place to hold bad dynasties accountable, such as anticorruption laws and periodic elections.

**Conclusion:** An anti-political dynasty law is unjustifiable.

In this paper, I argue for the passage of an anti-political dynasty law in the Philippines. First, I disprove the above argument against the law. I then show how prohibiting political dynasties promotes equality of access to opportunities for public service.

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This definition of a political dynasty—a family wherein members occupy elected positions *simultaneously*—corresponds to what Mendoza, Jaminola, and Yap (2019) call a 'fat' dynasty'. 'Thin' dynasties', on the other hand, are families wherein members occupy the same elected position *sequentially*. In this paper, I only consider the case of fat dynasties. See, for example, Hess (2015) and Hess (2017) about political dynasties in the United States, and Van Coppenolle (2017) on political dynas-1

ties in the United Kingdom.

This number has grown 1% per election period since 1988 (Mendoza, Jaminola, and Yap 2019, 6). See, for example, Gregorio (2018) and Mercado (2020).

I disprove the argument against the anti-political dynasty law by showing that it makes use of a limited notion of freedom, namely as freedom from interference (liberal freedom). In doing so, the argument neglects to acknowledge the structural relationship of domination between political dynasties and the people under their rule. The republican notion of freedom is able to take these forms of structural domination into account by conceiving of freedom as freedom from subjection to arbitrary power. Political dynasties hold arbitrary power over the people under their rule as there are no sufficient mechanisms in place to control their behavior and punish them when they misbehave. Thus, prohibiting individuals from the same family from holding elected office simultaneously is justified because political dynasties subject people under their rule to arbitrary power, thereby making them unfree.

I then argue that even in an idealized situation with full accountability of politicians to the people under their rule, an anti-political dynasty law would still be justified because of its positive effects on the equality of access to opportunities for public service. Dynastic politicians are able to accumulate political, economic, and social capital that puts them at a stark advantage compared to non-dynastic politicians. Thus, to level the playing field, political dynasties should not be allowed to exist.

The arguments and examples in this paper focus specifically on the case of the Philippines. As detailed earlier, the concentration and prominence of political dynasties in the Philippines is remarkable, compared to other democracies in the world. The research on political dynasties in the Philippines is also well-established, in contrast with the preliminary research on political dynasties in other countries (Purdey 2016). Moreover, the drafting of an anti-political dynasty law is currently at the forefront of Philippine politics, making the case of political dynasties in the Philippines timely and relevant.

This does not mean that the arguments presented here can only apply to the Philippine context. The arguments may also apply to other countries to the extent that they share certain similar political and social characteristics with the Philippines. I discuss these issues further after presenting my argument for an anti-political dynasty law.

### 1. Dynastic rule as domination

In this section, I argue against the first two premises of the argument against the anti-political dynasty law. Premise 1 states that prohibiting individuals from running for elected office would be an undue *interference* in their choices and activities. Premise 2 appeals to the existence of 'benevolent dynasties' who do *not interfere* with the choices and activities of their people under their rule. Both of these premises refer to the liberal conception of freedom, understood as a 'freedom from' interferences in one's choices and activities (Berlin [1969] 2002).

This understanding of freedom has strong limitations. Take for example the case of a benevolent dictator. As a dictator, she has complete control over the lives of her subjects. She could, for instance, unilaterally decide to have those who are critical of her regime hanged. But as she happens to be a benevolent dictator, she does not impose any such harsh punishments on her critics. Under the liberal conception of freedom, the subjects of the benevolent dictator are "free" to criticize her—she does not interfere with their doing so. However, this conception does not capture the intuition that the subjects of the benevolent dictator are dependent upon the good will of their ruler to be able to criticize her, and are thus, in some sense, unfree to do so (Skinner 2002).

This is where the republican conception of freedom comes in.<sup>5</sup> Republicans argue that for an individual to be free, it is not enough to be free from actual interference. She should also be free from structural relationships of domination where another party has the capacity to interfere on an arbitrary basis in her choices and activities (Pettit 1997). Otherwise, she will still act in deference to the will of the dominating party. Take the benevolent dictator and her subjects. Even if the dictator does not punish those who criticize her, the fact that she has the capacity to deal out this punishment arbitrarily may mean that her subjects will avoid criticizing her.

In the same way, 'benevolent dynasties' that do not interfere with the choices and activities of the people under their rule still subject them to arbitrary power and domination. Political dynasties where members hold several elected positions simultaneously are able to disburse public funds to promote the interests of the family and its allies, often at the expense and to the detriment of the people under their rule. Take, for example, a dynasty wherein members hold seats in both the House of Representatives and the city government under the same jurisdiction. The House Representative secures funds from the national government, which she can then decide on disbursing either to the mayor who is a family member to fund a vanity project, or to another non-related mayor who would invest the funds in much-needed health infrastructure in her city. A 'malicious dynasty' would withhold funds from the second mayor, interfering in the lives of the people under its rule. They would be kept from accessing health services that are vital to their well-being.<sup>6</sup> A 'benevolent dynasty' would disburse the funds to the second mayor, even if it had the power to divert it to the family member.

The opponents of the anti-political dynasty law argue that such 'benevolent dynasties' exist. Unlike 'malicious dynasties' who would divert public funds away from where they are needed for private gain, 'benevolent dynasties' would always disburse these funds for their best use. Politicians who belong to 'benevolent dynasties', they argue, should not be hindered from running for elected office. However, such an argument fails to acknowledge that like the benevolent dictator and her subjects, even 'benevolent dynasties' and the people under their rule are in a structural relationship of domination. The people under the rule of political dynasties are dependent on the good will of dynastic politicians to disburse funds where they are most needed, and not just on where the interests of the family are best promoted.<sup>7</sup>

To illustrate this, take the following example: Mayoral elections are being held in a city where the House Representative is part of the Cruz family. There are two candidates for mayor, one of whom is also part of the Cruz family (let's name him Tom). Both Tom Cruz and his opponent Jerry promise to build much-needed health facilities in the city. Additionally, Jerry wants to pay the city's public school teachers better. Everyone knows that Tom would rather use that money for a more visible and less useful project, such as a new bridge that would be named after his family. However, if Jerry wins, the House Representative from the Cruz family faces a conflict of interest: she has an incentive to withhold the funds from Jerry in order to make him look incompetent and lessen his chances of re-election. If these funds are withheld from Jerry, then he would not be able to build the much-needed health facilities in the city. Knowing this, the safer choice for voters to ensure that funds will be able to reach them would be to elect Tom. Thus, even if the Cruz family does not actively interfere in the lives of the people under their rule (and even if they have no plans of doing so), the voters may still tend to act with deference to the family's will by voting in Tom even if they prefer Jerry.

<sup>5</sup> For the purposes of this paper, I assume that the republican criticism of the liberal conception of freedom is correct. That is, that the liberal conception of freedom as 'freedom from interference' fails to account for cases such as the one of the benevolent dictator. This has been challenged by, among others, Carter (1999, 2008) and Kramer (2003, 2008), but I do not engage in the liberal vs. republican freedom debate in this paper as it is not necessary for the argument that I am making.

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There is evidence of such power being used by political dynasties in the Philippines. Tusalem and Pe-Aguirre (2013) found that provinces governed by political dynasties tended to have lower public goods provision in terms of infrastructure and health despite acquiring a higher internal revenue allotment (IRA) from the national government. Moreover, Ravanilla (2015) showed that public funds heavily tended to be disbursed by members of Congress to family members and allies over other local politicians

<sup>7</sup> Of course, the two are not mutually exclusive. In fact, many times what is best for the people under their rule may also be what is best for the interests of the family and its allies.

At this point an important question arises. To what extent is this relationship of dominance unique to political dynasties defined in familial terms? Put differently, can non-dynastic politicians subject people under their rule to the same arbitrary power with other non-familial alliances? Indeed, other non-familial alliances such as political parties, religious groups, and even informal clubs such as fraternities can subject people under their rule to the same kind of arbitrary power that political dynasties do. The example of Tom Cruz could be modified to make him and the House Representative members of the same political party instead of the same family, for instance.

While this may be true, it is important to first focus on political dynasties defined in familial terms for the following reason: Families are generally much smaller groups with much stronger and more persistent ties than other non-familial alliances. This means that the arbitrary power they accumulate is much more concentrated among fewer individuals. As Querubin (2016, 178) argues, "a political system organized around dynasties creates tighter entry barriers into the political system and creates the potential for capture by an even narrower set of interests" compared to a system organized around parties. Moreover, families do not play any important role in the political system unlike parties, who are tasked with 'organizing politics' (Stokes 1999). Thus, in dismantling structural relationships of domination in politics, the logical first target is the political dynasty.

# 2. Dynastic rule as arbitrary power

In the previous section, I argued that individuals can justifiably be prohibited from holding elected office simultaneously with another family member. These individuals hold arbitrary power that makes the people under their rule unfree. In this section, I discuss what exactly makes the power of political dynasties arbitrary. In so doing, I argue against the premise that there are sufficient mechanisms in place to hold 'malicious dynasties' accountable—dispensing with the need for an anti-political dynasty law.

What exactly makes the power of political dynasties arbitrary? Pettit (1997) defines power as arbitrary when there is a lack of control of the conditions under which it materializes. Lovett (2010, 111) provides a similar definition, where power is arbitrary when "there are gaps in the network of effective social conventions [...] governing the possible exercise of social power." In the case of the benevolent dictator, what makes her power arbitrary is the fact that no person or process could prevent her from interfering with her subjects' lives, or hold her accountable if she decides to do so.

This points to two kinds of controls or constraints that would serve to reduce the arbitrariness of an agent's power. The first class involves *filters*: these are preconditions of action in place which make interference in subjects' lives more difficult. These could be, for example, procedures that would only allow certain actions to be done after a process of assessment and deliberation that concludes that the agent's actions are permissible. The second class of constraints involves *penalties*. Examples of these would be mechanisms that remove the agent from her position of power if she were found guilty of such wrongdoing.

Opponents of the anti-political dynasty law could argue that such controls do already exist. Take the case of disbursements of public funds. One filter to ensure that dynastic politicians disburse funds to the appropriate place is that the proposed allocation of the national budget has to be deliberated on by citizens, government agencies, and local, regional, and national government before being enacted. This would mean that dynastic politicians cannot simply claim parts of the national budget without undergoing some checks. After disbursement, agencies and local government units are then required to submit accountability reports to determine whether the funds were used properly and for their most efficient purpose (Department of Budget and Management 2016). This would mean that dynastic politicians cannot simply use their share of the budget for questionable purposes as they please.

There are also punishments that can be given should dynastic politicians choose to exercise the arbitrary power they have over citizens by misallocating the funds they are given: If found guilty under the Anti-Graft and Corrupt Practices Act (1960), these politicians can be permanently disqualified from running for office, in addition to the fines and possible jail time that they face. Moreover, elections are a way where voters can keep them in check. If they suspect or discover that the politician has misused or misallocated public funds (whether or not it is against the law), they can simply vote her out of office during the next election.

Thus, opponents of the anti-political dynasty law argue that the legal and electoral systems in place are sufficient to ensure that the power that political dynasties have over the people under their rule is controlled, and not arbitrary. Contrary to this claim, I argue that the filters and punishments currently in place are not sufficiently able to control the exercise of power of political dynasties over the people under their rule. Even in the presence of these filters and punishments, political dynasties are still able to exercise their power to disburse public funds to promote their families' interests over those of the people under their rule in a manner that is legal. For example, strictly speaking, it is legal for a House Representative to disburse funds to a mayor who is a family member over another mayor, knowing that the money will go to a vanity project that will benefit the family politically instead of towards building much-needed health facilities. Despite being legal, however, this would still entail interference in the lives of the people under their rule: those who would have a claim to and are in need of public services are not being given access to them.

But elections can also ensure that the bad behavior of 'malicious dynasties' is controlled by removing them from their positions of power, opponents of anti-political dynasty law would argue. Empirically, this claim does not hold either. Despite political dynasties being strongly associated with higher poverty and worse governance, they are also more likely to be elected and re-elected at higher rates over time (Mendoza, et al. 2012; Tusalem and Pe-Aguirre 2013, Mendoza et al. 2016). The reason behind this lies precisely in the relation of domination between political dynasties and the people under their rule. To illustrate this, recall the example of Tom Cruz and his opponent Jerry running for a mayoral seat, where another member of the Cruz family is the House Representative for that jurisdiction. Voters know that they are more likely to get more likely to get more funds from the national budget if they vote for Tom rather than Jerry. Moreover, observe that the bigger the dynasty gets, the greater the incentive to vote in the dynastic politican as there is an even bigger chance that the funds will make their way to them. This would happen, for instance, if another Cruz family member ran for a local council position in the same jurisdiction. People in the jurisdiction have an incentive to vote in all three Cruz family members to ensure that the funds will make it all the way from the national government to their local council.

The opponent of the anti-political dynasty law could then respond, "Could these filters and punishments not be strengthened in order to account for any possible abuse of power that political dynasties might exercise?" While definitely worth pursuing, these institutions and mechanisms to control and hold accountable "malicious dynasties" would not be enough to disprove the structural relationship of domination between political dynasties and the people under their rule. Dynastic politicians will always be confronted with a conflict of interest when faced with a choice between maximizing benefit for the family and maximizing benefit for the people under their rule. Moreover, even with these institutions and mechanisms in place, political dynasties undermine political competition and the equality of access to public service. I develop this argument in the next section.

# 3. Towards equality of access to public service

In an ideal situation where political dynasties' power is no longer arbitrary, would prohibiting political dynasties still be justified? In this section, I argue that it is. Prohibiting political dynasties from existing promotes equality of access to public service by promoting political competition and providing opportunities for public office to those without access to the same political, economic, and social capital that dynastic politicians do.

The presence of a political dynasty in a jurisdiction is strongly associated with low levels of political competition (Querubin 2016). Dynastic politicians tend to win elections by larger margins than non-dynastic politicians (Mendoza et al. 2012). This is true even when political dynasties are strongly associated with higher poverty and worse governance (Mendoza, Beja, Venida, and Yap 2012; Tusalem and Pe-Aguirre 2013; Mendoza et al. 2016). One reason for this, as discussed in the previous section, is by virtue of the structural relationship of domination that the example of Tom Cruz and Jerry illustrates. Another reason which exists even in ideal conditions where dynasties' power is controlled is that political dynasties are able to accumulate much higher levels of political, economic, and social capital than their non-dynastic counterparts.

In a clientelistic democracy such as the Philippines, political capital, measured through the electoral advantage enjoyed by a candidate, is passed on to relatives through access to office and public resources (Querubin 2016). "Incumbent congressmen and governors are roughly five times more likely to have a relative serve in these offices in the future, relative to similar candidates who run but do not serve" (178). This effect is even more pronounced for relatives of sitting incumbents, whose electoral advantage is twice as large as that of candidates whose relative in office has already retired (178). The clientelistic networks that an incumbent politician is able to build are bequeathed to her relatives in order to expand the political dominance of the family (176).

Public office can also be used by incumbents to further political dynasties' economic interests. Dynastic politicians possess higher net worth than non-dynastic politicians (Mendoza et al. 2012). Cullinane (1994, 187) draws attention to how "all the assets of [a political dynasty in Cebu]—revenues, land, agricultural commodities, industries, power, and influence—were derived from success at the polls." An incumbent politician's relatives are also more likely to be employed in the public sector, while relatives of non-successful politicians are less likely to be employed in the public sector (Fafchampes and Labonne 2017). This shows how public office is not only used to strengthen the family's power, but also to weaken that of potential challengers.

Political dynasties are also able to accumulate social capital by passing on voters' allegiances to other family members. Social capital is defined as an instantiated informal norm that promotes cooperation between two or more individuals (Fukuyama 1999). In the case of political dynasties and the people under their rule, the informal norm would be 'vote for our family member, and we will ensure that public funds will be able to reach you.' The weak political party system in the Philippines exacerbates this as voters rely on personalism and name recognition instead of past performances or future platforms when deciding to whom to give their

votes (Hutchcroft and Rocamora 2003). To reiterate a point made earlier, even if other non-familial alliances such as political, religious, or social affiliations are also able to accumulate such social capital, the stronger and more persistent familial ties enable political dynasties to concentrate this social capital among fewer individuals. The effect of political dynasties on inequality of access to public service is thus much larger than other non-familial alliances.

The ability of political dynasties to accumulate large amounts of political, economic, and social capital exists regardless of the presence of sufficient filters and punishments to ensure that they do not interfere with the choices and actions of the people under their rule. Thus, even in an ideal world where dynasties' power is controlled and not arbitrary, this leads to a highly uncompetitive political environment where dynastic candidates are always at an advantage compared to their non-dynastic counterparts. An anti-political dynasty law would make the accumulation and concentration of political, economic, and social capital much more difficult to achieve. This would lead to more equal opportunities for individuals seeking public office, as the playing field would be more level and the barriers to entry much lower.

## 4. Conclusion

In this paper, I have provided both an argument against opponents of an anti-political dynasty law, and an argument for why such a law is good even under ideal conditions of perfect control over and accountability for abuses of power. I first showed that the arguments brought against the anti-political dynasty law confine their understanding of freedom as liberal 'freedom from interference'. In doing so, they fail to acknowledge the structural relationship of domination between political dynasties and the people under their rule. What about ideal conditions where political dynasties' power is able to be controlled? I argue that even in such a case, an anti-political dynasty law would still be justified for its positive effect on equality of access to opportunities for public service.

To conclude, I respond to two possible challenges to my argument. First, in how far can these arguments apply to countries other than the Philippines? The generality of the arguments presented in this paper rest on (i) the dynasty having the same power to disburse funds at their discretion, (ii) this power being insufficiently controlled and checked by mechanisms and institutions, and (iii) the accumulation and concentration of political, economic, and social capital in these dynasties and alliances. Indonesia, for example, would be an interesting case study. The House of Representatives passed a Regional Elections Law which prohibited family members of incumbents in national office from running for a regional position (Aspinall and As'ad 2016, 421). However, this was overturned by the Constitutional Court which argued that this ran against equal opportunity for public office (421).

Second, there is then the question of the feasibility of passing an anti-political dynasty law, given that more than two-thirds of the lower house and most of the upper house of the legislature in the Philippines are part of political dynasties. A promising alternative lies in a people's initiative, where citizens can directly propose and enact laws after a petition is signed by at least 10% of the total number of registered voters, where each legislative district should be represented by at least 3% of its registered voters (1987 Constitution, Article VI Section 32). This, of course, has its own difficulties of organization and coordination, but it is better than relying on dynastic politicians to control their own power.

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