

Edsa 1 and Edsa 2 compared

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In two weeks, President Aquino will lead the country in celebrating the 30th anniversary of the Edsa 1 People Power Revolution that took place on Feb. 22-25, 1986. Last month, the 15th anniversary of the Edsa 2 People Power Revolution that happened on Jan. 16-20, 2001, passed without fanfare.

Confluence of events. The two Edsa Revolutions are similar; each was a confluence of unplanned events participated in by both the middle class and the masses (labelled as the “perfumed” and the “unperfumed” by a pundit, and the “bourgeois” and the “proletariat” by an ideologue).

These peaceful revolutions were held mainly at the corner of Epifanio de los Santos Avenue (or Edsa) and Ortigas Avenue in Metro Manila with the active support of the Church (personified by Jaime Cardinal Sin, archbishop of Manila) and the military.

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Without Church and military support, neither revolution would have succeeded in ousting the incumbent presidents, Ferdinand Marcos and Joseph Estrada, and in installing Corazon Cojuangco Aquino and Gloria Macapagal Arroyo in their stead.

From the legal view, the similarity ends there. Edsa 1 was undertaken in contravention of the then prevailing 1973 Constitution, given that Marcos was proclaimed the electoral winner in a legislative canvass of the “snap election” called by him under that Constitution, while Edsa 2 happened within the context of, and with the aim of protecting and upholding, the 1987 Charter.

Legitimacy of Cory gov’t. On Feb. 25, 1986, President Cory Aquino issued Proclamation 1 announcing that she and Vice President Salvador P. Laurel were taking power. A month later, on March 25, 1986, she followed up with Proclamation 3 stating that the “new government was installed through a direct exercise of the power of the Filipino people assisted by units of the New Armed Forces of the Philippines.” In short, Cory did not ascend via the “snap election” or the then existing 1973 Constitution.

From these facts, the Supreme Court—composed of justices appointed by Cory—summarily concluded, in *Lawyers League vs Aquino* (May 22, 1986), that the legitimacy of the Cory government was not a “justiciable” controversy that could be decided by the judiciary. Nonetheless, the people had accepted, and the community of nations had recognized, the new government; ergo, it had become a de jure government.

In *Estrada vs Desierto* (March 2, 2001), the Supreme Court justices—a majority of whom were not named by Cory—affirmed the legitimacy of her rule. In this latter case, the lawyers of

Arroyo argued that, like Cory, she ascended the presidency through people power, had taken her oath as president, had exercised the powers of the presidency, and had been recognized by foreign

countries. These realities allegedly raised a political question and constituted a “political thicket” which the Court could not enter.

Rejecting these arguments, the Court held that “political questions” relate to matters which, under the Constitution, are to be decided by the people in their sovereign capacity, or in regard to which full discretionary authority has been delegated by the people to the executive or legislative branch to decide. A political question related to the “wisdom, not the legality,” of an issue.

The Court added that the 1987 Constitution, unlike its forebears, had trimmed the “political thicket” by giving the judiciary more duties and prerogatives, like the determination of grave abuse of discretion by any branch or instrumentality of the government, and the review of the factual basis for any declaration of martial law, or any suspension of the privilege of the writ of habeas corpus—powers that the Court did not have under the prior Charters.

Edsa 1 different from Edsa 2. In fine, the Court distinguished Edsa 1 from Edsa 2 in this wise:

“EDSA I involves the exercise of the people power of revolution which overthrew the whole government. EDSA II is an exercise of people power of freedom of speech and freedom of assembly to petition the government for redress of grievances which only affected the office of the President. EDSA I is extra constitutional and the legitimacy of the new government that resulted from it cannot be the subject of judicial review, but EDSA II is intra constitutional and the resignation of the sitting President that it caused and the succession of the Vice President as President are subject to judicial review. EDSA I presented a political question; EDSA II involves legal questions.”

In other words, Edsa 1 obliterated the then existing 1973 Constitution and all the government institutions under it, including the Supreme Court. This is why its legitimacy was repeatedly challenged legally, politically and militarily in several coup attempts. (The question of its legality was put to rest after our people ratified the 1987 Constitution.) On the other hand, Edsa 2 did not abolish the 1987 Constitution. Quite the contrary, it preserved it and the public institutions under it.

This is why Estrada vs Desierto went to great lengths in explaining Edsa 2’s constitutionality while Lawyers League vs Aquino is notable for its sheer brevity. Sadly for Arroyo, her public satisfaction rating plunged after her electoral victory in 2004 was severely questioned and her resulting governance vilified as corrupt and ineffective.

In both Edsa 1 and Edsa 2, the Church played a pivotal role. A little-known but serious internal conflict, involving Cardinal Sin and the Vatican, nearly blurred that role. At another time, I will write on this conflict and how it was successfully resolved.

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