

Between Post-occupation and Post-colonial: Framing the Recent Past in the Philippine Treason Amnesty Debate, 1948

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In the first two years after Philippine independence from the United States in 1946, the American embassy in Manila carefully collected reports on the debates over Filipino collaboration with the Japanese occupation of the archipelago from 1941-1945. How were the trials for their treason going? Would there be an amnesty? What did the broader population think about the wartime traitors? What were the political implications of this or that politician's prosecution or support for the prosecutions? Embassy reports were accompanied by attached summaries of conversations between Americans and Filipinos discussing the issue, along with bundles of newspaper clippings on the issue, a majority calling for an end to the treason trials, but with varying and sometimes contradictory lines of argument. The treason trials had not been going well. There was increasing frustration as, after months, almost none of the leading wartime leaders had reached a courtroom, let alone find themselves convicted. Among the clippings kept by the embassy can be found a *Manila Tribune* article published less than two weeks before a partial amnesty was proclaimed by Philippine president Manuel Roxas on January 28, 1948, the editorial worried that any amnesty for only the political collaborators would be unjust: Even if we believed in their sincere motives, it asked, was it then not possible that everyone else who collaborated did so, "because they believed that the political collaborators were sincere? The truth is that political collaboration, whatever might have been its occult nature or purpose, influenced the intensity and scope of all other kinds of collaboration."¹

Below we examine the remarkably extensive Philippine legislative debates in 1948 that constitute a key moment of contestation among political elites over the justifications for the wartime conduct but also a probing reflection on the fairness of issuing a partial amnesty that would exonerate almost all those who served in positions of greatest power but allow hundreds of treason cases of mostly lower class suspects to go forward. The two most detailed studies of the postwar treason trials in the form of Philippine People's Courts see the 1948 amnesty as the climax of a failed process. In his account of the progress of the People's Court up to the amnesty, David J. Steinberg traces the "growing sympathy" of the courts for claims of "justifying circumstances," until finally procedural issues came to dominate each case in the final lead-up to the 1948 amnesty in the form of Proclamation Number 51 by President Roxas which resulting in the dismantlement of the People's Court a few months later.² Steinberg and a more recent historian of the treason trials, Augusto V. De Viana count 156

¹ *Manila Tribune*, January 19, 1948 clipping included in RG59 896.00/1-2848. Philippines Republic: Internal and Foreign Affairs 1945-1949 Confidential US State Department Central Files Film A 575.26 Reel 1 of 35.

² David Steinberg, *Philippine Collaboration in World War II* (Ann Arbor: University of Michigan Press, 1967), 152-163.

treason convictions, out of either 5,603 or 5,556 People's Court cases.³ Steinberg ends his history of collaboration in the Philippines with the amnesty, and understandably so, given that he, like many historians of the occupation and aftermath have been interested in explaining the almost complete co-optation of Filipino elites into the wartime administration by the Japanese military. Elsewhere, I have argued that there is much to learn from the continuation of trials for treason in regular criminal courts, after the amnesty dismantled the special People's court system.⁴ Here, however, we will consider an example of how justice in the case of early postwar political retribution was as much determined by decisions in the legislature as it was in the courts of their creation.

If the 1940s brought to a climax the extremes of a century, it also gave birth to an *age of retribution*. At a global scale, and in uniquely interlocking ways, never has the world seen such a simultaneous combination of attempts to purge betrayal at the level of community, national or local, and punish brutality in the name of the universal. In her work analyzing this process of "political globalization" in the aftermath World War II Margherita Zanasi has shown the ways in which the discourse on Chinese wartime collaboration with Japan closely paralleled and invoked the images and language of its French counterpart through what Rob Wilson and Wimal Dissanayake call "strategies of localization."⁵ Zanasi outlines the way in which Chen Gongbo, one of the leading Chinese Nationalist party figures to have joined and later led a wartime client state under Japanese occupation, embraces a "collaborationist nationalism" that mirrored similar arguments used by the former leading figures of Vichy France to justify their wartime conduct, and argues that the invocation of the French example in postwar Suzhou treason trials situated the Chinese experience within a broader range of responses to the experience of occupation around the world.

The "collaborationist nationalism" embraced by those accused of national betrayal recast the traitor as a sacrificial martyr who, pretending to support the enemy, shielded the nation from the direct blows of the occupier and, in many cases, claimed to have secretly played a "double game" by covertly supporting the resistance. A form of this collaborationist nationalism can be found in the Philippines as it emerged from the destruction of almost half a decade of Japanese occupation from 1941 to 1945. There it was defended by the large number of political elites who accepted positions of authority throughout the Philippines during the Japanese occupation, both before and after the establishment of nominally independent Philippine republic in October 1943, including José P. Laurel, Claro M. Recto,

³ Ibid., 162. See also note 42, 207. He lists 229 "political prisoners" in custody by June 1948, excluding the Hukbalahap rebels. Augusto V. de Viana, *Kulaboretor!: the issue of political collaboration during World War II* (Manila: University of Santo Tomas Pub. House, 2003), 180. The source of de Viana's count is unclear.

⁴ Konrad Lawson, "Universal Crime, Particular Punishment: Trying the Atrocities of the Japanese Occupation as Treason in the Philippines, 1947-1953" *Comparativ*, vol 23, no. 3, pp. 57-77.

⁵ Margherita Zanasi, "Globalizing Hanjian: The Suzhou Trials and the Post-World War II Discourse on Collaboration," *The American Historical Review* 113, no. 3 (June 1, 2008): 733. Rob Wilson and Wimal Dissanayake, *Global/Local: Cultural Production and the Transnational Imaginary* (Durham: Duke University Press, 1996), 2.

Jorge Vargas, Camilo Osias, and Quinten Paredes. Both the “shield” and “double game” arguments were extremely successful, aided in no small part by the rapid collapse of attempts to prosecute treason cases in a People’s Court system established in the summer of 1945. Down to the present day it remains an important component of the dominant narrative of the wartime experience.

The richest harvest here does not come from weighing in on the moral questions being explored here, even if my sympathy for the critics of a partial amnesty may be inferred. Instead, the task below is to connect, on the one hand, what was an intensely national discourse to a broader global one, and on the other what was local in time—the 1948 debate, to the broader development of a post-colonial narrative of Philippine history since the Japanese occupation. These debates reveal the degree to which early postwar Philippine legislators portrayed the issue of retribution as part of a global process after the Second World War faced by many nations emerging from occupation, with wartime choices in the Philippines seen as comparable to those faced by others, especially under German occupations in Europe. These legislators, the first elected to a fully independent Philippine government, often described the issue in a language that would be entirely familiar to many a post-occupation state of the 1940s, going well beyond the transpacific commonalities in legal reasoning we would expect to find between the Philippines and the United States. Joining a trend in scholarship seeking to, as the historian Vicente Rafael calls it, “deprovincialize” the study of the Philippines, the moral arguments raised by legislators here thus contribute to a broader literature on political retribution and transitional justice.⁶ However, this by no means reduces the Philippine experience to reflecting an undifferentiated universal pattern. As we shall see, the Philippine experience of colonial rule under Spanish, American, and finally Japanese rule, with the last of these explicitly proclaimed in anti-imperialist terms, adds a post-colonial dimension to the affair which offered an alternative interpretive framework for wartime conduct of those branded as traitors.

Other wartime allies of the Japanese, from the Indian nationalist Subhas Chandra Bose, to Aung San in Burma, and Sukarno in the Dutch East Indies predominantly justified collaboration with Japan as a *proactive choice rather than a passive sacrifice* to minimize the evils of occupation; a strategic alliance with a new conqueror in the short-term in order to achieve national liberation on their own terms. For a number of reasons, including the particular historical context of the Philippine path from colony to independent, if still largely US-dependent status, in 1946, *this was not the way* most Philippine political debates in the early aftermath of Japanese defeat depicted their choices, even if later biographers, historians, and with great hindsight, some of participants themselves, have highlighted the strategic use of a

⁶ Vicente L. Rafael, “Reorientations Notes on the Study of the Philippines in the United States.” *Philippine Studies* 56, no. 4 (2008), 485.

Japanese occupation to pursue nation-building initiatives.⁷ Instead, seeing things from the perspective of participants of this highly public, and thus inevitably to some degree performative, series of exchanges in their own terms, the post-colonial translation, or “strategy of localization” that can be identified in these postwar debates on treason in the Philippines is instead seen more often in disagreements over the transitive nature of loyalty: under what conditions does loyalty begin and end? Was it never owed, given there was no fully independent nation to be betrayed? Did the debt of loyalty expire at the moment the American colonial masters abandoned their colony to Japanese invaders in 1941? Or did all acts of betrayal vanish with a clean slate at independence in 1946? These issues, more or less delicately broached in these debates, represented a political mine field, as any answer would reflect a particular perspective on the nature of continuity of the state.

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A more important difference with Europe was the reality that Japan’s conquests in Southeast Asia, though often marked by significantly greater mass violence and atrocities, were nonetheless *occupations of already occupied* territory; the domination of one empire, Japan, replacing that of another, such as France, Britain, the Netherlands, or the United States. The defeat of Japan may have been welcome, and Japanese claims to be the vehicle of liberation for Asian peoples against their Western oppressors thoroughly discredited thanks to a combination of the conduct of its own armed forces and its fate in war, but the reality was that an old master was on its way back. The decision of whether to collaborate with Japan or fight in alliance with the Western powers was thus, for many, based more on tactics than ideological affiliation, and for some, including Aung San’s forces in Burma, a decision that could be reversed to great effect when the time was right.⁸

This key difference might lead us to expect the issue of wartime collaboration with the Japanese to take on a very different light in early postwar Southeast Asia. Unlike the widespread trials that took place in countries across Europe, in China, and were eventually attempted in Korea—where treason trials were held for collaborators with a colonial ruler embracing terms similar to other post-occupation states, the issue of collaboration with Japan in Southeast Asia might be expected to be a non-issue, as long as there was a new unity around the pressing nationalist cause against a returning European power. The Philippines differs substantially from its neighbors, however, in the extent to which Filipinos occupied positions throughout the American colonial period, no more so than in the period from the

⁷ For example, David J. Steinberg, “Jose P. Laurel: A ‘Collaborator’ Misunderstood.” *The Journal of Asian Studies* 24, no. 4 (1965): 651–65. One of the most recent examples of this is Jeremy A. Yellen, “The Two Pacific Wars: Visions of Order and Independence in Japan, Burma, and the Philippines, 1940-1945.” PhD diss., Harvard University, 2012.

⁸ This is not limited to non-Western colonial examples. We might note that similar choices faced Ukrainians in Europe, as well as many other irredentist and minority causes in the European context.

establishment of the 1935 Philippine Commonwealth, with its largely autonomous legislative and presidential administration representing a final transitional stage to independence. Though American promises of independence to the Philippines ought to have reduced the temptation to embrace Japan's wartime anti-colonial message, the occupation was marked by an almost complete submission of elites to the occupation regime. Far from a reckoning with those who chose to wave the Japanese flag and take up leading government positions in one of Japan's most brutal occupations, leading figures in Japan's occupation regime such as José P. Laurel, Claro Recto, and Benigno Aquino occupy positions as revered figures in the nationalist narrative, with the grandson of the last of these rising to the position of president of the Philippines in 2010.

Failed Trials and Amnesty in the Philippine Treason Trials

The leading political collaborators with Japan were quickly rehabilitated both politically and in memory. This was facilitated, above all, by the fact that none, save the very first to come to trial, were convicted of treason.⁹ Some Filipinos who worked with the Japanese occupation such as Benigno Ramos and Artemio Ricarte did not survive the war. Others, such as Benigno Aquino, did not live to see the conclusion of their treason trial. The trials of some, including José P. Laurel, were delayed until an amnesty was passed. Many others were saved by a strict two witness rule inherited from American treason law. As clarified in a key 1944 U.S. Supreme Court ruling, “every act, movement, deed and word of the defendant charged to constitute treason must be supported by the testimony of two witnesses.”¹⁰ Similarly binding in the Philippines, this would pose a severe obstacle for postwar trials in the Philippines. It was understandably difficult for Solicitor General Lorenzo M. Tañada to find the testimony of two witnesses to the signing of a treasonous document, or the issuing of a treasonous order when such acts were often carried out in the relative privacy of an office. The overwhelming case load did not help move the process along, either. The special People's Courts established by Commonwealth Act No. 682 in September, 1945 to handle all occupation period violations of Article 114 of the Revised Penal Code, that is, the crime of treason, consisted of a mere five courts with three judges each.

Finally, even without the amnesty to come in 1948, many collaborators had little to fear from the People's Court after it ruled that the holding of government offices during the Japanese occupation neither constituted an overt act rendering “aid and comfort” to the enemy nor provided sufficient evidence of adherence to the enemy—the two required

⁹ The exception was a wartime Minister of Justice and Minister of Home Affairs, Teofilo Sison, who was sentenced to life in July, 1946. Steinberg, *Philippine Collaboration in World War II*, 136.

¹⁰ In the majority opinion by Robert H. Jackson in the 5-4 US Supreme Court ruling of 1944, *Cramer vs. U.S.* Paul Finkelman, Melvin I. Urofsky, and United States. Supreme Court, *Landmark decisions of the United States Supreme Court* (Washington DC.: CQ Press, 2003), 219.

components of any treason conviction in the Philippines as it is in the United States.¹¹ This is a far cry from European examples where membership in a party might be a sufficient condition for a treason conviction, such as the case of Norway, or propaganda efforts on behalf of the enemy might result in a death sentence.

At least at the level of laws and legal rulings, this was also a marked contrast with those targeted for collaboration with Japan in, for example, Nationalist or Communist controlled territories of China or even in the half-hearted attempt to punish collaboration in South Korea, for example, where high office holders were explicitly targeted by early postwar treason laws, even if mitigating clauses offered judges great flexibility. In the Philippines, the bar for adherence to the enemy was set so high that it required the prosecution to virtually step into the hearts of the accused and prove they were completely empty of patriotic feeling. Words spoken in praise of the Japanese Empire or calling for guerrillas to lay down their arms were but the moving of a helpless puppet's lips; war materials sold to the enemy were just the everyday business of an honest merchant. As long as a collaborator spoke other words in private against the occupier or contributed some percentage of their profits to the resistance, the possibility of “feigned cooperation”—the favorite term of the accused and judges alike, could not be ruled out.

The 1948 presidential amnesty in the Philippines did not eliminate the issue of collaboration, it transformed and contained it. The proclamation states that while the People's Court had been trying cases for more than two years it had not reached a final judgment on any “treasonable collaboration with the enemy.” Assuming that final judgment was taken to mean that the appeal of convictions had been ruled upon by the Supreme Court, this was simply untrue. Over two dozen treason convictions by the People's Court had received final rulings from the Supreme Court *before* the amnesty and the original conviction was upheld in the majority of these cases.¹² The claim by Roxas only makes sense if, instead of all People's Court cases, it was limited to treason charges against those emphasized in the opening clause who, “occupied positions in [the occupation] government, as well as against those who traded with the enemy.”

The amnesty for those accused of treason arising from “the last war” justified itself on three basic grounds: a “two witness rule” inherited from American treason law made prosecutions almost impossible, the issue divided the nation at a time unity was needed and that a “majority of the Filipino people” realized that the political collaborators were working under duress as a shield against Japanese brutality. However, the amnesty was limited in a way that would become controversial. It stated that “public sentiment [did] not extend” to military collaborators and those guilty of atrocities in the service of the enemy. Anyone who, “voluntarily acted as spies or informers of the enemy, or for having committed murder, arson,

¹¹ Steinberg's *Philippine Collaboration* provides a good overview of the background of the People's Court.

¹² See Appendix B of Konrad M. Lawson, “Wartime Atrocities and the Politics of Treason in the Ruins of the Japanese Empire, 1937-1953.” Phd diss., Harvard University, 2012, 366-370 for a table very close to this number which were eventually to receive Supreme Court rulings.

coercion, robbery, physical injuries, or any other crime against person or property, for the purpose of aiding and abetting the enemy” would continue to face prosecution for treason.¹³

In effect, cases for the crime of treason would continue, though in regular criminal courts, for anyone guilty of having transformed their acts of betrayal into acts of violence, as well as those who bore arms or supplied intelligence to the enemy.¹⁴ This amnesty was an exercise of executive power, rather than the product of legislation but it required the concurrence of the Senate and House of Representatives before it could take effect. These debates revealed significant disagreement with the president not only over whether such an amnesty was appropriate, but even more over the fairness of its limited scope.¹⁵ It is in these debates that we find illuminating clues to the way in which Philippine legislators viewed their own struggle to deal with the recent past within the broader context of a global process unfolding around the world.

Let us begin with how the story ends. Though many were absent for the vote, the resolutions supporting the amnesty passed on the evening of February 13, 1948 with overwhelming majorities of 50 to 8 in the House of Representatives and 14 to 2 in the Senate. Those who voted against the amnesty in the House included resistance veteran, future leader of the suppression campaign against the Huk rebellion, and eventual President Ramon Magsaysay. In the Senate, opposition included the same Lorenzo M. Tañada who led the treason prosecution effort as Solicitor General until he turned to a political career in the Senate. Despite the easy victory of the concurrence resolution that would end any serious attempt to hold elites accountable for some of the violence of the Japanese occupation or, at the very least, contrast their decision to take up leading positions with those who joined resistance forces that would be hunted and slaughtered by Japanese military and Philippine constabulary forces, the debates over the amnesty revealed a complex array of positions on collaboration and the violence of military collaborators. It generated over a hundred packed pages of transcripts in the congressional record, with a significant portion of this including speeches justifying the votes as they were taken.

Some members of the House of Representatives opposed the amnesty on principle. Hermenegildo Atienza, who represented Manila and was formerly the first post-liberation mayor of the city, was disgusted with the fact that collaborators were not only going free but felt no shame at what they had done. “I cannot be merciful...I cannot vote now for an amnesty under an atmosphere that glorifies collaboration,” he declared.¹⁶ Atienza spoke movingly of his time as a prisoner of the Japanese in Fort Santiago where his friend, the

¹³ Proclamation no. 51 "A Proclamation Granting Amnesty" *Official Gazette*

<http://www.gov.ph/1948/01/28/proclamation-no-51-2/> (last accessed 28. Nov. 2016).

¹⁴ I have explored these post-amnesty trials in Konrad Lawson, “Universal Crime, Particular Punishment”.

¹⁵ American Embassy, Manila to Secretary of State, Despatch No. 176 "Concurrence of the Philippine Congress with the President's Proclamation of Amnesty for Certain Wartime Collaborators" (February 18, 1948) RG 59 896.00/2-1848

¹⁶ Republic of Philippines *Congressional Record: House of Representatives* v. 3, no. 15 (Feb 13, 1948), 330.

guerrilla leader Guillermo Nakar, was offered an alternative to execution: if he accepted a position as the governor of Isabela, the eastern Luzon province where his guerrillas were once active, his life would be spared. He refused and was executed, and Atienza promised his friend that his memory would not be forgotten. “If I vote for amnesty I would have betrayed that trust: I would’ve been recreant to that word I pledged before a dying man.”¹⁷ Enrique Medina of Negros Oriental, and Elisio M. Limsiaco of Negros Occidental, one of the few legislators to deliver his speech in Spanish, also both appealed to the painful experience of guerrillas and cited many specific examples of the damning conduct of collaborationist leaders on the island of Negros in the Visayas. He felt that any mercy offered to the collaborators would “annihilate the patriotic fervor which was the base of the moral character of the people.”¹⁸

“Different conceptions of serving one’s country” - Quintin Paredes and Charles de Gaulle

One of these collaborationist “heroes,” who had served in a number of positions during the war, including Justice Minister and as one of the “Peace and Order Committee” members that oversaw the “pacification” of resistance “bandits,” was among the representatives who participated in the debates: Quintin Paredes. Paredes had a long and distinguished career in the colonial period before the Japanese invasion, serving as Attorney-General, Secretary of Justice, speaker of the house, and the non-voting Philippine Resident Commissioner in the U.S. House of Representatives in the opening years of the Commonwealth from 1935-1939. A short U.S. collaborator profile compiled about Paredes during the war, however, added an unusually acerbic comment to his profile, “Utterly selfish and probably cooperated with the Japanese because he believed they would win the war.”¹⁹ In the final vote Paredes abstained because he was himself involved in, “that drama which we might call a tragic comedy of ‘collaboration’,” but his long speech to the House offered an eloquent defense of his wartime conduct.²⁰

Nowhere here does Paredes invoke the defense that would become somewhat more common in later narratives, which was that the Japanese were but one poor choice among two colonial masters, who could serve to eject the Americans and hasten freedom and release the Philippines from its cultural and economic bondage to the United States. There is anger directed at the United States, but as in the case of many of the accused collaborators, as well as among resistance forces, it was anger at the U.S. for its abandonment of the Philippines in its hour of greatest need when it withdrew its forces in the face of the Japanese invasion. This

¹⁷ Ibid., 334.

¹⁸ Ibid., 346.

¹⁹ In a collection of collaborator profile cards attached to State Department RG 59 896.00/2-747, comment dated July, 1944.

²⁰ One harsh critic of the political collaborators counts 20 out of 98 members of the early postwar House of Representatives who had served in the wartime national assembly. Abaya, *Betrayal in the Philippines*, 70.

abandonment was said to strip Filipinos from their legal responsibilities to defend and obey the Commonwealth of the Philippines or the United States government it served. In other words, at this crucial moment of transition it was a technical legal argument rather than an explicitly anti-colonial (against the United States) or pro-nationalist (for the independence of the Philippines) argument that was deployed. It was the centrality of the argument that collaboration protected the people, rather than helped accelerate their liberation which separates Filipino wartime collaboration with the Japanese from all its counterparts in Southeast Asia, and places it comfortably within a familiar global discourse over wartime conduct in occupation.

By far the longest legislative speech in these debates, the arguments put forward by Paredes shared both in structure, and in specific claims, many features of the speeches and testimonies of accused collaborators around the world of the time: that collaboration with a brutal occupier was one of the purest expressions of patriotic sacrifice. This was why, he argued, some of the other elite resistance leaders spoke up for him and his continued postwar service in government, he suggested. Paredes quoted Charles de Gaulle's justification for including in his 1944 cabinet Jules Jeanneney, who was instrumental in the creation of the Vichy regime in 1940, "I did not go to Vichy then but many who were there believed they were serving their country in their own way."²¹ Whereas some took up arms against the Japanese, others chose the hard task of working with the occupier, it was claimed. As de Gaulle is quoted to have put it in another way, "It was possible to have different conceptions of serving one's country. Today there is only one thing that counts: service to the country."²² It was well-known that de Gaulle was in favor of a relatively lenient policy towards wartime collaborators in the Vichy government, but all the same, he made no effort to stand in the way of the execution of a political collaborator such as wartime prime minister Pierre Laval a few months earlier, denying an appeal for a re-trial.²³

In the Senate debates going on at the same time it was Camilo Osias, wartime education minister under the Japanese and a prominent voice of Japanese propaganda aims, who served as the voice for the political collaborators. Case number 3,528 for treason in the People's Court and also a former Resident Commissioner to the U.S. House of Representatives, his reelection in 1947 was widely quoted as proof the Philippine people accepted his claim when he declared, "I yield to no man in patriotism, and when I served under the Japs I did so because I thought it was my duty to serve my people."²⁴ Of course, Osias and Paredes avoided dwelling on whether those, lower on the chain of command, who

²¹ *Congressional Record: House of Representatives* v. 3 no. 15 (Feb 13, 1948), 377.

²² *Ibid.* A portion of this response by de Gaulle can also be found in "Home Problems of France" *The Times* Dec 28, 1944, 3.

²³ On de Gaulle's perspective on the trials see Peter Novick, *The Resistance Versus Vichy: The Purge of Collaborators in Liberated France* (London; Chatto & Windus, 1968), 157. On his conduct in the final stage of the Laval trial, Geoffrey Warner, *Pierre Laval and the Eclipse of France*, (New York; Macmillan, 1969), 415.

²⁴ Armando J. Malay "Osias Clashes with Pendatun On Amnesty" newspaper clipping attached to American Embassy, Manila to Secretary of State, Despatch No. 176 (February 18, 1948) RG 59 896.00/2-1848.

hunted down guerrillas or pointed out guerrilla suspects to the Japanese military might have shared the same desire to serve their country “in their own way.” On the other hand, Paredes did not distinguish between himself and the more overtly anti-colonial collaborationists more closely associated with the most violent strain of military collaboration at the end of the conflict, such as Benigno Ramos and Artemio Ricarte, who helped lead the most enthusiastic auxiliaries who fought with Japanese troops against the returning Americans and guerrillas, calling them both, “really patriots.”

As for the guerrillas, Paredes was somewhat sympathetic, but justified his own wartime appeals for them to abandon their cause. Vicente Rafael has pointed out that during the occupation, elite collaborators “reversed the meaning of signs: ‘collaboration’ was really ‘resistance’ against the Japanese while ‘resistance,’ especially on the part of guerrillas in the countryside, was really ‘collaboration’ with the United States,” but in the early postwar period Paredes recasts his own wartime “pacification” speeches by claiming his real message to the guerrillas at the time was that they should not act, “until you have the *triumfo* cards in your hands...”²⁵ In other words, Paredes diverged somewhat from the French counterparts he liked to refer to who described a “sword and shield” relationship between the resistance and the Vichy regime. In France, the resistance was a sword against the Germans while Vichy was to have served as a shield against German atrocities, the message Paredes had for his wartime opponents in the countryside was to rest the sword until victory was imminent.

“That which is reasonably required by civilized justice”

Whatever their final vote, there were many more who spoke out in favor, not just of a partial amnesty for economic and political collaborators, but a complete and universal one for all crimes of treason during the war. Again their arguments stemmed from different basic principles. Damaso T. Samonte, representing Ilocos Norte on the northwestern tip of Luzon saw the very idea of amnesty as, “putting a bandage on a gangrenous wound,” which could not “cleanse the nation's wounds of a highly potent and virulent virus.”²⁶ Did heroes such as Jose Abad Santos, a supreme court judge who was executed by the Japanese for refusing to collaborate, he asked, die in vain? The Philippines was not alone in facing this problem after the war but its other allies did not exhibit the, “sickly sentimentality of Christian charity and a mistaken concept of unity,” shown by President Roxas. He went on,

Where are the Quislings now? Laval of France had long been carted away to the eternal sleep of infamy. Vidkun Quisling of Norway, Josef Tiso and Karl Hermann Frank of Czechoslovakia, Anton Mussert, the Fuehrer of the Netherlands, Leon Maria Joseph Ignace De Grelle of Belgium, and many

²⁵ Rafael, Vicente L. *White Love and Other Events in Filipino History* (Durham: Duke University Press, 2000), 110. *Congressional Record*, v. 3 no. 15 (Feb 13, 1948), 383.

²⁶ *Congressional Record: House of Representatives*, v. 3 no. 12 (Feb 10, 1948), 211.

more others have long been liquidated without much of a ceremony except that which is reasonably required by civilized justice.²⁷

However, if amnesty was inevitable, Samonte argued, then it should be for everyone. “I do not see any justice in exculpating the brain that schemes and convicting the hand that executes. The finger man is just as guilty as the trigger man.” On the contrary, if anything it was the political collaborators who deserved more punishment. “His racket is wholesale. He encompasses the entire mass of citizenry within the broad sweep of his perfidy.”²⁸

Lorenzo Sumulong, a representative from Rizal, east of Manila, who later became known worldwide for sparking the Krushchev shoe-banging incident when he was the Philippine representative at the United Nations in 1960, was also disturbed to learn that, “the mercy to be extended will be given only to the brains and buy and sell tycoons of the occupation” and not the, “ignorant simpleminded credulous Filipino,” whose only crime was that he was, “ready to believe the utterances of the prominent men of his time.”²⁹ As was repeatedly pointed out in the debate, only a paltry 15% or so treason cases were covered by the amnesty. According to a count by Representative Toribio Perez, there were some 472 cases involving political collaboration, 355 economic, and 100 related to cultural collaboration that were eligible for amnesty. However, those ineligible for the amnesty being debated were 2,677 cases involving espionage, enemy agents, spies and informers and another 2,925 cases involving military collaborators who were members of the Bureau of Constabulary, an infamous auxiliary organization known as the Makapili, as well as police and related organizations.³⁰

Overt comparisons between the current issue of collaboration and similar moral challenges under the colonial rule of the United States or Spain were relatively rare in the speeches of the debate. One such reference did not come from accused collaborators or their supporters, but from Sumulong, who was deeply critical of a partial amnesty for elite collaboration. Was not Goebbels, he asked, “more monstrous and formidable” than the ordinary soldier, even he if never entered the field of battle? Sumulong was willing to accept the fact that the prominent men were “unwilling instruments” but were they not, “bigger and deadlier enemies than the ordinary soldier who takes up arms in the fields?”³¹ When Mateo M. Nonato questioned how one could call for a full amnesty for those, “bastards that ought to be hanged” for serving as informers and spies who were directly responsible for death of many Filipinos, Sumulong reminded the assembly that Filipinos had killed each other and

²⁷ *Congressional Record: House of Representatives*, 215. Laval and Quisling were shot in October, 1945. Karl Hermann Frank was publicly hanged and Mussert shot in May, 1946. The wartime Slovakian leader Jozef Tiso was hanged in April, 1947. However, Samonte was wrong about Leon Maria Joseph Ignace Degrelle, who escaped capture and fled to Spain.

²⁸ *Ibid.*, 212.

²⁹ *Ibid.*, v. 3 no. 13 (Feb 11, 1948), 243.

³⁰ *Ibid.*, v. 3 no. 8 (Feb 4, 1948), 86. These numbers are not mutually exclusive. It is not clear how many individuals the cases covered, since most individuals were prosecuted on multiple counts of treason that could fall into more than one category.

³¹ *Ibid.*, v. 3 no. 13 (Feb 11, 1948), 242-243.

acted as informers during the Philippine-American war but the United States had been willing to forgive and forget in the aftermath. “Why should our government be more strict or rigorous with these countryman of ours who are misled perhaps during the occupation?”³² Sumulong was not referring to the Philippine-American war in order to laud the anti-colonial efforts of that earlier age, including the efforts of the recently deceased Artemio Ricarte, who got to fight his cause one last time under Japanese sponsorship, but rather to propose the emulation of the supposed indiscriminate magnanimity of the United States in the aftermath of a bitter war in which the colonial power was itself guilty of torture and brutal counter-insurgency campaigns.

Another reference to the unusual challenges of Filipinos faced under their dual occupation of the United States and Japan is found in Samonte’s speech also calling for equal treatment of elites and lower-level collaborators. While he does not directly invoke the previous anti-colonial war, he reminds congress that the maze of loyalties was not easy to navigate,

The Filipino soul, if we may be permitted to glean from this dismal state of affairs, is a sorely harassed soul. It is laboring in a labyrinth of perplexing contradictions. It is confused and bewildered. It is suffering from spasmodic contortions and distortions, as if undergoing the throes of penitential ablution.³³

Overall, however, for Samonte, Sumulong and several other representatives such as Tapacio Nueno the most troublesome aspect of the partial amnesty was that it was a clear case of social injustice that effectively discriminated on the basis of class. Esmeraldo Eco, representing Camarines Norte in the southeast Bicol region of Luzon, was outraged for the same reason, “The most lamentable fact is that those men who held important positions during the occupation, the ranking officers of the Philippine Constabulary who issued orders to the buck privates...who were responsible, perhaps, for all the miseries and sufferings of our people are the only persons who will be benefited by this grant of amnesty.” He was not against either a general amnesty or even a partial one but, “if amnesty is ever to be given, I repeat, it must begin not from the very top, but from the rock bottom.”³⁴ Alejo S. Santos, representing Bulacan, to the north of Manila, protested, how could Eco suggest that those with blood on their hands go free first? It was, said Eco, a matter of command responsibility—a relatively new legal principle making its first major debut with prosecution and execution of General Yamashita Tomoyuki in a Philippine-based American military court in December, 1945. Santos disagreed, embracing a remarkable inverted version of the “just following orders” defence which Japanese soldiers prosecuted for war crimes in the

³² Ibid., 249.

³³ Ibid., 212.

³⁴ Ibid., no. 14 (Feb 12, 1948), 286.

Philippines would have little luck with in their own trials.³⁵ While the soldiers carrying out atrocities were culpable, Santos argued there could be no command responsibility for commanders who were themselves not free to act.

In the Senate, Lorenzo M. Tañada, speaking from his experiences prosecuting treason cases, also denounced the, “discriminatory, unjust and vague” partial amnesty that left the “poor and ignorant” to languish in prison. In addition, he already foresaw one of the weaknesses in the exception provided by the amnesty. Was it not strange, Tañada argued, that someone accused of treason for acts of rape would go free, because it was not explicitly mentioned in the amnesty, while someone accused of treason for acts of robbery would not?³⁶

These opponents of partial amnesty concentrated on the objective fact that it was overwhelmingly members of the lower classes who were accused of the crimes of torture, murder, other acts of violence carried out on behalf of the enemy, or of enabling such atrocities in their capacity as informants. Calling for equal treatment of crimes likely to have been carried out by those higher (not directly violent but complicit) and lower (likely to be actually carrying out the acts of violence) in the wartime hierarchy, these arguments were often tinged with not a little patronizing language. It was implied that it was only their poverty, their ignorance, and their susceptibility to propaganda which led them to commit such acts. Just as many of those who favored amnesty for political collaborators took at face value their claims to have been motivated only by patriotic sacrifice, most of those who argued for a general amnesty studiously avoided confronting the possibility that the common man might also act out of personal revenge, greed, or a love of power. If political collaborators were innocent because, it was suggested, they could not prevent the brutality of the Japanese, the “smaller fries” or “los pequeños colaboradores,” as they were referred to, were innocent because, in their ignorance, they could not be expected to refuse orders to carry it out.

As we saw above, Alejo S. Santos was not so sympathetic to military collaborators among the lower classes and he was in a better position to speak against them. Santos was a wartime guerrilla leader, a future defence minister, and formerly one of the few delegates elected to the House of Representatives from the leftist Democratic Alliance, which included the Communist Party and representatives of the Hukbalahap guerrillas who would be formally declared an illegal organization only two months later.³⁷ Santos argued that it might be true that a partial amnesty would mostly favor the elites, but it was equally true that the help of some of these collaborating elites was of great assistance to the guerrillas. It was also

³⁵ For work in English on the prosecution of Japanese war criminals in Philippine courts, see Sharon Williams Chamberlain, “Justice and Reconciliation: Postwar Philippine Trials of Japanese War Criminals in History and Memory” (Ph.D., The George Washington University, 2010).

³⁶ “Tañada Blasts Amnesty Move: ‘Unjust, Vague’: Favors Top Men, Leaves Lowly to Suffer Penalties” newspaper clipping attached to American Embassy, Manila to Secretary of State, Despatch No. 176 (February 18, 1948) RG 59 896.00/2-1848.

³⁷ Santos would later join the Nacionalistas, serve as defense secretary and run against Marcos for President in 1981. The Huks were declared illegal by Roxas on March 6, 1948. “The President’s Month in Review: March 1948” *Official Gazette* <http://www.gov.ph/1948/03/01/official-month-in-review-march-1948/> (last accessed 28. Nov. 2016)

undeniable which of the traitors were the most despised by the wartime resistance: the auxiliary organizations such as the “Makapili” active only in the final months of the war would meet a harsher form of justice beyond the courts of law if released.³⁸

Santos did not buy the argument that the masses were docile creatures merely following the orders of the leading puppets. Directly countering the argument of the editorial which opened this piece, he said, “Makapilis could never say that they became Makapilis in response to the speeches of Mr. Vargas or Dr. Laurel or anybody else.”³⁹ Yet even Santos preferred a general amnesty to a partial one so that the country could finally, “give this collaboration question to oblivion,” perhaps because he knew a different kind of justice awaited the military collaborators upon their release—that of liquidation at the hands of Huks, other guerrillas, or members of their own communities.⁴⁰ Though many representatives made calls for a general amnesty instead of a partial one they acknowledged that they stood on weak constitutional grounds when they contemplated a refusal to concur with an executive proclamation and demand its modification. Some representatives, including Cosme P. Garcia, Marcial O. Rañola, and Simeon G. Toribio, didn't think it was worth the effort to make a rousing speech in favor of a more general amnesty and merely declared their preference for it when announcing their vote.

“The glorious pages of our past”

We have seen that the debate over the crime of collaboration was carried out without much reference to the peculiar colonial predicament of the Philippines; that of having faced Spanish, American, and then Japanese occupiers. The debate made use of contemporary European examples to situate its treason debate in a global context. Those who supported the amnesty largely depicted the wartime conduct of elite collaborators as men who made a bold sacrifice to protect their people, a language that would be recognizable in many other early postwar debates in Europe, China, and Korea. The work of rebranding the Philippine wartime experience from a post-colonial perspective and one which accounted for the complexity of tangled loyalties would come, but was not dominant in these debates two years after independence. In this early postwar period, the more narrow legal argument of cancelled loyalties in the face of an abrupt American withdrawal or the legal obligation of a people to occupation governments in war was more prominent, an argument raised by Paredes in his speech, but most well developed in the postwar writings of the wartime foreign minister Claro Recto.⁴¹

³⁸ *Congressional Record: House of Representatives*, no. 14 (Feb 12, 1948), 293-4.

³⁹ *Ibid.*, 298.

⁴⁰ *Ibid.*, 303.

⁴¹ See for example Recto's defense of the wartime collaborators in Claro Recto, *Three Years of Enemy Occupation: The Issue of Political Collaboration in the Philippines* (Manila: Cacho Hermanos, 1985).

One other significant reference to the colonial past was to come found, not in the English-language speeches that comprise the vast majority of debate in the congressional record, but in the Spanish-language speech of congressman Vicente Logarta from Cebu. Logarta, a former journalist went on to serve in various positions for the Nacionalista party. He was thus no radical, but had witnessed Japanese atrocities first hand, early on in their invasion, rather than during its desperate and violent Japanese retreat in the face of the American re-invasion which shaped the most violent war memories of many Filipinos. According to the diary of former Philippine Governor-General Francis Burton Harrison, on a visit to Bulacan province in 1942, Logarta had found that 110 of 176 teenage girls raped by the invading Japanese had died.⁴² When the war ended, however, and he joined the debate on treason in congress, Logarta did what none of the other legislators did in the same explicit manner, he immediately invoked, “the glorious pages of our past” which had been a rallying cry under Japanese and collaborator propaganda. He reminded the chamber of the 1896 execution of José Rizal at the hands of fellow Filipinos in Spanish service. After recounting the heroic career of Rizal and his fate, Logarta concludes,

And there you have the strange paradox of a man who died, executed as a traitor, and yet, nevertheless, in the hearts of his people, his memory lives as the embodiment of the most sublime patriotic desire.⁴³

This was not the ‘patriotic’ sacrifice argument of Quintin Paredes, who argued that his difficult choice was one out of necessity to save lives. It invoked another kind of patriotism: the cause of Filipino independence which had been invoked against Spain and the United States which the Japanese occupiers attempted to co-opt. It was this last case, so recently on everyone’s mind, which had, to some degree, contributed to its temporary discrediting, even if the Philippines was now two years from the end of formal colonial rule. While he would go on to echo some of the other oft-repeated defences of elite collaborators, in the opening of his speech, Logarta cut through the ‘shield’ defense and bypassed the debates over wartime violence, to consider what he thought was the heart of the matter,

For us, in contrast with the theorists, those who, driven by a blind scholasticism, insist on framing the philosophy of the crime of treason with their jargon and a rigid and inflexible canon—those of us who live in a world of realities, we want to understand the crime of treason always in relation to the idea of the nation. We might even venture to say that this crime is almost always a patriotic act, found legitimate or base according to how and by who it is judged.⁴⁴

It was all a matter of perspective. Building on a foundation of references to Rizal and the Philippine revolution of the late nineteenth century, Logarta would in rapid succession invoke examples ranging from the signatories to the U.S. declaration of independence, General Philippe Pétain’s, and Gandhi all as examples of how leaders might be variously seen

⁴² Harrison, Francis, *Diary of Francis Burton Harrison*, June 13, 1942 republished on the *Philippine Diary Project* <http://philippinediaryproject.com/1942/06/13/june-13-1942-3/> (last accessed 28. Nov. 2016)

⁴³ *Congressional Record: House of Representatives* no. 13 (Feb 11, 1948), 262.

⁴⁴ *Ibid.*, 263.

as patriots to some and traitors to other. Gandhi was brought up not as a traitor to British empire and a anti-colonial hero to supporters of Indian independence, but as someone who might be seen as a traitor to both the supporters of a, “united India and a free Pakistan.”⁴⁵ In the face of such tragic confusion, Logarta’s speech culminated with a call to defend the charismatic leaders or “caudillos” of “our political, social, and economic life.”

It does not seem likely that the “long view” of history invoked by Logarta necessarily had any connection to the language of its delivery, as we saw other Spanish speaking legislators such as Elisio M. Limsiaco speak in familiar terms against the amnesty. Spanish, though a minority language in the debates considered here, mixed in smoothly with English in both legislative debates and other legal contexts through the Spanish-Filipino elites that used it, including in supreme court rulings by judges such as Guillermo Pablo, and serves as a linguistic reminder of the historical and ethnic layers in Philippine society. Vicente Rafael has explored the “linguistic dimension” of wartime collaboration and suggested that the “emptiness” of collaborationists speeches stems from the foreignness of the English language to elites who spoke mostly Spanish to each other, allowing them more easily, “separate their intention from their words.”⁴⁶ This may have been the case, but taking this too far would complicate the task of a historian examining the diversity within the English language speeches that constitute the majority of these postwar debates. Was Quintin Paredes, speaking in English, finding it just as easy to separate his intentions from his words when he defended his wartime speeches in 1948? Are we to view the words of Timoteo P. Ricohermoso, who spoke both languages in the debates, with more suspicion when he spoke English than when he switched to Spanish? Where language ends and race or class and race begins could also be a challenge. The Counter Intelligence Corps officers of the United States military, which compiled the reports on suspected collaborators on its return with MacArthur’s forces, if anything was deeply suspect of anyone from the Spanish and Spanish mestizo elite community of Philippine society, seeing them as particularly prone to Falange-inspired fascist conspirators, even if pre-war sympathy for the Nationalists in Spain’s civil war had in fact cooled considerably.⁴⁷

Logarta’s invocation of older national heroes was unusual, but his broader points match a strategy found more broadly: turning the focus away from particular acts or the moral dilemma faced by all Filipinos in wartime to an alternately more philosophical or at least legal question of who owes loyalty to who and when. We have seen this already in other examples, but variations of this can be found throughout early postwar debates. The entire speech of Cipriano S. Allas, a lawyer and representative from Pangasinan who was part of a presidential committee established to study the amnesty, might be given the title of one of questions he posed, “What is allegiance?” The highly technical answer he offered took him on

⁴⁵ *Ibid.*

⁴⁶ Vicente Rafael *White Love*, 111-112.

⁴⁷ See Florentino Rodao, “Spanish Falange in the Philippines, 1936-1945,” *Philippine Studies* 43, no. 1 (March 1, 1995): 3-26.

a historical journey that included stops in 1600 England, Maine of 1812, the American treason case of Eva Tagore, and pardons and amnesties following the American Civil War. His primary argument rested on a theory of “abrogated sovereignty” which meant that the political law of treason was abrogated in 1946 with the establishment of the new Republic of the Philippines.⁴⁸ Skipping the issue of wartime harms or collaborationist nationalist strategies entirely, his long discourse, steeped in the Anglo-American legal tradition, ironically leads him to make one of the statements with the most post-colonial ring of the entire debate, “why should we be harsh against our people, if it is a crime against the United States?”⁴⁹

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The votes to concur with the amnesty brought to a close political debates on collaboration for half a decade, even though it affected a small minority of cases.⁵⁰ The People's Court itself was, despite its modest scope, an expensive burden on the state treasury and abolished by Republic Act 311. The 1946 budget set its cost at P650,000, and during the 1948 debates its annual cost was quoted at P1,126,570. Putting this into perspective, the operating budget for the Department of Justice as a whole in 1947 was only P1,700,000 and the entire estimated government revenues for the 1947-1948 fiscal year was P130,000,000.⁵¹ Those costs did not entirely disappear, however. As we have seen, the majority of treason cases were not covered by the amnesty and were thereafter returned to regular criminal courts. Though the budget provided was cut well out of proportion to the number of cases eliminated by the amnesty, Act 311 still provided P375,000 to pay the costs for remaining treason prosecutions and wages for fifteen Special Attorneys dedicated to those cases. The dismantlement of the People's Court, an institution which represented the surgeon who operated upon the “gangrenous” wounds of the nation, together with the amnesty proclamation and resolutions of concurrence supported widely across party and factional lines, did much to take the issue out of the public eye.

The 1948 debate over the amnesty, the outcome of which was never much in doubt, nonetheless provided an unparalleled moment to see a full range of possible interpretations of the dilemmas faced by the Philippine people under Japanese occupation. Though opponents

⁴⁸ *Congressional Record: House of Representatives* no. 14 (Feb 12, 1948), 278-9, 284.

⁴⁹ *Ibid.*, 278.

⁵⁰ The debate would emerge again when Quirino pardoned several hundred collaborators still in prison in 1953.

⁵¹ The 1948 cost is quoted by Toribio Perez in *ibid.*, v. 3 no. 8 (Feb 4, 1948), 84. The 1946 budget for the People's Court is in Republic Act no. 1 "An Act Appropriating Funds For The Operation Of The Government Of The Commonwealth Of The Philippines Beginning July First, Nineteen Hundred And Forty-Six Until The General Appropriations Act For The Fiscal Year Nineteen Hundred And Forty-Seven Is Approved"

http://www.lawphil.net/statutes/repacts/ra1946/ra_1_1946.html (last accessed 28. Nov. 2016). The 1947 revenue estimate is from "Message On the National Budget for the Fiscal Year 1947-1948" (Feb 11, 1947) *Official Gazette*

<http://www.gov.ph/1947/02/11/message-of-president-roxas-on-the-national-budget-for-the-fiscal-year-1947-1948/> (last accessed 28. Nov. 2016)

of a partial, as opposed to a full amnesty spoke to a sense of the class injustice of punishing only those most proximate to the violence, rather than those who held power above them, only a few of these legislators could claim strong personal familiarity with the the lives of the poor. Sumulong could, at best, claim a grandfather who was originally a tenant farmer. Perhaps the most prominent exception was Ramon Magsaysay whose humble origins as the son of a trade school teacher would become one of his most loved characteristics in his future presidential campaign. Though no clear pattern emerges in terms of what position they took in the debate, many of the most active participants in the 1948 debate, including Samonte (b. 1901?), Sumulong (b. 1905), Magsaysay (b. 1907), Santos (b. 1911), and Eco (b. 1908), are all of a younger generation of politicians born in the first dozen years or so of American colonial rule, as compared to those whose wartime conduct gave rise to the debate such as Quintin Paredes (b. 1884), Camilo Osias (b. 1889), or Claro Recto (b. 1890), and José P. Laurel (b. 1891).

One of the most appealing aspects of these debates was a relative lack of uniformity or adherence to clearly identifiable factions. The positions put forward are marked by considerable internal diversity and an impressive range of moral, legal, historical, and as we have seen, globally connected lines of argument are put forward. In a now classic lecture from 1997, “Orientalism and the Study of Philippine Politics,” Reynaldo Ileto critiques a series of historians of the Philippines, in some cases for their habit of “highlighting cultural difference” of Filipinos, invoking their “peculiarities,” or producing explanations on the basis of basic traits that are seen as naturally guiding the political process in the Philippines.⁵² There is, of course, no shortage of unique aspects to the postwar Philippine debates over wartime collaboration, the most important omission here being an exploration of the way in which important differences in local and regional experiences before and during the war shaped the positions of the legislators. To this we must certainly add the particular post-colonial nature of their context. However, whether through the deeply historical legal heritage appealed to by Allas within a specifically Anglo-American context, or the European comparisons made by opposing legislators such as Samonte and Paredes, an overemphasis on what is singular denies a place for these rich debates in a broader global history of the politics of retribution, one that the participants clearly saw themselves taking part in.

⁵² Reynaldo C. Ileto, “Orientalism and the Study of Philippine Politics.” *Philippine Political Science Journal* 22, no. 45 (December 1, 2001): 1–32.