Philippine Senate rewrites impeachment rules to clear path for Duterte's removal

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On September 23, the Philippine Senate, sitting as an impeachment court, voted to set aside the Constitution's requirement that two-thirds of all 24 senators—16 votes—were needed to convict Vice President Sara Duterte. It ruled instead that the number of votes required would be calculated using only those senators deemed "legally and factually capable" of participating when judgment is rendered.

The political faction of President Ferdinand Marcos Jr has used the courts, the Ombudsman and the international machinery of prosecution to force four Duterte-aligned senators out of the impeachment court. Ronald dela Rosa is in hiding from an International Criminal Court warrant; Jinggoy Estrada and Rodante Marcoleta are imprisoned on non-bailable plunder charges; and Loren Legarda remains abroad under the pressure of an Ombudsman investigation.

The Senate has now written their removal into the arithmetic of the trial. Their exclusion lowers the votes required to convict from 16 to 14. Force out one more senator and the threshold falls to 13—the precise number that voted to change the rule.

Duterte is the clear frontrunner for the 2028 presidential election. In the latest Pulse Asia survey, 34 percent named her their preferred candidate, 20 points ahead of Senator Raffy Tulfo, her nearest rival. Conviction would remove her from office and permanently disqualify her from public life.

The Marcos faction is thus attempting to accomplish through prosecution what it cannot secure at the polls. It has altered both the composition of the impeachment court and the votes required for conviction, producing a constitutional crisis that now threatens a direct confrontation between the Senate and the Supreme Court.

The bitter conflict between the Marcos and Duterte factions is driven by the crisis that US imperialism has produced throughout the region.

The US drive to war with China has destabilized the Indo-Pacific and compelled every section of the Philippine bourgeoisie to reckon with the country's place in the unfolding stages of a global war.

Marcos has responded to Washington's pressure by integrating the Philippines ever more completely into the American war front. The Pentagon has secured expanded access to Philippine bases, deployed missile systems on the islands facing Taiwan and converted annual military exercises into rehearsals for war with China.

The Dutertes articulate the interests of sections of the bourgeoisie seeking expanded Chinese investment, trade and markets. Securing these interests requires improved relations with Beijing and a measure of distance from Washington. Sara Duterte's victory would threaten to disrupt the military arrangements established under Marcos.

Washington therefore has an immense stake in preventing her from assuming the presidency in 2028. Its influence is embedded in the very institutions now being used to clear Duterte's supporters from the Senate.

At the center of this legal machinery stands the Office of the Ombudsman, headed by Marcos appointee Jesus Crispin Remulla.

In June, Remulla travelled from United Nations meetings in New York to Washington. Philippine Ambassador Jose Manuel Romualdez later disclosed that he held private meetings with the US Justice Department and the World Bank's Integrity Vice Presidency. Neither government identified the participants, agenda or outcome. Washington issued no readout.

Within a week of his return, Remulla announced a non-bailable plunder case against Marcoleta. Charges were filed on July 3; three days later Marcoleta was arrested and another Duterte vote was struck from the impeachment court. On July 31, Remulla announced a preliminary investigation of Legarda and her son. Two

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days later, Legarda left for France, where she has remained.

The US has cultivated the Ombudsman for years through funding, prosecutorial training and direct collaboration with the Justice Department. The financial evidence in the impeachment comes from the Anti-Money Laundering Council, the Philippine partner of the US Treasury's Financial Crimes Enforcement Network.

The Marcos faction is now moving against a fifth senator, Robin Padilla.

Padilla drove Senator dela Rosa from the Senate compound on May 14 as police sought the former national police chief on an ICC warrant. The Justice Department is investigating Padilla for obstruction of justice, while a second complaint is before Remulla's Ombudsman. Padilla insists that no Philippine court had issued a warrant and there was therefore no lawful arrest to obstruct.

Padilla need not be expelled from the Senate. Detention, preventive suspension or any legal restraint that renders him "incapable" of participating could strike him from the shifting equation of impeachment.

Other senators are being subjected to similar pressure. Camille and Mark Villar face criminal and administrative complaints alleging that they used their offices to benefit PrimeWater, their family's water utility company, through agreements that imposed excessive rates and disadvantageous terms on public water districts.

Mark Villar, previously counted among Duterte's Senate allies, supplied the decisive thirteenth vote for the new rule. Alan Peter Cayetano is under investigation over alleged irregularities in the 2019 Southeast Asian Games and infrastructure projects in Taguig.

Every faction invokes democracy and the Constitution. In practice, the impeachment has assumed the methods of a mafia turf war. Senators are prosecuted, imprisoned or threatened until they either disappear from the chamber or supply the votes demanded of them.

The Constitution is not governing this struggle; it is being rewritten in the course of it. The Senate has converted the Marcos faction's removal of its opponents into the legal basis for lowering the threshold needed to destroy Duterte. A constitutional crisis is not the accidental outcome of these proceedings. It is their necessary product.

The Constitution states that no person may be convicted without "the concurrence of two-thirds of all the Members of the Senate." It does not say two-thirds of those present or those whom the impeachment court chooses to count.

Two petitions now before the Supreme Court challenge the Senate's power to alter the threshold. The Senate has announced that it will proceed unless restrained. Should it convict Duterte with fewer than 16 votes, the country will confront two rival claims to constitutional authority: the Senate declaring her removed and the Court determining whether the judgment ever had legal force.

The Marcos-controlled House supplies the votes and state authority for the impeachment. Its prosecutors and public face, however, are drawn from the forces that present themselves as Marcos's democratic and left-wing opposition.

Liberal Party figures Leila de Lima and Kaka Bag-ao serve on the prosecution panel. Akbayan Representative Chel Diokno leads the financial case against Duterte. Makabayan filed the first impeachment complaint; its Kabataan representative, Renee Co, serves as an official prosecution spokesperson, while BAYAN, Karapatan and Kilusang Mayo Uno organize support outside the Senate.

These forces are not incidental supporters of the impeachment. They supply its prosecutors, complainants, spokespeople and street mobilizations. The Liberal Party, pseudo-left Akbayan and Stalinist Makabayan bloc provide the democratic and human-rights language for the consolidation of power by the son of the former dictator.

The Marcos faction is wielding the impeachment to eliminate its rivals, subordinate every branch of the state and clear the 2028 presidential field for a candidate acceptable to Washington.

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