

The 1987 Constitution: Fossilizing Material Law Jurisprudence

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32 ATENEO L.J. 71 (1988)

SUBJECT(S): CONSTITUTIONAL

KEYWORD(S): MARTIAL LAW, PRESIDENT, WRIT OF HABEAS CORPUS

This Note compares the provisions of the 1987 Constitution from that of the older Constitutions on the matter of the President's Martial Law powers with careful regard of our very own Martial Law experience and the jurisprudential decisions that the same has bred.

Thus, where the duration of the exercise of these powers lies, then, in the sole discretion of the President, it is now limited by the new Constitution to 60 days. The President is now also required to report to Congress either in person or in writing within 48 hours from the suspension of the privilege of the writ or the imposition of the Martial Law. For its part, Congress is now empowered either to revoke the suspension or the imposition or to extend the same, subject to the guidelines provided in the law. Meanwhile, the Judiciary is authorized by the new Constitution to review the sufficiency of the factual bases for the suspension or imposition in an appropriate proceeding filed by any citizen.

Whether these new provisions have effectively diluted the Executive's ability to meet emergency situations, the Author submits that what the new Constitution has done really is to distribute the power of Martial Law among the three coordinate branches of government where it was concentrated previously in the powers of the President as Commander-in-Chief.