

The Faces and Uses of the “Political Questions” Doctrine: Reflections on Habeas Corpus, the “PCO”, and Bail

Joaquin G. Bernas, S. J.

28 ATENEO L.J. 1 (1983)

TAG(S): CONSTITUTIONAL LAW, POLITICAL QUESTION, HABEAS CORPUS

In this Article, Father Bernas dissects the “political question vs. justiciability” doctrine in light of three (3) things: (1) the habeas corpus decisions of the President under the Commander-in-Chief clause of the Constitution; (2) the Presidential Commitment Order (PCO), and; (3) the right to bail. He mainly contends that based on the decisions of the Supreme Court on the above-matters, it is clear that an imperial presidency has been created. This presidency, he claims, is even more imperial than the American model. More concretely put, the Author posits that due to the proven tendency of the Judiciary to shy away from deciding apparently “political questions,” the presidency is rendered immune from checks and balances embodied in judicial review on the exercise of its powers.