

Testing Constitutional Waters IX: The Constitutional Parameters of the Exercise of Executive Powers in Non-International Armed Conflict Situations

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For over three decades, the Philippines has been plagued by clashes with several insurgent groups. This has placed the country under risk, with the Filipino citizens caught in the crossfire. In response, the 1987 Philippine Constitution clothed the President with awesome powers in order to properly control the situation and to ultimately achieve peace with the rebels. Recent legislation has been set in place that penalizes the perpetrators of terrorist acts and violators of International Humanitarian Law. The past Presidents also entered into peace agreements with the leading militant groups — the Moro National Liberation Front, the Moro Islamic Liberation Front, and the Communist Party of the Philippines – New People’s Army — in the hopes of ending the conflict amicably.

The Article aims to shed light to the dilemma faced by the President in deciding which among these measures to take to pursue just and long-lasting peace. It examines the exercise of the emergency powers of the Commander-in-Chief and analyzes why despite the various options presented to the government, the situation of non-international conflict remains imminent. It tackles questions concerning the applicability and of the penal laws to insurgents who are protected by immunities granted by the existing peace agreements. Questions also arise on the legality of such immunities and amnesty grants. And with the rise of a new breed of terrorist groups, where no peace agreements are enforced, the presence of a greater threat looms over the country.