

SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

'17 MAY 29 P2:40

SENATE  
P.S.R. No. 390

RECEIVED BY: 

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Introduced by Francis N. Pangilinan, Franklin M. Drilon, Risa Hontiveros, Antonio F. Trillanes IV, and Paolo Benigno Aquino IV

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**RESOLUTION TO CONVENE CONGRESS IN JOINT SESSION AND DELIBERATE ON PROCLAMATION NO. 216 DATED 23 MAY 2017 ENTITLED, "DECLARING A STATE OF MARTIAL LAW AND SUSPENDING THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS IN THE WHOLE OF MINDANAO"**

**WHEREAS**, on 23 May 2017, President Rodrigo Duterte issued Proclamation No. 216 entitled, "*Declaring a State of Martial Law and Suspending the Privilege of the Writ of Habeas Corpus in the Whole of Mindanao.*"

**WHEREAS**, said Proclamation was issued "*after finding that lawless armed groups have taken up arms and committed public uprising against the duly constituted government and against the people of Mindanao, for the purpose of removing Mindanao, starting with the City of Marawi, Lanao del Sur, from its allegiance to the Government and its laws and depriving the Chief Executive of his powers and prerogatives to enforce the law of the land and to maintain public order and safety in Mindanao, to the great damage, prejudice, and detriment to the people therein and the nation as a whole.*"

**WHEREAS**, Section 18, Article VII of the 1987 Constitution gives the President the prerogative "to suspend the privilege of the writ of habeas corpus or place the Philippines or any part thereof under Martial Law," in case of invasion or rebellion, when the public safety requires it, for a period not exceeding sixty days."

**WHEREAS**, on 25 May 2017, President Duterte, pursuant to the above provision, submitted his Report to Congress explaining the bases for Proclamation No. 216.

**WHEREAS**, following Section 18 of Article VII, the Congress has the sacred duty and peremptory obligation to seek information surrounding the proclamation, assess its factual basis, and if warranted, revoke the same, as follows:

*"The Congress, voting jointly, by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President. Upon the initiative of the President, the Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist and public safety requires it."*

**WHEREAS**, the Supreme Court, in *Fortun v. Macapagal-Arroyo* (G.R. No. 190293, 20 March 2012), explained that the President and the Congress “act in tandem” in exercising the power to proclaim martial law or suspend the privilege of the writ of habeas corpus. It said:

*“They exercise the power, not only sequentially, but in a sense jointly since, after the President has initiated the proclamation or the suspension, only the Congress can maintain the same based on its own evaluation of the situation on the ground, a power that the President does not have.*

*“Consequently, although the Constitution reserves to the Supreme Court the power to review the sufficiency of the factual basis of the proclamation or suspension in a proper suit, it is implicit that the Court must allow Congress to exercise its own review powers, which is automatic rather than initiated. xxx The constitutional validity of the President’s proclamation of martial law or suspension of the writ of habeas corpus is first a political question in the hands of Congress before it becomes a justiciable one in the hands of the Court.”*

**WHEREAS**, by Constitutional design and as observed through our history after its adoption in 1987, the President exercises the most extensive of government powers as head of state, head of government, and the commander-in-chief. Thus, the President’s exercise of the extra powers to declare martial law and suspend the privilege of the writ of habeas corpus must strictly comply with the Constitution.

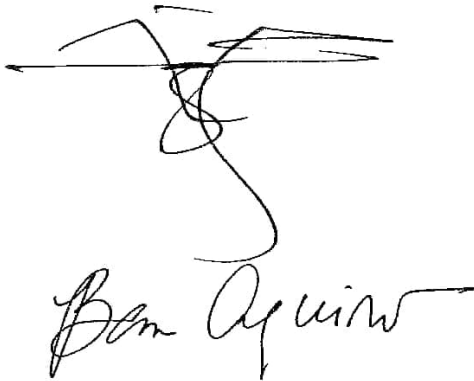
**WHEREAS**, the powers to declare martial law and suspend the privilege of the writ are considered extraordinary powers given that the former entails a militarization of a portion of our otherwise civilian-controlled territory while the latter curtails the people’s rights against warrantless arrests and arbitrary detention.

**WHEREAS**, our painful experience with the imposition of martial law under the Marcos dictatorship became the impetus for the clear limitations on the President’s exercise of the extraordinary powers, including the discretion granted to Congress to make an independent determination if the constitutional grounds for the limited curtailment of the people’s rights are followed.

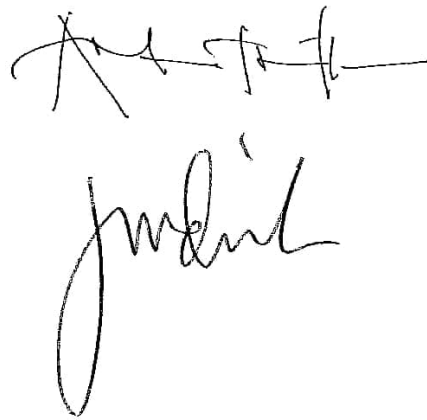
**WHEREAS**, pursuant to the constitutional mandates of transparency and accountability in government, respecting the right of the citizen to information of public interest, and the fundamental underlying principle of checks and balances amongst the separate branches of government, it is incumbent upon both the Senate and the House of Representatives to conduct a joint session for the purpose of determining the constitutional and factual validity of the proclamation, of preventing abuses in its implementation, and ensuring the safety of the people of Marawi and the whole of Mindanao.

**NOW THEREFORE, BE IT RESOLVED**, as it is hereby resolved, that both the Senate and the House of Representatives convene in Joint Session and deliberate on Proclamation No. 216 dated 23 May 2017 entitled, "Declaring a State of Martial Law and Suspending the Privilege of the Writ of Habeas Corpus in the Whole of Mindanao."

Adopted,



Ben Aquino



Juanito

Antonio Saraguel