

Forum:	The Security Council
Issue:	Ensuring the implementation of restrictions on government officials in martial law
Student Officer:	Benedicte Vestrum
Position:	President

Mandate of the Security Council

This mandate is taken directly from the United Nations Security Council webpage. Under the United Nations Charter, the functions and powers of the Security Council are:

- to maintain international peace and security in accordance with the principles and purposes of the United Nations;
- to investigate any dispute or situation which might lead to international friction;
- to recommend methods of adjusting such disputes or the terms of settlement;
- to formulate plans for the establishment of a system to regulate armaments;
- to determine the existence of a threat to the peace or act of aggression and to recommend what action should be taken;
- to call on Members to apply economic sanctions and other measures not involving the use of force to prevent or stop aggression;
- to take military action against an aggressor;
- to recommend the admission of new Members;
- to exercise the trusteeship functions of the United Nations in "strategic areas";
- to recommend to the General Assembly the appointment of the Secretary-General and, together with the Assembly, to elect the Judges of the International Court of Justice.

All members of the United Nations agree to accept and carry out the decisions of the Security Council. While other organs of the United Nations make recommendations to

member states, only the Security Council has the power to make decisions that member states are then obligated to implement under the Charter.

Introduction

Martial law has been imposed within various countries throughout history. It is mainly used to effectively control citizens during or after periods of civil unrest, for example when ordinary law enforcement is unable to uphold order. Martial law can be invoked throughout the whole country, but it may also be implemented in certain areas. Although many cases show that martial law has been used after a coup d'état or to overthrow a government, this does not necessarily have to be the case. On the other hand, the government itself could declare martial law simply to control a situation. Generally, a difficult situation will be remedied by declaring a state of emergency as martial law is considered an extreme measure.

Furthermore, there are also various degrees in which martial law can be invoked. An example of this would be the 1970 October crisis in Canada. The prime minister invoked the War Measures Act, thus suspending civil rights and liberties. Although the measures introduced were seemingly in accordance with martial law characteristics, the military was only used to support the authorities.

Effects of martial law are varied. The imposition could result in political prisoners and death, as shown through some events. Moreover, in some extreme cases, other devastating long-term effects such as an economic crisis are not unheard of.

One of the main problems regarding the implementation of martial law is that as a result of the military taking power, a government official can emerge as a military dictator. States often have various laws and regulations preventing a single person from exercising full power. However, in martial law, ordinary laws no longer apply. There have been many cases where this has resulted from the employment of martial law in various countries.

Definition of Key Terms

Martial Law

Imposing martial law involves instating a military government where ordinary law no longer applies. This includes the upheaval of governmental branches such as the legislative and judicial departments. In some cases, habeas corpus and freedom of speech may be suspended.

Habeas Corpus

This is a writ that allows the legality of a court order to be questioned. Prisoners can ask for a justification of their imprisonment and if it is proven to violate any constitutional right, the prisoner could be released. Habeas Corpus exists in many different states, sometimes under different remedies or as a law. The Universal Declaration of Human Rights also asserts in Article 5 that anyone who has been arrested should have the right to ask the court to re-evaluate their detainment.

Military Junta

A junta is a military group that controls a nation after it has taken it by force. Otherwise known as a military dictatorship, a military junta is thus a government where the military holds power. A common characteristic of a military junta is that they have been formed after a coup d'état. These governments claim that they have taken power in order to bring political stability to a nation. They are often characterised by human rights abuse as they often take control of the media and silence political opponents.

State of Emergency

In accordance with the United Nations document 'International Norms and Standards Relating to Disability', article 10 defines a State of Emergency as "public emergency which threatens the life of a nation". The document states that countries should only be able to employ this when the whole nation is threatened, including population and its existence. Furthermore, this cannot be used for a long period of time and only when the nation has no other choice. Four basic human rights should always be maintained, but by declaring a state of emergency, these rights can be restricted. Therefore, huge emphasis is placed on the proper and just usage of the State of Emergency.

Key Issues

MARTIAL law gives power to certain government officials

By instating martial law, the military has been allowed to violate human rights and take power, thus forming a new government. Usually the military commander from before will be at the top of this new hierarchy without negotiation or an election. They will have complete power to pass many new laws that might be in violation of human rights without contest. This is against most constitutions, although dependent on their type of government.

Cases that show abuse of power

There have been several events in history that show government officials abusing their power after employing martial law. The most prominent and recent case is the coup d'état in Thailand 2014, as explained. The commander of the army, Prayut Chan-o-cha, postponed elections indefinitely.

LACK of resolutions or other documents regarding martial law

The United Nations and other large organisations have yet to issue any documents specifically regarding the usage of martial law. Although a State of Emergency has been addressed in the 'International Norms and Standards Relating to Disability' document, the lack of governing principles allows the military to carry out acts completely against basic human rights.

Major Parties Involved

The Federal Republic of Germany

In 1933, after the parliament building (the Reichstag) had been burnt down, the President Hindenburg of the Weimar regime approved an emergency decree. This is considered an important setting stone to what later became the Nazi regime and forming a police state. The Nazis and the Nationalists had blamed Communists for starting the fire. The Reichstag Fire Decree, as it became known, had the common characteristics of martial law, where individual rights were suspended. This allowed the military to arrest opponents to the regime, and gave power to the central government.

The People's Republic of China

The Tiananmen Square protests shows how a government can respond when threatened by large protests. Over a period of a few months, students had gathered to protest and demand for democracy. In response, the government of China declared martial law in May 1989. The government mobilised troops and enforced martial law in certain areas of Beijing in order to stabilise the capital. This allowed the army to take any measures against the protestors and act in self-defence. The result was an estimated 10,000 people killed and arrested.

The Republic of the Philippines

The Philippines has a history of invoking martial law during the 1800s and 1900s. The most recent occurrence was in the 1970s. During this period, there was an increase in protests and general discontent with the popularity of a communist party rising. Several activists carried out violent demonstrations against the government. As tension between

parties increased, Proclamation no. 1080 was signed in 1972, thus invoking martial law throughout the Philippines. Throughout this time there were cases of human rights abuse, although the military were able to reduce protests. Political opponents within the government were arrested, and around 3,257 were killed. However, declaring martial law in the Philippines could have been an attempt by the president to extend his rule.

The Kingdom of Thailand

Martial law was imposed in Thailand in May 2014, and lasted for 10 months. Without consulting the government, the military had organised a coup d'état after a period of political instability partly due to the removal of the Prime Minister. The King had authorized the act of employing martial law and it was carried out by the commander of the army. Although several talks were carried out afterwards, the result was the commander seizing power. Large parts of the constitution were repealed directly afterwards.

The Republic of Turkey

A coup d'état was attempted by a minority of Turkey's military on July 15, 2016, in order to overthrow the government. At the time, Turkey was also in the midst of facing several issues, such as addressing the Kurdish rebellion in the southeast. During the coup, the military read a statement declaring that martial law would be implemented. The president denied that the military held any power and claimed that they remained as the ruling party. Tension increased in Turkey as bombings and protests continued throughout the day. However, by the end of the next day (July 16), the military had surrendered. Although the coup failed, 265 were killed, of which, 161 were civilians. A few days later on July 20, the President also called for a State of Emergency. Purges were also carried out in the period following the coup.

Timeline of Relevant Resolutions, Treaties and Events

Date	Description of Event
28 February, 1933	The Reichstag Fire Decree <i>is announced</i>
10 December, 1948	The Universal Declaration of Human Rights <i>is adopted by the General Assembly</i>
16 October, 1970	War Measures Act <i>invoked in Canada</i>

17 September, 1972	<i>Proclamation no. 1080 is signed in the Philippines, invoking martial law in the country but formal announcement is not yet made</i>
17 January, 1981	<i>Martial law is lifted in the Philippines</i>
June 3, 1989	<i>The government of China declares martial law in response to the Tiananmen Square protests</i>
May 20, 1989	<i>Martial law lifted in China</i>
20 May, 2014	<i>Martial law invoked in Thailand</i>
22 May, 2014	<i>General Prayut Chan-o-cha, leads a coup d'état in Thailand</i>
15 July, 2016	<i>The Turkish army launches a coup</i>
16 July, 2016	<i>The Turkish army coup is defeated and the soldiers surrender</i>
20 July, 2016	<i>The Turkish President declares a three-month State of Emergency</i>
19 October, 2016	<i>The State of Emergency in Turkey is extended by three months</i>

Previous Attempts to Solve the Issue

The United Nations has adopted the Declaration of Human Rights as a measure semi-addressing the topic of martial law. Furthermore, the United Nations has also responded to several events of martial law throughout history in different nations. For example, it was heavily involved in the coup d'état of Sierra Leone. The Security Council passed resolution 1132 in 1997 in response to the military government, demanding that all violence cease and for the legitimate government to cooperate. Furthermore, a committee was established to further review and evaluate as events occurred.

Countries tend to address any problems arising due to this issue individually. There are usually some laws or governing principles which may explain how martial law is to be used or addressed but this is dependent on each country.

Possible Solution

Perhaps the most effective way to ensure that government officials are restricted during martial law would be for the United Nations to dedicate a resolution or document to the topic itself. Certain key points such as negotiation, limiting power, and violation of human

rights would need to be addressed in detail in order to prevent total corruption and devastation.

Bibliography

"Martial Law." *Merriam-Webster*. Merriam-Webster, 2016. Web. 10 Dec. 2016. <<https://www.merriam-webster.com/dictionary/martial%20law>>.

"Thai Military Government Replaces Martial Law." *BBC News*. BBC, 01 Apr. 2015. Web. 10 Dec. 2016. <<http://www.bbc.co.uk/news/world-asia-32152893>>.

"Thailand Wakes to Military Rule: What It Means." *CNN*. CNN, 2014. Web. 10 Dec. 2016. <<http://edition.cnn.com/2014/05/20/world/asia/thailand-martial-law-explainer/>>.

The Columbia Encyclopedia, 6th ed. (Columbia University Press, 2016), s.v. "Martial Law," <http://questiaschool.com/read/1E1-martial/martial-law>.

"Tiananmen Square Protest." N.p., 3 June 2016. Web. 5 Jan. 2017. <<http://edition.cnn.com/2013/09/15/world/asia/tiananmen-square-fast-facts/>>.

"The October Crisis." *CBCnews*. CBC/Radio Canada, 2001. Web. 05 Jan. 2017. <<http://www.cbc.ca/history/EPISCONTENTSE1EP16CH1PA4LE.html>>.

"Universal Declaration of Human Rights." *United Nations*. United Nations, n.d. Web. 05 Jan. 2017. <<http://www.un.org/en/universal-declaration-human-rights/>>.

"The Resource : Part II. International Human Rights System, 11/11." *United Nations*. United Nations, n.d. Web. 05 Jan. 2017. <<http://www.un.org/esa/socdev/enable/comp210.htm>>.

"Dark Legacy: Human Rights under the Marcos Regime." *Alfred McCoy, Dark Legacy: Human Rights under the Marcos Regime*. N.p., 20 Sept. 1999. Web. 05 Jan. 2017. <<http://www.hartford-hwp.com/archives/54a/062.html>>.

PCL., Post Publishing. "General Prayuth Gets down to Work." [Http://www.bangkokpost.com](http://www.bangkokpost.com). N.p., 23 May 2014. Web. 05 Jan. 2017. <<http://www.bangkokpost.com/learning/learning-news/411433/general-prayuth-gets-down-to-work>>.

"Philippines." *Encyclopædia Britannica*. Encyclopædia Britannica, Inc., n.d. Web. 05 Jan. 2017. <<https://global.britannica.com/place/Philippines/Martial-law>>.

"Junta." *Oxford Dictionaries*. N.p., n.d. Web. 5 Jan. 2017. <<https://en.oxforddictionaries.com/definition/junta>>.

"Military Dictatorship." *Military Dictatorship*. N.p., 2007. Web. 05 Jan. 2017. <http://cs.mcgill.ca/~rwest/wikispeedia/wpcd/wp/m/Military_dictatorship.htm>.

United Nations High Commissioner for Refugees. "Security Council Resolution 1132 (1997) [Sierra Leone]." *Refworld*. N.p., 8 Oct. 1997. Web. 05 Jan. 2017. <<http://www.refworld.org/docid/3b00f16f78.html>>.

Arango, Tim, and Ceylan Yeginsu. "Turkish President Returns to Istanbul in Sign Military Coup Is Faltering." *The New York Times*. The New York Times, 15 July 2016. Web. 09 Jan. 2017. <<http://www.nytimes.com/2016/07/16/world/europe/military-attempts-coup-in-turkey-prime-minister-says.html>>.

Rosenfeld, Everett, Ted Kemp, and Christine Wang. "Aborted Coup Attempt in Turkey Leaves Scores Dead as Erdogan Retakes Control." *CNBC*. CNBC, 16 July 2016. Web. 09 Jan. 2017. <<http://www.cnbc.com/2016/07/15/gunfire-heard-jets-seen-flying-in-turkish-capital-of-ankara.html>>.

"After the Coup, the Counter-coup." *The Economist*. The Economist Newspaper, 23 July 2016. Web. 09 Jan. 2017. <<http://www.economist.com/news/briefing/21702511-failed-putsch-was-bloodiest-turkey-has-seen-backlash-worrying-after-coup>>.

United States Holocaust Memorial Museum. N.p., n.d. Web. 9 Jan. 2017. <<https://www.ushmm.org/learn/timeline-of-events/1933-1938/reichstag-fire-decree>>.