

Duterte has put part of the Philippines under martial law. Here's how dangerous that can be.: When democracy is shaky, some leaders use "emergencies" to grab more power.

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FULL TEXT

On the southern Philippine island of Mindanao, 21 million people are living under martial law. President Rodrigo Duterte declared 60 days of martial law on May 23 after troops and police failed to apprehend Isnilon Hapilon, a terrorist leader who has sworn allegiance to the Islamic State. The military is bombing Marawi City and sending soldiers street by street to ferret out those suspected of being part of Hapilon's militant network. As of June 5, more than 180 people had been killed in clashes between security forces and terrorists, with more at risk every day.

A declaration of martial law under these conditions seems reasonable. Yet as early as August 2016, Duterte had hinted that he might impose martial law as a way of overcoming constitutional limits on his power to wage his bloody and extrajudicial campaign to eliminate the drug trade. While prompted by legitimate security concerns, martial law means Duterte can restrict civil society and rule through force.

The Philippines isn't the only country using extraordinary political and military powers to grapple with internal threats. President Recep Tayyip Erdogan declared a state of emergency after a July 15, 2016, coup attempt in Turkey. With this power, Erdogan has sacked civil servants, seized or placed strict controls on the media and jailed his political opponents. He has expanded his justifications for the state of emergency from reestablishing control over the military to fighting terrorism to achieving "welfare and peace."

In countries like these, where the resilience of democratic institutions and civilian control of the military are increasingly uncertain, a state of emergency can further erode the foundations of democracy and increase the risk of human rights abuses.

Several countries declare martial law or states of emergency

France, Mali, Tunisia and Venezuela are each in a legal state of emergency. Although rulers declare states of emergency relatively rarely, when they do, emergency law is often imposed nationwide and can last for years.

During a crisis -- like a terrorist attack or a coup -- international law permits governments to impose martial law and do such things as impose a curfew or suspend habeas corpus (enabling the government to arrest and detain suspects without warrants). Under the state of emergency permitted under the Philippines' constitution and the International Covenant on Civil and Political Rights (ICCPR), ratified in 1987, the military can take over from civilian law enforcement and impose military checkpoints that restrict freedom of movement.

Even in these emergencies, under the ICCPR's Article 4.2 governments remain legally obligated to uphold basic human rights -- like the prohibitions against murder, torture, slavery or discrimination. Nor can they suspend rights solely for groups defined by race, color, sex, language, religion or social origin.

But dictatorships

don't

always pay attention to the legal limits

of martial law

During states of emergency, dictatorships are more likely to violate both kinds of rights. That's not true in well-functioning democracies, where institutional checks keep security forces in line. If these checks are eroded, human-rights abuses are more likely to increase. For example, in the Philippines, Duterte arrested a member of the opposition party, Sen. Leila de Lima, on drug charges denied by supporters and human-rights organizations.

During states of emergency, human-rights monitors and other observers have a harder time tracking the government's behavior. Indeed, the Philippine military announced that it would censor the press and social media during the emergency. That's serious. Without monitoring and documentation, how can governments be held accountable for human-rights abuses? Duterte recently joked about his soldiers raping civilians and threatened to eat the livers of terrorists. To date, human-rights groups have accused Duterte of responsibility for more than 7,000 deaths by government forces and vigilantes in his ongoing drug war.

What are the consequences of unchecked states of emergency?

Repressive governments can use states of emergency to prevent voters, courts, the opposition and the international community from overseeing or challenging the president's power. For instance, Duterte has jailed his political opponents on thin pretexts, forced the independently-elected vice president from his cabinet and blasted the Catholic Church and other institutions for "hypocrisy."

In Turkey, Erdogan called for and won a referendum that gave him sweeping new powers, including the ability to appoint ministers and government officials and to name half the members of the highest court. On May 21, Erdogan announced that Turkey's state of emergency would continue indefinitely.

Of course, when the executive grabs such powers, quashing free speech, free association and other political rights, civil society has an even harder time checking executive power. Once the opposition loses its political rights, democracy can rapidly erode -- and the executive can extend the state of emergency well beyond the original crisis.

What might prevent an authoritarian power grab?

Monitoring bodies that oversee U.N. human rights agreements are critical. So are reports by outside human-rights organizations like Amnesty International or Human Rights Watch, which can offer the evidence needed to hold human-rights violators responsible.

Leaders who are protecting their citizens' rights and freedoms have no reason to worry about a robust civil society.

But those abusing their power and their citizens should know that the world is watching.

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