

JOSE MA. SISON, JULIET SISON, BERNABE BUSCAYNO, MILA BUSCAYNO, PETER MUTUC, EDGAR PILAPIL, EDUARDO LINGAT, JOAQUIN RIVERA, LEONILA LUMBANG AND JUANITO CANLAS, PETITIONERS, VS. H...

G.R. No. L-49579. January 15, 1981

Ponente: FERNANDEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2a986adfac9a/>

FERNANDEZ, J.:

This is a petition for habeas corpus, prohibition and mandamus, seeking the following relief:

"WHEREFORE, the petitioners respectfully pray this Honorable Court:

"1. To issue a writ of habeas corpus requiring the respondents to produce their bodies before this Honorable Court on a day which it will fix; and for them to show cause why the petitioners should not be released;

"2. To issue a writ of temporary restraining order enjoining the respondent MILITARY COMMISSION and the respondent TRIAL COUNSEL from proceeding with the trial of the petitioners which it is scheduled in January, 1979, until further orders of this Honorable Court, in the same manner that said ancillary relief was granted by this Honorable Court to their co-accused in Criminal Case No. SMC-1-1, in the latter's petition for habeas corpus, in the case of Luneta, et al., v. SMC-1, et al., G.R. No. L?49473;

"3. That the petitioners be ordered released on bail after they have filed their respective bail bonds;

"4. That after due hearing, a writ of prohibition issue, enjoining the respondents and all persons acting in their names, or in their behalf, or under their orders, to desist from proceeding with the trial of the petitioners;

"5. That, if after due hearing, the remedy of the writ of prohibition is not granted, the writ of preliminary mandatory injunction issue, ordering the respondent TRIAL COUNSEL to strike out from the Charge Sheet in Criminal Case SMC-1-1, the allegations that the petitioners are "Officers and/or leaders of the Communist Party of the Philippines (CPP); and/or its Military ARm, the New Peoples Army (NPA)"; to order the respondent TRIAL COUNSEL to amend the Charge Sheet, so that the particular participation of each of the accused in the alleged crime of rebellion, is specified; ordering the respondent MINISTER or his subordinates to allow the petitioners to examine; copy, or photograph the items listed in Item (3) of the Prayer, in the

petition of Luneta, et al., supra;

“6. That, after due hearing, the respondents be ordered to release the petitioners, in the enjoyment of their constitutional right to the privilege of the writ of habeas corpus;

“7. That after due hearing, the writ of temporary restraining order, if issued by this Honorable Court be made permanent; and

“8. That, the petitioners be granted such other and further reliefs to which they may be entitled in law and equity.”[1]

The petitioners are civilians originally accused before Military Commission No. 1 of the crime of rebellion under two (2) Charge Sheets docketed as Criminal Case No. MC-1-92 later reduced to one Amended Charge Sheet, accusing said petitioners of rebellion under Article 134, in relation to Article 135 of the Revised Penal Code. The case against the petitioners was transferred to Military Commission No. 24. Later said case was re-assigned to Special Military Commission No. 1. Some of the petitioners were released for humanitarian reasons and the rest are still detained.

The petitioners contend that they are illegally detained because:

- Military Commissions have no jurisdiction inasmuch as G.O. No. 8 and P.D. No. 39 implementing it, are unconstitutional on the ground that in removing the judicial power of civil courts over civilians charged with crimes defined by the municipal penal laws and transferring the same to military commissions, the military was made supreme over civilian authority in gross violation of Section 8, Article II of the Constitution and of Section 1, Article X thereof which vests judicial power exclusively in one Supreme Court and such inferior courts which may be established by law;
- Petitioners are civilians who are not civilian retainers to the camp of the Armed Forces of the Philippines. Hence under the Articles of War, Commonwealth Act No. 408, as amended, the petitioners are not subject to military law and are not under the jurisdiction of military commissions;
- Granting *arguendo* that G.O. No. 8 and P.D. No. 39 are parts of the law of the land and not unconstitutional, their enforcement is illegal because they were not published in the Official Gazette as required by Article 2 of the New Civil Code and Section 11 of the Revised Administrative Code;
- There should be adherence to the "open court rule". Inasmuch as Civil courts of the Philippines continue to function normally and without interruption under martial law, the removal of a substantial part of the judicial power of the civil courts by the Commander in Chief of the Armed Forces of the Philippines and the transfer thereof to military commissions was in gross violation of Section 1, Article VIII of the 1935 Constitution and of Section 8, Article II of present constitution because the military is placed supreme over the civilian authority; and
- The law member of Military Commission No. 1 is disqualified to participate in the trial of the petitioners because he violated the constitutional rights of the accused to due process by extracting from some of them confessions through torture. He adversely prejudged the defense of confession extorted through torture.

The main issues raised by the petitioners have been previously ruled upon by this Court. Hence this petition has no merit and should be dismissed.

The arrest, search and seizure orders against the petitioners were issued by virtue of Proclamation No. 1081 and General Order No. 2, both of which have been declared valid and constitutional. The authority of the President and persons acting under his authority to cause the arrest or detention of those involved in crimes against national security has been upheld.[2]

In *Aquino vs. Military Commission No. 2*, G.R. No. L-37364, May 9, 1975,[3] the Supreme Court held that the continued existence of these military tribunals and the exercise by them of jurisdiction over civilians during the period of martial law are within the contemplation and intendment of Section 3, paragraph 2 of Article XVII of the Constitution. These are tribunals of special and restricted jurisdiction created under the stress of an emergency and national security. The procedure before the military commissions as prescribed in Presidential Decree No. 39, assures observance of the fundamental requirements of procedural due process, due notice, an essentially fair and impartial trial and reasonable opportunity for the preparation of the defense.

The President of the Philippines has announced that the military tribunals are being phased out. It is reported that the Ministry of Justice is now taking steps to transfer cases pending before the military tribunals to the civil courts. Hence the issues raised by the petitioners have become moot and academic.

WHEREFORE, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Teehankee, J., concurs and dissents in a separate opinion.

Aquino, J., in the result.

Concepcion, Jr., J., on leave.

[1] Rollo, pp. 52-54.

[2] *Aquino vs. Enrile*, 59 SCRA 183.

[3] 63 SCRA 546.

CONCURRING AND DISSENTING OPINION

TEEHANKEE, J.:

I concur with the Court's judgment insofar as it holds that "the issues raised by the petitioners have become moot and academic" because of the phaseout of the military tribunals and the transfer of cases pending therein to the civil courts. Insofar as the main opinion reiterates the ruling in *Aquino vs. Military Commission No. 2* (63 SCRA 546) and dismisses the petition for lack of merit, I reiterate by reference my dissents in said case and in *Buscayno vs. Enrile*, L-47185, resolved by the Court on this same date.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.