

The iron fist beneath the silken glove

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By

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THE Emergency Powers Act was drafted splendidly — ostensibly harmless language embodying very powerful provisions.

I will highlight some of them — with the caveat that the law itself does not set these measures in place.

It only allows the President to exercise these powers if he chooses to do so, by issuing the necessary executive or administrative orders or ordering the relevant agencies to issue rules.

But here are some of the extraordinary powers granted the President:

1. To implement any protective measure: What constitutes a protective measure is left to the discretion and to the determination of the Chief Executive. It can be as harmless as setting up checkpoints. It can be as aggressive as ordering the warrantless detention of persons under investigation or PUIs and persons under monitoring or PUMs who violate the terms of quarantine.
2. Grant an emergency subsidy of P5,000 to P8,000 per month to 18 million households, more or less, who are in need of this assistance.
3. The language in respect to local government units (LGUs) is carefully calibrated: On the one hand, the President has the power to compel LGUs to comply “with the spirit and the letter” of national directives. If the IATF says “no tricycles,” then no matter how reasonable Pasig City Mayor Vico Sotto’s solution to the transport problem may have been — commandeering tricycles — then, no tricycles. However, autonomy is assured LGUs in those matters not specified by the national government. In other words, autonomy of LGUs is exercised only in respect to the interstices that are not covered by national directives.
4. The President is empowered to take over (the term of the law is “direct the operations of”) private hospitals and medical clinics, common carriers in the service of passengers, and other useful establishments. While the law assures owners that “management and operations” remain with them, the point is that the President “directs their operations.” Whatever the management of a bus company may therefore say, the President may order that units from this company service health workers or transport patients to and from any given destination.
5. Adopt protective measures against hoarding, profiteering and price manipulation of prime commodities. This means that the normal business practices and liberties can be suspended by the exercise of the President’s extraordinary powers.
6. Very usefully, the law provides for exemptions from the impertinences of Republic Act 9184 or the “Procurement Law.” I would have gone further and given the President the power to dismantle this law entirely.
7. The President has the power to compel businesses to accept contracts. So, the regular practice of private business of rejecting government contracts because of the delay in

payment is, in respect to certain projects — such as the construction of health facilities, the supply of medical equipment, etc. — suspended by the President.

8. The power to move deadlines and timelines for payments of fees and taxes, and the grant of benefits. This is very good news, because the President can now, by an executive order, direct the release of the mid-year bonus of government employees, whatever the Department of Budget and Management rules might provide. It also means that remittances can be postponed or delayed by the President.

The law also has penal provisions, including willful failure to disclose contamination or exposure and the refusal of health facilities to accept patients.

All in all, I think the measures are necessary. The emergency is real, and this is no time for horse-trading among politicians.

But I will repeat the point I earlier made: These measures are not automatically in place. They are measures the President may take in the exercise of the powers granted him by the law.

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