



Martial Law in India, Pakistan and Ceylon

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(i) What is Martial Law? It is difficult to define martial law, especially because of "the haze of uncertainty which envelops it. " 1 The expression is used to denote a variety of forms of government or law, such as military law governing soldiers in the service of the State, military government in occupied areas, any kind of arbitrary government in which the military arm plays a dominant role, and the emergency administration "which obtains in a domestic community when the military authority carries on the government, or at least some of its functions. " 2 It is in the sense indicated last that martial law is discussed in the following pages. In this sense, it is "the extension of military government to domestic areas and civil persons in case of invasion or rebellion. . . it is a suspension of normal civil government in order to restore it and has civilians for its subjects and civil areas for its loci of operation. " 3 Thus martial law has to be clearly distinguished from military law and military government, though 4 all these have common roots in history and logic. The term 'martial law' was originally applied to the law administered by the court of the Marshal and the Constable of England. There are two theories about the source of the word 'martial' in the expression. One theory is that the term 'martial

1 C. Fairman, *The Law of Martial Rule*, page 19. 2 *idem*, page 30.

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