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SENATE

P. S. Res. No. 949

REC.

Introduced by **SENATOR LEILA M. DE LIMA**

RESOLUTION
DIRECTING THE APPROPRIATE COMMITTEE, TO CONDUCT AN
INQUIRY, IN AID OF LEGISLATION, INTO PRESIDENT RODRIGO
DUTERTE'S ORDER TO THE MILITARY TO TEMPORARILY TAKE OVER
THE BUREAU OF CUSTOMS

1 WHEREAS, the Constitution is the supreme law of the land;

2 WHEREAS, Section 17, Article VII of the Constitution provides that the
3 President "shall have control of all the executive departments, bureaus, and offices";

4 WHEREAS, the Constitution commands that "[c]ivilian authority is, at all
5 times, supreme over the military" but the President "may call out... armed forces to
6 prevent or suppress lawless violence, invasion or rebellion"¹;

7 WHEREAS, the Constitution also states that "[n]o member of the armed forces
8 in the active service shall, at any time, be appointed or designated in any capacity to a
9 civilian position in the Government including government-owned or controlled
10 corporations or any of their subsidiaries"²;

11 WHEREAS, last October 29, President Rodrigo Roa Duterte has put the Bureau
12 of Customs (BOC) under the control of the Armed Forces of the Philippines as "part of
13 his declaration of a state of lawlessness in the country"³;

¹ Sec. 3, Article II; Sec. 18, Article VII

² Sec. 5 (4), Article XVI

³ ABSCBN News. 29 October 2018. "All Customs employees to report directly to Malacañang" Retrieved from <https://news.abs-cbn.com/business/10/29/18/duterte-temporarily-puts-bureau-of-customs-under-military-control>. Accessed 29 October 2018.

1 WHEREAS, this declaration came after the news that President Duterte
2 replaced Customs Chief Isidro Lapeña and appointed former Maritime Industry
3 Authority (Marina) administrator Rey Leonardo Guerrero as the new Customs Chief;

4 WHEREAS, according to Malacanang “[t]he move is part of an attempt to solve
5 the smuggling problem in Customs, following the succession of scandals involving the
6 entry into Philippine ports of shabu...in 2017, P6.4 billion worth of shabu ... worth of
7 the illegal drug in August 2018”⁴;

8 WHEREAS, last October 29, Justice Secretary Menardo Guevarra said that
9 “[t]he BOC chief is a civilian; the BOC is under the Department of Finance (DOF); and
10 the DOF is under the president. Civilian rule remains supreme over the military”⁵;

11 WHEREAS, on 06 November 2018, President Duterte denied his previous
12 order saying that he has issued no designation or appointment of an active-duty soldier
13 to a post in the Bureau of Customs and ‘takeover’ of the military merely means that
14 heads of offices and sections within the bureau would be placed on floating status and
15 the military called in to merely assist them⁶;

16 WHEREAS, Sections 4 and 5, Chapter 1, Book IV of the Administrative Code
17 states that “[e]ach Department shall have jurisdiction over bureaus, offices, regulatory
18 agencies, and government-owned or controlled corporations assigned to it by law” and
19 if an office or agency is not assigned by law to any department, the President shall do
20 so by an executive order;

21 WHEREAS, the Department of Finance has jurisdiction over the BOC which is
22 its staff bureau;

23 WHEREAS, Republic Act No. 10863, or the “Customs Modernization and Tariff
24 Act (CMTA)”, enumerates the functions of the BOC which include “assessment and
25 collection of customs revenues from imported goods and other dues, fees, charges,
26 fines and penalties; border control to prevent entry of smuggled goods; prevention and

⁴ Rappler. 29 October 2018. “Soldiers in Customs? But Constitution bars civilian assignments for military”. Retrieved from https://amp.rappler.com/nation/215492-philippine-constitution-bars-civilian-assignments-for-military?_twitter_impression=true. Accessed 30 October 2018.

⁵ Inquirer.net. 29 October 2018. “Military at Customs: ‘Civilian rule still supreme’ – DOJ chief”. Retrieved from <https://newsinfo.inquirer.net/1047853/military-at-customs-civilian-rule-still-supreme-doj-chief>. Accessed 29 October 2018.

⁶ Rappler. 06 November 2018. Duterte denies ordering military to take over BOC employees' posts. Retrieved from <https://www.rappler.com/nation/216073-duterte-denies-order-military-take-over-bureau-customs-employees>. Accessed 14 November 2018.

1 suppression of smuggling and other customs fraud; supervision and control over the
2 entrance and clearance of vessels and aircraft,” among others;

3 WHEREAS, Section 214 of the CMTA also provides that the Commissioner of
4 Customs may “authorize officers and members of the Armed Forces of the Philippines
5 (AFP) and national law enforcement agencies” only to exercise police authority to
6 effect search, seizure and arrest;

7 WHEREAS, the militarization of the BOC may impede the operations of the
8 BOC and as a result, may gravely affect collection of revenues, the lifeblood of
9 government;

10 WHEREAS, the operationalization of the military take over of the BOC
11 threatens to violate the provisions of the Constitution on the proscription against the
12 assumption by active military officers of civilian functions and civilian offices, aside
13 from other basic principles of a republican and democratic government as enshrined
14 therein;

15 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, to direct the
16 appropriate Committee, to conduct an inquiry, in aid of legislation, into President
17 Rodrigo Duterte’s order to the military to temporarily take over the Bureau of
18 Customs;

Adopted,


LBILA M. DE LIMA