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SENATE

P.S. RESOLUTION NO. 1522

RECEIVED BY: 

Introduced by:

Senators Francis N. Pangilinan, Aquilino Q. Pimentel, Jr., Alan Peter S. Cayetano, Benigno S. Aquino III, Mar. A. Roxas, M.A. Madrigal, Jinggoy Ejercito Estrada, Rodolfo G. Biazon, Francis G. Escudero, Panfilo M. Lacson, Loren B. Legarda, Manuel B. Villar, Antonio F. Trillanes IV, Pia S. Cayetano, Gregorio B. Honasan II, Miriam Defensor Santiago, Richard J. Gordon

***A RESOLUTION EXPRESSING THE SENSE OF THE SENATE
THAT THE PROCLAMATION OF MARTIAL LAW IN THE
PROVINCE OF MAGUINDANAO IS CONTRARY TO THE PROVISIONS
OF THE 1987 PHILIPPINE CONSTITUTION***

WHEREAS, Section 18, Article VII of the 1987 Philippine Constitution grants the President, as Commander-in-Chief, the power to call out the armed forces in cases of (1) lawless violence, (2) rebellion and (3) invasion. In the latter two cases, i.e., rebellion or invasion, the President may, when public safety requires, also (a) suspend the privilege of the writ of habeas corpus, or (b) place the Philippines or any part thereof under martial law. However, the suspension of the writ of habeas corpus only applies to persons judicially charged for rebellion or offenses inherent in, or directly connected with invasion;

WHEREAS, President Gloria Macapagal Arroyo officially declared martial law in the province of Maguindanao last December 4, 2009. Proclamation No. 1959 was signed by the President of the Philippines which declared a state of martial law and suspending the privilege of the writ of habeas corpus in the province of Maguindanao, except for certain areas of the Moro Islamic Liberation Front (MILF);

WHEREAS, according to Malacañang officials, the President of the Philippines declared martial law because heavily armed groups in the province of Maguindanao have established positions to resist government troops, thereby depriving the executive of its powers and prerogatives to enforce the laws of the land and to maintain public order and safety. Despite the state of emergency declared last November 24, 2009, peace and order in the province continued to deteriorate to the extent that local judicial system and other government mechanisms are not functioning;

WHEREAS, the Supreme Court of the Philippines said that the judicial system in the province of Maguindanao is functioning and the cases involving the Maguindanao massacre which were filed before the Cotabato courts were moving forward. Search warrants were issued by the Kidapawan Regional Trial Court in order to conduct valid police raids on the residences of the Amapatuan family members. The justification of the

proclamation of martial law on the basis that the local judicial system is no longer functioning is devoid of merit;

WHEREAS, it is clear from the provision of the Constitution that the only grounds for the declaration of martial law are invasion and rebellion. Imminent danger of a rebellion is no longer a basis for the declaration of martial law;

WHEREAS, the crime of rebellion or insurrection is committed by rising publicly and taking arms against the Government for the purpose of removing from the allegiance to said Government or its laws, the territory of the Philippines or any part thereof, of any body of land, naval or other armed forces, depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives. It is without doubt that there is no rebellion in the province of Maguindanao. The argument that the proclamation of martial law was imposed in an effort to quell a "looming" rebellion is untenable;

WHEREAS, the proclamation of martial law cannot be justified on the basis of a threatened or imminent danger of rebellion. Neither can martial law serve as a validation to assist the police in performing their official duties to investigate the Maguindanao massacre and to arrest the alleged perpetrators of the crime;

WHEREAS, the determination of the existence of a state of rebellion for purposes of proclaiming martial law or the suspension of the privilege of the writ of habeas corpus rests for which the President is granted ample, though not absolute, discretion. Built-in safeguards as provided by the Constitution are automatically set on motion: (1) The period for martial law or suspension is limited to a period not exceeding sixty days; (2) The President is mandated to submit a report to Congress within forty-eight hours from the proclamation or suspension; (3) The proclamation or suspension is subject to review by Congress, which may revoke such proclamation or suspension. If Congress is not in session, it shall convene in 24 hours without need for call; and (4) The sufficiency of the factual basis thereof or its extension is subject to review by the Supreme Court in an appropriate proceeding;

RESOLVED, to express, as it hereby expresses, the sense of the Senate, that the proclamation of martial law in the province of Maguindanao is contrary to the provisions of the 1987 Philippine Constitution.

ADOPTED,

Pro S. Carpio

Manaladaya

[Handwritten signatures and notes]

Union Superior Santiago

AD

Major

Rebellion charges endangers the prosecution of those responsible for the commission of multiple murder. Basis for the declaration of martial because of rebellion.

The issue government should focus on is the Mass Murder. This Martial Law Proclamation is not only out of order and against the Constitution it will also muddle the issue on solving the massacre.