

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

SENATE

P.S. Resolution No. 105

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Introduced by **SENATOR LUISA "LOI" P. EJERCITO ESTRADA**

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RESOLUTION  
DIRECTING THE SENATE COMMITTEE ON ACCOUNTABILITY OF PUBLIC  
OFFICERS AND INVESTIGATIONS, TO INVESTIGATE, IN AID OF  
LEGISLATION, THE ALLEGED ILLEGAL APPOINTMENTS  
COMMITTED BY THE EXECUTIVE DEPARTMENT

WHEREAS, the Constitution provides:

Art. 7, Sec. 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. He shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.

The President shall have the power to make appointments during the recess of the Congress, whether voluntary or compulsory, but such appointments shall be effective only until disapproval by the Commission on Appointments or until the next adjournment of the Congress.

WHEREAS, the newspaper *Malaya*, dated 24 January 2005, in a news article on page A2, reported that "President Arroyo was accused yesterday of illegally naming 50 persons to Cabinet and sub-Cabinet positions since 2001, an offense that opens her to impeachment";

WHEREAS, the newspaper stated that “The Citizens versus Corruption Task Force, through spokesman former Sen. Francisco Tatad, said: A pattern of illegal appointments would show a clear refusal to execute the laws pursuant to the President’s oath. This would constitute a culpable violation of the Constitution, a high crime, and a betrayal of public trust”;

WHEREAS, *Malaya* claimed that “In at least two instances, Tatad said Arroyo had sought to go around the constitutional provision requiring confirmation of all cabinet appointees. Since 2001, Arroyo has kept Emilia Boncodin as Secretary of the Department of Budget and Management, without ever asking the Commission on Appointments to confirm her appointment. From December 2003 until she announced her resignation last week, Finance Secretary Juanita Amatong was never nominated for confirmation by the CA. These acts or omissions constitute a clear circumvention of the Constitution”;

WHEREAS, the newspaper further reported that “Tatad also said Arroyo has set aside the charter of the Land Bank of the Philippines, which makes the finance secretary automatic chairman of its board, and named former Secretary of Agriculture Luis Lorenzo instead. Tatad further questioned the appointment of former Vice President Teofisto Guingona, who is in his mid-seventies, as ambassador to China. The Foreign Service Act of 1991 mandated the compulsory and automatic retirement of officers and employees of the Department of Foreign Affairs upon reaching the age of 65”;

WHEREAS, *Malaya* stated that “Data gathered by the task force showed that in at least 11 departments, Arroyo has appointed at least 38 undersecretaries where the Administrative Code of 1987 provides only 16, exceeding the appointments by 22, and 48 assistant secretaries when the law provides only 20, exceeding the number by 28. In the DFA, the Code provides for two undersecretaries and six assistant secretaries. The 1991 Foreign Service Act increased the undersecretaries to three, but Arroyo has named five undersecretaries and 12 assistant secretaries”;

WHEREAS, it was further alleged that “In the DND, the Code provides for one undersecretary and no assistant secretaries, Arroyo has named six undersecretaries and six assistant secretaries. In the DILG, the Code provides for three undersecretaries and three assistant secretaries, Arroyo has named six undersecretaries and five assistant secretaries. In the DOTC, the Code provides for four undersecretaries and eight assistant secretaries, Arroyo has named seven undersecretaries”;

WHEREAS, the news article further claimed that “In the DSWD, the Code provides for two undersecretaries and three assistant secretaries, Arroyo has named five undersecretaries and four assistant secretaries. In the DLR, the Code provides for one undersecretary and one assistant secretary, Arroyo has named five undersecretaries and three assistant secretaries. In the DoST, the Code provides for three undersecretaries and three assistant secretaries, Arroyo has named four undersecretaries. In the DepEd, the Code provides for five undersecretaries and no assistant secretaries, Arroyo has named four assistant secretaries. In the DOT, the Code provides for four undersecretaries and no assistant secretaries, Arroyo has named three assistant secretaries”;

WHEREAS, former Senator Tatad allegedly claimed that “Arroyo committed graft when she appointed these individuals to favored positions, awarding undue benefits to them at the expense of the State”;

WHEREAS, in view of these allegations, there is a need to investigate whether or not there was, indeed, any violation or circumvention of the Constitution and other applicable laws;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, by the Senate, to direct the Senate Committee on Accountability of Public Officers and Investigations, to investigate, in aid of legislation the alleged illegal appointments committed by the Executive Department.

Adopted.

  
**LUISA "LOI" PEJERCITO ESTRADA**  
Senator