



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 64**  
Wednesday, February 16, 2011

**FIFTEENTH CONGRESS**  
**FIRST REGULAR SESSION**

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**CALL TO ORDER**

At 3:27 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

**PRAYER**

Sen. Joker P. Arroyo led the prayer, to wit:

Lord, the peoples of Egypt and Tunisia had just gone through people power movements that led to the fall of the governments of both countries.

Their Arab neighbors are worried lest the same fate should befall them.

We should pause to thank the good Lord that we are so far away to be directly affected by these developments.

And pray that our government would remain strong so that it can cope with the myriad problems that beset us so that we can live in peace and harmony.

Amen.

**SUSPENSION OF SESSION**

With the permission of the Body, the session was suspended.

*It was 3:28 p.m.*

**RESUMPTION OF SESSION**

*At 3.30 p.m., the session was resumed.*

**ROLL CALL**

Upon direction of the Chair, the Secretary of Senate, Atty. Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Honasan, G. B.
Arroyo, J. P.	Lapid, M. L. M.
Cayetano, P. S.	Legarda, L.
Defensor Santiago, M.	Osmeña III, S. R.
Drilon, F. M.	Revilla Jr., R. B.
Ejercito Estrada, J.	Sotto III, V. C.
Enrile, J. P.	Trillanes IV, A. F.
Escudero, F. J. G.	Zubiri, J. M. F.

With 16 senators present, the Chair declared the presence of a quorum.

Senators Cayetano (A), Guingona, Marcos, Pangilinan, Recto and Villar arrived after the roll call.

Senator Lacson was absent.

**APPROVAL OF THE JOURNAL**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 63 (February 15, 2011) and considered it approved.

**SUSPENSION OF SESSION**

With the permission of the Body, the Chair suspended the session to allow the Members to greet Senate President Pro Tempore Ejercito Estrada on

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the occasion of his birth anniversary the following day, February 17, 2011.

*It was 3:31 p.m.*

## RESUMPTION OF SESSION

*At 3:32 p.m., the session was resumed.*

## ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of the following:

- Mayor Carol Fariñas of San Felipe, Zambales, together with the Sangguniang Bayan members;
- Students of Don Bosco Academy in Pampanga;
- Students of Holy Angel University, Angeles City, Pampanga;
- The Tingog Society and the Junior Politicians of the Bachelor of Arts of Capiz State University, Poblacion Mambusao Campus, Mambusao, Capiz; and
- The officers and staff of the Sangguniang Kabataan National Federation led by Gabriel Louise del Rosario.

Senate President Enrile welcomed the guests to the Senate.

*At this juncture, Senate President Enrile relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*

## REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

### BILL ON FIRST READING

Senate Bill No. 2700, entitled

AN ACT INSTITUTIONALIZING THE KINDERGARTEN EDUCATION INTO THE BASIC EDUCATION SYSTEM. PRESCRIBING A MOTHER TONGUE-BASED MULTI-LINGUAL

## EDUCATION, AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Recto

**To the Committees on Education, Arts and Culture; Ways and Means; and Finance**

### RESOLUTION

Proposed Senate Resolution No. 382, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON AGRICULTURE AND FOOD TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, ON THE DISENGAGEMENT OF AGRICULTURAL SERVICES OF FOOD TERMINAL INCORPORATED (FTI) AND ITS IMPACT ON THE EFFORTS OF THE GOVERNMENT TO ACHIEVE FOOD SUFFICIENCY

Introduced by Senator Pangilinan

**To the Committee on Agriculture and Food**

*At this juncture, Senate President Pro Tempore Ejercito Estrada relinquished the Chair to Senator Zubiri.*

### COMMITTEE REPORT

Committee Report No. 18, prepared and submitted by the Committee on Labor, Employment and Human Resources Development, on Senate Bill No. 2701, with Senators Ejercito Estrada and Pangilinan as authors thereof, entitled

AN ACT EXPANDING THE EXCEPTIONS FROM THE NIGHTWORK PROHIBITION OF WOMEN EMPLOYEES, THEREBY AMENDING ARTICLES 130 AND 131 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY TWO (PD 442), AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES,

recommending its approval in substitution of Senate Bill Nos. 859 and 2175.

Sponsor: Senator Ejercito Estrada

**To the Calendar for Ordinary Business**

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**SPECIAL ORDER**

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 18 on Senate Bill No. 2701 from the Calendar for Ordinary Business to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 18  
ON SENATE BILL NO. 2701**

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2701 (Committee Report No. 18), entitled:

AN ACT EXPANDING THE EXCEPTIONS FROM THE NIGHTWORK PROHIBITION OF WOMEN EMPLOYEES, THEREBY AMENDING ARTICLES 130 AND 131 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY TWO (PD 442), AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

Thereupon, the Chair recognized Senator Ejercito Estrada, Sponsor of the measure.

**SPONSORSHIP SPEECH  
OF SENATOR EJERCITO ESTRADA**

Senator Ejercito Estrada presented for plenary consideration Senate Bill No. 2701.

*Hereunder is the full text of his sponsorship speech:*

The Committee on Labor, Employment and Human Resources Development has the honor to report back for the consideration and approval of this Chamber, Senate Bill 2701, under Committee Report No. 18, entitled, "An Act Expanding The Exceptions From The Nightwork Prohibition Of Women Employees, Thereby Amending Articles 130 And 131 Of Presidential Decree Number Four Hundred Forty

Two (PD 442), As Amended, Otherwise Known As The Labor Code Of The Philippines."

Section 14, Article II of the 1987 Constitution expressly recognizes the role of women in nation-building and commands the State to ensure, at all times, the fundamental equality before the law of women and men. Corollary thereto, Section 3 of Article XIII requires the State to afford full protection to labor and to promote full employment and equality of employment opportunities for all. And similarly, Section 14 of Article XIII mandates that the State shall protect working women through provisions for opportunities that would enable them to reach their full potential.

Under Article 130 of the Labor Code, as amended, nightwork for women employees is generally prohibited in industrial, commercial and agriculture undertakings. The general rule, however, admits of exceptions as provided for under Article 131 of the same Code. In addition to the six (6) exceptions specifically enumerated in Article 131 where women employees are allowed to work during nighttime, the Secretary of Labor is allowed, in analogous cases, to exempt women employees from the said provision.

There has been a demand for exemption on the nightwork prohibition on women employees, especially in the call center industry. In granting exemption, the Department of Labor and Employment considered the changes brought about by the increasing demand for globalization, liberalization, advanced information and communication technology, and the constitutional mandate for the equal rights to employment opportunities and the right against employment discrimination.

The increase in the country's information-technology (IT) industry can be largely attributed to the boom in the call center business. The call center service has been dubbed as the Philippines' latest sunshine industry, expected to generate around 24,000 jobs in the next two years. With the unemployment rate at eight (8) percent as of April 2010, the possible jobs which will be generated by these call centers will be a welcome solution to the increasing unemployment rate. Call centers are operating on a 24-hour service.

Most of these centers work in several shifts to provide for the 24-hour call center service. This necessitates the employment of men and women even after late hours of the night to wee hours of the morning.

Given the importance of the constitutional mandate providing for equal opportunities to all,

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which will increase women participation in work and enhance employment generation, exemptions from nightwork prohibition for women under Article 131 should be expanded.

### **COSPONSORSHIP SPEECH OF SENATOR CAYETANO (P)**

In support of Senate Bill No. 2701, Senator Cayetano (P) delivered her cosponsorship speech as follows:

I rise to express support for Senate Bill No. 2701 under Committee Report No. 18.

Last August 12, 2010, our Committee on Youth, Women and Family Relations, pursuant to the Magna Carta of Women, conducted a hearing to determine which existing laws are considered discriminatory to women and to consider their amendment or repeal. One of the laws identified to be discriminatory to women is Section 130 of the Labor Code which states:

ART. 130. *Nightwork prohibition.*

- No woman, regardless of age, shall be employed or permitted or suffered to work, with or without compensation:

- (a) In any industrial undertaking or branch thereof between ten o'clock at night and six o'clock in the morning of the following day; or
- (b) In any commercial or non-industrial undertaking or branch thereof, other than agricultural, between midnight and six o'clock in the morning of the following day; or
- (c) In any agricultural undertaking at nighttime unless she is given a period of rest of not less than nine (9) consecutive hours.

Originally, the provision was meant to protect women from harsh working conditions or from being lured into engaging in prostitution. However, the age of globalization has brought about a shift in the work environment resulting in the employment of more women in certain businesses such as the business processing outsourcing industry, not to mention that many of our women are working as health professionals in hospitals and health care establishments.

Almost half of our current workforce is composed of women. To cite a specific booming industry, especially in the Philippines, 55.4% of workers engaged in business processing outsourcing activities are women. In 2005, it was

estimated that women comprise 74.5% of the workforce in medical transcription industries, 65.2% of the workforce in data processing centers, and 58.8% of the workforce in call centers. But given the nature of their businesses, most of these establishments operate at night to accommodate their clientele needs. In fact, the Department of Labor and Employment recognized this economic occurrence and issued Department Order No. 4 or "Guidelines on the Implementation of Flexible Work Arrangements and the Exemption from the Nightwork Prohibition for Women Employees in the Business Processing Outsourcing Industry."

As I mentioned, there are many other women employed in different kinds of profession not just in the health care profession, but also in the hotel and restaurant industries and many others.

Given these changes, restricting women from working during nighttime will be a hindrance to their capacity and ability to earn a living and support themselves and their families. This, in effect, is discriminatory to women and denies them of equal work opportunity – a right which is guaranteed under our Constitution.

It is for this reason that as Chair of the Committee on Youth, Women and Family Relations, I support the initiative of the Committee on Labor, Employment and Human Resources Development under the chairmanship of Senator Jinggoy Ejercito Estrada, and at the proper time will propose some amendments to further strengthen the same.

### **INTERPELLATION OF SENATOR ARROYO**

At the onset, Senator Arroyo pointed out that, among the other industries, the bill would most likely affect the call centers, most of which are foreign-owned.

To Senator Arroyo's concern that foreign-owned call centers would lose money if women are prohibited from working eleven (11) consecutive hours, Senator Ejercito Estrada replied in the negative, as he pointed out that as revealed by the data presented during the Conference for Decent Work held on July 8 to 10, 2010 in Geneva, Switzerland, the call center industry is booming, pump-priming the economy with revenues totaling US\$12 billion and total direct employment of about 900,000.

Asked who would take the place of women workers if they would not be allowed to work on the hours specified in the bill, Senator Ejercito Estrada

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clarified that the idea of the measure is not to limit work by women but to generate more employment for them by amending the nightwork prohibition for women in the Labor Code that was enacted way back in 1974.

As regards the information disclosed by Senator Cayetano (P) that the night shifts in hospitals are being undertaken by women, Senator Arroyo posited that there would be a net loss if women are prohibited to work on the specified hours. Senator Ejercito Estrada reiterated that the bill seeks to empower women to work, not prohibit them from doing so.

On whether the bill would address the concern that the health and well-being of women who work at night are exposed to risks, Senator Ejercito Estrada said that a provision has been inserted in the bill mandating employers to provide an enabling working environment to both men and women workers, for them to be able to perform their work confidently, efficiently and effectively without fear or danger. He pointed out that in the original bill, employers of women workers who wish to seek exemption from the DOLE prohibition, would have to provide the necessary facilities like transportation for those who would be working on the graveyard shift. He added that penal provisions would be inserted in the measure and would be presented during the period of amendments.

#### INTERPELLATION OF SENATOR DRILON

Asked by Senator Drilon why the measure prohibits women from working for eleven (11) consecutive hours between 10:00 p.m. and 6:00 a.m.\* when there are only a total of eight (8) hours during such period, Senator Ejercito Estrada admitted that the discrepancy would be addressed during the period of amendments.

Thereafter, Senator Ejercito Estrada cited the pertinent provision related thereto found on the International Labour Organisation's *Convention 89 Night Work (Women)* in 1948 to which the Philippines is signatory:

For the purpose of this Convention, the term *night* signifies a period of at least eleven consecutive hours, including an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning; the competent authority may prescribe different

intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after eleven o'clock in the evening.

At this point, Senator Drilon proposed to retain the phrase "permitted or suffered to" on page 1, line 4 of the bill to make the sentence grammatically correct. Senator Ejercito Estrada expressed willingness to accept the amendment at the proper time.

Senator Drilon asked whether the bill was designed to remove the prohibition against nightwork specifically in call centers in view of the fact that there were still no call centers at the time P.D. No. 442 (the Labor Code of the Philippines) was crafted. Replying in the affirmative, Senator Ejercito Estrada said that Article 130 of the Labor Code is the pertinent provision prohibiting nightwork for women.

Asked whether call centers cannot hire women unless the law is amended, Senator Ejercito Estrada clarified that they could still hire women but they would have to seek an exemption from DOLE provided they fall under analogous cases previously exempted. He affirmed that under Article 131(g), of the present law, DOLE is given the authority to provide exemptions. By deleting subsection (g), he said that the requirement for an exemption would no longer be necessary, thus, women could work at night without seeking exemption from the Department.

Moreover, Senator Ejercito Estrada pointed out that there is a catch-all provision in page 4, line 6 of the bill which covers, among other exceptions, cases "where increasing demand for work provides equal opportunities to work at night."

Asked whether the measure then recognizes women as having equal strength to men, Senator Ejercito Estrada said that while men may still be of superior strength physiologically, the objective of the bill is basically to provide women equal opportunities.

Senator Drilon asked whether the bill prohibits the employment of women in garment factories, given the definition of "industrial undertakings," specifically lines 8 to 12 of page 2 of the bill, which states, "undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished,

\* As corrected by Senator Drilon on February 21, 2011

or in which materials are transformed." Senator Ejercito Estrada affirmed that while there is such a prohibition there is an exemption in subsection (e) on page 4 which says, "where increasing demand for work provide equal opportunities to work at night."

Senator Drilon observed that the first premise of the bill is that, generally, work for women between ten o'clock in the evening and six o'clock in the morning in any industrial undertaking shall be prohibited. However, he pointed out that a lot of women work in garment factories where three shifts are commonly observed, the last or the so-called graveyard shift scheduled from ten o'clock in the evening to six o'clock in the morning. He asked whether the bill would now prohibit women from availing themselves of opportunities to work at night.

### SUSPENSION OF SESSION

Upon motion of Senator Drilon, the session was suspended.

*It was 4:09 p.m.*

### RESUMPTION OF SESSION

At 4:21 p.m., the session was resumed.

Upon resumption, Senator Ejercito Estrada stated he would consult with Senator Drilon, a labor expert, and DOLE officials to discuss the inconsistencies in some of the provisions of the bill. He stated that at the appropriate time, he would propose the committee amendments in consultation with Senator Drilon.

### SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2701

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

*At this juncture, Senator Zubiri relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*

### STATEMENT OF SENATOR SOTTO

Senator Sotto recalled that on February 14, 2011, he sounded the alarm on the use, abuse, and misuse of opium poppy seeds by some establishments in the country per the latest report of the Dangerous Drugs

Board (DDB). He recalled that in that same privilege speech, he brought to the Body's attention the discovery of a poppy plantation in the Cordilleras that had been successfully eradicated. He revealed, however, that according to the latest intelligence report, the DDB was trying to infiltrate some areas where poppy plantations were discovered.

He bewailed that the initial reaction from the concerned agencies to his speech was not exactly desirable as he surmised that they probably were unsure of what was going on. However, he stated that after exercising due diligence, the concerned agencies have taken action to signify support for his cause and have issued statements, whose salient points he cited, to wit:

- A PDEA press release dated February 16, 2011, quoted the PDEA Chief as saying "In order for us to be truly effective in our campaign against dangerous drugs, it is high time that we strictly enforced the law without fear or favor amidst the popularity of opium poppy seeds as a palliative ingredient in pastries, salads and other food preparations in the permissive atmosphere. We are joining the Honorable Senator in issuing a stern warning to all establishments to cease and desist in including this dangerous drug in their menu. This is simply because the law expressly prohibits it." The press release mentioned that "PDEA Director General and Undersecretary Jose Gutierrez Jr. cited that opium (*Papaver somniferum*), the source of poppy seeds, is included in the 1961 United Nations Single Convention on Narcotic Drugs as amended by the 1972 Protocol," and that "the Director of the PDEA Legal and Prosecution Service has observed that several establishments have openly sold opium poppy seeds as an ingredient in either culinary or baking recipes and even high-end restaurants and cafes have also used poppy seeds in pastries and salads"; and
- The DDB statement quoted Chairman Antonio A. Villar, Jr. who said that "using any part of the opium plant even for food preparation decorative purposes are punishable acts under the Comprehensive Dangerous Drugs Act of 2002, Republic Act 9165." It also took note that "Secretary Villar cited Sections 4, 5 and 11, Article II of RA 9165, which consider the importation, sale and trade, and possession, respectively, of opium poppy plant parts as unlawful which is punishable by imprisonment of 12 to 20 years or

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lifetime imprisonment, and a fine ranging from P500,000 to P10 Million pesos. 'Opium' the opium poppy plant sap, is a substance which causes physical and psychological dependence when abused." It reported that the DDB has "coordinated with the PDEA as the board's law enforcement arm, to further its investigation on establishments that have been found to be selling parts of the opium poppy plant."

In this regard, Senator Sotto informed the Body that the Administrator of the Food And Drug Administration (FDA) personally came to his office to take back the agency's statement yesterday to the effect that poppy seeds were non-addictive and to give the agency's commitment of support for the efforts of the Senate on the matter. In addition, he disclosed that the FDA has issued a directive revoking all permits for the importation of poppy seeds.

In closing, he asked that the official statement of the FDA be referred to the Committee on Public Order and Dangerous Drugs as he expressed the view that an immediate hearing on the matter was no longer necessary since the DDB could look into how the law was being implemented.

#### **SUBCOMMITTEE ON SPORTS**

Upon the request of Senator Lapid, Chairman of the Committee on Games, Amusement and Sports, Senator Sotto manifested that the Committee approved the creation of the Subcommittee on Sports with Senator Honasan as chairman.

#### **COAUTHORS**

Senator Sotto manifested that Senator Escudero is a coauthor of Proposed Senate Resolution No. 338, and Senators Villar and Revilla are coauthors of Senate Bill No. 2701.

#### **OVERSIGHT COMMITTEE MEMBERSHIP**

Acting on the letter of Senate President Enrile agreeing to the constitution of the Congressional Oversight Committee on Philippine Disaster Risk Reduction and Management chaired by Senator Escudero, nominated by Senator Sotto, there being no objection, the Body approved the election of Senators Honasan, Legarda, Trillanes, Cayetano (A), and Cayetano (P) as members.

#### **ADJOURNMENT OF SESSION**

Upon motion of Senator Sotto, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Monday, February 21, 2011.

*It was 4:34 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO REYES  
Secretary of the Senate



Approved on February 21, 2011