

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



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SENATE
S. No. **2461**

RECEIVED BY: *ji*

Introduced by Senator Miriam Defensor Santiago

AN ACT
ELIMINATING INHUMANE CONDITIONS IN PHILIPPINE PRISONS AND JAILS¹

EXPLANATORY NOTE

The Constitution, Article 2, Section 11 provides:

SEC. 11. The State values the dignity of every human person and guarantees full respect for human rights.

Article 3, Section 19 also provides:

- (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted...
- (2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

As of May 2012, the congestion rate for jails around the Philippines averaged 318% of their capacity, with the highest congestion topping at 511% in Region IV-A. Records also show that as of January 2013, nearly 800 inmates have been incarcerated for a period equal to or longer than the maximum imposable penalty.¹ This extreme overcrowding, together with substandard meals, inadequate health and sanitation services, gang wars, administrative abuse, favoritism, and other factors have created cruel, degrading and inhuman conditions for the inmates in prisons and jails throughout

¹ <http://www.bjmp.gov.ph/datstat.html>

the Philippines.² Such conditions are clearly proscribed by the Constitution and must be eliminated.

The United Nations Office of the High Commissioner for Human Rights provides the Standard Minimum Rules for the Treatment of Prisoners. These rules seek, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principle and practice in the treatment of inmates and the management of institutions. They serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.³

This bill seeks to substantially adopt these rules in order to eliminate inhumane conditions and raise the quality of life of inmates to meet the demands of basic human dignity.


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² <http://www.preda.org/en/media/research-documents/the-condition-of-philippine-prisons-and-jails/>

³ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfInmates.aspx>

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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 AN ACT
2 ELIMINATING INHUMANE CONDITIONS IN PHILIPPINE PRISONS AND JAILS

3 SECTION 1. *Short Title.* – This Act shall be known as the “Inmate Welfare Act”.

4 SECTION 2. *Definition of Terms.* – As used in this Act, the term:

5 (1) “Detainee” means any person, who having been lawfully charged with
6 the commission of a crime, is kept in a detention facility during the
7 pendency of his case;

8 (2) “Director” means the highest administrative authority pertaining to a
9 particular correctional or detention facility, or his validly appointed
10 agent or officer-in-charge;

11 (3) “Inmate” is a collective term for any person committed to a prison, jail
12 or other correctional or detention facility. It includes both detainees and
13 prisoners; and

14 (4) “Prisoner” means any person, who having been convicted by final
15 judgement of a crime, is committed to a correctional facility.

16 SECTION 3. *Designation of Lead Agency* – The Department of Justice through
17 the Bureau of Corrections shall act as the lead agency for ensuring that these rules are
18 observed in correctional institutions throughout the country. The Department of Interior
19 and Local Government through the Bureau of Jail Management and Penology shall be
20 responsible for implementing these rules in municipal and city jails throughout the

1 country. The Commission on Human Rights shall be tasked with the inspection and
2 review of correctional facilities as outlined in Section 22 of this Act.

3 SECTION 4. *Basic Principle.* – The following rules shall be applied equally.
4 There shall be no discrimination on the grounds of gender, sex, ethnicity, religion,
5 political opinion, social status, or other status. However, the free exercise and enjoyment
6 of religious profession and worship, without discrimination or preference, shall forever
7 be allowed.

8 SECTION 5. *Non-application to Children in Conflict with the Law.* – The rules
9 herein provided do not apply to minor children in conflict with the law. Such cases shall
10 be dealt with in accordance with pertinent provisions of the Penal Code, Republic Act
11 No. 9344 otherwise known as the “Juvenile Justice and Welfare Act of 2006” and
12 existing laws.

13 SECTION 6. *Register.* –

14 (1) In every place where persons are imprisoned, there shall be kept a
15 bound registration book with numbered pages in which shall be entered
16 in respect of each inmate received:

17 (A) Information concerning his identity;

18 (B) Reasons for his commitment and the authority therefor; and

19 (C) The day and hour of his admission and release.

20 (2) No person shall be received in an institution without a valid court order
21 of which the details have been previously entered in the register.

22 SECTION 7. *Separation of Categories.* –

23 (1) The different categories of inmates shall be kept in separate institutions
24 or parts of institutions taking account of their sex, age, criminal record,
25 the legal reason for their detention and the necessities of their treatment.

26 Thus:

1 (A) Men and women shall so far as possible be detained in separate
2 institutions or parts of institutions; in an institution which
3 receives both men and women, the whole of the premises
4 pertaining to each sex shall be entirely separate;

5 (B) Detainees shall be kept separate from convicted inmates;

6 (C) Those imprisoned for crimes punishable by reclusion perpetua or
7 a corresponding penalty shall be kept separate from inmates
8 convicted of lesser crimes; and

9 (D) Inmates who are senior citizens shall be kept separate from
10 younger inmates.

11 SECTION 8. *Accommodation.* –

12 (1) Where sleeping accommodation is in individual cells or rooms, each
13 inmate shall occupy by night a cell or room by himself. The minimum
14 size for a single person cell shall be 1.8m x 2.4m. If during a state of
15 temporary overcrowding as outlined in Section 9, more than one inmate
16 must occupy a cell, it shall not be desirable to have only two inmates in
17 one cell;

18 (2) Where dormitories are used, they shall be occupied by inmates carefully
19 selected as being suitable to associate with one another in those
20 conditions. There shall be regular supervision by night, in keeping with
21 the nature of the institution; and

22 (3) All accommodation provided for the use of inmates and in particular all
23 sleeping accommodation shall have sufficient cubic content of air,
24 minimum floor space, lighting, and ventilation.

25 (4) In all places where inmates are required to live or work –

1 (A) The windows shall be large enough to enable the inmates to read
2 or work by natural light, and shall be so constructed that they can
3 allow the entrance of fresh air whether or not there is artificial
4 ventilation; and

5 (B) Artificial light shall be provided sufficient for the inmates to read
6 or work without injury to eyesight.

7 (5) The sanitary installations shall be adequate to enable every inmate to
8 comply with the needs of nature when necessary and in a clean and
9 decent manner;

10 (6) Adequate bathing and shower installations shall be provided so that
11 every inmate may be enabled and required to have a bath or shower, at a
12 temperature suitable to the climate, as frequently as necessary for
13 general hygiene according to season and geographical region, but at
14 least once a week in a temperate climate; and

15 (7) All parts of an institution regularly used by inmates shall be properly
16 maintained and kept scrupulously clean at all times.

17 SECTION 9. *Overcrowding.* –

18 (1) All prisons that are currently in a state of overcrowding shall be
19 decongested to its normal capacity within eight years from the
20 effectivity of this law;

21 (2) After the eight year period mentioned in the next preceding paragraph
22 has lapsed, there shall be no subsequent overcrowding of prisons; and

23 (3) If due to special circumstances, overcrowding cannot be avoided, a state
24 of temporary overcrowding shall be declared by the prison
25 administration. This declaration shall be immediately followed by

1 institution of infrastructure projects in order to accommodate the
2 overcrowded inmates. This state shall, in no case, exceed three years.

3 SECTION 10. *Personal Hygiene.* –

4 (1) Inmates shall be required to keep their persons clean, and to this end
5 they shall be provided with water and with such toilet articles as are
6 necessary for health and cleanliness; and

7 (2) In order that inmates may maintain a good appearance compatible with
8 their self-respect, facilities shall be provided for the proper care of the
9 hair and beard, and men shall be enabled to shave regularly.

10 SECTION 11. *Clothing and Bedding.* –

11 (1) Every inmate shall be provided with an outfit of clothing suitable for the
12 climate and adequate to keep him in good health. Such clothing shall in
13 no manner be degrading or humiliating;

14 (2) All clothing shall be clean and kept in proper condition. Underclothing
15 shall be changed and washed as often as necessary for the maintenance
16 of hygiene;

17 (3) In exceptional circumstances, whenever an inmate is removed outside
18 the institution for an authorized purpose, he shall be allowed to wear his
19 own clothing or other inconspicuous clothing; and

20 (4) Every inmate shall, in accordance with local or national standards, be
21 provided with a separate bed, and with separate and sufficient bedding
22 which shall be clean when issued, kept in good order and changed often
23 enough to ensure its cleanliness.

1 SECTION 12. *Food.* –

2 (1) Every inmate shall be provided by the administration at the usual hours
3 with food of nutritional value adequate for health and strength, of
4 wholesome quality and well prepared and served; and

5 (2) Drinking water shall be available to every inmate whenever he needs it.

6 SECTION 13. *Exercise and sport.* –

7 (1) Every inmate who is not employed in outdoor work shall have at least
8 one hour of suitable exercise in the open air daily if the weather permits;
9 and

10 (2) Young inmates, and others of suitable age and physique, shall receive
11 physical and recreational training during the period of exercise. To this
12 end, space, installations and equipment should be provided.

13 SECTION 14. *Medical services.* –

14 (1) At every institution there shall be available the services of at least one
15 qualified medical officer who should have some knowledge of
16 psychiatry. The medical services should be organized in close
17 relationship to the general health administration of the community or
18 nation. They shall include a psychiatric service for the diagnosis and, in
19 proper cases, the treatment of states of mental abnormality;

20 (2) Sick inmates who require specialist treatment shall be transferred to
21 specialized institutions or to government hospitals. Where hospital
22 facilities are provided in an institution, their equipment, furnishings and
23 pharmaceutical supplies shall be proper for the medical care and
24 treatment of sick inmates, and there shall be a staff of suitable trained
25 officers;

1 (3) In women's institutions there shall be special accommodation for all
2 necessary pre-natal and post-natal care and treatment. Arrangements
3 shall be made wherever practicable for children to be born in a hospital
4 outside the institution. If a child is born in prison, this fact shall not be
5 mentioned in the birth certificate;

6 (4) Where nursing infants are allowed to remain in the institution with their
7 mothers, provision shall be made for a nursery staffed by qualified
8 persons, where the infants shall be placed when they are not in the care
9 of their mothers;

10 (5) The medical officer shall see and examine every inmate as soon as
11 possible after his admission and thereafter as necessary, with a view
12 particularly to the discovery of physical or mental illness and the taking
13 of all necessary measures; the segregation of inmates suspected of
14 infectious or contagious conditions; the noting of physical or mental
15 defects which might hamper rehabilitation, and the determination of the
16 physical capacity of every inmate for work;

17 (6) The medical officer shall have the care of the physical and mental health
18 of the inmates and should daily see all sick inmates, all who complain of
19 illness, and any inmate to whom his attention is specially directed;

20 (7) The medical officer shall report to the director whenever he considers
21 that an inmate's physical or mental health has been or will be injuriously
22 affected by continued imprisonment or by any condition of
23 imprisonment;

24 (8) The medical officer shall regularly inspect and advise the director upon:

25 (A) The quantity, quality, preparation and service of food;

26 (B) The hygiene and cleanliness of the institution and the inmates;

- 1 (C) The sanitation, heating, lighting and ventilation of the institution;
2 (D) The suitability and cleanliness of the inmates' clothing and
3 bedding;
4 (E) The observance of the rules concerning physical education and
5 sports, in cases where there is no technical personnel in charge of
6 these activities; and

7 (9) The director shall take into consideration the reports and advice that
8 the medical officer submits according to this Section and, in case he
9 concurs with the recommendations made, shall take immediate
10 steps to give effect to those recommendations; if they are not within
11 his competence or if he does not concur with them, he shall
12 immediately submit his own report and the advice of the medical
13 officer to higher authority.

14 SECTION 15. *Discipline and punishment.* –

- 15 (1) Discipline and order shall be maintained with firmness, but with no
16 more restriction than is necessary for safe custody and well-ordered
17 community life;
- 18 (2) No inmate shall be employed, in the service of the institution, in any
19 disciplinary capacity. This rule shall not, however, impede the proper
20 functioning of systems based on self-government, under which specified
21 social, educational or sports activities or responsibilities are entrusted,
22 under supervision, to inmates who are formed into groups for the
23 purposes of treatment;
- 24 (3) Corporal punishment, punishment by placing in a dark cell, and all
25 cruel, inhuman or degrading punishments shall be completely prohibited
26 as punishments for disciplinary offences;

1 (4) Punishment by close confinement or reduction of diet shall never be
2 inflicted unless the medical officer has examined the inmate and
3 certified in writing that he is fit to sustain it. The same shall apply to any
4 other punishment that may be prejudicial to the physical or mental
5 health of an inmate. In no case may such punishment be contrary to or
6 depart from the principle stated in the next preceding paragraph; and

7 (5) The medical officer shall visit daily inmates undergoing such
8 punishments and shall advise the director if he considers the termination
9 or alteration of the punishment necessary on grounds of physical or
10 mental health.

11 SECTION 16. *Instruments of restraint.* -

12 (1) Instruments of restraint, such as handcuffs, chains, irons and strait-
13 jackets, shall never be applied as a punishment. Furthermore, chains or
14 irons shall not be used as restraints. Other instruments of restraint shall
15 not be used except in the following circumstances:

16 (A) As a precaution against escape during a transfer, provided that
17 they shall be removed when the inmate appears before a judicial
18 or administrative authority;

19 (B) On medical grounds by direction of the medical officer; and

20 (C) By order of the director, if other methods of control fail, in order
21 to prevent an inmate from injuring himself or others or from
22 damaging property; in such instances the director shall at once
23 consult the medical officer and report to the higher administrative
24 authority.

1 (2) The patterns and manner of use of instruments of restraint shall be
2 decided by the central prison administration. Such instruments must not
3 be applied for any longer time than is strictly necessary.

4 SECTION 17. *Contact with the outside world.* –

5 (1) Inmates shall be allowed under necessary supervision to communicate
6 with their family and reputable friends at regular intervals, both by
7 correspondence and by receiving visits;

8 (2) Inmates who are foreign nationals shall be allowed reasonable facilities
9 to communicate with the diplomatic and consular representatives of the
10 State to which they belong;

11 (3) Inmates who are nationals of States without diplomatic or consular
12 representation in the country and refugees or stateless persons shall be
13 allowed similar facilities to communicate with the diplomatic
14 representative of the State which takes charge of their interests or any
15 national or international authority whose task it is to protect such
16 persons; and

17 (4) Inmates shall be kept informed regularly of the more important items of
18 news by the reading of newspapers, periodicals or special institutional
19 publications, by hearing wireless transmissions, by lectures or by any
20 similar means as authorized or controlled by the administration.

21 SECTION 18. *Religion.* –

22 (1) If the institution contains a sufficient number of inmates of the same
23 religion, and if conditions permit, a qualified representative of that
24 religion shall be allowed to hold regular services and to pay visits in
25 private to inmates of his religion at proper times;

- 1 (2) Access to a qualified representative of any religion shall not be refused
2 to any inmate. On the other hand, if any inmate should object to a visit
3 of any religious representative, his decision shall be fully respected; and
4 (3) So far as practicable, every inmate shall be allowed to satisfy the needs
5 of his religious life by attending the services provided in the institution
6 and having in his possession the books of religious observance and
7 instruction of his denomination.

8 SECTION 19. *Retention of inmates' property.* –

- 9 (1) All money, valuables, clothing and other effects belonging to an inmate
10 which under the regulations of the institution he is not allowed to retain
11 shall on his admission to the institution be placed in safe custody. An
12 inventory thereof shall be signed by the inmate. Steps shall be taken to
13 keep them in good condition;
14 (2) On the release of the inmate all such articles and money shall be
15 returned to him except in so far as he has been authorized to spend
16 money or send any such property out of the institution, or it has been
17 found necessary on hygienic grounds to destroy any article of clothing.
18 The inmate shall sign a receipt for the articles and money returned to
19 him;
20 (3) Any money or effects received for an inmate from outside shall be
21 treated in the same way; and
22 (4) If an inmate brings in any drugs or medicine, the medical officer shall
23 decide what use shall be made of them.

24 SECTION 20. *Notification of death, illness, transfer, etc.* –

- 25 (1) Upon the death or serious illness of, or serious injury to an inmate, or
26 his removal to an institution for the treatment of mental affections, the

1 director shall at once inform the spouse, if the inmate is married, or
2 relative closest in terms of consanguinity or affinity, and shall in any
3 event inform any other person previously designated by the inmate;

4 (2) An inmate shall be informed at once of the death or serious illness of
5 any relative within the fourth degree of consanguinity or affinity. In
6 case of the critical illness of a near relative, the inmate should be
7 authorized, whenever circumstances allow, to go to his bedside either
8 under escort or alone; and

9 (3) Every inmate shall have the right to inform at once his family of his
10 imprisonment or his transfer to another institution.

11 SECTION 21. *Removal of inmates.* –

12 (1) When the inmates are being removed to or from an institution, they shall
13 be exposed to public view as little as possible, and proper safeguards
14 shall be adopted to protect them from insult, curiosity and publicity in
15 any form;

16 (2) The transport of inmates in conveyances with inadequate ventilation or
17 light, or in any way which would subject them to unnecessary physical
18 hardship, shall be prohibited; and

19 (3) The transport of inmates shall be carried out at the expense of the
20 administration and equal conditions shall obtain for all of them.

21 SECTION 22. *Inspection.* –

22 (1) The Commission on Human Rights (CHR) shall be responsible for
23 regular inspection of penal institutions and services. Their task shall be
24 in particular to ensure that these institutions are administered in
25 accordance with the rules prescribed in this Act and existing laws and

1 regulations and with a view to bringing about the objectives of penal
2 and correctional services;

3 (2) For this purpose, the CHR shall appoint inspectors that shall conduct
4 inspections twice yearly. A rotational scheme shall be implemented
5 such that no inspector will be responsible for any particular correctional
6 or detention facility; and

7 (3) The inspector's report shall be furnished to the director of the facility as
8 well as the Department of Justice. This report shall be the basis of
9 reviewing and improving the practices in these facilities, as well as
10 administrative cases should the inspector find substantial non-
11 compliance with the rules outlined in this Act and existing laws.

12 SECTION 23. *Information to and complaints by inmates.* –

13 (1) Every inmate on admission shall be provided with written information
14 about the regulations governing the treatment of inmates of his category,
15 the disciplinary requirements of the institution, the authorized methods
16 of seeking information and making complaints, and all such other
17 matters as are necessary to enable him to understand both his rights and
18 his obligations and to adapt himself to the life of the institution;

19 (2) If an inmate is illiterate, this information shall be conveyed to him
20 orally, in a language and understandable to him;

21 (3) Every inmate shall have the opportunity each week day of making
22 requests or complaints to the director of the institution or the officer
23 authorized to represent him;

24 (4) It shall be possible to make requests or complaints to the inspector of
25 prisons during his inspection. The inmate shall have the opportunity to

1 talk to the inspector or to any other inspecting officer without the
2 director or other members of the staff being present;

3 (5) Every inmate shall be allowed to make a request or complaint, without
4 censorship as to substance but in proper form, to the central prison
5 administration, the judicial authority or other proper authorities through
6 approved channels; and

7 (6) Unless it is evidently frivolous or groundless, every request or
8 complaint shall be promptly dealt with and replied to without undue
9 delay.

10 SECTION 24. *Authorization of Appropriations.* – There are authorized to be
11 appropriated to carry out this Act such sums as may be necessary for the implementation
12 of this Act.

13 SECTION 25. *Separability Clause.* – If any provision or part hereof, is held
14 invalid or unconstitutional, the remainder of the law or the provision not otherwise
15 affected shall remain valid and subsisting.

16 SECTION 26. *Repealing Clause.* – Any law, presidential decree or issuance,
17 executive order, letter of instruction, administrative order, rule or regulation contrary to
18 or is inconsistent with the provision of this Act is hereby repealed, modified, or amended
19 accordingly.

20 SECTION 27. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
21 after its publication in at least two (2) newspapers of general circulation.

Approved,