



REPUBLIC OF THE PHILIPPINES
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Journal

SESSION NO. 32
Tuesday, October 11, 2016

SEVENTEENTH CONGRESS
FIRST REGULAR SESSION

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CALL TO ORDER

At 3:18 p.m. the Senate President, Hon. Aquilino "Koko" Pimentel III, called the session to order.

PRAYER

Sen. Richard J. Gordon led the prayer, to wit:

Heavenly Father, our Creator, we praise and thank You for the dawn of this day that is the beginning of another new day of hope and accomplishment for our country.

Lord, thank You for our hearts, our minds and our five senses. Allow us to see with our minds, to hear with discernment and touch others with our hearts. Please give us the gift of unity so we can work in harmony and altogether smell the air of success of the nation.

All these we ask through Your Son Jesus Christ, our Redeemer.

Amen.

ROLL CALL

Upon direction of the Senate President, the

Secretary of the Senate, Atty. Lutgardo B. Barbo, called the roll, to which the following senators responded:

Angara, S.	Lacson, P. M.
Aquino, P. B. IV B.	Pacquiao, E. M. D.
Binay, M. L. N. S.	Pangilinan, F. N.
Cayetano, A. P. C. S.	Pimentel III, A. K.
De Lima, L. M.	Poe, G.
Drilon, F. M.	Recto, R. G.
Ejercito, J. V. G.	Sotto III, V. C.
Escudero, F. J. G.	Trillanes IV, A. F.
Gatchalian, W.	Villanueva, E. J.
Gordon, R. J.	Villar, C. A.
Honasan, G. B.	Zubiri, J. M. F.
Hontiveros, R.	

With 23 senators present, the Chair declared the presence of a quorum.

Senator Legarda arrived after the roll call.

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. 31 (October 10, 2016) and considered it approved.



ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

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

- Wilfredo Pido Lalimarmo Jr. of Takbo Artists and Musicians;
- Jennifer Lagahe Taprosa of the OFW Global Movement, Hong Kong Chapter-Duterte Cayetano campaign team;
- National PCL Executive Vice President Councilor Benito Brisuela of Lucena City; and
- PCL National Executive Director Wilson Paclibar.

Senator Sotto also informed the members of the Chamber that the Ambassador of France was in the session hall earlier but had already left.

Senate President Pimentel welcomed the guests to the Senate.

REFERENCE OF BUSINESS

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

BILLS ON FIRST READING

Senate Bill No. 1193, entitled

AN ACT PROVIDING FOR SECURITY OF TENURE FOR ALL CASUAL AND CONTRACTUAL EMPLOYEES OF THE GOVERNMENT WHO HAVE RENDERED THE PRESCRIBED YEARS OF SERVICE IN THE NATIONAL GOVERNMENT AGENCIES AND THE LOCAL GOVERNMENT UNITS AND FOR OTHER PURPOSES

Introduced by Senator Joseph Victor Ejercito

To the Committee on Civil Service, Government Reorganization and Professional Regulation

Senate Bill No. 1194, entitled

AN ACT PROVIDING FOR THE MAGNA CARTA OF STUDENT-ATHLETES

Introduced by Senator Joel Villanueva

To the Committees on Education, Arts and Culture; and Sports

RESOLUTIONS

Proposed Senate Resolution No. 192, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON SOCIAL JUSTICE, WELFARE AND RURAL DEVELOPMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPLEMENTATION AND ECONOMIC EFFECTS OF THE PANTAWID PAMILYANG PILIPINO PROGRAM (4Ps) WITH THE END IN VIEW OF REVIEWING, AMENDING AND IMPROVING THE PROGRAM TO EFFECTIVELY BRING ABOUT THE LIFTING OF THE BENEFICIARIES OUT OF POVERTY

Introduced by Senator Cynthia A. Villar

To the Committees on Social Justice, Welfare and Rural Development; Economic Affairs; and Finance

Proposed Senate Resolution No. 193, entitled

RESOLUTION COMMENDING AND CONGRATULATING MARK ANTHONY D. GUIAO FOR CLINCHING THE GOLD MEDAL AND FOR SHOWCASING THE CALIBER OF THE FILIPINO WORKER AT THE 11TH ASEAN SKILLS COMPETITION (ASC) IN KUALA LUMPUR, MALAYSIA ON SEPTEMBER 19-29, 2016

Introduced by Senator Joel Villanueva

To the Committee on Rules

ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

Senate Bill No. 1195, entitled

AN ACT PROHIBITING THE USE OF MOTOR VEHICLES WITHOUT

MUFFLERS OR THOSE THAT ARE DEFECTIVE OR HAVE BEEN MODIFIED WHICH INCREASE THE SOUND EMITTED BY MOTOR VEHICLES, PENALIZING OWNERS AND DRIVERS THAT CONTRIBUTE TO NOISE POLLUTION IN THE ENVIRONMENT

Introduced by Senator Win Gatchalian

To the Committees on Public Services; Health and Demography; and Finance

Senate Bill No. 1196, entitled

AN ACT PROVIDING FOR THE IMPROVEMENT OF MATERNAL AND CHILDBIRTH SERVICES BY ESTABLISHING BIRTHING CENTERS AND TRAINING TRADITIONAL BIRTH ATTENDANTS, AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Win Gatchalian

To the Committees on Health and Demography; Women, Children, Family Relations and Gender Equality; and Finance

Senate Bill No. 1197, entitled

AN ACT DEFINING EXTRAJUDICIAL KILLING, PROVIDING FOR ITS PENALTY AND OTHER PURPOSES

Introduced by Senator Leila M. de Lima

To the Committee on Justice and Human Rights

**PRIVILEGE SPEECH
OF SENATOR SOTTO**

Availing himself of the privilege hour, Senator Sotto spoke on two issues that, to him, stood out during the hearings of the House of Representatives regarding the drug trade in the New Bilibid Prison: the untraceable SIM card and the failure to contain and prevent high-level drug convicts from continuing their possession, trading and trafficking of illegal drugs while under detention.

The full text of his speech follows:

Not too long ago, we were treated to television and movie series that kept us glued to our seats waiting for the next episode and unexpected turn of events. The trend went towards reality shows – the more outrageous, the more challenging, the better for viewership and ad sales.

Now, the latest blockbuster *teleserye* has gone to the halls of Congress featuring real and true-to-life convicts telling stories about the life of the rich and famous behind prison walls. It is about them. Unbelievable, but true.


To me, it is, in essence, a crime story. There may be plots and sub-plots, but it really is a breakdown of our penitentiary system. Where in the world do we have convicts run the penitentiary? Right here. Only in the Philippines.

I know the expression, “*Grandes malos, grandes remedies*” – Great problems need great remedies. However, I stand before you today, to propose a new strategy – Great problems, simple remedies.

I have been monitoring closely the hearings of the House of Representatives, in their Committee on Justice. Our Committee on Justice has been conducting hearings. I think they have already conducted three or four hearings and it was concentrated on the issue of extra-judicial killings, as they call it. In the House of Representatives, they were concentrating on that drug trade in the New Bilibid Prison. Now, they have taken up many issues, many side-lights, but for me there are two standouts in the issues that have been unearthed in the House of Representatives, issues that I have been crying out loud all along.

First, the untraceable SIM card. It is obvious now, and I am talking about the mobile phones, particularly prepaid SIM cards that any person could easily avail of. It is the number one tool of the drug dealers in the national penitentiary.

The use of a SIM card in aid of a crime is not a new story. We know very well that mobile phones have been used countless times to perpetrate crimes such as bombing, kidnapping, fraud, drug trade now even in the New Bilibid Prison, and many other crimes where communication is the key. This freedom of availing of prepaid SIM cards and its effect could be felt even in a small community. *Kung may kaaway ka, puwede kang bumili ng SIM card sa tindahan at mag-text ng kung anu-ano sa kaaway mo. Ayun ang nangyayari sa atin.*



As early as 1999 up to the year 2000 when I was chairman of the Committee on Public Services in the Senate, we already asked the National Telecommunications Commission to look into the matter and they agreed. They issued a directive asking all telecom companies to register their prepaid SIM cards. The telecom companies went to the Supreme Court and were able to get a TRO or a temporary restraining order. The TRO lasted for two decades. It has only been lifted a few years ago and that is why, here we are now. Obviously, through the hearings in the House, they can see now how important this issue is.

I have been asked why the telecoms refused to register the prepaid SIM cards. They have so many reasons, but most of the reasons that they have expounded on are full of holes. Once, they said it is very difficult to register 100 million prepaid SIM cards – 100 million all over the country now. *Sabi ko*, how can that be difficult when somebody in Sultan Kudarat who has a prepaid SIM card *na wala ng load, hindi na niya nagagamit dahil kina-cancel ninyo? At kapag naglagay siya ng load, alam ninyo. Kapag naglagay siya ng load kahit saang lupalop ng Pilipinas aandar iyong cellphone niya o iyong SIM card niya.* Therefore, *naka-register sa kanila iyong numero niya. Ayaw lamang nilang i-register.* So, all the other reasons are invalid.

I now call on our colleagues to make this a center of one of our pieces of legislation that we should come up in the Seventeenth Congress and, if possible, as soon as possible.

Some of our colleagues here have been victims of nasty text comments and insults. The other day, Senator Binay approached me and said, “When are we going to register the prepaid SIM cards?” “Why?” I asked. She told me that she received again a death threat. The same thing with Senator De Lima. And all these text scams came from prepaid SIM cards – untraceable. That is the reason that when a bomb explodes and a cellphone is used, the SIM card, even if it could be recovered by the authorities, could not be traced. Not even a starting point on where to investigate *kung saan nabili ang SIM card na iyon at sino ang bumili.*

The second issue I want to bring out, and this is another point that was really raised in the hearings of the House of Representatives, is the recent news events that have been confirmed and proven in that hearing. This was the failure of the present treatment program and detention security measures of the Bureau of Corrections in the matter of containing and preventing high-

level illegal drug inmates from continuing their possession, trading and trafficking of illegal drugs while under detention.

Hence, I have filed a bill for the creation of a separate penal institution for high-level drug offenders. The objectives of this measure are:

1. To keep the high-level illegal drug offenders in a separate penal facility and sever any existing influence on other inmates; and
2. To provide the high-level drug offenders who are drug dependents themselves an effective drug rehabilitation program as an essential part of their reformation in preparation for their life outside of the penitentiary.

I have been saying this for years. And obviously now, it is what the congressmen have realized. I have heard most of them now saying that this is what we need to do especially in the absence of a death penalty law. This is the best way to remove this problem: we can segregate them. Segregation is allowed by the Constitution.

A spectre is haunting our justice system – the existence of a multi-million drugs industry operated from inside the maximum security prison building of our national penitentiary. So let us keep them away — Alcatraz-style. Segregate them. They will not be able to operate. In the absence of a death penalty law, this is the best answer. As I said, “Big problems, we can come up with simple remedies.”

I hope we pay attention to these two outstanding problems and we have three bills in the Senate, including the bill of Senator Lacson which talks of the same. And we have what we need. We do not need the advice of criminals what to do. I heard a member of the House of Representatives asking the criminals what to do. We do not need the advice of the criminals. We know what to do. We know what should be done. Let us do it.

INTERPELLATION OF SENATOR LACSON

Preliminarily, Senator Lacson commended Senator Sotto for issuing a call to the other senators to prioritize the passage of the bills that he and Senators Sotto and Legarda filed and which were referred to the Committee on Public Services.

Asked why people would be attracted to purchasing prepaid Subscriber Identity Module (SIM) cards and if he had one, Senator Sotto replied that prepaid cards can be purchased in any *sari-sari*

store and are untraceable. However, he said that he did not have a prepaid SIM card.

To the observation that people purchase prepaid SIM cards not only for convenience but also as means to do all sorts of foolishness, Senator Sotto agreed.

Asked what would happen to the prepaid SIM cards already being used by consumers in the event that the bills pending in the Committee on Public Services are passed into law, Senator Sotto explained that his proposal seeks to have the telecommunications companies send a text blast to owners of the prepaid SIM cards to inform them to register in their barangay within 30 or 60 days or have their SIM service cut off if they fail to do so.

On how these services could be cut off when there are no records of these prepaid SIM cards since these are bought over-the-counter, Senator Sotto believed that the SIM card numbers are registered with the telecom companies because they can track and identify which SIM cards have been loaded with credit, which card to activate once it is loaded with credit, and which cards have not been used for a while, even for a year.

To the concern raised by the telecommunications companies that the subscribers' right to privacy will be invaded if they register their prepaid SIM cards, he said that like the prepaid SIM card holders, the postpaid subscribers also have the right to privacy but they are registered.

Senator Sotto agreed with Senator Lacson that there is no constitutional infirmity involved once the measure is passed into law, and he further surmised that it could be the reason why the Supreme Court lifted the TRO on the NTC directive.

Asked what personal information would be needed when registering a SIM card, Senator Sotto replied that a verified identification would be enough, like any valid government-issued ID. He maintained that the registration of prepaid SIM cards would provide the starting point in case of an investigation because once registered, they could already be traced once they are used for criminal acts. He noted that the recent bombings in Makati and Davao were triggered by cellphones using prepaid SIM cards, and the investigators have been facing a blank wall because they could not trace the owners of the SIM cards used.

Senator Lacson agreed on the need to pass legislation on SIM card registration. He recalled his experience in law enforcement, particularly in the difficulty of tracing calls from kidnappers using prepaid SIM cards. He hoped that the hearing would be scheduled immediately by Senator Poe so that the bill could be deliberated upon on the floor and passed into law as soon as possible.

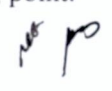
INTERPELLATION OF SENATOR GORDON

Saying that he also filed a similar bill, Senator Gordon noted that the obvious intent of the measure is to exact accountability, as he pointed out that the right to own a SIM card carries with it the accompanying duty to be accountable.

Asked to explain the process of registering existing SIM cards in the barangays, Senator Sotto clarified that only the existing SIM cards, those already in the possession of the subscribers, would be required to register in the barangay. He recalled that in one of hearings of the Committee on Public Services, the telecommunications companies said that registration could only be done prospectively since retroactive registration would be difficult given the volume of current subscribers numbering about 100 million. However, he maintained that the numbers of these prepaid SIM cards are registered in the telecommunications companies' database and that all they have to do is send a text message to instruct the subscribers to register, or else they will be disconnected.

Senator Gordon agreed, reiterating that the objective is to inculcate accountability from the sellers of the SIM card to the retailers and company owners. He said that if something catastrophic happens, there would be a starting point to trace the owners of the SIM card. He warned that without this measure, a culture of impunity would be created where people can easily threaten others and do criminal acts and nobody taking responsibility. Senator Sotto agreed, stating that it is, in fact, already happening.

Senator Gordon also pointed out that there would be no expense on the part of the telecommunications companies to put the additional feature of registering a SIM card upon purchase, but for retroactive registration, the subscribers who would want to be loyal to their number would be the target. He said that eventually, if all SIM cards would be registered, reckoning nefarious activities would be easier since law enforcement authorities would have a starting point.



Finally, Senator Gordon hoped that the Committee on Public Services would facilitate the hearings on the measure to put a stop to the growing culture of impunity and danger in the country.

MANIFESTATION OF SENATOR VILLAR

Senator Villar manifested her support for the bill requiring the registration of SIM cards, as she shared the bad experience of the Villar Foundation with text scams which gave out false information on house and lot winnings which the foundation did not undertake. She said that the worst part was that the scammers were asking money from the “winners” to claim the prize, and that the Villar Foundation had to reimburse the victims.

MANIFESTATION OF SENATOR ZUBIRI

Senator Zubiri manifested his support for the bill as well as his agreement to the statements and views of Senator Sotto. He expressed the belief that the measure could solve crimes and fight terrorism. He disclosed that in the recent Davao bombing which was triggered by a cellphone unit, the law enforcers could already have a lead on the terrorists if the SIM card numbers were properly registered. He added that prepaid SIM cards are also being used for scams and threats, as he recalled receiving threats when he was a congressman, and that when he contacted the telecommunications company to inquire on the identity of the SIM card owner, they were not able to provide a name because it was a prepaid SIM card and that the only help they were able to extend was to give the general location from where the message was sent. He said that it was a futile attempt since the location given was in the Commonwealth area where millions of people live.

At this juncture, Senator Zubiri also requested the chairperson of the Committee on Public Services to conduct hearings on the bill, and he assured the Members of his support for the measure.

INTERPELLATION OF SENATOR DRILON

Asked by Senator Drilon if SIM cards are registered in other jurisdictions, Senator Sotto answered in the affirmative, stating that the Philippines is the only country where SIM cards could be bought easily even in small stores, and where registration is not required. He informed the Body that SIM card registration is a common practice in Europe, America,

Singapore, Hong Kong and Malaysia. He likewise confirmed that in other jurisdictions, the registration of SIM cards is automatic upon purchase.

Asked by Senator Drilon if the sender's identity would be known automatically if a message is received from a registered SIM card, Senator Sotto replied that the cellphone would still only reflect the number unless the receiver knows the person and has previously saved the information.

As to whether the receiver could inquire from the telecommunications companies the identity of the sender, Senator Sotto said that it is possible, although the telecommunications companies might decide not to disclose the information.

Asked if the receiver would be required to go to court to know the identity of the sender, Senator Sotto cited Section 10 (*Disclosure of Information*) of the proposed bill, which states, “Notwithstanding the provisions of Section 9 (*Confidentiality*), the mobile phone service provider shall be required to provide information contained in the SIM card registration only upon order of a competent court, upon finding a probable cause that a particular number is used in the commission of the crime, or that it was utilized as a means to commit an unlawful act.” He affirmed that the complainant should go to court, unless the bill would be amended to ease the process.

That being the case, Senator Drilon pointed out that he would not be able to file a case against the author of, for instance, a threatening message because he would not know who the respondent is. He reiterated his agreement with the purpose of the bill but that he would want to test the effectivity of the means to achieve the objective.

Senator Sotto proposed to amend Section 10 of the proposed measure to make NTC, instead of the courts, the institution that would extract information from the telecommunications companies.

At this juncture, Senator Zubiri suggested adding a mechanism for the NTC to create a grievance center, similar to the Lemon Law passed previously wherein the DTI has a bureau which looks into complaints of defective cars.

Senator Drilon said that regardless of the mechanism, there should be a way of knowing

who sent the message because the course of action would be based on the message sent and the identity of the sender. He reiterated the need for a mechanism, whether by the NTC, the court, or by whatever means, to identify the sender which is the whole purpose of registering the SIM cards in the first place. Senator Sotto gave assurance that he would look into the concerns expressed by Senator Drilon.

Asked by Senator Drilon why the move to register SIM cards was being resisted, Senator Sotto replied that he has no idea, but that he has heard suggestions to invite the BIR because it might be necessary for them to look into unmonitored small stores where the SIM cards are being sold.

But Senator Drilon pointed out that these network providers are publicly registered companies that would not dare do something foolish as to understate their income for tax purposes.

Senator Sotto said that he would revisit Section 10 of his proposed bill to see if he could pattern the system of registration of prepaid SIM cards after the LTO system where one could text the plate number of a car to the LTO and the LTO would reply with a message containing the name of the registered car owner.

Senator Drilon said that he would leave it to the committee's technical working group to come up with a system but stressed that the consumer should be given the opportunity to precisely know who the sender of a message is and there should be a mechanism by which the name of the sender should be known. Otherwise, he said, it would only result in a frustrated citizenry because of a law that is ineffective to protect their rights.

INTERPELLATION OF SENATOR GATCHALIAN

Senator Gatchalian recalled that when he was still a member of the House of Representatives, he filed a similar bill on registration of prepaid SIM cards which was approved by the Lower House. He said that during the discussions on the House bill, he came across a research on how the African Continent, to address its problem of terrorism, passed a resolution urging African countries to pass a stricter law that requires citizens of Africa to register their prepaid SIM cards.

He noted that in the Philippines, about 110 million SIM cards are in the market at any given time. He then asked which department would enforce the proposed bill should it be enacted into law. Senator Sotto said that the NTC under the Department of Information and Communications Technology (DICT) would be the agency in charge of its enforcement.

To Senator Gatchalian's observation that it was Atty. Rodolfo "Rudy" Salalima, presently the DICT secretary, who represented the telcos in the hearing of the House bill in the 16th Congress and that they were against the registration of prepaid SIM cards, Senator Sotto remarked that it was a good thing that Secretary Salalima has not yet been confirmed by the Commission on Appointments.

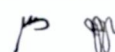
In closing, Senator Gatchalian said that he fully supports the bill requiring the registration of prepaid SIM cards, especially now that the cellphone is one of the modern gadgets being used by terrorists all over the world.

INTERPELLATION OF SENATOR DE LIMA

At the outset, Senator De Lima expressed her appreciation and support for the bill because she herself is a clear victim of hate messages and death threats, especially from the time when her cellphone number was revealed on national television during the hearing of the House justice committee. She said that to date, she has been receiving nasty text messages and phone calls from unknown prepaid numbers.

She recalled that when she was justice secretary, she already expressed an opinion that the prepaid SIM card registration would be perfectly justified under the exercise of the police power of the state. She explained that even if there was a contract between the subscribers, the buyers of the SIM cards, on one hand, and the telcos, as service providers, on the other hand, the contract could yield and be subservient to the police power of the state because there is a real compelling state interest present: fighting criminality and terrorism. She emphasized that the exercise of police power, however, should be subject to proper safeguards against possible abuse or misuse of the information that may be gathered from a mandatory registration of the SIM cards.

On the matter of a separate detention facility for hard-core or high-profile drug convicts, she said that she supports the proposal in principle.



Asked whether he was aware of the plan to transfer the New Bilibid Prison from its current location to Fort Magsaysay in Laur, Nueva Ecija, a plan which she initiated during her stint as Secretary of Justice and which President Duterte initially was reluctant to agree with, Senator Sotto replied in the affirmative.

Senator De Lima said that her concern with Senator Sotto's proposal of an Alcatraz-type facility is that it rejects the restorative philosophy behind the correction system. She said that she would still push for a separate detention facility that would be constructed in the Fort Magsaysay area because, to her, the problem in the New Bilibid Prison boils down to the problem of severe congestion which, she said, is the root cause of prison-based criminality, including all of the criminal acts or criminal activities engaged in by high-profile drug convicts. Thus, she believed that segregation was important along with classification of inmates on the basis of their needs and on the basis of the nature of the offense for which they have been punished or incarcerated.

Senator Sotto replied that he was aware of the plan to transfer the New Bilibid Prison from Muntinlupa to Fort Magsaysay in Laur, Nueva Ecija. In fact, he said that during the time of President Estrada, he had proposed its transfer and even to regionalize the prison system. At that time, he said, he thought that removing the NBP from its current location could earn the government a lot of money should it sell the entire area and transform it into a university belt or even a growth corridor.

On his proposal for a regional penitentiary system, Senator Sotto recalled his submission of a UP study to Senator Drilon which recommended that the best way to handle the prison system in the country is to regionalize it because based on research, those prisoners who were never visited by their friends, families and loved ones were the first ones to get into trouble, join gangs and engage in illegal activities due to boredom.

On the issue of an Alcatraz-type prison facility, Senator Sotto clarified that he was only for segregating the high-level drug traffickers from the other criminals because there is no death penalty. He said that he was originally for the reimposition of the death penalty as he recalled that he was the principal author of the bill that sought to reimpose the death penalty for drug trafficking in the 9th Congress, and that he even

delivered a speech *en contra* to then Senator Lina's proposal of life imprisonment to 30 years. However, he said that during the period of amendments, the proposal for the reimposition of the death penalty also covered other crimes and not only drug trafficking.

He said that he began having second thoughts on the death penalty when he was reelected to the Senate in 2010 because he had seen instances where some innocent people were erroneously imposed the death sentence. However, he stated that he still wanted the death penalty for high-level drug traffickers because as seen and heard from the testimony of convicted felon Jaybee Sebastian, these syndicates are still able to engage in their illicit activity even within the prison walls. The issue of segregation comes to the fore, he said, because the drug dealers themselves who are detained in the NBP have said, "no phone, no business," because without a cellphone, they would be unable to influence the other inmates or sell drugs to them or corrupt the prison officials.

Senator Sotto said that another reason he was having second thoughts on reimposing the death penalty is that a law cannot be retroactive, so that should the death penalty be reimposed, it would only apply to criminals who would be convicted by the time the law restoring the death penalty is passed.

At this juncture, Senate President Pimentel relinquished the Chair to Senator Gordon.

INQUIRY OF SENATOR DRILON

Senator Drilon noted with interest the proposition of Senator Sotto that in lieu of the death penalty, the government should provide a separate facility for the high-profile drug lords to segregate them from the other criminals and impose life imprisonment on them without parole. He opined that the proposal could have a retroactive effect because it is not the penalty that would be changed but only the detention facility.

Asked whether he would vote against the reimposition of the death penalty should this provision or conditions be inserted in a death penalty bill that would be debated, Senator Sotto replied that under the conditions cited, he would probably vote against the reimposition of the death penalty.

INTERPELLATION OF SENATOR DE LIMA (Continuation)

Senator De Lima said that she was glad that Senator Drilon was able to extract from Senator

Sotto about his possible change of mind regarding the death penalty. She maintained that the death penalty does not need to be reimposed if the criminal justice system and the correctional system are fixed. She said that she is also for the regionalization of the prison facilities and the transfer of the New Bilibid Prison to Nueva Ecija to cater to prisoners from Luzon. This would be the start of the regionalization process and later on other detention facilities could be put up for purposes of catering to prisoners from the Visayas and Mindanao.

Aside from regionalization, Senator De Lima said that another way of decongesting or reforming the penitentiary system is to put up a unified penitentiary system because of the country's varied penitentiary systems at present — one system for the convicted prisoners and another system for the detention prisoners — in order to avoid overlapping and conflict of jurisdiction and turf wars among the relevant agencies of government. She believed that it was also time to consider segregating hardened criminals from the ordinary inmates within the facilities and properly implementing and enforcing the rules by incorruptible prison officials and prison guards. Such recommendations, she said, are among the possible legislative solutions to the well-entrenched, deep-seated, long-standing problems and ills besetting the country's correctional system.

As regards the use of cellphones by the inmates not just in the New Bilibid Prison but also in other detention facilities under the BJMP, Senator De Lima pointed out that cell phones are considered the most valuable commodity in any detention facilities because they provide access to their cohorts outside the prison. Thus, she proposed that the measure should not only be about addressing the registration of SIM cards but also about how to enforce a complete ban on the use of cellphones within the penitentiary, especially in the NBP. She recalled that when she was Justice Secretary, she imposed a ban on the entry and use of cellphones in the penitentiary but to no avail because of the connivance among certain prison guards and inmates. She said that reforms, indeed, are necessary.

Senator Sotto agreed, saying that removing the cell sites near the penitentiaries would be one solution to the problem. He stated that even if Senator De Lima was successful in not allowing cellphones in the penitentiary during her time as Secretary of Justice, the inmates could still have access to cell phones by

bribing the prison guards who are paid a measly monthly salary of P12,000 to P20,000, for the use of the guards' cellphone.

Senator De Lima said that precisely, she pushed for the Bureau of Corrections modernization law, which was passed in 2013, because of the meager salary or compensation of the prison guards as compared to their counterparts in the BJMP. She added that it was time for the full implementation of the BuCor Modernization Law.

As regards the death penalty, Senator De Lima said that she has filed an alternative bill increasing the number of years for *reclusion perpetua* from 30 years to 40 years without the possibility of parole. She believed that it could address the problems besetting the criminal justice system and the correctional system without resorting to death penalty.

MANIFESTATION OF SENATOR POE

Senator Poe manifested that as chair of the Committee of Public Services, she would prioritize the bills on SIM card registration filed by Senators Gatchalian, Sotto, Gordon, Lacson and Legarda. She believed that such measure would be a big help in eradicating criminality and terrorism.

COAUTHORS

Upon their requests, Senators Pacquiao and Zubiri were made coauthors of Senate Bill No. 7.

MANIFESTATION OF SENATOR HONTIVEROS

Commenting on the transfer of the New Bilibid Prison to Nueva Ecija, Senator Hontiveros agreed that there is a need to decongest the NBP which at present has a congestion rate of 181%, meaning, more than 23,000 prisoners staying in a facility built originally for a maximum of 9,000 inmates.

As another way of decongesting the facility, she asked if it would be possible to consider executive clemency for inmates who are of old age or terminally ill for humanitarian consideration. She suggested reviewing the records for purposes of granting parole to the deserving inmates and releasing those who have actually served their sentences already.

Senator Sotto agreed with Senator Hontiveros' suggestion.



At this juncture, Senator Gordon relinquished the Chair to Senate President Pimentel.

REFERRAL OF SPEECH TO COMMITTEES

Upon motion of Senator Sotto, there being no objection, his speech and the interpellations thereon were referred to the Committee on Public Services and to the Committee on Justice and Human Rights.

PRIVILEGE SPEECH OF SENATOR GORDON

Also availing of the privilege hour, Senator Gordon narrated his discussion with the Ambassador from France who made a courtesy call that afternoon, regarding a medicine for vaccination made by a French company called Sanofi, one of the biggest and most respected drug corporations in the world. He said that because he wanted transparency, he would speak about the issue that day and not the following day to obviate any hint that there was some effort on the part of anybody to try to influence his decision.

Senator Gordon explained that the issue was about the sudden decision of the FDA to approve a dengue vaccination to be implemented in the Philippines on December 22, 2015, during the time of the previous administration. He disclosed that on that same day, the Secretary of Health said that they were still awaiting the prequalification guidelines from the World Health Organization (WHO) because before any medicine or any vaccine could be introduced, under the rules of the WHO, there must be a prequalification of medicines. Unfortunately, he said, the prequalification that supposedly should be undertaken by WHO, which is the standard procedure to ensure that the vaccines purchased by the UN and government procurement agencies are safe and effective, never materialized. He said that until the present, the vaccines were never prequalified.

Related thereto, Senator Gordon revealed that there are about 200,000 cases of dengue in the country every year, and that as the representative and chairperson of the Philippine Red Cross, he has provided a lot of blood, which is the biggest defense against the dengue virus.

He narrated that on December 22, 2015, the FDA suddenly approved a dengue vaccination to be implemented in the Philippines; on February 22, 2016, the Philippines hosted the global launch of *Dengvaxia*,

the dengue immunization medicine; by March, the DOH started vaccination; on March 2016, an 11-year-old boy, John Paul Rafael, was vaccinated after he was screened and assessed by a health doctor; but on April 3, 2016, he developed diarrhea and fever, after which he was taken to the Bagac Community and Medicare Hospital where he was diagnosed with amoebiasis.

Senator Gordon revealed that it was the DOH, the DepEd and the DILG that collaborated in the major launch of the vaccine in Metro Manila on April 4, 2016, and that it was on April 24, 2016, when 204,397 students were vaccinated, or about 73% of the target population of 279,393 students in NCR, Central Luzon and CALABARZON.

Senator Gordon then questioned that undue haste with which the three agencies implemented the dengue vaccination. He revealed that in December 2015 towards the latter weeks of the previous administration, there was suddenly P3.5 billion available in the DBM, not even in the DOH, and was used to purchase a vaccine that was not previously tested by the WHO.

Senator Gordon noted that 97% of the student population in public schools have dental problems but according to the DOH, it only has a budget for 243 dentists for the whole country. Thus, he believed that the P3.5 billion could have been used to hire more dentists and this could have been used to a lot of children who could have benefitted from good dental hygiene or treatment. He disclosed that even the Secretary of Health said that the DOH could have added another 40,000 people that would benefit from the nutrition program if indeed there was such available money.

Senator Gordon then asked if the money came from the Disbursement Acceleration Program (DAP).

On whether the vaccines bought were demand-driven or supply-driven, Senator Gordon opined that it would seem to be supply-driven because suddenly the funds for it became suddenly available.

For using a dengue vaccine that was not prequalified by the WHO, Senator Gordon expressed concern that the Philippines has become the guinea pig in Asia. He said that except for Mexico which had utilized the vaccine on December 11, 2015, there had been no other country in Asia that utilized it.



Senator Gordon said that the DOH was placed in a toxic situation because the DBM suddenly provided the agency with questionable vaccines that had not been thoroughly tested by the WHO. Whether or not the vaccine is effective might come out in the next four years, he said. In fact, he revealed that somebody told him that there should have been blood test before the vaccination to ensure negative or zero side effect.

Senator Gordon explained that the vaccine test of WHO initially starts with 200 students, but in the Philippines, it started with 230,000 students right away. He clarified that he did not know whether the vaccines are effective against dengue, but he pointed out that there are other vaccines that are in the process of being presented to the world and it might take months before it could be known whether or not they are effective.

Senator Gordon stated that there were rumors that two children died of the vaccine, but during the hearing earlier that day, the DOH denied the rumors, saying the deaths had nothing to do with the vaccine. He said that when he asked the DOH if vaccination was totally necessary, he was met with stoned silence. He surmised that nobody wanted to speak up in deference to the previous administration.

He clarified that he has nothing against the previous administration but that he was against the idea of bypassing the power of Congress to appropriate funds when an executive office like the DBM released P3.5 billion and decided to put the money wherever it wanted, ignoring that the vaccine has not been pre-qualified by WHO, the attendant risks, or the idea that the Philippines would be the only country in Asia to use it. He noted that all that mattered to the DBM and the DOH was that the funds were available.

Senator Gordon said that there were a number of instances when his attention was called about the vaccine; one was when he went to Geneva and he was asked by Filipino doctors what he would do with the dengue vaccine issue; disturbed, he still felt that Sanofi would not do anything anomalous because it is in charge of the Pasteur Center which was named after Louis Pasteur who was the primary inventor of vaccination. He hoped that the Senate would look into this transaction and find out if there have been misdealings.

In light of the Supreme Court decision declaring the DAP and PDAF unconstitutional, Senator Gordon advised the Body to tarry a little and inquire about the extra money that was utilized in purchasing the vaccine. He stated that Congress should be on the lookout especially since it has always been the butt of issues about PDAF or anything related to it. He said that above all, it is important that the children are not used as guinea pigs.

Finally, Senator Gordon apologized for having to rise again. He believed that it was necessary because of the supervening events that transpired during the hearing earlier that day. He said that it would be unfair to the Filipino people if the government would make hasty decisions when it comes to health.

INTERPELLATION OF SENATOR LEGARDA

Initially, Senator Legarda stated that she has been chairperson of the Committee on Finance for the past two years, a post she inherited from Senator Escudero and she was his vice chairperson at that time.

Senator Legarda stated that it was not under her watch nor was it under Senator Escudero's term that a budget allocation of P3.5 billion to P4 billion was made available for the said vaccine which was newly approved by the FDA and funded by the DBM. She stated that she was not familiar to whoever was the proponent of the project which was carried out within a span of three to four months.

She believed that the funds were unobligated appropriations of other government agencies which the DBM downloaded to augment the DOH budget which she was not made aware of even as she was the finance committee chair. She said that she would ask the DOH Secretary to submit a report to the Committee on Finance on how the appropriation was made available. She said that she had to put the matter on record because people might think that the anomaly happened under her term as chairperson of the Committee on Finance.

Asked by Senator Legarda when the appropriation was made and whether it was a continuing appropriation, Senator Gordon replied that it was appropriated in 2015 and was implemented in April 2016 before the May elections.

On whether a bidding was made insofar as the vaccine was concerned, Senator Gordon replied that

he too would want to find out if there was a bidding, adding that to his knowledge, there was no vaccine recognized yet for dengue although there were reports that Malaysia has the vaccine and that there are other companies claiming to have the same. He stressed that matters such as vaccines deserved further inquiry and that more perspective should be done to find out whether the government was going in the right direction.

Senator Gordon believed that nobody should accuse Senator Legarda of insertions that she was not responsible for. He said that the DBM should reveal where the money came from and how it was able to manage its release.

Stating that he has tried to be as fair as possible, Senator Gordon pointed out, however, that he wanted to find out that if the release was done in violation of all norms of due diligence because what is involved here is the health of the nation.

Senator Legarda assured the Body that the 2017 National Expenditures Program (NEP) does not have provisions for dengue vaccine, and neither will there be in the 2017 GAA unless someone tries to amend it and make it a budgetary amendment which she would certainly not accept because while the vaccine was approved by the FDA in December 2015, it was still in the process of being validated. She assured that the budget for the dengue vaccine is not found in the 2017 budget nor in future budgets.

At this juncture, Senator Gordon presented a prequalification flow chart of the WHO requiring 13 months of study before a vaccine qualifies, something that was not done in the P3.5 billion project. He explained that three months is given to include the submission of application letter, a priority for the recipient, reject application, acceptance of intention to submit, product summary, screening, among others, while the remaining nine months would be for the approval of the vaccine. He maintained that the DOH approved the vaccine with undue haste.

Moreover, he stated that there are also provisions in the flow chart that as soon as the vaccine is accepted based on the prequalification as described in Section 3, the WHO would request the manufacturer to submit an appropriate number of samples between 25 to 200 depending on the vaccine type and presentation offered and then there would be three to five final launches for independent testing; the WHO would then send the vaccine samples in

the contracted laboratories for the initial testing. He noted that this particular stage was not done on the dengue vaccine. He said that the expected time frame for testing from date of receipt of samples to the final testing by WHO would take three more months.

Senator Gordon clarified that he was merely asking questions on the source of funds, whether due diligence was done because at stake is the protection of the children.

Senator Legarda informed the Body that the LBRMO has confirmed that the funds in question were part of the savings and augmentation of the Department of Health budget to procure dengue vaccines which was approved by the Office of the President. It was an augmentation of what Congress approved as the department's budget, she said.

INTERPELLATION OF SENATOR DE LIMA

Senator De Lima asked whether there was an insinuation or an allegation of some anomaly or irregularity in the whole process. She supposed that there was no issue on the propriety, necessity, or desirability of addressing the problem of dengue. She said that the issues at hand are on the procurement process that was adopted, and whether there was open and public bidding or other modes of procurement.

Responding thereto, Senator Gordon stated that on the contrary, there are many issues of appropriateness surrounding the procurement of the vaccines that needed to be answered, among which are whether the product was safe to use; how the vaccine was procured; the source of funds; process of releasing the funds; process of approving the vaccine and making sure that it would save lives; the determination of whether the vaccine was a priority; whether the procurement was done because there was money left behind which could be spent for the campaign in the May 2016 elections.

At this juncture, Senate President Pimentel relinquished the Chair to Senator Angara.

Senator De Lima said that she had to ask to get a better perspective and better understanding of the matter.

REFERRAL OF SPEECH TO COMMITTEE

Senator Sotto moved to refer the speech of Senator Gordon to the Committee on Health and

Demography as the primary committee and to the Committee on Finance as the secondary committee.

Senator Gordon said that he would like his speech to be referred to the Committee on Rules for further study because it involves accountability of public officials.

In view thereof, Senator Sotto withdrew his motion to refer the speech to the Committee on Health and Demography as the primary committee and to the Committee on Finance as the secondary committee.

Instead, upon motion of Senator Sotto, there being no objection, the Chair referred the privilege speech of Senator Gordon and the interpellations thereon to the Committee on Rules.

MANIFESTATION OF SENATOR GORDON

Senator Gordon informed the Body that he would not have the courage to speak about the matter had it not been for the support of Senator Binay who was chagrined at the very strange way the procurement was undertaken. He said that he even advised Senator Binay that standing up and talking about the particular procurement would be risking her re-election bid, to which Senator Binay replied: "Courage is always there but God is with us."

PRIVILEGE SPEECH OF SENATOR VILLANUEVA

Availing himself of the privilege hour, Senator Villanueva talked about the problem of the so-called "endo" or end of contract happening in the labor force and the solutions that can be done to help solve the problem.

The full text of Senator Villanueva's speech follows:

Gusto ko pong simulan ang kuwento ni Carlos Miguel Francisco, 23 years old, tubong Camarines Norte. Noong 2011, lumuwas siya ng Maynila upang kumuha ng electrical engineering. Dahil sa hirap ng buhay, huminto siya sa pag-aaral at napilitang magtrabaho. Una siyang nakapagtrabaho sa tindahan ng sound system nang may limang buwang kontrata. Nang ma-ENDO, napasok po siya sa isang malaking supermarket bilang isang bagger. Na-ENDO po ulit si Carlos Miguel pagkatapos ng

limang buwan. Sumunod na trabaho niya ang pagiging promodizer ng isang appliance store. Na-ENDO po ulit pagkatapos. Sinundan ito ng trabaho sa isang canteen, bilang waiter. At noong Mayo po nitong taon, guess what, na-ENDO pong muli si Carlos Miguel.

Mayroong dalawang anak po siya kaya't palagi niyang pangamba kung paano matutustusan ang pangangailangan ng kanyang pamilya dahil palagi po siyang nai-ENDO o walang permanenteng trabaho.

Pamilyar ang kuwento ni Carlos Miguel Francisco sapagkat siya ang naging mukha ng ENDO o kontraktualisasyon sa presidential debate sa University of Pangasinan noong nakaraang election.

Hindi po nag-iisa si Carlos Miguel na mayroong ganitong kuwento. Maraming iba pang manggagawang Pilipino ang biktima ng ENDO.

Ano Po Talaga Ang Kontraktualisasyon?

Ang kontraktualisasyon ay trabahong mayroong third party manpower supplier — maaaring subcontractor or manpower service cooperative na siyang tumatayo o nagpapang-gap na employer.

Ang kanila pong trabaho ay trabaho ng mga regular na mga manggagawa ng principal employer. Ginagampanan nila ang mga ito katabi o kasabay ang regular na manggagawa sa assembly line ng mga pagawaan, sa daungan, sa paliparan, sa construction sites o sa mga plantasyon ng saging, pineapple, at iba pa. Nakakalungkot nga, maging mga media outlets talamak po ang ganitong issue.

Mayroong mga manggagawang lima o sampung taon na sa ganitong trabaho. Paulit-ulit at hindi nare-regular. Kadalasan walang malinaw o kulang ang mga benepisyo at higit sa lahat, mayroong agam-agam sa tuwing nagtatapos ang mga kontrata kung mayroong trabahong mapapasukan at mapagkukunan sa pang-araw-araw na pangangailangan ng pamilya.

Kailangan Nang Matigil Ang Maling Kalakarang Ito

"Stop ENDO" is the resounding call of the Filipino workers nationwide. It was echoed no less than by President Duterte as oppressive to workers.

Being caught in the cycle of intermittent ENDO, with no prospect of permanency like Carlos Miguel Francisco derogates the constitutionally guaranteed rights of workers, especially the right to security of tenure.

But ENDO is not confined to triangular employment relationship in contracting/sub-contracting that can be remedied by introducing amendments to Articles 106 to 109 of the Philippine Labor Code, as amended.

How can We Effectively Address the Issue?

To effectively address ENDO or contractualization, the entire set of prevailing non-standard or non-regular forms of employment in the country, which necessarily are precarious due to the uncertainty it has spawned in duration of employment, disguised or ambiguous employment relationship, lack of access to social protection and benefits usually associated with low pay, and substantial legal and practical obstacles to joining a trade union or bargaining collectively.

In the Asian Development Bank-assisted Regulatory Impact Assessment of the Department of Labor and Employment on Security of Tenure in 2013-2014, it was shown that employers resort to short-term employment because of alleged strict employment legislation which results to costly hiring and firing practices, high cost of doing business in terms of labor cost, large supply of labor force resulting from low employment growth, and the option for flexibility in employment.

Is "ENDO" the Intention of Non-Standard or Non-Regular Forms of Employment?

These Non-Standard/Non-Regular forms of employment were never intended to be ENDO or "dead-end" jobs to skirt strict employment legislation or avoid costly hiring and firing practices.

It is a middle ground to provide employers' flexibilities in planning work, addressing peaks or seasonality of demand and retaining workers who are not in a position to commit full-time work.

For the workers, it is: (a) useful way of gaining work experience; (b) opportunity to develop both job-specific and general skills, strengthen labor market attachment and expand social and professional networks; (c) may address "spatial mismatches" between where workers live and where their jobs are located; and lastly, (d) allows workers with care responsibilities to participate in labor market through part-time work.

How Widespread is ENDO or Contractualization in the Philippines

The Philippine Statistical Authority (PSA) in Measuring Decent Work in the Philippines using data period from 1995 to 2010 indicated that "precarious work remains widespread," noting

that in 2010, nearly 15% of all workers were in precarious work or those forms of employment which are casual, short term, seasonal or worked for different employers on day-to-day or week-to-week basis.

In its 2014 Labor Force Survey, PSA data showed:

First, the number of employees in precarious work as a percentage of total employment increased from 14.4% or 3.9 million in 2000 to 17.4% or 6.7 million in 2014. The same trend was observed in terms of their share in wage and salary employment, that is from 28.3% in 2000 to 30% in 2014.

Second, in terms of gender, there are more men than women in precarious work and their proportions were on an increasing trend – that is 2.693 million in 2000 to 6.718 million in 2014.

Third, precarious employment was also more apparent in the industry (30.4%) with more than twice as recorded in the agriculture sector which is 16.7% and services at 13.9% in 2014.

Ano Na Po Ang Nagawa ng Committee on Labor Tungkol Dito?

We in the Labor Committee have conducted a series of consultation meetings with various stakeholders.

Our goal is to arrive at a balanced and more holistic legislation to address "ENDO" with due recognition of workers' right to security of tenure and the equally guaranteed constitutional right of enterprises to expansion and growth.

Thus, the need to recalibrate Articles 106 to 109 and 294 to 298 of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended.

To this end, this Representation filed Senate Bill No. 1116. Among others, this bill proposed the following:

First, clearly providing that the object of contracting or subcontracting is outsourcing of specific job, work or service and not labor-only or manpower supply;

Second, recognizing industry peculiarities through industry tripartite-determined functions or standards on outsourcing; and

Third, in the absence of industry-tripartite standards, application of the general standards as determined by the DOLE Secretary, after consultation with the Tripartite Industry Council.

This bill also expressly prohibits the very oppressive practice of labor-only or manpower

contracting. In addition, this bill proposes to simplify the classification of employees to merely regular and probationary and outrightly classifies all employees as regular, including project and seasonal employees, except those under probationary employment.

It also provides clear parameters for probationary employment which shall not exceed six months.

We Badly Need to Amend the Labor Code

I believe that these amendments have to be enacted given that global supply chain and rapid technology progress have redefined jobs and work arrangements beyond the contemplation of the 1974 Labor Code of the Philippines, as amended.

Safeguards have to be placed against blurring of employer-employee relationship, circumvention of the law on security of tenure, labor standards, occupational health and safety standards, and workers' right to self-organization, and to assure employers of a "level playing field."

The Good News is that We have Forced A Level of Consensus Among Stakeholders to Stop ENDO

We in the Committee on Labor, Employment and Human Resources Development have been very busy in discussing this issue with various groups. The DOLE relayed their three-pronged approach in addressing this problem. One is stricter enforcement of labor laws, amendment of Department Order No. 18-A and supporting amendments to the Labor Code.

For their part, DTI shared its "win-win solution" where the workers of the service contractor are made regular workers of the service sector.

Meanwhile, representatives from various unions expressed their desire to completely prohibit all forms of contractualization and all forms of fixed-term employment. Representatives from the joint foreign chamber expressed their support to the government's desire to end "endo" but support the continuing legitimacy of permissible contracting.

I believe that this august Body is committed to finally putting an end to "ENDO" through a law that will uphold the workers' basic rights and at the same time ensure a level playing field for business to grow.

Gusto po nating tuldukan ang paghihirap ng mga "endo" workers tulad ni Carlos Miguel Francisco sapagkat malinaw po sa atin, una sa

lahat, ang kapakanan at karapatan ng manggagawang Pilipino. Sabi nga po ni Pangulong Rodrigo Duterte na kung may panukalang batas para mahinto ang "ENDO," pipirmahan niya po agad ito. Kung gayon, kailangan lamang po ay magkasundo ang lahat ng mga stakeholders sa lalong madaling panahon sa mga mekanismo para matigil ang pang-aabuso sa mga manggagawa, mapatigil ang "ENDO" at sa kabilang banda, mapatataag ang ating mga negosyo at patuloy tayong makalikha ng maraming trabaho.

INTERPELLATION OF SENATOR RECTO

At the outset, Senator Recto apologized to Senator Villanueva for having missed the committee hearing regarding the issue of "endo," thus, the interpellation because he wanted to be educated more about the matter. He said that he was interested in the statistics that was cited in the privilege speech of Senator Villanueva.

For his part, Senator Villanueva clarified that he was availing of the privilege hour and not sponsoring a proposed measure. He said that his committee will be conducting a public hearing at 10 a.m. on Thursday regarding the same subject matter.

Asked about the "endo" problem, Senator Villanueva clarified that "endo" does not mean contractualization because contractualization is a globally recognized scheme that provides decent jobs to the people. However, he stated that "endo" comes in when the evils of contractualization set in wherein the workers would be fired from their jobs after five months of service and the company renews their contract with the same job description and, worse, when they hire another worker to perform the same job. Thus, he said that the workers could not avail of benefits like the Christmas bonus, 13th month pay and health insurance, among others.

Asked whether a worker could already avail of the benefits if their contract would be renewed after 15 months, Senator Villanueva answered that such was supposed to be the proper set-up. However, he divulged that "endo" was still prevalent as revealed in the public hearing that the committee conducted. He affirmed that workers who are fired before reaching the 15-month period would be deprived of the benefits.

Asked further whether the normal practice was for the contract to expire in five months and not six



months, Senator Villanueva replied that most companies would end the contract after five months and not the after the six-month period as prescribed by law or else the worker would already be eligible for regularization. He revealed that in some cases, the same person's contract would be renewed, but, in some instances, like in the retail industry, other workers would be hired.

Asked whether there is no "endo" in government offices, Senator Villanueva replied that in the hearing of the budget of the Civil Service Commission, he learned that there were about 600,000 job orders in the national government and 400,000 in the local government units.

Senator Recto assumed that if there are 1.6 million employees in the government, then one million could suffer "endo." Senator Villanueva agreed, adding that if Congress is serious in passing the measure to curb "endo," then it would be best to start with the government sector.

Senator Recto believed that it would not be proper to pass a law for the private sector and not applicable to the public sector, to which Senator Villanueva replied that precisely he called the attention of the Secretary of the Department of Budget and Management during the hearing and the agency has promised to come up with recommendations to address the problem.

Asked on the total labor force in the private sector, Senator Villanueva admitted that he does not have the exact figure but promised to provide the data to Senator Recto.

Aside from the labor force, Senator Recto also cited the labor participation rate of 65%, which means that 35% of the labor force are people who are not looking for jobs anymore because they are no longer interested or because of old age.

As regards the unemployment rate, Senator Villanueva said that it is 7%. Senator Recto said that the unemployment rate is roughly 6.5%, which meant that the labor force would be the 42 million workers or those who were supposed to be working less 6.5% unemployed.

Asked what percentage comprises the "endo," Senator Villanueva explained that the Philippine Statistical Authority reported an increase of total

employment from 14.4% or 3.9 million in year 2000 to 6.7 million in 2014.

On whether the 6.7 million of the 42 million labor force comprised the "endo," Senator Villanueva said that they could be considered as belonging to that precarious working condition.

Asked what sector of the economy to which the "endo" belongs, Senator Villanueva said that majority belonged to the manufacturing sector.

Asked by Senator Recto in what industry is "endo" more prevalent, Senator Villanueva said that "endo" is prevalent in both export and domestic manufacturing sector.

On whether or not the country's export industry would not be affected once "endo" is eliminated in export-oriented enterprises, Senator Villanueva explained that he only seeks to provide appropriate schemes for the workers to ensure that they would not be at a disadvantage.

Senator Recto clarified that he is one with the objective to solve the problem of contractualization, but that he only wanted to understand the statistics first, like the number of labor force in the manufacturing and export sectors, the number of "endo" workers in retail industries like Jollibee and McDonald's, and whether or not the career possessed by service crews would be considered as long-term careers.

Senator Villanueva admitted that he does not have statistics at the moment, but he pointed out that it is vital to determine the schemes available for the workers to provide them work experience and opportunity to develop their careers.

To the statement that certain industries do not provide long-term jobs, such as gasoline boys in gas stations, Senator Villanueva said that if he were the owner of the gas station, he would employ them as regular employees, regardless of age. Furthermore, he said that workers with seasonal jobs can have three or four months contract provided their service is deemed necessary.

To Senator Recto's observation that there are certain industries where the practice of "endo" cannot be removed, Senator Villanueva agreed. Senator Recto then asked for certain data such as the age

bracket, where they are located regionally, what sectors they are employed, among others.

Senator Villanueva replied that the Committee does not have the data available but he said that the DOLE is helping the Committee to plan schemes to resolve the issue on contractualization. He assured that he would furnish the senators with data to help craft remedial legislation thereto. He also invited Senator Recto to join the committee hearing on Thursday morning.

Senator Recto said that the Minority would welcome the data at the appropriate time so that they can help the Majority craft the legislation on such issue.

INTERPELLATION OF SENATOR DRILON

At the outset, Senator Drilon emphasized that a framework must be set upon which the debate would be undertaken in the committee and on the floor. He then asked what the purpose is of the proposed amendatory law or the move against contractualization. Senator Villanueva replied that the reason was to provide employees' security of tenure considering the prevalence of the 5-5-5 scheme or "endo."

To Senator Drilon's statement that security of tenure could still be achieved while having a contractual set-up in certain cases, Senator Villanueva agreed.

That being the case, Senator Drilon posited that it is not therefore necessary to prohibit all kinds of contractualization just so one can have a security of tenure. Senator Villanueva also agreed.

Senator Drilon then asked why there is the need to end contractualization when security of tenure can be had despite the contractual status of workers, and benefits given them. He pointed out that contractual arrangement is resorted to to afford flexibility on the part of the employers to continue their business at the same time. Senator Villanueva stated that while the situation is possible, unfortunately, it is not actually happening, thus the need to address this issue.

Asked if security of tenure and providing enough benefits can be addressed without ending the concept of contractualization, Senator Villanueva replied that it is possible, saying that he acknowledged earlier that contractualization is globally-recognized.

Regarding the proposal to identify only two kinds of employees, Senator Villanueva stated that the Committee has not yet adopted the concept and is still deliberating on it.

Thereupon, Senator Drilon expressed that he would eagerly await the committee's proposal and actual amendment to the Labor Code so that more substantial discussion on contractualization can be made.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Sotto, there being no objection, the Chair referred the privilege speech of Senator Villanueva and the interpellations thereon to the Committee on Labor, Employment and Human Resources Development.

CHANGE IN CONGRESSIONAL OVERSIGHT COMMITTEE MEMBERSHIP

Upon motion of Senator Sotto, there being no objection, Senator Gordon was elected member of the Joint Congressional Oversight Committee on the Official Development Assistance to replace Senator Legarda.

OVERSIGHT COMMITTEE MEMBERSHIPS

Upon nomination by Senator Sotto, there being no objection, the following senators were elected to represent the Senate in the joint congressional oversight committees hereunder indicated:

***Joint Congressional Oversight
Committee on Philippine Disaster
Risk Reduction and Management
(Pursuant to Section 26 of Republic Act
No. 10121, the Philippine Disaster Risk
Reduction and Management Act)***

Chairperson : Honasan

Members

Majority:

Lacson Sotto
Legarda

Minority:

Escudero Trillanes

[Handwritten marks]

*Joint Congressional Oversight
Committee on the AFP Modernization Act
(Pursuant to Section 10 of Republic
Act No. 10309, the Revised AFP
Modernization Act)*

Chairperson : Honasan

Members

Majority:

Lacson Sotto
Legarda

Minority:

Recto Trillanes

COAUTHOR

Upon her request and with the approval of Senator Poe, Senator De Lima was made coauthor of Senate Bill No. 159 (People's Freedom of Information Act of 2016).

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of the following day.

It was 5:34 p.m.

I hereby certify to the correctness of the foregoing.


ATTY. LUTGARDO B. BARBO

Secretary of the Senate

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Approved on October 17, 2016