



**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

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# **Journal**

**SESSION NO. 29**

Monday, October 10, 2005

**THIRTEENTH CONGRESS  
SECOND REGULAR SESSION**

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**CALL TO ORDER**

At 3:51 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

**PRAYER**

Senate President Franklin M. Drilon led the prayer, to wit:

Heavenly Father, whose love sets no boundaries and whose strength is in service,

Bless our country and make it true to the ideas of freedom and justice and brotherhood for all;

Enlighten us and give us vision and courage as we ponder decisions affecting the future of our beloved country;

Help us, O Lord, to make this great land and all its people know Your divine will clearly that we may fulfill the destiny ordained for us.

In the salvation of our nation and the restoring of all things in Christ, Amen.

**NATIONAL ANTHEM**

The student inmates of the College Guild of the National Bilibid Prison led the singing of the national anthem and thereafter rendered the song entitled, *Bilangguang Walang Rehas*.

**ROLL CALL**

Upon direction of the Chair, the Deputy Secretary for Legislation, Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Lim, A. S.
Cayetano, C. P. S.	Madrigal, M.A.
Defensor Santiago, M.	Magsaysay Jr., R. B.
Drilon, F. M.	Osmeña III, S. R.
Ejercito Estrada, J.	Pangilinan, F. N.
Ejercito Estrada, L. L. P.	Pimentel Jr., A. Q.
Enrile, J. P.	Recto, R. G.
Flavier, J. M.	Revilla Jr., R. B.
Gordon, R. J.	Villar, M.

With 22 senators present, the Chair declared the presence of a quorum.

Senator Roxas arrived after the roll call.

**APPROVAL OF THE JOURNAL**

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 28 and considered it approved.

**REFERENCE OF BUSINESS**

The Deputy Secretary for Legislation read the following matters and the Chair made the corresponding referrals:

**COMMUNICATIONS**

Letter from President and General Manager Winston F. Garcia of the Government Service Insurance System, dated October 3, 2005, submitting to the Senate for its information, the attached report on the GSIS Investments Portfolio as of December 31, 2004, in compliance with Section 36 of Republic Act No. 8291 or the GSIS Act of 1997.

**To the Committee on Government Corporations and Public Enterprises**

Letter from Director Lamberto R. Barbin, Malacañang Records Office of the Office of the President of the Philippines, dated September 29, 2005, transmitting to the Senate for its information and guidance, a certified copy of Executive Order No. 464, dated September 28, 2005, entitled: "ENSURING OBSERVANCE OF THE PRINCIPLE OF SEPARATION OF POWERS, ADHERENCE TO THE RULE ON EXECUTIVE PRIVILEGE AND RESPECT FOR THE RIGHTS OF PUBLIC OFFICIALS APPEARING IN LEGISLATIVE INQUIRIES IN AID OF LEGISLATION UNDER THE CONSTITUTION, AND FOR OTHER PURPOSES."

To the Committee on Rules

#### ADDITIONAL REFERENCE OF BUSINESS

##### RESOLUTION

Proposed Senate Resolution No. 348, entitled

RESOLUTION AUTHORIZING SENATOR JOKER P. ARROYO TO ARGUE THE CASE OF THE SENATE OF THE PHILIPPINES IN THE PETITION FOR A WRIT OF HABEAS CORPUS FILED BY NATIONAL SECURITY ADVISER NORBERTO B. GONZALES BEFORE THE SUPREME COURT

Introduced by Senator Pangilinan

To the Committee on Rules

#### REMARKS OF SENATOR PANGILINAN

Senator Pangilinan informed the Body that the oral arguments for the petition for a writ of habeas corpus filed by National Security Adviser Norberto B. Gonzales would be heard by the Supreme Court tomorrow.

#### PROPOSED SENATE RESOLUTION NO. 348

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 348, entitled

RESOLUTION AUTHORIZING SENATOR JOKER P. ARROYO TO ARGUE THE

CASE OF THE SENATE OF THE PHILIPPINE IN THE PETITION FOR A WRIT OF HABEAS CORPUS FILED BY NATIONAL SECURITY ADVISER NORBERTO B. GONZALES BEFORE THE SUPREME COURT.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its text into the *Record of the Senate*.

#### ADOPTION OF PROPOSED SENATE RESOLUTION NO. 348

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 348 was adopted by the Body.

#### SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended

*It was 4:13 p.m.*

#### RESUMPTION OF SESSION

At 4:16 p.m., the session was resumed.

#### PRIVILEGE SPEECH OF SENATOR GORDON

Availing himself of the privilege hour, Senator Gordon delivered the following speech:

##### No Air, No Force: A Wake-Up Call

Winston Churchill once said:

"For good or for ill, air mastery is today the supreme expression of military power, and fleets and armies, however vital and important, must accept a subordinate rank. Not to have an adequate air force in the present state of the world is to compromise the foundations of national freedom and independence."

As we discuss this issue, we do not know what is prowling in our waters. Are there smugglers, poachers, terrorists, pirates lurking in the seas in and around our country?

Asia used to marvel at our air force which was the first and the best air force in the region when it was established on July 1, 1947. In 1955, we were among the first nations in Asia to fly

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jets with 35 Lockheed T-33s. Our F-86 Sabres exhibited superior capability over our Southeast Asian neighbors and our F-86 aircrews helped bring peace to the Belgian Congo as UN peacekeepers. We were also one of the first in Asia to enter the supersonic age in 1965 with the acquisition of the F-5 Freedom Fighters. We had the best pilots and ground support personnel and had the famed Blue Diamonds.

It is sad to note, however, that 40 years later, we have no more air force. And to be without an air force in this day and age is completely unacceptable. We have gone from supersonic to subsonic, in fact, to "subsonic". In the meantime, our neighbors have become stronger. What used to be Asia's number one air force has become Asia's used to be.

If we are to compare the aerial capability of the country to our neighbors, let me cite a few examples. But you will see a more complete listing in the slide before you. Singapore has 59 F-16s, not to mention their F-5s. It has even the E2C Sukhoi, which is an advanced aircraft that can prowl the seas. We do not need it but a small country like Singapore has it. C-130s, they have 10; KC, 135. They have four refueling areas. Today, Malaysia has eight F-18s, the frontline fighter bomber of the United States Navy, which are the Hornets and are still being used by the U.S. Malaysia also has 17 MiG-29s; in addition to that, it also has F-5s and other aircraft. Vietnam has 84 Sukhoi and MiG-29s as well. Singapore also has Airborne Warning and Control System (AWACS) for surveillance purposes. Though we may not need AWACS, the fact that our neighbors have the luxury of possessing equipment they do not need clearly illustrates just how dire our circumstances.

Similarly, if we are to base the comparison on number of aircraft alone, China has 8,836 aircraft; Taiwan has 891 aircraft; Singapore has 351 aircraft; Thailand has 917 aircraft including a not often used aircraft carrier made by Spain which they do not really need but, nonetheless, it has; Malaysia has 274 aircraft and their Navy will soon acquire six submarines; Indonesia has 628 aircraft; and Vietnam has 467 aircraft. Meanwhile, the Philippines has 120 alleged aircraft, only 90 of which are functioning and all of which are trainer aircraft. In such a situation, how can we demand these countries to respect our territory when we cannot even patrol it? We might just as well declare neutrality because we do not have the capability to defend ourselves anyway.

These figures do not take into consideration surveillance capability. Indonesia, for example,

has 19 military radars and 18 civilian radars to support it. We have one radar in Poro Point left by the U.S. Armed Forces. The range of this radar cannot even reach Southern Luzon. So we are pretty much blind in terms of radar capability in Southern Luzon, much less in the Visayas and Mindanao.

We are a maritime country with 7,106 islands, one part land to nine parts water, but we have no ship. We hardly have any ship. If we have ships, we would still need a capable air force to protect them, something we do not have either. Our coastline is twice the size of the coastline of the United States at 36,289 kilometers, yet we only have 90 functioning planes to cover it, placing the ratio at one rickety plane for every 403 kilometers.

During the U.S. bases debates, I already predicted that without the U.S. umbrella of external defense, we would be all air and no force. Today, we have no air and no force to meet the dangers that our country faces. We do not even control the air anymore.

We have conflicting claims in the Spratlys. If a party-claimant decides to plant their troops, we would not even know that they were there. It would take the Navy, with its rickety ships, days to go there, whereas, if we had a functioning F-5, it would only take 30 minutes or an hour to get there.

It is unacceptable that the Philippines has a border patrol agreement with Malaysia and Indonesia that requires contributions in terms of air and naval assets but we have no means to gather intelligence and information even within our own territory and we have nothing to contribute.

If we had a disaster in the scale of *MV Doña Paz* that took 4,342 lives back in 1987, making it the world's worst peace-time maritime tragedy, even bigger than the *Titanic*, do we have the aerial equipment to conduct search-and-rescue operations?

Disaster after disaster has befallen our nation. The earthquake that devastated Baguio in July 1990 caused landslides that made it virtually impossible to reach Baguio via land travel. I am sure that the series of typhoons that devastated Quezon in 2004 is still fresh in our minds. Parts of Aurora and Quezon were cut off by floods, bridges were destroyed and there was no way to reach our stranded people except via air. Unfortunately, our air force did not have the aircraft that would have enabled it to land in the area. Hence, soldiers and volunteers had to walk to these areas, making the process of

rescue operations extremely arduous. In fact, it exacerbated the already weak frames of our helicopters that had to go and traverse those very severe conditions along the Quezon mountain range.

If we will recall, in the *Bente-Otso de Mayo* incident sometime in the '60s, we had to rely on American helicopters to rescue our people in Central Luzon who were completely marooned and who had to be supplied from the air.

Right now, after the 7.6 magnitude earthquake suffered by Pakistan that has already taken 30,000 lives and still rising, they are asking for assistance despite the fact that they have more helicopters than we do. In fact, I think they have about 247 helicopters. They are still asking for more helicopters from the world to assist them in the rescue and rehabilitation effort. What if another disaster of this magnitude happens to the country? Are we prepared to deal with it? We have no equipment such as Med Evacuation aircraft or heavy lift aircraft to offer, and we have had to rely on the assistance from the U.S., time and again, to help us out during times of crisis.

According to the 2004 ranking of the emergency disasters data base, the Philippines ranks fourth in the list of most disaster-prone nations. Whether we speak of a land-based or a maritime disaster, the importance of air capability in terms of conducting search-and-rescue operations as well as reaching areas that are no longer passable by land, like what happened in Baguio, in Quezon and in Central Luzon, cannot be downplayed. Our inability to reach our people quickly can spell the difference between life and death. Right now, we only have two C-130s that can be used for rescue-and-evacuation operations. About six months ago, I took one of the two because there was only one C-130 operating to get Red Cross supplies to Sulu. And if that plane had crashed, then there would be no C-130 to supply our airmen or our people in Mindanao and Visayas, and no capability to med-evac our wounded in that area.

It is objectionable that the annual cost of maritime destruction that the country bears lies at P22 billion, as shown by an AFP study. The significance of this amount to our cash-strapped coffers cannot be overemphasized, especially in terms of stimulating economic development and uplifting the general quality of our people's life. Furthermore, the armed forces is tasked with protecting estimated hydrocarbon deposits of oil amounting to 1.7 billion barrels worth \$26.22 billion and gas amounting to 16.766 cubic feet

worth \$46 billion. In addition, an AFP study showed that the country is losing \$79 billion annually because of its inability to tap our marine resources in our exclusive economic zone. This is a clear illustration of the economic danger that we cannot defeat nor deter.

It is abhorrent that the reign of terror of the Abu Sayyaf which victimized our people and visitors, as the world watched, could have ended a year earlier than it did. There was a time when members of the Abu Sayyaf were spotted from the air as they were trying to escape after their nefarious activity in Puerto Princesa, Palawan. There were no helicopters to chase the ASG and since there was no radio communications capability, the pilots could not even deliver the message to the Philippine Navy boats on the water to interdict the ASG in Mindanao where they were headed. And so, the Abu Sayyaf were able to escape to the consternation and eternal embarrassment of this nation.

It is horrifying to contemplate the scenario of terrorists using a plane loaded with explosives to bomb the Twin Towers of the United States. It is not inconceivable if they can do the same thing to bomb the Malampaya oil depot or even for that matter the Pandacan depot, which is right smack in the middle of Manila by getting a Lear jet from Subic Air in Manila and loading it with bomb. Even if we knew of a plan of such an attack, without a capable air force, what can we do about it? This clearly poses dangers to the security of the nation. Two helicopters guard Malampaya and, certainly, a Lear jet, plying at particularly supersonic speed, will be able to outrun any helicopter in the area.

It is appalling that we cannot even meet the AFP's needs for internal security operations, such as protecting our major installations and infrastructure, nor can we protect our air space from aerial intrusion.

I repeatedly said that our air force is blind. We do not have low-range surveillance aircraft. We only have one aircraft that is able to do that for the entire country. And right now, we do not know what is plying the seas. We are not able to detect what kind of maritime traffic we have. Our regular commercial traffic is blind. We do not have that capability to look at the patterns of maritime travel in our waters.

If we had this capability to take a look at something unusual or something suspicious, we can even, hopefully, send an air force jet immediately within half an hour to inspect. In fact, if we get this low-range surveillance

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aircraft, it can practically paint a picture, on a GPS, so that we can even bring it as a way of protesting to the other nations who are intruding into our waters.

Right now, we cannot even offer proof because the only plane we have has a snapshot camera. It has to go down 3,000 feet so that it is putting its crew in harm's way to take a look at what kind of seacraft is operating down below.

Our lack of air cover, therefore, invites abuse by other nations. Not only can we not show proof, but it invites abuse by other nations because they know that we do not have the muscle to back up our convictions with regard to protecting our national territory. Let us remember the case of Belgium, Holland and Luxembourg, all of which had neutrality policies. But we all know that weakness invites aggression. And these nations found themselves under attack by Germany, not just once, in World War I, but also in World War II on May 10, 1940, because they had no military capability to repel the attack. *Germany just marched through these countries.* How can our neighbors respect us when they regularly get away with poaching in our territory because we cannot even patrol and protect our oil lanes and sea lanes? A capable air force is the modern-day version of gun-boat diplomacy. That is why aircraft carriers are used by the United States which they park alongside what they feel is a recalcitrant nation just to show that they have aircraft that can immediately interdict that nation.

But where is the Philippines? We do not even have the air force anymore that can be significantly menacing to any country within Southeast Asia. Without the muscle to back up our talk, we are constrained to stay very silent as our borders are violated. We are constrained to go to the bargaining table. Right now, we cannot even detect these violators. Can you imagine that? We do not even know that our air space is being violated, but even if we could, we do not have the capability to repel them either. This exposes us to grave political dangers.

In fact, *isa pang nakakatawa dito sa ating sitwasyon* is that everyday there are commercial aircraft that should be charged for flying over our air space. We do not even know how many of them pass over our air space. So, we are even losing income from these overflights.

It is tragic that even our undersea archeological wealth, such as the ruins of the galleon trade, ends up in the hands of treasure hunters because we cannot patrol our territory.

And by the time we find out, the treasures from these historical ruins are gone. We do not have the surveillance capability to spot these thieves, and in the process, we forego a certain piece of our history and our soul as a nation. We are a nation that has no glory stories, only stories of our victimization. We have precious little appreciation of the importance of knowing our history, and every legacy lost escalates the scale of this tragedy. The most abominable thing of all is for this Senate not to be able to do anything about it.

#### *A Culture of Mediocrity*

We are a country that has developed a culture of mediocrity. Our key institutions are falling apart. Our educational system is on the verge of collapse. Test after test in science and math for our students in grade school and high school yield results that show us No. 3 from the last, out of 48 countries. *Pangatlo sa kulelat.* The best and brightest of our youth, and even our adults, find their future in foreign lands, not even in our own native Pilipinas. Families are separated simply in the effort to place a decent meal on the table. Legitimate businesses and industry remain stunted, starved of fresh capital, or face unfair competition from smugglers and distorted trade policies. Our currency teeters on the brink of another freefall, waiting for the next political crisis. We are a country without a future game plan. Just as our air force is blind, they cannot see ahead, below, above or around, the country has no direction and is flying blind.

Section 7, Article II of the Constitution states that, "The State shall pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination." How can we undertake an independent foreign policy without the clout to do so? We cannot have this only on paper. We have to show that we have mettle, the muscle, the training and the assets to be able to walk our talk. Yet, our flyers cannot even fly their talk.

If we are to meet this constitutionally mandated responsibility, we must have the capability to patrol and protect our territory since our economic development relies on the protection of our natural resources especially our oceans which are replete with treasures that can feed not only our nation but other nations. We need this air force and air assets to know what is out there.

If we are to strengthen the Philippine Air Force to enable it to perform its duty, we must

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do so in a manner that is relevant to the needs of the nation. Hence, it is crucial for us to analyze and determine the nature of the threats that our nation faces, which is unique in itself. However, let us look at the reality of our situation.

Filipinos continue to enlist in our air force, expressing their willingness to offer their lives in the service of the nation, but we do not have the aircraft to enable them to train. In fact, I am told by the commander of the air force that there are a lot of college graduates among the enlisted men who are dying to get into the air force. However, it takes an average of about four years for them to be able to fly a helicopter or an aircraft. Therefore, it is completely outrageous that we cannot even train people who want to be trained. Yet, once upon a time, we had the Blue Diamonds. Not too long ago, when I was a young man and I went to Nichols Air Base, I would look at all these beautiful aircraft and when the Blue Diamonds made their air exhibitions, I was proud to be a Filipino. It is a symbol that our country has the wherewithal not only to fly the most complicated of machinery but also to be able to meet our enemies in this day and age. But today, it has become no air and no force for our country. *Talagang kawawang-kawawa na ang ating bayan.*

#### *The state of our Air Force*

Today, we find ourselves with an Air Force that has neither air nor force, nothing to control the air with. They fly over our air, yet we just look at them. They can probably spit at us but our air force today has no surveillance capability to peek into the dangers that threaten us. All we are capable of is an accidental peek, and a tentative peck, *kung meron man, sapagkat wala namang bala, walang gamit iyong ating mga eroplano.* So, it is a peek and a peck air force. We are blind and bound. Blind because we do not have the surveillance capability to see the threats, and bound because even if we saw them, we do not have the capability to act against them either. Our armed forces are completely unable to plan and execute precise operations due to a complete lack of surveillance capability.

I will remind the Senate that about six months ago, there were four fishermen who went to Scarborough Shoals, lost their steerage and floated for 15 days. The coast guards could not find them. When this Representation was asked for assistance, I went to the U.S. Navy and the U.S. Embassy. They sent surveillance aircraft for four straight days, spending about P1 million a day. They were able to spot the four fishermen

but our Navy was able to pick them up after 19 days at sea.

#### *Regaining the air*

To address the dangers that may threaten our country, the key challenge for the AFP today is to increase the efficiency and effectiveness of the combined current assets of the air force, navy and army in the context of contemporary risks. I am not even talking about our navy which is all coast and no guards. Our Army has 40-year rifles, the grooves in the barrels of their guns long spent so that they cannot even shoot straight. We still carry the M16 and we hardly have M2.

As we endeavor to provide security for our nation, which is the prime duty of our country to our people, the capability of the military, especially our air force, cannot be downplayed because our military ability to protect our resources impacts greatly on the nation's economic and environmental concerns. If we are going to expect our Air Force to perform their constitutional mandate to uphold the sovereignty and preserve the patrimony of the Republic of the Philippines, the national leadership must adopt a two-pronged approach by equipping the air force to meet both internal threats such as insurgency and external threats such as terrorism, poaching and smuggling.

To combat both internal and external threats, our air force needs to have the capability to detect and respond to threats the moment they enter our air space or our exclusive economic zone under all conditions of weather. At present, we only have one aero-commander that is only good for photographing targets in good weather. It cannot even fly at night because it cannot see at night. We need to acquire long-range patrol aircraft (LRPA) with night and all-weather capability, one that can fly for eight hours and patrol 50,000 square kilometers within an hour. These LRPAs are crucial not only in the fight against insurgency on the ground as they can direct our limited naval and army assets to specific areas that indicate the presence of possible threats to the security of the nation. These can also be used for search-and-rescue operations both on land and sea to help the millions of Filipinos who travel the sea lanes or fish in our waters, in times of disaster.

The problem, however, does not stop there. More fundamental than the mere lack of aircraft is the lack of an integrated surveillance, communications and information system that ties together the three branches of the armed forces. Indeed, it could have been a moment of glory

when the high-speed boats of the Abu Sayyaf were actually spotted by the air force as they sped toward Palawan. But in the absence of air-to-surface radio communication, there was no way by which that crucial bit of knowledge could have been sent to the navy or coast guard to intercept the boat, or the army or police to set up defenses along the shore, or helicopters to interdict them.

Dos Palmas was just right beside Fort Antonio Bautista Naval Base in Palawan, so near and yet so far because their helicopters were not available. They have no aircraft to run after the ASG and no communications, let alone radar, to detect the ASG before the attack on Dos Palmas. Of course, that ruined the tourism possibilities of the country, simply because of our failure to interdict the ASG. We lost not only tourists but also the location shooting for the film "The Great Raid" which would have put the country on the map.

To address these needs, our air force needs radars to serve as an early warning system because even if we acquire fighter planes, in the future, these would be useless without radars. In fact, Singapore, a small city state without water of its own, has radars as well as Hawkeyes that can go beyond its territorial waters into the open sea to make sure that it is protected from interlopers or their perceived enemies. The ideal radar should have a scanning range of 200 to 250 nautical miles. We also need high frequency radios, pack radios for field communication and coordination with headquarters. Our people on the ground are using cellphones to communicate with each other. The radios are as big as attaché cases. Our air force does not even have a helicopter to pick up the wounded, be they the enemy, the military or civilian. GPS receivers are also crucial for attack, search-and-rescue operations. Specific equipment for ground combat to address the insurgency problem such as night vision goggles are also needed.

In order to protect, ferry, re-supply, extricate troops and evacuate casualties, we must have sufficient attack and transport helicopters. We need 120 helicopters but, currently, we only have 43, hence, we need 57 more. I am told that there are 27 helicopters available for P1 billion from Singapore. Can you imagine, we have to buy now our helicopters from Singapore? A few years ago, we got hand-me-downs from Thailand. Poor Philippines! We used to be way ahead of Thailand. It is really important that we get this helicopter capability as well. If we will recall, Director Punongbayan died from the crash of a helicopter that I borrowed from the Philippine Air

Force. Not only Director Punongbayan but the *crème de la crème* of the Philippine Volcanology and Seismology Office died together with the young pilots and crew of the PAF.

Let us remember that our army is weak and equipped with old weapons. They need all the aerial support that they can get. We are a disaster-prone country and we need all the aerial assets to save the lives of our people and keep our armed forces out of harm's way, not from their enemies alone but from their own equipment as well.

Given the threats that our country faces today, we must have a defense policy, and this policy cannot be "*bahala na*." We must set a time frame for the air force to regain the skies, and I say that we must do it in five years. The Senate must take the lead in making sure that in the next five years, our air force is able to develop the capability to protect our sovereignty and our territory as well as our people. Our air force must be equipped to protect our interests, in actual terms and not just on paper.

The Senate has been accused of merely investigating and not doing anything about the outcomes of our investigation. We know better than that. We know that we have to interrogate and investigate to tell our people that there is a danger lurking amidst us; that we have no air cover; that we are blind to intrusions in our territorial waters; and that our people are even hurt by their own weaponry because they are so obsolete.

Today, I call upon the Senate to lead the country in prioritizing the country's future. If the Executive cannot, let us play our part, not only as responsible national leaders but also as patriotic citizens by helping our air force regain its capability.

In this connection, I would like to seek the Senate's commitment to support the P5 billion Capability Upgrade Program. We must also support the procurement of immediate Philippine air force needs such as long range patrol aircraft, helicopters, basic trainer aircraft, radars, communication equipment and surface-attack aircraft subject to proper procurement rules and regulations. To say that we are poor just does not cut it. It just invites so many problems.

I can remember that while reading a book entitled *Fly Boys* written by James Bradley, whose father was one of those who raised the American flag in Iwo Jima during World War II, he quoted a Japanese song to students before the war. It goes this way: "There is a law of <sup>the</sup>

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nations, it is true. But when the moment comes, remember, the strong eats up the weak." We almost got eaten by the strong in World War II.

Beyond these, let us honor our commitment to create a credible national defense by allocating P10 billion annually to the AFP modernization program pursuant to Joint Resolution No. 28. If we think that this is expensive, let me reiterate one consequence of our current weakness: the country is losing US\$79 million annually because of our inability to secure marine resources in our exclusive economic zone. Hence, if we are only able to commit the current amount called for in the AFP Modernization Program, the cost of acquiring the necessary equipment for the air force would pay for itself in less than a year.

The kind of air force that the Philippines needs is not designed to threaten our neighbors, but one that recognizes the real needs of our people. Our support and investment would result in a strong and capable air force that would provide wide-ranging benefits to our defense establishment and the country as a whole, and at least provide us with some pride and dignity and cause others to respect us.

It will be an air force that would protect the skies from all threats; an air force that has the power to fully support our Internal Security Operations (ISO) needs; and an air force that would provide a force multiplier and incalculable morale booster for our ground and naval forces. Likewise, it would be an air force that would at least have the capability to protect our airspace and preserve our territorial integrity. Beyond its military role, it will protect our abundant marine resources in our territorial waters and exclusive economic zones. It will be the first and fastest to respond in alleviating people's suffering during times of calamities. It will contribute in stimulating economic development. It will be an air force that will make the young people proud and someday dream that they too can be a fly-boy in our air force, to make us confident that "we can do" Asia and say we are not the doormat Asia and that no country can come into our waters without having to reckon with credible air force such as the Philippine Air Force in the future. To sum up, a strong and capable air force is one of the wisest national investments that our country can make.

We must enable ourselves and our air force to ennoble and free our nation from the dangers that threaten our shores.

The Philippine Air Force motto states that they are "faster, stronger and better." Let us

enable them to fly their talk. Let us enable them to be **faster** in conducting search-and-rescue operations, **stronger** in their responding to internal and external threats, and **better** as it acts as our contemporary gunboat, when the need for gunboat diplomacy arises.

In the words of the father of U.S. Air Force, General William "Billy" Mitchell:

"In the future, no nation can call itself great unless its air power is properly organized and provided for, because its air power, both from a military and economic standpoint, will not only dominate the land but the sea as well."

Billy Mitchell predicted that Japan will attack the Hawaiian islands and eventually attack the American mainland. Everybody laughed at him. He was even court-martialed. But at that time, he was a visionary, and sure enough, his words rang true and it was a real costly mistake for America to forget his words.

The current state of our air force means that we are bound and blind – we cannot seize the high ground to have the point of vantage, nor can we strike against the real targets of battle. If called upon to defend the country, the PAF, in Field Marshall Rommel's words, can only "fight like savages" against modern opponents notwithstanding the bravery of our airmen. We owe it to those who volunteer to join our air force and our armed forces to have the wherewithal so that they can do their jobs to protect their country. Our weakness is an invitation to the recklessness of aggressors.

The Philippine Air Force is willing, but it is up to the will of the national leaders to make them able and if it is to be, it must begin right here in the hallowed halls of the Senate.

## INTERPELLATION OF SENATOR BIAZON

At the outset, Senator Biazon related that as a young ensign in 1961, he was proud to be part of the navy that had a fleet of fast patrol crafts, a D-66 destroyer and frigates and that when he was a battalion commander in the Philippine Marines during the MNLF conflict, his battalion was given air support by F-86D. He said that through his recommendation, the Armed Forces acquired the Tora-Tora planes that were able to provide the needs of ground forces.

Senator Biazon informed the Body that during his short stint as the Chief of Staff of the AFP, he formulated the AFP modernization concept,

based on the assumption that since the insurgency problem was already on the way to a resolution, there was need to shift from internal security operations to external defense.

Senator Biazon noted that in the 9<sup>th</sup> Congress, the AFP Modernization Law was approved, with an estimated cost at that time of P331 billion. However, he noted that the present estimated cost of the modernization is between P660 billion and P700 billion. He said that the concept of modernization has changed since there is no longer the possibility of conflicts among neighboring countries that could translate to actual combat or actual incursion by a neighbor into the territory of another. He further pointed out that the United Nations had formulated three basic programs: (1) democratization; (2) globalization; and (3) conflict-resolution in which the UN has an increased role.

Senator Biazon asserted that there are three possible areas in terms of capability-development of the air force, one of which is air defense which requires fighter interceptors and network of radar system that could perform target acquisition, target identification and target engagement.

Replying to queries, Senator Gordon asserted that with the decommissioning of the F-5s, the armed forces would be slow to react to activities in the Spratlys or in the sea lanes between the Strait of Singapore and the Philippines all the way to the Pacific Ocean. He underscored the necessity of having a squadron of fighter planes for surveillance and interception purposes.

As regards the possibility of acquiring fighter planes, Senator Biazon noted that the F-18 is cheaper than the F-15. Senator Gordon stated that at the moment, he is not looking at the cost and he was deferring to the experts in the military who know what is best for the country.

Replying to further queries, Senator Gordon stated that Singapore, Malaysia and Indonesia still maintain F-5s in their inventories, while the U.S. uses the F-5s for target practice and combat training. Senator Biazon maintained that the F-5s should not be used in the frontline of air defense. Senator Gordon agreed, adding that Malaysia uses the F-16 and Vietnam uses the MiG-29.


Senator Biazon informed the Body that Taiwan has a fleet of F-5s that are not being used anymore

and that it is willing to give the fighter planes to countries that can use the planes as part of their air force. However, he noted that it would be difficult to get the planes from Taiwan considering the geopolitical principles being adopted in the region, specifically the One-China policy.

Senator Biazon pointed out that the basic unit for optimum management and use of aircraft is a squadron which is composed of 12-24 aircraft. Acquiring 18 fighter planes would cost an estimated US\$720 million or P50 billion, he said. He stated that the air force would not get the optimum effectiveness of the aircraft without the radar which is important for target acquisition, target identification and target engagement and that the AFP needs at least six radar stations. Senator Gordon said that one radar station costs US\$30 million.

Senator Biazon pointed out that the need for aircraft and radar stations also requires the development of bases. The air force, he said, needs to develop its air defense capability and air mobile and assault capability, which involves the C-130s and Huey helicopters, among others. He stated that he was confronted with the sad situation of the air force when he flew from Davao City to Koronadal City by means of a poorly maintained Huey helicopter. One factory-refurbished Huey helicopter, he pointed out, costs US\$3 million.

Asked what he would recommend to the Senate as the top priority in terms of modernization between the fighter interceptor and air defense capability, and the air mobile and assault capability of the air force. Senator Gordon replied that modernization should start with the purchase of long-range surveillance aircraft and radars to protect the sovereignty of the nation, and helicopters to supply and evacuate troops. The Senate, he said, should follow and review the 10-year AFP modernization program.

Senator Biazon stated that he was the author of the AFP modernization law in 1995 which required a P50 billion trust fund for contracts entered into by the AFP from 1995 to 2000. He said that Joint Resolution No. 28, which was approved later by both Houses, provided that almost half of the funding should come from Congress and the rest from some other source. He stated that while the Ramos administration did not contribute a single peso, the Estrada administration provided P5 billion; and the Arroyo administration, P5.4 billion. The AFP, 

he said, has reached only 20% of its requirement and was not able to purchase major items of equipment because P10.4 billion could not even buy one F-16 or F-18; instead, it purchased 1,800 pieces of FN Minimi but the second shipment had been cut by some functionaries in the Executive Department. He bared that the same weapon would be purchased from China and not from Fabrique National of Belgium.

Senator Gordon stated that he never thought that he could rebuild the airport in Subic with a radar and develop a new highway with a tunnel. The Senate, he underscored, should not only prepare the program for acquisition but should also bird-dog the military and the Department of National Defense, and even the Department of Budget and Management.

In response to another query, Senator Gordon said that the air force received almost P2 billion out of the P10 billion for AFP modernization that it used to purchase 20 Huey helicopters from Singapore which are quite good.

Senator Gordon informed the Body that recently, the PAF acquired six OV10s with a service program that included engine refurbishment and replacement of four-bladed propellers of six Huey helicopters. In addition, he said that the Philippines would also be getting 38 helicopters, of which 10 would be cannibalized for spare parts.

On a related matter, Senator Biazon stated that there is also a need to enhance the country's capability to protect its exclusive economic zone against poaching and smuggling. He revealed that he had received a raw information that Czechoslovakian-made SKS rifles are being smuggled into the country through Northern Luzon. He posited that this activity could be linked to the report of the Federal Bureau of Investigation that a group of civilians are ready to defend President Arroyo in case the military stages a coup d'etat. He asserted that the surveillance aircraft would be useless if there are no naval crafts like fast patrol boats to go after poachers and smugglers.

Senator Gordon clarified that he was also aware that the capability of the Philippine Navy should be improved and modernized. He believed, however, that the government, particularly the Senate, should know the real needs of the entire armed forces to justify expenditures in view of the present financial crisis.

Asked if he was proposing that the appropriate committee should review the AFP Modernization Program, Senator Gordon replied in the affirmative as he reiterated that the Senate should take the lead in addressing the problems of the PAF.

In regard to talks of a military coup d'etat, Senator Gordon cautioned that the Members should be careful about making such statements because there are elements in the military who may be persuaded into launching such action that could result in the destruction of the country. He said that as legislators, they must be responsible enough to ensure that any action by the Executive that is out of line shall be immediately met with a very strong reaction from the Senate.

Senator Biazon revealed that he has been bird-dogging the military leadership on its modernization program to no avail. He believed that it was time that the Senate conducted a hearing on the matter in view of the fact that scarce government resources should be adjusted to address the full implementation of the AFP Modernization Program.

#### INTERPELLATION OF SENATOR OSMEÑA

At the onset, Senator Osmeña commented that the speech of Senator Gordon was about 15 to 20 years late and he surmised that this was prompted by the retirement of the remaining F-5 jetfighters. In reply, Senator Gordon said that he had wanted to make the speech a long time ago especially in view of the loss of the capability of the military to respond to disasters and crises.

Senator Osmeña recalled that the F-5s were manufactured 40 years ago and were part of the Foreign Military Sales Agreement.

Asked if he was aware that the F-5s were never considered as frontline fighters by any country, Senator Gordon replied that the U.S. Air Force used them merely as practice aircraft since they have a very short range and cannot carry the required armaments and therefore were undependable. He stated that with the development of a new generation of aircraft like the F-16, F-18 and the multi-service F-22, the F-5s are now considered as discards.

Senator Osmeña recalled that under the 1993 Bases Conversion Law, part of the proceeds of the privatization of the bases should go to the modernization

program of the air force but none went to it. He asked why up to this day no one has taken former President Ramos and the military leaders to task. Senator Gordon said that he had asked the same questions so many times but nobody gave him an adequate explanation.

On whether it is too late to dig into the matter, Senator Gordon replied that it is never too late to find out the truth so as not to commit the same mistakes in the future.

Asked where the funds for the acquisition of aircraft would come from, Senator Gordon replied that it would be sourced from the unnecessary expenses of the government and maximizing the revenue collection efforts. He expressed the view that the people must be made aware of the importance of having a dependable and modern air force that every self-respecting nation like the Philippines must have.

Senator Osmeña believed that the public would readily accept the idea of maintaining and developing an armed forces to serve the security needs of the country which could be achieved through the constant earmarking of a certain amount of money in the annual national budget for that purpose. However, he pointed out that on a per capita basis, unlike other economically advanced nations like Malaysia and Thailand, the national budget is too small to fund the purchase of aircraft and equipment. He observed that in the discussion of the national budget every year, the debate has always been on whether the government should spend more on guns or on butter.

Senator Osmeña queried where the P10 billion appropriation should go. Senator Gordon replied that it can benefit both education and the armed forces. He posited that one source of revenues could be a tax on text messages.

On whether incremental revenues should go to social instead of military programs, Senator Gordon pointed out that even if the Constitution provides that the principal thrust of the budget must be on education, a credible military is still needed because it provides security as well as confidence and pride.

On the contention that countries like Thailand, Malaysia, Singapore and Taiwan were able to forge ahead and are now equipped with capable aircraft,

Senator Gordon asserted that all countries start poor but if there is focus on economic and education development, the country can make positive inroads in the future. He remarked that the air force is in possession of F-5s that were purchased 40 years ago and instead of going supersonic, the air force reverted to being subsonic.

Senator Osmeña informed the Body that subsonic planes are necessary for counter-insurgency warfare as jets fly too fast. He pointed out that the Cessna and the Tora Tora planes were the aircraft used in Vietnam as he stressed the need for subsonic planes. He recalled that in one of the public hearings, he questioned General Reyes and some other officials about the US\$41-million contract for the purchase of four second-hand C-130s, costing US\$4 million each, previously used by the Royal Air Force of the United Kingdom. Further, he stressed that C-130s are not used for reconnaissance as they are too heavy and consume a considerable amount of gas.

Senator Osmeña said that if a Chinese fishing boat is sighted in the Spratlys with a submarine beside it, the F-5s are no match to submarine missiles. He stated that it would be a total waste of money to purchase F-5s or even F-16s. He added that an F-16 is no match to an F-14 Tomcat that carries a Phoenix missile with a range of about 37 to 45 miles. He maintained that the country does not have the facility to compete with highly sophisticated jets and missiles.

Senator Osmeña pointed out that the air force's future role should be directed towards disaster operation services and civilian affairs, shifting from a defense tool to a development tool. Senator Gordon expressed the belief that an interceptor aircraft is still needed to protect the country's air space. He asserted that any kind of armor or any display of capability would discourage any untoward activity.

Senator Osmeña argued that the country's capability is already known to every nation in the world. He observed that if one country knows that its enemy lacks military capability, it would not be scared of the consequences of knocking down the enemy. Clearly, he said, small nations that have been able to maintain a modicum of neutrality do not need an air force. However, he observed that the Philippines, which has over 7,000 islands, needs an air force that has C-130s, Huey helicopters, *As*

or perhaps MV-520s or Broncos for counter-insurgency, and not necessarily sophisticated jet fighters that it can ill afford to buy. He recalled that in budget hearings, it has always been emphasized that the air force needed surveillance aircraft supposedly to keep track of Chinese activities at the Spratlys. However, he pointed out that it would take the Chinese many years and billions of dollars to build oil exploration platforms on the Spratlys and besides, they pose no direct or immediate threat.

Senator Gordon stressed that neutrality is no assurance that a country would be spared by the enemy as he noted that Belgium, Holland and Luxembourg maintained their neutrality during the two world wars but were still overrun by the Germans. He pointed out that with the weapons systems that are being developed, one cannot even see the enemy. He recalled that Gen. Billy Mitchell's prediction that battleships can be sunk by enemy planes was proved correct at the Battle of Midway and the Battle of Coral Sea during WWII.

Senator Osmeña contended that China or Russia has nothing in its arsenal to counteract the U.S. F-14 Tomcat Fighter Interceptor that is armed with a Phoenix missile.

Senator Gordon clarified that he was not proposing that the government buy any particular aircraft. However, he underscored that the Philippines must have a credible show of force to make the enemy think twice about encroaching on its territory.

However, Senator Osmeña stated that in such an incident, the Philippines need not pursue a military confrontation as it could lodge a diplomatic protest. He pointed out that China knows exactly where the Philippines stands militarily.

On the issue of Singapore, Senator Osmeña posited that its superiority is not in terms of aircraft and submarines but in terms of productivity per manhour, as its best resources are its people. He recalled that Singapore was part of the Malaysian Federation until it was kicked out in 1964 because Lee Kuan Yew was giving the Malaysians a lot of headache. He stated that Prime Minister Lee put in place the social infrastructure, bureaucracy and proper economic policies to propel his small nation forward. He asserted that no country would be interested in occupying the Philippines because the Filipinos are in a mess.

Senator Gordon agreed that government funds should be spent on a priority basis, foremost of which is education. He observed that after WWII, the Philippines was No. 1 in Southeast Asia but instead of capitalizing on its gains, it squandered them. He lamented that of the 28,000 students of Far Eastern University, 26,000 are taking up nursing. For his part, Senator Osmeña stated that schools are fooling their students into thinking that there is a great demand for nurses in the U.S. and they would be among the 7,000 Filipino nurses being recruited annually.

Further, he noted that there are teachers who are studying to be nurses as well as doctors who are getting their nursing licenses and no one in government is doing anything to stop this practice. He stated that he knew this for a fact since he is sponsoring some such scholars. He lamented that most schools are not good enough to bring these students to the level that would qualify them for the job. Senator Gordon said that government could try to maintain the quality rather than the quantity of graduates. Additionally, he stated that nursing schools should teach Japanese since this is important for Filipino nursing students seeking work in Japan.

Senator Osmeña pointed out that rather than going forward, the air force has already deteriorated from its position as the number one air force in Asia. He lamented that the development of the air force has slowed down only in relation to that of its Asian neighbors. Senator Gordon agreed as he noted that this is the case with China, Singapore and Malaysia. However, he expressed the belief that the Philippines is only advancing to the rear to maintain its current standing relative to Singapore.

Senator Osmeña argued that the air force is better off at present and Filipinos are now flying on Air Bus 330s and 320s instead on DC3s. Moreover, he pointed out that in the United States, feeder airlines and those flying missionary routes use expensive Beechcrafts which cost about US\$5 million each while the Slets, CASA and De Havilands which have short takeoff landing or stall capability were developed for military operations. He posited that such aircraft which cost only US\$200,000 would be perfect for Caticlan and other ports which cannot accommodate big crafts like the Boeing 737 or the Beechcraft 99. As such, he clarified that this was why he was against the total elimination of the second-hand automobile market as doing so would bring down the cost of doing business as in the case

of the airline industry, the Slets, CASA and De Havillands have brought forth several successful airlines such as SeaAir and Asian Spirit.

For his part, Senator Gordon said that the Philippines should have developed its own aerospace industry. He argued that the Philippines should have started the industry rather than buying its needs overseas. However, Senator Osmeña maintained that this is just a dream. He underscored that given the country's limited resources, the government should prioritize social, education, health and housing projects. Further, he stated that any fund set aside for the AFP modernization should be used more on services such as the interdiction of smugglers and poachers, and the conduct of disaster relief operations. He clarified that he wanted the soldiers to have new uniforms and equipment. Relative thereto, he suggested that these issues be clarified during the hearings. He expressed hope that the government could raise funds through other sources. He stressed that unless the AFP cleans up its act and as long as 20% to 40% of the AFP's capital outlay and MOOEs are pocketed by generals in the Office of the Comptroller, he would find it difficult to agree with Senator Gordon's proposition. Senator Gordon, however, pointed out that the entire military system should not be punished because of a few bad eggs. Additionally, he stated that while he shared Senator Osmeña's view about prioritizing education and social services, he also believed that there is a need for the country to have credible defense capability.

#### **INTERPELLATION OF SENATOR PIMENTEL**

Senator Pimentel recalled that during the abduction of Gracia and Martin Burnham, despite the air force's claim that it was monitoring the seas to locate their kidnappers, it was not able to spot them after four days of surveillance. Relative thereto, he suggested that the government focus its attention on spotting the movements of internal rather than external enemies. As such, he said that he shared Senator Osmeña's view that the air force needs smaller planes.

For his part, Senator Gordon stated that he would like the military to have faster patrol crafts that can be used in instances when other forces intrude into Philippine airspace or territorial waters.

Senator Pimentel noted, however, that it is important to prioritize such needs even as he

expressed support for Senator Osmeña's position that scoundrels who make money out of the people should be weeded out of the armed forces. He wondered why money that was set aside for the AFP modernization disappeared without a trace. Senator Gordon posited that the problem lies with identifying the military's need and finding a solution in accordance with what the government is capable of providing. Moreover, he stated that if there are scoundrels in the military, then the Senate should not only conduct an investigation but also make sure that these people are prosecuted and jailed so that such crimes would not be repeated.

Senator Pimentel observed that a lot of public officials borrow air force planes. In light of complaints from some soldiers in Mindanao that their helicopters are being used by some government officials, he suggested that strict standards be set to ensure that air force planes are not used by civilians for their own personal purposes as they are needed to help troop movements and other activities in the national interest. Senator Gordon replied that while he had used military helicopters for Red Cross mercy flights, he had told the soldiers that they should not let politicians borrow their planes for their own convenience. Senator Pimentel noted that those government officials who borrowed these aircraft should, at the very least, pay for the fuel as flying a helicopter from one municipality to another consumes a lot of gas. However, Senator Gordon clarified that the colonels and generals themselves say that they would take care of these needs in exchange for assistance in the passage of their budget in Congress. He observed that the situation, which also occurs in the U.S. military, requires a lot of responsibility on both sides. This, he explained, was why he had always advocated that all jets, airplanes and helicopters of government corporations should belong to a pool so that senators needing to visit their constituencies could pay for their use. He lamented that government aircraft are being utilized by the powerful and influential rather than those who really need them.

To the observation that even in the United States, presidential assistants are not allowed to use air force planes and that such a practice should be started in the Philippines, Senator Gordon agreed.

#### **SUSPENSION OF THE PRIVILEGE HOUR**

Upon motion of Senator Pangilinan, there being no objection, the Body suspended the privilege hour.

NS

**COMMITTEE REPORT NO. 31  
ON SENATE BILL NO. 1402**  
(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1402 (Committee Report No.31), entitled

AN ACT ESTABLISHING A COMPREHENSIVE JUVENILE JUSTICE SYSTEM AND DELINQUENCY PREVENTION PROGRAM, CREATING THE OFFICE OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION UNDER THE DEPARTMENT OF JUSTICE, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES.

Senator Pangilinan stated that the parliamentary status was the period of interpellations.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Chair suspended the session.

*It was 6:30 p.m.*

**RESUMPTION OF SESSION**

At 6:30 p.m., the session was resumed.

**COSPONSORSHIP SPEECH  
OF SENATOR LAPID**

Upon motion of Senator Pangilinan, there being no objection, the following cosponsorship speech of Senator Lapid on Senate Bill No. 1402 was considered read into the record:

**EDUKASYON AT HINDI DITENSYON  
ANG SOLUSYON**

Ikinalulugod kong tumayo sa inyong harapan ngayon upang ipaglaban ang karapatan ng ating mga kabataan at ipahayag ang aking taus-pusong pagsuporta sa panukalang batas, sa ilalim ng Committee Report 31, na naglalayong magpatupad ng isang komprehensibo, makatao at maka-Diyos na batas para sa libu-libo nating mga kabataang *menor de edad* na nakakagawa ng pagsalungat sa batas at nangangailangan ng ating gabay, pang-unawa at pagmamahal.

Nais kong ipahiwatig sa pagkakataong ito ang aking matinding paniniwala na ang kulungan ay hindi tamang lugar upang hubugin ang puso, diwa at kalooban ng ating mga kabataang nakagagawa ng pagsalungat sa ating batas. Lahat ng tao sa mundo ay dumadaan sa isang proseso sa kanilang buhay na sila ay nalilito at naghahanap ng direksyon at mga kasagutan sa sari-saring problemang kanilang kinakaharap. Hinihiling ng ating mga kabataan na sila'y bigyan ng kaukulang atensyon at gabay upang makamit nila ang kanilang minimithing makabuluhan at magandang kinabukasan.

Nakalulungkot isipin na marami sa ating mga kabataan ang hindi na ngayon nag-aaral at pumapasok sa paaralan dahil sa kahirapan at matinding krisis na kinakaharap ng ating bansa. Dahil dito, marami sa kanila ang nalululong sa masamang bisyo, dala ng impluwensya ng kanilang mga barkada. Marami rin sa mga kabataang ito ang napipilitang magnakaw upang matustusan ang kanilang bisyo. Ilan sa kanila ay nakakulong na ngayon sa ating mga kulungan.

Hindi sinasabi ng panukalang batas na ito na tama ang magnakaw ng gamit ng iba. Sa katunayan, isinusulong at sinasabi ng panukalang ito na mali ang magnakaw ng gamit ng iba. At dahil mali ang magnakaw ng gamit ng iba at lumabag sa mga karapatan ng iyong kapwa, magtatatag ang gobyerno ng programang rehabilitasyon, pagsasanay, oryentasyon, pagpapayo o "counseling" at serbisyong pang-komunidad o "community service" para sa ating mga kabataang nakagagawa ng pagsalungat sa ating batas upang maintindihan nila ang bigat ng kanilang kasalanan at mabigyan sila ng kaukulang programa tungo sa magandang kinabukasan. Sa madaling salita, edukasyon at hindi ditensyon ang solusyon para sa ating mga kabataang nalilihis sa landas ng ating batas.

Dahil dito, sinusugan ng panukalang batas na ito ang pagpapatupad ng komprehensibong sistema ng pangangalaga sa ating mga *menor de edad* na nakagagawa ng pagsalungat sa ating batas.

Inilahad sa panukalang batas na ito ang iba't-ibang mga karapatan ng ating mga kabataan, alinsunod sa mga probisyon ng United Nations Convention on the Rights of the Child, na nilagdaan ng ating gobyerno at niratipika ng ating Senado. Nakasaad sa panukalang ito na sa loob ng walong (8) oras matapos mahuli ang isang *menor de edad*, kinakailangan na makausap ng *menor de edad* ang isang Local Social Welfare Development Officer upang maipaliwanag sa kanya ang kanyang mga karapatan.

*AB*

Isa sa mga mahalagang probisyon ng panukalang ito ay ang mahigpit na pagbabawal sa paglagay sa loob ng kulungan sa kabataang may edad labing dalawa (12) at pababa. Sa halip, sila ay ilalagay sa ilalim ng "Juvenile Rehabilitation Program" ng ating gobyerno sa ilalim ng pamamahala ng Department of Justice (DOJ) at Department of Social Welfare and Development (DSWD).

Nakasaad din sa panukalang ito na magtatalaga ang ating gobyerno ng hiwalay na kulungan at "rehabilitation centers" para sa ating mga kabataang nakakagawa ng pagsalungat sa ating batas. Ito ay pagsunod at pagpapatupad sa ating mga tungkulin bilang isa sa mga bansang lumagda sa U.N. Convention on the Rights of the Child. Ipinapatupad natin ito upang hindi mahalo ang ating mga *menor de edad* sa kulungan ng mga matatandang kriminal na halang na ang kaluluwa. Ayon sa ulat na ginawa ng Bureau of Jail Management and Penology (BJMP) ng DILG, karamihan sa mga kulungan ng ating gobyerno ay walang hiwalay na silid o selda para sa ating mga *menor de edad*.

Dagdag pa rito, magbibigay ang ating pamahalaan ng pagkakataong makapag-aral at makapagtapos ng pag-aaral ang ating mga *menor de edad* na nasa pamamahala ng ating government rehabilitation centers sa pamamagitan ng "*alternative learning system*" at "*non-formal education accreditation equivalency system*" na ipinatutupad ngayon ng Department of Education (DepEd).

Upang matutukan nang husto ang pagpapatupad ng mga programang nilalayon ng panukalang ito, magtatatag ang ating gobyerno ng Office of Juvenile Justice and Delinquency Prevention (OJJDP), sa ilalim ng pamamahala ng Department of Justice (DOJ), para makasiguro tayo na may sapat na kakayahan at kaalaman ang mga empleyado at mga abogadong hahawak sa mga kaso ng mga juvenile offenders o mga kabataang nakakagawa ng pagsalungat sa batas.

Nakasaad sa panukalang ito ang pag-uutos sa lahat ng mga lokal na pamahalaan o local government units (LGUs) na magtatalaga ng sapat na pondo, mga kagamitan at tauhan para makamit ng lubos ang mga magagandang layunin ng "*Juvenile Delinquency Program*" ng ating gobyerno sa ating mga barangay at kabayanan.

Ininusulong ang madaliang pagsasabatas ng panukalang ito ng mga iba't-ibang sektor ng ating bansa sa kadahilanan na tumataas na ngayon ang bilang ng mga kabataang nakapiit sa ating mga kulungan.

Ayon sa pag-aaral na ginawa ng Council for the Welfare of Children (CWC), simula noong\* taong 1995 hanggang taong 2000, umaabot na sa 52,576 ang bilang ng mga kabataan na ikinulong sa ating mga kulungan. Ang impormasyon na ito ay isang masaklap na pag-amin na umaabot na sa 10,515 sa ating mga *menor de edad* ang ating inilalagay sa ating mga kulungan kada taon o 28 na mga bata bawat araw, kahit na isa tayo sa mga bansang pumirma ng U.N. Convention on the Rights of the Child.


Ayon din sa pagsusuri na ginawa ng Juvenile Justice Network-Philippines (JJNP), mula Enero hanggang Marso ng taong 2004, humigit sa 11,812 na kaso na hinawakan ng ating Public Attorney's Office (PAO) ay tungkol sa mga batang nagkasala sa ating batas. Sa kasalukuyan, mayroong labing-apat (14) na *menor de edad* ang nakalagay sa "*DEATH ROW*" ng ating Maximum Security compound sa New Bilibid Prisons Reservation.

Ayon din sa ulat ng Department of Social Welfare and Development (DSWD), mula Enero hanggang Oktubre ng taong 2004, umabot sa 6,991 na mga *menor de edad* ang kanilang hinawakang kaso. Humigit sa 805 ng mga batang ito ay mga batang babae, at 82 porsyento sa mga ito ay may edad na 15 hanggang 17. Karamihan sa mga kabataang nakakulong ngayon sa ating mga kulungan ay mga "first-time offenders" lamang. Ang matinding kahirapan ang siyang tinuturong dahilan at nagtulak sa mga batang ito upang magnakaw at gumawa ng mga krimeng labag sa ating saligang batas.

Ayon sa pag-aaral na ginawa ng Save the Children Foundation, karamihan sa mga batang babae na inilagay sa pamamahala ng ating mga "government detention centers" ay nakaranas ng iba't-ibang uri ng pang-aabusong pisikal, emosyonal at sekswal mula mismo sa mga namamahala ng mga lugar na ito.

Dahil sa mga nabanggit kong mga kadahilanan, lubos na hinihiling ko sa aking mga kasamahan sa Senado at sa kapulungang ito na bigyan natin ng kaukulang prioridad ang panukalang ito upang *matugunan natin ang mga problemang hinaharap ngayon ng ating mga kabataan*.

Ang kulungan ay hindi kanais-nais na lugar para sa ating kabataan.

Bigyan natin ng pagkakataong magsisi at magbago ang ating mga kabataan. Bigyan natin sila ng edukasyon at hindi ditensyon. Nasa ating mga kamay ang kanilang kinabukasan. Lawakan natin ang ating mga puso at isipan upang mabigyan sila ng magandang kinabukasan. 





Gawin natin ang ating magagawa upang masilayan nila ang ilaw ng pag-asa. Ipasa na natin ang panukalang batas na ito.

### ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Pangilinan acknowledged the presence of representatives of the UNICEF, NYC, CWC, Humanitarian Legal Assistance Foundation, Ateneo Human Rights Center, Virlanie Foundation, Philippine Network of Urban and Street Ministries Incorporated, and *Ahon Sa Kalye* who have expressed support for the Juvenile Justice bill.

### INTERPELLATION OF SENATOR REVILLA

At the outset, Senator Revilla recognized that the Filipino family is the foundation of the nation as enunciated in Article XV, Section 1 of the Constitution. He observed that juvenile delinquency has become a major concern not only of families but also of schools, government and the society as a whole, and that the major cause of the increase in juvenile delinquency is the breakdown of the family as a basic social unit.

Senator Pangilinan agreed that primarily, the reason there are youth offenders is that the support system that should be provided by the family is missing.

Senator Revilla lamented the fact that the present economic crisis is also a major reason why more and more parents, instead of spending quality time with their children, are spending more time at work to provide for the needs of their families. While he recognized that the OFWs are the country's modern heroes because their remittances are propping up the country's foreign exchange reserves, he bemoaned that the absence of parents also contributes to the destruction of families.

Senator Pangilinan agreed. He pointed out that one of the social costs of having parents work abroad is that children live with their grandparents. That being the case, Senator Revilla observed the increase in the number of dysfunctional families resulting in the increase of cases of juvenile delinquency. Senator Pangilinan shared the same observation, as he noted that research and statistics show that many of the youth offenders come from low-income families. He stated that the studies and

surveys conducted by the Napolcom Technical Committee on Crime Prevention and Criminal Justice, Philippine Action for Youthful Offenders, National Council for Social Development Foundation of the Philippines, and the joint study of the BCYW/DSWD and Napolcom Crime Prevention and Coordination Services indicate that youth offenders are the product of broken families, specifically those with low income.

Senator Revilla stressed that a minor offender should not be put to jail with an adult criminal under any circumstance or situation. He noted that over the years, there had been different terms used to call children who commit crimes of any nature: during the Marcos regime, they were called "youthful offenders"; after a decade, they were called "juvenile delinquents"; and in the '90s, "children in conflict with the law." He asked the reason for the change in the term to describe the same group of children. Senator Pangilinan replied that the terms used are consistent with international treaties/conventions. For instance, he pointed out that under the UN Convention on the Rights of the Child, the Riyadh Guidelines, the Beijing Rules, the term "children in conflict with the law" is being used. Also, he reasoned that language changes.

On whether he would be amenable to an amendment to harmonize the definition of the term "child in conflict with the law" with the existing rules and regulations, Senator Pangilinan replied in the affirmative.

Senator Revilla recalled that in June 1975, Presidential Decree No. 603, The Child and Youth Welfare Code of the Philippines, took effect and that under Article CXIX of the said law, a youthful offender should be subjected to physical and mental examination and that if he/she could not pay the necessary bail, he/she should be committed to the DSWD or local rehabilitation center or detention home who would be responsible to his/her court hearings. In the absence of any such center or agency within a reasonable distance from the venue of the trial, he pointed out that the provincial, city and municipal jail shall provide quarters for youthful offenders separate from other detainees. He also noted that P.D. No. 603 provided for suspension of a sentence of youthful offender when found guilty by the court. In this case, he said, the court, upon application of the youthful offender, commits him to the custody and care of the DSWD and/or to any

training institution operated by the government or any other responsible person until he shall have reached the age of 21. Since there are still many provisions in P.D. No. 603 that are responsive to the rights and needs of a youthful offender, he believed that it is still a good law that needed minor amendments.

Senator Pangilinan agreed that many provisions of the Child and Welfare Code are still in order. However, he explained that the Comprehensive Juvenile Justice Bill is precisely aimed at filling the gaps and addressing the problem areas of P.D. No. 603. He said that currently, there are 15 or 20 agencies involved in handling youthful offenders but no single agency is coordinating all their efforts, hence, the law is not being implemented properly. He expressed optimism that with the creation of the Office of Juvenile Justice and Delinquency Prevention, there would be a better coordination of all these efforts and an improved implementation of the law. Moreover, he explained that the bill introduces the concept of diversion in the juvenile justice system. He said that instead of subjecting a youthful offender to court proceedings as stipulated in P.D. No. 603, the child would instead be subjected to a diversion program if the crime, for example, is punishable by six years or less.

Senator Revilla expressed hope that the bill would be able to address the lack of accurate data on children in jailhouses all over the country. Pending the enactment of the bill, he asked if there is any organization or agency that can be relied upon to gather statistics regarding the plight of children in conflict with the law. Senator Pangilinan informed the Body that the Council for Welfare of Children under the Office of the President addresses issues concerning minors. He said that the council advises the President on issues like juvenile justice, education, child labor, to cite some.

On the observation that information on children in conflict with the law comes from different agencies and no one is actually focused on the matter, Senator Pangilinan stated that information gathered were either conflicting or not streamlined and not rationalized.

In reply to a query, Senator Pangilinan stated that studies like the "Situation Analysis on Children in Conflict with the Law and the Juvenile Justice System" made by the *Adhikain Para sa*

*Karapatang Pambata* or AKAP of the Ateneo Human Rights Center and the UNICEF; Napolcom Technical Committee on Crime Prevention Criminal Justice Survey; "Survey of Youth Offenders and Detention" made by PAYO; "Children and Youth in Conflict with the Law" a situational analysis of NCSD; and the "Survey on Youth Offenders at Camp Sampaguita Correctional Institute for Women" by the BCYW and DSWD provided profiles of children in conflict with the law — 90% of the children in conflict with the law are boys while 8% are girls between the ages of 14 and 17 years old; as to their educational attainment, based on the PAYO research, 51.7% reached elementary; while 41% reached high school; 60% were unable to continue their studies due to financial difficulties. He added that most of the children in conflict with the law belong to families with six to eight siblings. The studies also indicated that middle children end up in conflict with the law and that majority of the crimes committed were crimes against property or robbery and theft, he said.

Asked if the youth offenders are street children, Senator Pangilinan replied that while most of them are street children, others are gang members.

On the issue of child combatants, Senator Pangilinan clarified that the technical working group did not include children involved in armed conflict since it is an issue separate from children in conflict with the law. He said that based on the hearings, the issue on child combatants fall under the Anti-Child Abuse Law.

Asked how the proposed Act would treat repeat offenders, Senator Pangilinan replied that they would go through a process provided for in the law — if they are repeat offenders, they would be made to account for their crimes; if they are recidivists, the law would take that matter into consideration, specifically whether they are entitled to diversion or face trial or detained or released on recognizance. He pointed out that based on the study, eight out of ten children in conflict with the law shall commit only one offense in their lifetime.

Anent Section 43 of the bill, asked whether the records of a repeat offender could be used by the prosecution or the DSWD, Senator Pangilinan clarified that such records are confidential and could not be used in court. However, he said that if it was established by the prosecution through the

testimonies of witnesses that the offender is a recidivist, that fact could be used against him.

Asked how the offender could be rehabilitated by the appropriate government agency if his crimes remain unknown to the court given the confidentiality of his records, Senator Pangilinan responded that the social worker, if he knows his job, would be able to determine if it would be to the best interest of the child to undergo diversion, or to be released in recognizance or detained. He emphasized that there are other methods available to the social worker and the community that need not rely solely on the records of the child. He acknowledged the concern that a repeat offense might be indicative that the old procedure is no longer effective and, therefore, the child should be meted out a stiffer penalty or undergo a different rehabilitation program. He clarified that the records, however, could still be resorted to for the benefit of the child.

Asked why the proposed Act increased the minimum age of criminal responsibility from nine years old to 12 years old. Senator Pangilinan informed the Body that other countries like China, Vietnam and Germany have higher age of discernment at 14 years. He said that the international average is 12.5 years. He disclosed that a study undertaken by the Pamantasan ng Lungsod ng Maynila in 1998 of 1,368 children, ages 7 to 15 years, from six regions showed that the age of discernment for Filipino children is 15 years. To be more consistent with international standards and based on that local study, he explained that the bill pegged the age of discernment at 12 years.

On the argument that the Body should retain the current age level of nine years as the minimum age for criminal responsibility which is more in keeping with the standards of ASEAN, Senator Pangilinan reiterated that although some countries in the region have lower age levels, other countries in Asia and Europe have it higher. He believed that 12 years would be a good age when criminal liability may attach provided there is discernment or the capacity to distinguish between right and wrong.

Replying to further queries, Senator Pangilinan affirmed that a child who commits a traffic violation or an ordinance technically would be in conflict with the law but there would be no court proceeding if the penalty is less than six years. Instead, he said,

a diversion program could be instituted either at the barangay or during the inquest or police investigation.

On the suggestion that the term "child in conflict with the law" be defined more clearly, Senator Pangilinan believed that the definition on page 3 of the bill would suffice. But he expressed openness to an amendment at the proper time which would include violations of municipal ordinances in the definition of the term "offense" on page 4 of the bill. Further, he disagreed to the observation that the term "found responsible of an offense" on Section 3(8) of the bill contradicts the voluntary admission of an offense. But he posed no objection to an amendment which would harmonize the two concepts.

On the meaning of the term "case study report," Senator Pangilinan explained that a case study is more comprehensive than the intake report also prepared by the Department of Social Welfare and Development. Upon query, he affirmed that the intake report is still part of the process outlined in the bill as it is the initial information on the case. He expressed willingness to accept an amendment at the proper time which would define the two terms. Moreover, he assumed that a child under diversion or probation would obey the conditions of the program but he agreed to an amendment which would make the responsibilities of a child in the administration of justice under Section 6 of the bill clearer.

On another matter, Senator Revilla expressed the view that instead of creating the Office of Juvenile Justice and Delinquency Prevention, the Body should expand the powers and functions of the existing Council for the Welfare of Children as part of the effort to streamline the bureaucracy. Replying to further queries, Senator Pangilinan informed the Body that the Secretaries of DSWD, Health, Education, Local Government as well as representatives of voluntary welfare organizations are among the members of the CWC. He said that the chairmanship of the council is rotated among the Cabinet secretaries. He added that the presiding judge of the Juvenile Domestic Relations Court is not part of the CWC. He disclosed that the council had a budget of P15 million the past year and that it submits its annual report to Congress through the DSWD. He promised to give Senator Revilla a copy of the council's accomplishment report. He informed the Body that CWC has a permanent secretariat of 35 people headed by an executive director.

Senator Revilla noted that apart from the three line departments mandated under the bill to coordinate with the OJJDP, the rest of the agencies belong to the Justice Department. He expressed concern that the functions and operations of the CWC and the OJJDP might overlap, pointing out that the OJJDP would be an additional layer of bureaucracy within the DOJ.

Senator Pangilinan conceded that the observation was one of the hotly debated issues during the hearings. But in the end, he said, the DBM and the CWC agreed to the proposed creation of the OJJDP to make the juvenile justice system more focused on children in conflict with the law. He explained that the CWC coordinates the various issues affecting the welfare of children and refers the specific issue to the corresponding line agency. He pointed out that the same issues are involved in CICL.

Asked if he would agree to the proposal that the Child Rights Center of the Commission on Human Rights be included as a coordinating agency, Senator Pangilinan replied in the affirmative.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1402**

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

#### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 7:31 p.m.*

#### **RESUMPTION OF SESSION**


At 7:31 p.m., the session was resumed.

#### **ADJOURNMENT OF SESSION**

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

*It was 7:31 p.m.*

I hereby certify to the correctness of the foregoing.

  
OSCAR G. YABES  
Secretary of the Senate  
B/r Elu AR

Approved on October 11, 2005