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Wednesday, October 12, 2005

**THIRTEENTH CONGRESS
SECOND REGULAR SESSION**

SESSION NO. 31
Wednesday, October 12, 2005

CALL TO ORDER

At 3:18 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Luisa "Loi" P. Ejercito Estrada led the prayer, to wit:

Heavenly Father,

We praise and thank You for Your patience, grace and mercy that allow us one more day to serve You and the Filipino nation.

Today, the 285th day of the year 2005, on the occasion of the 89th anniversary of the Philippine Senate, we feel heavy burdens.

Scandals, in all forms and shapes, continue to demoralize our people and devastate our national institutions. Likewise, innocent victims of violence, crime, injustice, prosecution, hate and prejudice cry out for help.

You brought every Member of this august Chamber here for a time such as this. We have 23 good, dedicated, caring, God-fearing senators who really want to make the right decisions for the people who sent them here.

However, tremendous pressures are bombarding them. Some pressures are of the purest motives, while others are of greed, selfishness and partisanship.

Give all the Members of the Philippine Senate the wisdom to know what is right, the strength to do what is right, and the courage to reject those who would compromise the integrity of their high office.

Remind them that it is not always easy to do the right thing, but the right thing is the only thing to do.

In the end, may the honorable senators of this 13th Congress measure and be measured in

the balance of truth and justice, according to Your will.

May Your wisdom prevail in the Philippine Senate, and Your blessing rest on all who serve here.

Together, we pray, Amen.

DEFERMENT OF ROLL CALL

Upon motion of Senator Pangilinan, there being no objection, the roll call was deferred to a later hour.

DEFERMENT OF APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the consideration and approval of the Journal of Session No. 30 was deferred to a later hour.

DEFERMENT OF REFERENCE OF BUSINESS

Upon motion of Senator Pangilinan, there being no objection, the Reference of Business was deferred to a later hour.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the Chair suspended the session.

It was 3:21 p.m.

RESUMPTION OF SESSION

At 3:22 p.m., the session was resumed.

PRIVILEGE SPEECH OF SENATOR PIMENTEL

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

PRISON REFORMS URGENT

The men who sang the national anthem for us last Monday and also sang a ballad of the travails of their lives in confinement actually are students of the University of Perpetual Help Extension School. They are in the process of earning a degree in business administration but, at the same time, they are prisoners of the New Bilibid Prison in Muntinlupa who are doing their time and paying their debts to society.

At a time when our penal system is being assailed by the media, both local and foreign, these students and the Juvenile Detention Center of the Bureau of Corrections seem to be the only good news in the Philippine prison system. A few weeks ago, Cable News Network (CNN) featured the sorry state of jails managed by the Bureau of Jail Management and Penology (BJMP) and the sad plight of many juvenile delinquents there.

Let me emphasize that the Bureau of Corrections is a different penal institution from the Bureau of Jail Management and Penology. So these are two different things.

While the case of the inmates of the Bureau of Jail Management and Penology are not really taken care of as human beings, especially the minors, this is not the case with the minors in the Bureau of Corrections who are given proper attention and treatment as minors – as our Majority Leader has used the words – “in conflict with the law.” They are housed separately and they have facilities that are conducive to learning and designed for their proper rehabilitation. In other words, they are not just mixed with the adult convicts. If only to assure that minor detainees in our jails are treated properly, I am thinking of suggesting the crafting of a law that would transfer the functions of the BJMP to the Bureau of Corrections. Now, that will need a lot of study and we are still working on that.

Serious problems

But while the Bureau of Corrections, which is headed by Dir. Vicente Vinarao, may be a bright spot in the Department of Justice, it is nevertheless plagued by serious problems most of which are financial in nature. Such problems seriously curtail the effectiveness of prison rehabilitation and prison reform. These problems are as follows:

1. CONGESTION - There are about 30,000 prisoners in prisons all over the Philippines.

Prison dormitories are bursting to the seams. Prisoners sleep like sardines inside these dormitories. At night, a prisoner who wakes up to answer the call of nature comes back to find out that someone else has already taken his sleeping space. Some prisoners have bunk beds. Most sleep on the floor. Prison buildings are very old. Now and then, the prison walls get fresh coats of paint. The painting job, however, merely masks the sad reality that lurks inside their suffocating cells. They are dark and they smell. Facilities like toilets and bathrooms are in a very dilapidated condition. There is no running water in most of these prison dormitories. Now, to go back to the prison population, we have a breakdown that says:

As of August 2005

National Bilibid Prisons	18,825
Correctional Institute For Women	1,281
Iwahig Penal Colony	2,156
Davao Prison and Penal Farm	3,857
San Ramon Prison and Penal Farm (Zamboanga)	1,159
Sablayan Prison and Penal Farm (Occidental Mindoro)	1,354
Leyte Regional Prison	<u>1,091</u>
TOTAL	29,723

2. SICKNESS - The lack of living and sleeping space in prison dormitories make them havens for sickness. A great number of prisoners suffer from infections, skin diseases, tuberculosis and a host of other ailments. This problem is compounded by the lack of funding for prisoner medication. The Bureau of Prisons only has a medicine budget of P1 per prisoner per day.

There are 660 patients in the Bilibid Hospital inside the maximum security prison. There is only one blood pressure apparatus for all 660 patients. There are no ultrasound machines, of course, much less electrocardiograph equipment, cardiac monitors or even a blood bank refrigerator in the Bilibid Hospital. Now, the Chamber may note this: The x-ray machine is over a century old. The operating room is a throwback to the early 1900s. Prison doctors and medical personnel heroically make do with the antiquated equipment they have for emergency cases. Patients who are in serious need of medical attention from better-equipped hospitals outside have to go through the tedious process of seeking court or DOJ approval. Sometimes, the approval comes too late or not at all.

The P1-a-day medical budget for prisoner naturally impacts on the state of health of the inmates.

In our video clipping, Dr. Ernesto Tamayo, Chief of Clinics, shows the sad state of Bilibid hospital equipment.

Then we have to look at how the lack of equipment and medical facilities impact on the lives of the inmates there.

Terminally ill

We have here on our screen the case of Rodolfo Monteclaro. He is a 60-year-old convict who has been in prison for the last 10 years for rape. He is critically ill with tuberculosis and has been spitting blood for a long time now. He might not even last one month from the day we are talking about him. The budget of the Bureau for medicine is not enough to meet his needs and those who are similarly afflicted with serious illnesses.

In the maximum security hospital of the Bilibid, there are about 40 prisoners who are terminally ill like Rodolfo Monteclaro.

Psychiatric ward

Let us go to the psychiatric ward. The ward has 154 patients. These are prisoners who were not able to mentally bear the reality of life inside the Bilibid. Four of these psychiatric patients have already served their sentences in full but they are still there in prison hospital because their families do not want them back.

Smell of death

The most depressing aspect of prison hospitalization, however, is that a dying patient can see and smell death.

On our screen is a picture of the Bilibid morgue. I would like to stress that we are now seeing the pictures of this house of death. Inside, embalmed corpses of convicts await relatives who have expressed their desire to claim them. Sometimes, the waiting takes weeks, at times, months even, depending on whether the poor relatives can raise the needed amount to transport their dead. Prison authorities have tried their best to improve the situation but, of course, the lack of funds has always succeeded in stifling their efforts.

Repairs needed

To address the problems of congestion and sickness in prison, the Bureau of Corrections is asking Congress for funds to build new dormitories, repair the Bilibid prison, purchase much-needed equipment, medicine and supplies. It is also seeking funds for a badly needed drug

treatment and rehabilitation center as many inmates are hooked on drugs and this interferes with their rehabilitation. The Bureau of Corrections needs approximately P45 million for all of these. I strongly urge the Senate to appropriate and help so that the Bureau of Corrections would get these required appropriations.

Humanizing penal system

In the meantime, I urge the Bureau of Corrections to establish branches of the Correctional Institute for Women in the Visayas and Mindanao. These branches will allow women prisoners coming from those regions to be a bit closer to their families and thereby help humanize the penal system.

In an inspired move, Director General Vinarao and Atty. Rachel D. Ruelo recently installed telephone facilities in the Correctional Institute for Women. I believe that all prisons in the country should have a similar system as it will give relatives and friends, especially those from the Visayas and Mindanao, a much cheaper way of keeping in touch. Hearing the voices of one's wife, children and friends even in prison makes the inmate concerned a little more human and perhaps even desirous of rehabilitating himself or herself to eventually link up physically with his or her loved ones. Many families of prisoners have to save for the whole year just to be able to travel to Manila and visit their kin within the prison walls.

3. LOW MORALE/PAY - The third major problem is the low morale and pay of the employees of the Bureau of Corrections. And this is directly related to the low salaries that the government pays them. The Bureau of Corrections employees receive far less than jail guards of the BJMP even if they perform relatively similar functions. They get much lower pay, of course, than the policemen in the PNP. I guess we have to remedy the inequitable situation by raising their pay scale.

I also propose that they be given insurance and health benefits. The call for upgrading the monetary benefits of the bureau employees may sound ironic considering that, I think, two days ago some of the inmates escaped. But looking at the situation beyond the recent sad events would bring out the urgency of providing not only the upgraded benefits of the employees but also the repair of the facilities of the Bureau. I understand that in the last jailbreak, one guard was shot dead or seriously wounded. And he has no insurance coverage that will help him survive the incident if at all he is still alive. M

4. RUINED LIVES/MISSED OPPORTUNITIES OF PRISONERS - One other problem of the Bureau of Corrections is that it is saddled by antiquated laws and government inaction. The two circumstances combined have further ruined the lives of prisoners and caused them to miss golden opportunities to live normal lives again.

Thousands of prisoners are serving time for crimes against property like theft, robbery and *estafa* (swindling). For example, half of all women prisoners are in prison for crimes against property, principally *estafa*. Many of these women are mothers (married or single parents) who were the breadwinners of their families and who were separated from their children upon their arrest or conviction. This forced separation has effectively orphaned thousands of children.

One of the women whose picture appears on our video screen imprisoned for *estafa* is Zenaida Alvarez, 73 years old. The amount involved in her case is P20,000.

Jailing for debt

Now, what makes the plight of those guilty of *estafa* sadder is that when a bouncing check is involved, the accused can also be sentenced for violation of Batas Pambansa Blg. 22 in addition to the penalty imposed by the court for the crime of *estafa*. This is like doubling the penalty imposed upon the accused for the same act. The Constitution provides that "no person shall be imprisoned for debt." And while we are aware of jurisprudence stating that what the law punishes under Batas Pambansa Blg. 22 is the issuance of a worthless check, the accused is really being sent to prison for debt (*utang*). And that is against the Constitution. No person shall be imprisoned for debt. Now, worse, in most cases under Batas Pambansa Blg. 22, the State is being merely used by the plaintiff as a collecting agent to force a debtor to pay or go to jail.

Antiquated crimes

Then, there are certain antiquated provisions in the Revised Penal Code. For stealing P5, an accused can be imprisoned up to four months. For stealing P200, an accused can be sent to prison up to six years. For stealing P122,000, an accused can be imprisoned for 20 years. But what is P5 worth today? It cannot even buy a can of soda. Yet, one can go to prison for four months for such a measly amount. What is P200 today? It is the lunch budget of an employee in Makati. And yet, a person can lose six years of his life, six years of his freedom for it. What is P122,000? It can buy two expensive cellphones, but one can also lose a lifetime for it.

Worse is the penalty imposed by Article 310 of the Revised Penal Code for qualified theft. Stealing a P5 coconut from an *haciendero's* plantation can make one rot in prison for ten years. And who steals such a small amount of money or property? Who steals a coconut? In all probability, it is a poor man who needs to feed his hungry children. Or perhaps a housemaid who runs away with the mistress' new dress or a few pesos lying around unattended in the latter's luxurious bedroom. A rich person will not bother with such paltry sums. That is the sad reality of our justice system that is reflected in the prison population today. A vast majority of people in prison are poor.

But why does the law impose such long sentences for very minor crimes? Why the inequity? The answer is that, among other things, the Revised Penal Code, which imposes the penalties that are so atrocious, was passed on December 8, 1930, or almost 75 years ago, when the value of the U.S. dollar to the Philippine peso was almost the same or at most P2 to the dollar. Since then, the value of the peso has consistently depreciated.

Unfortunately, the Penal Code does not allow the automatic adjustment of the penalties in accordance with the present value of the peso. Congress has long failed to address this need. It is time to act. The solution is simple. Let us put an end to this injustice and adjust the penalties to more realistic levels based on the present value of the peso. For the same reason, let us adjust the fines imposed by the Revised Penal Code to make them more practical and effective deterrents to crime. For this purpose, I propose that we task the University of the Philippines Law Center to study the matter and submit its recommendation to the Senate within six months after referral.

Once passed into law, the benefits of this proposal will be immediate and far-reaching. It will lead to the immediate release of prisoners who have suffered more than enough and ought to be given the chance to live more useful and productive lives with their families. It will decongest the prisons and will also mean hundreds of millions of pesos in savings for the government in prison maintenance costs.

Another reason for the prisoners' sad plight is the fact that they are not entitled to good conduct allowance while their cases are on appeal. For this reason, many inmates with appealed cases are forced to im providently withdraw their appeals to qualify for good conduct allowances.

For example, Miguela Galangue, 79 years old, claims that she is innocent and that the marijuana blamed by the police on her was simply left in front of her house. To avail of good conduct allowance, this old lady, whose picture appears on screen, had to withdraw her appeal. If she were really innocent, withdrawing the appeal and in effect admitting the commission of the crime makes her a victim twice over. Again, the solution to this problem is to amend the Revised Penal Code, Article 97, and allow inmates even with appealed cases to qualify for good conduct allowances.

I have instructed my staff to prepare the bill for this purpose soon and I ask our colleagues to be coauthors of the bill to help rectify this problem.

I also seek their help to pass Senate Bill No. 2022 that seeks to grant additional good conduct allowance to prisoners who participate in literacy, skills and values development programs in prison. Prisoners, whether as students or teachers, in prison educational institutions and training centers shall be given a 15-day credit for every month of study or teaching time towards the service of their sentences. A prisoner's good conduct deserves recompense in the law. Many prisoners are unschooled. This could have contributed to their transgression of the law. Ignorance costs more than education and no better proof of this could be found in prisons where tangible returns on time and monetary investments are wanting. The benefit of this bill lies in increasing literacy and skills of prisoners thereby facilitating their reintegration into society. Again, the reduction of the prisoner's incarceration period will lead to the decongestion of our penal institutions and savings for the government. Prisoners like the student-inmates, who performed here last Monday, and their classmates will be some of the beneficiaries of this bill. In the Bilibid, it is encouraging to see illiterate old men learning how to read and write for the first time.

I call on the President, while she is still there — I repeat, while she is still there — to grant executive clemency to deserving prisoners. And there are many of them. Terminally ill patients like the TB-stricken Rodolfo Monteclaro who has served enough prison time and who pose no threat to society should be seriously considered for the grant of pardon. As I said, there are about 40 sickly and old prisoners in the maximum-security prison at the Bilibid who fall under this category. In the Correctional Institute for Women, there are about 20 sick and elderly

women recommended for executive clemency. The ages of these women, whose pictures appear on screen, range from 76 years to 85 years old.

Again, I urge the President to consider commuting the sentences of prisoners recommended by the Board of Pardons and Parole. There are over 6,000 prisoners who are eligible and have been recommended for commutation of sentence. I sincerely hope that the President, before she leaves Malacañang, will find time to consider their cases and give them the chance to become productive members of society.

As a political detainee during the Marcos years, I can tell the President and everyone who cares to listen, that every single day spent in jail is a living hell. The only way one could understand this is to experience it, but I do not wish that kind of experience for her, or for our colleagues, or for any of our people.

Commuting the sentences of qualified prisoners will result in hundreds of millions of pesos in savings for the government. I wonder if my colleagues know that the annual cost of food for inmates at the BJMP — this is not in the Bureau of Corrections — amounts to about one billion pesos. The cost of food for prisoners in the Bureau of Corrections is about P440 million every year.

If ever the Constitution is to be amended, I would ask that the power to grant commutations be given to other government officials, perhaps, like the Secretary or Justice — for as long as he is not Raul Gonzales, it is probably okay — as is the practice in Japan or the head judge of the regional divisions of the Court of Appeals. We have regionalized the Court of Appeals. And there is a move to regionalize even the Sandiganbayan and perhaps, the head justices of these courts can very well be vested with that power to grant commutations. This arrangement will assure the process of commuting sentences will be acted on much more speedily.

Abolish the death penalty

Finally, in fitting observance of Prison Awareness Week and the 100th Anniversary of the Bureau of Corrections, I would like to renew my call to Congress for the abolition of the death penalty. I believe that there is no place for capital punishment in a society that is truly civilized. Death is so final and gives the convict no chance to reform or correct himself. The primary purpose of imprisonment is rehabilitation. This is why the bureau is called the Bureau of Corrections. When a prisoner is executed, dies of sickness in

prison, or is released when he or she is too old, then there is nothing left to correct. The title "Bureau of Corrections" becomes a misnomer or even an aberration.

Hope in the future

Jean Valjean, Victor Hugo's beloved hero in his classic novel *Les Miserables*, after serving a prison term, was able to return to society, became his people's champion and eventually, mayor of his hometown because a man of God, Bishop Myriel, gave him a second chance. I believe there is a Bishop Myriel in all of us. Prison can break one's body physically and wound one's self-esteem or spirit mortally. What is important is that one's spirit, like that of Jean Valjean, is kept unbroken. And this can happen to prisoners if they can have hope in the future.

That hope, we can give to them. As legislators, we can do that by passing much-needed reforms in the penal system.

SUSPENSION OF THE PRIVILEGE HOUR

At this point, upon motion of Senator Pangilinan, there being no objection, the Privilege Hour was suspended.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Oscar G. Yabes, called the roll, to which the following senators responded:

Angara, E. J.	Lim, A. S.
Arroyo, J. P.	Madrigal, M. A.
Biazon, R. G.	Magsaysay Jr., R. B.
Defensor Santiago, M.	Pangilinan, F. N.
Drilon, F. M.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Ejercito Estrada, L. L. P.	Villar, M.
Flavier, J. M.	

With 15 senators present, the Chair declared the presence of a quorum.

Senators Gordon, Lacson, Lapid, Osmeña and Roxas arrived after the roll call.

Senators Cayetano and Enrile, who were on official mission, arrived after the roll call.

Senator Recto was on official mission.

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. 30 and considered it approved.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 3:54 p.m.

RESUMPTION OF SESSION

At 3:55 p.m., the session was resumed.

REFERENCE OF BUSINESS

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

COMMUNICATIONS

Letter from Undersecretary and Acting Head Catherine H. Bello of the Presidential Legislative Liaison Office of the Office of the President of the Philippines, transmitting to the Senate an original copy of Republic Act No. 9340, entitled

AN ACT AMENDING REPUBLIC ACT NO. 9164, RESETTING THE BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AND FOR OTHER PURPOSES,

which was approved and signed into law on September 22, 2005, by Her Excellency, President Gloria Macapagal Arroyo.

To the Archives

Letter from Governor Amando M. Tetangco Jr. of the *Bangko Sentral ng Pilipinas*, submitting to the Senate the Report on the Recent Developments in Domestic Liquidity Conditions pursuant to the provisions of Section 63 of the BSP Charter.

To the Committee on Banks, Financial Institutions and Currencies

[Handwritten signature]

Letter from Officer-in-Charge Pedro O. Chan of the Office of the Undersecretary for Migrant Workers' Affairs of the Department of Foreign Affairs, submitting to the Senate a copy of the Report to Congress, covering the period July – December 2004, pursuant to Section 33 of Republic Act No. 8042 (Migrant Workers and Overseas Filipinos Act of 1995).

To the Committees on Labor, Employment and Human Resources Development; and Foreign Relations

**ADDITIONAL REFERENCE OF BUSINESS
COMMUNICATION**

Letter from Executive Secretary Eduardo R. Ermita of the Office of the President of the Philippines, dated September 15, 2005, endorsing to both Houses of Congress the request of Atty. Vicente P. Petierre, General Manager of Bacolod City Water District (BCWD), Bacolod City, Negros Occidental, for condonation of penalty charges on the inactive account of the Philippine National Police (PNP) Compound Apartments, Camp Montelibano Sr., Bacolod City, in the amount of P186,644.14.

To the Committees on Finance; and Public Services

**SECOND ADDITIONAL
REFERENCE OF BUSINESS**

RESOLUTIONS

Proposed Senate Resolution No. 349, entitled

RESOLUTION COMMENDING GAWAD KALINGA ON ITS SECOND YEAR ANNIVERSARY FOR ITS EXEMPLARY CONTRIBUTION TO THE WELFARE OF THE MARGINALIZED

Introduced by Senator Pangilinan

To the Committee on Rules

Proposed Senate Resolution No. 350, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON RULES

TO LOOK INTO, IN AID OF LEGISLATION, THE PROPOSED STANDING COMMITTEE ON CHILDREN

Introduced by Senator Pimentel Jr.

To the Committee on Rules

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 3:57 p.m.

RESUMPTION OF SESSION

At 3:58 p.m., the session was resumed.

RESUMPTION OF THE PRIVILEGE HOUR

Thereupon, the Privilege Hour was resumed.

INTERPELLATION OF SENATOR ANGARA

At the outset, Senator Angara agreed with Senator Pimentel that it is time the entire prison and criminal law systems were reviewed. However, he suggested that the Senate also study the sentencing procedures, the application of the Probation Law and the possible contracting out of prison maintenance to the private sector which, in pioneer states like California and New Jersey, not only reduced the state financing of the prison systems but also made them more efficient. He stressed the need to also look into the thousands of hectares of land reserved for the prison systems such as those in Muntinlupa, Davao, Iwahig, San Ramon, Sablayan and in many other areas, as he believed that if the government would put a current price to that land, it would amount to billions of pesos.

Senator Angara noted that the sentencing under the country's prison system is mandatory in the sense that it is either imposed or not imposed and there is no middle ground, whereas in other jurisdictions especially in the common-law countries, the judge has the discretion to, for instance, sentence a person to community service which is one way of decongesting prisons. He asked if that kind of flexibility could be followed in the country's sentencing procedure. Senator Pimentel replied in

the affirmative, as he further observed that owing to the rigidity of the present system, the personal circumstances of the person being sentenced are not taken into consideration. Under the proposal, he said, the fact that a person did not commit the crime with full malice could be taken into account and he could, for instance, be sentenced to do community service. He said that these things are irrelevant in a very rigid system that has been adopted by the country's prison system since 1930.

Senator Angara opined that the Probation Law could also be applied more widely and perhaps, liberally, taking into consideration the good conduct of the prisoners so as to decongest prisons and release prisoners after they have served a reasonable period of time. He expressed apprehension that after serving six years, it would be difficult to rehabilitate the prisoners. Compounding the problem, he said, is the lack of a halfway house where those under probation can undergo training or reorientation so that they could be reintegrated into society smoothly.

In reaction, Senator Pimentel observed that in this country, there is a bias against ex-convicts regardless of the sentence they served. He noted that even prisoners who were released on good conduct find it difficult to find employment because employers are reluctant to hire ex-convicts. He stressed that something must really be done about it.

To complete the reintegration of ex-convicts into society, Senator Angara reiterated the need to have a halfway house where the prisoners could be reeducated and trained on vocational skills because many of them could not really land respectable and good-paying jobs for lack of skills, apart from the bias of employers against ex-convicts. As a consequence, he said, they end up as taxi or jeepney drivers or construction workers, although an inmate of Iwahig, for instance, is better qualified to do certain jobs like carpentry because he acquired vocational skills during his incarceration.

Senator Pimentel suggested contracting out prison management which is being done in other countries whose experience the Philippines could adopt. However, he underscored that stringent regulations should be established to avoid abuse.

To answer the cost of financing, Senator Angara posited that the monetization of the value of prison reservations should be reviewed. He pointed out that Iwahig is about 20,000 hectares; Davao is more than

10,000 hectares and all is planted to banana; Sablayan is equally large; and San Ramon is fully planted to coconuts. These, he said, are all valuable real estate that should be looked into. He noted that the government is spending P1.4 billion on food for inmates of the BJMP and the Bureau of Corrections, and yet, the food is still inadequate. He underscored the need to solve the financing problem of the prison system in the same way that the government tried to solve the financing problem of the AFP modernization through the sale and disposition of base lands which, unfortunately, was not properly implemented because much of the proceeds from the sale of Fort Bonifacio went to the Centennial City. He believed that the government had learned its lesson and can now do a better job of monetizing the value of its valuable real estate either for commercial or agricultural purposes.

Regardless of how the vast land is used, Senator Pimentel said that the important thing, aside from adopting adequate safeguards, is a thorough study that should be conducted perhaps by an entity like the U.P. Law Center. Senator Angara strongly supported the proposal, adding that all the proposed features, including the modernization of the offenses stipulated in the antiquated Revised Penal Code, could be incorporated into one law so that both the Executive and Legislative branches would have the right focus and the determination to undertake reform.

On the proposed contracting out of the prison management, Senator Angara agreed that there should be an immediate but thorough study of the experiences of several states in America and countries in Europe that proved economical and efficient. He noted that under this scheme, the well-being of prisoners is the primary consideration, and that one solution of raising the morale of the people working in the prison system and paving the way for the inmates' reentry into the society is to give them basic decencies. He believed that it could be done better by a private contractor than by government.

INTERPELLATION OF SENATOR LIM

Asked by Senator Lim about the case of the Zenaida Alvarez, Senator Pimentel explained that under prison regulations, once a prisoner appeals, his or her good conduct is not counted.

On whether it is possible to include a provision in Senator Pimentel's reform program that those who have been sentenced to life imprisonment should

be given an automatic commutation of sentence or pardon upon reaching the age of 70 and, thereupon, released immediately, Senator Pimentel explained that the proposal would necessitate an amendment to the constitutional provision which provides that only the Office of the President can grant pardon and commute a sentence. He opined that an innovative approach is to craft a law setting the maximum age for serving a term in prison at 70 years.

Asked if a person aged 75 or over, who committed a crime could be granted immunity from criminal liability, Senator Pimentel replied that the present provision in the Revised Penal Code considers the age of 70 or over as a mitigating circumstance, but it cannot be used as an excuse to commit a crime. However, he noted that as pointed out earlier by Senator Angara, a system of removing the rigidity from the sentencing system could be done so that those kinds of circumstances could be taken into account, not to exculpate the criminal, but perhaps, to make the sentence as light as possible considering his/her age. He added that Congress has to determine what is best to do under these circumstances.

But Senator Lim pointed out that a mitigating circumstance only lessens the number of years of imprisonment. He wondered what a would-be prisoner, aged 75 or over, can do at a stage in life when he is already harmless, hopeless and helpless. He asked why the government should spend so much on the upkeep of that person.

On whether the penalty of *destierro*, without imprisonment but with banishment, could be imposed on the person, aged 75 or over, Senator Pimentel clarified that under the Revised Penal Code, the penalty of *destierro* is imposed on a person who inflicts injury or kills his spouse and/or her illicit lover during or after an adulterous act.

To the observation that the person should not be imprisoned under such circumstance because his honor was degraded, Senator Pimentel suggested that the effects of such penalty on society and the person being sentenced be thoroughly studied.

Still on the same matter, Senator Lim asked whether the provision of the Code could be revised because while it acknowledges the offense to a person's honor, in actual practice, the person is arrested and if he/she is poor, he/she cannot post bail and remains in jail. He stated that although the penalty of *destierro* could be imposed by the court

ultimately, the person is confined during the pendency of the case. He asserted that a person would fight to death for his honor. He suggested doing away with imprisonment for a person who committed a crime in defense of his honor.

Senator Pimentel stated that although poverty is being used as an excuse for leniency in applying the law, what should be looked into is the right balance between insuring that justice is done and at the same time that justice is dispensed with some human consideration. He said that the proposal could be tackled during a public hearing.

In the case of a person killing another in self-defense, Senator Lim opined that similar reforms should be made because the accused is incarcerated pending the resolution of the case. He stated that under the present system, the accused would serve time for a crime of which, in all probability, he would be acquitted.

Senator Pimentel cautioned that the Members should be conscious of the fact that when life is taken by another, there has to be some societal deterrent. He said that if a person is jailed for a crime committed in self-defense, he/she should be assured of an expeditious trial because he/she is innocent. However, he said that if the person committed a crime not in self-defense, the situation should be looked at in a manner that would not sacrifice the duty of society to protect itself against killers who would otherwise be able to roam around using the convenient excuse that since he killed in self-defense, therefore, he cannot be put in jail. However, he acknowledged that the greatest injustice is to keep an innocent person in jail.

Senator Lim pointed out that a person who is actually innocent of the crime and uses self-defense as a plea could still be jailed since the accuser could circumvent the law through the use of money or influence.

INTERPELLATION OF SENATOR GORDON

At the onset, Senator Gordon commended Senator Pimentel for bringing out an issue to which very few had paid attention but everybody recognizes as a festering wound – the inability of the prison system to rehabilitate. He lamented that it was unfortunate the prison system has simply put criminals in a cage with antiquated penalties that monetary values have made worse. *W*

Senator Gordon wondered if Senator Pimentel would be willing to review all the penalties in the Revised Penal Code and make the necessary adjustments by multiplying their present values so that there would be a heavier toll on crimes. Senator Pimentel noted that to benefit the inmates, the adjustment of rates should be made in relation to the fluctuation of the exchange rate.

To Senator Pimentel's proposition that the country adopt the jury system, Senator Gordon replied that he is for the adoption of a jury system in the Philippines, as he recalled that he, in fact, lobbied for the creation of PLEBs so that an abusive policeman could be removed by a jury of the community.

Senator Pimentel posited that part of the reason why the application of laws is rigid is the non-adoption of the jury system. He added that when the Body creates a panel to study the matter, said panel should consider tapping the community as a concept to partly attain the objective of humanizing the laws.

Senator Gordon proposed that cases be heard continuously until they are resolved. He observed that in the United States, once a trial is set, it is continuous until the jury decides, as in the cases of Michael Jackson and O.J. Simpson. Senator Pimentel stated that while the Rules of Court says that the trial must be continuous, it is followed more in breach than in practice. He noted that the cases of Michael Jackson and O.J. Simpson did not last as long as they would have had they happened in the Philippines because the 12 people who were impaneled left their work to attend to their jury duty. He stated that it is unimaginable for lawyers to postpone the hearing for so many days because the jury people have to eke out a living.

Senator Gordon stated that the jury system creates a sense of urgency because members of the jury have to go back to work eventually. At the same time, he said, the jury system allows a more liberal bail system and because a suspect is not kept in detention unnecessarily, it allows him to prepare for his defense.

As regards the privatization of jails, Senator Gordon opined that it would be a better way of treating the prisoners and making certain people accountable. He said that most of the time, the measly budgetary allocations of the provincial jails do not reach them because of corruption.

Asked if he would agree to privatize prisons, Senator Pimentel replied in the affirmative, saying that it is a noble idea and other countries are doing it.

Senator Gordon disclosed that in Seattle, Washington, the prisoners are required to work for the upkeep of their bed and board and are allowed to keep whatever is left of their wages.

Senator Gordon observed that lands in Central Luzon that were hit by lahar or army camps could be converted into prisons. He stated that in Iwahig and San Ramon, prisoners work and replant trees and earn money, and their terms are reduced for good behavior. He questioned why such a system was not encouraged until now.

Further, Senator Gordon noted that plea bargaining is not available in the country as a course of action. He stated that the only plea bargaining available is to admit guilt right away and the rest is mandatory. He opined that the matter of plea bargaining saves the State the cost of litigation and unclogs the courts of cases.

Asked whether the country has a law which prescribes standards for the care of prisoners, Senator Pimentel replied in the negative. He stated that prisoners are left on their own to survive the rough world of the prison. He agreed to the observation that most prisons do not segregate prisoners so that youthful offenders share cells with hardened criminals. He conceded that a lot of things have to be done in order to attain the minimum humanitarian standards for the detention and care of prisoners. He recalled that when he was imprisoned in Camp Crame, the daily food allowance was P8 which was cut to P4 and that if not for the kindness of people who brought in food, the prisoners could not have subsisted on such a meager allowance.

Senator Gordon observed that prisoners in America live in relative comfort with a spacious common area where they can watch television. He expressed hope that the government could provide minimum prison comforts and facilities for the retraining of minimum security-risk prisoners, for instance, who could be made productive. He suggested that the Body constitute a panel to study Senator Pimentel's proposals and craft a bill on prison reforms. He expressed the desire to be part of that panel.

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Senator Pimentel welcomed the proposal, adding that the panel should be backstopped by an academic panel from the UP Law Center.

INTERPELLATION OF SENATOR ARROYO

At the outset, Senator Arroyo commended Senator Pimentel for reiterating the call for the abolition of the death penalty.

Asked whether the Philippines is among the few countries which still impose capital punishment, Senator Pimentel replied in the affirmative. He disclosed that most European countries and many states in the United States have abolished the death penalty; in fact, some states have put on hold the execution of their criminals. He agreed to the observation that the more advanced the country is, the more readily it eliminates the death penalty.

Replying to further queries, Senator Pimentel informed the Body that the inmates who performed last Monday were medium-security prisoners. He agreed to the observation that the move to abolish the death penalty has not progressed in Congress despite the number of bills filed on the issue. He expressed hope that the Members would see that it is time to support the abolition of the death penalty.

SUSPENSION OF SESSION

Upon motion of Senator Arroyo, the session was suspended.

It was 4:50 p.m.

RESUMPTION OF SESSION

At 4:50 p.m., the session was resumed.

Upon resumption, Senator Arroyo gave assurance that he and Senator Pimentel would work together on the bills abolishing the death penalty.

REFERRAL OF SPEECH TO COMMITTEES

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Senator Pimentel's speech and the interpellations thereon primarily to the Committee on Constitutional Amendments, Revision of Codes and Laws, and secondarily to the Committee on Justice and Human Rights.

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.

With the permission of the Body, the Chair recognized Senator Madrigal for her cosponsorship speech.

COSPONSORSHIP SPEECH OF SENATOR MADRIGAL

Senator Madrigal delivered the following cosponsorship speech:

A PARADIGM SHIFT FOR JUSTICE AND PROTECTION FOR THE FILIPINO CHILD

This Chamber has been working, with all due deliberation and dedication on a bill to right a great wrong perpetrated upon our children. The work of this Chamber began last year, when, during the first regular session of this Congress, Senate Bill No. 1402, which seeks to establish a comprehensive justice system for children in conflict with the law and a restorative justice program with appropriate funding and powers, was filed by our esteemed colleague, Senator Pangilinan. Within a span of 30 days, this bill has gone through an extensive process of consultations, hearings, and amendments to make it more relevant and significant to the social issues of the times. I have the honor of being a cosponsor of this bill, as Chairperson of the Senate's Committee on Youth, Women and Family Relations and to present the social issues on the absence of child justice system in our country today.

In this process, senators have crossed party lines in support of this bill's humanitarian

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objectives. Senators Angara, Arroyo, Senate President Drilon, Loi Estrada, Magsaysay, Pimentel, Revilla, Villar, and myself have sponsored it for deliberation on the floor. This reflects not only a common cause we uphold but the continuation of individual efforts of members of this Chamber that go back to the years 2003 and 2004. This reflects as well the collective sense of this Chamber that it is imperative that the Philippines comply with its obligations under the UN Convention on the Rights of the Child. Even President Arroyo, stung by international outrage over the manner in which the rights of children have been flagrantly abused, certified this bill as one deserving immediate enactment. And so, we have begun plenary debates on this bill. It is with a sense of great optimism and gratitude to my colleagues that I take pride in being a cosponsor of this bill.

However overdue this bill may be, I cannot overemphasize the need to subject this bill to further scrutiny. We are tasked with deliberating, debating and subjecting to the finest of fine-tooth combs this bill, which certainly deserves to be enacted into law. We cannot rush the process of deliberation in a time when the Senate seems to be the sole institution in our Republic more concerned with doing its job right, instead of focusing on the political survival of particular political personalities. This Chamber, I am certain, is increasingly becoming isolated, the sole beacon of reason, accountability and due diligence, in a country engulfed by a creeping effort to brainwash the nation into thinking it is suffering from a perpetual "lapse of judgment." We must demonstrate to our fellow citizens that the Senate of the Philippines takes its duty to craft, and not rubberstamp, laws, with the seriousness, maturity, and responsibility our citizenry deserves.

There was hardly anyone who failed to be scandalized by the sight of young Filipinos detained with adult prisoners in a report aired on *CNN* on August 8 of this year. There was international outrage to match the indignation felt by advocates of children's rights in the Philippines. The *ITV News Report* shown on *CNN*, titled "Horrific Philippine Prison Conditions" in which Chris Rogers documented the subhuman conditions suffered by Filipino children jailed in our prisons for petty crimes like theft and vagrancy, triggered the launching of an international petition. The petition's sentiments, calling for the passage of a law that will help children, establish the means to hold officials who fail to protect children accountable, and avoid enacting another example of legislation

that attempts to merely distract public attention through window-dressing, have reached us all in this Chamber.

I am certain that we all agree that we have undertaken the crafting of this bill without partisan considerations in mind. But we must also be fully aware that it is easy for the proponents of this bill, both within and without this Chamber, to fall prey to the temptation to approve it in haste in order to proclaim that we have served the interests of the Filipino children in a timely manner. To do so — to rush this bill, to the extent that we end up failing to imbue it with the necessary legal and financial safeguards in order to make a positive difference in the lives of so many of our children — is to inflict a tremendous disservice to the ones already languishing in our jails. The young juvenile offenders unjustly imprisoned need the nurturing of the State to reclaim the promise of their young lives, not the rushed enactment of a law in order to provide a pretext for glowing press releases in the style the Palace so loves to fill with self-love. Our mission is to find every legislative means to prevent any circumstance that allows young lives henceforth to be crushed between the slow, remorseless, grinding of the antiquated wheels of our justice system. For to fail, at the moment we are on the verge of liberating so many of our imprisoned children, is to perpetrate a great and lasting injustice not only on those currently in jail but on future generations to come.

Our country cannot afford yet another law that attempts to address injustice by enacting a law whose limitations condemn the law — and those the law envisions to cover — to being impossible to implement in the real world. This continues to be the unfortunate experience of our country, with regard to the Anti-Trafficking Law which has failed to result in any criminal convictions, and condemns the country to soon being downgraded to Tier 3, the lowest tier among countries rated by the United States government as having weak enforcement of anti-trafficking laws. We cannot pass laws simply to adhere to the letter, but not the spirit, of international covenants; we cannot pass legislation that denies itself the means to be a force for good, instead of an example of a law that is a dead letter. We cannot aim to release children from prisons without addressing their imprisonment in poverty, neglect, and a vicious cycle of exploitation as our children go through life.

Any legislation with respect to the treatment of "children in conflict with the law" — this is the

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term I shall be using to be in consonance with international conventions which no longer want to call them juveniles – should be considered in the light of social conditions peculiar to the Philippines. In 1998, when I became actively engaged in the advocacy of children's issues, I was confronted with hard facts about the state of the children in the country. Back then, there were 250,000 children roaming the streets of Metro Manila. Nationwide, half a million children were living in the streets. Around 50,000 of these children were considered hard-core delinquent street children, having spent their formative years being educated in, and by, the streets. Ironically, even though then Vice-President Gloria Arroyo launched the *Ahon Bata sa Lansangan* as one of the centerpiece programs of the Department of Social Welfare and Development, we have yet to feel the significant effect of these, or any other administration efforts. The DSWD claims that each year, the number of street children increases by more than 6,000. Recent conservative estimates peg the number of street children at 1.5 million, a substantial increase from 1998 despite the enactment of many laws but the absence of a lot of programs.

As street children usually come either from the poorest sectors of society or from indigenous groups, these facts have serious implications for children's treatment under the law, in terms of prisons and in their access to justice. As victims of a society that criminalizes poverty by inflicting harsh sentences for petty thievery motivated by the basic instinct of survival, and amorphous "vagrancy" laws, street children are often at the mercy of law enforcement officers who tend to have an interest in locking away such visible reminders of the state's failure to provide for one of its most vulnerable groups of citizens.

It is the duty of this Chamber to create the "social safety nets" to ensure that these children whom we aim to liberate from incarceration do not become victims again, this time, of the harsh, remorseless and criminal element outside of jail, such as drug pushers, *akyat-bahay* syndicates, human traffickers and pedophiles.

To do this, I recommend we address some inherent flaws in the pending measure which limits the effectivity of its implementation.

Let us begin with the question of funding. Under Section 65, the bill seeks to appropriate only P10,000,000 for the purpose of setting up programs of national scope and application. This piddling amount, to be taken from the

proceeds of the Philippine Charity Sweepstakes Office, while described as merely "initial," is clearly too small. In comparison, the initial retainer for the Venable LLP contract was more than P12,000,000 which the Philippines will now be paying. After its alleged rescission, we shall be paying double that – six months which shall be P25 million. And yet, the national entity this bill aims to establish, merely to *oversee and ensure the coordination* of the various agencies involved, is mandated to perform other tasks, which surely requires additional funding. For it seems to defy logic that the functions mandated by this bill, as it currently reads, to wit are:

- ♦ To develop a comprehensive national juvenile delinquency prevention program (with GOs, NGOs, and youth organizations);
- ♦ To coordinate implementation of national juvenile delinquency programs;
- ♦ To formulate policies that collect relevant information and conduct continuing research;
- ♦ To conduct regular inspections; undertake spot inspections to ensure compliance; and
- ♦ To initiate and conduct trainings for the personnel of the agencies involved.

Unless this budget is increased, this office will become another redundant layer in the bureaucracy. Clearly, the function of this office includes an educational mission – to coordinate and to raise consciousness about international norms on children's rights among agencies involved. The agency established by this bill will need to disseminate primers, conduct training nationwide, not only with the Bureau of Jail Management and Penology, Philippine National Police, Department of Social Welfare and Development but also with local government units. A P10,000,000 budget is not even enough for the implementation of the Act in the National Capital Region.

We are bound by an international covenant which commits the State to "allocate the maximum extent of its available resources for the implementation of the Convention should be given to the children." Law reform must always be accompanied by economic and social policies that serve to support their implementation. Let us therefore analyze government spending to determine the portion of public funds spent on children; and by doing so, let us ensure that these resources are being used effectively.

Let us make children visible in the national budget. Let us increase the appropriation for this law. *AK*

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There, too, is the question of the establishment of detention homes. One of the international norms which the Philippines has violated and for which children's advocates demand that the President of the Philippines be held accountable as head of state, is the mixing of children offenders with adult criminals in prisons. This new bill emphasizes that no child below 12 years of age should suffer detention; but that if they must be detained, then this should be done in detention homes or rehabilitation centers, or training camps.

However, the establishment of these detention homes and similar centers is dependent on the active cooperation and support of the following:

- ◆ *Local Government Units* - The youth detention home established by LGUs which we recommend to be placed under the jurisdiction of the DSWD – under Section 49 of this bill, the child will always be detained in youth detention homes established by LGUs in the city where the child resides;
- ◆ *Department of Social Welfare and Development (DSWD)* - In the absence of youth detention homes, children may be committed to the care of the DSWD, in a youth detention center; and,
- ◆ *Private Organizations* – Under Section 59, youth homes established by private NGOs licensed and accredited by DSWD may also be established in consultation with the OJJDP.

Data on the number of LGU-established detention homes nationwide are hard to arrive at, and with good reason, I suspect. While Section 8 of RA 8369 mandates that "The judge of the Family Court shall have direct control and supervision of the youth detention home which the local government unit shall establish to separate the youth offenders from adult criminals: *Provided, however,* That alternatives to detention and institutional care shall be made available to the accused including counseling, recognizance, bail, community continuum, or diversions from the justice system: *Provided, further,* That the human rights of the accused are fully respected in a manner appropriate to their well-being," the good intentions and specific mandates of the law are expensive and complicated to uphold.

We must be realistic and consider the possibility, indeed, the probability, that the establishment of these detention homes will be a

low-priority for cash-strapped LGUs. And while they are mandated to establish these detention homes, is there an agency monitoring these detention homes? What is the status of the premises of these detention homes? What is the local budget for these detention homes? How many detention homes have been established by LGUs since 1997? We do not have data on the number of children in LGU-established detention homes. Therefore, I submit that this bill must include a budget for the improvement or establishment of these centers.

This brings up the need to turn our attention to DSWD centers, such as they may exist, or will need to be constructed. The budget of DSWD must also be increased, if we are to be consistent. If we rely on 2005 statistics given by the Council for the Welfare of Children – and this is a low estimate – there are around 3,000 children in BJMP jails, PNP jails, and provincial jails. If these children are released and transferred to DSWD centers or LGU centers pursuant to the passage of the Child Justice and Protection Act, where will these agencies and units get the necessary budget allocations? Those allocations must be incorporated into this bill.

With regard to private organizations, one NGO that has made efforts to establish detention homes is the People's Recovery Empowerment and Development Foundation or PREDA, as cited by the National Alliance to Nurture the Aged and the Youth (NANAY Inc.). Perhaps the PREDA example, which is to convince the government to convert government facilities into detention homes, can be replicated. However, PREDA is an exceptional example, and its relative success was largely dependent on the passion and commitment of its head, Fr. Shay Cullen. At the very least, the bill should encourage and provide for appropriate incentives to fund these nongovernment organizations for such efforts.

At the core of the bill is the liberation of children from prison; but if there are no specific provisions as to where these children will go after their release from jail, then this bill will be a futile gesture. The Bureau of Jail Management and Penology can always justify the presence of children in jails by claiming that there are no detention homes, or that these homes are filled up. Provincial jails can also claim the same limitations on their ability to implement the law. There should be a focus on the establishment of detention homes in this bill, in terms of appropriations, obligations of the LGUs, DSWD, and so forth, and establishing further minimum conditions for the detention homes, even if we

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must specify such details as the distance of the detention cells or centers from adult prisons. I understand that all these may be included in the implementing rules and regulations after the bill is passed, but right now it is difficult to imagine how this will be fully worked out. At the very least, I do not see why we cannot assure the more timely and effective implementation of this bill, once it becomes law, by introducing these minimum standards and requirements.

There, too, remains the question of punishment. Under Section 64 of this bill, any person who violates any provision of this Code or any rule or regulation shall, upon conviction for each act or omission, be *punished by a fine, of not more than six thousand pesos (P6,000), or suffer imprisonment of not less than eight years but not more than ten years, or both a fine and imprisonment.* If the offender is a public officer, in addition to the fine and/or imprisonment, he shall be held administratively liable and shall suffer the penalty of perpetual absolute disqualification.

A fine of not more than P6,000? This must be a clerical error. To the grave defect of a piddling budget, must we consider introducing measly fines? Such a combination would render this law instantly toothless. If the objective of this proposed law is to ensure strict compliance, P6,000 ought to be the minimum and not the maximum fine.

In light of the red flags I see in this bill, I propose the inclusion of the following amendments that would fortify this bill, cure it of its present defects, and give it a greater chance of being an effective piece of legislation:

1. We must provide as lead implementing agency the Department of Social Welfare and Development, in a manner similar to that adopted by Singapore.
2. We must increase the initial budget.
3. We must insert specific provisions on the sourcing of funds for the establishment of youth detention homes, youth rehabilitation centers, and agricultural training camps; furthermore, Section 51 should be amended to mandate that the DSWD should also be responsible for additional funding for Youth Rehabilitation Centers.
4. We must include a specific provision on the obligation of LGUs to set aside a certain amount of their local budgets for the establishment of Youth Detention Homes and training camps (The LGUs, as we have

seen, are mandated by the Family Courts Act to build these homes in the first place).

5. In the title on procedure, we must include a specific provision requiring that in all stages of the juvenile justice system (and not only in detention) children in conflict with the law should not associate with adult offenders. Note that the Singapore Law known as the "Children and Young Persons Act of 2001" has the following provision, which we should examine closely and incorporate into this bill:

Sec. 29. No child or young person while detained in a police station or while being conveyed to or from any court, or while waiting before or after attending in any criminal court, shall be permitted to associate with an adult (not being a relative) who is charged with an offence other than an offence with which the child is jointly charged.

6. We must study and incorporate recommendations made by Amnesty International (AI) in its 2003 report, namely:

- 1) Immediately and impartially investigate any allegations of torture or ill treatment of children on arrest or in detention. Those alleged to have committed torture or ill treatment should be suspended from duty pending an investigation. Those responsible must be brought to justice. Any information alleged to have been obtained through torture or ill treatment must only be admissible in court as evidence against those accused of torture or ill treatment. There is a provision on Prohibited Acts.

Sec. 63. *Other Prohibited Acts.* – The following and any other similar acts shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the Child in Conflict with the Law and therefore, prohibited.

- 2) Ensure that conditions of detention, including bedding and food, conform with the UN Standard Minimum Rules for the Treatment of Prisoners.
- 3) Take active and effective measures to prevent violence between child

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detainees or between child and adult detainees by investigating any report of violence, prosecuting those responsible and offering protective custody to those who may be vulnerable to abuse.

- 4) Deliver all child detainees promptly before a judicial authority following arrest.
- 5) Ensure timely access to legal counsel following arrest. Such access must be available for all child suspects prior to interrogation and charging.
- 6) As a matter of urgency, strictly enforce the law prohibiting the sentencing of child offenders to death. The age of any accused of a crime for which Philippine law allows the death penalty must be established prior to sentencing in order to ensure that children are not sentenced to death.

This is being asked by the Amnesty International and this is very relevant in view of what Senator Pimentel and Senator Arroyo feel about death penalty.

Therefore, while Senate Bill No. 1402 certainly addresses most of the concerns of Amnesty International, an intense study of the bill shows that with regard to the above-mentioned social conditions and the above-mentioned recommendations, it is with full faith in the concern of my colleagues that I appeal to them to give these points I have raised, and the amendments I have proposed, the fullest and most thorough consideration. Let me make it clear that this is a bill of the utmost importance, containing the potential for a profound change for the better, in which the law operates with regard to children. It is precisely for these reasons that in sponsoring it, I have pointed out its flaws. We can, we must, we will do better, for we have already gone so far, and have only a little further to go. We may wish to stride upon the pages of history like giants; but we are called upon now, to take little baby steps, the small, minute steps, the attention to detail, that this bill, which aims to free the young, deserves on our part, for our children.

MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan manifested that Senators Defensor Santiago, Osmeña, and Pimentel made reservations to interpellate on the bill at a later date.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1402

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

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Senator Pangilinan acknowledged the presence of Dr. Nicolas Alipui, UNICEF representative; Atty. Alberto Muyot, UNICEF project officer; and Ms. Ma. Elena Carballo from the Council for the Welfare of Children; and volunteers from the juvenile justice network.

COAUTHOR

Upon his request, Senator Enrile was made coauthor of Proposed Senate Resolution No. 350 (proposed Standing Committee on Children).

THIRD ADDITIONAL REFERENCE OF BUSINESS

The Secretary of the Senate read Committee Report No. 34, which the Chair assigned to the Calendar for Ordinary Business, to wit:

Committee Report No. 34, prepared and submitted jointly by the Committees on Public Order and Illegal Drugs; Justice and Human Rights; and Finance on Senate Bill No. 2137 with Senators Villar, Lacson, Enrile, Ejercito Estrada (J), Magsaysay Jr. and Lim as authors thereof, entitled

AN ACT TO DETER AND PUNISH ACTS OF TERRORISM AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 735, 831, 871, 1736 and 1768, taking into consideration the Privilege Speech of Senator Lim delivered on March 9, 2005, entitled: "Warrantless Arrest: The Need to Revert to Old Concept in Combatting Crimes," and Proposed Senate Resolution No. 184.

Sponsors: Senators Villar, Lacson, Enrile,
Ejercito Estrada (J), Magsaysay Jr and
Lim

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SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 34 on Senate Bill No. 2137 to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 34
ON SENATE BILL NO. 2137**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2137 (Committee Report No. 34), entitled

**AN ACT TO DETER AND PUNISH
ACTS OF TERRORISM AND FOR
OTHER PURPOSES.**

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

The Chair recognized Senator Villar for the sponsorship.

**SPONSORSHIP SPEECH
OF SENATOR VILLAR**

In sponsoring Senate Bill No. 2137, Senator Villar delivered the following speech:

Global terrorism sent a terrifying signal to all of us. No place is safe anymore. There is no hallowed ground anywhere. Even the most international of all cities with its Statue of Liberty and the main edifice of the United Nations which symbolize a shared commitment to freedom was not spared the horror that continues to haunt nations and governments.

What happened in New York on September 11, 2001, was an intimate and moving personal experience for so many. Indeed, the whole world was one global village with all its citizens interconnected in their shock and grief. The only good that came out of that tragedy is that it focused the attention of the whole world on our common and universal enemy—terrorism.

Filipinos grieved with the whole world for weeks or even months on end after the tragedy. Like everyone else, the danger and damage that terrorism can wreak became real to us. It became

even more real to us when we experienced terrorism before our very eyes.

On the fateful day of February 14, 2005, terrorists played a cruel joke on Filipinos. On the day that commemorates love, terrorists struck Filipinos in Makati City, Davao City and General Santos City with hatred and violence.

Unsuspecting commuters, who were eager to go home to their loved ones after a hard day's work, were bombed right on the very bus that they were riding. Until now, they bore the physical and emotional wounds of that fateful day. The same horror of terror was sowed among our countrymen in the cities of Davao and General Santos.

Today, in fact, we have in our gallery some of the unsuspecting victims of terrorists in the recent bombings that happened here in our country. They have experienced or endured firsthand acts of terrorism that have injured many of them for life.

We have here Michelle Briones, a 26-year old girl now with a hearing defect and a shrapnel wound; Catherine Joy Rapirap, 23-year old girl with a hearing defect, and acoustic trauma; and Billy Jane Edrad, with severe head injuries. We culled all the names of the victims in the list of the PCSO, but most have already moved to the provinces. Those with severe injuries cannot be located anymore.

The personal circumstances of those who perished transcend the boundaries of color, creed and class. Any tragedy arising from terrorism becomes the suffering of the entire human race.

Many cannot believe how a superpower like the United States can be brought down to its knees by terrorists. How could the U.S. with its vast military arsenal and cutting edge information technology be at the receiving end of a handful of terrorists?

Admittedly, the Philippines does not have the vast military arsenal and highly advanced technological capabilities of the U.S. We do not have many things actually. Foremost among which is an anti-terrorism law. We continue to face the threat of terrorism, but we still do not have a law to counter terrorism.

What tools and resources do we have with which to defend our freedom and our democratic way of life from the threat of terrorism? To what extent are we willing to bear the inconvenience of sustained vigilance and the limits to our movement and privacy as a price of liberty?

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How do we balance the right of people to enjoy freedom and the duty of the state to protect the lives and liberties of its citizens?

Truly, the world is gripped by fear. Living human bodies are wired to be used as weapons of mass destruction. The zone of senseless killing has expanded to include any imaginable space – a school cafeteria, a passenger bus, a commercial airplane in flight, a train station, an office building, an airport, a ship moored, a marketplace, or any other point on the map selected at random for attack by terrorists.

In the frame of reference of modern terrorists, innocent and helpless civilians are not spared. The battleground is not fixed. No sanctuary is recognized.

The kind of war being waged by terrorists against civil society anywhere goes beyond the parameters of any human conflict. Wars, be they tribal, civil, bilateral, regional, or global, have established rules of engagement that limit targets to those of military significance and, as much as possible, confine the confrontation only among the armed combatants.

A climate of fear and confusion created by terrorism is disturbing the rhythm of normalcy in freedom-loving societies.

Much as we try to go on with our lives in as normal a manner as possible, still we exercise caution in our social activities.

We cannot altogether rule out the popular apprehension that there may yet be another terrorist attack somewhere, at some future time. That somewhere may be anywhere. That future may be anytime.

Any planned, organized and sustained attack against civilians anywhere by any group for whatever reason in effect constitutes a declaration of war on humankind.

In the crosshair of terrorism today is the global community.

The world must deal with the clear and present danger posed by terrorists who are faceless, highly mobile, and determined to lose their lives.

Even in the legal tradition of Western democracies and other countries that highly value civil liberties, freedom is seen in the overall context of the harmonization of rights and duties. Freedom in society is not absolute; otherwise, the social order will suffer.

The question, however, is – to what extent can the pressure of national security impose limits on the enjoyment of freedom?

Indeed, how much freedom should we trade for our security? What specifically are the trade-offs?

For freedom-loving societies to continue to be seized by fear of terrorists is precisely to give them a measure of ascendancy. The fight against terrorism entails the active participation of all. And the best contribution anybody can give is to help sustain the momentum back to normalcy. Life has to go on with even greater courage, faith, and hope.

Those who travel frequently by air are already faced with the inconvenience of thorough physical and electronic security checks at points of embarkation and the time delay caused in the process. But this disruption of what used to be a routine and a hassle-free procedure is more than compensated for by the peace of mind it provides.

The sphere of the right of privacy which is one of the basic civil liberties enjoyed in a democratic society is limited by the electronic monitoring of suspicious bank transactions, the surveillance of E-mail communications, the tapping of landline and cellular phone conversations of those suspected of having links to terrorism.

All these measures which are designed to counter terrorism can be abused in the zeal with which law enforcers seek to trap the enemy. With more reason than there is need for a commensurate judicial oversight to prevent excesses.

While the need to tighten security appears to be a curtailment of a person's full enjoyment of freedom, it could also be true that for democracy to survive, some protection of our people and property against enslavement from terror groups that undermine our laws must be done.

We look at the peril posed by terrorism in the light of the recent Bali bombings and our recollection of terrorist acts at the Davao City Airport, the public market of General Santos City, the LRT Station in Pasay City, and the detonation of bombs in public buses in Makati's commercial area.

We are dealing with an unknown enemy who moves and strikes at a time of his choosing and who is prepared to lose his life in the process.

MS

Given this new challenge to the safety and security of our people, I do not think that the country lacks the will and the resolve to win. What we need now is a new law that precisely addresses the danger of terrorism. We need an anti-terrorism measure to erase a sense of helplessness among our people.

We have come out with an initial draft of the bill.

The question that is uppermost in our minds is precisely how to have a strong hand against terrorism without violating the human rights as well as the constitutional rights of citizens. It is one delicate balancing act that we must do with urgency and prudence.

The Senate is privileged to have the presence of some of the country's best legal minds. Their insights and wisdom will surely help in the refinement of the anti-terrorism bill.

All acts of terrorism that have rocked various parts of the world seek to tear the fragile fabric of peace that has been carefully woven collectively by the responsible leaders of the global community since the end of World War II.

The fear that they create colors our perception of the cultures and the nationalities generally associated with known terrorists.

The sense of anger and frustration over the death of so many helpless people in the hands of a few fanatics who dared risk their lives in a rampage of destruction tends to fuel among the relatives, friends, and sympathizers of all the innocent victims the instinct of survival and retribution.

The cycle of violence then goes on.

Given the highly charged emotional climate in which we look at terrorism, it is natural to generalize, to stereotype all those we consider to be the adversaries of our democratic way of life, to label them in the pigeonhole of our prejudices.

In the confusion of the moment, there is hardly time and space for deep reflection since the need is urgent and the threat of terrorism is real.

Even as we condemn any form of terrorism with its kind of indiscriminate violence, still there is an irrefutable logic in going into the underlying grievances. This is premised on our hope for the future, on the faith that even those for whom terrorists carry out suicide missions have as much stake in building a better world for all.

We, whose cultural framework values the sanctity of human life and prescribes a peaceful resolution of disputes, must not carry the burden of our suspicion and resentment far into the future. It requires a great deal of moral courage to rise above the pain of the moment and reach out across the borders of our fear.

There is a time to build a bridge to the societies whose grievances, imagined or real, give birth to terrorism. That time is now. And the effort should be collective, all-encompassing and global.

Ultimately, no military weapon is potent enough to destroy terrorism. Individual terrorists may be captured and neutralized. But the idea that moves them remains. Any effort to understand the heart and soul of terrorism, to know the environment that spawns it is a step worth taking.

We must never allow the nation to be held hostage by terrorism. We must not give terrorists enough elbow room to sow fear and panic among our people.

What we urgently need now is to enact a comprehensive, balanced, and landmark anti-terrorism law which, while it recognizes the human constitutional rights of citizens, gives the State the reach, the mobility and the flexibility to lead terrorists no space for comfort anywhere in the Philippines.

The seeds of terror have been scattered all over the world, many even point to Asia and the Philippines as training ground for terrorists. We should do everything we can to make sure that those seeds will not grow or breed. We should make our lands barren and infertile for those seeds of terror.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2137

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

FOURTH ADDITIONAL REFERENCE OF BUSINESS

The Secretary of the Senate read the title of Proposed Senate Resolution No. 351, which the Chair referred to the Committee on Rules, to wit:

RESOLUTION COMMENDING THE GAWAD KALINGA FOUNDATION

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INC. (GK) ON ITS SECOND YEAR ANNIVERSARY CELEBRATION OF EXEMPLARY ACHIEVEMENT IN HUMANITARIAN—ENDEAVOUR AND LIFTING THE FILIPINO SPIRIT OF BAYANIHAN

Introduced by Senator Magsaysay Jr.

PROPOSED SENATE RESOLUTION NO. 349

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 349, entitled

RESOLUTION COMMENDING THE GAWAD KALINGA ON ITS SECOND YEAR ANNIVERSARY FOR ITS EXEMPLARY CONTRIBUTION TO THE WELFARE OF THE MARGINALIZED,

taking into consideration Proposed Senate Resolution No. 351.

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

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 349

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 349 was adopted by the Body

CHANGE OF REFERRAL

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the following bills which were originally referred to the Committee on Labor, Employment and Human Resources Development as the primary committee, instead to the Committee on Health and Demography as the primary committee and to the Committee on Labor, Employment and Human Resources Development as the secondary committee:

- ◆ Senate Bill No. 634 (creating the Medical Center for Overseas Filipino Workers);
- ◆ Senate Bill No. 889 (creating a Special Hospital for Overseas Contract Workers); and

- ◆ Senate Bill No. 1109 (establishing a Special Hospital for Overseas Contract Workers).

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:44 p.m.

RESUMPTION OF SESSION

At 5:45 p.m., the session was resumed.

REMARKS OF SENATOR PANGILINAN

Senator Pangilinan stated that the House of Representatives intends to adjourn its session until November 7, 2005, and under Section 16(5), Article VI of the Constitution, it needed the consent of the Senate to do so.

INQUIRY OF SENATOR OSMEÑA

Upon query of Senator Osmeña, Senator Pangilinan clarified that if the Senate does not give its consent to the House of Representatives, the latter would resume its session on October 24, 2005, pursuant to the legislative calendar.

MOTION OF SENATOR PANGILINAN

Upon motion of Senator Pangilinan, there being no objection, the Body gave its consent to the House of Representatives to adjourn its session from October 12, 2005 to November 7, 2005.

COAUTHOR

At this juncture, Senator Pangilinan manifested that Senator Madrigal has requested that she be made coauthor of Proposed Senate Resolution No. 350.

REMINDER

Senator Pangilinan reminded the members of a standing resolution which authorizes the committees to conduct hearings while the Senate is on recess. M

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 Monday, October 24, 2005.

It was 5:48 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate
en MS

Approved on October 24, 2005