



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 60
Wednesday, February 8, 2017

SEVENTEENTH CONGRESS
FIRST REGULAR SESSION

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CALL TO ORDER

At 3:14 p.m., the Senate President, Hon. Aquilino "Koko" Pimentel III, called the session to order.

PRAYER

Sen. Loren Legarda led the prayer, to wit:

Heavenly Father,

We thank You for giving us this day to work and be of service to our countrymen.

You said that righteousness elevates a nation to greatness.

Grant us, O Lord, righteous judgment as we make moral and ethical decisions for the good of the Filipino people. Fill our hearts with compassion for the weak, courage in the face of diversity, wisdom to make upright decisions, and patience to follow the road You have taken.

For all the issues that may divide us and for all the uncertainties that come our way, we pray that Your Spirit will dwell among

us and enlighten us to fulfill Your call to love one another as You have loved us.

In these challenging times, let us trust in Your promise when You said, "Fear not, for I am with you; be not dismayed, for I am your God. I will strengthen you, I will help you, I will uphold you with My righteous right hand."

Amen.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 3:15 p.m.

RESUMPTION OF SESSION

At 3:23 p.m., the session was resumed.

ROLL CALL

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



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

With 17 senators present, the Chair declared the presence of a quorum.

Senators Pangilinan, Recto, Villanueva and Zubiri arrived after the roll call.

Senator Villar was on official business as a guest of the Bureau of Customs on the occasion of its 115th Founding Anniversary as indicated in the letter of her chief of staff dated February 8, 2017.

Senators Cayetano and Trillanes were on official mission abroad to attend the 65th National Prayer Breakfast at Washington Hilton in Washington D.C.

DEFERMENT OF THE APPROVAL OF THE JOURNAL

Upon motion of Senator Sotto, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 59 (February 7, 2017) to a later hour.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

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

- Students of the College of Immaculate Conception, Cabanatuan City, headed by Renato Bautista and Bessy Galang;
- Students from Keys School Manila headed by Ms. Stefanie Barredo and accompanied by teachers Monica Javier, Leah Sy, Grey de Guzman and Jean Bautista;
- Vice Governor Joey Pelaez of Misamis Oriental; and
- Gerald Ortiz, former board member of Quezon Province.

Senate President Pimentel welcomed the guests to the Senate.

REFERENCE OF BUSINESS

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

BILL ON FIRST READING

Senate Bill No. 1316, entitled

AN ACT EXEMPTING THE BUREAU OF INTERNAL REVENUE FROM THE COVERAGE OF REPUBLIC ACT NO. 6758, OTHERWISE KNOWN AS THE COMPENSATION AND POSITION CLASSIFICATION ACT OF 1989, AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senator Recto

To the Committees on Ways and Means; Civil Service, Government Reorganization and Professional Regulation; and Finance

RESOLUTION

Proposed Senate Resolution No. 284, entitled

A RESOLUTION COMMENDING JERWIN ANCAJAS FOR WINNING IBF WORLD SUPER FLYWEIGHT TITLE IN MACAU

Introduced by Senator Emmanuel "Manny" D. Pacquiao

To the Committee on Rules

COMMITTEE REPORTS

Committee Report No. 35, submitted by the Committee on Labor, Employment and Human Resources Development, on Senate Bill No. 209, introduced by Senator Joel Villanueva, entitled

AN ACT DECLARING THE TWENTY-FIFTH DAY OF AUGUST OF EVERY YEAR AS THE NATIONAL TECH-VOC DAY,

recommending its approval without amendment.

Sponsor: Senator Joel Villanueva

To the Calendar for Ordinary Business



Committee Report No. 36, submitted by the Committee on Public Services, on House Bill No. 4631, introduced by Representative Enverga, *et al.*, entitled

AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO REPUBLIC BROADCASTING SYSTEM, INC., PRESENTLY KNOWN AS GMA NETWORK, INC., AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7252, ENTITLED AN ACT GRANTING THE REPUBLIC BROADCASTING SYSTEM, INC. A FRANCHISE TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN RADIO AND TELEVISION BROADCASTING STATIONS IN THE PHILIPPINES,

recommending its approval with amendments.

Sponsor: Senator Grace Poe

To the Calendar for Ordinary Business

ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

Senate Bill No. 1317, entitled

AN ACT STRENGTHENING COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH STANDARDS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Introduced by Senator Joel Villanueva

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 1318, entitled

AN ACT INSTITUTING A PHILIPPINE LABOR FORCE COMPETENCIES COMPETITIVENESS PROGRAM, AND ESTABLISHING FREE ACCESS TO TECHNICAL AND VOCATIONAL TRAINING PROGRAMS

Introduced by Senator Joel Villanueva

To the Committees on Labor, Employment and Human Resources Development; Education, Arts and Culture; and Finance

MANIFESTATION OF SENATOR SOTTO

Senator Sotto recalled that the recent hearing of the Committee on Justice and Human Rights was suspended after a representative of Amnesty International (AI) presented a copy of the Second Optional Protocol to the International Covenant on Civil and Political Rights which was, according to the records presented by the AI representative, adopted and proclaimed by the United Nations General Assembly on December 15, 1989, and which the Philippines signed on September 20, 2006, and that the Philippines also submitted to the UN on November 20, 2007, the Instrument of Ratification on the agreement which seeks the abolition of the death penalty.

Senator Sotto then requested Senator Gordon, as chairperson of the Committee on Justice and Human Rights, to find out whether the document had been signed by the Senate and to determine as well the identity of the signatory because according to the Senate Protocol Office, they do not have a copy of the Instrument of Ratification and that they are now checking their records. He said that he has requested the same office for a certification that there is no such Instrument of Ratification submitted to the Senate. He appealed to the Committee on Justice and Human Rights to check the veracity of the claim to be able to determine whether the Committee would resume or suspend the hearing on the matter.

For his part, Senator Gordon confirmed that the issue of ratification of the Second Protocol was raised during the previous day's hearing and that it became a supervening event that needed to be resolved. He informed the Body that he had asked the Secretary of Justice to determine whether there was such a ratification particularly as it would handcuff the Committee from acting on the death penalty bill because it would be a very bad show for the Philippines to sign a treaty only to unilaterally back out of its commitment and it is important for the Philippines to retain the respect of the international community. Moreover, he pointed out that it is clear in the Constitution that the Philippines renounces war as an instrument of policy and that it adheres to internationally accepted principle that treaties and conventions that have been popularly ratified are part of the law of the land.

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To save time and avoid possible embarrassment, Senator Gordon suggested that the Senate maintain a ready file of all treaties duly concurred in by the Senate, that is easily accessible to any Member for use during discussions or hearings so that it would not have to rely on anyone else for such information. He noted that the U.S. Library of Congress has a database of practically all records of the world that are available for research purposes of its members.

At this juncture, Senator Legarda requested the Committee on Foreign Relations and the other committees to help the Secretariat in the undertaking so that every senator would have a hard and soft copy of every convention and treaty that had been entered into by the Philippine government to avoid confusion and to avoid holding hearings or enact laws that contravene the essence of such agreements. She recalled having come across a budget allocation for the Philippines' membership in the Asian Infrastructure Investment Bank during a finance committee hearing and she was made to realize the urgency of the Senate concurring in the ratification of the AIIB because the country would lose its opportunity to be a founding member of the agreement on the AIIB if the Senate fails to concur within a period of time. She said that she had to shepherd the ratification just in time, or else the country would have lost the chance of being a founding member of the AIIB. She stated that it would be instructional and helpful, not only for the Senate but for the whole government, to have a database for all the treaties that the country has entered into which should be accessible and categorized according to subject matter, like justice, environment and agriculture.

Senator Legarda also urged the Office of the President to transmit to the Senate, particularly to the Committee on Foreign Relations, the Paris Agreement which she has been waiting for since last year even when about 33 certificates of concurrence have already been submitted by all agencies of government. To help facilitate the process, she disclosed that she had to personally call the DFA, and that she learned that Secretary Yasay had already handed the Agreement to Deputy Secretary Atty. Maynard Guevarra in Malacañang a week or two ago. She then reiterated her plea so that the Senate can start conducting hearings on the agreement, as Senator Cayetano, the chairman of the Committee on Foreign Relations, had expressed his desire to hear it or assign a subcommittee to someone willing to sponsor it. She forewarned the Body that the country would just be

an observer party in the next meeting if the ratification process is not completed within the year. She lamented that the inefficiency of the bureaucracy has left the country at the sidelines of discussions.

REQUEST OF SENATOR SOTTO

Senator Sotto reiterated his request for the Committee on Justice and Human Rights to take a look and find out who signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, and to look for a copy of the Instrument of Ratification submitted to the UN.

REQUEST OF SENATOR GORDON

Senator Gordon stated that the Secretary of the Senate is the keeper of all records, hence, proper turnover of all records in the possession of the Senate, particularly on matters like ratification of treaties, is important because the Constitution provides that the Senate is the agency of government that can ratify and concur in treaties. He also mentioned the importance of accessing the information instantly. Thus, he reiterated his request for the Senate to have a ready file of all the treaties and agreements entered into by the country. He stated that such operation should be conducted in the Senate as the primary responsibility is lodged in the Senate Secretary who has to certify that a treaty was ratified and concurred in by the Senate on specific dates.

DIRECTIVE OF THE SENATE PRESIDENT

Senate President Pimentel identified two issues arising from the exchanges, and directed the Secretary to —

- Provide the senators a list of all the treaties and international agreements concurred in by the Senate; and
- Answer in writing the question of fact by Senator Sotto on whether the Philippines is a party to the First Optional Protocol and to the Second Optional Protocol of the International Convention on Political and Civil Rights, with documentary proof, copy furnished to all senators.

COMMITTEE REPORT NO. 33 ON SENATE BILL NO. 1311

(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second

Reading, of Senate Bill No. 1311 (Committee Report No. 33), entitled

AN ACT ESTABLISHING A NATIONAL POLICY OF EASE OF DOING BUSINESS, CREATING FOR THE PURPOSE THE EASE OF DOING BUSINESS COMMISSION, AND FOR OTHER PURPOSES.

Thereupon, the Chair recognized Senator Recto to cosponsor the measure.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 3:43 p.m.

RESUMPTION OF SESSION

At 3:57 p.m., the session was resumed.

COSPONSORSHIP SPEECH OF SENATOR RECTO

Senator Recto stated that in his cosponsorship speech, he would describe the social context, the government culture, and the business atmosphere which makes the passage of the bill urgent.

Following is the full text of Senator Recto's speech:

Red tape is an overdiagnosed but under-treated disease. Instead of being mitigated, it has metastasized all over the bureaucracy.

And that is what we get for trying to cure it with rhetoric, instead of reforms.

And judging by how the world sees us, our vitals have gone from bad to worse.

In the 2016-2017 edition of the Global Competitiveness Index of the World Economic Forum, we rank 137th out of 138 economies in the number of procedures to start a business. *Pangalawa sa kulelat.*

And 115th as to the length of time to start one.

In the World Bank's "Ease of Doing Business," we have gone down four rungs, from number 95 in 2015 to 99 in 2017, out of 190 economies.

It is, however, the subsets of these report cards which tell us of our biggest problems.

In the 2015 report of the World Bank, we are 161th in starting a business, 127th in ease in paying taxes, and 115th in the paper work to employ workers.

In the 2017 ranking by World Bank, we are 171th in starting a business, 85th in dealing with construction permits, and 112th in registering a property.

In many of these metrics, failed states, like Afghanistan, are ranked higher than us. The seven countries covered by Trump's immigration ban even fared better.

As we are still nursing a Miss Universe hangover, let me give you another vital statistics which depict not the beauty of our system but its defects: 34-35-36 — 34 days to start a business, 35 days to register a property, and 36 days spent in a year to pay taxes.

To those who would dismiss these numbers as alternative facts, then perhaps the kilometeric queues in getting government licenses and documents would convince you.

Incensed at the daily sight of *promdis* lining up overnight to apply for a passport in a mall in his native city, even President Digong had railed against red tape.

But this should anger us more: red tape costs small businesses P140 billion in lost economic opportunities yearly. Digong must be reminded that red tape is a bigger problem than the Reds.

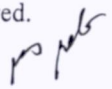
So what is the culprit of all of these? The byzantine maze of regulations in a balkanized bureaucracy.

If you are a freelance writer, you get a business permit, but to get one, you need a fire clearance, when you are still freeloading at your parents' home and you do your work in that corporate headquarters of the Facebook generation called Starbucks.

Pag na-approve ang business permit, magbabayad ka ng plaka, na may photo-shopped picture ni Mayor, habang ang plaka ng Vios mo taon nang wala.

Kung nagkataong pasok ka sa VAT bracket, you have to make 36 annual pilgrimages to the BIR.

Walk-in *ka sa casa*, with only your handsome face as collateral, in 72 hours, your P1 million loan application will be approved.



Go to Pag-IBIG with a land title worth P2 million as collateral for a loan half that amount and it will take you weeks and tons of paperwork to get an approval. *Ang kotse pwede mo itakbo, ang lupa hindi.*

If one senile coconut tree is in danger of collapsing into your roof, you cannot cut until you have a permit, and even if you have it, you can only do so with a registered chain saw.

Many small transactions require physical appearance. If you have a postage stamp-sized lot in the province, you cannot wire RPT payments, nor can you make advance payments for the subsequent years.

In some local government units, the size of business permit plate is as small as a chocolate bar. But in many others, it is as big as a cartolina.

And I am glad that this is answered by a provision in this bill which requires unified and standardized forms in all government offices, especially local governments.

In getting government documents, we have to shorten the process, shrink the number of requirements and signatories, speed up the delivery, and price them in a way mandated by law: to recover the cost in making them, but not to make a profit.

If we demand premiums for prompt service, we must likewise give discounts for delays and slap those responsible with demerits, which this bill mandates.

It says here that if an application does not get approved within a prescribed time, it gets automatically approved.

Tama nga naman. Kung ang pizza hindi dumating in 30 minutes, libre na, bakit ang reimbursement ng bayad sa phantom plates wala pa?

We have to lengthen the validity of licenses, permits, passports, NSO clearances, and make them transactable online.

If documents are not perishable items, why must they have short expiry dates?

This brings me to another rule which must be applicable nationwide: The multipurpose use of clearances. For indeed, why must one be required to submit an original clearance to this office, to that office, and to the next, when it ought to be one-size-fits-all?

And I am happy to note again that this bill, insofar as local permits are concerned, prohibits the duplication of required documents.

Red tape is an equal opportunity oppressor, hitting businesses of all sizes.

Big-ticket items like PPPs are not immune, *kaya para sa kanila* more one-stop shops and clear and unchanging rules *ang kailangan. Minsan kasi ang transparency cost mas malaki pa sa moral hazards na iniwasan.* Example: MRT.

We do not actually need laws to ease doing business or cut red tape. More relief can be given by simple acts than by republic acts.

In airports, for example, why would travelers queue to pay travel tax when this can be embedded in the cost of the tickets, and if airlines are deputized as collection agents, then compensate them, and I am sure that the cost would be lower than what we pay TIEZA employees to manually issue the receipt and manually count the money.

Adding more frontline personnel do not require legislation. Putting up portals does not require a congressional franchise.

In fighting red tape, our objective is not only to promote ease in doing business, but more importantly, to make it easy for the government to reach its targets.

By target, I do not refer to the people who are in the cross-sights of the gun.

You know at present, the only tally we are making concerns body bags. While there are far more important numbers to track, the only national scoreboard we have today are deaths.

What are the numbers that truly matter against which government's performance must be measured?

These are poverty and employment.

Between 2016 and 2022, the government said it will create 12 million jobs, or two million a year.

Between 2016 and 2022, the government has also promised that it will "graduate" seven million poor, or more than a million a year, out of poverty.

Two million jobs a year plus one million liberated from poverty.

So you ask me, what is the role of this bill in achieving those targets? Simple. Jobs can only be generated by businesses which can only flourish if not choked by regulations.

Why? Because nothing strangles Filipino exceptionalism and creativity more than countless and useless rules and regulations.



The red tape yoke must be lifted for government to meet its other targets as well. It cannot be for local permits alone. We can exist with a bicameral legislature, but not with a bifurcated government, where documents are processed, maybe fast in LGUs, but move slower at the national level.

Magbibigay ako ng dalawang halimbawa.

We are about to enter a very taxing season. But to encourage tax obedience, we must simplify, shorten and streamline tax payments.

What I am saying is that the tax program must be predicated in eliminating red tape first. The truth is, taxpayers are willing to pay their dues if only it is not cumbersome and complicated.

Nowhere is this more evident than in the Income Tax Return which is 11 pages long that one wonders if it is designed to extract financial data or your autobiography.

Speaking of taxes, government must also increase the share of LGUs from the internal revenue collection, from 40 percent to 50 percent, or 50-50, *hating kapatid*, because, believe it or not, the pressure from a series of national government-mandated salary increases is what is driving up local permit cost.

Isang solusyon sa red tape ay ang pagdadagdag ng mga kawani. Pero maraming lokal na pamahalaan ang nagpatupad ng hiring moratorium dahil nga sa lumulobong Personal Services expenses.

Hindi nakapagtataka kasi payroll cost of LGUs rose by 50 percent from 2010 to 2015, and their General Services expenses rose five-fold during the same period.

Kaya nga ang pangamba ng iba: aanhin mo ang konting rekisitos, kung kakaunti naman ang bilang ng mga kawani na magproproseso nito?

One more bad thing about red tape is that it deflates government spending. Scratch the surface of an unobligated appropriation and you will find complex rules beneath.

Thus, if we want to turbocharge the release of money, but in a manner which will not leave the government shortchanged, then let us slash the thicket of rules governing the use of funds.

This is important because government spending impacts on the business environment. Public spending, if not a growth-driver, is at least a growth-influencer.

When a road to a port used by exporters does not get built because funds have been embargoed is but one of many examples of how red tape-driven underspending dampens growth and reduces the velocity of government money.

I am glad that this consolidated bill calls for the optimization of ICT in reducing red tape and promoting ease in doing business.

There is no doubt that we must harness technology.

In this selfie, Facebook, and some say fake news capital of the world, permits, licenses, land titles should now be electronically applied for, processed and issued.

As I have often said, let us leave to the MRT the exclusive franchise of organizing long lines.

But this would require reforms in the telecoms sector because what use is online application form when it downloads pixel by pixel in Tetris speed?

Let me beg your indulgence if I have expanded the subject of my speech beyond the metes and bounds of the bill before us.

My point is that there should be a comprehensive solution to red tape. For a problem so prevalent, there can never be a piecemeal approach nor a fragmented cure.

The ease of doing business should be enjoyed not just by businesses, but even by government offices. Intra-agency transactions, especially in public bidding, the release and utilization of funds, should be seamless as well.

So I hope that this bill is just our maiden salvo against red tape, and that more of its kind are forthcoming.

Before I close, let me make this observation:

As a proponent of small but smart government, I have my reservations as well to the idea of creating another layer of bureaucracy for the purported reason of making that bureaucracy more efficient.

It seems that whenever we are confronted by a problem, we seem so unable to resist the temptation of solving it by creating a commission to handle the job that it has become an automatic reflex.

Sa halip na isang bagong commission, hindi ba pwede na isang inter-agency committee na lang na kinabibilangan ng mga kalihim na may direktang kaugnayan sa pagtanggap ng red tape?

This is akin to passing a law reducing the number of rules only to implement it through an IRR longer and more voluminous than the rules to be abolished.

Nonetheless, I support this measure, proud to be its principal author, and I call for its immediate approval, of course, with amendments.

At this juncture, Senator Sotto asked Senator Drilon to give a trivia on where "red tape" emanated from.

REMARKS OF SENATOR DRILON

At the outset, Senator Drilon recalled that 10 years ago, when he and Senator Sotto were invited to the British Parliament as guests from the Senate of the Philippines, they learned during the course of their orientation that a few phrases originated from the parliamentary practice in England. He explained that "lobby," which refers to groups of people who would pressure members of Congress what to do, originated from the "lobby" of British Parliament where constituents would wait for their representatives and talk to them about matters pending in parliament; on the other hand, "red tape" refers to a process wherein the documents are routed from one office to the other until its final approval, with the documents wrapped in red tape.

Senator Drilon also explained that "pork barrel" emanated from the practice whereby members of the US Congress who go home to their districts would give their slaves pork in a barrel as a reward.

At this juncture, Senator Lacson said that the persons referred to by Senator Drilon as members of Congress were the white masters during the pre-civil war days.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1311

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

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 36 on House Bill No. 4631

from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 36 ON HOUSE BILL NO. 4631

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, House Bill No. 4631 (Committee Report No. 36), entitled

AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO REPUBLIC BROADCASTING SYSTEM, INC., PRESENTLY KNOWN AS GMA NETWORK, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7252, ENTITLED "AN ACT GRANTING THE REPUBLIC BROADCASTING SYSTEM, INC. A FRANCHISE TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN RADIO AND TELEVISION BROADCASTING STATIONS IN THE PHILIPPINES."

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

The Chair recognized Senator Poe for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR POE

Senator Poe presented to the Body for its plenary consideration House Bill No. 4631 under Committee Report No. 36 which seeks to renew for another 25 years the legislative franchise granted to GMA Network in 1992 through RA 7252.

Hereunder is the full text of Senator Poe's sponsorship speech:

GMA Network is a Filipino institution. Since its humble beginnings as Republic Broadcasting System in 1950, it has grown to be one of the most respected media companies in the region. Through exemplary corporate governance, GMA Network has continued with and has



proportionately increased its economic, cultural and social contributions to our nation. The network is consistently one of the nation's top corporate taxpayers.

As an economic enterprise, GMA Network is publicly listed and traded. It has 47 UHF and 41 VHF TV stations nationwide, together with FM stations and AM stations led by DZBB and DWLS. GMA Network is now global as it is viewed by Filipinos all over the world through its international channels. In the digital space, GMA's portal is one of the most visited Filipino websites.

The Network's output in News and Public Affairs, best known for its neutrality and impartiality, has resulted in numerous international and domestic awards. Some of these have, in turn, resulted in commendations from Congress, such as through House Resolution Nos. 787 and 1694, which were both unanimously adopted. Entertainment programming has likewise resulted in major awards here and abroad, with the common thread being that the Network is considered a "caretaker" of core Filipino values.

Notable, as well, are the Network's efforts through its socio-civic arms to reach out and help the community. *Kapwa Ko*, *Mahal Ko* and GMA's *Kapuso* Foundation have served as conduits for thousands of benefactors to bring medical assistance and other forms of aid to the less fortunate. In recent years, GMA's *Kapuso* Foundation's efforts have been expanded to include the building of housing units and schools, such as those for the *Yolanda* victims in Leyte and the *Sendong* victims in Iligan City.

In the coming years, GMA Network aims to continue its efforts to maintain both the relevance and responsiveness of its news, public affairs and entertainment programs to the growing and diversifying needs of the Filipino public. This, complemented by investments, the Network is poised to make over the next few years as our country migrates towards Digital Terrestrial Television which will enhance the service GMA Network delivers to the public by improving both the picture and audio quality of its programs.

With the view that GMA Network will continue its present course and trajectory, immediate approval of this bill is earnestly sought.

DISCLOSURE OF SENATOR SOTTO

Senator Sotto manifested that although he is not an employee of GMA Network nor does he receive

any talent fee, the television program that he is involved in is contracted with the network.

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 4631

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

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:25 p.m.

RESUMPTION OF SESSION

At 4:43 p.m., the session was resumed.

COMMITTEE REPORT NO. 28 ON SENATE BILL NO. 1304

(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1304 (Committee Report No. 28), entitled

AN ACT PROVIDING FOR A FULL TUITION SUBSIDY FOR STUDENTS ENROLLED IN STATE UNIVERSITIES AND COLLEGES (SUCS), AND APPROPRIATING FUNDS THEREOF.

Senator Sotto stated that the parliamentary status was still the period of interpellations.

Thereupon, the Chair recognized Senator Aquino, sponsor of the measure, and Senator Ejercito for his interpellation.

INTERPELLATION OF SENATOR EJERCITO

Senator Ejercito stated that with the government's introduction of free tuition fee in SUCs, enrolment is expected to increase. He then inquired about the capacity of students per SUC and how much increase in enrolment is expected in the coming years.

Senator Aquino stated that during the hearings, the private sector, in fact, raised their concern



regarding the possible influx of students to the SUCs. But he pointed out that there is a provision in the bill that would require the SUCs to disclose their enrolment capacity and that further increases in capacity must undergo approval by the CHED. Thus, he said that the Committee did not look at the influx because the bill sets the capacity of the SUCs. He predicted that the incoming enrolment for 2017 would be very close to the current number of enrolment of 1.6 million.

On whether the SUCs need to declare their capacities before the law takes effect, Senator Aquino replied that the Committee would introduce a transitory provision that would consider the SUC's current enrolment as its capacity should they not submit their capacities. He stated that by putting the capacity check, government would stave off the possibility of a massive influx of students to SUCs.

To make sure that the government's free tuition fee program would be sustained in the coming years, Senator Ejercito underscored that Congress must be informed, especially during the budget season, of the number of enrollees so that it could estimate how much would be allocated for SUCs in the coming years.

Senator Ejercito stated that during his consultations with SUC administrators, concerns were raised that students enrolled in SUCs may not value anymore their tertiary education since they would not be paying anything because of the free tuition fee program.

Senator Aquino clarified that the cost of education is not absolutely free because the tuition fee subsidy is only 30% of the entire education cost. He said that there are other fees which would depend on the course that the student would take.

Senator Ejercito expressed concern that since government would give only P8 billion in subsidy, the schools might charge so much on the miscellaneous and other fees. He then inquired whether the bill has safeguards that would prevent increases in other fees. Senator Aquino affirmed that Congress has allocated P8 billion for the 2017 budget which would most likely cover only the first semester of 2017. He said that the program would cost P16 billion once it is fully implemented. He explained that the increases in other fees would need CHED approval and that SUCs cannot increase their fees out of whim. Also, he stated that under the bill, tuition and other fees are defined, so that if the tuition is free, the other

expenses would refer to a specific set of expenses, and the CHED, as a regulator, is tasked to make sure that the increases do not happen arbitrarily or without cause.

To the concern of private higher education institutions that their schools might close down if the students would go to SUCs, Senator Aquino believed that the capacity check would be enough to make sure that such influx would not happen and that the UniFAST Law, the *Iskolar Ng Bayan* Act and other scholarships could be utilized by qualified students who wish to enroll in private or public schools. He assured the Body that nothing has changed with the scholarships and other assistance for students and that there was nothing to worry about with the current assistance being provided by the government.

As regards overstaying students in college, Senator Ejercito stressed that the government's aim is to give free tuition to poor but deserving students. However, he stated that there are instances when students do not graduate on time. He then inquired if students who fail on their fourth year subjects would still be admitted as scholars on their fifth year. Senator Aquino stated that an amendment that would address such concern would be accepted by the Committee at the proper time because definitely, the government would not want to subsidize a student staying for very long years. He said that the aim is for the students to finish on time so that more students could avail of the support.

Senator Ejercito stated that he would introduce an amendment on the matter at the proper time. Thereafter, he congratulated Senator Aquino for pushing the measure. He opined that if government wants to lessen or lower the poverty incidence, one of its best investment would be education. Saying that he does not believe in dole-outs, he posited that one way of uplifting the living condition of a family is by having at least one graduate per family. He added that the bill is one landmark legislation that he fully supports.

Thanking Senator Ejercito for his support, Senator Aquino clarified that the tuition fee is subject to CHED's approval but the other fees are not. He maintained that since Congress is making the tuition fee free, it is also looking at making the other fees under the purview of the CHED as well. He said that at the proper time, the Committee would introduce

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another amendment that would make sure that the other fees would not drastically increase.

Senator Ejercito agreed with Senator Aquino. However, he also believed that the student should have some stake in his/her education that he/she would value.

INQUIRY OF SENATE PRESIDENT PIMENTEL

Senate President Pimentel recalled that during the budget plenary debates, the estimated total cost to provide free tuition in all SUCs was around P8 billion to P9 billion but not beyond P10 billion. He then inquired why the proposed measure would require P16 billion which is double the amount in the current budget.

Senator Aquino explained that during the budget deliberations, the projected income was only P8 billion to P9 billion because the receivables were not factored in as part of the projected income which comes at the latter part of the year. He added that the receivables plus the P9 billion would sum up to about P16 billion.

At this juncture, Senate President Pimentel questioned the purpose of the free tuition program if it was considering income and receivables.

Senator Aquino explained that the SUCs have projected that the receivable tuition income for 2016 amounted to P8 billion, with Congress matching the number during the budget deliberations. He said that the actual number that Congress should use should have been based on average tuition fee per head multiplied by capacity. He added that the initial P8.3 billion allocation was for the first semester because it would only be half of what is actually needed.

Senate President Pimentel, however, recalled that the Body was so excited that it was providing around 90% of the need.

Senator Aquino admitted that the availability of pertinent data not only from CHED but also from various government agencies has always been difficult and even contradictory. He said that some data requested from CHED since July last year was only made available when the measure was already in plenary. Thus, he suggested that reform in data gathering should also be considered; otherwise, the

lawmaking function of Congress would be compromised without the right data.

Senate President Pimentel recalled that when he was chair of the justice committee, jail officials could not even give him accurate data pertaining to the number of prisoners or to the number of women in jail.

INTERPELLATION OF SENATOR DE LIMA

At the outset, Senator De Lima expressed her support for the measure as she recalled that she had asked to be made coauthor of the bill because she believed that the measure, along with the K to 12 program, would be an investment for the future as it would give the youth a fighting chance to compete in the global stage.

Asked whether the bill would repeal or substitute the *Iskolar ng Bayan* Act, Senator Aquino clarified that the measure would not repeal any of the current benefits already available to the students. He added that the StuFAP, the Uni-FAST and the *Iskolar ng Bayan* Act are still in effect because the *Iskolar ng Bayan* Act, for instance, would give the students access not just to tuition fees but to other fees as well. He clarified that students who are *Iskolar ng Bayan*, in fact, enjoy more benefits than what Congress has allotted for the SUCs. Senator De Lima noted that Republic Act No. 10648 or the *Iskolar ng Bayan* Act grants scholarships to students who belong to the top 10 in the class.

Asked on the data pertaining to the admission rate to the SUCs of public school graduates and the percentage of students coming from public and private schools, Senator Aquino said that there is no available data on the matter but assured that the same would be submitted once available. Senator De Lima believed that even if the real intent is to provide free tuition fee to all students, there are mechanisms in the bill that would ensure that the needy ones would be benefitted. Senator Aquino pointed out that, as a matter of principle, an affirmative action was added as one of the provisions of the measure that would focus on disadvantaged and impoverished students. He admitted that there were some disagreements to this proposal with the CHED because the agency was looking at only 7% to 8% of the poorest of the poor who are able to enter the SUCs even if 70% of the country's population is still earning a monthly income of around P20,000.

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Senator Aquino said that while 80% of those in the SUCs come from the poor sector, they do not fall under the poorest of the poor anymore. He identified the group as those belonging to socio-economic classes "D" and "E" and a few to the lower "C." He lamented that a family with a total monthly income of P20,000 still needs tuition fee subsidy, thus, the socio-economic class was the target of the bill. He reiterated that the provision on affirmative action was included to allow the CHED to really focus more on disadvantaged students and that it would be up to the CHED, through the implementing rules and regulations, to determine how it would be done.

Senator Aquino said that one of the ways to determine the family status would be to include in the entrance examination a question as regards the monthly income of the family which would serve as a leeway for the affirmative action and would make sure that majority of the students who will be admitted to the SUCs come from families that truly need help and support.

Asked on the rationale of Section 4 which provides that students with financial capacity to pay for their education in the SUC would opt out of the tuition subsidy or to make a donation to the school, Senator Aquino explained that the provision was discussed lengthily by the senators in workshops and hearings and they found out that the proviso might be cumbersome and eventually expensive to run if every single student would be checked. Thus, he said that the Committee came out with an "opt-out" mechanism wherein students who feel that they do not fall under the scope of the bill could give up the tuition fee subsidy and, in effect, pay the prescribed tuition fee.

Senator De Lima wondered whether, in reality, those students who could afford to pay their tuition fees would consider to "opt-out" since it is human nature to avail of something free. Senator Aquino agreed, but he believed that there are some people who are honest regarding their financial standing or capabilities. He clarified that the "opt-out" mechanism was created for schools like the University of the Philippines where about 50% of enrollees came from families with higher income. He said that there are a few SUCs with strange demographics, like UP and MSU, which cater to families that can afford to pay tuition fees. He said that families can still opt out if they get in considering that there is an affirmative action already in the enrollment procedure.

Relative thereto, Senator De Lima suggested that a mechanism mandating for an adequate recruitment program in public high schools be considered also. Senator Aquino admitted that the measure does not have such proviso and expressed willingness to consider amendments at the proper time.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1304

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

COMMITTEE REPORT NO. 17 ON SENATE BILL NO. 1271

(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1271 (Committee Report No. 17), entitled

AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY OR EXPRESSION (SOGIE) AND PROVIDING PENALTIES THEREFOR.

Senator Sotto stated that the status was the period of interpellations.

Thereupon, the Chair recognized Senator Hontiveros, sponsor of the measure, and Senator Sotto for his interpellation.

INTERPELLATION OF SENATOR SOTTO

At the outset, Senator Sotto stated that while he supports the measure to remove discrimination, there remain some issues that he would want clarified.

Asked by Senator Sotto if Senate Bill No. 1271 intends to amend any existing law, Senator Hontiveros answered in the negative, explaining that the bill seeks to provide by force of law the guarantees against discrimination on grounds of sexual orientation and gender identity and expression that are promised to every citizen of the country through the Constitution and in various human rights instruments.

Regarding the definition of discrimination as stated in paragraph (a) of Section 3, Senator Sotto asked to



be clarified as regards the following proviso: "For purposes of this provision, the actual sex, sexual orientation or gender identity of the person subjected to discrimination shall not be relevant for the purpose of determining whether an act of discrimination has been committed." Senator Hontiveros explained that in the proposed measure, sex, sexual orientation or gender identity would not be relevant in determining whether an act of discrimination has been committed. She said that the provision would be clarified by the proposal raised in the earlier interpellation of Senator De Lima as regards the rewording of the title of the bill to eventually refer not to the act of discrimination but to the rights of every individual, regardless of sexual orientation, gender identity or expression.

Senator Hontiveros expressed appreciation to Senator De Lima for understanding the intent of the bill which is not only to protect discrimination of the LGBTs but to uphold the rights against discrimination or the freedom from discrimination of every individual, including straights. She added that Section 3(a) means that the actual SOGIE of the person discriminated against shall not be relevant for determining whether an act of discrimination has been committed and that the focus would be on the discrimination itself and not in the actual identity or orientation of the victim.

As regards Section 5, Senator Sotto asked on the reason for the need of a family court or a court's approval for minors to undertake medical or psychological examination to determine or alter the person's SOGIE. He asked why the determination could not be asked of the minor's parents or legal guardian. Senator Hontiveros explained that the family court would still request the parents or the legal guardians to weigh in as they are the persons in whose authority the minor is placed. She pointed out that there are some cases where parents force their kids to undergo such an examination, thus the family court would have to request the parents or the legal guardian to weigh in to provide some kind of guidance.

Asked where the provision could be found in the bill which provides that parents or legal guardians may be consulted, Senator Hontiveros said that at the proper time, she would be open to accept an amendment on Section 5 that would allow and specify the participation of parents or legal guardians of the child or minor.

Asked for a specific example of a medical or psychological examination which determines or alters

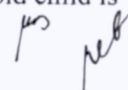
a person's SOGIE, Senator Hontiveros said that one of the most traumatic examples would be related to what is called the use of "electric conversion therapy," or applying electric shock in the belief that electricity can biologically change gender identity. She explained that the psychological and medical premise of this kind of a therapy is that the child's SOGIE which may not be what was assigned to him/her at birth is different from his/her actual orientation so the child's identity or expression is diagnosed as a disorder.

Asked if the reason for putting the family courts first before the parents or guardians was that the latter do not usually accept the child's preferred gender, Senator Hontiveros hoped that with the passing of time, along with the support from gender sensitivity and equality advocates including the LGBTQ community, more families would slowly be more accepting. She pointed out that Section 5(i) requires express approval from parents or legal guardians first and only provided a contrary option in the event that the parents or legal guardians would force the child to undergo traumatic therapies, in which case the family court would provide the child a safe place to be heard, alongside the testimony of the parents. She said that based on the Rules of Court, parents and guardians are called as a matter of course for family court proceedings which, like all existing laws, are not amended nor affected by the bill.

Asked where family court proceedings would apply, Senator Hontiveros explained that prior approval of family courts shall be required for therapies which are listed as discriminatory practices, or if the minor disapproves the procedure. Such option, she said, would provide a space where both the child and his/her parents or legal guardians would be heard equally and their issue would be resolved by the family court.

To the statement that the concept is "touchy" because if the parent or guardian would like the child to undergo a certain procedure to determine his/her gender, the family court's permission must be secured first, Senator Hontiveros maintained that a person's sexual orientation or gender identity or expression whether as an LGBTQ or straight, is inherent to a person's life as a human being. She averred that SOGIE is not only a matter of choice but a matter of realization of who and how a person is, even of a minor.

Senator Hontiveros further averred that because of human consciousness, even a two year-old child is



capable of naming experiences of who he/she is, how he/she relates with other people, and even remembering his/her experience until he/she reaches adolescence. She said that with every period of human development, the child becomes aware of who he/she is and of his/her relationship with other people. She stated that even at two years old, the child starts to become verbal and capable to name and assign meanings as well as to remember experiences.

Asked how the concept works when a five-year old boy, for instance, acted like a girl and his parents tried a scientific procedure to alter his thinking, Senator Hontiveros admitted that she would have to work it out through the IRR inasmuch as the electric conversion therapy she earlier gave as an example must be done by named accountable professionals to ensure that the family will go through the process in the family court first alongside social workers. She reiterated that electric conversion therapy causes damaging and irreversible trauma that impairs the child's vulnerability.

As to when the electric conversion therapy reached the Philippines, Senator Hontiveros stated that there is no data regarding psychological therapies because of its deep stigma of bringing the child to a psychologist or psychiatrist to cure him/her of a SOGIE which is different from what was assigned to him/her at birth. She noted, however, that there were repeated reports especially from the LGBTQ communities that the impact is very deep and that there is no mechanism to protect them from the acts of their own parents.

Asked on the number of people who have undergone electric conversion therapy in the country, Senator Hontiveros stated that there was no data on who underwent such therapy although there were anecdotal reports from communities who recounted and documented their experiences.

Asked what hospitals or clinics in the Philippines have electric conversion therapy procedure, Senator Hontiveros stated that there is no data on such therapies administered by hospitals and religious groups because of its deep stigma.

At this juncture, Senator Sotto requested the Committee on Women, Children, Family Relations and Gender Equality to submit an empirical data as soon as possible so that he would have enough

information to formulate his amendments. He admitted that he initially thought of proposing that the parents should come first to be seconded by family courts but that because of Senator Hontiveros' explanation, he was having second thoughts.

Senator Hontiveros explained that the reason family courts were contemplated was that there have been cases where the parents came first but themselves requested therapists to apply electrical conversion therapy for their children. She, however, said that documentation thereof is hard to present because the people involved do not want to reveal themselves.

At this point, Senator Sotto thanked Senator Hontiveros for availing of the intervention of family courts, adding that he is the principal author of Republic Act No. 8369 which created the Family Courts.

Adverting to Section 5(h) which considers as unlawful the denial of access to or use of establishments, facilities, utilities or services including housing, open to the general public on the basis of SOGIE, Senator Sotto inquired if comfort rooms in any establishments, schools, office and the like are included. Senator Hontiveros replied in the affirmative, as she recalled that in the earlier interpellations, she enumerated several cases of discrimination, including the denial of entry to establishments as in the case of TV personality Inday Garutay who was allegedly barred from entering a fine dining restaurant, and BB Gandanghari for cross-dressing.

Senator Sotto stated that his concern is on the issue of comfort rooms, believing it could be prone to abuse by scoundrels who might use cross-dressing as a means to perpetrate crimes against chastity, such as abduction, seduction or acts of lasciviousness.

Asked what could prevent the commission of crimes by reason of cross-dressing, Senator Hontiveros pointed out that fears against transgender people using comfort rooms consistent with their gender identity must be put into context because it makes sense that trans-inclusive bathrooms vary for people with different biological makeup. She said that the idea that transgender people would sexually assault people in the bathrooms creates an assumption that they are sexual predators.

As regards the concern that Section 5(h) is open to abuse particularly by straight persons who cross-



dress to be able to gain entry to a gender-specific restroom, for instance, Senator Hontiveros clarified that current laws are not contradicted by the contemplation of a SOGIE-based anti-discrimination measure.

To the suggestion that the provision be revised to prevent the possibility of such an incident, Senator Hontiveros pointed out that it would be possible to work it out through the IRR. For instance, she said that since students are aware of who among their schoolmates are straight, LGBT or transgender, the student's handbook could indicate that only those who are known as one or the other SOGIE would actually have access to the trans-inclusive restrooms. She added that she would be open to exploring a more specific formulation to one of the provisions of the bill that would address this concern. However, Senator Sotto disagreed that the matter could be addressed through the IRR considering that he had so many sad experiences with IRRs of other laws.

Asked for concrete examples of discriminatory practices covered by Section 5(k) which appears to be a catch-all provision and whether it also suggests that same sex marriage would be allowed in the country, Senator Hontiveros explained that the bill clearly states that what should constitute as discriminatory is to deny or revoke only the professional license of someone on the basis of SOGIE. She stressed that the bill does not amend Article I of the Family Code which defines marriage as a special contract between a man and a woman.

Senator Hontiveros also pointed out that while the anti-discrimination bill only aims to prohibit discriminatory practices in schools, workplace, health case, public service and other violations of fundamental rights, a separate bill on marriage equality would be needed to address the concern of Senator Sotto.

At this juncture, Senator Aquino relinquished the Chair to Senate President Pro Tempore Drilon.

Reacting to an earlier statement by Senator Hontiveros espousing the position that people should not be discriminated against because of who they love, Senator Sotto believed that the penalties under Section 5 (*Discriminatory Practices*) should nonetheless be made clear and specific. Senator Hontiveros explained that while her statement was a general expression of the spirit of the bill, the very particular prohibited acts and penalties are those explicitly articulated in the body of the bill itself.

On whether the statement that “cross-dressing would fall under the prohibited acts of this bill” meant that any individual or entity that disallows cross-dressing would be penalized, Senator Hontiveros clarified that they would be penalized for doing discriminatory acts against a person because of his/her cross-dressing which is one example of his or her gender expression.

Senator Sotto asked how the provision would be reconciled with the academic freedom of educational institutions as enshrined in Section 5(2), Article XIV of the 1987 Constitution as well as the right of the Court to supervise and regulate the practice of law which includes the conduct of lawyers through the implementation of a dress code. Specifically on the issue of academic freedom, he cited the case of *Ateneo de Manila University vs. Capulong* wherein the Court held that “private schools have the right to establish reasonable rules and regulations for the admission, discipline and promotion of children”; while on the right of the Court to supervise and regulate the practice of law, he cited Rule 11.01 of the Lawyer's Code of Professional Responsibilities which directs a lawyer to appear in court in proper attire. Senator Hontiveros said that such an interesting scenario would be a very positive challenge to the judiciary as it could be an opportunity to examine the gender sensitivity and gender fairness of the highest court of the land.

As regards the issue on school uniforms, Senator Hontiveros pointed out that while educational institutions and offices are allowed to maintain uniforms and dress codes to serve as an identifier for their members to highlight their different roles as well as serve as a safety requirement, the requirements of uniforms and dress codes should be consistent with the gender identity or gender expression of the student/employee. For instance, she said that the Far Eastern University (FEU) has recently allowed its enrollees to wear the uniforms that they are most comfortable with, and she believed that this is expected to create a more inclusive environment where students can be more comfortable with themselves and which, in turn, would allow them to excel in their studies. She believed that the school should be able to accommodate the gender that their transgender students identify with in the interest of their welfare and happiness.

Saying that such a provision violates the academic freedom of the institution, Senator Sotto asked if

Letran College, for instance, would be violating the law supposing it disallows a cross-dresser in skimpy clothing from entering the school premises. Senator Hontiveros replied that the example cited would be covered by the particular dress code of the institution which normally instructs students to come to class in appropriate attire. She noted that since several cross-dressing dress styles would fall under "appropriate clothing for studies," continuing to prevent a cross-dresser from attending classes would mean that the institution would be failing to live up to the standing that has been set by schools like FEU.

Senator Hontiveros believed that the principle of academic freedom allows the academic institution to provide a conducive atmosphere for the student's intellectual exploration and learning as well as for his/her exercise and responsible enjoyment, and that it would include wearing the clothes that he/she is most comfortable in while in school.

Asked to comment on the possibility that the provision that imposes penalties on institutions implementing discriminatory practices against cross-dressers wearing skimpy attire might be subject to abuse, Senator Hontiveros clarified that it is precisely for the purpose of providing protection against discrimination that the measure would allow a student who feels offended to bring his/her school to court.

She noted that while academic freedom had been invoked to prevent African Americans from studying alongside Caucasians in the United States, academic freedom has helped create a better society which, she said, is what Senate Bill No. 1271 hopes to accomplish.

Asked how the measure could affect the lawyer's code on professionalism considering that a judge who prohibits a cross-dressing lawyer from entering the courtroom could be fined anywhere from P100,00 to P500,000 or even imprisoned from one to 12 years, Senator Hontiveros opined that for as long as the transgender cross-dresser who comes to court with the interest of his/her clients in mind is well-prepared to argue his/her side of the case and relates to the judge/justice with all the respect due that person's rank, his/her outfit would be immaterial to his/her profession. She believed that the personal expressions of an individual would not be demeaning to his/her common profession with the sitting judge.

Responding to the argument that allowing cross-dressing in the courtroom would violate the Rules of Court, Senator Hontiveros replied that all bills have a repealing clause which states that "all laws, decrees, orders, rules and regulations are parts thereof inconsistent with this Act are hereby repealed or modified accordingly."


On whether the act of jokingly calling a person "bading" would be prohibited by the bill, Senator Hontiveros replied that it would be considered as encouraging "stigma," as provided for in Section 5 (*Discriminatory Practices*) of the bill which states that, "It shall be unlawful for any person, natural or juridical, to (a) promote and encourage stigma on the basis of SOGIE in the media, in educational textbooks and to other medium. Inciting violence and sexual abuse against any person or group on the basis of SOGIE is likewise prohibited."

Noting that some comedians like Allan Quilantang a.k.a. Allan K even prefer to be called "bading" which is a common term for male homosexuals, Senator Sotto asked whether posting a funny comment on a photo of scantily-dressed gay people would be considered discriminatory. Senator Hontiveros clarified that while the offense is determined by the individual, such that those who do not feel offended would not file a complaint, the bill also provides a redress mechanism for those who feel that their rights have been violated.

Senator Sotto expressed concern that the provision could easily be used by a person to make a big fuss or even get back at someone he dislikes.

Senator Hontiveros stated that the decisive feature of identifying acts of discrimination would be how a person feels. In the same way, she said, that knowing one's sexual orientation or gender identity and expression would be a matter of how a person feels. She surmised that it would be the person of whatever SOGIE who would determine whether he had been discriminated against or had his rights violated.

At this point, Senate President Pro Tempore Drilon asked if filing a case would depend on the person supposedly offended, or in other words, if a person does not feel offended, he need not file a case. Senator Hontiveros answered in the affirmative. However, she clarified that one could file a case on behalf of the offended party who is a minor.



Senate President Pro Tempore Drilon stated that it is called a private offense in law, meaning, only the offended party can file it.

Asked if this is expressly stated in the bill, Senator Hontiveros replied that she would be open to accepting amendments regarding the matter at the proper time. She noted that the greater harm would be the systemic prejudice against LGBT. She hoped that the bill would also help everyone to be more watchful of their language.

Senator Sotto stated that it would depend on the person if he was offended or not.

Regarding the provision on penalties, particularly the penalty which ranges from P100,000 to P500,000, or an imprisonment of one year to twelve years, depending on the act committed, Senator Sotto said that he finds such penalties very harsh or excessive, as compared to the crimes punishable by imprisonment of one to twelve years, to wit: the case of US Marine Joseph Scott Pemberton for killing the Filipino transgender, adultery and concubinage, direct bribery, malversation of funds and property, serious physical injuries, slavery, and some cases of robbery with violence against or intimidation of persons.

Senator Hontiveros replied that the prohibited acts as contemplated by the bill are cases of SOGIE-based discrimination that must be correspondingly penalized.

But Senator Sotto pointed out that the discriminatory practices that are contemplated in the bill are not as serious as the ones he enumerated to warrant such penalties. Moreover, he noted that the penalty provided in a similar law, the Magna Carta of Women, was only to pay for damages to the offended party. He cited the second paragraph of Section 41 of the said law, to wit: "If the violation is committed by a private entity or individual, the person directly responsible for the violation shall be liable to pay damages." Senator Sotto remarked that the bill might be discriminatory itself.

Senator Hontiveros said that the bill seeks to protect not just the LGBTs but any and all individuals of whatever SOGIE. She said that the penalties emphasized the gravity of discrimination and its deep effects as in the case of Jennifer Laude. However, she said that she would be willing to consider amendments at the proper time. She also pointed out

that while there are many laws protecting women which have penal provisions such as the Violence Against Women and Their Children Act, which stemmed from the Magna Carta of Women, there is no protective law with a penal provision for LGBT.

Asked if private individuals or entities were consulted during the committee hearings, particularly on discriminatory practices, Senator Hontiveros answered in the affirmative, citing the Catholic Educational Association of the Philippines, which had the same concern on the issue of uniforms, and the Professional Managers Association of the Philippines, which was focused on the hiring and human resources aspects of the bill.

Senator Sotto hoped that he could come up with some proposals acceptable to the Committee during the period of amendments.

INTERPELLATION OF SENATOR HONASAN

At the outset, Senator Honasan said that Senator Hontiveros had addressed his first concern by expressing her willingness to accommodate certain suggestions during the period of amendments.

Regarding the issue of cross-dressing, specifically citing as examples lawyers in courtrooms and students attending classes, Senator Honasan asked if a mechanism to prepare the ground for such scenarios had been contemplated. Looking at the Family Code, he believed that the variables would increase if the issue would be brought out of the ambit of the family environment, as the family is the most basic and strongest, fundamental, economic, social and political unit.

He also expressed concern that cross-dressing might provide an unwelcomed distraction that would impair the dispensation of justice or the learning process, which would also lead to the question of priorities, and he doubted the capability of the ordinary Filipino to calibrate the measure in a manner that would prepare the mindset of the Filipino family's culture and welcome such kind of legislation.

Senator Hontiveros stated that access to education should be primordial than any school policy. She noted that a student who is penalized for not following the uniform also loses access to education as a fundamental right. Similarly, she pointed out that the lawyer's Code only requires lawyers to be appropriately dressed even in gender neutral attire. She



also appreciated the suggestion to prepare the ground for such changes at the family level since all changes in society are rooted in the family. This, she believed, has been the case for every radical change, like the shift of the mindset in the US regarding academic freedom and the so-called virtues of the slave system.

In related matter, Senator Hontiveros said that the concern over the impaired learning process had been invoked in segregation laws in the US which shows legislation could shift and society itself undergoes evolution. She also noted that there are programs to promote non-discrimination and diversity, specifically diversity programs and policies which are contemplated for government agencies, GOCCs, private companies, as well as public and private educational institutions and other entities to ensure that human rights violations and violence on the basis of SOGIE would be prevented. She said that the bill contains a provision on information and education campaign where the family is the primary stakeholder and the social unit where the process would begin and bear fruit.

Asked if wearing make-up would constitute as cross-dressing, Senator Hontiveros answered in the affirmative. She explained that using cosmetics to enhance one's appearance could be a part of cross-dressing to make one feel happier and more disposed to learning.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1271


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

ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of Monday, February 13, 2017.

It was 6:14 p.m.

I hereby certify to the correctness of the foregoing.


ATTY. LUTGARDO B. BARBO
Law Secretary of the Senate

Approved on February 13, 2017