

## RECORD OF THE SENATE

WEDNESDAY, JULY 31, 1996

### OPENING OF THE SESSION

At 4:30 p.m., the President of the Senate, the Hon. Neptali A. Gonzales, called the session to order.

**The President.** The fifth session of the Second Regular Session of the Tenth Congress of the Philippines is hereby called to order.

We shall be led in prayer by Sen. Juan Ponce Enrile.

*Everybody rose for the opening prayer.*

### PRAYER

**Senator Enrile.** Let us bow our heads before the Lord.

Almighty Father, in our limited understanding, life is foolishness. We brace ourselves each day for the rain that falls on our heads, for the work that is laid on our tables, for the atrocities that we read in the newspapers, for the visitors that wait in our offices, for the beggars that knock on our car windows, for all the nameless faces that fill the seemingly meaningless seconds in between floors, in between doors and in between breaths.

In our limited understanding, we fail to see that outside, the sun is breaking through the clouds. And in our homes, our children smile.

In our limited understanding, we fail to see Your love, for, to us, Your love seems foolishness. In spite of it all, Almighty Father, make us grow in strength and fortitude to carry on our daily cross; fill our hearts with courage and faith to believe in You, so that at the end of our journey in this material world, the gate of Your Kingdom will be opened to us as a final resting place.

This we ask in the name of Your Almighty Son, Jesus Christ, our Lord.

Amen.

### ROLL CALL

**The President.** The Secretary will now call the roll.

**The Secretary, reading:**

Senator Heherson T. Alvarez ..... Present\*

\*Arrived after the roll call

Senator Edgardo J. Angara ..... Present\*  
Senator Anna Dominique M. L. Coseteng : Present\*  
Senator Franklin M. Dilon ..... Present  
Senator Juan Ponce Enrile ..... Present  
Senator Marcelo B. Fernan ..... Present  
Senator Juan M. Flavier ..... Present  
Senator Ernesto F. Herrera ..... Present\*  
Senator Gregorio B. Honasan ..... Present  
Senator Gloria M. Macapagal ..... Present  
Senator Ernesto M. Maceda ..... Present  
Senator Ramon B. Magsaysay Jr. .... Present  
Senator Orlando S. Mercado ..... Present  
Senator Blas F. Ople ..... Present\*  
Senator Sergio R. Osmeña III ..... Present  
Senator Ramon B. Revilla ..... Present\*  
Senator Raul S. Roco ..... Present  
Senator Alberto G. Romulo ..... Present  
Senator Miriam Defensor Santiago ..... Present\*  
Senator Leticia R. Shahani ..... Present  
Senator Vicente C. Sotto III ..... Present  
Senator Francisco S. Tatad ..... Present  
Senator Freddie N. Webb ..... Present  
The President ..... Present

**The President.** With 17 senators present, the Chair declares the presence of a quorum.

### THE JOURNAL

**Senator Romulo.** Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider it as approved.

**The President.** Is there any objection to the motion? *[Silence]* There being none, the motion is approved.

The Secretary will now proceed with the reading of the Reference of Business.

### REFERENCE OF BUSINESS

### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

**The Secretary.**

July 25, 1996

Mr. President:

I have been directed to inform the Senate that the House of Representatives on July 24, 1996 passed House Bill No. 1022, entitled

**Senator Angara.** So, in short, Mr. President, we both agree that: first, as an immediate measure, we ought to encourage our colleagues to publish the disposition of their individual CDF or CIA, and I hope that this can be taken as a collective decision of the Chamber. But failing on that, I for one would volunteer to publish and release the list of my CDF and CIA. Second, we ought to meet as a group—as the Senate—to consider what action to take in the future, because we now have to face the future. What has happened has happened, and there is nothing we can do now, I believe, that can dispel the remaining lingering suspicion and doubt in the minds of the public. But we can do much for the future.

**Senator Maceda.** I agree, Mr. President. As the gentleman very well knows, almost all the members of the Senate are members of the Finance Committee. This is the only committee that really includes almost everybody. There is no problem as far as this is concerned.

**Senator Angara.** Thank you, Mr. President.

**The President.** In connection with the remarks made by the Minority Leader, the Senate President has already directed the LBRMO to prepare a complete list of all the CDFs, the CIAs and the public works allocations, together with the indication of the projects which have been identified, the requesting person or agency, the implementing agency, and whether or not the corresponding SARO—when and in what amount—had already been released. After obtaining all of these documents, an executive session will be held in order to consider policy issues with respect to these initiatives or allotments.

**Senator Maceda.** Mr. President, just for purposes of completeness, especially for the benefit of the TV audience, I would like to make of record that the amounts that we are talking about are usually or invariably not fully released because of reserved requirements imposed by the DBM.

The Poverty Alleviation Fund, for example, has been subjected to a 30 percent reserved requirement. Very little has been released as of this date. Only P2.8 billion will be released.

The schoolbuilding funds are subjected to a 15 percent reserve, and I do not know why. Of course, the CDFs and public works lists of the senators are subjected to a 10 percent reserve. So that when we say we have P18 million, it is effectively only P16.2 million a year.

I wanted to make that clarification right away *dahil baka iyong reserved funds, iyon ang hanapin ng mga recipients. Sasabihin na baka iyon po ang siyang binulsa natin.* That is one cause of misunderstanding because we usually tell the recipi-

ents: "We have submitted to the DBM your request for an allocation of P500,000 for your municipal building." Then the advice of allotment and SARO comes out in the amount of P450,000 because of the reserved requirement. *Kaya kung minsan, baka may impression na binulsa na natin iyong 10 percent.*

On all of these releases, there are corresponding reserved requirements that have been imposed.

Thank you, Mr. President.

**The President.** In the case of the Senate President, the moment he receives a copy of the SARO or the advice of allotment before, copies thereof together with the covering letter are sent to the beneficiaries.

**MOTION OF SENATOR ROMULO  
(Referral of Senator Maceda's Question of Privilege  
to the Committee on Finance)**

**Senator Romulo.** Mr. President, I move that the question of privilege of the distinguished chairman of the Committee on Finance and the related interpellations thereon be referred to the Committee on Finance.

**The President.** Is there any objection to the motion? *[Silence]* There being none; the question of privilege of Senator Maceda, together with all the interpellations thereon, is hereby referred to the Committee on Finance.

**Senator Romulo.** Mr. President, as we had announced at the end of yesterday's session, and again, before the question of privilege was raised, we shall resume consideration of the Anti-Rape Bill. We are still in the period of interpellations.

**BILL ON SECOND READING  
S. No. 950—Special Law on Rape  
(Continuation)**

Mr. President, I move that we resume consideration of Senate Bill No. 950, as reported out under Committee Report No. 78.

**The President.** Resumption of consideration of Senate Bill No. 950 is now in order.

**Senator Romulo.** Mr. President, two of our colleagues have made reservations to interpellate: Senators Webb and Coseteng. May I ask that the Chair recognize first the sponsor of the bill, the Senate President Pro Tempore and the cosponsors, Senators Roco and Santiago, and Senator Webb to interpellate.

**The President.** Senator Shahani is recognized, and Senator Webb is likewise recognized for purposes of interpellation.

#### SUSPENSION OF THE SESSION

**Senator Romulo.** Mr. President, may I ask for a short suspension of the session.

**The President.** The session is suspended, if there is no objection. *[There was none.]*

*It was 6:05 p.m.*

#### RESUMPTION OF THE SESSION

*At 6:07 p.m., the session was resumed.*

**The President.** The session is resumed.

**Senator Romulo.** Mr. President, may I ask that we recognize our distinguished colleague from Iloilo and Quezon City, Senator Coseteng, to take her turn to interpellate.

**The President.** Senator Coseteng is recognized.

**Senator Coseteng.** Thank you, Mr. President. Inasmuch as the latest version was just sent to us recently, the 3:00 p.m. version as of July 31, 1996, the items that I would like to ask are in connection with the previous version. So I would try to jibe it in this particular case.

**Senator Shahani.** Mr. President, just to keep the record straight, our distinguished colleague from Quezon City is referring to a version which we have prepared in advance to reflect the committee amendments. But I think that for continuity, I would suggest that we continue to use the version of June 3, 1996 because that is what we have been using for the period of interpellations. Since the period of interpellations is not yet over, I think our colleague can continue to make her comments and I shall react to them as she articulates them.

**The President.** So the Chair understands that we shall continue to use the version of the bill as of June 3, 1996 as the basis for this interpellation.

**Senator Shahani.** That is correct, Mr. President.

**Senator Coseteng.** Thank you, Mr. President, distinguished sponsor.

On page 1, line 15, may I ask the distinguished sponsor if it would be more specific that we use the terms OFFENDED

PARTY rather than just another person or the "woman" as it shows in line 15.

In a subsequent line, line 16, eventually, we use the word OFFENDER instead of "man". So that throughout the bill, we would be specifying that the person is either the offended party or the offender. If the distinguished sponsor sees the merit, Mr. President.

**Senator Shahani.** Mr. President, I think we have gone over this issue, and as we said, an earlier version was to have a gender-free bill. But I think that would give rise to many complications. I would appeal that we retain the wording. Anyway, we have already changed the wordings of subparagraphs 3 and 4 to accommodate the ambiguity.

**Senator Coseteng.** Mr. President, if I may be allowed to further explain.

When we say the offended party or the offender, there is also no specific gender mentioned. It only further stresses or clarifies the actual role of the person, whether he or she is the offended party, or whether he or she is the offender. So that it is not so much to specify a gender but rather to specify the classification of that particular person.

**Senator Shahani.** Mr. President, I am willing to consider that amendment. But I would still have to see how that will fit in with the other amendments which we accepted yesterday on the basis of the person. We did accept the word "person" rather than the word "offender".

So, I shall accept it, let us say, on a tentative basis, Mr. President. I will see how that will fit into the entire picture when we put all of the amendments together.

**Senator Coseteng.** Mr. President, I also would like to ask if there is, maybe, an acceptable medical term of what we find in line 18 where the word "genital" appears. Perhaps, there could be an acceptable amendment and instead of the word "genital" replace this word with "GENITALIA". Since it is being degenderized, it may perhaps be more accurate.

**Senator Shahani.** Mr. President, I will be willing to search for the right scientific term.

**Senator Coseteng.** Mr. President, may I know if the distinguished sponsor would consider an amendment in Section 5, "Who May File a Complaint?" That a complaint for rape may be filed by any person instead of specifying the relationship.

**Senator Shahani.** May I know how the proposed amend-

ment would read?

**Senator Coseteng.** To read Section 5, line 17 on page 2, Mr. President: "Who May File a Complaint? A complaint for rape may be filed by any of the following individuals:"... and then we have the different descriptions of the individuals.

Mr. President, since it is a crime against person, would the distinguished sponsor consider deleting lines 19 to 30 and instead, under the title "Who May File a Complaint," this be replaced by A COMPLAINT FOR RAPE MAY BE FILED BY ANY PERSON.

**Senator Shahani.** Mr. President, I think that is too vague because the person must know the circumstances. One can make a false report on rape and that would cause complications.

The reason we have made this enumeration is to respect the privacy of the victim and also to keep it within the circle of people who are qualified to handle rape cases or who would have concern for the victim herself. If we would just say "person," it could be any Tom, Dick and Harry, it could be a prank, it could be a trick, and it could be a cause for scandal. Suppose no rape was committed?

Mr. President, maybe our colleague could explain further the reason why she would just like to leave it to any person because I think this is an important issue. I believe that the expansion of the personalities who can report rape cases is precisely an important contribution of this new bill.

**Senator Coseteng.** Mr. President, the reason for this query for a future amendment is that sometimes, the victim herself may not want to tell it to her parents. Perhaps she has a friend, maybe a confidante, and she is not inclined to go to a person of the law, a social worker whom she does not know, but would rather tell somebody else.

I appreciate the reason given by the sponsor. But if the sponsor would not accept "person", perhaps there could be another way by which we do not confine the victim in going to either just her parents, her legal guardian, her grandparents or collateral relatives, an officer or social worker of the DSWD, a duly licensed child caring institute, a home for the aged, an orphanage, a mental hospital or other institutions, or a responsible resident of the barangay who may not be known to the person. It could perhaps be a nun, a friend or a friend of the mother.

Sometimes the victim may not be willing to relate what happened, depending on the support that her family is giving her. It is a fact that some parents are not as open-minded or not as

appreciative or understanding as we would like them to be.

So in the light of all of these situations, perhaps there could be another way for the rape victim to actually come out to complain rather than confining her to the abovementioned persons, Mr. President.

**Senator Shahani.** Mr. President, we shall be willing to accept that since we are not yet in the period of amendments. But we shall see how this will fit into the text which we are at the moment preparing but have not finalized. I would be willing to consider that proposed amendment.

**Senator Coseteng.** Mr. President, I would like to inquire about Section 7, where we have the suspension of certain public officials and employees.

The bill has outlined certain officials. And yet, we feel that if these officials do not move, do not expedite or do not pursue the case strongly enough, there are no adequate penalties against them. I would like to inquire if the sponsor would eventually consider this amendment to Section 7 concerning the penalties for those officers, public officials or employees who fail to perform expeditiously or speedily these above duties.

May I be allowed to suggest, Mr. President, that the penalty of *prision correccional* in its minimum period and suspension be imposed on the superior officer of the respondent public official or employee who fails to perform these above duties. The imposition also of administrative sanctions shall not be a bar to criminal prosecution.

**Senator Shahani.** May we know, Mr. President, where that amendment would come in here? Is it under Section 7?

**Senator Coseteng.** At the end of Section 7, Mr. President.

**Senator Shahani.** Could the lady senator from Quezon City read her proposed text so we can follow her thoughts better?

**Senator Coseteng.** THE PENALTY OF *PRISION CORRECCIONAL* IN ITS MINIMUM PERIOD AND SUSPENSION SHALL BE IMPOSED UPON THE SUPERIOR OFFICER OF THE RESPONDENT PUBLIC OFFICIAL OR EMPLOYEE WHO FAILS TO PERFORM THE ABOVE DUTIES, AND THE IMPOSITION OF ADMINISTRATIVE SANCTIONS SHALL NOT BE A BAR TO CRIMINAL PROSECUTION.

**Senator Shahani.** I think that would be a useful addition, Mr. President. In fact, if I remember, that point was brought up yesterday during the period of interpellations.

**Senator Coseteng.** Mr. President, under Section 8. PROTECTIVE MEASURES, may we know if the distinguished sponsor would be willing to include the following:

“SEC. 8. PROTECTIVE MEASURES. At any stage of the preliminary examination or investigation, prosecution and trial of a complaint for rape, the following rules shall be observed AND COMMUNICATED TO THE OFFENDED PARTY IN A LANGUAGE OR DIALECT KNOWN OR FAMILIAR TO HIM OR HER.”

Subject to style, Mr. President.

**Senator Shahani.** I believe that would be a useful addition, Mr. President.

**Senator Coseteng.** Thank you, Mr. President. On page 6, line 17, concerning the Rape Crisis Centers. Since the victims are not alone in the trauma that they suffered or experienced, and that their families, relatives and parents somehow also have to be guided as to how to accept this crime that was committed against their loved one, their daughter or a member of their family, would the distinguished sponsor consider that the families of the rape victims, apart from the victims themselves, also be included in the provision for psychological counseling, medical and health services when the time comes? Just to include their families instead of just providing this service for the rape victims alone.

**Senator Shahani.** I think that is acceptable. But, maybe, that should belong to a separate paragraph because the nature of counseling and medical services will be quite different.

I am just thinking of the cost and the competition. But I would accept the provision of services to the families.

**Senator Coseteng.** Thank you, Mr. President. Under Section 15, we immediately go to the repealing clause. But it did not seem like there is any section providing for appropriation for these rape crisis centers.

May I know if the distinguished sponsor would consider a new section to provide funding for these rape crisis centers so that the funds could be sourced from the respective budgets of the Department of Health, the Department of Social Welfare and Development, the Department of the Interior and Local Government, and the Department of Justice? And if there is any deficiency, the same could be augmented from available funds as certified by the National Treasury.

**Senator Shahani.** Mr. President, that is a very important observation. The reason why we were not able to put this in was

that there was no time or opportunity to consult more closely with the departments concerned. But this morning, we were able to talk with Secretary Laigo, and she mentioned the amount of P60 million which, maybe, could be the amount appropriated for the first year of the implementation of this bill, although the P60 million is only envisaged for the Department of Social Welfare and Development.

We were not able to get any amount from the other departments, but there is going to be a section on appropriations. This will require a few more consultations, but we will come up with an appropriate text.

**Senator Coseteng.** Thank you, Mr. President. Would the sponsor consider a section concerning the qualification of the lead nongovernment organization? Because the lead NGO as referred to in Section 14 has to be further qualified. If I may propose Section 16:

SECTION 16. *QUALIFICATION OF LEAD NGO.* - THAT THE LEAD NONGOVERNMENT ORGANIZATION REFERRED TO IN SECTION 14 OF THIS ACT SHALL BE JOINTLY CHOSEN BY THE DSWD, THE DOH, THE DILG, AND THE DOJ BASED ON PROVEN TRACK RECORD OR EXPERIENCE IN HANDLING SEXUAL ABUSE VICTIMS AND THAT THE GUIDELINES AND DETAILS ON THE CRITERIA AND THE PROCESS OF SELECTION SHALL BE JOINTLY FORMULATED AND IMPLEMENTED BY THE ABOVEMENTIONED AGENCIES.

In some situation, Mr. President, this could be found in the implementing rules and regulations. But in other situations, we find that government does not come up with very clear guidelines on the identification of nongovernment organizations to the point that some NGOs that have been around, maybe, for 10, 15 or even 20 years, are not involved in this activity. In some situations, new NGOs are formed and are given funding.

So, since we have already this piece of legislation in the process, I think those who have pioneered and those who have spearheaded the activities even before it was, shall we say, fashionable or even before it was popular to do so, should also be given some credit. Some of them do things very quietly; they do not seek publicity. Sometimes, they do not even know where to go, but they have been around for some time. I think these NGOs should be given due recognition because they had, in their time, filled that vacuum, when they were there for the rape victims to go to, government was not able to address these problems.

**Senator Shahani.** Yes, I think, that would be a useful explanation, Mr. President. I was going to say that that could

really come under the implementing rules and regulations. But considering the fairly specialized type of work which these NGOs will have to do, I believe that paragraph, as pronounced by our colleague from Quezon City, would be a useful addition to the text of the bill.

**Senator Coseteng.** Thank you, Mr. President. May I also seek clarification in lines 22 to 24 on page 1 and lines 1 to 5 on page 2 concerning the issue of marital rape? Perhaps in this section, Section 2, we could find a way—if it would be acceptable to the sponsor—to specify clearly that if the offender and the offended party get to marry each other because either the parents forced them to do so, this shall not be a legal impediment to the filing of a complaint for rape as defined in Section 2, numbers 1 to 4. Because traditionally, the thinking is that if one marries the rapist, it extinguishes the crime. But, in effect, it is trying to right a wrong with another wrong by forcing a girl or a woman to marry the person who has violated her person. But we have heard of many cases whereby parents even would force their daughters into marriage simply because they have been raped either by a boyfriend or by somebody else. Perhaps, subject to style, I think our distinguished sponsor would be in a better position to word this to be able to produce the desired effect.

**Senator Shahani.** Mr. President, I take it that our colleague from Quezon City is specifically referring to lines 22 to 24 of page 1. In view of the fairly lengthy debate which took place on marital rape, the sponsors, in consultation with each other, have decided not to put any conditionalities on marital rape.

We are proposing that the matter of marital rape be couched in this language: "The fact alone that the offender is the lawful husband of the offended party will not negate the commission of the offense." We believe that this is clear and comprehensive enough for interpretation of conditions and situations which might take place under the matter of marital rape.

**Senator Coseteng.** Just to clarify, Mr. President. What if the rape happened when both the offender and the offended party were not married yet. In other words, the point I was trying to make earlier was that if a victim is forced into marrying her rapist.

**Senator Shahani.** That is not marital rape.

**Senator Coseteng.** No, Mr. President.

**Senator Shahani.** Is the lady senator referring to another paragraph of the text, Mr. President?

**Senator Coseteng.** Mr. President, it is not found in the text. I was just asking if the honorable sponsor would consider this

particular situation where a parent would sometimes force her own daughter into marrying her offender. And when that situation arises, the marriage between the offender and the offended party ought not to be a legal impediment to the filing of a complaint for rape as the marriage would extinguish the crime of rape that was committed beforehand. Perhaps, the legal staff could think of a way to word this.

**Senator Shahani.** Mr. President, if our distinguished colleague could help us draft that, then we can see where it would rightfully belong. I think we can consider that within the context of the amended text of the bill under discussion.

**Senator Coseteng.** Mr. President, I can only phrase it very simply. There may be a better or a more legalistic way of phrasing it. My intention really is just to stress the point that sometimes, people think that the crime of rape could be extinguished and would no longer be punishable by law because the victim and the offender have already gotten married after the commission of the crime.

Perhaps it could simply be stated that a subsequent marriage or an eventual marriage between the offender and the offended party should not be a legal impediment to the filing of a complaint for rape.

**Senator Shahani.** Mr. President, I will be willing to entertain that, subject to the amended version which we shall be working on.

**Senator Coseteng.** I would like to thank the distinguished sponsor for her positive response on the suggestion, Mr. President.

**Senator Shahani.** Mr. President, I would like to thank our colleague from Quezon City who, I know, is a feminist. I am glad she was able to make her contribution to this important bill under discussion.

**Senator Romulo.** Mr. President, for the next interpellations, may I ask that our colleagues, Senator Mercado and Senator Webb be recognized, in that order.

**The President.** Senator Mercado is recognized.

**Senator Mercado.** Mr. President, I thought I have terminated my questions on this particular measure which I fully support, but I am in receipt of two letters, one from the Democratic Socialist Women of the Philippines, seeking our support on this particular measure.

I went through the provisions that they are concerned about.

I believe they are already taken care of in this bill. But a particular provision on protective measures for rape survivors caught my attention.

The reason why this became significant to me was that I received also on the same day a rather touching and moving letter which illustrates the need for a protective mechanism for victims even after they have filed the case.

If I may, I would like to read a few paragraphs of this particular letter to illustrate the situation which, I believe, we have not fully addressed in the bill.

The letter is dated July 22, 1996. I received this yesterday. It came from Davao City. It says:

Dear Orly,

Forgive me if I shouldn't have addressed you so familiarly, you now being in the Senate. I hope you remember the Karen Tayag who was your staff assistant once upon a time in the 1970s when we went all over the country as part of a training team of the KBP conducting programs for announcers. We were with Raul Panares, Tina Monson-Palma, Pax Maghacot, Tony Barreiro, Tony Frio of UPLB and Roger Cuyno also of UPLB.

I am now Karen Vertido. I married Dam Vertido of Davao and we moved here in 1988. We have a 17-year old son and an 11-year old daughter. You may remember that in 1989 or 1990, we saw each other during a hearing facilitated by DTI here in Davao. In 1994, I was employed as Executive Director of the Davao City Chamber of Commerce and Industry, Inc. I have held the position since then.

On March 29, 1996, Jose Bautista Custodio, a president of the Davao Chamber in 1972, raped me. He called me at his office late afternoon that date to try to convene the officers of the chamber for a dinner meeting he was hosting for the Trade Minister of Malaysia, the Ambassador of Malaysia and a couple of businessmen from the same country. He also insisted that I be present to take care of details about any negotiations that may come of that meeting.

After dinner, he offered to take me home. He was with Jose "Pepe" Morada, another Davao businessman, and I estimate this man to be in his late 60s. The other option being to take a cab going home alone, I accepted what I thought was a kind offer by two elderly gentlemen

to see me safely home.

Mr. Custodio told me that he lives in a subdivision near where I live so we took Mr. Morada home first. After that, backtracking downtown towards where I live, he drove without warning into a motel. I struggled with him nearly causing the car he was driving to ram into a concrete wall of the motel but to no avail. Despite my pleas and resistance, he dragged me into the motel room and raped me.

Since then, I filed a complaint against him and charged him with rape. Today is the 90th day since the panel of fiscals was created to investigate the case, supposedly the last day they have set to come up with a decision whether or not to elevate the case to the RTC. But even as I write this (10:00 p.m.), we have had no word.

Even now, I do not know what drove me to file charges even knowing my family, if we accumulate all our resources, will not be able to come up with anything near those of the rapist's to fight him in court. I only know that I have been subjected to the most horrible experience of my entire life of which I thought was going to be my last night on earth. I only knew outrage, shame and all the feelings I cannot describe to you.

After all is said and done, what little courage I had, if it can be called that, despite the terror, stemmed from knowing that I tell the truth. I guess being an alumna of the IMC-UP has its merits.

And she talks about Maritess Vitug, a columnist who picked up the local headlines in Davao, and since then the case has attracted national attention. She says:

Filipina and UP WILOCI also took up my case *pro bono*, thank God, or I would not have a chance in this legal battle. I wonder if you have come across any of the media reports.

And she talks about reports of the *Philippine Daily Inquirer*, Randy David featuring it, Cheche Lazaro and Rina Jimenez David in the newspaper. To continue:

The national media have been sympathetic and sensitive. But the local media have been like vultures feasting on me as they would on a carcass. Some media friends have confirmed that the rapist has been generous with his friends which isn't exactly surprising but, nevertheless, devastating. As if being raped once is not

enough, I get raped everytime I am maligned. The rapist's defense of my having consented to a night of mutual infidelity and my being emotionally 'unstable' and my being like a sexual hound who cried rape just because I said I was not satisfied with his sexual performance are played up as my motive for crying rape and filing charges. None of them have asked the most obvious question—Why would I subject my family, myself, to such horrendous, continuous trauma in fabricating such a story? What would I gain? I have lost my livelihood, my comfortable anonymity. My children are separated from their parents for the first time in their lives. We are all undergoing psychiatric therapy as a result of this violation of my person. And worst of all, he has instilled in me a terror that won't go away. Since this has happened, we have also confirmed that I am not the last victim.

And she makes an assertion about the alleged rapist. I have read portions of this particular letter to give us a very clear picture of a rape victim after the case has been filed. This case has not reached the Regional Trial Court. Her family is in shambles. Livelihood is lost. While she has a lawyer *pro bono*, she is willing to do battle.

She ends by asking me for help. She says:

The news said that the amendments to the rape bill is going to be one of the high priority agenda items in the Senate. Please protect all other women from this kind of violation. I found out firsthand that rape isn't only a violation of a woman's body and her person. It is a violation of a family. I prayed and pray today that I shall be the last rape victim ever. But I guess that's wishful thinking.

Orly, please help amend the rape bill. Don't make it easy for rapists to get off the hook, especially those who have money and power. He used it once to rape me and it is being used now continuously to discredit me.

Mr. President—I have reviewed the provisions of the bill—how can we help the rape victims? Because although there are provisions for a rape center in the bill, it does not address this particular unique circumstance under which this rape victim, Karen Tayag Vertido, finds herself in.

**Senator Shahani.** Mr. President, I am indeed very happy that the issue of Karen Vertido has figured again in this debate. I mentioned her case in my sponsorship speech to show the rampant cases in our society today. This letter read to us into the *Record* this evening is an eloquent testimony of the agonies

and pains of the rape victim herself.

Of course, in Section 14, there is mention of the Rape Crisis Center. There is a general provision about providing rape victims with psychological counseling, medical and health services, including their medico-legal examination.

Now, I think what our colleague is saying is that this could be a medical assistance, and I think we could improve on this general provision. As I said during the interpellation of Senator Coseteng, we should indeed have a separate subparagraph on the counseling and treatment of the families of rape victims themselves.

It is a little problematical, Mr. President, to maybe go too much in detail. And I would be the last person not to make this as full as possible. But psychiatry in our country is not really very well advanced. There are 250 psychiatrists for 70 million Filipinos. That is the fact of it.

Of course, it can also be a very expensive treatment. I mean it is not the kind of thing like when one takes this diarrhea pills and so on. It is time-consuming. We really have to have very highly skilled psychiatrists to deal with trauma of rape victims. But I shall be willing to expand, maybe, have a provision on medical schools in this country training more people or more doctors in this area, although we already have training of social workers to deal with rape victims, Mr. President.

**Senator Mercado.** Mr. President, one of her complaints is the fact that it has been 90 days since a panel of fiscals was created to investigate the case, supposedly, the last day they were to decide whether or not to elevate the case to the Regional Trial Court.

Maybe we should leave this also to the lawyers who are familiar with legal procedures. I do not know the nature of the delay. Of course, in such cases, there can be valid reasons that can be used as an excuse.

Now, is there a mechanism by which we can have some deadlines? We hope the prolonged trial and the postponement of the trial becomes a mechanism utilized by the rapist to make sure that a psychologically-damaged and troubled victim will, one day, just give up and just throw the towel in. It is one of the complaints that she has made that has caught my attention, Mr. President.

**Senator Shahani.** That is correct, Mr. President. I think the Karen Vertido case is interesting in the fact that there is more national interest in it. But in Davao, there is really dead silence, maybe because the networking of the officials concerned is more effective there.

Under the present regulations, Mr. President, preliminary investigation under the fiscal's office should be terminated within 90 days from the date of filing. And if it is not terminated, they are subject to administrative sanctions. But as Karen Vertido says, it is more than 90 days.

So, as we listen to the suggestion of Senator Coseteng under Section 7, Mr. President, we could place there certain sanctions if the duties which we enumerated are not implemented during the time that they should be. I believe we could add that. There was a language already suggested by Senator Coseteng:

**Senator Mercado.** We will look at it, Mr. President, and we appreciate the fact that all efforts are being done to make sure that rape victims—even after they have filed the case—are being assisted by this particular measure.

Thank you very much, Mr. President.

**Senator Shahani.** Thank you, Mr. President.

**Senator Romulo.** Mr. President.

**The President.** The Majority Leader is recognized.

**Senator Romulo.** May I ask that our distinguished colleague from Parañaque and Las Piñas, Sen. Freddie Webb, be recognized.

**The President.** Senator Webb is recognized.

**Senator Webb.** Mr. President, I would like to ask some questions so that I could be enlightened. But certainly, I wanted to make it of record that I am in favor of this particular bill.

Mr. President, will this proposed bill be a special law or will this be an amendment to the provision of the Revised Penal Code?

**Senator Shahani.** Mr. President, in the light of the debate which has taken place in this Chamber, the sponsors have decided that this will be a bill which would amend the Revised Penal Code and will no longer be a special law on rape. The sponsors decided this because it would retain the criminal intent of the offender. I believe that the prosecution of the offender would be more effective and more efficient if it was a revision of the Revised Penal Code.

**Senator Webb.** I remember, Mr. President, that the same provision, namely Article 335 of the Revised Penal Code, was amended during the Ninth Congress and the law is now Republic Act No. 7659 or the Heinous Crimes Law.

In the said law, Mr. President, the penalties provided are three: *reclusion perpetua*, *reclusion perpetua* to death, and death. The imposition of any of these penalties depends on the attendant circumstances.

If we look at the bill, Section 11, there are actually three aggravating circumstances. Can we not—as a suggestion—incorporate the other circumstances provided in Section 11 of Republic Act No. 7659 of the proposed bill?

I am proposing this, Mr. President, because rape is often accompanied also by some other perverse, wicked, ambitious acts which should be regarded as aggravating.

These circumstances enumerated in Republic Act No. 7659 are comprehensive enough to cover perverse or wicked acts that may be regarded as aggravating. This is a suggestion which I would have particularly in the period of amendment, Mr. President.

**Senator Shahani.** Mr. President, I think that is very useful. I would like to inform our distinguished colleague that, in consultation with the other sponsors, we have already decided to include the aggravating circumstances in Republic Act No. 7659 and add those enumerated in the present version of this bill.

**Senator Webb.** I thank the lady senator for that, Mr. President.

Mr. President, on page 5, lines 1 to 10, in relation to page 4, lines 26 to 27, what is the effect of the presence of any of the circumstances mentioned in Section 11 to the penalty of the crime on Section 10?

**Senator Shahani.** Mr. President, it would warrant the maximum penalty, and that is the penalty of death.

**Senator Webb.** Mr. President, suppose the circumstances that are mentioned in Section 11 are all present but the offender is entitled to a privilege mitigating circumstance, will the penalty be imposed also?

Let me cite an example. For instance, if the offender is below 18 years old, will the penalty be the same? Or will the penalty be lower by one or two degrees?

**Senator Shahani.** Mr. President, since we are reverting to the revision of the Penal Code, both the mitigating circumstances and the aggravating circumstances will apply in this case.

**Senator Webb.** In short, the penalties in the Revised Penal Code will also be incorporated.

**Senator Shahani.** That is correct, Mr. President.

**Senator Webb.** Mr. President, may I go back to page 2, line 2. I would like to ask, what does the term "commission of the act" refer to? Does it refer to the enumerations found in lines 1 to 4 of the same Section 2, or does it refer to the term "carnal knowledge" which is found in line 24 of page 1?

**Senator Shahani.** Mr. President, during the interpellation, we decided to delete the conditionalities of marital rape. For the information of our colleague, lines 1 to 5 of page 2 have been deleted as well as the end of lines 23 and 24.

This will be during the period of amendments. The debates did show that it could be too complicated with the conditionalities, but marital rape would refer to the other paragraphs contained in Section 2.

**Senator Webb.** Mr. President, is the lady senator saying that from lines 1 to 5, all of these will now be deleted?

**Senator Shahani.** That is correct, Mr. President.

**Senator Webb.** Because my intended question was going to dwell on that particular subject, but I will not pursue it anymore because it will be deleted at the proper time.

I would like to ask the lady senator. I am not sure particularly on page 4, lines 12 to 25 of Section 9. I would like to ask, Mr. President, because I am not really sure whether we as members of Congress have the power to promulgate on evidence. I know for a fact that this can only be done through the Supreme Court. May I get the opinion of the distinguished senator so that I can be guided, Mr. President?

**Senator Shahani.** Mr. President, I believe that the thinking among our colleagues is that, yes, we can do it also by legislation. And I would like to also inform our colleague from Parañaque that Section 9 has been considerably amended because it really gave rise to a lot of debates, so that there is a new paragraph entitled "Presumptions." If our colleague is interested, I could read the new text which we shall be proposing in the light of the lengthy debate involving this topic, Mr. President.

In this section on Presumptions, this is the proposed text of the sponsors:

ANY OVERT ACT MANIFESTING RESISTANCE AGAINST THE ACT OF RAPE IN ANY DEGREE FROM THE OFFENDED PARTY OF WHERE THE OFFENDED PARTY IS SO SITUATED AS TO RENDER HIM OR HER INCAPABLE OF GIVING VALID CONSENT SHALL BE

PRIMA FACIE EVIDENCE OF THE ACTS PUNISHED UNDER ARTICLE 266-A OR COMMITTED AGAINST THE WILL OF THE OFFENDED PARTY.

I think this is how it would read now, Mr. President.

**Senator Webb.** Mr. President, with this, I would like to end my interpellation, and I would like to thank the distinguished sponsor for her patience. Thank you, Mr. President.

**Senator Romulo.** Mr. President.

**The President.** The Majority Leader is recognized.

**Senator Romulo.** Since there are no more reservations for interpellation, may I pose one or two questions to our distinguished sponsor, if she would so yield?

**Senator Shahani.** Certainly, Mr. President. We hardly hear the Majority Leader during the period of interpellations, and I would be happy to hear his questions.

**Senator Romulo.** For lack of time, Mr. President, we generally do not interpellate. But since the interpellation on this bill has been ongoing for some time, and there has been a lot of discussions on vital points, I just want to zero in on what is now the qualification, if any is still existing, in the case of marital rape or if there is force between husband and wife.

**Senator Shahani.** Mr. President, we will remember that this was the subject of lively debates among our colleagues, where there were instances where it would be really difficult to prove that there was marital rape. So we have decided that on page 1, in lines 22 to 23, we will retain the wording, "the fact alone that the offender is the lawful husband of the offended party will not negate the commission of the offense."

**Senator Romulo.** That is correct. Is the qualification that rape cannot be committed by a husband against the wife, unless they have been separated for a certain number of years, no longer present in the bill that we are considering?

**Senator Shahani.** As of tonight, Mr. President, yes, we have removed the conditionalities but it does not mean that that reason cannot be brought up.

**Senator Romulo.** During the period of amendment. But as far as our distinguished sponsor is concerned, she has agreed during the period of interpellations that as long as there is force, then that would be a ground for rape by a wife against a husband?

**Senator Shahani.** That is correct, Mr. President.

**Senator Romulo.** So that the other conditions that are existing, HIV, separation, as far as our distinguished sponsor is concerned, should no longer be there? No more conditionalities?

**Senator Shahani.** That is also correct, Mr. President.

**Senator Romulo.** May I also ask, Mr. President, if this legislation conforms with the progressive legislation on this issue in other countries, say, in the countries under the European Union?

**Senator Shahani.** I believe so, Mr. President. I mean, the fact that we are reclassifying it as a crime against the person and not against chastity, we have now removed ourselves from the list of nations which would be quite backward in that regard. The portions on, "Who may file a crime against the offender" also expand the number of people who can report rape cases. I think the psychosocial dimensions of the bill is also new—progressive jurisprudence, Mr. President.

I believe tonight's debate was very useful and even widening the issue of rape and really making it a public concern, instead of just a private tension between the offender and the victim. The fact, Mr. President, that we can talk about rape which is an intimate crime, but at the same time should be a concern not only of the families and the doctor, but of the community, and indeed, of the country, is a very big advance step because violence against women is now being brought out of the bedroom into the public forum. I think this could be the significance of the rape bill.

**Senator Romulo.** Mr. President, is it not true that in many instances of violence against women, what we called "battered women," that a large part of this is really rape as would now be defined under the law?

**Senator Shahani.** That is correct, Mr. President. But of course, in rape, it is the private parts which are violated.

**Senator Romulo.** That is correct. Yes, as defined in the law?

**Senator Shahani.** Yes, that is correct. And as I said, it is not only an advance in jurisprudence, but also an advance in our concept of what women's rights are all about.

**Senator Romulo.** To end this debate, it is very clear that for a husband to be charged with committing rape against the wife, there are no more special qualifications. All that is required is that there is force, period.

**Senator Shahani.** There is force, and if I might add, because the couple are married—I have talked to some women and they said that if it is a pattern, if there is a repetition, I think that would eventually lead the wife to file charges.

**Senator Romulo.** Mr. President, I am satisfied with the response of our distinguished colleague.

Mr. President, since there are no more interpellations, I move that we close the period of interpellations.

**The President.** Is there any objection? [Silence] There being none, the motion is approved.

#### SUSPENSION OF THE SESSION

**Senator Romulo.** May I ask for a short suspension of the session, Mr. President.

**The President.** The session is suspended, if there is no objection. [There was none.]

*It was 7:15 p.m.*

#### RESUMPTION OF THE SESSION

*At 7:17 p.m., the session was resumed.*

**The President.** The session is resumed.

**Senator Romulo.** Mr. President, after consultation with our colleagues, we shall have the period of amendments on Monday next week.

#### SUSPENSION OF CONSIDERATION OF S. NO. 950

Mr. President, I move that we suspend consideration of Senate Bill No. 950.

**The President.** Is there any objection? [Silence] There being none, the motion is approved.

**Senator Romulo.** Mr. President, as discussed yesterday in the constitution of the Committee of the Whole, as well as the agenda and calendar for the meetings of the Committee of the Whole, the said committee will start its hearings tomorrow, Thursday, at nine o'clock here in the session hall. The other mechanics have already been explained during the meeting of the Committee of the Whole. I merely mentioned this because I am going to move that we would adjourn this session until Monday at four o'clock in the afternoon.