



THE IBP NEWSLETTER

OFFICIAL PUBLICATION OF THE INTEGRATED BAR OF THE PHILIPPINES
15 J. Vargas Avenue, Ortigas Center, Pasig City

Vol. 5 No. 2

Special Convention Issue - March 2007

CJ Puno Warns of Social Powderkeg in Keynote Speech

Chief Justice Reynato S. Puno yesterday warned that the failure of the country to address chronic poverty is creating a social powderkeg that society may not be able to contain. The gap between the haves and the have-nots, has worsened since 1961, he said, quoting a study conducted recently by former NEDA secretary Cielito Habito.

In his keynote speech delivered before the 11th National Convention of the Integrated Bar of the Philippines held at the Atrium at Limketkai, Cagayan de Oro City, the Chief Justice affirmed the IBP's call for resilience in the struggle for the human rights of citizens and in ameliorating the plight of the poor.

The Chief Justice described the country's current economic plight bemoaning the "virtual powder keg" that is the widening gap between the haves and have-nots in a country where the combined income of the richest 1% of the population comprising 1,500 families is equal to that of the 38% of the poorest, comprising six million families. The spreading culture of violence and crime seen in the hostage crisis involving children of a daycare center has not spared even the Judiciary where 13 judges have been recently assassinated. The Chief Justice likewise assailed the country's deteriorating ecology resulting in environmental problems including the shortage of water, "the liquid of life", among others.

The Chief Justice said that the resilience required presupposes not just patience "but patience with persistence and persistence with puissance." He stressed that since the battle for civil and socio-economic rights and better ecology is never-ending, it can only be won by those who "overwork their sweat glands" and "who are willing to do more than the necessary," in short by those who persevere.

Ethnic Themes Cap Opening Day Activities

The opening day's proceedings started with a tribal song and dance presentation by members of the Manobo tribe from San Fernando, Bukidnon and a dance by Mindanao Polytechnic State College dance troupe. This was followed by the Entrance of Colors by the Capitol University Regimental Corps of Officers; the entrance of the various IBP officials and the Chief Justice; the Welcome and Symbolic Presentation of the Keys to the City of Cagayan de Oro and the Province of Misamis Oriental and the Unveiling of the Treasures of Cagayan de Oro; and the Audio Visual Presentation of the IBP President's Report. (GSG)

Right: Senator Edgardo J. Angara yesterday night delivered the principal address at the opening night fellowship. The former IBP President and re-electionist senator stressed the importance of education, health and agriculture in the legislative agenda. Angara authored key reform legislation in education, agriculture, health (Philhealth Law) and the elderly (the Senior Citizen's Act) during his stint as Senate President and Senator and vowed to continue to sponsor meaningful bills in the areas of economic and social reform and in social justice and human rights.

SEN. ANGARA ADDRESSES 11TH IBP CONVENTION DELEGATES



Convention Participants Celebrate and Rekindle in Pre-Convention Tee-Off

Proving that not everything necessarily has to be started on a cold and somber note, the participants in this year's national convention engaged in a "Pre-convention" program at the picturesque Pueblo de Oro Golf and Country Club, along the Airport Drive in Cagayan de Oro City. Held the day before the convention proper, 28 March 2007, participants were given the chance to exercise their golf swings

while enjoying the warm reception of the host chapter.

The day started early, with registration opening at 7:30 a.m. The opening ceremonies were presided by the welcome remarks of Atty. Erasmo Damasing, Past President of the IBP Misamis Oriental Chapter with Dean Rufus Rodriguez leading the oath of sportsmanship along with Attys. Theresa Blanco, Marc David Evangelista and Virgilio Cabanlet. The

ceremonial Tee-Off was led by Congressman Constantino Jaraula of the Lone District of Cagayan de Oro City and Justice Rodrigo Lim, Jr. of the Court of Appeals – Mindanao.

All in all, it was a fun-filled day of a friendly round of golf interspersed with abundant opportunities for camaraderie and rekindling friendships between IBP members hailing from all parts of the country.

**Integrated Bar of the Philippines
11TH NATIONAL CONVENTION
OF LAWYERS
SPORTS ACTIVITIES
Pueblo Golf and Country Club
March 28, 2007**

BADMINTON

Doubles Men

1st Place : Robert Lo Elango
Alvyn Lopena
2nd Place : Leo Paolo Perez
Harry Adaza

Doubles Women

1st Place : Hazel Perez
Teresa Blanco
2nd Place : Pinky Grace Pabelic
Ma. Theresa

Camannong

Mixed Doubles

1st Place : Leo Paolo Perez
Hazel Perez
2nd Place : Adlai Elizaga
Pinky Grace Pabelic

BASKETBALL

Champion : Misamis Oriental
Team A
1st Runner Up : Davao
2nd Runner-Up : Iloilo

FUN GOLF TOURNAMENT Pueblo Golf and Country Club March 28, 2007

GOLF

Over-All Lowest Gross	Alphon Lagamon	80
Over-Lowest Net	Homer Maballe	70

Class A

Champion	Rami Guiling	72 - won by countback
1st Runner-up	VJ Cabanlet	72 - won by countback
2nd Runner-up	Edipolo Sarabia	72 - won by countback
3rd Runner-up	Glenn Cabañez	72-won by countback

Class B

Champion	Mateo Delegencia	72-won by countback
1st Runner-up	Pacaambung Macabando	72
2nd Runner-up	George Jularbal	73
3rd runner-up	Junie Leoterio	74

Class C

Champion	Sam Tahir	74
1st Runner-up	Sodusta	75 - won by countback
2nd Runner-up	Jose Gangan	75
3rd Runner-up	Alesandro Cobol	76

Class D

Champion	Abubakar Barmbangan	76
1st Runner-up	Romaradan Macabantog	78
2nd Runner-up	Renato De Pano	80 - won by countback
3rd Runner-up	Rommel Cubello	80

Longest Drive - Hole no. 3

Jose Carlito Montenegro - 240 yards

Most Perfect Drive, Nearest to the Line - Hole no. 8

Renato De Pano - 2 - yards

IBP National Convention Opening Ceremonies

The 11th National Convention of Lawyers opened with much pomp and pageantry at the LKKS Atrium, Cagayan de Oro City. No less than Chief Justice Reynato S. Puno gave the Keynote Address.

IBP National Officers led by IBP National President Jose Vicente B. Salazar were in full force as the bi-annual event unfolded.



Chief Justice Reynato S. Puno delivers his keynote address to the Convention delegates.

Giving a warm welcome to more than 1,100 delegates from all over the country were Vice Mayor Michelle T. Spiers, in behalf of Cagayan de Oro City and Governor Oscar Moreno, in behalf of the province of Misamis Oriental.

Part of the brand opening ceremonies was the unveiling of two huge tarpaulin showcasing what Cagayan de Oro and Misamis Oriental has to offer to its guests.

The colorful attire of some local delegates and the ethnic-inspired ensembles of some

national officers added to the warmth and uniquely Mindanaoan atmosphere of the three-day convention.

But for all its choreographed beauty, the program's most poignant moment was the speech of Chief Justice Reynato S. Puno elaborating on the theme: "Lawyers and the Law: resilience Amidst Trying Time."

The head of the highest magistrate of the land underscored the country's sorry state which makes the term "trying times" appropriately. He cited poverty, environmental issues, threats to local and world peace and even lack of spiritual upliftment as causes of the current state of the nation.

Despite the adversities however, he so eloquently encouraged everyone to press on. To keep on doing more than what is necessary, even as others quit.

Quoting Alexander the Great's famous words "I persevered" when he explained how he conquered all, the Chief Justice ended his message with an inspiring note: "It is the resilient who will prevail." / *Zeny Padero, IBP Misamis Oriental*



IBP National President Jose Vicente B. Salazar, joined by the IBP Board of Governors and IBP Misamis Oriental Chapter President Waldo G. Rebolos, gives a token of appreciation to Chief Justice Reynato S. Puno. The token - a framed miniature gong and beadwork necklace, mounted on a bed of native handwoven "buntal" grass mat from the town of Lagonglong, depicting the mixed culture of Northern Mindanao; and the unique wrapper - handmade paper of "salay", made out of cogon, abaca and pineapple fibers decorated with two bands of sinamay ribbons, several fossilized leaves with an accent of silkworms cocoons used in production of Mindanao silk, from the town of Lagindingan, Misamis Oriental.

As Lawyers, Our Duty is to Uphold the Rule of Law

(Speech of Sen. Nene Pimentel, Senate Minority Leader, at the Integrated Bar of the Philippines, 11th National Convention of Lawyers March 29, 2007, Cagayan de Oro City)



There are two things I want to share with you this afternoon.

The first has to do with the recently approved Human Security Act. The second is about the elections.

The reason I limit my talk to these two topics is that either or both have the potential to wreck havoc on the lives of our people in the short run.

Improperly implemented, the Human Security Act of 2007 could be an instrument of State terror to oppress our people especially the less connected.

Improperly conducted, the elections in May 2007 could trigger an upheaval in the country.

The Human Security Act

The Human Security Act was signed by the President as Republic Act No. 9372 on March 6, 2007.

The Act now has 62 sections. as Senate Bill No. 2137, it had only 53 sections.

I submitted over a hundred amendments – some in written form, other verbally made on the floor of the Senate. About 97 % percent of the amendments was accepted, the amendments are now embodied in the Act.

In effect, there is hardly any section that does not bear the imprint of the amendments that I introduced.

Security & Liberty

I will not mention all of them. We do not have the time for that. I will just say that all the amendments I introduced are designed to make the Act provide security for our people and country against terrorism but at the same time uphold the rights and secure the liberties of our people.

Nonetheless, the Act has some inherent defects. For example, it does not define what terrorism is. It merely makes

it illegal for persons to commit six offenses already punished in the Revised Penal Code and six other crimes already penalized in special laws on martial law decrees* if done to sow panic in a community.

These criminal acts are punished in the HSA under two categories:

1. the crime of terrorism, and
2. the crime of conspiracy to commit terrorism.

Both are punished with a single and indivisible penalty of 40 years of imprisonment.

During the debates on the Bill, I argued that there was no need to punish again what is already penalized in existing laws. To no avail.

Some apprehensions

To confess, I am apprehensive that some sections may be abused but the powerful and used as instruments of State terrorism against the powerless. Here in a birds-eye view are Sections that may unsettle the people because the allow law enforcement agents:

1. to place a terror suspect under surveillance (Section 7);
2. to arrest and detain terror suspects without warrants (Section 18);
3. to examine a terror suspect's bank deposits and financial papers (Section 27); and
4. to seize, sequester and freeze bank deposits, financial papers and properties of all kinds or nature of terror suspects (Section 39).

Let us discuss them briefly one at a time.

I. **Under Section 7**, when the law enforcement agents place a terror suspect under surveillance, they may use the most sophisticated gadgets available in the market like the so-called

* the six offenses in the Revised Penal Code are: Piracy in Article 122 (Piracy in General and Mutiny in the High Seas or in the Philippine Waters); Article 134 (Rebellion or Insurrection); Article 134-a (Coup d'Etat), including acts committed by private persons; Article 248 (Murder); Article 267 (Kidnapping and Serious Illegal Detention); Article 324 (Crimes Involving Destruction,

* the six crimes in special laws and martial law decrees are: Presidential Decree No. 1613 (The Law on Arson) ; Republic Act No. 6969 (Toxic substances and Hazardous and Nuclear Waste Control Act of 1990); Republic Act No. 5207, (Atomic energy Regulatory and Liability Act of 1968); Republic Act No. 6235 (Anti-Hijacking Law); Presidential Decree No. 532 (Anti-piracy and anti-highway robbery Law of 1974); and, Presidential Decree No. 1866, as amended (Decree Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives).

Magic Lantern and the Carnivore to search the suspect's written communications and tap his or her (verbal) conversations. And they can do the surveillance without the person being made aware in the slightest of the search and tapping going on in the innermost recesses of his or her home or office or places of leisure, even.

Perhaps, one saving grace is that the law enforcements cannot simply do the surveillance but their own authority and discretion.

Judicial approval

They need judicial approval to begin the surveillance. And not just any judge would do. They have to apply for permission to do so with the Supreme Court designated-division of Court of Appeals. Not only that. The basis for the authority to surveillance a person is probable cause, a phrase, that you and I know, has legal meaning. The applicant requesting for the authority and his or her witnessed need to be examined personally by the Justices concerned so that its reasonableness and necessity are duly established.

I introduced two safeguards here: 1. the permission should be secured from the proper division of the Court of Appeals, and 2. that probable cause should be established as basis for granting the authority.

II. **Under Section 18**, a terror suspect may be placed under arrest or detention without warrant.

That sounds alarming. It would even alarm lawyers more to know that when the anti-terror bill was being crafted, there were proposals from elements of the AFP to grant soldiers the power to detain suspects without warrant for up to 120 days. The PNP suggested a lower period, 90 days. When the Committee submitted its report to the Senate, the period was reduced to 15 days. During the debates, Senators Miriam Defensor Santiago and Frank Drilon successfully reduced the period of warrantless detention to 5 days.

3-day Maximum

on my turn, I convinced the Senate that the Constitution has fixed the maximum of 3 days for warrantless arrests. I pointed out that even when the privilege of the writ of habeas corpus is suspended in times of insurrection or rebellion, the maximum number of days for which a person may be detained is three days (Article 7, Section 18, of the Constitution).

Immediate delivery

In addition, I introduced amendments that now require law enforcement agents to deliver the person of any terror suspect to judicial authorities immediately upon arrest before they are brought anywhere for interrogation or further detention.

The judicial authority need not have jurisdiction over the case for which the suspect had been arrested or over the place where the terrorist act might have been committed. All that is required is that the judicial authority holds office or resides nearest the place where the arrest took place.

III. **Under Section 27**, the bank accounts or financial papers of terror suspects may be examined. At first blush, perception may be created that the section unduly intrudes into the sacrosanct sphere of privacy.

In fairness, note that there is the requirement of judicial authorization, and, again, the basis is probable cause.

IV. **Under Section 39**, the law enforcement agents may seize, sequester and freeze the bank deposits, financial assets and properties of whatever nature of a person suspected of or charged with terror crimes. Read in isolation, the Section poses a threat to the Constitutional right of people to own property.

By itself, the section trumps, at least, three of a person's fundamental rights in the Constitution:

1. The right not to be deprived – even momentarily, I would like to add – of property without due process of law (Article III, Section 1);
2. the right to the equal protection of the law (Article III, Section 1). Unlike suspected terror organizations whose properties may also be seized or sequestered but only after a court hearing (Section 17, HAS), there is no such trial requirement for a suspected individual terrorist; and
3. the right to be presumed innocent until the contrary is proved (Article III, Section 14, paragraph 2).

Under Section 39, the seizure, sequestration or freezing may be done at the stage where the person is merely suspected of or charged with but not yet convicted of terrorist crimes.

Need to harmonize

As the Human Security Act now stands, one way by which Section 39 may be harmonized with the requirement of the Constitution to uphold and respect the human rights and civil liberties of people is to read it in conjunction with the sections in Chapter VI, starting from Section 27 down to section 38.

It seems to me that Section 27 – Section 38 are the indispensable preconditions that make possible the implementation of Section 39.

Interpreted in that manner, there may be no need to resort to two other possible ways of dealing with Section 39: (1) Amend the Section and make it explicitly dependent on the compliance with the requirements of Sections 27 down to Section 38 or, (2) Repeal it totally.

Pre-Convention Activities

Cagayan de Oro City



Immediate Past IBP National President Jose Anselmo I. Cadiz together with the IBP National Officers meet with Misamis Oriental Chapter officers.



IBP National President Jose Vicente B. Salazar together with the IBP Board of Governors and National Officers signed the convention MOA with Mr. Albino Limketkai at the IBP Misamis Oriental Chapter Office.



The women lawyers of Misamis Oriental.



IBP Journal Editor-in-Chief and Newsletter Chairman Rudyard A. Avila III meets with the convention host chapter, IBP Misamis Oriental Chapter officers.



Court of Appeals Mindanao Justices Eduardo Camello and Romulo Borja, Presiding Justice Ruben Reyes, RTC Baler Quezon Judge Cora Suloren, RTC Cagayan de Oro Judge Evelyn Gamotin Nery, RTC Malaybalay Judge Josefina Bacal.

Arrival of Chief Justice Reynato S. Puno at the Cagayan de Oro City Airport accompanied by Misamis Oriental Chapter President Waldo Rebolos.



As Lawyers, Our Duty...

From page 5

Extraordinary Rendition.

There is a fifth item in the HSA that I would like to just mention for your information: the act prohibits extra-ordinary rendition of terror suspects, accused or witnesses to other countries unless their human rights and right to counsel are first assured.

Extra ordinary rendition as you know is a practice that has been resorted to by the U.S. principally whereby a terror suspect, accused suspect, accused, or witness is summarily arrested and deported to countries where the process of interrogation is not governed by the Geneva Convention or other applicable civilized rules. In other words, the person so renditioned may, then, be tortured or subjected to threats or intimidation to compel him or her to confess or reveal matters desired by the interrogators.

It is the intent of the HAS to ban extraordinary rendition in the country unless the human rights and civil liberties of the person concerned and his or her right to counsel are first guaranteed.

As we end this part of my discourse, let us remind ourselves of what the Romans of old used to say: *Cave legem! Beware the law!*

May Elections.

Now, let us discuss briefly the May elections. Elections in this country have always been a heated affair. People are brutalized in the process or even killed outright.

Under a weak government, it is too much to expect that blood shed would be prevented during the electoral campaign. But we can probably help as lawyers to lessen the occasion for it or the cheating that people believe has become endemic to any electoral exercise.

City and Provincial Prosecutors

Present in this convention of the IBP are provincial and city prosecutors.

Under the Election Law, they are members of the Provincial, or City election Board of Canvassers.

At the provincial level, Provincial Prosecutor, sits with the COMELEC Provincial Election Officer or senior lawyer of the regional office of the COMELEC as chair; the Provincial Superintendent of Schools. One representative each of the majority party and the dominant opposition make up the rest of the members.

At the city level, the City Prosecutor sits with the COMELEC City Election Registrar or a COMELEC lawyer as Chair; the City Superintendent of Schools. . One representative each of the majority party and the dominant opposition make up the rest of the members.

Dagdag/Bawas

In two of my several experiences in national politics, one, in the 1995 senatorial elections, and second, in the presidential election of 2004, I gathered first hand information as to how election results were manipulated.

In both elections, the main manner by which the results were altered was by dagdag/bawas, that is, by adding votes to a candidate beneficiary or subtracting votes from a candidate victim. And the votes were usually added or reduced in the Certificate of Canvass that, in turn, were supposed to reflect the summary of votes coming from the precincts of every municipality or the barangays of every city.

The Certificates of Canvass are done by the members of the Provincial or City Board of Canvassers. It is on the basis of the Certificates of Canvass that the COMELEC proclaims the winners in the senatorial elections and Congress in its capacity as the National Board of Canvassers proclaims the winner in the presidential race.

Protect Integrity.

Thus, the vital importance of protecting the integrity of the Certificate of Canvass and of their supporting documents.

I would like to request the prosecutors and the lawyer members of the local Board of Canvassers to reflect accurately in their Certificates of Canvass the results of the elections that come their way for official action.

I do not suggest that they do anything underhanded to favor the Genuine Opposition senatorial bets who, incidentally include my son, and namesake, Aquilino Pimentel, or the administration candidates. I only ask that the prosecutors concerned would do their work pursuant to the rule of law.

Mindanao Representation.

Before I leave this point, may I advert to the fact that Mindanao needs good if not the best additional representation in the Senate.

As of now, out of 24 senators, 19 come from Luzon, 4 from Visayas and 1 from Mindanao. And that's me.

No Dynasty.

Incidentally, please know that I am not batting for my son's candidacy because I want to defy any legal or moral standards. There is no law or moral rule that says that if you are the son of Nene Pimentel, thou shall not run for the Senate. Neither is it my intention to start a dynasty to protect my personal interests.

I have no political interest to protect. As a public servant, my life is an open book. I do not need any member of my family to get into public office to save me from the penal consequences of any corruption or wrong-doing. Getting involved in corrupt deeds or public misdeeds, by the way, is something I have avoided like a plague though all the years of my public service as a Constitutional Convention delegate, City Mayor, assemblyman, DBP Director, Cabinet Member, Chief Negotiator with the Moro rebels, Senate President, and now, as the Minority Leader of the Senate.

Turn to next page...

As Lawyers, Our Duty...

From page 7



IBP National President Jose Vicente B. Salazar together with the IBP Board of Governors presents Plaque of Appreciation to Senator Aquilino Pimentel, Jr.

Dues Paid.

I have also paid my dues for standing up for the rights of our people even during the parlous years of martial law. As a consequence, I was imprisoned four times, and thrown out of office twice without any rhyme or reason.

I mentioned this facet of my life, only to assure you that in public service, I seek only the public good. And I guarantee that Aquilino Pimentel will do likewise with the grace of the Almighty, with your vote and the help of our people. By the way, he also has a platform of government that I humbly suggest you read at your leisure.

But go back to the general appeal that I am trying to make to the lawyer members of the Board of Canvassers, may I respectfully remind them that their oath as lawyers and a public officials demand that they perform their duties accurately and well.

If they do not discharge their duties faithfully, they would condemn not only themselves but also our people to suffer from the ill effect of misgovernment and misrule for years on end.

A Race of Heroes.

But if they do their work according to the law, then, after the elections, we as a people can breath easy and claim proudly that we are not born to criminality or to be election cheats. But, that, we belong to a race that produced a Rizal, an Andres Bonifacio, a Gregorio del Pilar, a Ninoy Aquino, a Pepe Diokno, a Lorenzo Tanada, - a people who value honor, dignity and decency in our lives to such a degree that we are willing to pay the supreme sacrifice whenever needed for the sake of God and country.

To conclude, let me sum up the message of this talk:

1. As lawyers, we must safeguard the human rights and the fundamental liberties of our people even as the government implements the Human Security Act. It is never right to sacrifice human rights and our basic freedoms in the guise of fighting terrorism, and
2. As lawyers, let us help keep the election clean. If the elections are dishonest, we put bad people in the

government and bad government would be a disaster waiting to explode in a societal upheaval from which nobody would emerge victorious.

It is good to remind ourselves that even good laws are only as good as they are implemented well by good people. And there is always a need for vigilance from the citizens and especially from us, as lawyers.

After all, as the anti-slavery proponent, Wendell Philipps said in 1852, "eternal vigilance is the price of liberty."

God bless.

Salamat.



THE IBP NEWSLETTER

OFFICIAL PUBLICATION OF THE INTEGRATED BAR OF THE PHILIPPINES
15 J. Vargas Avenue, Ortigas Center, Pasig City

EDITORIAL BOARD

Rudyard A. Avila III
Chairperson

Elpidio G. Soriano III
Managing Editor

Alfredo B. Molo III
Editor-in-Chief

Romeo B. Fortea
Gil U. Banaag
Ana Ma. Zenaida T. Padero
Evelyn R. Ramos
Jan Barcena
Anna Katrina Martinez
Jonathan Pampolina
Ian Ray Malilong
Contributors

Vim Q. Camacho
Lay-out Artist

Editorial Office:

15 J. Vargas Ave., Ortigas Center
Pasig City 1600