

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

THIRTEENTH CONGRESS  
Second Regular Session

HOUSE BILL NO. 5449



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**Introduced by HON. MA. AMELITA CALIMBAS-VILLAROSA**

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### **AN ACT ABOLISHING THE DEATH PENALTY**

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress so assembled:*

SECTION 1. The penalty of death provided in the Revised Penal Code, as amended, and all other special penal laws, shall be reduced to reclusion perpetua or life imprisonment, as the case may be.

SECTION 2. All instances of final conviction where death penalty has been imposed but has not yet been implemented shall be reduced to reclusion perpetua or life imprisonment, as the case may be.

SECTION 3. This Act shall take effect immediately after publication in two newspapers of general circulation.

*Approved,*

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**EXPLANATORY NOTE**

There is no denying that our Revised Penal Code belongs to the classical school of criminal law, the same being based on the Spanish Penal Code of 1870, which in turn can be traced from the French Penal Code of 1810. The classical theory, as we are all aware, is retributive and punitive and this has been the focus of our criminal justice system of long ago. Man is essentially a moral creature with absolute free will to choose between good and evil and when he chooses the latter, the State must impose a penalty in retribution. The old school placed more stress upon the net effect of the criminal act and imposes a penalty commensurate thereto without much regard for human nature.

But such is a thing of the past which should remain in the realm of history. Hence, the 1987 Constitution abolished the death penalty and led us to an awakening to a more humane approach in the prevention and repression of crimes. Positivist criminology has dawned upon us.

According to the positivist school, crime is a social phenomenon, hence, more importance is given to the criminal who is actually a "sick man" who needs not be punished but cured. The victim of heredity and environment, he is more sinned against than sinning, so to speak. The focus is on his reformation.

The dichotomy comes into play in the story of a young boy who stole a loaf of bread to feed his sick and hungry mother, a vignette we hear every so often. How should society treat this boy – a felon who disrespects private property or a victim of society's failure to provide adequate welfare services?

This young boy is a wounded victim of circumstances. By categorizing his offense as theft and punishing it accordingly, we inflict upon him more wounds instead of healing him of the first.

Let us continue with his story. His sick mother did not survive leaving him an orphan at a tender age. He grew up on the streets, initially surviving through begging, eventually, through snatching and similar petty crimes. He learns to sniff solvents to forget hunger and eventually lays his hand on other forms of dangerous substances. He gets smitten by a beautiful lass who refuses to reciprocate his affection because of his social status. She made the terrible mistake of giving him a smirk that triggered an avalanche of teasing from his friends. One unfortunate day while under the influence of dangerous drugs he committed a deplorable act of rape.

A rapist deserving of the death penalty or a miserable victim of the failure of society to address juvenile delinquency and the worsening drug menace?

The young boy's unhealed wounds worsened when he grew up to be a man. Now, a new set of wounds was created for the rape victim and her family.

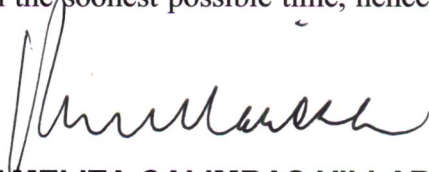
Will these wounds be finally healed by putting him to death? The answer is no. The family and friends of the rape victim will forever be discriminative of people belonging to the lower rung of society. They will view them with mistrust and disdain. They will exercise extreme caution before giving employment. They will be selective in their charity work and civic commitments. For instance, they will be more likely to channel their resources to environmental projects like reforestation and wildlife preservation instead of helping feed, clothe and shelter street children. Not that the former is a less noble endeavor but the latter appears to be a more pressing need. These are also societal wounds, albeit of a different nature.

With less help from the private sector, government must double its efforts without which more and more street children will find themselves in the same dilemma as the one in the example. One would emerge to become the head of a kidnap-for ransom group, another of a bank robbery syndicate, still another as the proprietor of a prostitution den. Once can just imagine what worse wounds they can further inflict upon their victims and upon society.

On the other hand, if the young boy who chose to feed his dying mother with a stolen loaf of bread was nurtured in a correctional institution where he was administered with appropriate guidance and counseling and provided with basic needs such as food, shelter and education, he would probably come out one day as a successful professional, grateful for the care he received and willing to return the favor by serving his countrymen. We could have healed his wound. And if the other street children are placed in foster homes or in social welfare institutions where they will receive the same attention, we would have prevented the development of their wounds as well.

Indeed, more and more wounds continue to be created while we cling to the retributive theory of criminal justice and keep our eyes closed on restorative justice. The time has come to rekindle the flame temporarily extinguished by R.A. No. 7659 and

revive the humane spirit embodied in the 1987 Constitution. No less than the President herself has expressed the need to do this in the soonest possible time, hence, approval of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read 'Amelita Calimbás-Villarosa', with a stylized, flowing script.

**MA. AMELITA CALIMBAS-VILLAROSA**