

The Congressional Committee and Philippine Policymaking: The Case of the Anti-rape Law

MYRNA N. LAVIDES*

Being the lawmaking body of the land, Congress provides its committees with vast powers. The congressional committee system remains an important and powerful institution in Philippine policymaking. The extent of power and influence of congressional committees in the overall policy process is anchored on (a) the rules and procedures adopted by the House; (b) the committees' inherent gatekeeping powers; (c) the power of the conference committees; (d) a number of powers vested in it as a means of check and balance on the powers of the executive and judiciary; and (e) the unwritten rules, customs and traditions of the institution. Clearly, these traditions and powers, including its sources, place committees at the center of the entire policy process. The last three Congresses, i.e. 8th, 9th and 10th, as well as the 11th Congress saw an increase in the number of standing committees, subcommittees and special committees in the House. The case of the Anti-Rape Law illustrates how compromise are made at the committee level and how these compromises affect decisions at the Floor. It is also an example of how a policy advocacy group successfully pursued its policy preferences.

Introduction

Understanding the importance of congressional committees in the over-all policymaking process means understanding Congress and the complexities of the entire legislative process. This essentially requires looking into the historical and political exigencies that led to its revival in 1987 and the social milieu within which such decision was made.

In 1986, the framers of the 1987 Constitution deemed it fit to adopt a bicameral legislature and rebuild the defunct Philippine Congress in an attempt to obliterate any traces of the previous regime. With a vote of 23 over 22,¹ a decision was made in favor of a bicameral legislature patterned after the U.S. Congress. Though it was not a sweeping victory for those who supported bicameralism, it was very clear that for the most part, it was a reaction against Marcos' penchant for unicameral, centralized system that eventually perpetuated abuse of Executive power under the

*Technical Assistant, House of Representatives, Republic of the Philippines.

Batasang Bayan, Interim Batasang Pambansa and Batasang Pambansa where the President was made the ultimate lawmaker.

In contrast with the previous legislature, Congress is inherently a decentralized institution with a system of checks and balances and a very strong oversight function over the Executive. Aside from being a two-chamber body composed of the House (Lower House, usually referred to as the Bigger House as preferred by its occupants) and the Senate (Upper House), it operates through a committee system that practically divides Congress' workload into various committees. However, this decentralized structure of Congress did not readily impress and satisfy the public. Owing to the prevailing mood in the early days of the Aquino Administration, policy advocates, mostly coming from the nongovernment sector and people's organizations, still found themselves demanding policy changes by directly bringing them to the attention of Malacañang through rallies and street marches. And for sometime, people were unconvinced that revival of Congress would result to people's direct involvement and broader participation in the policy process, fueled by dissatisfaction in policy outcomes, and frustration about legislative delays, inaction, inefficiency and ineffectiveness for which congressional committees have always been blamed. This adversarial and hardline stance in advocating policy changes proved to be a setback in most cases. While issues were publicized via media coverages, the same were not thoroughly discussed at the policymaking level as there was high degree of refusal to recognize the importance of working within and through existing policy structures like Congress, its committees, subcommittees and the legislative process.

Today, after three Congresses, the situation stood in stark contrast from the early years of the Aquino Administration. While street marching and similar activities remain effective in publicizing issues, such strategies proved insufficient in pushing for the adoption of specific policies that meet the policy preferences and requirements of the advocates. Policy concerns, therefore, were seen as best articulated through direct coordination and interfacing with the primary policy actors themselves – the lawmakers – thru the committees that have jurisdiction over a specific problem or issue area that needs to be addressed.

But as earlier noted, this realization only came later. Thus in most cases in the past, groups or sectors greatly affected by certain policies were usually caught unaware by the "sudden" passage of certain policies. Or in some cases when such policies have not yet been officially adopted, affected sectors found themselves scampering for support at the Floor – usually during the 3rd reading phase when amendments could not anymore be effected. The result was therefore usually tragic and irreversible, unless something was immediately done at the bicameral conference stage. Frustration, impatience and sheer distrust against structures and processes, plus the lack of knowledge about the mill² itself, particularly on the sources of power

and influence of congressional committees in the policy process, adversely affected sectoral policy strategizing.

On the other hand, the Executive Branch, even at the early stage of the Aquino Administration, always had conscious and dynamic relationship with congressional committees, owing to Congress' inherent power of the purse which essentially resides at the Committee on Appropriations. Also, with the overwhelming task of laying sound policy foundations aimed at rebuilding the country at that time, the Executive quickly recognized the immense lawmaking powers vested among congressional committees, particularly in the policy formulation and adoption stages. These powers, plus a host of others that include oversight and confirmation powers, speak of congressional committees' tremendous role in the policy process. And in a country where political parties have not yet established true party leadership and cohesiveness, congressional committees have always been considered important and powerful – in fact a very powerful source of congressional leadership – in the determination of the country's policy goals and directions.

With the change in political leadership in 1992, attempts to alter policy coordination among policy actors became successful. Former President Fidel V. Ramos introduced innovations aimed at establishing better policy connection between the President and Congress thru the creation of the Legislative-Executive Development Advisory Council (LEDAC), which was seen to have resulted in some perceivable shifts in the gatekeeping power of congressional committees. Now, under a new leadership observed to favor a rather different approach and coordination in setting policy directions, looking into the role of Congress, particularly that of congressional committees, becomes all the more important as the country confronts policy issues in preparation for the next millenium. And in all these, adoption of sound policy decisions require strategizing at all levels, especially in congressional committees where policies are discussed, formulated and considered for adoption by Congress.

Borrowed Structures, Processes, and Traditions

Functions

Just like in the American policy system from which the country's legislative process has been patterned, the role of congressional committees in the country's over-all policymaking process is one that takes center stage.

Committees serve two (2) crucial functions: first, as *workshops of lawmaking – the place where legislation is buried or where it matures to be reported to the full chamber*, and second, to *hold hearings to obtain information and publicize issues*

July-October

(Davidson and Oleszeck 1981: 256). Price (1972: 4) explained that these functions necessarily include the aspects of (a) *instigation and publicizing* (the public or private advocacy of an issue as one worthy of attention and ameliorative action); (b) *formulation* (devising and advocating a specific legislative remedy for a supposed need); (c) *information-gathering* (collecting data on the nature of and alternative schemes for solving problems and their costs, benefits, and inherent difficulties; the likely political impact of each scheme; and the feasibility of various compromises); (d) *interest-aggregation* (responding to the needs and wishes of individuals or groups affected by a given proposal); (e) *mobilization* (the exertion of pressure, persuasion, or control on behalf of a measure by one who is able, often by virtue of his institutional position, to take effective and relatively direct action to secure enactment); and (f) *modification* (the marginal alteration of a proposal, sometimes "strengthening" it, sometimes granting certain concessions to its opponents in order to facilitate final passage).

Sources of Committee Power and Influence

The extent of power and influence of congressional committees in the over-all policy process is anchored on (1) the rules and procedures adopted by the Chamber, in this case the House; (2) upon the committees' inherent gatekeeping power; (3) upon the power of the conference committees; (4) on a number of powers vested in it as a means of check and balance vis the powers of the Executive and the Judiciary and; (5) on the unwritten rules, customs and traditions of the institution.

Rules and Procedures. Inasmuch as the committees are mere creations of its parent Chamber to facilitate congressional workload (Davidson and Oleszeck 1981: 256), its power or influence over policy outcomes and decisions is therefore inevitably subject to the bigger body that is the entire House. The strength of committee system is therefore mostly (though not entirely) dependent upon the rules and procedures adopted by the House. For the most part, however, it is important to emphasize that it is still the Committee on Rules that prepares the House Rules. It is given ample discretion to propose certain rules that will strengthen the committee. And almost always, the Rules Committee pushes for a stronger committee system.

Gatekeeping Powers. Gatekeeping power refers to the vast discretion of committees to report out or not a proposed measure. It usually concerns the committees' ability to obstruct legislation by refusing to hear it or report it to the floor (Smith 1989: 170). It is basically a right that allows committees not to act on legislation referred to them. When the Committee on Public Order and Security decided not to hear the proposed Crime Control Act and Terrorism Bill proposed by the Ramos Administration in the 10th Congress, it was exercising its gatekeeping

power. Despite the inclusion of these measures in the priority bills of the Administration, the Committee deemed fit not to schedule even a single hearing on them. Ironically, the principal author of said measures was both a Party Member and the Chairman of the House Public Order and Security Committee.

Conference Committees. Conference committees, tasked to reconcile the differences between the Senate and House Versions are given vast powers which allow committees to successfully defend the committees' position vis the parent-chamber majority. Said powers rest on the institutional capacity of a committee to restrict the choices available to the chamber fortified by such rules at the Floor which says that the Parent Chamber's power over a measure that has already come out of the Conference Committee is only limited to acceptance, rejection, or recommittal (Smith 1989: 170). Domination of conference committees by the members of the committee of origin also reinforces the committees' ability to block certain outcomes and obtain compromises for others (Smith 1989: 170). Because committee members dominate conference delegations and because conference reports cannot be amended on the floor, committee members are in a position to reverse decisions made through floor amendments as long as the other chamber's conferees agree and the final product is acceptable to House and Senate Majorities (Smith 1989: 170). Reversal of floor decisions may therefore abate the damage done on the floor to the committee's original plan.

Inherent Powers as a Means of Checks and Balance vis Co-equal Branches of Government, which, according to Ripley and Franklin (1980: 74) include the following: (1) *language in reports*, which is usually seen in congressional reports like the one released by the Joint Congressional Committee on Education under the leadership of then Senator Edgardo Angara; (2) *legislative veto*, where congressional review is necessary before an executive action becomes binding such as the statutory provision on the Philippine National Police (PNP) Reform Law which mandates the National Police Commission (NAPOLCOM) to submit first to Congress through its Committee on Public Order and Security the reorganization plan provided for under said law; (3) *reporting requirements*, such as when Congress requires that certain government offices make certain information available to it through reporting requirements in laws; (4) *budget decisions and program evaluation*, which is a constitutionally mandated power of Congress through their power of the purse vested in the Appropriations Committee; (5) *hearings and investigations*, as expressly contained in the 1987 Constitution; (6) *organization and reorganization*, or stated differently, the creation and abolition of agencies, which pass through appropriate committees unless such creation is generally within the powers of the Executive; (7) *decisions on individual executive branch officials*, through the Commission on Appointments and practically all the committees when pressures are strong about the need for a particular agency head to be disciplined, relieved or fired (made possible through

hearings and investigations); and (8) *impeachment*, which is needed to be lodged first with the Committee on Justice to check on the abuses of the Executive, specifically the President, Vice President; the Judiciary, particularly the Supreme Court Justices; the Members of Constitutional Commissions and the Ombudsman.

Unwritten Rules, Traditions and Customs which have already been discussed.

The Anti-Rape Law: Dynamics of Policy Formulation and Adoption at the Committee Level

Initiating a Redefinition of the Rape Law: Tracing the Roots from the 8th Congress

As early as 1990, a bill seeking the redefinition of the crime of rape had been filed at the House of Representatives. Then Congressman Raul Roco of Camarines Sur filed House Bill (HB) No. 32497 entitled *An Act Prescribing a Special Law on Rape, Redefining the Same as a Crime Against Persons, Institutionalizing Measures For The Recovery Of Rape Victims And The Effective Prosecution Of Offenders, And for Other Purposes*. This so-called anti-rape bill was considered to be a pioneering initiative because of its revolutionary provisions which included (1) the redefinition of rape from a private crime to a public crime; (2) the expansion of the meaning of rape to include marital rape; and (3) the radical change of the meaning of rape to include insertion of any instrument or object into a woman's genitals or anal openings by force, threat, or intimidation. Despite novelty of the concept, the House Committee on Justice, meeting for the first and last time (particular on the subject bill only) on 04 December 1990, immediately approved the bill in principle (HR 1990: 10-38). While there were some reservations raised on the issues on marital rape and rape other than sexual intercourse, there was generally no strong reaction from the Justice Committee members chaired by Congressman Isidro Zarraga. In fact, majority of them believed on the timeliness of the bill given the controversial case of Rosario Baluyot, the girl from Olongapo City who died because a vibrator was inserted into her genitalia by an Austrian doctor.³ What followed were some debates and a series of commentaries in the newspapers, ranging from serious to ridicule, particularly on the consequences of the bill on the sanctity of marriage. Despite early approval at the Committee level, however, no Committee Report really came out from the Justice Committee. HB 32947 therefore remained pending at the committee level and the 8th Congress adjourned without passing any anti-rape law.

Refiling the Bill Under A New Congress

The 9th Congress (1992-1995) saw the increase in the number of women legislators and early in the ball game, women's groups have decided to take part in the legislative process to push for the women's agenda in the 1990's. Eleven (11) women's groups banded together to work for a common agenda which included the refiling of a more comprehensive anti-rape bill. Calling themselves SIBOL or *Sama-samang Inisyatiba ng Kababaihan sa Pagbabago ng Batas at Lipunan*, they submitted a draft anti-rape bill to women legislators for consideration and filing in the 9th Congress. Among the women legislators, it was Congresswoman Glenda Ecleo who took the cudgels and filed the bill which was then read and referred to the Committee on Justice on 29 October 1992.⁴ A comprehensive discussion on House Bill 4228 was then held by the Committee on Justice, meeting jointly with the Committee on Women. And unlike the openness shown by the previous Justice Committee in the 8th Congress, the bill was met by strong opposition by most of the present members. Some appeared to be merely cautious but the general sentiment showed a very strong degree of resistance to change. Congressman Pablo Garcia (Chairman of the House Committee on Justice) in his opening statement in fact said:

... First of all, I would like to state here as clearly as I possibly can [sic] perhaps as personally [sic] that I am for the enhancement and protection of women... But let us take care that in our efforts to protect and enhance the rights of women, we may only be, we might say, impairing those rights... Let us not make changes for the sake of change. Let us not reinvent the wheel (Garcia 1993).

Two more committee meetings were held on HB 4228 and in both instances, on 16 February 1994 and 16 March 1994, the anti-rape bill was torn down to pieces by the uncompromising legislators who did not believe change was necessary. For instance, Congressman Erasmo Damasing pointed out that while he supports the move to reclassify rape from private to public, he could not agree with changing the degree of evidence required to convict a person which, based on bills filed, were provided for in such a manner that it "would go against the solid dissertation of authorities on crimes and penalties" (Damasing 1993). Congressman Manuel Sanchez commented on the one hand that while the bill may be timely considering cases of sodomy in other countries, he underscored the need to be very careful *regarding charging husbands of rape* (Sanchez 1993).

To the legislators, the following were therefore nonnegotiable and must not be included: (1) expansion of the meaning of rape to include *marital rape*; and (2) the redefinition of rape to include forced penile penetration of a woman *by any object or instrument other than the male's organ*. But while it appeared that some had reservations on the reclassification of the crime of rape from private to public, there were indications that the votes could be swayed. On this last aspect therefore,

chances of adoption was seen as very possible. It was unfortunate however that the group, SIBOL, which practically drafted the bill Congresswoman Ecleo filed, had to do a "protest walk-out" to dramatize their disgust over the watering down of the bill they have submitted. At this juncture, SIBOL and other women's groups made their position known that they could not support the Committee's version of the bill. No compromises were reached and thus, the 9th Congress, for the second time, adjourned without passing an anti-rape bill.

Pushing the Agenda Through 10th Congress

By November of 1995, four (4) months after the 1995 elections, the first meeting on the various bills (HBs 29, 1566, 2439, 2768) seeking redefinition and harsher penalties on rape was held by the Subcommittees on Criminal Laws and Disadvantaged Women of the House Committee on Revision of Laws of the 10th Congress. It was basically a recitation of past efforts of previous Congresses to pass a bill reclassifying the crime of rape as *one of public, not private* – one which is against person, not one against chastity.

A review of the minutes of the first meeting held on 6 November 1995 revealed that the fight towards the enactment of a true Anti-Rape bill in accordance with the preferences of various women's groups headed again by SIBOL would not be a bit easier after five (5) years since the idea of reclassifying and redefining the crime of rape was first introduced in the 8th Congress. For one, this Congress was almost the same Congress that decided to dump the bill in the 9th Congress. If the statement of the Chairman, Congressman Edgar Lara, was of any indication, it seemed that the Subcommittee was rather conservative in its view of the crime of rape and therefore traditional and resistant to a more expanded definition:

The Chair stated that he does not want to see these rape bills go under the same fate it underwent during the last Congress because of the controversy arising from the use of the expanded definition of rape. He thereby opted [sic] his earlier reiteration to use the traditional definition of rape (underscoring, supplied), adding that instances *otherwise proposed by these rape bills must instead be placed under other crimes of sexual assault but penalized as harsh as or harsher than the crime of rape* (italics supplied) (Lara 1995).

Not surprisingly, the bill that came out of the Subcommittee used the traditional definition of rape as defined in the Revised Penal Code and therefore, very well within the views and preferences of Chairman Lara. The same Subcommittee, however, took a more liberal position as regards the other contentious issues and recommended the reclassification of the crime from private to public and from crime against chastity to crime against person. It also recommended the consolidation of the bill on marital rape into the Anti-Rape bill. The former issue, however, was

deliberately debated on considering that other members favor to redefine it as a crime against liberty and security, with the strongest voice coming from a powerful member of the Committee on Revision of Laws, Congressman Sergio Apostol of Leyte. Despite protestations from women policy advocates on the mark-ups done at the Subcommittee level through marathon hearings held almost every week, from 6-20 November 1995, the bills were reported out with the following central issues needed to be resolved by the mother Committee on Revision of Laws and the Committee on Women:

- (1) The redefinition of the crime of rape vis the proposal to make it a *gender-free* crime as differentiated from the traditional view that rape is a crime that can *only* be done against a *woman*. Related concerns involved issues on sodomy or the act of forcing someone to have sexual contact with an animal, the inclusion of a major provision on marital rape, and other sexual acts that might not actually involve penetration of the women's genitals;
- (2) In relation to No. 1, the definition and introduction of a new crime to be called *sexual assault*, a genderless crime which involve unconventional sexual acts of violence and aggression; and
- (3) The basic issue on the reclassification of the crime from private to public.

It must be noted that these are the very same major points of contention during the 8th and 9th Congress. And with the subject bills now within the hands of the Mother Committee on Revision of Laws and the Committee on Women, SIBOL's and other women's groups' difficult task of even laboring and fighting against the position taken by the Subcommittee had just began. Thus on 12 December 1995, the two standing committees started the hearing on the anti-rape bills.

Back to Square One: Repositioning and Strategizing at the MotherCom

Amongst the positions taken by the women's groups, there was only one which had been successfully adopted at the subcommittee level and which was expected to be adopted by the MotherCom with no difficulty at all: the reclassification of the crime of rape from private to public. All the other preferred provisions of women's groups were therefore expectedly to undergo difficulty at the committee level. These provisions refer to the following issues:

- (1) Redefinition of rape to include those involving forced anal and oral intercourse and those which used instruments and objects other than the man's genitals (as opposed to the traditional definition that defined rape as involving penetration of a woman's genitalia by the male's organ);
- (2) Redefinition of rape to include marital rape

Women's groups headed by SIBOL were bent in pushing for the adoption of these provisions and in blocking passage of a bill that merely (1) classified rape into a public crime; and (2) retained its traditional definition through the introduction of a new crime of sexual assault to define acts of violence that did not constitute rape under the Revised Penal Code.

Unlike in the 9th Congress which stalled the passage of the proposed anti-rape law at the committee level, however, the Committees on Revision of Laws and Women were very quick in their deliberations. The Committees took only two (2) meetings (12 December 1995 and 12 January 1996) to come out with Committee Report (CR) No. 224, introducing a consolidated version of all the anti-rape bills and substituting the same with House Bill No. 6265 with no less than Speaker Jose C. De Venecia himself as principal author. By 16 February 1996, CR 224 was submitted for deliberation on the Floor. This very short span of time from the moment the Full or Mother Committee took over discussion of the bill gave the women's committee very short span of time to bargain and strategize for the inclusion of their non-negotiable positions at the Committee level. It was so quick that even what was thought to be a non-issue, the adoption of the reclassification of the crime of rape from private to public, was a matter not clearly resolved by the Committee. In the 12 January 1996 joint committee hearing of the Committees on Revision of Laws and Women, there was full discussion on whether the crime of rape should be reclassified from private to public and there was very strong position that the subject crime was really a crime against liberty and security but as a concession, the Committee took the women's position by making it a crime against person and decided on the possibility to retreat back to the liberty and security clause if and when the floor appeared to be very critical of the reclassification. But even claims for reclassification from private to public crime was not actually stated in the final form of the bill except in its title (although it was explained during deliberations at the Floor that its status as a public crime was deemed established by the enumeration of people who could file complaints on cases of rape). Thus, CR 224 was reported out amidst very strong objections from women's groups. CR 224 or HB 6265 contained the following major provisions:

- (1) Redefinition of the crime of rape so as to render it committable by a woman against a man and also by one spouse against the other,

provided that the spouses are legally separated or have been separated for more than six (6) months;

- (2) Definition of a new crime to be called "sexual assault," a genderless crime which involves unconventional sexual acts of violence and aggression committed through attendant circumstances as in rape and with like penalties. Sexual assault is thus committed: "(a) By a man who shall insert his penis into another person's mouth or anal orifice, whether the latter is male or female; (b) By any person, whether male or female, who shall insert other parts of his or her body, or any instrument or object, into the genital or anal orifice of another person, whether male or female; or (c) By any person who shall make another person submit to sexual intercourse with an animal, whether through the mouth, genital or anal opening; under any of the following:
- (i) With the use of force, threat, or intimidation;
 - (ii) When the woman is deprived of reason or otherwise rendered unconscious;
 - (iii) When the woman is below twelve (12) years of age or is demented;
 - (iv) By using drugs, intoxicants or any other noxious means; and
 - (v) By means of abuse of authority or relationship.

On the whole therefore, what was indorsed by the Committees on Revision of Laws and Women was not the version preferred by the women's issue advocates. And with the bill now in the hands of the entire membership of the House, SIBOL'S and other women's groups' hope to pass a true anti-rape bill dimmed.

Politics at the Floor: Strong Opposition, the President's Certification and Other Side Issues

Floor deliberation on HB 6265 did not start until 20 August 1996. And at the very outset, despite being a watered down version, HB 6265 was met with strong opposition. Even if sponsorship speeches from various Members have not yet been concluded, House Members like Cagayan de Oro's Erasmo Damasing have started raising questions on the various provisions of the bill (Damasing 1996). Back in the

July-October

9th Congress, his position was among those that stalled the adoption of the bill at the Committee level (Damasing 1994). Major points of contention in various phases of floor deliberation could be summarized as reflecting those very concerns raised in the Committee (HR 1996):

- issue on whether reclassification of the crime of rape shall be expressly stated;
- concerns regarding the effect on marriage as regards inclusion of marital rape;
- issue on the effect of pardon by the victim spouse;
- issue on the scope and applicability of the proposed law on incidents involving man and man, woman and woman, woman and man, and other sexual orientations;
- issue on the use of other object or instrument other than the male's organ and the corresponding issue on the use of the word "orifice" and anal openings instead of just sexual intercourse which presupposes the use or contact of genitals.

After a long debate on the bill, the House passed its final form (3rd Reading) on 11 November 1996 (three months after the floor started its deliberation in August of 1996), with the House voting 162, with no negative or abstention votes. Taking into consideration the amendments made on the floor, HB 6265 had the following major provisions:

- (1) Reclassification of the crime of rape from private to public, this time expressly stated in Sec. 2.
- (2) Use of the traditional meaning and scope of rape which assumed that only by having a *carnal* knowledge of a *woman* can rape be *committed*, which in effect debunked earlier attempts to (a) expand the rape as having possibly committed either against a man or a woman by instead using the words "persons" and "opposite sex," and (b) include penetration of any person's orifices and anal openings by objects or instruments other than the males' organ;
- (3) Introduction of the crime of sexual assault which lumped all acts of violence that cannot otherwise be defined as rape;

What was striking about the bill's legislative history was the fact that under the 10th Congress, Speaker De Venecia was among the principal authors, in fact the first on the list. Moreover, the bill was certified urgent by President Fidel V. Ramos himself, with the Presidential Legislative Liaison Office (PLLO) taking an active part in following-up and pushing for its approval.⁵

Conference Committee: Strategizing, Standoff and Breakthrough

The approval of two (2) different versions of the anti-rape bill by the House (HB 6265) and the Senate (SBN 950) automatically brought the proposed law to a Bicameral Conference Committee to reconcile differing or opposing provisions of the House and Senate versions. Members include panels from both Houses, usually belonging to the standing committees where the bill originated; author or co-authors of the bill or those who are not committee members but are otherwise elected at the floor as a conferee. The following were listed as conferees for the House: Hon. Sator, Hon. Apostol, Hon. Damasing, Hon. Luciano, Hon. Bakunawa, Hon. Lara, Hon. Angara-Castillo, Hon. Aquino-Oreta, Hon. Roxas, Hon. Almario, and Hon. Laurel-Trinidad. On the part of the Senate, the following were elected conferees: Hon. Coseteng, Hon. Santiago, Hon. Roco, Hon. Drilon, Hon. Fernan and Hon. Shahani.

Being a Malacañang certified bill, there was an urgent call to convene the Conference Committee after the House approved its version on 11 November 1996. But attempts for a common schedule by the conferees did not materialize and it was not until March of 1997 (or four months after the House' approval) that the Conference Committee meeting was formally held. It is important to note, however, that prior to this date, *pre-bicameral* meetings have already been held to map out points of conflict and cooperation from both panels. Hence, the 4-month period gave both panels the chance to strategize and negotiate, bargain and compromise even before the formal meeting.⁶ Such pre-bicameral meetings are actually being utilized precisely to facilitate smooth approval of the bill at this level by inviting those who are not members of the Conference panel but are considered major stakeholders, like the women's groups in this case, or those who have registered strong opposition or apprehension on the bill.

Thus on two (2) occasions (20 January and 7 February 1997), the conferees of both houses met with several opposing congressmen and representatives of women's groups advocating for the passage of the bill, particularly the Senate version as they were not happy about the version passed by the House. In these meetings the following were identified as the major points of discussion that would be taken up in the conference proper:

- (1) The difference in terms used to refer to identical acts enumerated in both Senate and House versions of the bill (Should the acts be called "rape" or "sexual assault?");
- (2) The provision of marital rape (To delete or not?);
- (3) The provision on "Presumptions" (To delete or not?);
- (4) The provision on statutory rape (Should the age of discernment be 12 or 14?); and
- (5) The difference in the penalties prescribed for rape and sexual assault.

But while these pre-bicameral meetings were held and were thought to have at least smoothed and facilitated compromises and negotiations from all sides, the March 1997 meeting bogged down with the Chairpersons of the House (Rep. Apostol) and the Senate (Senator Coseteng) greatly at odds (which was said to be due to Rep. Apostol's strong objection against the presence of women's groups during the conference meeting). This triggered an impasse on the conference and extremely threatened the bill's chances of becoming a law, with Cong. Apostol refusing to go back at the conference table. A certified-urgent bill by Malacañang and co-authored by no less than a strong presidential contender in the 1998 elections, there was very strong pressure for the reconvening of the conference group. In place of Rep. Apostol therefore, Rep. Lara, Chairman of the Subcommittee on Criminal Laws of the House Committee on Revision of Laws assumed chairmanship of the House Panel (HR 1997: 415). And finally on 3 June 1997, a day before the 10th Congress adjourned its 2nd Regular Session *sine die*, a Bicameral Conference Committee Report on the disagreeing provisions of the bill was approved. The impasse had been broken and a breakthrough was reached by approving a compromised bill. However, there was no record of the Bicameral report (as usually the case is) and thus, the background on how compromises have been reached could only be surmised in the discussion on the Floor, when the report was presented by the conference panel to the entire membership of both Houses.

The Final Vote: The Result of a Compromise

As what had been stated in this paper's discussion on the legislative mill relative to the role of conference committees, the Floor could only ratify, reject or recommit to the conference panel the conference report. The entire membership could not therefore introduce any amendment but could only seek clarification from the members of the conference panel.

On 3 September 1997, the transcript of session revealed that there were some last ditch efforts to delay the passage of the compromised version of the anti-rape bill. Although most of these congressmen professed support for the passage of a law that would ensure protection of women from rape, they were very much concerned about the implications of the bill in Philippine jurisprudence. They were also concerned about how the international community would react if the House ratified the report. The Muslims also voiced out their concern about its implications to their religion. Despite these opposing points, the compromised version was put to a vote. Finally, after seven (7) years, spanning 8th, 9th and 10th Congresses, the anti-rape law was passed. Thus, on 30 September 1997, Republic Act 8353 was signed into law by President Fidel V. Ramos.

In the final version, the following compromises must be noted:

- (1) The introduction of the act of sexual assault (not present in the Senate but present in the House version) as an act of rape (as preferred by the Senate) with lighter penalties (as preferred by House) than the crime of traditional rape as explained in Section 2 (1) (RA 8353), which has the corresponding penalty of *reclusion perpetua* or life imprisonment to death.
- (2) The inclusion of rape by *marital sexual assault* (a compromised version meeting the preference of Senate panel to refer it as rape, and that of the House panel to provide lighter penalties for sexual assault) with lighter penalties and with provision on the effect of pardon by the wife as the offended victim (as preferred by the Senate).

Conclusion

The congressional committee system remains an important and powerful institution in Philippine policymaking. It provides the committees very vast powers emanating from the constitutional mandate of Congress being the lawmaking body of the land. And practically, all activities of Congress, particularly the House of Representatives which is the focus of this study, concern the committees for it is through them that Congress is able to do its job. Having patterned our government from that of the United States, we borrowed the very system, structures, and procedures of their legislative process. Even traditions, particularly those which reinforce committee influence like the seniority system and to a certain extent, secrecy, are adopted in the Philippines as our very own. Clearly, these traditions and powers, including its sources, place committees in the center of the entire policy process. Sources of committee powers in the House of Representatives include

(1) congressional rules and procedures as embodied in the House Rules; (2) committee's gatekeeping power; (3) conference committees; and (4) the legislature's inherent powers as means of checks and balances in relation to the powers of the Executive and the Judiciary.

The last three Congresses – 8th, 9th, and 10th – as well as the 11th Congress -- saw an increase in the number of standing committees, subcommittees, and special committees in the House. Most of them because of political accommodation considering that committee chairmanship is considered a plum position given the perks that go with it, aside from the influence one holds over certain policy areas and the nationwide attention one gets when controversies arise on policy matters falling within his jurisdiction – clearly a political mileage for someone heading for a much higher position.

Similarly, there has been considerable increase in the sizes of committees not only because of the actual increase in the number of Members due to creation of new districts or provinces or the appointment of more sectoral representatives or their election, in the case of the partylist representatives, but again because of political accommodation. Membership to a particular committee provides members some influence in the direction of certain policy concerns and as seen in this paper, increase in membership is largely seen in Committees where getting something for their constituents is greatest. Thus, we see bigger size increases in the case of Committees on Appropriation, Education and Culture, Public Works and Highways. However, in the case of the Committee on Agriculture and Food which registered the biggest increase under the 11th Congress, the influence of the Presidential pronouncement is seen as the most proximate cause. We are all aware that the agriculture is a top priority of the Estrada Administration and here, we see how the committee system is itself influenced by the prevailing political environment.

By and large, the committee, though powerful and influential, is therefore greatly influenced by the President and the greater body that is the Floor or the entire House membership. In the case of the anti-rape law, for instance, the President's instruction and certification for the urgent approval of the bill fasttracked its passage into law. In cases like this, the committee is seen as weak and unable to assert its power. Related to this is the fact that the committee is subject to another power that is the Floor. And since the committee is always subject to Floor vote, it has no choice but to accept the changes proposed and approved at the Floor. However, once the conference committee convened, the upperhand is again claimed by the committee, at least as regards the specific content of the bill. For while the subject bill is to be submitted again to the Floor, a conference committee report, once it is approved by both the House and Senate panels, cannot anymore be amended by the Floor. Per the House Rules, the Floor can only seek clarification, approve, reject, or

recommit the bill to the conference committee. In the case of the anti-rape bill, the entire membership had no choice but to approve it despite the many amendments that some congressmen were suggesting. It was for the most part a political decision considering its implications in the 1998 elections. One congressman noted the power that the conference committee could do in relation to the power of the Floor:

... It had happened many times in the past that the Bicameral Conference Committee becomes the third Congress... Measures that are not agreed are *smuggled* (italics supplied) into the final version of the Conference Committee as illustrated by the expanded VAT before (Gonzales 1997).

The case of the anti-rape law is an illustration of how compromises are made at the committee level and how these compromises affect decision at the Floor. It is also one example of how a policy advocacy group successfully pursued their policy preferences from the drafting of the bill, to attending committee hearings, to lobbying each member of the Committees of both the House and the Senate, to seeking the help of the Administration through the National Commission on the Role of Filipino Women (NCRFW) and finally through the President's intervention himself by including it in his agenda and certifying the bill as urgent. This also clearly showed how the President's agenda affect congressional committee's decision which illustrates in part how the Executive Department leads the country's policy direction. The Ramos Administration's utilization of LEDAC in setting his agenda was one indication of a Presidential-led policy environment and to a certain extent, it could be seen as having created a dent in the gatekeeping power of congressional committees. While political party leadership is very much connected with committee leadership, the former is always put to a test considering its weak foundation in the country and because of our penchant for establishing rainbow coalitions where committee chairmanships are occupied by leaders of various parties. The LEDAC therefore facilitated some cohesion between a minority President and an initially politically-diversed Congress. Now, under the new House leadership, congressional committee chairmanships are again occupied by chairmen making up another rainbow coalition. And with the present attempts of the House, specifically the Speaker, assisted by the Rules Committee, to assert its power over standing committees, the committee chairmen and their members are likewise asserting their power as autonomous bodies in the House of Representatives (i.e., issue on the case of a resolution regarding investigation on the cocolevy). And so long as Congress uses the congressional committee system, it will continue to assume great powers for indeed, working through Congress is working through committees.

Endnotes

¹Votes cast by the Constitutional Commission on whether to adopt a bicameral legislature, Constitutional Commission Records, Vol. 2, 1987.

²In legislative parlance, also called the legislative process (how a bill becomes a law).

³The Baluyot case gained a lot of media attention, particularly in connection with the issue on the cut-off age for statutory rape.

⁴Based on legislative history, Archives, House of Representatives.

⁵As stated in a document re updates on Bicameral conference, Legislative Archives, House of Representatives.

⁶See updates on Bicameral Conference, Legislative Archives, House of Representatives.

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