

# LIFE AND DEATH SENTENCE: A CASE FOR THE ACCELERATED DECONGESTION OF PRISONS AND JAILS IN THE PHILIPPINES IN LIGHT OF COVID-19\*

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## I. INTRODUCTION

Over the years, local and international news has been replete with images of overcrowded jails in the Philippines. These photos foretold what would be the dismal state of these facilities during a pandemic and now raise grave concerns about the health and well-being of these inmates under the “new normal.” How can detainees be expected to exercise social distancing, which is key in preventing COVID-19 infection,<sup>1</sup> while being forced to live in such close quarters? Does the Bureau of Corrections (BuCor) and the Bureau of Jail Management and Penology (BJMP) ensure that these inmates have adequate access to health services for the testing and treatment of persons with COVID-19 symptoms given the sheer number of inmates?

What is mere speculation for some is a very real issue and persistent danger for these inmates. The Philippine government is yet to construct new facilities to minimize the problem of overcrowding in prisons, as well as commit “enough resources for the safe custody and rehabilitation of inmates.”<sup>2</sup> These prisons are also undermanned in terms of the number and quality of their personnel, as the appropriate inmate-to-guard ratios have not

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<sup>1</sup> Centers for Disease Control and Prevention, *Social Distancing, Quarantine, and Isolation*, CENTERS FOR DISEASE CONTROL AND PREVENTION WEBSITE, July 15, 2020, at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>. Social distancing constitutes maintaining a distance of 6 feet from others whenever possible to prevent the spread of COVID-19.

<sup>2</sup> Raymund Narag & Clarke Jones, *Understanding Prison Management in the Philippines: A Case for Shared Governance*, 97 PRISON J., 1, 3 (2016), available at [https://www.researchgate.net/publication/310467821\\_Understanding\\_Prison\\_Management\\_in\\_the\\_Philippines\\_A\\_Case\\_for\\_Shared\\_Governance](https://www.researchgate.net/publication/310467821_Understanding_Prison_Management_in_the_Philippines_A_Case_for_Shared_Governance)

been met.<sup>3</sup> It is not difficult to surmise how the lack of space, facilities, resources, and personnel contributes to the inevitable spread of the novel coronavirus within prison walls.

This Essay argues that the accelerated decongestion of prisons is necessary amid the COVID-19 pandemic, and the same is sufficiently provided for in both Philippine and international law as a duty of the state.<sup>4</sup>

Part II will illustrate the conditions within overcrowded Philippine prisons and jails prior to, and in the course of, the ongoing pandemic. It aims specifically to show that COVID-19 gave rise to new and grave problems as a result of overcrowding in prisons.

Part III will examine Philippine and international law on the matter to establish the lawfulness of accelerated decongestion and the role of the government in ensuring the health and well-being of all inmates during this critical time.

Part IV will conclude with recommendations on how to achieve the accelerated decongestion of these facilities as the country enters a “new normal.”

## II. THE LIVED REALITY OF OVERCROWDED PRISONS AND JAILS

### A. Philippine Prisons and Jails Pre-Pandemic

The Philippines currently holds one of the highest occupancy levels in penal facilities (based on official capacity) worldwide at 463.6%, second only to the Republic of Congo at 616.9%.<sup>5</sup> This is attributed in no small part

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<sup>3</sup> *Id.*

<sup>4</sup> Mildred Bernadette Alvor, *The Philippine Corrections System: Current Situation and Issues*, in RESOURCE MATERIAL SERIES NO. 67 75 (2005), available at [https://www.unafei.or.jp/publications/pdf/RS\\_No67/No67\\_00All.pdf](https://www.unafei.or.jp/publications/pdf/RS_No67/No67_00All.pdf). This article is concerned with both types of penal facilities in the Philippines: jails and prisons. Jails are defined as “place[s] of confinement for inmates under investigation or undergoing trial, or serving short-term sentences.” Prisons refer to national prisons or penitentiaries administered by the Bureau of Corrections (“BuCor”), tasked with the rehabilitation of national prisoners, or those sentenced to imprisonment for a term exceeding three years.

<sup>5</sup> World Prison Brief, *Highest to Lowest – Occupancy level (based on official capacity)*, WORLD PRISON BRIEF WEBSITE, at [https://www.prisonstudies.org/highest-to-lowest/occupancy-level?field\\_region\\_taxonomy\\_tid=All](https://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All)

to President Rodrigo Duterte's anti-drug campaign, which began in 2016, resulting in the surrender of more than 727,600 drug users and 56,500 drug pushers in the first six months alone.<sup>6</sup> Along with mass arrests, this rapidly aggravated the problem of overcrowding in prisons.<sup>7</sup> In the same year, inmates of the Quezon City Jail were photographed sleeping side by side in a jail basketball court for news features in both the CNN and the New York Times.<sup>8</sup> In March 2020, jails across the country held 134,748 detainees—a 40% increase since 2015.<sup>9</sup>

Overcrowding in prisons is a pertinent issue even before an inmate's final conviction. Pretrial detainees comprise 75.1% of the total prison population in the country.<sup>10</sup> A study of six jails across five cities noted that “[t]he median stay for all these pretrial detainees is 268 days, suggesting that 50% (4,457) of the inmates had already stayed in jail for more than 9 months while still undergoing trial.”<sup>11</sup> At the time the study was conducted, 25% of the inmates, numbering 2,229 individuals, had stayed in jail for more than two years, including 52 extreme cases of inmates who had remained in jail for more than 10 years, with the longest stay being 15 years and 17 days.<sup>12</sup> These statistics illustrate the problem of overstaying<sup>13</sup> in municipal, city, and district jails; and in this particular study, it was found that 20.3% of the inmates,

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<sup>6</sup> Daniel Berchulak, *‘They are Slaughtering Us Like Animals’*, THE NEW YORK TIMES, Dec. 7, 2016, available at <https://www.nytimes.com/interactive/2016/12/07/world/asia/rodrigo-duterte-philippines-drugs-killings.html>

<sup>7</sup> Aie Balagtas See, *Philippine Jails are a Covid-19 Time Bomb*, PHILIPPINE CENTER FOR INVESTIGATIVE JOURNALISM WEBSITE, Apr. 10, 2020, at <https://pcij.org/article/3979/philippine-jails-are-a-covid-19-time-bomb>

<sup>8</sup> Berchulak, *supra* note 6; Jessie Yeung, *More than 5,000 inmates die at this prison every year*, CNN, Oct. 18, 2019, at <https://edition.cnn.com/2019/10/04/asia/philippines-inmate-deaths-intl-hnk-scli/index.html>

<sup>9</sup> Balagtas See, *supra* note 7.

<sup>10</sup> World Prison Brief, *Philippines*, WORLD PRISON BRIEF WEBSITE, at <https://www.prisonstudies.org/country/philippines>

<sup>11</sup> Raymund Narag, *Understanding Factors Related to Prolonged Trial of Detained Defendants in the Philippines*, 62 INT. J. OFFENDER THERAPY COMP. CRIMINOLOGY 1, 9 (2017).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 8. In the aforementioned study, an inmate was deemed to have “overstayed” when their case was still undergoing trial, but they had already stayed in jail longer than the baseline standards set for the study, which, in turn, was based on the Speedy Trial Act of 1998. Inmates with less serious cases (with penalties of not more than six years, tried in Municipal Trial Courts) were deemed to have overstayed if their detention had exceeded a period of six months, while those with more serious cases (with penalties of more than six years, tried in Regional Trial Courts) were deemed to have overstayed if their detention had exceeded a period of three years.

numbering 1,806 individuals, can be considered as having overstayed in their respective jails.<sup>14</sup>

In the same study, inmates who had stayed for more than three years were purposefully interviewed to determine what factors tended to prolong detention. A majority of them expressed the need to closely monitor one's case as the system was unreliable.<sup>15</sup> If a hearing was postponed for any reason, such as the absence of the lawyer of the accused or the witnesses, the next hearing would be scheduled six months later.<sup>16</sup> Others cited the lack of necessary resources to contact their respective lawyers who some inmates did not even know personally, only seeing such lawyers in court.<sup>17</sup> As a result, they had no guarantee that their lawyers were working on their case, nor did they have the financial or logistical means to ensure the same.<sup>18</sup> This is especially concerning considering that nationwide, "only around 18% of pretrial detainees are eventually convicted and 82% the inmates are acquitted or dismissed."<sup>19</sup> In spite of this, majority of them were detained for a period already equivalent to their impossible penalties.<sup>20</sup>

Such overcrowding leaves most inmates with little to no space for themselves. Reporter Aurora Almendral painted a dismal picture of Manila City Jail in her 2019 article, *Where 518 Inmates Sleep in A Space for 170, and Gangs Hold it Together*.<sup>21</sup> As the title suggests, an inmate's options were very limited and extremely uncomfortable: he could sleep on a piece of cardboard on the floor, or in a small bathroom with a toilet and six other men, or on a stairway composed of narrow wooden steps. She described the inmates as "cupped into each other, limbs draped over a neighbor's waist or knee, feet tucked against someone else's head, too tightly packed to toss and turn in the sweltering heat."<sup>22</sup> Another former detainee remarked how the inmates had to take turns sleeping in crouching positions, "spilling out into hallways and

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<sup>14</sup> *Id.* at 10. This can further be broken down into 435 inmates tried in Municipal Trial Courts who had stayed longer than 6 months (comprising 36.1% of such inmates), and 1136 inmates tried in the Regional Trial Courts who had stayed longer than three years (comprising 17.6% of such inmates) at the time of the study.

<sup>15</sup> *Id.* at 11.

<sup>16</sup> *Id.* at 12.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 13.

<sup>20</sup> *Id.*

<sup>21</sup> Aurora Almendral, *Where 518 Inmates Sleep in A Space for 170, and Gangs Hold it Together*, NEW YORK TIMES, Jan. 7, 2019 available at <https://www.nytimes.com/2019/01/07/world/asia/philippines-manila-jail-overcrowding.html>

<sup>22</sup> *Id.*

corridors” due to the lack of space.<sup>23</sup> If the inmate had some money, he could rent a *kubol*—a small, improvised cubicle he could share with two or more other men, with only curtains and plywood separating him from the others.<sup>24</sup>

A similar scenario in the Quezon City Jail was reported in July 2016. Inmates were said to be “crammed together into crumbling, ramshackle cells,” with barely any place to sleep: one 200-square foot room held 85 inmates, while another room designed for only 30 people held 131.<sup>25</sup> However, Cebu City Jail has the highest congestion rate in the country. In October 2019, Mayor Edgar Labella explained that the male dormitory housed over 922 inmates, despite only having a capacity of 82.<sup>26</sup>

Prisons appear to be no different. In one report, it was estimated that “[a]bout 5,200 inmates at the New Bilibid Prison (NBP) die annually due to overcrowding, disease and violence.”<sup>27</sup> Cebu Provincial Detention and Rehabilitation Center, which rose to global prominence for its dancing inmates, similarly has 199 cells built for 1500 inmates only, but a headcount of 2,525 was reported in July 2019, meaning the jail had exceeded its maximum capacity by over 70%.<sup>28</sup>

## **B. COVID-19 in the Philippine Prisons and Jails: A New Set of Problems**

On March 10, 2020, seeing the evident danger that overcrowding posed to the detainees, the BJMP initiated *Oplan* 2019 Novel Coronavirus, covering 468 jails in the country.<sup>29</sup> Similarly, on March 15, KAPATID, a non-

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<sup>23</sup> Balagtas See, *supra* note 7.

<sup>24</sup> Almendral, *supra* note 21; Ana Santos, *‘Waiting to Die’: Coronavirus enters congested Philippine jails*, AL JAZEERA, May 4, 2020, at <https://www.aljazeera.com/news/2020/05/die-coronavirus-enters-congested-philippine-jails-200504025823176.html>

<sup>25</sup> Yeung, *supra* note 8.

<sup>26</sup> Ryan Macasero, *What you need to know about the Cebu City Jail*, RAPPLER, Apr. 26, 2020, at <https://www.rappler.com/newsbreak/iq/259050-things-to-know-cebu-city-jail>

<sup>27</sup> Yeung, *supra* note 8.

<sup>28</sup> The Freeman, *Governor Garcia tackles congestion at CPDRC*, THE FREEMAN WEBSITE, July 19, 2019, available at <https://www.philstar.com/the-freeman/cebu-news/2019/07/19/1936049/governor-garcia-tackles-congestion-cpdrc>

<sup>29</sup> Aie Balagtas See, *How Covid-19 Cases Exploded in Prisons*, PHILIPPINE CENTER FOR INVESTIGATIVE JOURNALISM WEBSITE, June 23, 2020, at <https://pcij.org/article/4198/covid-19-in-philippine-prisons-a-timeline>

government organization representing relatives of the detainees, appealed for the mass release of low-level offenders, the sick, and the elderly.<sup>30</sup>

Shortly after President Duterte placed Luzon under Enhanced Community Quarantine (“ECQ”) on March 16, the BJMP imposed an “absolute lockdown,” prohibiting all outsiders from visiting inmates.<sup>31</sup> Interior Secretary Eduardo Año even described jails and prisons as the safest right now.<sup>32</sup> Such assertion first proved to be incorrect when, on March 30, a female paralegal officer from Quezon City Jail male dormitory tested positive for COVID-19.<sup>33</sup> Later still, on April 17, the BJMP announced nine inmates and nine jail guards were found positive for the virus, proving COVID-19 had indeed reached the Philippine jail system.<sup>34</sup> Immediately after, a prisoner from the Correctional Institution for Women (“CIW”) tested positive for COVID-19, and an inmate who tested positive for coronavirus died on the same day.<sup>35</sup>

The Supreme Court thus urged judges to implement jail decongestion measures,<sup>36</sup> and the Board of Pardons and Parole (BPP) under the BuCor “relaxed” the rules on parole and clemency.<sup>37</sup> Despite such efforts, however, the number of cases only continued to multiply. By May 19, BJMP announced that there were 517 cases of COVID-19 in jails across the country, with Cebu City Jail being the worst hit by the same.<sup>38</sup> On June 2, 10 inmates under the BuCor had died, while 222 were confirmed to be COVID-19 positive,<sup>39</sup> consisting of 140 cases in New Bilibid Prison (“NBP”) and 89 cases in CIW.<sup>40</sup>

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<sup>30</sup> Jodesz Gavilan, *KAPATID appeals for release of low-level offenders, elderly, sick prisoners amid coronavirus outbreak*, RAPPLER, Mar. 14, 2020, at <https://www.rappler.com/nation/254560-open-letter-kapatid-release-prisoners-novel-coronavirus-outbreak>

<sup>31</sup> Balagtas See, *supra* note 29.

<sup>32</sup> *Id.*

<sup>33</sup> Catherine Gonzalez, *Female legal officer of BJMP positive for COVID-19*, PHIL. DAILY INQUIRER.NET, Mar. 30, 2020, available at <https://newsinfo.inquirer.net/1251056/bjmp-legal-officer-positive-for-covid-19>

<sup>34</sup> Balagtas See, *supra* note 29.

<sup>35</sup> *Id.*

<sup>36</sup> This refers to Office of the Court Administrator (OCA) Circular No. 91-2020 that directs all trial court judges to adhere to the Guidelines for Decongesting Holding Jails by Enforcing the Rights of Accused Persons to Bail and to Speedy Trial issued in 2014. This is discussed more thoroughly in Part III of this article.

<sup>37</sup> Balagtas See, *supra* note 29.

<sup>38</sup> *Id.*

<sup>39</sup> Nicole-Ann Lagrimas, *BuCor reports 222 COVID-19 cases, 10 deaths among inmates*, GMA NEWS ONLINE, June 4, 2020, at <https://www.gmanetwork.com/news/news/metro/741219/bucor-reports-222-covid-19-cases-10-deaths-among-inmates/story>

<sup>40</sup> Balagtas See, *supra* note 29.

48 personnel from both prisons also tested positive for COVID-19.<sup>41</sup> On June 11, deaths in BuCor reached 15.<sup>42</sup>

An overcrowded prison is far from an ideal place to be in at a time of a global pandemic due to the extreme difficulty of keeping one's distance in such an environment. However, the COVID-19 pandemic only gave rise to a new set of difficulties brought about by such congestion.

### *1. Ineffective Implementation of Prevention Measures*

A convict from NBP reports that inmates have to wear masks wherever they go within the prison facilities, but these masks can be removed inside their dormitories during bedtime.<sup>43</sup> Similarly, another detainee (from an unknown place of detention) explains that they were all given masks, but many complained that such were “uncomfortable to wear in the sweltering summer heat” which is only aggravated by the sheer number of people in a cramped space.<sup>44</sup>

Another inmate, this time an old man<sup>45</sup> from the Quezon City Jail, narrates that a fellow detainee who came into close contact with the paralegal officer who died from COVID-19 (the aforementioned first COVID-related death in the correctional system) was isolated as jail administrators waited for the test results of the paralegal officer to be released.<sup>46</sup> However, on the eighth day of his quarantine period, he was sent back to the male dorm without having completed the standard 14 days in isolation.<sup>47</sup> “He ate with us, he slept beside us. He did practically everything with us,” the old man narrated.<sup>48</sup> When the paralegal officer's results were released and it was discovered she was positive for COVID-19, the jail guards returned to the dorm for another round of quarantine.<sup>49</sup>

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<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Aie Balagtas See, *Hidden Victims of the Pandemic: The Old Man, the Jail Aide, and the Convict*, PHILIPPINE CENTER FOR INVESTIGATIVE JOURNALISM WEBSITE, at <https://pcij.org/article/4185/the-old-man-the-medic-and-the-convict>

<sup>44</sup> Santos, *supra* note 24.

<sup>45</sup> Balagtas See, *supra* note 43. This article uses this term which was used to identify this particular inmate in the original PCIJ article, which provides the accounts of three individuals in the Philippine Correctional System.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

## 2. *Lack of Adequate Facilities and Resources*

On April 19, they began separating the elderly from the general population of Quezon City Jail.<sup>50</sup> The old man recounts being taken to an administrative office previously occupied by jail personnel, only to discover that it was the same office where the paralegal officer who tested positive for COVID-19 was assigned.<sup>51</sup> These efforts, however, do not seem to have eliminated the problem of overcrowding. In one of those facilities, 11 men were said to have “makeshift hospital beds,” which were formerly used by recently dead inmates.<sup>52</sup>

Another apparent consequence of the overcrowding is the lack of adequate facilities. The old man explains that one of the quarantine areas for COVID-19 was on the same floor as the quarantine areas reserved for tuberculosis (“TB”) patients.<sup>53</sup> Knowledge of this causes inmates to deny any symptoms when asked,<sup>54</sup> out of fear they will be sent to the “TB floor” for colds and cough, contracting TB instead of being cured.<sup>55</sup> There is also a lack of basic necessities such as medicine, leaving inmates with no choice but to buy: “Every move you make requires a peso sign. You’re dead if you don’t have money, especially if you’re facing grave charges.”<sup>56</sup>

The lack of resources is an issue not only for the inmates, but also for the personnel as well who lack the proper personal preventive equipment (“PPE”). A nurse in Quezon City Jail laments that he used to attend his duties with only a glove and a face mask until he went down with a high fever and convulsions and has been in quarantine ever since.<sup>57</sup>

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* See also Santos, *supra* note 24.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* It appears that such symptoms would be easy to hide, as the old man narrates that the extent of the officers “checking for symptoms” was to simply ask each of the inmates if they have cold, cough, fever, flu, or diarrhea. Should the inmate answer “no” to such questions, that would be the end of the discussion.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

### III. THE BASIS FOR ACCELERATED DECONGESTION IN PHILIPPINE AND INTERNATIONAL LAW

#### A. Under Philippine Law

##### 1. *The 1987 Constitution*

The Bill of Rights upholds the right of detainees as provided in the following provision:

Section 19. (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall the death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it. Any death penalty already imposed shall be reduced to reclusion perpetua.

(2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee *or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.*<sup>58</sup>

In his article, *Articulating the Right to the Presumption of Innocence as a Constitutional Imperative for Critical Carceral Reforms*,<sup>59</sup> Allan Chester Nadate raises several excellent points in his interpretation of this particular section of the Bill of Rights. For example, he notes that the corresponding provision in the 1973 Constitution was limited to the prohibition of excessive fines and cruel or unusual punishment.<sup>60</sup> The addition of the phrase “prohibiting the use of substandard or inadequate penal facilities under subhuman conditions” was the initiative of Commissioner Regalado Maambong who, in the course of the deliberations, discussed how he witnessed the use of such substandard penitentiary facilities as a lawyer and believed the same to be tantamount to cruel and unusual punishment.<sup>61</sup>

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<sup>58</sup> CONST. art. III, § 19. (Emphasis supplied.)

<sup>59</sup> Allan Chester Nadate, *Articulating the Right to the Presumption of Innocence as a Constitutional Imperative for Critical Carceral Reforms*, 91 PHIL. L.J. 135 (2018).

<sup>60</sup> *Id.* at 152, citing CONST. (1973), art. IV, § 21.

<sup>61</sup> *Id.* at 153. This belief is supported by the case of *Brown v. Plata*, 563 U.S. 4, 12-13 (2011), in which the Supreme Court ruled that the overcrowding of California prisons resulted in violations of the inmates’ rights under the Eighth Amendment prohibiting cruel and unusual punishment. Thus, a court-mandated population limit was deemed necessary to rectify the same.

Therefore, the drafters intend to ensure that inmates would not be subject to poor living conditions as a result of such facilities which were already a social reality at the time the 1987 Constitution was being drafted.<sup>62</sup>

On its face, it may seem as though there is a lack of a remedy for those imprisoned in such substandard or inadequate penal facilities. However, a further perusal of the records of the 1986 Constitutional Commission reveals that the right was intended to be self-executing, and such right was not rendered inexistent by the lack of an implementing law.<sup>63</sup> Rather, the phrase “shall be dealt with by law” allows Congress to expand the sanctions for the violation of this right in addition to the relief already provided by the Constitution.<sup>64</sup> This is made clearer in the following excerpt:

*MR. FOZ:* In case the law passed by the legislature would impose sanctions, not so much in the case of the first part of the amendment but in the case of the second part with regard to substandard or outmoded legal penal facilities characterized by degrading surroundings and insanitary or subhuman conditions, on whom should such sanctions be applied?

*MR. MAAMBONG:* It would have to be applied on the administrators of that penal institution. In the United States, in my reading of the cases furnished to me by Commissioner Natividad, there are instances where the law or the courts themselves ordered the closure of a penal institution and, in extreme cases, in some states, they even set the prisoners free for violations of such a provision.

*MR. FOZ:* I am concerned about the features described as substandard or outmoded penal facilities characterized by degrading surroundings, because we know very well the conditions in our jails, particularly in the local jails. It is not really the fault of those in charge of the jails but these conditions are the result of lack of funds and the support by local government, in the first instance, and by the national government. Does the Gentleman think we should penalize the jailers for outmoded penal facilities?

*MR. MAAMBONG:* No, Madam President. What we are trying to say is that lack of funds is a very convenient alibi for the State, and I think with these provisions, the State should do something about it.

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<sup>62</sup> I RECORD CONST. COMM'N 778 (July 18, 1986) (Comm. Maambong).

<sup>63</sup> Nadate *supra* note 59, at 153,  *citing* I RECORD CONST. COMM'N 778 (July 18, 1986) (Comm. Maambong).

<sup>64</sup> *Id.* at 155-156.

MR. FOZ: Thank you, Madam President.

FR. BERNAS: Madam President, we are not telling the legislature what to do: we are just telling them that they should do something about it.<sup>65</sup>

Based on this exchange, it is clear that the violation of such a right would expose the concerned public official to liability; he cannot invoke immunity from suit in such a case.<sup>66</sup> *Second*, and perhaps most importantly, this establishes that the State cannot claim insufficient funds as a basis to violate the right provided, herein as it was “*precisely* developed to countermand this argument.”<sup>67</sup> Rather, Article III, Section 19(2) created a positive mandate on the part of the State to ensure that penal facilities were up to constitutional standards.<sup>68</sup>

It is fair to conclude that an overcrowded facility is substandard or inadequate within the contemplation of this section. Overcrowding would compel a disproportionate number of detainees to share a limited amount of space, facilities, and resources. It has also led to other problems that compromise the inmates’ health such as poor ventilation and insufficient sanitation.<sup>69</sup> The State, therefore, has a positive mandate to ensure that the decongestion of these prisons and jails is conducted as expeditiously as possible, especially now that continued detention in these facilities constitutes a grave threat to the health of the detainees.

Relevant also to the topic of decongestion is the constitutional right to the speedy disposition of cases,<sup>70</sup> as well as the right to a speedy, impartial, and public trial<sup>71</sup> which is included as one of the rights of the accused under

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<sup>65</sup> *Id.* at 156-157, *citing* II RECORD CONST. COMM’N 34 (July 19, 1986).

<sup>66</sup> *Id.* at 157.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> Balagtas See, *supra* note 7.

<sup>70</sup> CONST. art. III, § 16. “All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.”

<sup>71</sup> CONST. art. III, § 14(2). “In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, *to have a speedy, impartial, and public trial*, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.” (Emphasis supplied.)

the Rules on Criminal Procedure.<sup>72</sup> These rights are not only to ensure the administration of justice, but to “prevent the oppression of the citizen by holding a criminal prosecution suspended over him for an indefinite time.”<sup>73</sup> In the case of *Perez v. People*, the Court discussed how the reason for a delay should determine how the length of such delay should be weighed against the government.<sup>74</sup> The Court here differentiates between valid reasons that justify delay, such as a missing witness, and deliberate attempts to delay the trial which should be considered heavily against the government.<sup>75</sup> On the other hand, negligence or overcrowded courts constitute neutral reasons which should be taken less heavily against the government, although ultimate responsibility still rests with them rather than with the defendant.<sup>76</sup>

## 2. *The BJMP and BuCor Manuals*

The BJMP has “administrative and operational control over all district, city, and municipal jails,” aiming to “enhance public safety by providing for the humane safekeeping and development of its inmates[.]”<sup>77</sup> The BuCor, on the other hand, is tasked with the rehabilitation of national prisoners (those who are sentenced to serve over three years in prison) that they may “become productive and responsible members of society upon their release.”<sup>78</sup>

In their respective manuals, both the BJMP and BuCor recognize their role in providing facilities with adequate living space and ventilation.<sup>79</sup>

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<sup>72</sup> RULES OF COURT, Rule 115, § 1(h). “*Rights of accused at the trial.* — In all criminal prosecutions, the accused shall be entitled to the following rights: [...] (h) To have speedy, impartial and public trial.”

<sup>73</sup> TRANQUIL SALVADOR III, CRIMINAL PROCEDURE 270 (2019), *citing* Coscolluela v. Sandiganbayan, G.R. No. 191411, 701 SCRA 188, 199, July 15, 2013.

<sup>74</sup> WILLARD RIANO, CRIMINAL PROCEDURE (THE BAR LECTURE SERIES) 369-70 (2016), *citing* Perez v. People, G.R. No. 164763, 544 SCRA 532, 556-557, Feb. 12, 2008.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* See also Salvador, *supra* note 73, in which Prof. Salvador emphasizes that jurisprudence dictates that the right is only deemed violated when proceedings are attended by vexatious, capricious, or oppressive delays, when unjustified postponements of trial are asked for or secured, or a long period of time is allowed to elapse without the party having his case tried.

<sup>77</sup> Bureau of Jail Management and Penology (BJMP), BJMP Comprehensive Operations Manual (2015 ed.), Rule I, *available at* <https://www.bjmp.gov.ph/files/BJMP-OpnsManual2015.pdf>

<sup>78</sup> Alvor, *supra* note 4, at 76.

<sup>79</sup> BJMP, *supra* note 77, § 63, at 99; BuCor Operating Manual, Bureau of Corrections, pt. II, ch. 4, § 4, *available at* [https://www.bucor.gov.ph/publication/Bucor%20Manual/bucor\\_manual.html](https://www.bucor.gov.ph/publication/Bucor%20Manual/bucor_manual.html). The BJMP manual provides for the rights of inmates,

Both also provide that healthcare services shall be made available to the inmates and that a medical officer or qualified medical doctor is to be made available in every institution who shall see sick detainees daily as well as those who complain of any ailments.<sup>80</sup>

The BJMP manual in particular states that prisoners suspected of contagious diseases are to be segregated and those who require specialized treatment are to be transferred to a civil hospital or the appropriate facility.<sup>81</sup> It also provides for an emergency or contingency plan<sup>82</sup> in the event that an epidemic is declared by the Department of Health, specifying the basic responsive actions that jail officials are to take, including isolating infected inmates, locking down the facility if necessary, and providing any protective clothing and equipment needed to both the inmates and the staff.<sup>83</sup>

All these establish that both administrative agencies are tasked with ensuring the health, well-being, and humane treatment of inmates, even and especially during an epidemic or, in this case, a pandemic. This can only be achieved if the occupancy level of these facilities is drastically reduced through active decongestion efforts. In fact, the BJMP recognizes decongestion as the desired result of its functions which also include improving jail facilities and conditions.<sup>84</sup>

### *3. Guidelines for Decongesting Holding Jails by Enforcing the Rights of Accused Persons to Bail and to Speedy Trial* (Guidelines for Decongesting Holding Jails)

In 2014, the Supreme Court (“SC”), aiming to humanize the living conditions of inmates, issued Guidelines for Decongesting Holding Jails,

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including the right to adequate food, space, ventilation, rest, and recreation. The BuCor Manual similarly provides that all accommodations for the use of inmates shall meet requirements of sanitation and hygiene with emphasis on adequate ventilation, living space, and lighting.

<sup>80</sup> BJMP, *supra* note 77, XI.1 & XIII.1, at 77-78; § 63, at 99; BuCor, *supra* note 77, pt. II, ch. 2, § 2; pt. V, ch. 2, § 7.

<sup>81</sup> BJMP, *supra* note 77, at 210.

<sup>82</sup> *Id.* at 48.

<sup>83</sup> *Id.* at 203.

<sup>84</sup> *Id.* § 5, at 2. “Section 5. FUNCTIONS - In line with its mission, the Bureau endeavors to perform the following functions: (a) enhance and upgrade organizational capability on a regular basis; thus, making all BJMP personnel updated on all advancements in law enforcement eventually resulting in greater crime solution efficiency and decreased inmate population; [...] (e) to improve jail facilities and conditions.”

enjoining all those involved in the criminal prosecution process<sup>85</sup> to abide by a set of directives based on the right to bail and the right to a speedy trial enshrined in the Constitution<sup>86</sup> and the Rules of Court.<sup>87</sup> Among other matters, such guidelines provided that an accused may move to reduce bail if he is financially incapacitated<sup>88</sup> and that the hearing of an accused's motion for bail is summary in nature.<sup>89</sup> It also provided for the observance of time limits in the prosecution of cases against a detained accused, evidently to expedite the process,<sup>90</sup> and the establishment of task forces to eliminate unnecessary detention.<sup>91</sup>

On April 20, 2020, fearing the high risk of inmates contracting COVID-19 caused by the continued congestion of jail facilities, the SC Administrator issued OCA Circular No. 91-2020.<sup>92</sup> This reminded all trial court judges to adhere to the Guidelines for Decongesting Holding Jails, particularly Sections 5 and 10 thereof, which provided for the release of an

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<sup>85</sup> See BAIL & SPEEDY TRIAL GUIDELINES, specifically including trial courts, public prosecutors, public attorneys, and private practitioners.

<sup>86</sup> CONST. art. III, §§ 13 & 14(2).

<sup>87</sup> RULES OF COURT, Rule 114, § 4; Rule 115, § 1(h).

<sup>88</sup> BAIL & SPEEDY TRIAL GUIDELINES, § 3.

<sup>89</sup> § 6; RULES OF COURT, Rule 114, §§ 7-8. The guidelines also specify that within 48 hours after the hearing, the court shall issue an order with the conclusion of whether or not the evidence of guilt is strong, which determines if the motion for bail should be granted.

<sup>90</sup> The guidelines reinforce time limits found in the Rules of Court for the prosecution of cases against detained accused. They provide that a case may be dismissed on the ground of denial of the right to speedy trial should there be a failure to observe the said time limits. They are as follows: "(a) The case of the accused shall be raffled and referred to the trial court to which it is assigned within three days from the filing of the information; (b) The court shall arraign the accused within ten (10) days from the date of the raffle; (c) The court shall hold the pre-trial conference within thirty (30) days after arraignment or within ten (10) days if the accused is under preventive detention; provided, however, that where the direct testimonies of the witnesses are to be presented through judicial affidavits, the court shall give the prosecution not more than twenty (20) days from arraignment within which to prepare and submit their judicial affidavits in time for the pre-trial conference; (d) After the pre-trial conference, the court shall set the trial of the case in the pre-trial order not later than thirty (30) days from the termination of the pre-trial conference; and (e) The court shall terminate the regular trial within one hundred eighty (180) days, or the trial by judicial affidavits within sixty (60) days, reckoned from the date trial begins, minus the excluded delays or postponements specified in Rule 119 of the Rules of Court and the Speedy Trial Act of 1998."

<sup>91</sup> BAIL & SPEEDY TRIAL GUIDELINES, § 15(a)-(b). The Supreme Court will establish a Task Force *Katarungan at Kalayaan* in each appropriate place, that will keep records of the progress of the criminal cases of all detained persons, and ensure that they are accorded their rights and privileges as provided by law, the rules, and the guidelines.

<sup>92</sup> OCA Administrator Circ. No. 91-2020.

accused who has served the minimum imposable penalty,<sup>93</sup> and the provisional dismissal of actions due to delays caused by the absence of an essential witness.<sup>94</sup> Such judges were directed to immediately conduct an inventory to determine if any of their pending cases would be covered by the Guidelines and, if so, to act on them efficiently and with sound discretion.<sup>95</sup>

By urging judges to expeditiously carry out their duties in light of COVID-19, and with the explicit aim of decongesting jails, the SC recognizes the role of the judiciary in preventing unnecessary detention at this critical time.

## **B. International Law<sup>96</sup>**

### *1. Basic Principles for the Treatment of Prisoners*

The Basic Principles for the Treatment of Prisoners were adopted and proclaimed by the United Nations (“UN”) General Assembly (“GA”) on

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<sup>93</sup> *Id.* citing BAIL & SPEEDY TRIAL GUIDELINES, § 5. “Sec. 5. Release after service of minimum imposable penalty. - The accused who has been detained for a period at least equal to the minimum of the penalty for the offense charged against him shall be ordered released, *motu proprio* or on motion and after notice and hearing, on his own recognizance without prejudice to the continuation of the proceedings against him.”

<sup>94</sup> *Id.*, citing BAIL & SPEEDY TRIAL GUIDELINES, § 10. “Sec. 10. Provisional dismissal. - (a) When the delays are due to the absence of an essential witness whose whereabouts are unknown or cannot be determined and, therefore, are subject to exclusion in determining compliance with the prescribed time limits which caused the trial to exceed one hundred eighty (180) days, the court shall provisionally dismiss the action with the express consent of the detained accused. (b) When the delays are due to the absence of an essential witness whose presence cannot be obtained by due diligence though his whereabouts are known, the court shall provisionally dismiss the action with the express consent of the detained accused provided: (1) the hearing in the case has been previously twice postponed due to the non-appearance of the essential witness and both the witness and the offended party, if they are two different persons, have been given notice of the setting of the case for third hearing, which notice contains a warning that the case would be dismissed if the essential witness continues to be absent; and (2) there is proof of service of the pertinent notices of hearings or subpoenas upon the essential witness and the offended party at their last known postal or e-mail addresses or mobile phone numbers. (c) For the above purpose, the public or private prosecutor shall first present during the trial the essential witness or witnesses to the case before anyone else. An essential witness is one whose testimony dwells on the presence of some or all of the elements of the crime and whose testimony is indispensable to the conviction of the accused.”

<sup>95</sup> *Id.* at 2.

<sup>96</sup> CONST. art. II, § 2. Section 2, Article II of the Constitution provides that the Philippines adopts the generally accepted principles of international law as part of the law of the land. Thus, the following Principles and Standard Minimum Rules proclaimed by the United Nations discussed in this article may be considered as part of Philippine law by way of this constitutional provision.

December 14, 1990.<sup>97</sup> The provisions pertinent to this discussion are as follows:

4. The responsibility of prisons for the custody of prisoners and for the protection of society against crime *shall be discharged in keeping with a State's other social objectives and its fundamental responsibilities for promoting the well-being and development of all members of society.*<sup>98</sup>

Thus, prisoners shall be included in a State's social objectives for promoting the well-being and development of all members of society. They cannot be overlooked by mere reason of their detention.

5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, *all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.*<sup>99</sup>

With obvious exceptions, detainees do not lose other human rights and freedoms as provided by the Universal Declaration of Human Rights, as well as other United Nations covenants, by reason of their detention.<sup>100</sup>

9. *Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.*<sup>101</sup>

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<sup>97</sup> UN Human Rights Office of the High Commissioner [hereinafter "UN OHCHR"], Basic Principles for the Treatment of Prisoners, U.N. Doc. A/RES/45/111 (1990), *available at* <https://www.ohchr.org/EN/ProfessionalInterest/Pages/BasicPrinciplesTreatmentOfPrisoners.aspx>

<sup>98</sup> *Id.* ¶ 4. (Emphasis supplied.)

<sup>99</sup> *Id.* ¶ 5. (Emphasis supplied.)

<sup>100</sup> United Nations General Assembly, Universal Declaration of Human Rights, art. 26, U.N. Doc. A/RES/217(III)A (Dec. 10, 1948). The Universal Declaration of Human Rights provides: "*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*" (Emphasis supplied.) Applying the fifth principle of the Basic Principle for the Treatment of Prisoners, one could argue that in spite of detainment, inmates still possess the right to adequate living conditions to ensure their health and well-being (including food medical care), as well as the right to security in case of unforeseen events such as sickness or unemployment, a common scenario during a global pandemic like that of COVID-19.

<sup>101</sup> UN OHCHR, *supra* note 97, at ¶ 9. (Emphasis supplied.)

The ninth principle may be considered an application of the fifth: a prisoner's right to health is not forfeited by mere reason of detention.<sup>102</sup> Thus, if remaining in detention is detrimental to the health of these inmates, the active decongestion of such facilities should be made a State priority.

## 2. *UN Standard Minimum Rules ("SMRs") for the Treatment of Prisoners*

The UN SMRs for the Treatment of Prisoners was adopted by the UN Congress on the Prevention of Crime and the Treatment of Offenders in 1955 and approved in 1977.<sup>103</sup> They aim to set out good and generally accepted principles and practices in the treatment of prisoners and the management of penal institutions.<sup>104</sup> The rules pertinent to overcrowded prisons are those covering accommodation, as follows:

9. (1) Where sleeping accommodation is in individual cells or rooms, *each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.*<sup>105</sup>

(2) *Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.*<sup>106</sup>

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation *shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.*<sup>107</sup>

These provisions are in stark contrast to the grim depictions of Manila City Jail and Quezon City Jail earlier provided, where the best case for inmates is to share a small, makeshift cell, and the worst case is for them to sprawled

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<sup>102</sup> BJMP, *supra* note 77; BuCor, *supra* note 79. In the case of the Philippines, this is illustrated by the manuals of the BJMP and the BuCor, which both provide that healthcare services shall be made available to the prisoners, and how both prisons and jails should be assigned at least one medical officer or doctor, as discussed previously.

<sup>103</sup> UN OHCHR, Standard Minimum Rules for the Treatment of Prisoners [hereinafter "SMRs"] (1955), available at [https://www.unodc.org/pdf/criminal\\_justice/UN\\_Standard\\_Minimum\\_Rules\\_for\\_the\\_Treatment\\_of\\_Prisoners.pdf](https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf)

<sup>104</sup> *Id.* at 1.

<sup>105</sup> *Id.* at 9(1).

<sup>106</sup> *Id.* at 9(2).

<sup>107</sup> *Id.* at 10.

indiscriminately on the floors and hallways and even bathrooms and basketball courts. Such an environment is detrimental to their health and well-being and does not consider the sweltering heat of the Philippine climate, adequate personal space, and proper ventilation. The Philippine Correctional System has fallen far behind what is regarded as standard minimum rules in international law. The way to progress, therefore, is to actively decongest prisons so that adequate space and other considerations can be afforded to the detainees.

### 3. UN SMRs for Non-Custodial Measures

Also known as the Tokyo Rules, the UN SMRs for Non-Custodial Measures was proclaimed by the UN GA on December 14, 1990.<sup>108</sup> It provides that pretrial detention<sup>109</sup> shall be used as a means of last resort in criminal proceedings and shall last no longer than necessary to ensure the protection of society, the prevention of crime, and the promotion of respect for the law and the rights of victims in a humane manner, all with respect to the inherent dignity of the detainee.<sup>110</sup> It also provides that pretrial detention may be appealed by the offender.<sup>111</sup>

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<sup>108</sup> United Nations Standard Minimum Rules for Non-Custodial Measures [hereinafter “Tokyo Rules”], U.N. Doc. A/RES/45/110 (1991), available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/TokyoRules.aspx>

<sup>109</sup> International Covenant on Civil and Political Rights art. 14(2), Dec. 16, 1966, 999 U.N.T.S. 171; *Cagas v. Phil.*, Comm. 788/1997, U.N. Doc. A/57/40 (2011). Relevant to the topic of pre-trial detention is Article 14(2) of the International Covenant on Civil and Political Rights (“ICCPR”), which provides that everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law. This right must be viewed through the lens of *Cagas v. Philippines*, in which the Human Rights Committee held that the state had violated the right of the authors under Article 14(2) of the ICCPR by subjecting them to a period of detention exceeding nine years. It was provided that such a prolonged detention would violate the fairness of the trial. Thus, the Philippines was obligated to provide the authors with an effective remedy in the form of adequate compensation for the time they spent unlawfully detained. Moreover, the Philippines was obligated to ensure that the authors be tried promptly, and in compliance with all the guarantees provided in Article 14. Should this not be possible, the Committee ruled that such detainees should be released.

<sup>110</sup> Tokyo Rules, ¶¶ 6.1-6.2. “6. Avoidance of pre-trial detention. 6.1 Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim. 6.2 Alternatives to pre-trial detention shall be employed at as early a stage as possible. Pre-trial detention shall last no longer than necessary to achieve the objectives stated under rule 5.1 and shall be administered humanely and with respect for the inherent dignity of human beings.”

<sup>111</sup> Tokyo Rules, ¶ “6.3. The offender shall have the right to appeal to a judicial or other competent independent authority in cases where pre-trial detention is employed.”

The UN SMRs for Non-Custodial Measures, therefore, serves as a basis under international law for the decongestion of prisons by providing that pretrial detention should be the last resort and should not be unnecessarily prolonged.<sup>112</sup> Keeping in mind that pretrial detainees comprise 75.1% of the total prison population in the Philippines,<sup>113</sup> the application of such provisions in Philippine legislation would greatly reduce the total prison population in the country and minimize overcrowding in jails.

#### IV. JUSTICE AND LIBERTY IN THE NEW NORMAL

In Part II, this Essay established that COVID-19 gave rise to new problems in overcrowded prisons and jails, such as the ineffective implementation of preventive measures against the novel coronavirus and the scarcity of facilities and resources. In Part III, it established that the accelerated decongestion of these prisons and jails has sufficient basis in no less than the Constitution, specifically in the right against confinement in substandard or inadequate penal facilities,<sup>114</sup> the right to the speedy disposition of cases, and the right to a speedy trial.<sup>115</sup> The mandates of the administrative agencies, namely BuCor and the BJMP, also support the solution of accelerated decongestion, especially at this critical time. Finally, the issuances of the SC establish that the judiciary has the duty to try criminal cases as efficiently as possible for the decongestion of jails, now more than ever before.

In the field of international law, accelerated decongestion finds basis in the Basic Principles for the Treatment of Prisoners, which upholds the rights of inmates in spite of their detainment, including their right to access health services, and the SMRs, which provides that prisoners are entitled to proper accommodation in terms of space and privacy, in consideration of their health, and that pretrial detention should be a last resort and not unnecessarily prolonged.

With regard to the new problems arising from the prevalence of COVID-19 in prisons, decongestion would not only provide the inmates who remain within these prisons and jails with more space, resources, and facilities, but a lower number of detainees would allow for better administration and a more effective execution of prevention measures within these prisons and

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<sup>112</sup> Tokyo Rules, ¶ 6.1.

<sup>113</sup> World Prison Brief, *supra* note 10.

<sup>114</sup> CONST. art. III, § 19(2).

<sup>115</sup> Art. III, § 16.

jails. It would also prevent overfatigue among medical officers and jail aides, allowing them to better attend to their duties. Since accelerated decongestion is in the best interest of their health and well-being, the same should be made a primary objective of the government as we enter the new normal.

As discussed, there is a positive mandate on the part of the legislature to ensure that penal facilities are adequate up to constitutional standards and proper sanctions for those who fail to maintain such shall be provided for by law.<sup>116</sup> A bill for accelerated decongestion should therefore be immediately drafted by Congress. As the President has declared a state of calamity due to COVID-19,<sup>117</sup> such a bill may be considered a necessity. The bill should include in its scope the Parole and Probation Administration (DOJ-PPA), as well as the BPP under the BuCor,<sup>118</sup> which should seek to expedite their operations and allow for the rapid release of eligible prisoners. The law should also contain penal statutes for those in charge of these facilities who fail to comply with the new standards within a certain amount of time.

In the interim, trial court judges should strive for accelerated decongestion in their respective jails by adhering to the Guidelines for Decongesting Holding Jails, as directed by OCA Circular No. 91-2020.

Finally, the SC should rule favorably on the petition of *Kapatid* to release the elderly, the sick, and low-level offenders,<sup>119</sup> based on the reasons herein provided.

In emphasizing the importance of jail releases in the Philippines, Amnesty International released a public statement deeming the matter as one of life or death.<sup>120</sup> While this rightly invokes the urgency of the situation, it also suggests a grim future for the Philippine Correctional System. Instead, the families of political prisoners offer a more hopeful outlook: standing in front of the SC in their face masks, holding red-beaded roses crafted by

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<sup>116</sup> Nadate, *supra* note 59, at 157.

<sup>117</sup> Proc. No. 929 (2020), declaring a State of Calamity throughout the Philippines due to Corona Virus Disease 2019.

<sup>118</sup> Alvor, *supra* note 4, at 2-3.

<sup>119</sup> Gavilan, *supra* note 30.

<sup>120</sup> Amnesty International, *Philippines: Jail Releases a Matter of Life and Death*, AMNESTY INTERNATIONAL WEBSITE, Apr. 21, 2020, at <https://www.amnesty.org/en/documents/asa35/2192/2020/en>

prisoners, they call for the release of those who are most vulnerable to the novel coronavirus.<sup>121</sup>

Their message is simple: choose to vote for life.<sup>122</sup>

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<sup>121</sup> Kyle Aristophere Atienza, *'Vote for life': Kapatid urges SC to act on petition for prisoners' release*, RAPPLER, June 17, 2020, at <https://amp.rappler.com/nation/264050-kapatid-asks-supreme-court-act-petition-prisoners-release-coronavirus-pandemic>

<sup>122</sup> *Id.*