

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**EIGHTEENTH CONGRESS**  
Third Regular Session



**COMMITTEE REPORT NO. 1462**

Submitted by the Committee on Justice on **March 24, 2022**

Re: House Resolution No. 1666

Informing the House of its findings and recommendations

Sponsors: Representatives Vicente "Ching" S. E. Veloso III and Ruffy B. Biazon

Mr. Speaker:

The Committee on Justice, to which was referred House Resolution No. 1666, introduced by Representative Ruffy B. Biazon, entitled:

**"RESOLUTION**

**DIRECTING THE COMMITTEE ON GOOD GOVERNMENT AND PUBLIC ACCOUNTABILITY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CLOSURE OF INSULAR PRISON ROAD IN THE NEW BILIBID PRISON RESERVATION BY THE BUREAU OF CORRECTIONS"**

has considered the same and has the honor to submit to the House the attached report on its findings and recommendations.

Respectfully submitted,

**VICENTE "CHING" S. E. VELOSO III**  
Chairperson  
Committee on Justice

**THE HONORABLE SPEAKER**  
HOUSE OF REPRESENTATIVES  
QUEZON CITY

## PREFATORY STATEMENT

House Resolution (HR) No. 1666, authored by Rep. Rozzano Rufino B. Biazon, was referred to the Committee on Justice on May 18, 2021. Two (2) public hearings were held on June 30 and July 14, 2021, attended by resource persons from the Department of Justice (DOJ), the Department of Human Settlements and Urban Development (DHSUD), the Bureau of Corrections (BuCor), the National Housing Authority (NHA), as well as local government officials of Muntinlupa City and representatives of affected residents from neighborhood associations. The Resolution was referred to the Committee on Justice in view of its jurisdiction and oversight functions over the BuCor.

During the initial consideration of HR No. 1666 on June 30, 2021, Rep. Manuel Luis T. Lopez, Chairperson of the Committee on Metro Manila Development, manifested that the same subject matter contained in HR No. 1666 was referred to the Committee on Metro Manila Development by virtue of an endorsement by Speaker Lord Allan Jay Q. Velasco of two (2) resolutions issued by the *Sangguniang Panlungsod* of the City of Muntinlupa:

- (1) Resolution No. 2021-466, entitled "*A Resolution Requesting the Department of Justice thru the Honorable Secretary Menardo I. Guevarra to Order the Bureau of Corrections to Reopen the Road Going to and from Southville 3, the Socialized Housing Project Undertaken by the National Housing Authority (NHA) Located within the National Bilibid Prison (NBP) Reservation, Muntinlupa City*"; and
- (2) Resolution No. 2021-467 entitled "*A Resolution Requesting Congress of the Philippines thru our Honorable Representative Rozzano Rufino Biazon to Conduct an Inquiry, In-Aid-Of-Legislation, into the Closure of a Road Going to and from Southville 3, a National Socialized Housing Program Located within the National Bilibid Prison (NBP) Reservation, Muntinlupa City*".

Rep. Lopez stated that the Committee on Metro Manila Development already requested the DOJ and the BuCor to submit their respective position papers on the issue of the closure of the public road traversing the New Bilibid Prison (NBP). However, in view of the referral of HR No. 1666 to the Committee on Justice, Rep. Lopez manifested that the Committee on Metro Manila Development has deferred further action on the aforementioned endorsement, and requested the DOJ and the BuCor to submit to the Committee on Justice the position papers previously requested.

The following resource persons attended the inquiry conducted by the Committee: Director General Gerald Q. Bantag from the BuCor; Muntinlupa City Mayor Jaime R. Fresnedi; Muntinlupa City Vice Mayor Artemio A. Simundac; City Councilor Atty. Raul R. Corro, a member of the *Sangguniang Panlungsod* of Muntinlupa City; Brgy. Poblacion *Punong Barangay* Allen F. Ampaya; Undersecretary Deo L. Marco from the DOJ; Atty. Alvin G. Giolagon from the DHSUD; Atty. Randy G. Serrano from the BuCor Business Center; Architects Luis S. Bacamante and Rommel R. Trinidad from the NHA; Atty. Silverio R. Garing, Register of Deeds of Muntinlupa City; District Engineer Elpidio Y. Trinidad of the Las Piñas-Muntinlupa District Engineering Office of the Department of Public Works and Highways (DPWH); Mr. Ernesto "Jap" C. Landingin, President of the Southville 3 Homeowner's Association; Ms. Marjorie Debalucos, President of the *A-Angat K5 Samahang Magkakapitbahay Lower Type B*; and Ms. Nita L. Malveda, President of the *Samahang Magkakapitbahay ng Smart Tower*.

The Committee terminated its deliberations on HR No. 1666 on July 14, 2021.

## FACTS

Republic Act No. (RA) 10575, otherwise known as "The Bureau of Corrections Act of 2013", declares that it is the policy of the State "to promote the general welfare and to safeguard the basic rights of every prisoner incarcerated in our national penitentiary"<sup>1</sup>. Pursuant to this policy, the BuCor is charged with the safekeeping and reformation of national inmates sentenced to imprisonment of more than three (3) years<sup>2</sup>. To further ensure the security of inmates within the national penitentiary, Sec. 6 of RA 10575 states:

*"SEC. 6. Lands of the Bureau of Corrections. – (a) Aside from administrative purposes, **all BuCor lands shall be used for inmate security, reformation programs and as a means to promote sustainability, both for income and non-income generating programs, with or without partnership among nongovernment organizations, civic organizations or other government entities.***

***(b) As a way to maximize its assets' value for the effective and extensive reformation (corrections) programs for national inmates, the BuCor shall have the absolute authority to design, formulate and implement land-use development plans and policies.***

*(c) The BuCor may propose additional penal farms as may be necessary as possible, aside from its existing seven (7) prison and penal farms to decongest existing penal institutions and accommodate the increasing number of inmates committed to the agency.*

*(d) All BuCor lands shall have a Certificate of Title registered under its name." (Emphasis added)*

On March 20, 2021, the BuCor ordered the "temporary" closure of the Insular Prison Road inside the NBP reservation in Muntinlupa City until further notice, and constructed a concrete wall over the said road thereby blocking the main entry and exit of residents of Southville 3, a housing relocation project spearheaded by the NHA for residents affected by the Philippine National Railways (PNR) North-Southern Linkage Project.

On March 22, 2021, the *Sangguniang Panlungsod* of Muntinlupa City approved two (2) resolutions: (1) Resolution No. 2021-466, requesting the DOJ to order the BuCor to reopen the blocked Insular Prison Road going to and from Southville 3; and (2) Resolution No. 2021-467, requesting Rep. Biazon to initiate an inquiry, in aid of legislation, on the closure of the said road. These *Sanggunian* resolutions are attached herein as **Annex "A"**.

In the said resolutions, the *Sanggunian* stated that the concrete blockade erected by the BuCor along the road going to and from the Southville 3 "effectively prevented the affected residents, who were among the poorest of the poor people in the city, from passing through a portion of the road network within the NBP Reservation going to the city proper", and that by virtue of the closure of the said road, "the only outlet of the residents in going to and reaching the city proper is through San Pedro, Laguna or Daang Hari, Las Piñas, which is more or less ten (10) kilometers to Barangay Poblacion, passing through Barangays Alabang, Bayanan and Putatan". This closure, the *Sanggunian* added, "resulted in an added burden to the poor residents in terms of longer travel time and increased transportation expenses, sudden unemployment to hundreds of tricycle drivers and loss of business of their operators" and "deprived the poor residents of emergency services from the police, fire, rescue, health and other basic services due to the inaccessibility of Southville 3 from the city proper". Further, the *Sanggunian* claimed that "such closure was

---

<sup>1</sup> Section 2, R.A. No. 10575

<sup>2</sup> Section 4, R.A. No. 10575

implemented without prior consultation with the City Government as required under Sec. 2 (c) and Sec. 27 of Republic Act No. 7160, otherwise known as the 'Local Government Code of 1991' which is "violative of the due process clause and equal protection clauses guaranteed by the Constitution and is against the policy of the State in giving preferential treatment to the poor in our society".

Similarly, the *Sangguniang Pambarangay* of Barangay Poblacion issued Resolution No. 10, Series of 2021, appealing to Rep. Biazon to intervene in the closure of the Insular Prison Road. In its resolution, the *Sangguniang Pambarangay* stated that the closure of the Insular Prison Road "is a hindrance to the efficient delivery of Barangay services specially to the health and medical emergency response services particularly in this time of COVID-19 pandemic" and "significantly decreased the economic activity in the area that resulted to loss of livelihood, reduced income and additional expenses".

### **ISSUES**

- 1. WHETHER OR NOT REPUBLIC ACT NO. 10575, OTHERWISE KNOWN AS "THE BUCOR MODERNIZATION ACT OF 2013", AND ITS IMPLEMENTING RULES AND REGULATIONS GRANT THE BUREAU OF CORRECTIONS THE AUTHORITY TO UNILATERALLY CLOSE THE INSULAR PRISON ROAD AND DENY ACCESS THERETO;**
- 2. WHETHER OR NOT THE BUREAU OF CORRECTIONS CONSULTED OR COORDINATED WITH THE CONCERNED LOCAL GOVERNMENT UNITS, GOVERNMENT AGENCIES, AND AFFECTED RESIDENTS PRIOR TO THE CLOSURE OF THE INSULAR PRISON ROAD;**
- 3. WHETHER OR NOT THERE IS A NEED TO PURSUE OTHER COURSES OF ACTION OR REMEDIES IN VIEW OF THE ACTS DONE BY THE BUREAU OF CORRECTIONS AND ITS OFFICIALS**

### **DISCUSSION**

#### **1. ON THE AUTHORITY OF THE BUCOR TO UNILATERALLY CLOSE THE INSULAR PRISON ROAD AND DENY ACCESS THERETO**

In its position paper submitted to the Committee (attached herein as **Annex "B"**), the BuCor invoked RA 10575 and its implementing rules and regulations (IRR) as the basis for its authority to close the Insular Prison Road and deny access thereto. The BuCor cited the twin mandates of "safekeeping" and "reformation" of national inmates found in Section 4 of the said law as complementary components in ensuring that persons deprived of liberty (PDL) under its custody are completely incapacitated from further committing criminal acts, and to prevent illegal organized armed groups from rescuing their convicted comrades or to "forcibly amass firearms issued to corrections officers". BuCor Director General Bantag also emphasized during the inquiry that the proximity of portions of the Insular Prison Road to certain areas of the NBP compound has made it easy for individuals and groups to throw contraband over the fences and walls of the NBP compound. The BuCor further claimed that these activities were perpetrated by persons from Southville 3.

In addition to its mandates of safekeeping and reformation of PDLs, the BuCor also cited Section 6 of RA 10575 as legal basis for the closure of Insular Prison Road, quoting a portion of paragraph (a) thereof that states, "xxx all BuCor lands shall be used for inmate security, reformation programs and as a means to promote sustainability xxx", and paragraph (c) of the same section, that further states "xxx the BuCor shall have the

absolute authority to design, formulate and implement land-use development plans and policies”.

Finally, the BuCor also claimed that the closure of the Insular Prison Road contributed to the measures of the government in containing the transmission of the deadly coronavirus disease (COVID-19) by greatly reducing the movement of people inside the NBP reservation.

The DOJ acknowledged in its position paper (attached as **Annex “C”**) that the road closure was implemented by the BuCor as a security measure in order to repel the throwing of contraband inside the prison compound, and as a preventive and precautionary health measure against a potential COVID-19 outbreak in the facility. Thus, the DOJ recognized the road closure as within the mandate of the BuCor to use its land for inmate security, reformation programs, and as a means to promote sustainability.

Further, the DOJ claimed that the road closure does not partake the nature of a “program or project” contemplated in the Local Government Code that would require prior consultation with the concerned local government unit. Therefore, the closure of the Insular Prison Road, according to the DOJ, was well within the authority of the BuCor and was consistent with its mandate of safekeeping PDLs. Since the DOJ merely exercises administrative authority over the BuCor, and there being no violation, abuse, or other forms of misadministration on the part of the BuCor, the DOJ argued that it has no authority to stop the BuCor from implementing its mandate.

On the other hand, the NHA, in its position paper attached herein as **Annex “D”**, traced back the history of the Southville 3 Housing Project and the crucial role of the Insular Prison Road as the main access road to and from Southville 3. According to the NHA, fifty (50) hectares out of the total 431-hectare property located in the NBP reservation area in Brgy. Poblacion, Muntinlupa City was segregated and set aside as a socialized housing site for informal settler families from Muntinlupa City, pursuant to Proclamation No. 234 dated August 15, 2002. The same proclamation designated the NHA as the lead implementing agency or sponsor of all development subprojects within the NBP site. The NHA thereafter began development of the Southville 3 Housing Project, a fifty (50)-hectare socialized housing project developed as a relocation site for families affected by the North-Southern Linkage Project as well as other danger areas within the city. The Environmental Clearance Certificate (ECC) issued by the Department of Environment and Natural Resources indicated the Insular Prison Road as the main access road to the site.

The NHA acknowledged that there are alternative routes to the project, but also stressed that the Insular Prison Road is the main access road from Southville 3 to the Muntinlupa City Old National Highway, and that the alternative routes leading to San Pedro, Laguna are considerably farther in distance from the Muntinlupa City proper compared to the route via Insular Prison Road. The NHA also noted the major inconvenience to the residents of the Southville 3 Housing Project that the blockage of the Insular Prison Road has caused, and formally requested that the Insular Prison Road be reopened and declared as a permanent public road.

Mayor Fresnedi, Vice Mayor Simundac, City Councilor Atty. Corro, *Punong Barangay* Ampaya, as well as residents from Southville 3 and other residential areas affected by the closure, all testified under oath that the sudden and unexpected closure of the Insular Prison Road has caused great hardship to the affected residents, especially during the unprecedented period of national emergency caused by the COVID-19 pandemic. These Muntinlupa City officials and residents cited some examples of the adverse effects of the closure of the Insular Prison Road:

- 1.) Affected residents had to find other routes in order to reach the Muntinlupa City proper where most of them work or carry out their livelihood. This resulted in an

increase in the distance travelled by the residents going to the barangay hall, from the previous four (4) kilometers to eleven (11) kilometers via San Pedro, Laguna, or eighteen and a half (18.5) kilometers via Daang Hari in Las Piñas. The increase in distance also meant an increase in the fare needed to reach the city proper on a daily basis;

- 2.) The closure of the Insular Prison Road resulted in the increase in the number of *colorum* vehicles, since operators of public utility vehicles could no longer operate in their previously designated routes and had to ply alternative yet unauthorized routes;
- 3.) Around 2,000 tricycle drivers lost their livelihood due to the closure of the Insular Prison Road; and
- 4.) The affected residents have been effectively denied access to basic services provided by the barangay and city government, such as healthcare and ambulance services, which has exacerbated the conditions of the residents during the COVID-19 pandemic. At least two (2) residents had died due to the inability of ambulance and emergency health workers to reach them on time because of the closed Insular Prison Road.

District Engineer Trinidad of the DPWH Las Piñas-Muntinlupa District Engineering Office confirmed under oath that the Insular Prison Road is classified as a national road. He disclosed that the funds used for the maintenance and repair of the Insular Prison Road comes from the budget of the DPWH. He also informed the Committee that the projects being implemented by the DPWH in the area have been disrupted due to the closure of the Insular Prison Road. Finally, District Engineer Trinidad viewed the construction of a wall over the Insular Prison Road as improper, and should have at least been coordinated with the DPWH considering that the road is classified as a national road.

In its position paper, attached herein as **Annex "E"**, the DHSUD described the action of the BuCor in closing the Insular Prison road as *ultra vires*, arguing that the BuCor has no authority to build a concrete fence over a national road.

During the hearing held on July 14, 2021, the Register of Deeds of Muntinlupa City submitted copies of the following certificates of title covering the NBP Reservation area:

- 1.) TCT No. (183328) 84570, covering 101,728 square meters;
- 2.) TCT No. 19966, covering 2,547,305 square meters;
- 3.) TCT No. 19968, covering 125,477 square meters;
- 4.) TCT No. 19969, covering 433,227 square meters;
- 5.) TCT No. 19970, covering 341,296 square meters;
- 6.) TCT No. 19971, covering 111,973 square meters;
- 7.) TCT No. 19972, covering 56,904 square meters;
- 8.) TCT No. 19973, covering 28,760 square meters; and
- 9.) TCT No. 19974, covering 9,451 square meters.

All the above titles (attached herein as **Annexes "F-1" to "F-9"**, respectively) are registered under the name of the "Republic of the Philippines". The BuCor admitted that it is still processing the transfer of the said titles to its name. Given the fact that none of the titles covering the NBP Reservation area has been registered under the name of the BuCor, the Committee observed that the BuCor could not yet unilaterally exercise acts of dominion over the subject lands such as erecting a wall over a national road without coordinating with the appropriate government agencies and instrumentalities.

However, the BuCor argued that Sec. 6(b) of RA 10575 granted the BuCor “absolute authority” over such lands since the NBP Reservation administered by the BuCor is located therein. To this argument, the Committee noted that while the cited provision of RA 10575, in full, grants the BuCor “absolute authority to design, formulate and implement land-use development plans and policies”, it does not necessarily mean that the BuCor has absolute authority to exercise acts of dominion over properties that it administers, much less land that is not yet registered under its name. In response, the BuCor submitted to the Committee its “Land Use Plan”, which consists of two (2) sets of graphics labelling housing, institutional, and open areas, overlaid on top of a satellite photo of the NBP Reservation area, with one set labeled as “Plan A: with Relocation of NBP” and the other as “Plan B: without Relocation of NBP”, referring to the planned relocation of the NBP to a different area outside of Muntinlupa City. The “plans” are attached to this report as **Annexes “G-1” and “G-2”**, respectively.

## **2. ON THE MATTER OF PRIOR CONSULTATION AND COORDINATION WITH THE LOCAL GOVERNMENT OFFICIALS OF MUNTINLUPA CITY, OTHER NATIONAL GOVERNMENT AGENCIES, AND AFFECTED RESIDENTS**

The BuCor claimed that it coordinated with the local government of Muntinlupa City in the following manner:

- a.) In a letter dated sometime in January 2021, the BuCor informed the local government of Muntinlupa City and the office of Rep. Biazon about the problem of informal settlers within the NBP Reservation area<sup>3</sup>;
- b.) In a letter<sup>4</sup> dated March 18, 2021 addressed to Brgy. Poblacion *Punong Barangay Ampaya*, received on March 19, 2021, the BuCor informed *Punong Barangay Ampaya* that the “paths leading to NHA, South Ville 3 and the route in front of Tower 8 going to Minimum Security Compound will not be accessible temporarily to all pedestrians and motorists starting from March 20, 2021 (Saturday) at about 5:00 a.m. until further notice xxx”; and,
- c.) Tarpaulins were installed in the area informing pedestrians, motorists and residents of the road closure<sup>5</sup>.

Muntinlupa City Mayor Fresnedi denied, under oath, that the BuCor coordinated with the city government of Muntinlupa prior to the construction of the concrete wall fence on the Insular Prison Road<sup>6</sup>. Rep. Biazon likewise stated that the BuCor did not coordinate its plans with his office prior to the construction of the concrete wall fence.

The NHA stated in its position paper that it had no previous knowledge or advance information that a concrete wall would be constructed on the Insular Prison Road<sup>7</sup>.

Similarly, the DHSUD stated in its position paper that “the BuCor neither notified nor consulted the DHSUD regarding its decision to construct a concrete fence on the Insular Prison Road”<sup>8</sup>.

---

<sup>3</sup> Transcript of Stenographic Notes (TSN), meeting of the Committee on Justice held on June 30, 2021.

<sup>4</sup> Annex B, page 5.

<sup>5</sup> TSN, June 30, 2021.

<sup>6</sup> *Ibid.*

<sup>7</sup> Annex “D”.

<sup>8</sup> Annex “E”.

The *Sangguniang Pambarangay* of Barangay Poblacion, in its Resolution No. 10, series of 2021 (**Annex "H"**), noted that Section 27 of the Local Government Code states, "No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the *sanggunian* concerned is obtained: *Provided*, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution." According to *Punong Barangay Ampaya*, no prior consultation was done by the BuCor, and there was no prior approval given by the *sanggunian* concerned regarding the closure of Insular Prison Road.

The Committee noted the denials made by the concerned government officials and the failure of the BuCor to present other evidence to support its claim that it consulted and coordinated with the concerned government officials and residents regarding its decision to block public access to the Insular Prison Road.

### **3. ON THE NEED TO PURSUE OTHER COURSES OF ACTION OR REMEDIES**

While the BuCor and the DOJ posit that the closure of the Insular Prison Road to the public was done in accordance with existing laws and pursuant to the authority granted to the BuCor by RA 10575, all the other resource persons are of the position that the said closure violated the rights guaranteed by the Constitution and existing laws to the affected citizens.

Mayor Fresnedi, City Councilor Atty. Corro, *Punong Barangay Ampaya*, Rep. Biazon, and representatives of the homeowners of Southville 3 and other affected villages, all agree that the BuCor violated the right to due process of the affected citizens when it unilaterally constructed a wall to block access to the Insular Prison Road without prior consultation, thereby depriving the affected residents of their livelihood and their immediate access to emergency services, increasing additional expenses and travel time going to and from their residences, and further aggravating the hardships and difficulties suffered by the poor residents of Muntinlupa City during the COVID-19 pandemic.

The local government officials of Muntinlupa City also claimed that the closure of the Insular Prison Road unduly prohibited the local government from exercising its mandate under the general welfare clause of the Local Government Code of 1991 (Sec. 16).

The issue of the concrete barrier as a public nuisance under Republic Act No. 386, or the New Civil Code, was also raised. Articles 694 and 695 of the New Civil Code state:

ARTICLE 694. A nuisance is any act, omission, establishment, business, condition of property, or anything else which:

- (1) Injures or endangers the health or safety of others; or
- (2) Annoys or offends the senses; or
- (3) Shocks, defies or disregards decency or morality; or
- (4) Obstructs or interferes with the free passage of any public highway or street, or any body of water; or
- (5) Hinders or impairs the use of property.

ARTICLE 695. Nuisance is either public or private. A public nuisance affects a community or neighborhood or any considerable number of persons, although the extent of the annoyance, danger or damage upon individuals may be unequal. A private nuisance is one that is not included in the foregoing definition.

Article 699 of the New Civil Code identifies the remedies against a public nuisance, as follows:

ARTICLE 699. The remedies against a public nuisance are:

- (1) A prosecution under the Penal Code or any local ordinance: or
- (2) A civil action; or
- (3) Abatement, without judicial proceedings.

The prospect of abatement as a remedy that the affected residents may avail of was mentioned, but the Committee was wary of the possibility of the escalation of violence that could lead to further injury. Nevertheless, the Committee noted that the foregoing provisions of the New Civil Code on public nuisances could apply in this instance.

Finally, the Committee also raised the possibility the possibility that the officials of the BuCor may have incurred liability under existing criminal, civil, and administrative laws, rules and regulations for their actions involving the unilateral closure of the Insular Prison Road.

#### **4. ON THE CONSTITUTIONALITY OF CERTAIN PROVISIONS OF THE IMPLEMENTING RULES AND REGULATIONS OF RA 10575**

During the discussions on Section 6 of RA 10575 which the BuCor cites as one of the legal bases for the closure of the Insular Prison Road, Rep. Biazon noted a highly questionable provision in the IRR of RA 10575 implementing Section 6 of the law. In particular, Section 6 (b), par. 6 of the IRR<sup>9</sup> states that "All revenues derived from use of the BuCor lands and other businesses shall not be taxed by the government." Rep. Biazon emphasized that the power to tax, and conversely, the power to grant tax exemptions, is a power vested by the Constitution in Congress, and this insertion of a provision in the IRR granting tax exemption over revenues derived from the use of BuCor lands, when the law itself does not grant such tax exemption, is unconstitutional. He thus requested that the Committee look further into the implementation of this provision in the IRR. However, the Committee noted that this is no longer covered by the subject matter of the inquiry; nevertheless, a separate inquiry may be necessary to investigate how such provision came to be included in the IRR of RA 10575.

---

<sup>9</sup> <https://www.officialgazette.gov.ph/2016/05/23/revised-irr-of-republic-act-no-10575/>.

## FINDINGS

### 1. THE BUCOR EXCEEDED ITS AUTHORITY WHEN IT UNILATERALLY CLOSED THE INSULAR PRISON ROAD AND DENIED ACCESS THERETO.

Based on all the documents submitted and testimonies given during the inquiry, the Committee finds that the BuCor exceeded its authority when it unilaterally closed the Insular Prison Road. The BuCor's reliance on the provisions of RA 10575 as the legal basis for its actions is misplaced. Although the Committee acknowledges the authority of the BuCor to implement measures necessary for the performance of its mandate of safekeeping and reforming PDLs under its custody, the Committee is alarmed at the manner in which BuCor officials exercise such authority. Nowhere in RA 10575 does it state that the BuCor may disregard existing laws, rules and regulations in the performance of its mandate.

The Insular Prison Road, as shown by documents submitted by the DPWH Las Piñas-Muntinlupa District Office (**Annex "I"**), is classified as a national secondary road, and the budget for its repair and maintenance is included in the annual budget of the DPWH under the General Appropriations Act. Thus, any construction or improvement that would impair or obstruct the free passage thereon must be coordinated with the DPWH. Prior coordination before the closure has proved to be all the more crucial in this situation where affected Muntinlupa City residents were made to travel to another city or town before reaching the Muntinlupa city proper that used to be a short five (5)-kilometer trip as a result of the unilateral road closure. The DPWH could have proposed an alternative route that would not unduly burden the affected residents. The lack of coordination by the BuCor with the DPWH, as testified to by District Engineer Trinidad, clearly shows that the construction of a concrete wall on Insular Prison Road that blocked access to a national road and affected thousands of residents, was done capriciously and without legal authority.

Section 6 of RA 10575 does not give the BuCor *carte blanche* authority to construct buildings, structures, or improvements on properties that it administers without complying with existing laws, rules and regulations. Section 6(a) merely states the purpose for which BuCor lands may be used, while Section 6(b) gives the BuCor "absolute authority" only with respect to the design, formulation and implementation of **land-use development plans and policies**. None of these provisions give the BuCor the authority to construct a barrier on and deprive access to a national road. Moreover, the lack of any concrete land use development plan or policy by the BuCor for the NBP Reservation belies any authority the BuCor claims to have over the implementation of a non-existent land use plan or policy.

While Insular Prison Road is located inside the NBP Reservation area, it should be stressed that the said road, aside from being classified as a national road, is situated on land owned by the Republic of the Philippines. The rights of ownership of BuCor over properties that it owns do not carry over lands not yet registered under its name. The Committee is also perplexed at the argument raised by the BuCor that Section 6(d) of RA 10575, which states that "All BuCor lands shall have a Certificate of Title under its name," gives the BuCor absolute authority over all the lands in the NBP Reservation area, while at the same time admitting that the BuCor is still processing the transfer of ownership over the same lands. At the most, Section 6(d) simply mandates the BuCor to immediately commence the proper proceedings to have all its lands registered under its name. It does not automatically grant the BuCor title over such properties, as to do so would disrupt the security and stability of the Torrens system of land titling and registration.

The closure of the Insular Prison Road also unduly encroached on the rights of the residents of Southville 3. The Southville 3 Housing Project was a project undertaken by the NHA pursuant to Proclamation No. 234, series of 2002, with the Insular Prison Road identified as the main access road to the said project. The residents of Muntinlupa City relocated to Southville 3 with the knowledge that the Insular Prison Road is their main route to the city proper, and they have been using the said road for more than ten (10) years. The closure of the Insular Prison Road, with no other viable alternative except for a route that would take them through San Pedro, Laguna or through an eighteen (18)-kilometer stretch of Daang Hari in Las Piñas City before reaching the barangay hall, is unconscionable. It also undermines the efforts of the NHA in developing and maintaining the Southville 3 Housing Project as a viable socialized housing site for Muntinlupa residents. The residents were also deprived of their immediate access to emergency police, fire, and health services, as described during the hearings<sup>10</sup>, adding to their suffering during the current pandemic.

The Committee recognizes and supports the efforts of the BuCor in effectively managing the national penitentiaries, ensuring that the PDLs under its custody are safely secured, implementing reformation and rehabilitation programs, and protecting its personnel. The Committee also acknowledges the problem of contraband being thrown over the walls and fences around the NBP perimeter. However, the closure of Insular Prison Road is a draconian measure that unduly affected the lives of thousands of residents, most of whom belong to the marginalized sectors of society. The BuCor could have enforced more effective and sustainable measures to prevent contraband from entering its premises, such as installing surveillance cameras, regular patrolling of strategic areas within and outside the NBP, and improving its perimeter fencing. These measures are well within the authority of the BuCor, and do not entail the unnecessary disruption of the daily lives of innocent civilians who are entitled to the unhampered use and enjoyment of a national road. Regrettably, the BuCor chose to use a sledgehammer to kill a fly.

## **2. THE BUCOR FAILED TO CONSULT OR COORDINATE WITH STAKEHOLDERS PRIOR TO THE CLOSURE OF THE INSULAR PRISON ROAD.**

The various statements and testimonies of the resource persons from the city government of Muntinlupa, national government agencies such as the DPWH, the DHSUD, and the NHA, and the residents affected by the closure of the Insular Prison Road, as well as the lack of sufficient evidence presented by the BuCor to the contrary, all point to the conclusion that the BuCor failed to consult or coordinate with the affected stakeholders ~~prior to the closure of~~ the said road. This failure to consult and coordinate predictably led to the various problems and issues faced by these stakeholders due to the unilateral closure of a national road. Congress had already foreseen such problems and issues involving national and local governments, which is why the Local Government Code of 1991 mandated prior consultation and approval of the *sanggunian* concerned before the implementation of a project or program of a national government agency.

As earlier mentioned, the BuCor did not present to the Committee sufficient evidence to prove its claims that it coordinated with the city government of Muntinlupa prior to the road closure. Instead, the BuCor focused on its insistence that it had absolute authority to close the Insular Prison Road to the public pursuant to its mandate under RA 10575. However, despite the reliance of BuCor on this perceived authority, the BuCor should have exercised prudence by conducting consultations with the stakeholders to be affected by its decision. It is clear that the Insular Prison Road has been used by residents of Southville 3 and other residential areas as the main thoroughfare towards the city proper, which the BuCor also recognized when it collected fees and issued vehicle passes to residents passing

---

<sup>10</sup> TSN, June 30, 2021.

through the said road. Thus, the BuCor should have anticipated the problems and other possible negative effects of the closure of Insular Prison Road on residents of the surrounding area. Prior consultation and coordination with the concerned stakeholders could have produced an alternative solution that would maximize the benefits and minimize any adverse effects for everyone involved. Unfortunately, the BuCor disregarded the clear provisions of the law in its overzealous attempt at solving a problem without considering the effects of its decision on the lives of others outside the NBP.

**3. THE LOCAL GOVERNMENT OF MUNTINLUPA CITY AND THE AFFECTED RESIDENTS MAY PURSUE OTHER LEGAL COURSES OF ACTION AND REMEDIES AGAINST THE BUCOR.**

In view of the findings of the Committee that the BuCor exceeded its authority in constructing a concrete wall fence on Insular Prison Road, and that it failed to conduct prior consultations and coordination with the affected stakeholders, the local government of Muntinlupa City and the affected residents may pursue other legal courses of action and remedies against BuCor in order to assert their rights under the Constitution and existing laws. These may include the filing of appropriate civil actions in the proper courts, mediation and other forms of alternative dispute resolution mechanisms, the filing of administrative complaints against BuCor officials who may be liable under existing rules and regulations, and applying for the issuance of applicable writs with the proper courts.

The Committee also noted the possibility of abatement as a remedy for affected residents, considering that the concrete wall fence constructed over Insular Prison Road falls under the definition of a public nuisance under Articles 694-695 of the New Civil Code.

**4. THE IRR OF RA 10575 MUST BE REVIEWED TO ENSURE COMPLIANCE WITH THE LAW AND THE CONSTITUTION.**

While beyond the ambit of this inquiry, the Committee manifests its strong concern over certain questionable provisions in the revised IRR of RA 10575, particularly Section 6(b), par. 6 therein, which states that "All revenues derived from use of the BuCor lands and other businesses shall not be taxed by the government", and Section 20(j), which states that "All benefits granted by this Act shall not be subject to attachment, levy, execution or any tax of whatever nature."

It is a basic principle of taxation that the power to tax includes the power to grant tax exemptions, and that this power is solely vested by the Constitution on Congress under the principle of separation of powers. Nowhere in RA 10575 is tax exemption granted to revenues derived by BuCor from land use and other business, or to the benefits granted to BuCor personnel. The inclusion of tax exemptions in the IRR when the law does not grant such exemption is a clear usurpation of the powers of Congress, and should be declared unconstitutional. Pending the proper review by the appropriate congressional committee or court of law, the Committee urges the DOJ to review the provisions of the IRR of RA 10575, and the Bureau of Internal Revenue (BIR) and the Commission on Audit (COA) to look into the implementation by the BuCor of these provisions in the IRR of RA 10575.

## RECOMMENDATIONS

Based on all the foregoing, the Committee makes the following recommendations:

- 1.) The BuCor is strongly urged to immediately suspend its “temporary” closure of the Insular Prison Road and to conduct consultative meetings with all stakeholders affected by its closure.
- 2.) The BuCor, DPWH, and the NHA are urged to immediately come up with a more feasible and accessible alternative route for affected residents of Muntinlupa City should the closure of the Insular Prison Road be deemed absolutely necessary.
- 3.) The BuCor is encouraged to implement effective and sustainable measures to prevent the throwing of contraband along the perimeter of the NBP, such as the installation of surveillance cameras, increasing the number of patrols on strategic areas, and improving the walls and fences across the perimeter of the NBP.
- 4.) The BuCor is reminded of its obligation under the Local Government Code to conduct proper consultations with the local government of Muntinlupa City before implementing programs and projects within the latter’s jurisdiction affecting citizens residing in Muntinlupa City.
- 5.) The DOJ and the Office of the Ombudsman are requested to review the possible administrative liabilities of BuCor officials and personnel with respect to the closure of the Insular Prison Road.
- 6.) The BIR and the COA are requested to review the implementation by the BuCor of Sec. 6(b) and Sec. 20(j) of the IRR of RA 10575 concerning the grant of tax exemptions to revenues and benefits of the BuCor and its personnel, respectively.
- 7.) The DOJ is urged to review and reconsider Sec. 6(b) and Sec. 20(j) of the IRR of RA 10575 to prevent any encroachment on the powers of Congress.
- 8.) Copies of this report shall be furnished the DOJ, DPWH, DHSUD, NHA, COA, Office of the Ombudsman, Office of the Mayor of Muntinlupa City, *Sangguniang Panlungsod* of Muntinlupa City, *Sangguniang Barangay* of Barangay Poblacion, Muntinlupa City, for their information and appropriate action.