

how many children the perpetrator rapes, no matter how sadistic the crime, no matter how much physical or psychological trauma is inflicted, and no matter how heinous the perpetrator's prior criminal record may be";

Whereas, in the United States, the people, not the Government, are sovereign;

Whereas the Constitution of the United States is supreme and deserving of the people's allegiance;

Whereas the framers of the eighth amendment did not intend to prohibit the death penalty for child rape;

Whereas the imposition of the death penalty for child rape has never been within the plain and ordinary meaning of "cruel and unusual punishment", neither now nor at the adoption of the eighth amendment;

Whereas instead of construing the eighth amendment's prohibition of "cruel and unusual punishment" according to its original meaning or its plain and ordinary meaning, the Court followed a two-step approach of first attempting to discern a national consensus regarding the appropriateness of the death penalty for child rape and then applying the Justices' own independent judgment in light of their interpretation of a national consensus and evolving standards of decency;

Whereas, to the extent that a national consensus is relevant to the meaning of the eighth amendment, there is national consensus in favor of the death penalty for child rape, as evidenced by the adoption of that penalty by the elected branches of the Federal Government only 2 years ago, and by the swift denunciations of the Kennedy v. Louisiana decision by the presumptive nominees for President of both major political parties;

Whereas the evolving standards of decency is an arbitrary construct without foundation in the Constitution of the United States and should have no bearing on Justices who are bound to interpret the laws of the United States;

Whereas the standards of decency in the United States have evolved toward approval of the death penalty for child rape, as evidenced by 6 States and the Federal Government adopting that penalty in the past 13 years;

Whereas the Supreme Court rendered its opinion without knowledge of a Federal law authorizing the death penalty for child rapists;

Whereas the Federal law authorizing the death penalty for child rapists was passed by Congress and signed by the President 2 years before the Supreme Court released the decision; and

Whereas the Court presumably would have deferred to the elected branches of government in determining a national consensus regarding evolving standards of decency had it been aware of the Federal law authorizing the death penalty for child rapists at the time that it made the decision: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the depraved conduct of the worst child rapists merits the death penalty;

(2) standards of decency allow, and sometimes compel, the death penalty for child rape;

(3) the eighth amendment to the Constitution of the United States allows the death penalty for the rape of a child where the crime did not result, and was not intended to result, in death of the victim;

(4) the Louisiana statute making child rape punishable by death is constitutional;

(5) the Supreme Court of the United States should grant any petition for rehearing of Kennedy v. Louisiana, No. 07-343 (2008), because the case was decided under a mistaken view of Federal law;

(6) the portions of the Kennedy v. Louisiana decision regarding the national consensus or evolving standards of decency with respect to the imposition of the death penalty for child rape should not be viewed by Federal or State courts as binding precedent, because the Supreme Court was operating under a mistaken view of Federal law; and

(7) the Supreme Court should reverse its decision in Kennedy v. Louisiana, on rehearing or in a future case, because the decision was supported by neither commonly held beliefs about "cruel and unusual punishment", nor by the text, structure, or history of the Constitution of the United States.

**SENATE RESOLUTION 627—WELCOMING HOME KEITH STANSELL, THOMAS HOWES, AND MARC GONSAIVES, THREE CITIZENS OF THE UNITED STATES WHO WERE HELD HOSTAGE FOR OVER FIVE YEARS BY THE REVOLUTIONARY ARMED FORCES OF COLOMBIA (FARC) AFTER THEIR PLANE CRASHED ON FEBRUARY 13, 2003**

Mr. NELSON of Florida (for himself, Mr. ISAKSON, Mr. MARTINEZ, Mr. DODD, Mr. COLEMAN, Mr. LIEBERMAN, Mr. CARDIN, Mr. CRAIG, Mr. BOND, Mr. DOMENICI, Mr. HATCH, and Mr. CHAMBLISS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 627

Whereas a Congressional Resolution in 2007 (S. Con. Res. 53) condemned the kidnapping and hostage-taking of three citizens of the United States, Keith Stansell, Thomas Howes, and Marc Gonsalves for over four years by the FARC, and demanded their immediate and unconditional release;

Whereas the Senate expresses sorrow at the murder of Tom Janis by the FARC, another citizen of the United States that was on the downed aircraft, and Luis Alcedes Cruz, a member of the Colombian military, as well as citizens of the United States who died during a hostage search mission in 2003;

Whereas the Government of Colombia carried out a historic rescue mission on July 2, 2008, freeing 15 hostages who the FARC had kidnapped and held in captivity, including these three citizens of the United States, Ingrid Betancourt, and military and police personnel of Colombia;

Whereas the armed forces of Colombia planned, led, and executed the rescue operation without a single gunshot;

Whereas the United States Government played a key supportive role in the rescue mission by the armed forces of Colombia;

Whereas the FARC is designated as a foreign terrorist organization by the Department of State and the European Union;

Whereas the FARC utilizes kidnappings for ransom, extortion, and the drug trade to finance its activities;

Whereas the FARC committed atrocities against citizens of both Colombia and the United States;

Whereas the FARC has kidnapped at least 36 citizens of the United States since 1980, and killed 10 citizens of the United States;

Whereas the FARC currently holds an estimated 700 people as hostages; and

Whereas over 50 FARC leaders have been indicted in the United States for drug trafficking: Now, therefore, be it

*Resolved*, That the Senate—

(1) welcomes Keith Stansell, Thomas Howes, and Marc Gonsalves home to the United States after being held for over five

years by the Revolutionary Armed Forces of Colombia (FARC);

(2) celebrates with the families and relatives of the hostages who kept faith despite being unsure of the fates of their family members for more than five years;

(3) expresses gratitude to the Government of Colombia and the armed forces of Colombia for successfully rescuing the hostages, and applauds the effective contribution of the United States Government to this effort;

(4) calls for the immediate release of all hostages held by the FARC and other armed terrorist groups in Colombia; and

(5) urges the FARC to lay down their weapons and reject terrorism.

Mr. NELSON of Florida. Mr. President, I come here on a happy note. I am filing a resolution and I hope this is the kind of thing the Senate can come together to celebrate, the fact that three Americans that were held hostage over 4 years in the jungle by the FARC contraband guerillas, a drug-running crowd, murderers who put chains around these captives' necks just like an animal, a wild animal, and they had to carry these collars, these steel collars with these steel chains, heavy, so that was another way of keeping them from escaping. But if they escaped, where were they going to go? They were out in the middle of the jungle. This resolution which I am introducing with Senator ISAKSON, because there is a connection of one of the hostages to Georgia, and my colleagues Senators MARTINEZ, DODD, COLEMAN, LIEBERMAN, CARDIN, CRAIG, BOND, DOMENICI, HATCH, and CHAMBLISS, I would like to see move like greased lightning through the Senate so we can recognize this significant achievement of the Colombian military, assisted by the U.S. Government in a miraculous hostage rescue of 15 people, including Ingrid Betancourt, the celebrated and quite well known former senator in Colombia who also had dual citizenship with France.

In this miraculous rescue operation there was not one bullet fired and not one drop of blood spilled.

Our three Americans, all of whom live in Florida—Keith Stansell, Thomas Howes, and Marc Gonsalves—were held hostage for over 5 years by the Revolutionary Armed Forces of Colombia, known as the FARC, after their plane had crashed on February 13, 2003.

The pilot was hurt, and he was executed. There was another Colombian with them at the time who was executed. These three—Keith, Tom, and Marc—were taken hostage and, in the words of Keith Stansell, whom I have spoken to today, they were human currency. They were the trading, the barter for the FARC to get whatever they wanted.

They kept them over 5 years. They would still have them if they did not have this miraculous rescue operation. This is one of the few times you have seen in the entire world where the world came together and focused and said: That is a job well done; for it was reported how miraculous this was,

through deception, through interception of communications, through creating a story line that this was an operation to come in and move these hostages from one part of the jungle to another.

By creating such a good ruse, they were actually—with all these 15 hostages in 3 different places, 50 miles apart from each other in the jungle—they were able to get their FARC captors to bring them together in one location, and to load on a helicopter that they thought was going to be taking them to the No. 1 commander of the FARC in another part of the jungle.

It is a miraculous story: the fact that it was pulled off by a hostage rescue team—all volunteers, playing their roles—but knowing that if it went awry, they, too, would become hostages of the FARC.

We want to send our congratulations to the Colombian Government, the Colombian military, and especially to that hostage rescue team that performed so flawlessly but that knew the risk they were taking.

This resolution I have submitted honors our three Americans and recognizes their families and their relatives who kept faith all these years—all those years, over 5—without even knowing the fate of their loved ones.

Finally, on July 2 of this year, Colombian forces carried out this dramatic rescue mission, freeing those 15 hostages, including Keith Stansell, Thomas Howes, and Marc Gonsalves.

In this Colombian rescue operation, not a gun was fired; the playacting, the ruse, the deception was so good, not a drop of blood. It is going to go down in history as a model for these kinds of operations.

We in America are very grateful to President Uribe; to Defense Minister Santos, whom I had the pleasure, a couple days ago, of hosting; and the Colombian military for the execution of this historic operation and for bringing our men and their folks home to freedom.

I wish to recognize our commander of the U.S. Southern Command, Admiral Stavridis, and I wish to recognize our U.S. Ambassador to Colombia, Bill Brownfield, for the exceptional work they have done to strengthen the United States-Colombian relations which laid the foundation and the close coordination that was demonstrated by this successful operation.

I believe this dramatic hostage rescue and the competence and professionalism that was demonstrated by the Colombian military have not only put the FARC on notice, it has put them on their heels. They are in disarray. They are demoralized. There are defections from FARC every day.

The FARC is designated by our Government as a foreign terrorist organization because it has committed atrocities against the citizens of Colombia and the United States.

The FARC still holds 700 people as hostages. When I talked to Keith

Stansell today, he said what we have to do is to keep remembering them. Because of the rescue of the 15 hostages, he said they have now put heavier chains around their necks and they are making them constantly move. You can imagine: 700 people. He told me about individual hostages and how brave they have been. He said: Let's don't forget them. And let's keep talking about this until they are able to bring all those people safely home.

So I wish to echo what has already been said by the Government of Colombia, that we call on the FARC to lay down their arms. They are not going to win. They can see it now. They are demoralized. They are having defections every day.

Come to your senses, revolutionary guerrillas whom you think you are. Come to your senses and work out a plan with the Colombian Government and President Uribe to release the remaining hostages you have—hundreds of them.

We say to Mr. Cano, the leader of the FARC, your numbers are dwindling. Today you have only about 8,000. This is less than half the force you had just a few years ago. And you are losing your rank-and-file soldiers because they see it is a lost cause. And you have suffered losses in your secretariat and in the mid-level ranks by death and desertion.

These are significant losses. The U.S. people have stood with the Colombian people as they fight this violence, this impunity, this narco-trafficking in this little country of Colombia.

It is a happy occasion for us but a sobering reflection upon those who are still held similar to animals in cages. It is a happy occasion, and we are overjoyed at the return of Keith and Tom and Marc. But Colombia's war against the narco-traffickers is not over.

#### SENATE RESOLUTION 628—EX-PRESSING SUPPORT FOR THE DESIGNATION OF DISABILITY PRIDE DAY AND RECOGNIZING THAT ALL PEOPLE, INCLUDING PEOPLE LIVING WITH DISABILITIES, HAVE THE RIGHT, RESPONSIBILITY, AND ABILITY TO BE ACTIVE, CONTRIBUTING MEMBERS OF SOCIETY AND FULLY ENGAGED AS CITIZENS OF THE UNITED STATES

Mr. DURBIN (for Mr. OBAMA (for himself and Mr. DURBIN)) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 628

Whereas all people, including people with disabilities, should be guaranteed the right to receive a quality education, to be productive members of the workforce, to raise families, to exert control and choice over their own lives, and to have equal opportunity to access and participate in all facets of life;

Whereas having a disability should be seen as a natural part of human diversity;

Whereas many people with disabilities share a cultural experience and history;

Whereas 18 years ago, on July 26, 1990, the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) was signed into law, ending discrimination against and providing equal opportunity for persons with disabilities in employment, education, government services, public accommodations, commercial facilities, and transportation;

Whereas in spite of the recent efforts to restore the intent of the Americans with Disabilities Act, people with disabilities continue to face tremendous challenges in society that test their resolve sociologically, emotionally, and psychologically, and face negative cultural assumptions based on fears and myths that need to be eliminated and replaced with presumptions of competence, strength, and individual worth;

Whereas July 26, 2008, is a day of celebrations across the United States that seek to educate and change the way that people think about and define people with disabilities by promoting the belief that disability is a natural and beautiful part of human diversity in which people living with disabilities can take pride; and

Whereas July 26, 2008, would be an appropriate day to designate as Disability Pride Day: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of Disability Pride Day;

(2) invites the citizens of the United States to join in celebrating the pride, the power, and the potential of people with disabilities by celebrating Disability Pride Day; and

(3) urges public officials and the general public to honor Americans with disabilities by becoming educated on ways to support and encourage understanding of persons with disabilities in the schools, diverse workforce, and communities of the United States.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 5247. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 5135 submitted by Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr. SALAZAR, Mr. DORGAN, Mr. DURBIN, Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON of Florida, and Ms. KLOBUCHAR) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table.

SA 5248. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 5097 submitted by Mr. COLEMAN and intended to be proposed to the bill S. 3268, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 5247. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 5135 submitted by Mr. BINGAMAN (for himself, Mr. REID, Mr. SCHUMER, Mr. SALAZAR, Mr. DORGAN, Mr. DURBIN, Mr. KERRY, Ms. STABENOW, Mr. WHITEHOUSE, Mrs. CLINTON, Mrs. MURRAY, Mr. LIEBERMAN, Mr. NELSON of Florida, and Ms. KLOBUCHAR) and intended to be proposed to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, add the following: