

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 2031



Introduced by Honorable EILEEN ERMITA – BUHAIN

EXPLANATORY NOTE

This bill seeks to strengthen existing laws on obscenity and indecency by prohibiting the publication, sale, distribution, importation and exhibition of obscene and pornographic materials and the performance or exhibition in public of certain indecent acts by providing stiffer penalties.

It is alarming to note that young people today have easy access to pornographic and obscene literature, more known as smut, that are contained in tabloids, magazines, newspapers and other publication being peddled in the open, sometimes on street corners where children can easily buy these. The proliferation of these materials should be a serious cause of worry for our authorities given the numerous studies that point out to a high correlation of exposure to pornography and incidence of sex crimes. Gender studies also show that continued exposure to pornography especially of the violent nature, had a negative effect on men that often lead to sex crimes.

While some may argue that obscenity and pornography are victimless crimes, police records show otherwise. Statistics and documents from the police authorities point out child-prostitution cases and/or child-abuse cases committed by pedophiles stem from pornography involving minors. With the internet technology now made easily accessible to these minors, one would just speculate to what extent these would create on the moral fiber of our people. Unless and until stiffer measures are instituted against these abuses, society will bear the social costs.

In view of the foregoing premises, the approval of this bill is earnestly sought.


EILEEN ERMITA-BUHAIN

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AN ACT
PROHIBITING THE PUBLICATION, SALE, DISTRIBUTION,
IMPORTATION AND EXHIBITION OF OBSCENE AND PORNOGRAPHIC
MATERIALS AND THE PERFORMANCE OR EXHIBITION OF INDECENT
ACTS IN PUBLIC AND PROVIDING PENALTIES FOR THE VIOLATION
THEREOF AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as “**The Anti-Obscenity and Pornography Act of 2004.**”

SEC. 2. *Declaration of Policy.* It is hereby the declared policy of the State to safeguard the morality of society, particularly the youth and women, against the eroding influence of immoral doctrines, obscene and pornographic materials, publications and indecent shows.

SEC. 3. *Definition of Terms.* – For purposes of this Act, the following terms shall be defined as:

a. “*Obscene and pornographic material*” refers to any object in photography, movies, videos, television, internet, printed materials, or in any other format designed to stimulate sexual desire such as but not limited to:

(1) Explicit pictures or scenes depicting or describing homosexual, lesbian and heterosexual sexual acts; masturbation, oral and anal sex, autoerotism; excretion such as urination and edema materials; sadomasochistic sex, bestiality, necrophilia, pedophilia, bondage and sex, sex with sacrilege; sex acts between and among children;

(2) Lewd or libidinous depiction or description of the nudity of the human region, buttocks, female breast below a point immediately above the top of the areola, male genitals in a discernibly turgid state, genitals in a state

of sexual stimulation; fondling or erotic touching of genitals, pubic region, buttock or female breast;

(3) “Sex stories” such as columns, narrative or illustrated stories and articles contained in newspapers graphically depicting sexual acts;

(4) Lewd depiction and description of sexual paraphernalia such as life-sized rubber dolls, dildos, artificial vagina, vibrators or sexual gadgets of any kind; and

(5) Still photographs of movies whether domestic or foreign, having sexual contents, and previously or subsequently rated “R” or “X” by the Movie and Television Review and Classification Board (MTRCB).

b. “*Indecent act*” refers to public display of the naked persons or persons performing live sexual acts, normal or perverted, actual or simulated which under contemporary community standards are patently offensive.

c. “*Material*” refers to any printed or written article, statue or figure, recording, transcription or reproduction by mechanical, chemical or electrical means;

d. “*Person*” refers to any natural or juridical entity;

e. “*Knowingly*” means having actual or constructive knowledge of obscene and/or pornographic contents of the subject matter. Failure to inspect the contents of such subject matter shall not be accepted as an excuse and will not exempt any person from criminal liability under this Act;

f. “*Distribute*” means to send, transmit, or pass through electronic devices or to transfer possession with or without consideration of any kind.

SEC. 4. *Unlawful of Prohibited Acts.* – a) It shall be unlawful for any person to publish, sell, distribute and import obscene and pornographic materials defined in Section 3 of this Act, in whatever form, such as but not limited to writings or pictures, books, magazines, tabloids, comics, newspapers, posters, cards, calendars, decals, stickers, paintings, photographs, motion pictures;

b) It shall likewise be unlawful for any person to portray, depict, perform or exhibit any indecent act in public, or in places of public accommodation, or coerce, intimidate or fraudulently induce another into doing such indecent acts; and

c) It shall be unlawful for any person to force another to listen, read or view obscene and pornographic materials in any public place.

SEC. 5. *Penalties.* – Any person who violates any provision of this Act or any regulation hereunder shall, upon conviction, be imposed the following penalties:

a) If the offender is the producer, financier, promoter, importer, writer, publisher, editor or printer of any of the indecent act or obscene and pornographic material herein above described, he shall be punished by a prison sentence of *prison*

correctional or a fine of not less than P300,000.00 but not more than P500,000.00. In case of non-payment of fine, subsidiary imprisonment shall be imposed at the rate of P500.00 per day.

If the offense is committed by a corporation, partnership, association or any other juridical entity, the penalty provided herein shall be imposed on the president, managing director, managing partner, or chief operating officer, whichever the case may be: Provided, that if the offender is a foreigner, he shall, after service of sentence or payment of the fine, be subject of deportation and forever barred from entry into the country.

b) If the offender is a demonstrator, performer, actor or exhibitor in any demonstration, performance or exhibition involving indecent act defined in Section 3 of this Act, he shall be punished by a prison sentence of *arresto menor* or a fine of not less than P30,000.00 nor more than P50,000.00, at the discretion of the court. In case of non payment of fine, subsidiary imprisonment shall be imposed at the rate of P300.00 per day.

In case the demonstrator, performer, actor or exhibitor is below eighteen (18) years of age, he or shall be considered as a victim of child abuse pursuant to the provisions of Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act," and shall be placed immediately under the protective custody of the Department of Social Welfare and Development.

SEC. 6. Duties of Government Agencies Concerned. – In addition to the law enforcement agencies responsible for monitoring and implementing the provisions of existing laws on pornography, the following government agencies are hereby mandated to provide assistance and support to ensure the effective implementation of this Act:

- a) Philippine Information Agency (PIA);
- b) Movie and Television Review Classification Board (MTRCB); and
- c) Videogram Regulatory Board (VRB).

The said agencies shall, in addition to their regular functions, exercise the following duties:

1) Monitor all the publications, materials and shows that fall within their respective jurisdiction;

2) Seek the assistance of local government units to identify the publishers and persons responsible for the proliferation of obscene and pornographic materials;

3) Initiate the prosecution of all persons involved for violation of this Act and Article 201 of the Revised Penal Code, as amended, and other related laws;

4) Receive complaints from the general public anent the proliferation of obscene materials within its jurisdiction and act accordingly on such complaints;

5) Recommend the cancellation of the business permits of those found violating the provisions of this Act, the provisions of Article 201 of the Revised Penal Code, as amended, and other related laws; and

6) Perform such other acts necessary to carry out the objectives of this Act.

SEC. 7. *Disposition of Materials.* – Any prohibited material including tools, instruments, facilities and equipment used in the production of obscene and pornographic materials shall, after lawful seizure and final conviction of the offender, be forfeited in favor of the government and destroyed in the presence of the representatives of the Department of Justice, Philippine National police, and any one from the religious, civic or youth organizations of such place in the manner as the court may order: ***Provided, however,*** That when the accused is acquitted, the materials seized shall nevertheless be forfeited in favor of the Government and destroyed: ***Provided, further,*** That if the acquittal results from a finding that the materials seized are not obscene or pornographic under this Act, the materials shall be returned to the accused.

SEC. 8. *Implementing rules and Regulations.* – Within ninety (90) days after the effectivity of this Act, the Philippine National Police, Department of Justice, Philippine Information Agency, Movie and Television Review and Classification Board, Videogram Regulatory Board, after consultations with the concerned non-government organizations, shall promulgate the necessary rules and regulations for the implementation of this Act.

SEC. 9. *Separability Clause.* – If any part of this Act is declared unconstitutional or invalid, the other provisions not affected thereby shall be considered valid and shall continue to be in full force and effect.

SEC. 10. *Repealing Clause.* – All laws, decrees, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 11. *Effectivity.* – This Act shall take effect fifteen (15) days following its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Adopted,