

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

House Bill No. 4996

INTRODUCED BY HON. EMMANUEL JOEL J. VILLANUEVA

EXPLANATORY NOTE

Articles 200 and 201 of the Revised Penal Code, as amended by Presidential Decree Nos. 960 and 969, defined and provided penalties for grave scandal and for immoral doctrines, obscene publications and exhibitions and indecent shows. On the other hand, Section 9 of Article V of Republic Act No. 7610 otherwise known as the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*, protects a child from exploitation and abuse in obscene publications and exhibitions of indecent shows.

Despite these provisions however, pornography still prevails and is becoming even more rampant. Worse, cases of children being exploited in the pornography business, not only as objects of the despicable practice, but as pawns to promote, transport and sell pornographic materials, are on the rise as well.

For the year 2003 alone, the campaign against smut and pornography of the Philippine National Police (PNP) has resulted in the seizure of 365,602 pornographic VCDs, DVDs, and VHS, with an estimated value of P14,733,467.00. A total of 120 cases were also filed in the same year by the PNP for violations of existing anti-pornography statues. Unfortunately, these seem to have little impact on the continuing proliferation of immoral doctrines, obscene publications and exhibitions, indecent shows, and the despicable practice of involving children in them.

This may be attributed to the fact that despite its high profitability and gravity of impact, very low penalties are imposed. For example, under Article 201 of the Revised Penal Code, only a fine which would not even exceed Twelve Thousand Pesos (P12,000) OR imprisonment of not more than six years at most can be imposed. Even if an offender is convicted, there is no assurance that the offender would be put behind bars and kept away from the public which the offender preys upon. The fine is also negligible when compared to the profit that the pornography business generates.

The current advancements in technology also contribute to the upsurge of pornography in the country. As of September 2004, there are fifty-three (53) National Telecommunications Commission (NTC) registered Internet Service Providers (ISPs) in the Philippines and an estimated 800,000 subscribers. This figure still does not include the hundreds or even thousands of public access terminals in cybercafés and the prepaid Net card providers. With internet connection widely available, users gain easy access to websites, email-based mailing lists and discussion groups, and chat channels, ultimately providing a much wider venue for pornography patrons in the Philippines, young and old, to gain access to the vast array of pornographic materials from the Internet.

Concerned citizens, civil society organizations and government agencies, including the PNP and the National Bureau of Investigation (NBI) Anti-Fraud and

Computer Crimes Division have, in a number of formal and informal consultations with them, clamored for updates on our antiquated anti-pornography statutes to adapt to the advancement in technology and to increase ^{in the} penalty for obscene, pornographic and immoral activities, to afford greater protection to the public, and, most especially, to our children.

In view of all these, this bill, the "**Immorality, Pornography and Obscenity Deterrence Act of 2005**", is hereby filed to give greater protection to minors, increase the penalties for obscene, pornographic and immoral activities, and update our penal laws to adapt to the advanced technology now employed by those in the business of defiling the dignity of persons through lust and greed.

Immediate passage of this bill is of utmost importance.



EMMANUEL JOEL J. VILLANUEVA

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House Bill No. 4996

INTRODUCED BY HON. EMMANUEL JOEL J. VILLANUEVA

AN ACT TO DETER THE CONTINUED PROLIFERATION OF IMMORAL DOCTRINES, OBSCENE PUBLICATIONS AND EXHIBITIONS AND INDECENT SHOWS BY INCREASING THE PENALTIES AGAINST ^{THEM} AMENDING FOR THIS PURPOSE ACT NO. 3815 AS AMENDED AND REPUBLIC ACT NO. 7610

per Albert
1/12/06
3pm

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

SECTION 1. This Act shall be known as the “Immorality, Pornography and Obscenity Deterrence Act of 2005.”

SECTION 2. Article 201 of Act No. 3815, otherwise known as the *Revised Penal Code*, is hereby amended to read as follows:

“Article 201. Immoral doctrines, obscene publications and exhibitions, and indecent shows. – The penalty of both [prison mayor] reclusion perpetua [or] and a fine ranging from [six thousand] five hundred thousand to [twelve thousand pesos] one million pesos [, or both such imprisonment and fine,] shall be imposed upon:

- (1) Those who shall publicly, in whatever form, medium or technology, expound or proclaim doctrines openly contrary to public morals;
- (2) (a) The authors of obscene literature, published with their knowledge in any form; the editors publishing such literature; [and] the owners[/], operators and employees of the establishment selling the same;
- (b) Those who, in theaters, fairs, cinematographs or any other place accessible or made accessible to the public even if privately-owned, or through the internet or some other virtual location where information can be posted, stored or transferred, willingly exhibit, for free, profit or any consideration, indecent or immoral plays, scenes, acts or shows, or clips, whether visually or through the use of the other senses, whether live or [in film,] recorded. [which are proscribed by virtue hereof,] These shall include those which (1) glorify criminals or condone crimes; (2) serve no other purpose but to satisfy the market for violence, lust or pornography; (3) intentionally offend or discriminate any race, [or] religion or gender; (4) tend to abet traffic and use of prohibited drugs and the abuse of regulated drugs; and (5) are contrary to law, public order, morals, good customs, established policies, lawful orders, decrees and edicts;

- (3) Those who shall sell, give away, distribute, lease, circulate or exhibit films, prints, engravings, sculpture, pictures, [or] literature, sound recordings, or any material, in whatever form, which are offensive to morals, especially those which (1) glorify criminals or condone crimes; (2) serve no other purpose but to satisfy the market for violence, lust or pornography; (3) intentionally offend or discriminate any race, [or] religion or gender; (4) tend to abet traffic and use of prohibited drugs and the abuse of regulated drugs; and (5) are contrary to law, public order, morals, good customs, established policies, lawful orders, decrees and edicts;

“For purposes of this article, any material which, to a reasonable person using the moral and ethical standards of the city or municipality where the material was sold, distributed, exhibited and/or circulated, unnecessarily employ the use of sex and/or violence, or unnecessarily advertise and/or promote drug abuse, crime or other unlawful or immoral acts shall be deemed to be immoral, obscene and/or pornographic.

“If the offender is a public officer or employee, the maximum penalty shall be imposed, including the accessory penalty of perpetual absolute disqualification.

“Any public officer or employee who shall be found to have willingly assisted, in whatever form, whether for free or consideration, any person in committing any of the offenses mentioned in the preceding paragraphs shall be penalized with both *reclusion perpetua* and a fine of one million pesos including permanent disqualification from holding public office.”

SECTION 3. The article below is hereby inserted after Article 201 of Act No. 3815, otherwise known as the Revised Penal Code:

Article 201-A. Sale, Distribution or Transfer of Immoral, Obscene and/or Pornographic Materials to Minors – Any person found guilty of selling, distributing or transferring for free or for any consideration to a minor, for the latter’s personal use, safe-keeping, and/or further distribution, any immoral, obscene and/or pornographic material, in whatever form, medium or technology shall suffer the penalty of both *reclusion perpetua* and a fine ranging from five hundred thousand to one million pesos.

If the offender is a public officer or employee, the maximum penalty shall be imposed, including the accessory penalty of perpetual absolute disqualification.

Any public officer or employee who shall be found to have willingly assisted, in whatever form, whether for free or consideration, any person in committing any of the offenses mentioned in the preceding paragraphs shall be penalized with both *reclusion perpetua* and a fine of one million pesos including permanent disqualification from holding public office.

SECTION 4. Section 9 of Article V of Republic Act No. 7610 otherwise known as the *Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act* is hereby amended to read as follows:

“Article V. Obscene Publications and Indecent Shows

“Section 9. Obscene Publications and Indecent Shows. – Any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, pose, or model in obscene publications or

pornographic materials or to sell or distribute the said materials shall suffer the penalty of [prision mayor] *reclusion perpetua* and a fine ranging from five hundred thousand to one million pesos.

“The same penalty shall be imposed on any person who shall use virtual or digital images of a child or individuals made to appear like minors in any obscene publication or pornographic material in whatever form or medium.

“Any person who shall sell, give away, distribute, lease, circulate, produce, sponsor or exhibit any material encouraging or promoting sexual intercourse or any sexual or profane activity with a minor or minors shall likewise suffer the penalty provided under the first paragraph.”

“If the child used as a performer, subject or seller/distributor is below twelve (12) years of age, the penalty shall be imposed in its maximum period and its maximum amount of fine.

“Any ascendant, guardian, or person entrusted in any capacity with the care of a child who shall cause and/or allow such child to be employed or to participate in an obscene play, scene, act, movie or show or in any other acts covered by this section shall suffer the penalty of [prision mayor] *reclusion perpetua* [in its medium period].”

“If the offender is a public officer or employee, the maximum penalty shall be imposed, including the accessory penalty of perpetual absolute disqualification.

“Any public officer or employee who shall be found to have willingly assisted, in whatever form, whether for free or consideration, any person in committing any of the offenses mentioned in the preceding paragraphs shall be penalized with both *reclusion perpetua* and a fine of one million pesos including permanent disqualification from holding public office.”

SECTION 5. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

SECTION 6. *Repealing Clause.* – All laws, decrees, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 7. *Effectivity.* – This Act shall take effect fifteen (15) days following its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.