

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

Fifteenth Congress
First Regular Session

HOUSE BILL NO. 3502

Introduced by Rep Teddy Brawner Baguilat

EXPLANATORY NOTE

Under Article II, Section 14 of the Constitution, "The State recognizes the role of women in nation building and shall ensure the fundamental equality before the law of women and men."

This constitutional mandate, however, has not been fully upheld. The Family Code (EO 209, as amended) replaced "adultery on the part of the wife and concubinage on the part of the husband" with "sexual infidelity" on the part of either spouse as a ground for legal separation.

And yet, many years after the passage of the Family Code, the Revised Penal Code (Act 3815, as amended) retains both "adultery" (Article 333) and "concubinage" (Article 334) as felonies, thus revealing the pernicious discrimination against women that still afflicts our legal tradition and society.

Despite the right to equal treatment under the law, a wife can be convicted for a single act of sexual intercourse under Article 333, while the husband is only liable for concubinage if he does any of the following acts specified in Article 334 of the Revised Penal Code: (1) keeping a mistress in a conjugal dwelling; (2) having sexual intercourse under scandalous circumstances with a woman who is not his wife; or (3) cohabiting with her in any other place. Moreover, a wife in an adultery case incurs a heavier penalty than a husband in a concubinage case.

This bill seeks to remedy such disparate treatment of wives and husbands by amending Articles 333, 334, and 344 of the Revised Penal Code. Furthermore, this bill seeks to make the Code more attuned to the Constitutional mandate of fundamental equality before the law of women and men.

In view of the foregoing, the approval of this bill highly and earnestly recommended.



TEDDY BRAWNER BAGUILAT

1
2 The concubine shall suffer the penalty of *destierro*.]"

3
4 "ART. 333. *WHO ARE GUILTY OF MARITAL INFIDELITY.* - MARITAL INFIDELITY IS
5 COMMITTED BY ANY MARRIED PERSON WHO HAS CARNAL KNOWLEDGE OF A
6 PERSON NOT HIS OR HER SPOUSE, AND BY THE PERSON WHO HAS CARNAL
7 KNOWLEDGE OF THE MARRIED PERSON, KNOWING HIM OR HER TO BE MARRIED,
8 EVEN IF THE MARRIAGE BE SUBSEQUENTLY DECLARED VOID.

9
10 "MARITAL INFIDELITY SHALL BE PUNISHED BY *PRISION CORRECCIONAL* IN ITS
11 MINIMUM AND MEDIUM PERIODS.

12
13 "THE PENALTY IN ITS MAXIMUM PERIOD SHALL BE IMPOSED UPON THE SPOUSE
14 WHO SHALL KEEP A PARAMOUR IN THE CONJUGAL DWELLING.

15
16 "THE PENALTY IN ITS MEDIUM PERIOD SHALL BE IMPOSED UPON THE SPOUSE
17 WHO SHALL COHABIT WITH A PARAMOUR IN ANY OTHER PLACE.

18
19 "IF THE PERSON GUILTY OF MARITAL INFIDELITY COMMITTED THIS OFFENSE
20 WHILE BEING ABANDONED WITHOUT JUSTIFICATION BY THE OFFENDED SPOUSE,
21 THE PENALTY NEXT LOWER IN DEGREE THAN THAT PROVIDED SHALL BE
22 IMPOSED."

23
24 **SECTION 2.** Article 344 of the same Act is likewise amended to read as follows:

25 "Article 344. *Prosecution of the crimes of [adultery , concubinage] MARITAL INFIDELITY,*
26 *seduction, abduction, [rape] and acts of lasciviousness.-* The crime[s] of [adultery and
27 concubinage] **MARITAL INFIDELITY** shall not be prosecuted except upon a complaint filed
28 by the offended spouse.

29
30 "The offended party cannot institute criminal prosecution without including both the guilty
31 parties, if they are both alive, nor, in any case, if he **OR SHE** shall have consented or
32 pardoned the offenders, **OR IS LIKEWISE GUILTY OF MARITAL INFIDELITY, OR**
33 **ABANDONED THE GUILTY SPOUSE WITHOUT JUST CAUSE FOR MORE THAN ONE**
34 **YEAR.**

1 "The offenses of seduction, abduction, [rape] or acts of lasciviousness, shall not be
2 prosecuted except upon a complaint filed by the offended party or her parents,
3 grandparents, or guardian, nor, in any case, if the offender has been expressly pardoned by
4 the above named persons, as the case may be.

5
6 "In cases of seduction, abduction, **AND** acts of lasciviousness [and rape], the marriage of
7 the offender with the offended party shall extinguish the criminal action or remit the penalty
8 already imposed upon him. The provisions of this paragraph shall also be applicable to the
9 co-principals, accomplices and accessories after the fact of the above-mentioned crimes."

10
11 **SECTION 3. Separability Clause.** If any provision of this Act is declared
12 unconstitutional, the other provisions not affected shall continue to be in full force and effect.

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14 **SECTION 4. Repealing Clause.** All laws, decrees, rules and regulations, or parts
15 thereof inconsistent with this Act are hereby repealed or amended accordingly.

16
17 **SECTION 5. Effectivity.** This Act shall take effect fifteen (15) days following the
18 completion of its publication in the Official Gazette or in at least two (2) newspapers of
19 general circulation the Philippines.