

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 6630

10 OCT 2012
4:20 PM
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Introduced by AKBAYAN Representative Walden F. Bello

EXPLANATORY NOTE

At no other time in the history of humanity has speech and expression, the cornerstones of democracy, been truly free as it is today.

With continued technological improvement, today, each and every Filipino can form an opinion and share it with the broader public in a matter of seconds. Today, information from across the globe is readily accessible in real time from the comfort of one's home. And all this is made possible through blogs, social networking sites, and other platforms available on the Internet.

The internet is a model of technological ingenuity that advances the freedom of speech and expression to its logical extent: the Internet is the freest platform that is accessible to one and all, regardless of their age, gender, ethnicity, political or religious affiliations, allowing the free formulation and expression of any one person's opinions and identity without interference or discrimination. The internet is the great equalizer, where any random, average Filipino is as equally powerful as the politically influential and wealthy in their capacity to exchange information and participate in debate and discourse.

This is precisely the value defeated by Republic Act No. 10175 otherwise known as "AN ACT DEFINING CYBERCRIME, PROVIDING FOR THE PREVENTION, INVESTIGATION, SUPPRESSION AND THE IMPOSITION OF PENALTIES THEREFOR AND FOR OTHER PURPOSES", and this is precisely the same value that Akbayan seeks to protect in amending the law.

In particular, we seek to repeal the provision in RA 10175 that haphazardly determines CyberLibel and mandates penalties for such that is one degree higher than provided for in the Revised Penal Code. Invoking libel in cyberspace is a blatant violation of the freedom of the press as well as the free speech of private individuals who take to the internet, mandating penalties for it that are higher than already provided will certainly not

stimulate the State's concept of "responsible journalism," but shall instead expand the chilling effect of criminal liability to stifle the articulation of divergent ideas. This provision is a blatant violation of the Filipino people's right to free speech and expression; it goes against the very core of our Constitution.

Akbayan also seeks to refine the State's police powers online. While we recognize that competing individual freedoms may result into abuses and injury to persons in the Internet, we do not believe that the State should be given absolute police powers to collect, seize, disclose or restrict access to data available on the Internet. To improve the State's capacity to prevent abuses online, we believe that any sanctions the State will execute against any person or entity on the internet must be authorized by a court warrant that proves the necessity for such act.

Akbayan believes that the State should not fear the freedom that the Internet provides the Filipino people. Instead of regulating this modern technology, the State should join hands with each and every Filipino to promote the internet as a platform for genuine democracy, accessible to one and all.

It is in this context, and in pursuit of this objective that the following measure amending RA 10175 is proposed.

WALDEN F. BELLO

A handwritten signature in dark ink, appearing to read 'W. Bello', written in a cursive style.

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AN ACT
REPEALING SECTIONS 4(c)(4), 5, 6, and 7 AND AMENDING SECTIONS
12 AND 19 OF REPUBLIC ACT NO. 10175 KNOWN AS THE
“CYBERCRIME PREVENTION ACT OF 2012”

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

SECTION 1. *Repeal of Specific Provisions of RA 10175.*— Section 4 (c) 4, Section 5, Section 6, and Section 7 of Chapter II of Republic Act No. 10175, known as the “Cybercrime Prevention Act of 2012”, are hereby repealed.

All laws, executive orders, instructions, rules and regulations, or other issuances contrary to or inconsistent with this provision are likewise repealed or modified accordingly.

SECTION 2. *Amendment of Section 12 of RA 10175.*— Section 12, Chapter IV of RA 10175 is hereby amended to read as follows:

“SECTION 12. [Real-Time Collection of Traffic Data.] **COLLECTION OF COMPUTER DATA, TRAFFIC DATA, OR NON-CONTENT DATA BY LAW ENFORCEMENT AGENCIES AND OFFICERS**— [Law enforcement authorities, with due cause, shall be authorized to collect or record by technical or electronic means traffic data in real-time associated with specified communications transmitted by means of a computer system.

Traffic data refer only to the communication's origin, destination, route, time, date, size, duration, or type of underlying service, but not content, nor identities.]

All [other] **COMPUTER data, TRAFFIC DATA, OR NON-CONTENT DATASOUGHT** to be collected or seized or disclosed **BY ANY LAW**

ENFORCEMENT AGENCY OR OFFICER[will]**SHALL** require a court warrant.

[Service providers are required to cooperate and assist law enforcement authorities in the collection or recording of the above-stated information.]

The court warrant required under this section shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and the showing: (1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed, or is being committed, or is about to be committed; (2) that there are reasonable grounds to believe that evidence that will be obtained is essential to the conviction of any person for, or to the solution of, or to the prevention of, any such crimes; and (3) that there are no other means readily available for obtaining such evidence."

SECTION 3. *Amendment of Section 19 of RA 10175.*— Section 19, Chapter IV of RA 10175 is hereby amended to read as follows:

"SECTION 19. Restricting or Blocking Access to Computer Data. — When **IN THE ASSESSMENT OF THE DOJ THERE IS PROBABLE CAUSE TO FIND THAT** [a] computer data is [prima facie found to be] in violation of the provisions of this Act, the DOJ **SHALL FILE THE APPROPRIATE COMPLAINT OR INFORMATION BEFORE A COURT OF COMPETENT JURISDICTION, AND UPON SUCH FILING, MAY PRAY FOR THE ISSUANCE OF A COURT** [shall issue an] order to restrict or block access to such computer data.

THE COURT, SHALL GRANT SUCH PRAYER UPON FINDING THAT THERE IS A PRIMA FACIE BASIS FOR HOLDING THAT THE COMPUTER DATA IS IN VIOLATION OF THIS ACT."

SECTION 4. *Effectivity.*— This Act shall take effect immediately after its complete publication in the *Official Gazette* or in at least two (2) newspapers of general circulation in the Philippines.

Approved,