

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



SIXTEENTH CONGRESS
First Regular Session

House Bill No. **1132**

Introduced by **Kabataan Party-list Representative Terry L. Ridon**

EXPLANATORY NOTE

No less than the United Nations has declared the internet as a human right. The UN emphasizes that there should be "as little restriction as possible to the flow of information via the Internet, except in few, exceptional, and limited circumstances prescribed by international human rights law." The Internet, according to the UN report, vastly expands the capacity of individuals to enjoy their right to freedom of opinion and expression, which is an "enabler of other human rights." In this regard, the Internet "boosts economic, social and political development, and contributes to the progress of humankind as a whole"

On September 12, 2012, President Benigno Aquino signed into law Republic Act 10175, or the Cybercrime Prevention Act of 2012. The law poses serious threat to Internet freedom, the right to privacy and other essential civil liberties including the freedom of speech, expression, and the press. The insertion of provisions regarding online libel and vague sections on data collection and sanctions essentially turns it into an online censorship law.

Legal and information technology experts have expressed their opposition to the law. Kabataan Party-list opposes the Cybercrime Law of 2012 due to the following reasons:

1. It is Martial Law imposed online – RA 10175 was dubbed as an "e-Martial Law" legislation, as like several famous Marcos-era decrees, particularly President Ferdinand Marcos' Letter of Instruction No. 1, which led to the sequestration of several media outfits during Martial Law, the passage of RA 10175 has a "chilling impact" to bloggers, online journalists, advocacy groups and normal netizens. Basically, the Cybercrime Law seeks to silence opposition – both in the real world and online.

2. RA 10175 targets civil rights, not cybercrimes – While the Cybercrime Law lists several online offenses, the inclusion of online libel and other contentious provisions that impinge upon netizens' free speech, privacy, and right to due process essentially targets the civil rights of Internet users.

The Cybercrime Law is even far worse than the "Stop Online Piracy Act" and the "Protect IP Act," that were pushed in the US Congress earlier this year but failed to prosper, as RA 10175 limits not only content but also democratic space.

Under this law, politicians can easily file charges against 'hostile and combative' critics and witnesses by claiming that virtual protesters have threatened their life and property.

Instead of dealing with cyberwarfare, NBI agents and DOJ prosecutors may soon be swamped with cybercrime cases filed by showbiz actors, politicians, business tycoons, and other untouchables who want to punish their online critics.

3. It appoints DOJ as Internet overlord – Under the new law, the DOJ is granted "superpowers" on the Internet, especially under Section 19 that states, "When a computer data is prima facie found to be in violation of the provisions of this Act, the DOJ shall issue an order to restrict or block access to such computer data."

Under such provision, the DOJ can take down websites that it suspects – upon initial observation – to be violating RA 10175. This effectively gives DOJ total control of the Internet in the Philippines. As only prima facie evidence is needed, the new law has done away with due process.

Online censorship under Section 19 is more encompassing than traditional censorship. If for example, an online article is said to be libelous, DOJ may order the total shutdown of its host domain, effectively censoring not just the article in question, but also other articles in that site – a clear violation of the constitutional right to free speech.

4. Social networking sites may be banned – There may come a time when DOJ and the courts will be swamped with reports of violations of the Anti-Cybercrime Law committed in sites like Facebook, Twitter, and 9gag. The violations are not limited to libelous material – people can report phishing, illegal access and other violations being committed in these sites, and it would become more practical for DOJ to simply block access not only to the content or data in question but to the very sites themselves.

DOJ is thus effectively given the power to cut Philippine access to Facebook, Twitter and other social networking sites. This is how restrictive the new law is.

5. One may be imprisoned for 'Likes,' 'Retweets' – Due to vague provisions in RA 10175, even Facebook "likes" and "retweets" can incriminate netizens. Section 5, for

example, punishes “any person who willfully abets or aids in the commission” of cybercrimes. Reposting libel material, therefore, could land you in jail.

6. One's privacy may be violated - Chapter IV Section 12, authorizes the DOJ and the NBI to collect traffic data from users even without a court warrant. RA 10175 defines data as data which include the electronic communication's origin, destination, route, time, date, size, duration and even type of service.

The said provision excludes the collection of content or identities of electronic files, both of which require a court warrant before state authorities can lawfully collect said information. But there are now advanced methods that can reveal identities and other private information simply from traffic data. Collection of such information goes against several provisions of the 1987 Constitution, including Section 3(1) of the Bill of Rights in the Constitution states, “The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.”

7. All your e-mails, chat messages and online activity can be used against you - In RA 10175, the power to compel the disclosure of computer data through a court order has been granted to law enforcement authorities. Upon issuance of a court warrant, Internet service providers can even be compelled by the government to produce all available data for any particular subscriber. This means all your private correspondence and communications you send can be used against you in court.

8. One can be framed easily – Cybercrimes can be committed in such a way that a particular netizen can easily be framed or accused of committing the offense. A potential hacker, for example, can use your online data while launching attacks. As DOJ only needs partial information to issue takedown orders, your data, privacy, and your property can easily be seized and investigated by authorities, even if you're innocent.

9. It gives the government power to take and destroy your data and your gadgets – If you've been accused of committing cybercrimes, Section 15 and 16 of RA 10175 empowers law enforcement agencies to seize your computer data – including the computer system (aka your gadgets) – for investigation. They can hold your data for up to 30 days, after which, law enforcement authorities can destroy your seized property.

10. It imposes higher penalties for all crimes - The new law was seemingly drafted with the mindset that crimes committed online is graver than those committed in the real world, as a provision in the Cybercrime Prevention Law effectively raises the punishment for crimes committed with the aid of computer systems.

Section 6 of RA 10175 states, “All crimes defined and penalized by the Revised Penal Code, as amended, and special laws, if committed by, through and with the use of information and communications technologies shall be covered by the relevant provisions of this Act, provided that the penalty to be imposed shall be one degree higher than that

provided for by the Revised Penal Code, as amended, and special laws, as the case may be."

To illustrate, a person who commits crimes such as theft and kidnapping with the aid of ICT may get six to to 30 more years in jail than those committing the same crimes without the use of computers and ICT. Similarly, committing online libel will result to longer prison sentences. The penalty for printed libel under the Revised Penal Code is only six months to four years. However, applying the "one degree higher" clause in RA 10175 when the libel is committed online, the penalty is raised to six to 12 years.

11. Calls and texts are also covered by the new law – Cellular phones, especially smartphones, are also considered as computer systems. As such, all dangers listed above also apply to your text messages and phone calls.

Clearly, the motive behind the passage of the Cybercrime Law is to quell dissent and silence opposition.

Immediately after its publication, stakeholders protested against the new law. Kabataan Party-list launched several remedies to block the Cybercrime Law from being implemented. We created an online and offline petition to junk the law, which to date garnered more than 77,000 signatures. Kabataan Party-list Representative to the 15th Congress Raymond V. Palatino filed a bill repealing sections of RA 10175. Fifteen petitions were filed to the high court questioning the legality of the law; one of such petitions was filed by Rep. Palatino and other youth leaders as petitioners, with yours truly as legal counsel. On October 9, 2012, the Supreme Court issued a temporary restraining order good for 120 days, and extended it on February 5, 2013 "until further orders from the court."

While RA 10175 lies in legal limbo, members of the 16th Congress are asked to correct what may have been a mistake by our predecessors in the 15th Congress and the President. For this Congress, we file a bill that repeals Republic Act No. 10175 in its entirety.



HON. TERRY L. RIDON
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AN ACT
REPEALING REPUBLIC ACT NO. 10175, OR THE CYBERCRIME PREVENTION ACT
OF 2012

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

1 **SECTION 1.** Republic Act numbered 10175 entitled "An Act Defining Cybercrime,
2 Providing for the Prevention, Investigation, Suppression and the Imposition of Penalties
3 Therefor and Other Purposes" is hereby repealed.

4 **SECTION 2.** This Act shall take effect fifteen (15) days after its publication in at
5 least two (2) newspaper of general circulation.

Approved,