

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2300



Introduced by **HON. NIEL "JUNJUN" C. TUPAS, JR.**
5th District, Iloilo

EXPLANATORY NOTE

The country's criminal law for the past eight decades has principally been the Revised Penal Code of the Philippines (the "RPC"). Enacted in 1932, this piece of legislation contains antiquated provisions and deals with crimes that are now irrelevant to and fails to address current situations. Penalties provided in the said law have also become obsolete. While the RPC still defines archaic crimes such as "challenging to a duel" and "qualified theft of coconuts", it has largely been ineffective in addressing organized crime, transnational crime, cybercrime, and such other emergent criminal activities that proliferate today.

The unsystematic proliferation of special penal laws in our jurisdiction is another cause of difficulty for our justice sector workers. We can scarcely keep track of the exact number of penal laws that we have and find difficulty in determining which law or laws should be used to punish a particular criminal conduct.

The foregoing reasons make it imperative for us to revisit the RPC and to craft a new Criminal Code that is updated, modern, simplified, responsive, and truly Filipino.

The proposed measure covers Book I of the Criminal Code of the Philippines and is the result of two years of work and consultation with various sectors and experts spearheaded by the Department of Justice Criminal Code Committee in partnership with the Hanns Seidel Foundation of Germany. It is guided by the following philosophies:

- (a) First, it must be a simple, modern, organic and truly Filipino Criminal Code. The language must be simple to make it comprehensible to even lay persons and must reflect the realities of the present-day criminal justice system of the country;
- (b) Second, it must reflect the values and mores of the Filipino people;
- (c) Third, it must be multi-disciplinary and not narrowly legalistic and must take into account the unique perspectives of experts from allied professions, including those in medicine, psychology, sociology, criminology, and forensics. The vision is that the new Criminal

Code will be informed by the expertise of various disciplines and will not be a document solely for lawyers but a statute meant for every Filipino;

- (d) Fourth, it must be able to harmonize the interests and divergent views of all stakeholders in the criminal justice system; and
- (e) Fifth, it should be more than just an update of the existing RPC and must not be constrained by existing frameworks. Rather, it must be open to out-of-the-box and innovative solutions to chronic problems in the criminal justice system.

Guided by such principles, the proposed Philippine Code of Crimes endeavors to: (a) update our existing penal laws and to align them with international best practices; (b) introduce innovative reforms to address chronic problems encountered by justice sector workers at all stages of the justice system; and (c) rationalize the compilation of existing penal laws and the promulgation of future ones to ensure that there will only be a single, unified compendium of all criminal laws for every person's easy reference.

The highlights of this bill are as follows:

1. Change to universal jurisdiction of crimes instead of the current jurisdiction based on territory, given the evolving nature of crime, specifically transnational organized crime:

There will be provisions allowing the State to prosecute crimes committed outside the Philippines if the said crimes are against national security, against Filipino citizens, or against humanity and the law of nations.

2. Simplifies the categorization of crimes – there is no longer a frustrated stage of commission of crime or accomplices in the degree of participation:

There will be provisions classifying criminal participants as either “principals” or “accomplices” (no more “accessories”, because they can be prosecuted as principals based on the extent of their participation in the crime) and defining the stages of criminal execution as “consummated” and “attempted” (no more “frustrated”).

3. The minimum age of criminal liability is 13 years old – those between 13 and 18 are penalized depending on the nature of the crime but with suspended sentence and referral to diversionary programs;

4. The scale of principal, alternative and accessory penalties with the restorative justice measures are presented in one table with numeral levels rather than old Spanish or Latin terms for easy reference:

There will be a new scale of penalties composed of five “levels”, and a level for “life imprisonment”, aimed at simplifying the sentencing process. Using this new scale, crimes can be classified easily

according to their gravity, along with the corresponding alternative/accessory penalties and post-sentencing measures applicable to each level.

5. There is no longer a splitting of criminal and civil actions – the civil remedy is always embedded in the criminal action;
6. There will be a provision stating that an appeal from a judgment of dismissal or acquittal shall not be treated as a second jeopardy;
7. Modifying circumstances are now generically aggravating, mitigating or alternative without need of specific characterization for purpose of trial:

There will be sections defining modifying circumstances in broad strokes (unlike in the present Revised Penal Code where each circumstance is enumerated) in order to give the judge more leeway in appreciating factors that would aggravate or mitigate a crime on a case-to-case basis.

8. Simplifies the approach to criminalization based on conduct and not mental state;
9. The prescription of crime and service of sentence is now combined.¹

This historical undertaking is long overdue. It is part of the larger justice reform agenda of the government aimed at improving the administration of justice in the country and enhancing access to justice of the poor and other marginalized sectors.

Therefore, the passage of this bill is earnestly sought.



NIEL "JUNJUN" C. TUPAS, JR.

¹ Based on the Criminal Code Committee Briefer to the Sec. of Justice dated 02 July 2013

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AN ACT INSTITUTING THE PHILIPPINE CODE OF CRIMES TO FURTHER STRENGTHEN THE CRIMINAL JUSTICE SYSTEM, REPEALING FOR THE PURPOSE BOOK ONE OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE OF THE PHILIPPINES AND OTHER SPECIAL LAWS ON CRIMES

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

PRELIMINARY ARTICLE. This Act shall be known as the "*Philippine Code of Crimes*."

BOOK ONE

GENERAL PRINCIPLES ON THE APPLICATION OF THIS CODE, THE OFFENSES, THE PERSONS LIABLE AND THE TABLE OF PENALTIES

Section 1. A crime is conduct defined and penalized under this Code or special penal laws.

Section 2. The following terms are defined:

1. Code – the Philippine Code of Crimes
2. Person – a natural or juridical person
3. Minor – a person under 18 years of age or those over 18 years of age but with mental disability. A minor shall also refer to those over 18 years of age but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.
4. Insanity – the total deprivation of the mental ability to appreciate the criminality of one's conduct.
5. Mental disability – any mental illness, medical condition or defect substantially decreasing the ability to appreciate the criminality of one's conduct
6. Offended party – the State
7. Victim - a person who sustains injury or damage as a result of the commission of a crime
8. Respondent - a person under investigation for the commission of a crime

9. Accused – a person charged in court with the commission of a crime
10. Offender - a person sentenced by final judgment for the commission of a crime
11. Detainee - a person under detention before final judgment
12. Detention facility – a place of confinement for detainees
13. Judgment - an order or decision issued by a court which disposes a case
14. Final judgment – a judgment that is no longer subject to appeal
15. Penalty - the punishment for the commission of a crime which includes imprisonment, fine, forfeiture, damages to the offended party and the victims including restitution, reparation, indemnification, suspension or removal from office, disqualification from practice of profession or vocation, deprivation or curtailment of rights or privileges and community service
16. Inmate – a person serving sentence of imprisonment
17. Correctional facility – a place of confinement for inmates
18. Prescription - the extinction of the right of the State to prosecute by lapse of time

Section 3. This Code shall be governed by the following principles:

1. There is no crime unless the act is defined and penalized by this Code or other laws.
2. The State has the primary duty to investigate and prosecute crimes and to impose penalties.
3. When a single act produces two or more crimes under this Code and other laws, or when a series of different acts on one occasion produce two or more crimes, or when a crime is a necessary means for committing another crime, the accused shall be charged in one indictment with all the crimes but may be convicted only for the crime proved with the highest penalty. The other crimes proved shall be considered modifying circumstances.

Series of similar acts on the same occasion against one victim shall be charged as only one crime. However, if there is more than one victim, the respondent shall be charged with as many crimes as there are victims.

4. Criminal laws are prospective in application unless favorable to the accused.
5. Criminal laws are construed to meet and serve the ends of justice.
6. An accused convicted of a crime shall be held civilly liable for damages that have been proved. An accused acquitted of a crime by reasonable doubt may be held civilly liable where the evidence so warrants.
7. Penalties are imposed for punishment, reformation and rehabilitation.
8. When a single act violates a national law and a local law, the national law shall prevail. The penalty of imprisonment above Level 1 is imposable only by national laws.

9. No person shall be twice put in jeopardy of punishment for the same crime. An appeal from a dismissal or acquittal based on the following grounds shall not be considered a second jeopardy:
 1. Mistrial, or where the State is denied due process;
 2. Grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the trial court judge;
 3. Dismissal secured by the accused on grounds outside evidentiary considerations, without the trial court passing upon the accused's guilt or innocence;
 4. Post-verdict acquittal based on a ruling of law and not a resolution of facts; or
 5. Bias or prejudice stemming from an extrajudicial source.

Section 4. This Code shall apply to:

1. Crimes committed against humanity and the law of nations;
2. Crimes against national security or interest committed outside the Philippines;
3. Crimes committed outside the Philippines by or against any Philippine citizen, or entity registered in the Philippines, or by a person having habitual residence in the Philippines involving the law of nations, national and human security, sovereignty, international legal interest, or having a transnational nature;
4. Crimes committed within the Philippines or against a government facility of the Philippines abroad, including its embassy or other diplomatic or consular premises;
5. Crimes committed in an aircraft, ship or vessel of Philippine registry or in an aircraft, ship or vessel originating from, passing through or destined for the Philippines; and
6. Crimes committed outside the Philippines against any Philippine citizen, or entity registered in the Philippines, if punishable as a Level 4 or higher crime, unless punishable in the place where the crime is committed.

In the exercise of jurisdiction, the State shall consider the principle of comity and other principles of international law. The principle of legality shall apply when the penalty is Level 4 and higher.

Section 5. Only intentional conduct is punishable unless this Code and other laws punish reckless conduct.

Section 6. A person committing a crime is either a principal or an accessory.

1. Principals are persons who commit a crime personally or through another. Persons who agreed to commit a crime and commit it, regardless of the nature or extent of participation, shall be punished as principals.
2. Accessories are persons who aid, abet or assist a principal.

Section 7. A person is responsible for committing or attempting to commit an act punishable under the Code or special criminal laws.

1. A crime is consummated when all the acts leading to the completion of the offense have been committed.
2. A crime is attempted when any act immediately leading to the completion of the offense is committed but the crime is not consummated. An attempt to commit a crime shall be punishable only when provided by this Code or other special penal laws.

Section 8. The following do not incur criminal responsibility:

1. A minor under 13 years
2. An insane person
3. A person acting in self defense or in defense of another
4. A person who, while performing a lawful act with due care, causes an injury or damage
5. A person acting under lawful order or authority unless such order or authority is clearly not for a lawful purpose
6. A person compelled to act by reason of fear, intimidation, force, threat or some lawful cause
7. A person who, acting to avoid an imminent injury, causes an injury or damage

Section 9. A minor aged 13 but less than 18 years old who commits a crime shall be subjected to the appropriate proceedings, and if charged with a crime punishable by penalty above Level 4 shall be tried as an adult and, if convicted, liable to the penalty of imprisonment.

Section 10. The two kinds of modifying circumstances are aggravating circumstances and mitigating circumstances.

1. An aggravating circumstance results in the imposition of the penalty in the higher range due to the presence of particular circumstances manifesting a greater criminal perversity of the accused as shown in the brutal and excessive manner or method which was consciously adopted to facilitate the commission of the crime; or the taking advantage of physical or mental disability or age to ensure impunity; or the flagrant disregard of the accused of special personal conditions of the victim; and other analogous circumstances.
2. A mitigating circumstance results in the imposition of the penalty in the lower range due to the presence of particular circumstances manifesting a lesser criminal perversity of the accused; or showing that he has a mental disability, or has acted under a diminished exercise of freedom of action, intelligence, or intent, or is suffering from a physical or mental defect that restricts his means of action, defense or communication; or due to the

fact that the resulting injury is greater than what was intended; and other analogous circumstances.

A mitigating circumstance may also be appreciated in the accused's favor if he voluntarily surrenders to the police authorities or he voluntarily pleads guilty before the presentation of the prosecution's evidence in the criminal case filed against him.

3. The court shall consider the established facts in the appreciation of the modifying circumstances.

Section 11. The kinds of penalties are:

1. Principal Penalties

- 1.1 Imprisonment - deprivation of liberty by judicial decree through commitment of the offender for a fixed duration to any correctional facility.
- 1.2 Fine - fixed monetary sanction imposed by a judge based on the severity of the crime committed and the ability to pay off the offender. It is imposed either as a single or alternative penalty for the commission of a crime.
- 1.3 Penalties for legal entities – in case a legal entity is found guilty of a crime, it shall be imposed a penalty of fine, or suspension or cancellation of corporate privileges.

2. Alternative Penalties

- 2.1 Fine
- 2.2 Community Service - performance of unpaid work by an offender to compensate the injury inflicted to society by the crime committed. It may be imposed by the court, with the consent of the offender, as an alternative penalty to imprisonment, or for probation or parole.

3. Accessory Penalties

- 3.1 Disqualification or suspension permanently or for the duration of the sentence - deprives the offender of public office, profession or employment, elective or appointive, and any similar office or employment
- 3.2 Suspension of the right to vote or be voted for in any election
- 3.3 Civil interdiction for the duration of the sentence imposed - deprives the offender of parental authority over children, guardianship rights, or the right to manage and dispose of property
- 3.4 Forfeiture of benefits - disqualifies the offender from receiving any portion or all of benefits
- 3.5 Confiscation and forfeiture of proceeds and instruments of crime - every penalty carries with it the accessory penalty of forfeiture of the proceeds and instruments of the crime. Proceeds and instruments of a crime shall be confiscated in favor of the State unless they belong to a third party or are not subject of lawful commerce.

Level	Principal Penalty/Term	Alternative Penalties		Accessory Penalties	Subsidiary Penalty	Post-Sentencing Measures	Prescription	
		Fine	Community Service					
Life Imprisonment	Not less than 30 years and not more than 40 years, with or without parole + Fine equivalent to 500 to 1000 times (in multiples of one hundred) the average daily income	None	None	• Disqualification or suspension • Suspension of right of suffrage • Civil interdiction • Forfeiture of Benefits • Confiscation and Forfeiture of Proceeds and Instruments of the Crime	Community Service	• Executive Clemency	Imprescriptible	
Level 5	more than 20 years to 30 years + Fine equivalent to 100 to 500 times (in multiples of one hundred) the average daily income					• Executive Clemency • Parole	25 years	
Level 4	more than 10 years to 20 years + Fine equivalent to 10 to 100 times (in multiples of ten) the average daily income						15 years	
Level 3	more than five years to 10 years + Fine equivalent to 10 to 50 times (in multiples of ten) the average daily income						10 years	
Level 2	more than one year to five years + Fine equivalent to 10 to 20 times (in multiples of five) the average daily income	50 to 100 times (in multiples of ten) the average daily income or 5 to 10 times the value of the property, whichever is higher				• Executive Clemency • Parole • Probation with community service	5 years	

Level 1	more than 10 days to 1 year + Fine equivalent to 1 to 10 times the average daily income OR Fine only	10 to 50 times (in multiples of ten) the average daily income or 1 to 5 times the value of the property, whichever is higher	Community service				• Executive Clemency • Probation	1 year

Section 12. The sentencing shall be guided by the following:

1. The court shall impose the principal penalty or alternative penalty and the accessory penalties, as applicable.
2. Fine as a principal penalty or an alternative penalty shall be equivalent to a multiple of the average daily income of the offender but in no case lower than the daily minimum wage of the place where the crime is committed, or the value of the property, in cases of property crimes.
3. Subsidiary penalty of community service shall be imposed when the offender fails to pay the fine.
4. Probation may be availed of for Level 1 and 2 crimes.
5. A first time offender of a Level 1 crime shall render community service upon application and approval of the Court.
6. Community service may be included as one of the conditions for probation in Level 2 crimes.
7. The duration of community service shall be equivalent to the prison term.
8. The object, instrument or proceeds of the crime shall be destroyed, confiscated or forfeited.
9. The court shall order the return of the property or its equivalent and indemnification as damages.

Section 13. The computation of penalties shall be guided by the following:

1. Penalties shall be computed from the day the judgment becomes final.
2. Preventive detention shall be credited to the term of imprisonment imposed.

Section 14. The execution of penalties shall be guided by the following:

1. The sentence shall be suspended if the offender becomes insane.
2. The penalty of two or more imprisonment terms shall be served successively, but in no case shall a person be imprisoned for more than 40 years.

Section 15. Criminal responsibility is extinguished by:

1. Service of penalty
2. Amnesty
3. Absolute Pardon

4. Prescription
5. Amicable settlement, except in cases of crimes against the State, and subject to the court's discretion and approval, considering all relevant circumstances of the case in the interest of justice and peace.

Criminal responsibility is decreased by:

1. Conditional pardon
2. Commutation of sentence
3. Parole
4. Probation
5. Community Service

Section 16. Prescription of crimes shall be governed by the following rules:

1. Crimes punishable by life imprisonment do not prescribe. Level 5 crimes prescribe in 25 years. Level 4 crimes prescribe in 15 years. Level 3 crimes prescribe in 10 years. Level 2 crimes prescribe in five years. Level 1 crimes prescribe in one year.
2. The period of prescription shall run from the day the crime is committed or upon discovery.
3. The period of prescription shall not run when the crime is under any formal proceedings or investigation and shall run again when the proceedings did not result in the filing of an information in court.

Section 17. (1) The penalty of death and of imprisonment established in the Revised Penal Code shall have the equivalent penalty of imprisonment in this Code as follows:

Death	Life imprisonment
<i>Reclusion perpetua</i>	More than 20 years to 30 years
<i>Reclusion temporal</i>	More than 10 years to 20 years
<i>Prision mayor</i>	More than 5 years to 10 years
<i>Prision correccional</i> medium to	
<i>Prision correccional</i> maximum	More than 1 year to 5 years
<i>Arresto menor</i> to <i>prision correccional</i>	More than 10 days to 1 year minimum

(2) The penalty of fine established in the Revised Penal Code, whether imposed as a single or as an alternative penalty, shall be replaced with the schedule of fines established in Section 12 of this Code and shall have the equivalent penalty set out below, whether to be imposed as an additional penalty or alternative penalty:

<u>Fines under Revised Penal Code</u>	<u>Equivalent under the Code</u>
More than P48,000	Level life imprisonment fine
More than P24,000 to P48,000	Level 5 fine
More than P12,000 to P24,000	Level 4 fine
More than P6,000 to P12,000	Level 3 fine

P200 to P6,000
Less than P200

Level 2 fine
Level 1 fine

(3) Upon this Code coming into effect, the penalties for the crimes defined and penalized under Book 2 shall be the corresponding penalties provided in paragraph (1) above.

Section 18. The following laws are repealed:

1. Articles 1 to 113, Revised Penal Code (Act No. 3815, as amended)
2. Indeterminate Sentence Law (Act No. 4103, as amended)
3. Probation Law of 1976 (Presidential Decree No. 968, as amended)
4. An Act Providing for Enforcement of Conditions of Pardon (Act No. 1524)
5. An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin to Run (Act No. 3326)
6. Death Penalty Law (Republic Act No. 7659)
7. Act Designating Death by Lethal Injection (Republic Act No. 8177)
8. Article 192, Child and Youth Welfare Code (Presidential Decree No. 603)
9. Section 66, Comprehensive Dangerous Drugs Act of 2002 (Republic Act No. 9165)
10. Sections 6, 7 and 20 of Republic Act No. 9344 – Juvenile Justice Welfare Act of 2006
11. Section 66 of Republic Act No. 9165 - Comprehensive Dangerous Drugs Act of 2002
12. Section 5 of Republic Act No. 9372 - Human Security Act of 2007
13. Section 27 of Republic Act No. 9745 - Anti-Torture Act of 2009
14. Republic Act No. 10159 - An Act Amending Article 39 of Act No. 3815, as Amended
15. Section 12 Republic Act No. 8484 - Access Devices Regulation Act of 1998
16. Commonwealth Act 217 - Act Amending Articles 61, 70 and 71 of the Revised Penal Code

All other laws and issuances not consistent with the provisions of this Code are hereby repealed.

Section 19. A Criminal Justice Policy and Research Center is created under the Department of Justice as the national criminal policy and research center with the following functions:

1. Serves as the primary research arm of the government in evaluating and advocating for reforms in the framework and philosophy of the criminal justice system;
2. Provides analysis, evaluation and assistance to criminal justice agencies;
3. Adopts simple, modern and inter-disciplinary, holistic and systems approach;

4. Employs both empirical and theoretical methods to address gaps in statistical data, working definitions and common usage fields in the criminal justice system;
5. Simplifies processes and develop systems to improve the governance and administration of the criminal justice system; and
6. Provides for guidelines in the implementation of this Code during the transitory stage.

Section 20. If any part or provision of this Code, or its application to any person or circumstance, is declared unconstitutional or invalid, the remaining unaffected portions or the application of such portion to other persons or circumstances shall remain in full force and effect.

Section 21. This Code shall take effect on 01 January 2015 after publication in at least one (1) newspaper of general circulation.

Approved,