

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2352



Introduced by **HONORABLE EDCCEL "GREX" B. LAGMAN**

EXPLANATORY NOTE

Section 1 Article 3 of the 1987 Constitution guarantees equal protection of the laws. According to the noted Constitutionalist, Fr. Joaquin G. Bernas, S.J., in his book entitled "The 1987 Philippine Constitution, A Comprehensive Reviewer", the equality it guarantees is equality of all persons before the law. "Under it, each individual is dealt with as an equal person in the law, which does not treat the person differently because of who he is or what he possesses. The goddess of justice is portrayed with a blindfold, not because she must be hindered in seeing where the right lies, but that she may not discriminate against suitors before her, dispensing instead an even handed justice to all."

Act No. 3815, otherwise known as the Revised Penal Code, came into effectivity on the first day of January 1932. More than eighty (80) years have passed after it took effect, many of its articles have remained the same despite the changes and advances in the society. Over the years, people have started to accept and respect the rights of what is known as the LGBT group, which composes the lesbians, gays, bisexuals and transsexuals in the society today. As a result, some countries and states all over the world are even starting to legalize gay marriages. People associate this development to gender equality. Although I am open and supportive of gender equality, we must not limit its concept with the positive side of things. Just like in a marriage, equality should be present "for better or for worse." Meaning, equality must be upheld both in the rewards and as well as in the sanctions given by the society. If the LGBT group insists on equal rights, they must also be prepared to accept and carry the burden of equal liability and responsibility. That is the essence of democracy.

As the law now stands, if a married woman has sexual intercourse with a man other than her husband, she commits adultery. On the other hand, if a married man has sexual intercourse in a scandalous manner with a woman other than his wife, then he commits concubinage. But what if a married woman engages in a sexual activity with another woman? Conversely, what if the married man engages in a sexual activity with another man? Under the present law, no crime is committed.

In a similar vein, the law penalizes a married woman who has sexual intercourse with a man other than her husband. Conversely though, a married man will not be penalized for having sexual intercourse with a woman other than his wife unless the same be made in a scandalous manner, or if the married man keeps the woman in his dwelling, or if he cohabits with her in another place.

In the given scenarios, it seems that equality is not present. Therefore, it is clear that the present law should be amended so as to reflect not only gender equality but equality in general.

A handwritten signature in black ink, appearing to read "Edcel Grex B. Lagman".

EDCEL "GREX" B. LAGMAN

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AN ACT AMENDING AND EXPANDING THE COVERAGE OF ARTICLE 333 CHAPTER ONE, TITLE ELEVEN OF ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE AND REPEALING ARTICLE 334 CHAPTER ONE, TITLE ELEVEN OF ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES

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

SECTION 1. Title Eleven Chapter One of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read as follows:

"Title Eleven
CRIMES AGAINST CHASTITY
Chapter One
ADULTERY [AND CONCUBINAGE]"

Section 2. Article 333, Chapter One, Title Eleven of Act No. 3815, otherwise known as the Revised Penal Code, is hereby amended to read as follows:

"Art. 333. *Who are guilty of adultery.* — **ADULTERY IS COMMITTED BY ANY OF THE FOLLOWING PERSONS:**

- (A) [Adultery is committed by] **BY** any married woman who shall have sexual intercourse with a man not her husband and by the man who has carnal knowledge of her knowing her to be married, even if the marriage be subsequently declared void[.];
- (B) **BY ANY MARRIED WOMAN WHO SHALL ENGAGE IN SEXUAL ACTIVITY BY INSERTING ANY OF HER BODYPART OR ANY INSTRUMENT OR OBJECT INTO ANOTHER WOMAN'S MOUTH, GENITAL OR ANAL ORIFICE, AND BY THE WOMAN WHO SHALL ENGAGE IN SEXUAL ACTIVITY WITH HER KNOWING HER TO BE MARRIED, EVEN IF THE MARRIAGE BE SUBSEQUENTLY DECLARED VOID;**
- (C) **BY ANY MARRIED MAN WHO SHALL HAVE SEXUAL INTERCOURSE WITH A WOMAN NOT HIS WIFE AND BY THE WOMAN WHO HAS CARNAL KNOWLEDGE OF HIM KNOWING HIM TO BE MARRIED, EVEN IF THE MARRIAGE BE SUBSEQUENTLY DECLARED VOID; AND**
- (D) **BY ANY MARRIED MAN WHO SHALL ENGAGE IN SEXUAL ACTIVITY BY INSERTING HIS PENIS OR ANY OF HIS BODYPART OR ANY INSTRUMENT OR OBJECT INTO ANOTHER MAN'S MOUTH OR ANAL ORIFICE, AND BY THE MAN WHO SHALL ENGAGE IN SEXUAL ACTIVITY WITH HIM KNOWING HIM TO BE MARRIED, EVEN IF THE MARRIAGE BE SUBSEQUENTLY DECLARED VOID.**

Adultery shall be punished by prision correccional in its medium and maximum periods.

If the person guilty of adultery committed this offense while being abandoned without justification by the offended spouse, the penalty next lower in degree than that provided in the next preceding paragraph shall be imposed."

SECTION 3. *Separability Clause.* – If any part or provision of this Act is declared invalid, all other provisions not affected thereby shall remain valid.

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