

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

Sixteenth Congress  
*First Regular Session*

**3389**

House Bill No. \_\_\_\_\_



---

Introduced by **AKBAYAN** Representatives  
**Ibarra "Barry" M. Gutierrez III and Walden F. Bello**

---

**EXPLANATORY NOTE**

The separation of church and State (Section 6, Article II, *1987 Philippine Constitution*) and the non-establishment clause (Section 5, Article III, *1987 Philippine Constitution*) prevents the enactment of laws which would favor any or all religions. These Constitutional principles should be reconciled with, and should be used to support, the rights of citizens, such as the right to free speech and expression.

Enacted fifty-five years before the promulgation of the *Constitution*, the *Revised Penal Code*, in its Article 133 (Offending Religious Feelings) punishes a person who, in a place devoted to religious worship or during the celebration of any religious ceremony, performs acts notoriously offensive to the feelings of the faithful. By so doing, the *Revised Penal Code*, curtails a right protected by the *Constitution*: the right to free speech, which, since lately, have been considered as the "right to offend." Moreover, it puts instrumentalities of the State, particularly the prosecution service and the courts, in a situation in which they are mandated to enforce the tenets, belief or rules of a particular religion or sect, in contravention of the non-establishment clause.

Still, under the *International Covenant on Civil and Political Rights* adopted by the United Nations General Assembly in 1966, as a State Party, the Philippines is bound to uphold the right of freedom of expression of its citizens, and ensure that laws do not enforce unnecessary limitations to this right.

Pursuant to the principles enshrined in the *Constitution* and our commitment as a State Party to the *International Covenant on Civil and Political Rights*, there is a need to repeal Article 133 of the *Revised Penal Code*, an archaic provision which impedes free speech and expression. The State may still prosecute a person who disturbs a place devoted to religious worship or a celebration of a religious ceremony whenever the disturbance becomes violent as these are amply covered by Chapter Five, Title Three, Book II of the *Revised Penal Code* punishing tumults and other disturbances of public order, and alarms and scandals. In addition, private offended parties may still bring civil actions against those who offend them under Articles 19, 21 and 26 of Republic Act No. 386, otherwise known as the "*Civil Code of the Philippines*."

In view of the foregoing, the immediate passage of the bill is earnestly sought.



IBARRA "BARRY" M. GUTIERREZ III



WALDEN F. BELLO

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

Sixteenth Congress  
*First Regular Session*

House Bill No. 3389

---

Introduced by **AKBAYAN** Representatives  
Ibarra “Barry” M. Gutierrez III and Walden F. Bello

---

**AN ACT**  
**REPEALING ARTICLE 133 OF ACT NO. 3815, AS AMENDED,**  
**OTHERWISE KNOWN AS THE “REVISED PENAL CODE,”**  
**AND FOR OTHER PURPOSES**

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

1 **SECTION 1. *Repeal of Article 133 of Act No. 3815.***—Article 133 of Act No. 3815, as  
2 amended, otherwise known as the “*Revised Penal Code*,” which reads:

3  
4 *“Article 133. Offending the religious feelings.—The penalty of *arresto**  
5 *mayor* in its maximum period to *prision correccional* in its minimum  
6 *period shall be imposed upon anyone who, in a place devoted to*  
7 *religious worship or during the celebration of any religious*  
8 *ceremony shall perform acts notoriously offensive to the feelings*  
9 *of the faithful.”*

10  
11 is hereby repealed.

12  
13 **SECTION 2. *Retroactive effect.***—All pending criminal cases, and accompanying civil cases, if  
14 any, for a violation of Article 133 of the *Revised Penal Code* shall be dismissed upon the effectivity  
15 of this Act.

1  
2 Pursuant to Section 22 of the *1987 Philippine Constitution* prohibiting the enactment of *ex-post facto*  
3 laws or bills of attainder and to Article 22 of the *Revised Penal Code*, the provisions of this Act  
4 shall have retroactive effect insofar as they are favorable to the person charged or convicted  
5 under Article 351 of the *Revised Penal Code*, who is not a habitual criminal, as defined in Rule 5 of  
6 Article 62 of the said *Code*, even if at the time of the publication of this Act a final sentence has  
7 been pronounced and the convict is serving the same. Therefore, all persons serving sentence for  
8 a violation of Article 351 of the *Revised Penal Code* shall be immediately released upon the  
9 effectivity of this Act: *Provided*, That they are not serving sentence or detained for any other  
10 offense or felony.

11  
12 **SECTION 3. *Separability clause*.**—If any part, section or provision of this Act is held invalid  
13 or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

14  
15 **SECTION 4. *Repealing clause*.**—All laws, decrees, orders, rules and regulations or other  
16 issuances, particularly that of the *Revised Penal Code*, which are inconsistent with the provisions of  
17 this Act, are hereby repealed, amended, or modified accordingly. Article 133 of the *Revised Penal*  
18 *Code* is repealed.

19  
20 **SECTION 5. *Effectivity*.**—This Act shall take effect fifteen (15) days after the completion of  
21 its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

22  
23 Approved,