

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

Sixteenth Congress
First Regular Session



House Bill No. **3422**

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

EXPLANATORY NOTE

Libel is defined under the *Revised Penal Code* (Act No. 3815) as "a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead." The elements of libel are, thus, (1) imputation of a discreditable act or condition to another, (2) publication of the imputation, (c) identity of the person defamed, and (4) existence of malice.

The publication requirement for a prosecution for libel has been and continues to be used as a means to curtail freedom of expression, and is evidenced by the notoriously immense record of libel cases filed with Philippine courts.

Freedom of expression is one of the most revered freedoms enshrined in the 1987 *Philippine Constitution*. As provided by Article III, Section 4:

"No law shall be passed abridging freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances."

This is further reinforced by the *United Nations' International Covenant on Civil and Political Rights* to which the Philippines is a signatory. In its Article 19, the *ICCPR* explicitly states that:

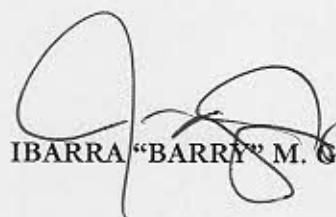
- “1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a) For respect of the rights or reputations of others;
 - b) For the protection of national security or of public order, or of public health or morals.”

Libel is a curtailment of our fundamental human right to freely express ourselves. Observations by the United Nations Human Rights Committee, as declared in a comment in October 2011, show that the criminal sanction for libel in the Philippines is unreasonable and excessive, and is incompatible with the *ICCPR*.

Pursuant to the responsibility of the State to uphold the *ICCPR*, and more importantly, the Bill of Rights, this bill aims to remove the penal sanctions for libel. The State is mandated to protect the rights and liberties of its people, and decriminalizing libel is a step towards promotion and appreciation of the right to freedom of expression.

Private offended parties may still bring civil actions against those who they feel have maligned them under Article 19 and 26 of Republic Act No. 386, otherwise known as the “*Civil Code of the Philippines*.”

In view of the foregoing, immediate approval of this measure is earnestly sought.



IBARRA “BARRY” M. GUTIERREZ III



WALDEN F. BELLO

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AN ACT

**DECRIMINALIZING LIBEL, AMENDING FOR THIS PURPOSE 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. Short title.**—This Act shall be known as the “*Decriminalization of Libel Act*.”

2

3 **SECTION 2.** Article 355 of Act No. 3815, otherwise known as the *Revised Penal Code*, as
4 amended, is hereby amended to read as follows:

5

6 *“Article 355. Libel by means of writings or similar means.*—A libel committed
7 by means of writing, printing, lithography, engraving, radio, phonograph,
8 painting, theatrical exhibition, cinematographic exhibition, or any similar
9 means, shall be punished by ~~prision correccional in its minimum and~~
10 ~~medium periods or a fine ranging from 200 to 6,000 pesos, or both, in~~
11 ~~addition to the civil action which may be brought by the offended~~
12 ~~party~~shall constitute a sufficient cause of action for a civil suit to be
13 brought by the offended party.”

14

15 **SECTION 3.** Article 360 of Act No. 3815, otherwise known as the *Revised Penal Code*, as
16 amended, is hereby amended to read as follows:

1

2 “*Article 360. Persons responsible.* – Any person who shall publish, exhibit, or
3 cause the publication or exhibition of any defamation in writing or by
4 similar means, shall be responsible for the same.

5

6 The author or editor of a book or pamphlet, or the editor or business
7 manager of a daily newspaper, magazine or serial publication, shall be
8 responsible for the defamations contained therein to the same extent as
9 if he were the author thereof.

10

11 The criminal and civil action for damages in cases of written defamations
12 as provided for in this chapter, shall be filed ~~simultaneously or separately~~
13 with the appropriate inferior court of ~~first instance~~ of the province
14 or city where the libelous article is printed and first published or where
15 any of the offended parties actually resides at the time of the commission
16 of the offense: Provided, however, That where one of the offended
17 parties is a public officer whose office is in the City of Manila at the time
18 of the commission of the offense, the action shall be filed in the Court of
19 First Instance of the City of Manila or of the city or province where the
20 libelous article is printed and first published, and in case such public
21 officer does not hold office in the City of Manila, the action shall be filed
22 in the Court of First Instance of the province or city where he held office
23 at the time of the commission of the offense or where the libelous article
24 is printed and first published and in case one of the offended parties is a
25 private individual, the action shall be filed where he actually resides at the
26 time of the commission of the offense or where the libelous matter is
27 printed and first published: Provided, further, That the civil action shall
28 be filed in the same court where the criminal action is filed and vice
29 versa: Provided, furthermore, That the court where the criminal action or
30 civil action for damages is first filed, shall acquire jurisdiction to the
31 exclusion of other courts: And provided, finally, That this amendment
32 shall not apply to cases of written defamations, the civil and/or criminal
33 actions for which have been filed in court at the time of the effectiveness of
34 this law.

35

Preliminary investigation of criminal action for written defamations as provided for in this chapter shall be conducted by the provincial or city fiscal of the province or city, or by the municipal court of the city or capital of the province where such action may be instituted in accordance with the provisions of this article.

No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted *de officio* shall be brought except at the instance of and upon complaint expressly filed by the offended party."

12 **SECTION 4.** Articles 356 and 357 of Act No. 3815, otherwise known as the Revised Penal
13 Code, which read as:

“Article 356. Threatening to publish and offer to present such publication for a compensation.—The penalty of arresto mayor or a fine of from 200 to 2,000 pesos, or both, shall be imposed upon any person who threatens another to publish a libel concerning him or the parents, spouse, child, or other members of the family of the latter, or upon anyone who shall offer to prevent the publication of such libel for a compensation or money consideration.”

“Article 357. Prohibited publication of acts referred to in the course of official proceedings.—The penalty of arresto mayor or a fine of from 200 to 2,000 pesos, or both, shall be imposed upon any reporter, editor, or manager of a newspaper, daily or magazine, who shall publish facts connected with the private life of another and offensive to the honor, virtue, and reputation of said person, even though said publication be made in connection with or under the pretext that it is necessary in the narration of any judicial or administrative proceedings wherein such facts have been mentioned.”

33 are hereby repealed.

1 **SECTION 5. Retroactive effect.**—All pending criminal cases, and accompanying civil cases, if
2 any, for a violation of Articles 355, 360, 356 and 357 of the *Revised Penal Code* shall be dismissed
3 upon the effectivity of this Act.

4

5 Pursuant to Section 22 of the *1987 Philippine Constitution* prohibiting the enactment of *ex-post facto*
6 laws or bills of attainder and to Article 22 of the *Revised Penal Code*, the provisions of this Act
7 shall have retroactive effect insofar as they are favorable to the person charged or convicted
8 under Articles 355, 360, 356 and 357 of the *Revised Penal Code*, who is not a habitual criminal, as
9 defined in Rule 5 of Article 62 of the said *Code*, even if at the time of the publication of this Act a
10 final sentence has been pronounced and the convict is serving the same. Therefore, all persons
11 serving sentence for a violation of Article 355, 360, 365 and 357 of the *Revised Penal Code* shall be
12 immediately released upon the effectivity of this Act: *Provided*, That they are not serving sentence
13 or detained for any other offense or felony.

14

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

17

18 **SECTION 4. Repealing clause.**—All laws, decrees, orders, rules and regulations or other
19 issuances, particularly that of the *Revised Penal Code*, which are inconsistent with the provisions of
20 this Act, are hereby repealed, amended, or modified accordingly. Articles 355 and 360 of the
21 *Revised Penal Code* are amended. Articles 356 and 357 of the *Revised Penal Code* are repealed.

22

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

25

26 Approved,