

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

Sixteenth Congress
First Regular Session

House Bill No. **4725**



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

EXPLANATORY NOTE

The *Revised Penal Code of the Philippines*, or Act No. 3815, as amended, which was enacted in 1932 has been amended to accommodate basic constitutional rights. More than fifty years gap between the enactment of the *Revised Penal Code* and the 1987 *Philippine Constitution* resulted to the apparent conflict between the rights granted by the latter and some acts defined by the former as offenses.

The *Constitution* grants every person freedom of speech. In Article III, Section 4 it is provided:

"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."

The same right is established by Article 19 of the *Universal Declaration on Human Rights* which states:

"Everyone has the right to freedom of expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Moreover, Article 19 of the *United Nations' International Covenant on Civil and Political Rights*, to which the Philippines is a signatory to, 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 right or reputations of others;
- b) For the protection of national security or of public order, or of public health or morals."

Despite these fairly recent grant and declaration of rights, Article 142 of the *Revised Penal Code* penalizes the act of "inciting to sedition." In essence, the offense as defined consists of making speeches, proclamations, writings, emblems, cartoons, banners and the like, whenever these represent acts constituting sedition or whenever these tend to disturb or obstruct peace, safety and order. Therefore, even absent any tumultuous act or public uprising, a person risks himself to prosecution by merely expressing an opinion which the courts may interpret as seditious.

The offense in Article 142 of the *Revised Penal Code* was based on *Act 292 of the Philippine Commission*, a law promulgated during the occupation of the United States and which was intended to clam down on dissent. It is an anti-expression law promulgated during the time when the American were trying to subjugate people and clamp down on critical of the government. In fact, in the case of *United States vs. Tolentino* (L-1451, 06 March 1906), the offense of was discussed and it was held:

"The smoldering embers of a wide-spread and dangerous insurrection were not yet entirely extinguished, and here and there throughout the Islands occasional outbreaks still required the use of the armed forces of the Government for their suppression."

As can be gleaned from the discussion abovequoted, the offense has no room under a government which expressly promotes freedom of speech and expression.

Given that inciting to sedition is committed through forms of human expression, penalizing it clearly violates the constitutional mandate to promote and protect the citizen's right to freedom of expression. It suppresses the right to free speech and expression, and may be used to punish citizens who are highly critical of the government.

The State may still fulfill its duty to maintain public order and protect national security by penalizing acts constituting treason, rebellion, insurrection, *coup d'etat* and sedition per se. Article 142 defines a crime which unnecessarily overlaps with the existing provisions and is susceptible to being abused.

It is, therefore, imperative that Article 142 of the *Revised Penal Code* be repealed in order to ensure that the right to freedom of expression is not breached.

Immediate approval of this measure is, therefore, earnestly sought.



IBARRA "BARRY" M. GUTIERREZ III



WALDEN F. BELLO

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AN ACT
REPEALING ARTICLE 142 OF ACT NO. 3815, AS AMENDED,
OTHERWISE KNOWN AS THE "REVISED PENAL CODE OF THE
PHILIPPINES"

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

1 **SECTION 1.** Article 142 of Act No. 3815, as amended, otherwise known as the *Revised Penal*
2 *Code*, which reads:

3
4 "Article 142. *Inciting to sedition.* – The penalty of prison
5 correccional in its maximum period and a fine not exceeding
6 2,000 pesos shall be imposed upon any person who, without
7 taking any direct part in the crime of sedition, should incite
8 others to the accomplishment of any of the acts which constitute
9 sedition, by means of speeches, proclamations, writings,
10 emblems, cartoons, banners, or other representations tending to
11 the same end, or upon any person or persons who shall utter
12 seditious words or speeches, write, publish, or circulate scurrilous
13 libels against the Government of the Philippines, or any of the
14 duly constituted authorities thereof, or which tend to disturb or
15 obstruct any lawful officer in executing the functions of his
16 office, or which tend to instigate others to cabal and meet
17 together for unlawful purposes, or which suggest or incite
18 rebellious conspiracies or riots, or which lead or tend to stir up
19 the people against the lawful authorities or to disturb the peace of
20 the community, the safety and order of the Government, or who
21 shall knowingly conceal such evil practices."

22
23 is hereby repealed.

1
2 **SECTION 2. *Retroactive effect.***—All pending criminal cases, and accompanying civil cases, if
3 any, for a violation of Article 142 of the *Revised Penal Code* shall be dismissed upon the effectivity
4 of this Act.

5
6 Pursuant to Section 22 of the *1987 Philippine Constitution* prohibiting the enactment of *ex-post facto*
7 laws or bills of attainder and to Article 22 of the *Revised Penal Code*, the provisions of this Act
8 shall have retroactive effect insofar as they are favorable to the person charged or convicted
9 under Article 142 of the *Revised Penal Code*, who is not a habitual criminal, as defined in Rule 5 of
10 Article 62 of the said *Code*, even if at the time of the publication of this Act a final sentence has
11 been pronounced and the convict is serving the same. Therefore, all persons serving sentence for
12 a violation of Article 142 of the *Revised Penal Code* shall be immediately released upon the
13 effectivity of this Act: *Provided*, That they are not serving sentence or detained for any other
14 offense or felony.

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

18
19 **SECTION 4. *Repealing clause.***—All laws, decrees, orders, rules and regulations or other
20 issuances, particularly that of the *Revised Penal Code*, which are inconsistent with the provisions of
21 this Act, are hereby repealed, amended, or modified accordingly. Article 142 of the *Revised Penal*
22 *Code* is repealed.

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

Approved,