

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

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5104



INTRODUCED BY REPRESENTATIVES
EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN

EXPLANATORY NOTE

Our 84-year old Revised Penal Code (Act No. 3815) carries a provision that practically gives license to the taking of life without due process of law and without a consequent penalty. This provision is **Article 247** which provides for ***Death or Physical Injuries Under Exceptional Circumstances***. Under this article, a legally married person who having surprised his or her spouse in the act of committing sexual intercourse with another shall kill or seriously injure any or both of them in the act or immediately thereafter shall suffer the penalty of *destierro* (banishment). Far from being a penalty, "*destierro* is not really intended as a penalty but to remove the killer spouse from the vicinity and to protect him or her from acts of reprisal principally by relatives of the deceased spouse.¹ So not only does the law absolve the killer, it also affords him or her protection via the imposition of *destierro*.

Worse, Article 247 is also made applicable to parents who shall kill or injure their minor daughters (sons not included) who are living with them and or their "seducers" under the same circumstances. Violative of right to due process as it already is, Article 247 also clearly discriminates against women. It reinforces double-standards of morality applied to women and men and it unduly infringes on women's sexual rights.

As has been noted by legal experts, Article 247 does not actually define a crime since the accused will still have to be charged with parricide if the act resulted to death or physical injuries if it only resulted to physical injuries. Article 247 is only utilized as a defense which must be proven by the accused.

¹ People vs. Lauron, C.A., 57 O.G. 7367 as cited in The Revised Penal Code (Criminal Law) book of Luis B. Reyes, 13th Edition, 1993, page 423.

That the law considers the spouse or parent as acting in a “justified burst of passion” had been cited as the justification for the existence of this Article in the Revised Penal Code.²

But, the veiled truth is that the article suggests that a married person’s sexual intercourse with a person not his or her spouse is considered dishonourable, in the same manner that the minor daughter’s sexual intercourse with her “seducer” is also prescribed to be dishonourable, such that when they are caught in the act, killing or injuring them is “justified”. Sad to say, this is the Philippine version of honour killings being practiced in other countries but which is universally condemned by various human rights organizations. The last paragraph of Article 247 supports this position when it states that: “Any person who shall promote or facilitate the prostitution of his wife or daughter, or shall otherwise have consented to the infidelity of the other spouse shall not be entitled to the benefits of this article.” As in honour killings, the “justification” for the killing or injury under exceptional circumstances is the perceived shame or dishonour brought by the act of intercourse outside the marriage or with minor daughters, and not the “justified burst of passion.”

In fact, The Revised Penal Code already recognizes passion or obfuscation under Article 13 thereof. But it is only recognized as a mitigating circumstance whereas in Article 247, it is an absolatory cause. This, all the more reinforces the observation that Article 247 provides for a Philippine version of honour killing.

So while Gabriela Women’s Party is aware that there is an ongoing effort to overhaul the antiquated Revised Penal Code, Article 247 must be immediately repealed for the following reasons:

- 1) It violates Article III, Section I of our Constitution which prohibits the taking of life without due process of law. Article 247 allows spouses and parents to take life under exceptional circumstances without due process. The decision to take life is placed solely on the persons “benefited” by the article;
- 2) There are preposterous gender-based assumptions contained in the article which reinforces the double-standard applied to women and men in terms of their sexual behaviour and morality. This is very clear in that only parents of minor daughters can claim the “benefits” of this article. The same gender-based assumptions are also present with respect to killings committed by spouses. Although both husband and wife are entitled to the “benefits” of the article, almost all cases decided by the Supreme Court, with the exception of the 1934 case of Corazon Zamora

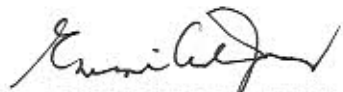
² People vs. Gonzales, 69 Phil. 66)

de Cortez³ (who admitted to the killing of her husband's paramour when she caught them in the act of intercourse), show that the killings under exceptional circumstances are carried out by husbands; and

- 3) The article violates international conventions and domestic laws, as follows, to cite only a few: Convention on the Elimination of Discrimination Against Women, Convention on the Rights of the Child, RA 7610 and RA 9710.

In sum, immediate repeal of Article 247 of the Revised Penal Code will protect and preserve life, protect children and promote women's rights and gender equality.

Your support to this bill is, thus, earnestly sought.


REP. EMMI DE JESUS
Gabriela Women's Party


REP. LUZ ILAGAN
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³ People of the Philippine Islands vs. Corazon Zamora de Cortez (G.R. No. L-39461, February 24, 1934).

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House Bill No. **5104**

Introduced by **GABRIELA Women's Party Representatives**
EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN

AN ACT REPEALING ARTICLE 247 OF THE REVISED PENAL CODE

Section 1. Article 247 of the Revised Penal Code is hereby repealed.

Section 2. Effectivity. This Act shall take effect after fifteen (15) days following the completion of its publication in the Official Gazette or at least two (2) newspapers of general circulation.

Approved,