

Republic of the Philippines
HOUSE OF REPRESENTATIVES

Second Regular Session
17th Congress

HOUSE BILL NO. **6963**



**Introduced by AMIN Party-list Representatives
Makmod D. Mending, Jr. and Amihilda J. Sangcopan**

EXPLANATORY NOTE

Hate speech is a new global phenomenon and the Philippines is lagging behind in terms of promoting and enacting laws that will promote social cohesion and unity. There is no legal framework in the Philippines existing at this time to specifically deal with this important issue, although there is sufficient international legal framework that rejects all forms of hate speech.

If we use international treaties as a yardstick, the Philippines is violating its treaty-obligations under the International Convention on Elimination on All Forms of Racial Discrimination (ICERD) and International Convention on Civil and Political Rights (ICCPR) because we have been remiss in fulfilling our obligation to provide statutory remedies concerning hate speech.

There have been various general recommendations issued by the Committee on Elimination of Racial Discrimination for all treaty-parties, including the Philippines, to pass laws against hate speech. Despite such issuances, our country has not performed this treaty obligation.

As the world is ever more inter-connected and as the fabric of societies has become more multicultural in nature, there have been a number of incidents in recent years, in different parts of the world, which have brought renewed attention to the issue of incitement to hatred.¹ If hate incidents are

¹ Par. 7, Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, Conclusions and recommendations emanating from the four regional expert workshops organized by OHCHR, in 2011, and adopted by experts in Rabat, Morocco on 5 October 2012.

not tackled quickly and effectively, targeted groups may experience permanent damage to their self-esteem and sense of belonging within their societies, increasing their marginalization. Majority communities may gradually become desensitized to the hostility in their societies targeted against minority groups.²

Hate speech is universally proscribed “because threats and acts of racial violence easily lead to other such acts and generate an atmosphere of hostility, only immediate intervention can meet the obligations of effective response.”³ It is essential to recognize how, in the longer term, hate speech and incitement can endanger social cohesion and create or deepen inter-communal divides and tensions.⁴

It should, however, be emphasized that many of the world’s conflicts in past decades have also – to varying degrees – contained a component of incitement to national, racial or religious hatred.⁵

Individuals and groups have unfortunately suffered, e.g. for reason of their ethnicity or religion, from various forms of discrimination, hostility or violence.⁶ “One particular challenge in this regard is to contain the negative effects of a manipulation of race, ethnic origin and religion... which are often instrumentalized for political and electoral purposes.”⁷

The faithful implementation of the International Convention on the Elimination of Racial Discrimination as a whole, integrated into wider global efforts to counter hate speech phenomena, represents the best hope of translating the vision of a society free from intolerance and hatred into a living reality and promoting a culture of respect for universal human rights.⁸

The Philippines as treaty party to the CERD is obliged under Article 4 (c)

<http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf> [accessed: 5 April 2016]

² Par. 102, UN Human Rights Council, Report of the Special Rapporteur on minority issues, 5 January 2015, A/HRC/28/64, available at: <http://www.refworld.org/docid/550829174.html> [accessed 4 April 2016]

³ Par 2 of the recommendation of the Committee on the Elimination of Racial Discrimination, General Recommendation 15, Measures to eradicate incitement to or acts of discrimination (Forty-second session, 1993), U.N. Doc. A/48/18 at 114 (1994), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 204 (2003). At <<http://www1.umn.edu/humanrts/gencomm/genrxv.htm>> [accessed: 4 April 2016].

⁴ See Note 8.

⁵ See Note 7.

⁶ Par. 9, See Note 7.

⁷ *Id.*

⁸ Par. 45, UN Committee on the Elimination of Racial Discrimination (CERD), General recommendation No. 35 : Combating racist hate speech, 26 September 2013, CERD/C/GC/35, available at: <<http://www.refworld.org/docid/53f457db4.html>> [accessed 4 April 2016].

thereof to implement the provision of the CERD. And *"The Committee holds that States parties must ensure that they observe these obligations and report on this."*

In the landmark case of *Erbakan vs Turkey*⁹ decided by the European Commission on Human Rights ruled that:

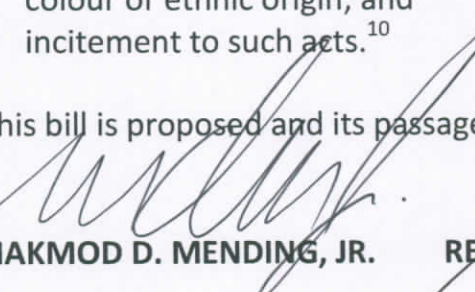
Tolerance and respect for equal dignity of all human beings constitute the foundation of a democratic, pluralistic society. That being the foundations. That being so as a matter of principle it may be necessary in certain democratic society to sanction or even prevent all forms of expression which spread, incite, promote or justify intolerance. (Emphasis supplied)

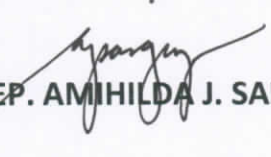
Article 19 (2) of the ICPPR provides for freedom of expression, thus: "Everyone shall have the right to freedom of expression." But this is subject to the limitation in Article 19 (2) (a) and (b) "respect of the rights or reputations of others" and "for the protection of national security or of public order (*order public*), or of public health or morals," respectively. Additionally, Article 20 (2) also provides limitations inasmuch as *"any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."*

In Item 3, the Committee on the Elimination of Racial Discrimination, General Recommendation 15, it states that: Article 4 (a) of the ICERD requires States parties to penalize four categories of misconduct:

- (i) dissemination of ideas based upon racial superiority or hatred;
- (ii) incitement to racial hatred;
- (iii) acts of violence against any race or group of persons of another colour or ethnic origin; and
- (iv) incitement to such acts.¹⁰

Thus, this bill is proposed and its passage is earnestly urged.


REP. MAKMOD D. MENDING, JR.


REP. AMIHILDA J. SANGCOPAN

⁹ ECHR, Decision of 6 July 2006, § 56.

¹⁰ Committee on the Elimination of Racial Discrimination, General Recommendation 15, Measures to eradicate incitement to or acts of discrimination (Forty-second session, 1993), U.N. Doc. A/48/18 at 114 (1994), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 204 (2003). At <<http://www1.umn.edu/humanrts/gencomm/genrxv.htm>> visited on 4 April 2016).

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1 conventions such as the Universal Declaration of Human Rights, including the
2 International Covenant on Civil and Political Rights which proscribe under
3 *Article 20 (2)* "any advocacy of national, racial or religious hatred that
4 constitutes incitement to discrimination, hostility or violence x x x." Likewise,
5 Article 4 and 4 (a) of the International Convention on the Elimination of All
6 Forms of Racial Discrimination urges the State parties to "undertake to adopt
7 immediate and positive measures designed to eradicate all incitement to, or
8 acts of" racial hatred and discrimination in any form and "declare an offence
9 punishable by law all dissemination of ideas based on racial superiority or
10 hatred, incitement to racial discrimination, as well as all acts of violence or
11 incitement to such acts against any race or group of persons of another colour
12 or ethnic origin."

13 The right to a remedy is itself guaranteed under existing human rights
14 treaties and customary international law, being peremptory in character (*jus*
15 *cogens*) and as such has been recognized as non-derogable.

16 SEC. 3. **Hate Speech.** - "Hate Speech" refers to all forms of expressions
17 that discriminates against and actively incites hostility or foments violence
18 against any person or group of persons on the basis of ethnicity, race, and
19 religion.

1 SEC. 4. **Acts Punishable.** - Any person committing, consenting to or
2 allowing the commission of hate speech by means of any of the following shall
3 suffer the penalty imposed by this Act:

- 4 a. Words, oral or in writing, or displays of behavior or depiction; or
5 b. Publication or distribution of written material to the public or
6 through social media, broadcasting or other forms of communication; or
7 c. Public performance of plays, shows, recordings of audio or visual
8 images.

9 SEC. 5. **Penalty.** - Any person liable under this Act shall be meted a
10 penalty of imprisonment of six (6) months and one (1) day to six (6) years.

11 SEC. 6. **Separability Clause.** - If any provision of this Act shall be held
12 invalid, the remainder of this Act not otherwise affected shall remain in full
13 force effect.

14 SEC. 7. **Effectivity Clause.** - This Act shall take effect fifteen (15) days
15 after its complete publication in the Official Gazette or in at least two (2)
16 national newspaper of general circulation.

17 Approved,