

NINETEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

House Bill No. 9779

EXPLANATORY NOTE

The Revised Penal Code of the Philippines criminalizes adultery and concubinage under Articles 333 and 334.

However, one criticism is that the law discriminates against wives because the crime of adultery can be committed only by a wife and her paramour. The husband only needs to prove that his wife had sexual intercourse with another man.

Concubinage, on the other hand, can be committed by a husband and his concubine, but it requires the wife to prove that her husband has kept a mistress in the conjugal dwelling, or has had sexual intercourse under "scandalous circumstances" or lived together with his mistress in any other place.

The penalties are also different. For adultery the guilty wife and her paramour may be imprisoned for up to 6 years while for concubinage, the husband may be imprisoned for up to 4 years and 1 day, while his concubine may be merely "banished" but may not be imprisoned.

It is clear that the law discriminates against women. Further, these provisions have also been used as bargaining chips in annulment cases in order to get the other party to cooperate. Also, separated or abandoned wives, who have no remedy under the law in the absence of a divorce law, are always under a constant threat of suit from their estranged husbands. They are blackmailed by their estranged husbands through Article 333 of the RPC and while they also have a ground to file under Article 334, they face the difficulty of proving the crime due to the inherent difficulty in the standards set by the law. In many cases, women who are faced by these threats are forced to forego legitimate custodial claims of their children while some are forced to give up their claims over conjugal properties, assets and the like.

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

RUFUS B. RODRIGUEZ

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AN ACT
AMENDING ARTICLES 333 AND 344, AND REPEALING ARTICLE 334, OF THE REVISED PENAL CODE, ELIMINATING GENDER BIAS IN ADULTERY AND CONCUBINAGE

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

SECTION 1. Article 333 of the Revised Penal Code is hereby amended to read as follows:

> "Art. 333. **MARITAL INFIDELITY. [**Who are guilty of adultery**]** – **MARITAL INFIDELITY [**ADULTERY**]** is committed by any married **PERSON [**woman**]** who shall have sexual **RELATIONS [**intercourse**]** with a **PERSON [**man**] OTHER THAN HIS OR** her **SPOUSE [**husband**]**, and by the **SEXUAL PARTNER [**man**]** of the **MARRIED PERSON** knowing the **LATTER [**her**]** to be married, even if the marriage be subsequently declared void.
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> "**MARITAL INFIDELITY [**Adultery**]** shall be punished by prision correccional in its medium and maximum periods.
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> **[**"If the person guilty of adultery committed this offense while being abandoned without justification by the offended spouse, the penalty next lower in degree than that provided in the next preceding paragraph shall be imposed.**]**
> **"ANY PERSON ACCUSED OF MARITAL INFIDELITY SHALL BE EXEMPT FROM CRIMINAL LIABILITY IF THE OFFENSE WAS COMMITTED AFTER THE ISSUANCE OF A FINAL DECREE OF LEGAL SEPARATION BY A COMPETENT COURT. HOWEVER, IF THE OFFENSE WAS COMMITTED AFTER THE ACCUSED SPOUSE HAD BEEN ABANDONED OR SUBJECTED TO REPEATED PHYSICAL VIOLENCE OR GROSSLY ABUSIVE CONDUCT BY THE OFFENDED SPOUSE, THE PENALTY NEXT LOWER IN DEGREE THAN THAT PROVIDED IN THE PRECEDING PARAGRAPH SHALL BE IMPOSED, AND THE SAME PENALTY SHALL BE IMPOSED ON THE CO-ACCUSED IN THE MARITAL INFIDELITY CASE."**

SEC 2. Article 334 is hereby repealed.

SEC 3. Paragraph 1, Article 344 of the Revised Penal Code is hereby amended to read as follows:

> "Art. 344. Prosecution of the crimes of **MARITAL INFIDELITY [**adultery, concubinage**]**, seduction, rape, and acts of lasciviousness. – The crime**[**s**]** of **MARITAL INFIDELITY [**adultery and concubinage**]** shall not be prosecuted except upon a complaint filed by the offended spouse.
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SEC 4. Separability Clause. – If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC 5. Repealing Clause. – Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation contrary to or inconsistent with, the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC 6. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,