

10 SEP 14 P3:44

SENATE
S. No. 2522

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Penal Code Article 247 provides:

Art. 247. *Death or physical injuries inflicted under exceptional circumstances.* — Any legally married person who having surprised his spouse in the act of committing sexual intercourse with another person, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious physical injury, shall suffer the penalty of *destierro*.

If he shall inflict upon them physical injuries of any other kind, he shall be exempt from punishment.

These rules shall be applicable, under the same circumstances, to parents with respect to their daughters under eighteen years of age, and their seducer, while the daughters are living with their parents. xxx

While the crimes of parricide and murder under the same code are considered heinous crimes where the accused is meted capital punishment, this provision merely sentences the accused to *destierro*. This is not intended as a penalty but to remove the killer spouse or parent from the vicinity and to protect him or her from acts of reprisal principally by relatives of the deceased spouse or child (*People v. Luaron*, C.A. 57 O.G. 7367).

The provision does not define a felony, but rather, exempts the accused from punishment. A parent or spouse is entitled to this benefit on the presumption that he or she would be acting in a justified burst of passion [(*People v. Gonzales*, 69 Phil. 66 (1939))].

However, the article runs contrary to current state policy. The 1987 Constitution, Art. III Section 1 provides, "No person shall be deprived of life, liberty, or property without due process of law." This necessarily rejects the policy of allowing an individual to take the law into his own hands. Thus, the circumstances referred to in Art. 247 must be treated only as possibly mitigating the liability of the accused but should not provide absolute exemption.

Further, domestic violence against women and excessive corporal punishment for children has been rejected by the passage of R.A. No. 7610 otherwise known as "Special Protection of Children Against Abuse, Exploitation and Discrimination Act" and R.A. No. 9262 otherwise known as "Anti-Violence Against Women and Their Children Act of 2004." The latter provides:

SEC. 2. Declaration of Policy.- It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

Towards this end, the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child xxx.

The Philippines' international obligations under the Convention of the Rights of the Child Article 19 mandate that our government:

xxx Take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parent(s), legal guardians(s) or any other person who has care of the child.

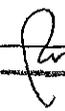
Article 247 perpetuates a patriarchal framework to women; it assumes that young girls are under the custody of the men in the household; hence, they have no right to make decisions independent of their parents. Above all, Article 247 is a thinly disguised Philippine version of "honour killing." Honour killings can be defined as acts of murder in which "a woman is killed for her actual or perceived immoral behavior." [Yasmeen Hassan, "The Fate of Pakistani Women," *International Herald Tribune*, (25 May 1999)]. Such "immoral behavior" may take the form of marital infidelity, demanding a divorce, or failing to serve a meal on time.)

Such acts are abhorrent to our own current state policies and undermine the values we share with the international community. Thus, this law must be repealed.

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MIRIAM DEFENSOR SANTIAGO

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1 AN ACT
2 REPEALING ARTICLE 247 OF ACT NO. 3815, ALSO KNOWN AS
3 THE REVISED PENAL CODE, ON DEATH OR PHYSICAL INJURIES
4 INFLECTED UNDER EXCEPTIONAL CIRCUMSTANCES

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

5 SECTION 1. Article 247 of Act No. 3815, also known as the Revised Penal Code is
6 hereby repealed:

[Art. 247. Death or physical injuries inflicted under exceptional circumstances. — Any legally married person who having surprised his spouse in the act of committing sexual intercourse with another person, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious physical injury, shall suffer the penalty of destierro.

If he shall inflict upon them physical injuries of any other kind, he shall be exempt from punishment.

These rules shall be applicable, under the same circumstances, to parents with respect to their daughters under eighteen years of age, and their seducer, while the daughters are living with their parents.

Any person who shall promote or facilitate the prositution of his wife or daughter, or hsall otherwise have consented to the infidelity of the other spouse shall not be entitled to the benefits of this article.]

7 SECTION 2. *Separability Clause.* — If any provision or part hereof, is held invalid or
8 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
9 valid and subsisting.

10 SECTION 3. *Repealing Clause.* — Any law, presidential decree or issuance, executive
11 order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent
12 with the provision of this Act is hereby repealed, modified, or amended accordingly.

1 SECTION 4. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
2 publication in at least two (2) newspapers of general circulation.

Approved,

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