

SENATE

S. NO. 3244

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Introduced by Senator **GREGORIO B. HONASAN II**

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### EXPLANATORY NOTE

Article III, Section 4 of the 1987 Constitution provides that "No law shall be passed abridging the freedom of speech, of expression, and of the press..."

On October 23, 1986, the Philippines ratified the International Covenant on Civil and Political Rights, recognizing that the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.

Article 19 of the Covenant provides that:

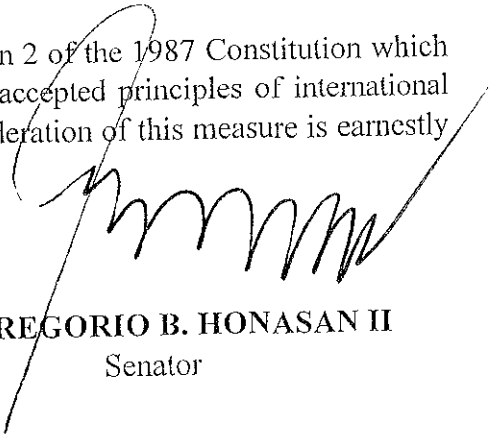
1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form 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 rights or reputations of others;
  - b. For the protection of national security or of public order, or of public health or morals.

On September 12, 2011, the United Nations Human Rights Committee (UNHRC) at its 102nd session issued General comment No. 34 regarding "Freedom of opinion and expression" whereby it pronounced that "Defamation laws must be crafted with care to ensure that they comply with paragraph 3, and that they do not serve, in practice, to stifle freedom of expression... Care should be taken by States parties to avoid excessively punitive measures and penalties... States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty."

In recalling General Comment No. 34 and in consideration of the merits of a case involving the Philippines as a state party, the UNHRC, on October 26, 2011, determined that "in the present case the sanction of imprisonment imposed on the author was incompatible with article 19, paragraph 3, of the Covenant" and that the Committee "is of the view that the facts before the Committee disclose a violation by the Philippines of articles 14, paragraph 3, and 19 of the Covenant."

By virtue of Article 2 paragraph 2 of the International Covenant on Civil and Political Rights which provides that, "Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant," the UNHRC declared that the Philippines "is also under an obligation to take steps to prevent similar violations occurring in the future, including by reviewing the relevant libel legislation."

In view of the foregoing and of Article 2 Section 2 of the 1987 Constitution which mandates that "the Philippines... adopts the generally accepted principles of international law as part of the law of the land," the immediate consideration of this measure is earnestly sought.



**GREGORIO B. HONASAN II**  
Senator

FIFTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Third Regular Session )

SENATE

S. No. 3244

*at*

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Introduced by **Senator Gregorio B. Honasan II**

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**AN ACT TO DECRIMINALIZE LIBEL AND FOR OTHER PURPOSES**

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

**SECTION 1.** Articles 353 to 357 and Articles 360 to 362 of Chapter I, Title XIII, Book II of Act No. 3815 or the Revised Penal Code are hereby repealed thereby decriminalizing libel.

**Sec. 2.** In view of the decriminalization of libel, there is need for practitioners of mass communication to impose upon themselves utmost discipline in the practice of their profession. Professional organizations shall prescribe ethical standards as well as rules and regulations in the practice of their profession. Penalties for their erring members shall also be prescribed. Professional organizations must be registered with the Securities and Exchange Commission (SEC).

**Sec. 3.** Practitioners of mass communication must be members of registered professional organizations. No mass media practitioner can practice his/her profession unless he/she is a member of the registered professional organization.

**Sec. 4.** The Department of Justice shall, within ninety (90) days from the effectivity of this Act, issue the necessary rules and regulations for the efficient and effective implementation of this Act.

**Sec. 5.** If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

**Sec. 6.** This Act shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation.

**Approved,**