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Introduced by Senator LOREN LEGARDA

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**EXPLANATORY NOTE**

*"Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears." – US Supreme Court Justice Louis Brandeis*

In the 2011-2012 World Press Freedom Index report by the international organization Reporters Without Borders, the Philippines ranked 140<sup>th</sup> out of 179 countries in terms of press freedom with threats and violence against local media and culture of impunity acting as the biggest threats confronting media freedom in the country. This assessment is further reinforced in a September 2012 report by United States-based organization Freedom House which rated the status of press freedom here as only "partly free" citing among other things, the criminalization of libel under the country's revised penal code which has its attendant imprisonment and payment of large fines. It particularly noted how frequent use of such charges has often been used to "stifle criticism of officials and of public figures".

Though the 1987 Constitution under the section on the Bill of Rights guarantees the freedom of speech, of expression or of the press, experience has shown us—as documented by local media groups, how this freedom can easily be stifled with the mere threat of criminal libel as the commonly used form of suppression. No less than the United Nations Human Rights Committee (UNHRC) in its October 2011 report found that the conviction by a local broadcaster based in Mindanao for libel was excessive due to the criminal sanction attendant for its violation and violative since it goes against the 1966 International Convention on Civil and Political Rights (ICCPR) of which the Philippines is one of its earliest signatories. The UNHRC reiterated that under General Comment No. 34 in applying Article XIX of the said Convention, "State 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".

Apart from threatening our citizenry's long-cherished Constitutionally-guaranteed freedom, the continued criminalization of libel will be a huge hindrance in efforts to promoting good governance and exacting accountability of our public officials. Thus, this bill seeks to abolish the penalty of fine and imprisonment in libel cases.

In view of the foregoing, the immediate passage of this bill is earnestly requested.

  
**LOREN LEGARDA**  
Senator

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AN ACT  
DECRIMINALIZING LIBEL, REPEALING FOR THE PURPOSE ARTICLES 355, 357, AND  
360 OF REPUBLIC ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE  
REVISED PENAL CODE AND FOR OTHER PURPOSES

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

**SECTION 1.** Article 355 of Act No. 3815, as amended, is hereby repealed as follows:

["ART. 355. Libel by means of writings or similar means. - A libel is committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by prison correccional in its minimum and medium periods or a fine ranging from 200 to 6,000 or both in addition to the civil action which may be brought by the offended party."]

**SECTION 2.** Article 357 of the same Act is repealed as follows:

["ART. 357. Prohibited publication of acts referred to in the course of official proceedings. - The penalty of arresto mayor or a fine from 200 to 2,000 pesos, or both, or both shall be imposed upon any reporter, editor, or manager of a newspaper, daily or magazine, who shall publish facts connected with the private life of another and offensive to the honor, virtue, and reputation of the said person, even though said publication be made in connection with or under the pretext that it is necessary in the narration of any judicial or administrative proceedings wherein such facts have been mentioned."]

**SECTION 3.** Article 360 of the same Act is likewise repealed as follows:

["ART. 360. Persons responsible. - Any person who shall publish, exhibit, or cause the publication or exhibition of any defamation in writing or by similar means, shall be responsible for the same.

The author or editor of a book or pamphlet, or the editor or business manager of a daily newspaper, magazine or serial publication, shall be responsible for the defamations contained therein to the same extent as if he were the author thereof.

The criminal and civil action for damages in cases of written defamations as provided for in this chapter, shall be filed simultaneously or separately with the court of first instance of the province or city where the libelous article is printed and first published or where any of the offended parties actually resides at the time of the commission of the offense: Provided, however, That where one of the offended parties is a public officer whose office is in the City of Manila at the time of the commission of the offense, the action shall be filed in the Court of First Instance of the City of Manila, or of the city or province where the libelous article is printed and first published, and in case such public officer does not hold office in the City of Manila, the action shall be filed in the Court of First Instance

of the province or city where he held office at the time of the commission of the offense or where the libelous article is printed and first published and in case one of the offended parties is a private individual, the action shall be filed in the Court of First Instance of the province or city where he actually resides at the time of the commission of the offense or where the libelous matter is printed and first published: Provided, further, That the civil action shall be filed in the same court where the criminal action is filed and vice versa: Provided, furthermore, That the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts: And, provided, finally, That this amendment shall not apply to cases of written defamations, the civil and/or criminal actions which have been filed in court at the time of the effectivity of this law.

Preliminary investigation of criminal action for written defamations as provided for in the chapter shall be conducted by the provincial or city fiscal of the province or city, or by the municipal court of the city or capital of the province where such action may be instituted in accordance with the provisions of this article.

No criminal action for defamation which consists in the imputation of a crime which cannot be prosecuted de officio shall be brought except at the instance of and upon complaint expressly filed by the offended party.]

**SECTION 4. Effect on Pending Cases.** – All pending cases under the provisions of Articles 355, 357 and 360 of the Revised Penal Code on Libel prior to its amendment by this Act shall be dismissed upon effectivity of this Act.

**SECTION 5. Immediate Release of Convicted Persons.** – All persons serving sentence for violations of the provisions of Articles 355, 357 and 360 of the Revised Penal Code on Libel prior to its amendment by this Act shall be immediately released upon effectivity of this Act: Provided, That they are not serving sentence or detained for any other offense or felony.

**SECTION 6. Separability Clause.** – If any provision of this Act is declared invalid, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

**SECTION 7. Repealing Clause.** – All laws, presidential decrees, executive orders and their implementing rules, inconsistent with the provisions of this act are hereby repealed, amended or modified accordingly.

**SECTION 8. Effectivity.** – This Act shall take effect immediately after its publication in at least two (2) national newspapers of general circulation.

Approved,