

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P5:53

SENATE

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S. No. 480

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE


For the year 1999 alone, as per data provided in the 2003 National Statistical Yearbook, there were 5,932 reported cases of violence against women. By 2002, this figure has increased to 9,547, an increase of 61%.

In 1999, of the 5,932 reported cases, 2,206 were sex related. By 2002, this figure increased to 2,559 of the 9,547 reported crimes, a growth of 16%. Hence, the importance of providing legislation that shall aide in uplifting the dignity of women in this land.

Pornography does not serve this purpose. As a matter of fact, it does the opposite. It's only purpose seems to degrade and exploit women for material gain. Such exploitation is not an act of freedom but one of oppression and is criminal in nature. Pornography presents an image of womanhood that is devoid of any nobility and dignity. It presents an image of the woman as an object to be lusted after and acquired, rather than respected.

Although it would be impossible to eliminate this cancer altogether, it is indeed possible to limit it. Such is the purpose of this proposed legislation. This bill seeks to prohibit the publication, sale, distribution, importation, and exhibition of indecent acts in public. Through this bill it is hoped that the moral principles by which this nation was founded on be upheld and protected. It levies upon its offenders a maximum penalty of P500,000 for promoters, publishers, printers, etc. and a maximum of P50,000 for performers. In case of non-payment of stipulated penalties, imprisonment is recommended.

In view hereof, the approval of this measure is highly recommended.


SERGIO OSMEÑA III
Senator

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AN ACT
PROHIBITING THE PUBLICATION, SALE, DISTRIBUTION, IMPORTATION
AND EXHIBITION OF THE OBSCENE AND PORNOGRAPHIC MATERIALS
AND THE PERFORMANCE OR EXHIBITION OF INDECENT ACTS IN PUBLIC
AND PROVIDING PENALTIES FOR VIOLATION THEREOF AND FOR OTHER
PURPOSES

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

1 SECTION 1. **Short Title.** – This Act shall be known as the “**The Anti-**
2 **Obscenity and Pornography Act of 2004**”

3 SEC. 2. **Declaration of Policy.** – It is hereby declared the policy of the
4 State to safeguard the morality of society, particularly the youth and the women,
5 against the eroding influence of immoral doctrines, obscene and pornographic
6 materials, publications and indecent shows.

7 SEC. 3. **Definition of Terms.** – For purposes of this Act, the following
8 terms shall be defined as:

9 (a) “Obscene and pornographic material” refers to any object in
10 photography, movies, videos, television, internet, printed materials or in any other
11 format designed to stimulate sexual desire such as but not limited to:

12 (1) Explicit pictures or scenes depicting or describing sexual acts;
13 masturbation, oral and anal sex, autoerotism; excretion such as urination and
14 edema materials; sadomasochistic sex, bestiality, necrophilia, pedophilia,
15 bondage and sex, sex with sacrilege; sex acts between and among children;

16 (2) Lewd or libidinous depiction or description of the nudity of human body
17 and its various parts such as male and female genitals, pubic region, buttocks,

1 female breast below a point immediately above the top of the areola, male
2 genitals in a discernibly turgid state, genitals in a state of sexual stimulation;
3 fondling or erotic touching of genitals, public region, buttock or female breast;

4 (3.) "Sex stories" such as columns, narrative or illustrated stories and
5 articles contained in newspapers graphically depicting sexual acts;

6 (4) Lewd depiction and description of sexual paraphernalia such as life-
7 sized rubber dolls, dildos, artificial vagina, vibrators or sexual gadgets of any
8 kind; and

9 (5) Still photographs of movies whether domestic or foreign, having sexual
10 contents, and previously or subsequently rated "R" or "X" by the Movie and
11 Television Review and Classification Board (MTRCB)

12 (b) "Indecent act" refers to public display of naked persons or persons
13 performing live sexual acts, normal or perverted, actual or simulated which under
14 contemporary community standards are patently offensive.

15 (c) "Material" refers to any printed or written article, statue or figure,
16 recording, transcription or reproduction by mechanical, chemical or electrical
17 means.

18 (d) "Person" refers to any natural or juridical entity

19 (e) "Knowingly" means having actual or constructive knowledge of
20 obscene and/ or pornographic contents of the subject matter. Failure to inspect
21 the contents of such subject matter shall not be accepted as an excuse and will
22 not exempt any person from criminal liability under this Act.

23 (f) "Distribute" means to send, transmit, or pass through electronic devices
24 or to transfer possession with or without consideration of any kind.

25 **SEC. 4. Unlawful or Prohibited Act.** – (a) It shall be unlawful for any
26 person to publish, sell, distribute and import obscene and pornographic materials
27 defined in Section 3 of this Act, in whatever form, such as but not limited to
28 writings or pictures, books, magazines, tabloids, comics, newspapers, posters,
29 cards, calendars, decals, stickers, paintings, photographs, or motion pictures;

1 (b) It shall likewise be unlawful for any person to portray, depict, perform
2 or exhibit any decent act in public, or in places of public accommodation, or
3 coerce, intimidate or fraudulently induce another into doing such indecent acts;
4 and

5 (c) It shall be unlawful for any person to force another to listen, read or
6 view obscene and pornographic materials in any public place.

7 SEC. 5 Penalties. – Any person who violates any provision of this Act or
8 any regulation hereunder shall, upon conviction, be imposed the following
9 penalties:

10 (a) If the offender is the producer, financier, promoter, importer, writer,
11 publisher, editor or printer of any of the indecent act or obscene and
12 pornographic material herein above described, he shall be punished by prison
13 sentence of *prison correctional* or a fine of not less than Three hundred thousand
14 pesos (P300,000.00) but not more than Five hundred thousand pesos
15 (P500,000.00). In case of non-payment of fine, subsidiary imprisonment shall be
16 imposed at the rate of Five hundred pesos (500.00) per day.

17 If the offense is committed by a corporation, partnership, association or
18 any other juridical entity, the penalty provided herein shall be imposed on the
19 president, managing director, managing partner, or chief operating officer,
20 whichever the case may be: Provided, That if the offender is a foreigner, he shall,
21 after service of sentence or payment of the fine, be subject to deportation and
22 forever barred from entry into the country.

23 (b) If the offender is a demonstrator, performer, actor or exhibitor in any
24 demonstration, performance or exhibition involving indecent act defined in
25 Section 3 of this Act, he shall be punished by a prison sentence of *arresto menor*
26 or a fine of not less than Thirty thousand pesos (30,000.00) not more than Fifty
27 thousand pesos (P50,000.00), at the discretion of the court. In case of non-
28 payment of fine, subsidiary, imprisonment shall be imposed at the rate of Three
29 hundred pesos (P300.00) per day.

1 In case the demonstrator, performer, actor or exhibitor is below eighteen
2 (18) years of age, he or she shall be considered as a victim of child abuse
3 pursuant of Republic Act No. 7610, otherwise known as the "Special Protection
4 of Children Against Abuse, Exploitation and Discrimination Act," and shall be
5 placed immediately under the protective custody of the Department of Social
6 Welfare and Development.

7 **SEC. 6. Duties of Government Agencies Concerned.** – In addition to
8 the law enforcement agencies responsible for monitoring and implementing the
9 provisions of existing laws on pornography, the following government agencies
10 are hereby mandated to provide assistance and support to ensure the effective
11 implementation of this Act:

12 (a) Philippine Information Agency (PIA);

13 (b) Movie and Television Review Classification Board (MTRCB); and

14 (c) Videogram Regulatory Board (VRB).

15 The said agencies shall, in addition to their regular functions, exercise the
16 following duties:

17 (1) Monitor all the publications, materials and shows that fall within their
18 respective jurisdiction;

19 (2) Seek the assistance of local government units to identify the
20 publishers and person responsible for the proliferation of obscene and
21 pornographic materials;

22 (3) Initiate the prosecution of all persons involved for violation of this Act
23 and Article 201 of the Revised Penal Code, as amended, and other related laws;

24 (4) Receive complaints from the general public anent the proliferation of
25 obscene materials within its jurisdiction and act accordingly on such complaints;

26 (5) Recommend the cancellation of the business permits of those found
27 violating the provisions of this Act, the provisions of Article 201 of the Revised
28 Penal Code, as amended, and other related laws; and

1 (6) Perform such other acts necessary to carry out the objectives of this
2 Act.

3 SEC. 7. **Disposition of Materials.** – Any prohibited material including
4 tools, instruments, facilities and equipment used in the production of obscene
5 and pornographic materials shall, after lawful seizure and final conviction of the
6 offender, be forfeited in favor of government and destroyed in the presence of the
7 representatives of the Department of Justice (DOJ), Philippine National Police
8 (PNP), and any one from the religious, civic or youth organizations of such place
9 in the manner as the court may order: Provided, however, That when the
10 accused is acquitted, the materials seized shall nevertheless be forfeited in favor
11 of the government and destroyed: Provided, further, That if the acquittal results
12 from a finding that the materials seized are not obscene or pornographic under
13 this Act, the materials shall be returned to the accused.

14 SEC. 8. **Implementing Rules and Regulations.** – Within ninety (90)
15 days after the effectivity of this Act, the PNP, DOJ, PIA, MTRCB, VRB, after
16 consultations with the concerned nongovernment organizations, shall promulgate
17 the necessary rules and regulations for the implementation of this Act.

18 SEC. 9. **Separability Clause.** – If any part of this Act is declared
19 unconstitutional or invalid, the other provisions not affected thereby shall
20 continue to be in full force and effect.

21 SEC. 10. **Repealing Clause.** – All laws, decrees, rules and regulations
22 or parts thereof inconsistent with this Act are hereby repealed or modified
23 accordingly.

24 SEC. 11. **Effectivity.** – This Act shall take effect fifteen (15) days
25 following its complete publication in the Official Gazette or in at least two (2)
26 national newspapers of general circulation.

Approved,