


14 MAR 31 P4:29

SENATE

S.B. No. 2181

RECEIVED BY: 

Introduced by SENATOR CYNTHIA A. VILLAR

**AN ACT
ACCORDING EQUAL RIGHTS TO WIVES AND HUSBANDS IN THE PHILIPPINES
BY AMENDING ARTICLES 333, 334, AND 344 OF THE REVISED PENAL CODE**

EXPLANATORY NOTE

In keeping with our commitment to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Republic Act No. 9710, otherwise known as The Magna Carta of Women, was passed into law. In its declared policies, it states that:

"[...] the State realizes that equality of men and women entails the abolition of the 'unequal structures and practices that perpetuate discrimination and inequality."

Section 12 of RA 9710 particularly states that:

"The State shall take steps to review and, when necessary, amend and/or repeal existing laws that are discriminatory to women within three (3) years from the effectivity of this Act."

It has been four (4) years since the passage of the law and there are still existing laws and provisions that are discriminatory to women, among which are the provisions on concubinage¹ and adultery² under the Revised Penal Code. These provisions are clearly discriminatory for adultery, which covers married women, is easier proved than concubinage, which covers married men. Further, the penalty on the wife under adultery is heavier than on the husband under concubinage. Worse, the marital indiscretion of the husband is not treated as a felony unless attended by the circumstances enumerated in Article 334.

It is for this reason that this bill seeks do away with the discrimination perpetuated by these provisions by amending them and instead criminalizing any and all acts of sexual infidelity, regardless of the spouse who commits it. The proposed amendment also abrogates the traditional essence of adultery, that is, the danger of introducing spurious heirs into the family. Sexual infidelity now becomes, as it should be, a violation of the laws relating to marriage. In view of preserving the fundamental equality of women and men as guaranteed by the Constitution, the passage of this bill is earnestly sought.


CYNTHIA A. VILLAR

¹ Article 334.

² Article 333.

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PHILIPPINES BY AMENDING ARTICLES 333, 334, AND 344 OF THE
REVISED PENAL CODE

Be it enacted by the Senate and 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. Who are guilty of [adultery] MARITAL INFIDELITY. – [Adultery] MARITAL INFIDELITY is committed by any married [woman] PERSON who shall have sexual intercourse with [a man] ANOTHER PERSON not HIS OR her [husband] SPOUSE, and by the [man] PERSON who has carnal knowledge of HIM OR her, knowing HIM OR her to be married, even if the marriage be subsequently declared void.

"[Adultery] MARITAL INFIDELITY shall be punished by *prision correccional* in its medium and maximum periods.

"[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.]"

SEC. 2. Article 334 of the Revised Penal Code is hereby amended to read as follows:

"Art. 334. [Concubinage] MAINTAINING A PARAMOUR. – Any [husband] MARRIED PERSON who shall keep a [mistress] PARAMOUR in the conjugal dwelling, [or shall have sexual intercourse, under scandalous circumstances, with a woman who is 1 not his wife,] or shall cohabit with [her] a PARAMOUR in any other place, shall be punished by *prision correccional* in its minimum and medium periods.

"The [concubine] PARAMOUR shall suffer the penalty of *destierro*.

"AS USED IN THIS ARTICLE, 'PARAMOUR' SHALL INCLUDE ANY PERSON WHO COHABITS WITH A MARRIED PERSON OF EITHER SEX UNDER CIRCUMSTANCES WHERE

THEY ASSUME AND EXERCISE TOWARD EACH OTHER THE RIGHTS AND PRIVILEGES WHICH PROPERLY BELONG TO PERSONS MARRIED TO EACH OTHER."

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

"Art. 344. Prosecution of the crimes of [adultery] SEXUAL INFIDELITY, [concubinage] MAINTAINING A PARAMOUR, seduction, abduction, rape and acts of lasciviousness. – The crimes of [adultery] MARITAL INFIDELITY and [concubinage] MAINTAINING A PARAMOUR shall not be prosecuted except upon a complaint filed by the offended spouse.

"The offended party cannot institute criminal prosecution without including both the guilty parties, if they are both alive, nor, in any case, if he OR SHE shall have consented or pardoned the offenders[.], NOR, IN ANY CASE, IF HE OR SHE IS LIKEWISE GUILTY OF MARITAL INFIDELITY OR MAINTAINING A PARAMOUR, NOR, IN ANY CASE, IF HE OR SHE SHALL HAVE ABANDONED THE GUILTY SPOUSE WITHOUT JUST CAUSE FOR MORE THAN ONE YEAR.

"In cases of seduction, abduction, acts of lasciviousness and rape, the marriage of the offender with the offended party shall extinguish the criminal action or remit the penalty already imposed upon him. The provisions of this paragraph shall also be applicable to the co-principals, accomplices and accessories after the fact of the above-mentioned crimes."

SEC. 4. This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,