

**NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session**

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'22 DEC -5 P4 :03

SENATE

S.B. No. 1593

RECEIVED BY: _____

INTRODUCED BY SENATOR RISA HONTIVEROS

**AN ACT
DECRIMINALIZING LIBEL, REPEALING FOR THIS PURPOSE ARTICLES 353,
354, 355, 356, 357, 360, 361 AND 362 OF ACT NO. 3815, AS AMENDED,
OTHERWISE KNOWN AS "THE REVISED PENAL CODE" AND SECTION 4 (c) 4,
CHAPTER II OF REPUBLIC ACT NO. 10175, OTHERWISE KNOWN AS THE
"CYBERCRIME PREVENTION ACT OF 2012**

EXPLANATORY NOTE

The conversation on whether or not libel should be decriminalized has been a long-standing one. The discussion has mostly revolved around the rights embodied in Article III, Section 4 of the Constitution which states that: "'No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances."

According to Supreme Court Justice Marvic Leonen, libel laws originated from the government's objective to protect itself from undue criticism, and then evolving to protect both the government and its citizens from malicious defamatory utterances. However, in recent years, libel laws have been used and abused by private parties to advance their various interests, and by public personalities to shield themselves from scrutiny, even on matters of public concern. The rise and prevalence of social media as a primary medium of communication has led to the further weaponization of libel laws against the press and active citizenship.

In his dissenting opinion in the case of *Disini, et. al. vs. Secretary of Justice* (GR No. 2033335), February 11, 2014, he opined:

Libel law now is used not so much to prosecute but deter speech. What is charged as criminal libel may contain precious protected speech. There is very little to support the majority view that the law will not continue to have this effect on speech.

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It is time that we now go further and declare libel as provided in the Revised Penal Code and in the Cybercrime Prevention Act of 2012, as unconstitutional.

Further, the avalanche of cyberlibel cases has only resulted in the clogging of our court dockets. The abundance of litigation spurred by scorned private citizens (from restaurants litigating against patrons who left unpleasant reviews, to homeowners disagreeing in Viber groups, to parents fighting with teachers on social media) all

collectively contribute to the overburdening of both the executive and judicial branches and the draining of their respective resources.

The National Prosecution Service¹ and the courts of justice² are now at the mercy of these private litigants who fail to think before they type, and the trigger-happy citizens who deem themselves entitled to pursue litigation for every minor inconvenience. The result is a penalty too harsh and absurd: to mandate imprisonment for something one has posted online. Hence the need to decriminalize libel.

Worldwide, there has been a strong sentiment among the international community to decriminalize libel and this view is embodied under Article XIX, General Remarks number 47 of the International Covenant on Civil and Political Rights (ICCPR), of which the Philippines is a state party. It provides:

"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. XXX **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.** It is impermissible for a State party to indict a person for criminal defamation but then not to proceed to trial expeditiously - such a practice has a chilling effect that may unduly restrict the exercise of freedom of expression of the person concerned and others." (Underscoring supplied.)

As such, the immediate passage of this bill is earnestly sought.


RISA HONTIVEROS
Senator

¹ As reported by the Department of Justice Office of Cybercrime, as of June 2022, out of 112 cases filed, only 23 are actually filed in court, while the rest are either dismissed or withdrawn. In terms of statistics, that results to only 20% of cyberlibel cases actually going to court. Based on inventory reports received and processed from the National Prosecution Service of the Department of Justice, pursuant to Department Circular ("DC") No. 002, Series of 2018, as amended by D.C. No. 008, Series of 2019, cyberlibel cases filed before the National Prosecution Service increased exponentially in number, from 125 cases in the years 2012-2015, to 103 cases in the year 2016 alone, 356 cases in 2017, to 1174 cases in 2018.

² On the part of the courts, the Department of Justice Office of Cybercrime reported that 39 cases were filed and pending before the courts from 2012-2015. This number increased to 49 cases in 2016, to 159 cases in 2017, to 487 cases in 2018. The Department of Justice reported that 3,700 cyber-libel cases were filed as of May 2022. Of that number, 1,317 were filed in court while 1,131 were dismissed. Twelve cases ended in a conviction.

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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 "Decriminalization of Libel
2 Act".

3 Sec. 2. Articles 353, 354, 355, 356, 357, 360, 361 and 362 of Act No. 3815, as
4 amended, otherwise known as "The Revised Penal Code" are hereby repealed.

5 Sec. 3. Section 4 (c) 4, Chapter II of Republic Act No. 10175, otherwise known as
6 the "Cybercrime Prevention Act of 2012" is hereby repealed.

7 Sec. 4. Nothing in this Act shall preclude the offended party from instituting an
8 action for damages under Article 2176 of the Civil Code, and other analogous provisions.
9 All defenses otherwise available to a defendant in a criminal prosecution for libel,
10 including proof of the truth, shall be available as defense in said civil action for damages.

11 Sec. 5. Repealing Clause. - All laws, decrees, orders, rules and regulations or other
12 issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed
13 or modified accordingly.

14 Sec. 6. Separability Clause. - If any portion or provision of this Act is declared
15 unconstitutional, the remainder of this Act or any provision not affected thereby shall
16 remain in force and effect.

17 Sec. 7. Effectivity. - This Act shall take effect after fifteen (15) days following the
18 completion of its publication either in the Official Gazette or in a newspaper of general
19 circulation in the Philippines.

Approved,