

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

7 JUN 30 P12:25

SENATE BILL NO. 25 RECEIVED BY: 

Introduced by Senator M. A. Madrigal

EXPLANATORY NOTE

Article 19 of the Universal Declaration of Human Rights provides that, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

In the Philippines, freedom of expression is likewise expressly protected under Article III, Section 3 of the 1987 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 to petition the government for redress of grievances."

While this precept is enshrined in our Constitution, there remain colonial vestiges of oppression, tyranny and intolerance in our present laws that are inconsistent with this guarantee. Foremost of these are the provisions of the Revised Penal Code on "sedition." Article 139, in particular, states that "sedition" is a crime "committed by persons who rise publicly and tumultuously in order to attain by force, intimidation, or by other means outside of legal methods, any of the following objects: (1) to prevent the promulgation or execution of any law or the holding of any popular election; (2) to prevent the National Government, or any provincial or municipal government or any public officer thereof from freely exercising its or his functions, or prevent the execution of any administrative order; (3) to inflict any act of hate or revenge upon the person or property of any public officer or employee; (4) to commit, for any political or social end, any act of hate or revenge against private persons or any social class; and (5) to despoil, for any political or social end, any person, municipality or province, or the National Government, of all its property or any part thereof."

The crime of sedition, however, is an offense in the realm of the mind, or in the battle of ideas. That is, it occurs in the mind of a government more intent on using it as a weapon to deny, rather than protect the people's rights, particularly the right of freedom of expression. As in the Spanish and American colonial eras, and the martial law period, it has been specially employed to justify the use of massive State resources to clamp down on individuals or groups who are at odds with the government.

Noted the American Civil Liberties Union (ACLU) in a position paper:

The right to express one's thoughts and to communicate freely with others affirms the dignity and worth of each and every member of society, and allows each individual to realize his or her full human potential. Thus, freedom of expression is an end in itself – and as such, deserves society's greatest protection. It's vital to the attainment and advancement of knowledge, and the search for the truth. The eminent 19th-century writer and civil libertarian, John Stuart Mill, contended that enlightened judgment is possible only if one considers all facts and ideas, from whatever source, and tests one's own conclusions against opposing views. Therefore, all points of view – even those that are 'bad' or socially harmful – should be represented in society's 'marketplace of ideas.' If the people are to be the masters of their fate and of their elected government, they must be well-informed and have access to all information, ideas and points of view. Mass ignorance is a breeding ground for oppression and tyranny.

Today, the crime of sedition no longer exists in many countries such as the United States, United Kingdom, Canada and New Zealand and even in those countries beset by recent internal strife or security issues like Ireland, Kenya, Ghana, South Africa and Taiwan.

In our nation's history, the crime of sedition has been used against eminent nationalists from Jose Rizal, to Macario Sakay, Isabelo Delos Reyes and Aurelio Tolentino, to Amado V. Hernandez, and Benigno Aquino Jr. And, yes, it has also been used even against the President's own father, former President Diosdado Macapagal, for having published a book, *Democracy in the Philippines*, that was critical of martial law.

In a country which values the right to free speech and where the government is elected as a servant of the people, it is hard to justify that anything spoken against either the government or public officials should be considered a crime. The existence of the offense of sedition is an unnecessary restraint on the political rights of the people. It should be noted that aspects of sedition – such as directly inciting a criminal act – are already offenses defined and covered within the penal code.

It is high time we repeal this archaic, draconian provision of our penal law. It has no place in a country that champions itself as a free and fair democracy.


M. A. MADRIGAL

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SENATE

S.B. No. 25

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**AN ACT AMENDING REPUBLIC ACT 3815, OTHERWISE KNOWN AS
THE REVISED PENAL CODE OF THE PHILIPPINES,
BY REPEALING SECTIONS 139, 140, 141 AND 142 THEREIN**

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

Section 1. Short Title. – This Act shall be known as the “Freedom of Expression Act of 2006.”

Section 2. Declaration of State Policy. – It is the State’s policy to protect the constitutional right to freedom of expression and opinion. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media.

Section 3. Repealing Clause. – Any provision of law to the contrary notwithstanding, Republic Act 3815 otherwise known as the “Revised Penal Code of the Philippines” is hereby amended by repealing Sections 139, 140, 141 and 142 therein.

Section 4. Separability Clause. – If any part of this Act is declared unconstitutional or invalid, the other provisions not affected thereby shall continue to be in full force and effect.

Section 5. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,