

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

'14 FEB 27 P2:21

SENATE

RECEIVED BY: 

S. No. 2146

Introduced by Senator Ralph G. Recto

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 bill seeks to decriminalize libel as defined and penalized under our statutes. For this purpose it will repeal Articles 353, 354, 355, 356, 357, 360, 361 and 362 of the Revised Penal Code and Section 4 (c) 4 of Republic Act No. 10175 or the Cybercrime Prevention Act of 2012.

Historically, libel was conceived as a repressive tool against criticisms and insults to government. It was introduced by the Spanish *Codigo Penal* and reinforced by the 1932 Revised Penal Code during the American occupation thereby making insulting remarks punishable in many instances.

In his dissenting opinion in *Disini, et. al. vs. Secretary of Justice* (GR No. 2033335), February 11, 2014, Justice Marvic Mario Victor F. Leonen said:

“In essence, Philippine libel law is a “fusion” of the Spanish Law on *defamachion* and the American law on libel. It started as a legal tool to protect government and the status quo. The bare text of the law had to be qualified through jurisprudential interpretation as the fundamental right to expression became clearer. In theory, libel prosecution has slowly evolved from protecting both private citizens and public figures to its modern notion of shielding only private parties from defamatory utterances.

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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.

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But he pointed out that decriminalization of libel does not mean that no recourse can be obtained for scurrilous and defamatory remarks on reputation. Any offended party may opt to pursue his case through the institution of a civil action for damages where the court may restore his sullied name.

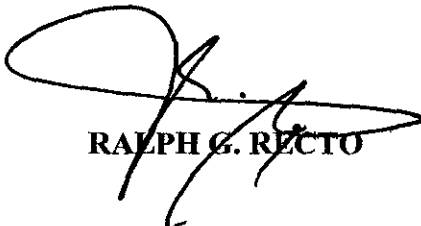
Moreover, there is a strong clamor in the international community to decriminalize libel and this sentiment is embodied under Article XIX, General Remarks number 47 of the International Covenant on Civil and Political Rights (ICCPR), of which the Philippines is a state party. It provides:

“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. All such laws, in particular penal defamation laws, should include such defences as the defence of truth and they should not be applied with regard to those forms of expression that are not, of their nature, subject to verification. At least with regard to comments about public figures, consideration should be given to avoiding penalizing or otherwise rendering unlawful untrue statements that have been published in error but without malice. In any event, a public interest in the subject matter of the criticism should be recognized as a defence. Care should be taken by States parties to avoid excessively punitive measures and penalties. Where relevant, States parties should place reasonable limits on the requirement for a defendant to reimburse the expenses of the successful party. 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.)

The legislature then must insure that no law shall be passed abridging freedom of speech and expression. Congress must stand by these constitutionally-ordained guarantees by repealing the libel provisions in the Revised Penal Code and Cybercrime Prevention Act of 2012 for being violative of the Free Speech clause.

Senators and Congressmen enjoy immunity from prosecution even if they defame or accuse anyone of any wrongdoing in their privilege speeches while the law threatens to incarcerate an indignant Facebook user for his social sentiments via internet.

It is high time that all citizens regardless of rank or creed share this immunity as these lawmakers are simply the representatives and the voice of the people from whom their rights and privileges truly emanate. Through this legislation, we are giving flesh to the time honored legal dictum on popular democracy that *Vox Populi est Suprema Lex*.



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1 **SECTION 1.** Articles 353, 354, 355, 356, 357, 360, 361 and 362 of Act No. 3815, as
2 amended, otherwise known as "The Revised Penal Code" are hereby repealed.

3 **SEC. 2.** Section 4 (c) 4, Chapter II of Republic Act No. 10175, otherwise known as the
4 "Cybercrime Prevention Act of 2012" is hereby repealed.

5 **SEC. 3.** All laws, executive orders, decrees, instructions, issuances, rules and regulations
6 contrary or inconsistent with the provisions of this Act are hereby likewise repealed or modified
7 accordingly.

8 **SEC. 4. Effectivity.** – This Act shall take effect fifteen (15) days following its publication
9 in at least two (2) newspapers of general circulation or the *Official Gazette*.

10 *Approved,*