

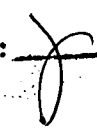
SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

'16 AUG 16 P 6:31

SENATE

RECEIVED BY: 

S. B. NO. 1031

Introduced by Senator JOEL "TESDAMAN" VILLANUEVA

**AN ACT TO DETER THE CONTINUED PROLIFERATION OF
IMMORAL DOCTRINES, OBSCENE PUBLICATIONS AND
EXHIBITIONS AND INDECENT SHOWS BY INCREASING THE
PENALTIES AGAINST THEM AMENDING FOR THIS PURPOSE ACT
NO. 3815 AS AMENDED AND REPUBLIC ACT NO. 7610**

EXPLANATORY NOTE

Articles 200 and 201 of the Revised Penal Code, as amended by Presidential Decree Nos. 960 and 969, defined and provided penalties for grave scandal and for immoral doctrines, obscene publications and exhibitions and indecent shows. On the other hand, Section 9 of Article V of Republic Act No. 7610 otherwise known as the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, protects a child from exploitation and abuse in obscene publications and exhibitions of indecent shows.

Despite these provisions however, pornography still prevails and is becoming even more rampant. Worse, cases of children being exploited in the pornography business, not only as objects of the despicable practice, but as pawns to promote, transport and sell pornographic materials, are on the rise as well.

In 2014, the Philippine National Police (PNP) reported that the Philippines is among the Top 10 countries producing pornographic materials. Child pornography materials were produced, not only in Metro Manila, but also in other areas in Luzon and Mindanao.

The PNP has Oplan Nena and Oplan Magdalena, which are campaigns against prostitution, vagrancy and indecent shows and against smut and

pornography, respectively, but these seem to have little impact on the continuing proliferation of immoral doctrines, obscene publications and exhibitions, indecent shows, and the despicable practice of involving children in them.

This may be attributed to the fact that despite its high profitability and gravity of impact, very low penalties are imposed. For example, under Article 201 of the Revised Penal Code, only a fine which would not even exceed Twelve Thousand Pesos (P12,000) OR imprisonment of not more than six years at most can be imposed. Even if an offender is convicted, there is no assurance that the offender would be put behind bars and kept away from the public which the offender preys upon. The fine is also negligible when compared to the profit that the pornography business generates.

The current advancements in technology also contribute to the upsurge of pornography in the country. In fact, there are thousands of public access terminals in cybercafés and the prepaid Net card providers. With internet connection widely available, users gain easy access to websites, email-based mailing lists and discussion groups, and chat channels, ultimately providing a much wider venue for pornography patrons in the Philippines, young and old, to gain access to the vast array of pornographic materials from the Internet or even in Smartphones.

Concerned citizens, civil society organizations and government agencies, including the PNP and the National Bureau of Investigation (NBI) Anti-Fraud and Computer Crimes Division have, in a number of formal and informal consultations with them, clamored for updates on our antiquated anti-pornography statutes to adapt to the advancement in technology and to increase in penalty for obscene, pornographic and immoral activities, to afford greater protection to the public, and, most especially, to our children.

In view of all these, this bill, the "Immorality, Pornography and Obscenity Deterrence Act of 2016", is hereby filed to give greater protection to minors, increase the penalties for obscene, pornographic and immoral activities, and update our penal laws to adapt to the advanced technology now employed by those in the business of defiling the dignity of persons through lust and greed.

Immediate passage of this bill is of utmost importance


SENATOR JOEL VILLANUEVA

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PENALTIES AGAINST THEM AMENDING FOR THIS PURPOSE
ACT NO. 3815 AS AMENDED AND REPUBLIC ACT NO. 7610**

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

1 **SECTION 1.** This Act shall be known as the "*Immorality, Pornography and*
2 *Obscenity Deterrence Act of 2016.*"

3 **SECTION 2.** Article 201 of Act No. 3815, otherwise known as the Revised
4 Penal Code, is hereby amended to read as follows:

5 "**Article 201. Immoral doctrines, obscene publications and exhibitions,**
6 **and indecent shows.** - The penalty of both [prison mayor] reclusion
7 perpetua [or] and a fine ranging from [six thousand] five hundred thousand to
8 [twelve thousand pesos] one million pesos [, or both such imprisonment and
9 fine,] shall be imposed upon:

10 (1) Those who shall publicly, in whatever form, medium or technology,
11 expound or proclaim doctrines openly contrary to public morals;

12 (2) (a) The authors of obscene literature, published with their
13 knowledge in any form; the editors publishing such literature; [and]
14 the owners[,], operators and employees of the establishment selling
15 the same;

1 (b) Those who, in theaters, fairs, cinematographs or any other place
2 accessible or made accessible to the public even if privately-owned,
3 or through the internet or some other virtual location where
4 information can be posted, stored or transferred, willingly exhibit, for
5 free, profit or any consideration, indecent or immoral plays, scenes,
6 acts or shows, or clips, whether visually or through the use of the
7 other senses, whether live or [in film,] recorded. [which are
8 proscribed by virtue hereof,] These shall include those which (1)
9 glorify criminals or condone crimes; (2) serve no other purpose but
10 to satisfy the market for violence, lust or pornography; (3)
11 intentionally offend or discriminate any race, [or] religion or gender;
12 (4) tend to abet traffic and use of prohibited drugs and the abuse of
13 regulated drugs; and (5) are contrary to law, public order, morals,
14 good customs, established policies, lawful orders, decrees and
15 edicts;

16 (3) Those who shall sell, give away, distribute, lease, circulate or
17 exhibit films, prints, engravings, sculpture, pictures, [or] literature,
18 sound recordings, or any material, in whatever form, which are
19 offensive to morals, especially those which (1) glorify criminals or
20 condone crimes; (2) serve no other purpose but to satisfy the
21 market for violence, lust or pornography; (3) intentionally offend or
22 discriminate any race, [or] religion or gender; (4) tend to abet traffic
23 and use of prohibited drugs and the abuse of regulated drugs; and
24 (5) are contrary to law, public order, morals, good customs,
25 established policies, lawful orders, decrees and edicts;

26 "For purposes of this article, any material which, to a reasonable
27 person using the moral and ethical standards of the city or municipality where
28 the material was sold, distributed, exhibited and/or circulated, unnecessarily
29 employ the use of sex and/or violence, or unnecessarily advertise and/or
30 promote drug abuse, crime or other unlawful or immoral acts shall be deemed
31 to be immoral, obscene and/or pornographic.

32 "If the offender is a public officer or employee, the maximum penalty
33 shall be imposed, including the accessory penalty of perpetual absolute
34 disqualification.

35 "Any public officer or employee who shall be found to have willingly
36 assisted, in whatever form, whether for free or consideration, any person in
37 committing any of the offenses mentioned in the preceding paragraphs shall
38 be penalized with both reclusion perpetua and a fine of one million pesos
39 including permanent disqualification from holding public office."

40 **SECTION 3.** The article below is hereby inserted after Article 201 of Act No.
41 3815, otherwise known as the Revised Penal Code:

42 **Article 201-A. Sale, Distribution or Transfer of Immoral, Obscene and/or**
43 **Pornographic Materials to Minors** - Any person found guilty of selling,
44 distributing or transferring for free or for any consideration to a minor, for the

1 latter's personal use, safe-keeping, and/or further distribution, any immoral,
2 obscene and/or pornographic material, in whatever form, medium or
3 technology shall suffer the penalty of both reclusion perpetua and a fine
4 ranging from five hundred thousand to one million pesos.

5 If the offender is a public officer or employee, the maximum penalty
6 shall be imposed, including the accessory penalty of perpetual absolute
7 disqualification.

8 Any public officer or employee who shall be found to have willingly
9 assisted, in whatever form, whether for free or consideration, any person in
10 committing any of the offenses mentioned in the preceding paragraphs shall
11 be penalized with both reclusion perpetua and a fine of one million pesos
12 including permanent disqualification from holding public office.

13
14 **SECTION 4.** Section 9 of Article V of Republic Act No. 7610 otherwise known
15 as the Special Protection of Children Against Child Abuse, Exploitation and
16 Discrimination Act is hereby amended to read as follows:

17 ***"Article V. Obscene Publications and Indecent Shows***

18 **"Section 9. Obscene Publications and Indecent Shows.** - Any person who
19 shall hire, employ, use, persuade, induce or coerce a child to perform in
20 obscene exhibitions and indecent shows, whether live or in video, pose, or
21 model in obscene publications or pornographic materials or to sell or distribute
22 the said materials shall suffer the penalty of [prision mayor] reclusion perpetua
23 and a fine ranging from five hundred thousand to one million pesos.

24 "The same penalty shall be imposed on any person who shall use
25 virtual or digital images of a child or individuals made to appear like minors in
26 any obscene publication or pornographic material in whatever form or
27 medium.

28 "Any person who shall sell, give away, distribute, lease, circulate,
29 produce, sponsor or exhibit any material encouraging or promoting sexual
30 intercourse or any sexual or profane activity with a minor or minors shall
31 likewise suffer the penalty provided under the first paragraph."

32 "If the child used as a performer, subject or seller/distributor is below
33 twelve (12) years of age, the penalty shall be imposed in its maximum period
34 and its maximum amount of fine.

35 "Any ascendant, guardian, or person entrusted in any capacity with the
36 care of a child who shall cause and/or allow such child to be employed or to
37 participate in an obscene play, scene, act, movie or show or in any other acts
38 covered by this section shall suffer the penalty of [prision mayor] reclusion
39 perpetua [in its medium period]."

1 "If the offender is a public officer or employee, the maximum penalty
2 shall be imposed, including the accessory penalty of perpetual absolute
3 disqualification.

4 "Any public officer or employee who shall be found to have willingly
5 assisted, in whatever form, whether for free or consideration, any person in
6 committing any of the offenses mentioned in the preceding paragraphs shall
7 be penalized with both reclusion perpetua and a fine of one million pesos
8 including permanent disqualification from holding public office."

9 **SECTION 5. Separability Clause.** - If any provision of this Act is declared
10 unconstitutional, the other provisions not affected thereby shall continue to be
11 in full force and effect.

12 **SECTION 6. Repealing Clause.** - All laws, decrees, rules and regulations, or
13 parts thereof inconsistent with this Act are hereby repealed or amended
14 accordingly.

15 **SECTION 7. Effectivity.** - This Act shall take effect fifteen (15) days following
16 its complete publication in the Official Gazette or in at least two (2)
17 newspapers of general circulation.

18 Approved,