

SENATE

S. No. 628



Senate
Office of the Secretary

'19 JUL 18 P 4:04

Introduced by **SENATOR LEILA M. DE LIMA**

RECEIVED BY: 

AN ACT
REPEALING ARTICLE 133 OF ACT NO. 3815, OTHERWISE KNOWN AS
THE REVISED PENAL CODE

EXPLANATORY NOTE

Freedom of expression, which is a fundamental human right, is indispensable in any democratic society.

Section 5, Article III of the 1987 Constitution guarantees that “[n]o 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.”

Under the International Covenant on Civil and Political Rights, the Philippines, as a State Party, is bound to uphold the right of freedom of expression of its citizens and ensure that laws do not enforce unnecessary limitations to this right.

In 2018, activist Carlos Celdran faced imprisonment after the Supreme Court in *Celdran v. People of the Philippines* (G.R. No. 220127, 21 March 2018) upheld the decision of the lower court and found him guilty of the crime of offending religious feelings, as defined and penalized under Article 133 of the Revised Penal Code. This was after Celdran merely sported a Jose Rizal outfit and brought out a placard with the word “DAMASO” written on it in front of Catholic Church dignitaries and other people of different religions while saying “*Bishops, stop involving yourself (sic) in politics*” during an ecumenical meeting for the anniversary of the ‘May They be One Campaign,’ and the launch of the ‘Hand Written Bible.’

While there may be basis for an action for damages against Mr. Celdran, Art. 133 of the RPC should no longer be considered a crime. The said provision reads:

Art. 133. *Offending the religious feelings.* — The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period shall be imposed upon anyone who, in a place devoted to religious worship or during the celebration of any religious ceremony shall perform acts notoriously offensive to the feelings of the faithful.

It is also important to note that in United Nations Human Rights Committee's (UNHRC) General Comment No.22 on Article 18, it was emphasized that freedom of thought and freedom of conscience are protected equally with the freedom of religion and belief and that these freedoms are non-derogable, even in times of public emergency.¹

The Office of the Solicitor General (OSG) itself, in its 18-page Manifestation regarding Celdran's case, submitted to the Court that Art. 133 of the RPC should be declared unconstitutional since it is "simultaneously overbroad and void for vagueness" and that it does not contain an "objective standard and thus left [sic] judges with wide discretion over cases that may affect freedom of speech².

In a statement, Amnesty International (AI) also called for the repeal of Art. 133 of the RPC. AI argued that "right to freedom of expression under international human rights law protects the expression not only of opinions that are comfortable, inoffensive or politically correct, but also of ideas and acts that may, in the words of the European Court of Human Rights, 'offend, shock and disturb.'"³

The archaic Art. 133 also violates the Constitution's non-establishment clause and is already obsolete. It is no longer necessary.

Art. 153 of the RPC already penalizes disturbances of peaceful gatherings with the same penalties as provided in Art. 133, *viz*:

¹ OHCHR. *General Comment No. 22: The right to freedom of thought, conscience and religion* (Art. 18) : . 30/07/93. Retrieved from <https://www.refworld.org/docid/453883fb22.html>

² BusinessWorld (18 May 2016) *SolGen echoes Celdran's call to junk crime of 'offending religious feelings'*. Retrieved from <http://www.bworldonline.com/content.php?section=Nation&title=SolGen-echoes-Celdran%E2%80%99s-call-to-junk-crime-of-%C2%91offending-religious-feelings%E2%80%99&id=127651>

³ Amnesty International (09 August 2018) *Philippines: Quash Conviction for Peaceful Protest*. Retrieved from <https://www.amnesty.org/download/Documents/ASA3589262018ENGLISH.pdf>

Art. 153. *Tumults and other disturbance of public orders; Tumultuous disturbance or interruption liable to cause disturbance.* — The penalty of *arresto mayor* in its medium period to *prision correccional* in its minimum period and a fine not exceeding 1,000 pesos shall be imposed upon any person who shall cause any serious disturbance in a public place, office, or establishment, or shall interrupt or disturb public performances, functions or gatherings, or peaceful meetings, if the act is not included in the provisions of Articles 131 and 132.

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Also, under Article 32 of the Civil Code, a person can be held liable for damages in cases of violations of different Constitutional rights including the right to free practice of religion.

Thus, there is a need to repeal Art.133 of the RPC for the aforementioned reasons.

The passage of this measure is earnestly sought.


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

1 Section 1. Article 133 of Act No. 3815, as amended, otherwise known as the
2 Revised Penal Code (RPC), is hereby repealed.

3 Sec. 2. *Effect on Pending Cases.* - All pending cases under Article 133 of the
4 RPC prior to its repeal by this Act shall be dismissed upon effectivity of this Act.

5 Sec. 3. *Immediate Release of Convicted Persons.* - The sentence of the
6 persons convicted for violation of the Art. 133 of the RPC, as herein repealed, shall be
7 automatically commuted and the persons serving said sentences shall be
8 immediately released, provided that they are neither serving nor detained for any
9 other legal cause.

10 Sec. 4. *Repealing Clause.* - All laws, presidential decrees, executive orders,
11 rules and regulations and other issuance or parts thereof inconsistent with this Act,
12 are hereby repealed, modified or amended accordingly.

13 Sec. 5. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its
14 publication in the Official Gazette or in at least two (2) newspapers of general
15 circulation in the Philippines.

Approved,