

THIRTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

6 MAR 27 P5:40

SENATE
Senate Bill No. 2235

RECEIVED BY: *AS*

Introduced by Senator M. A. Madrigal

EXPLANATORY NOTE

No less than 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."

Moreover, Article 19 of International Covenant on Civil and Political Rights (1966) which the Philippines ratified in October 1986 provides: "1) Everyone shall have the right to hold opinions without interference. 2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice..."

Since the Philippines ratified the International Covenant on Civil and Political Rights, the principle of state obligation dictates treaty incorporation in national legislation. This is in compliance with the Vienna Convention on the Law of Treaties which the Philippines also ratified.

In our jurisdiction, freedom of expression is protected under Article III, section 3 of our 1987 Constitution which provides as follows, "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 the aforesaid precepts are enshrined in our Constitution, there are still vestiges in our present laws that are inconsistent with this guarantee. Foremost of which are the provisions of the Revised Penal Code on "sedition." **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." (Article 139, Revised Penal Code).

The crime of sedition is an offense of the mind. It occurs in the mind of the Government and as is usually the case, it is being used as a weapon to deny, rather than to protect the people's rights, particularly on freedom of expression. It is also being employed to justify the use of massive state resources against an individual or group who are at odds with the government's position.

The American Civil Liberties Union (ACLU) in a position paper said:

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.

The crime of sedition is no longer existing in many countries, such as Canada, Ghana, Ireland, Kenya, New Zealand, South Africa, Taiwan, United Kingdom and the United States.

In our nation's history, the crime of sedition has been used against eminent nationalist leaders such as Jose Rizal, Andres Bonifacio, Aurelio Tolentino, Macario Sakay, Isabelo Delos Reyes, Amado Hernandez, Benigno Aquino, Jr.,

and even Diosdado Macapagal for having published a book " Democracy in the Philippines" during the early years of martial law.


It is now time to repeal this archaic provision of our penal law. No longer should the Filipinos allow this crime to intimidate or threaten them.


M.A. MADRIGAL

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S.B. No. 2235

Introduced by Senator M.A. Madrigal

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 Policies. 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 and regardless of frontiers.

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,