

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 101

HOUSE OF REPRESENTATIVES	
RECEIVED	
DATE:	30 JUN 2016
TIME:	2:00 PM
BY:	
REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by GABRIELA WOMEN'S PARTY
Representatives Emmi A. de Jesus and Arlene D. Brosas

EXPLANATORY NOTE

Under the Revised Penal Code (RPC), extra marital affairs committed by married men and women are both considered criminal acts but are not treated equally. Under Article 333 of the RPC, a wife can be convicted of a crime of adultery for a single act of sexual intercourse with a man who is not her husband while under Article 334, the husband can only be convicted of a crime of concubinage if he is found guilty of any of the following: (1) keeping a mistress in the conjugal dwelling; (2) having sexual intercourse under scandalous circumstances with a woman who is not his wife; or (3) cohabiting with her in any other place.

The husband needs only to prove that his wife engaged in a sexual intercourse with a man not her husband, while the wife needs to show that her husband's sexual intercourse with another woman was done "under scandalous circumstances." And, under the third circumstance when concubinage is committed, it is not enough that the husband is keeping a paramour in another house. It must be shown that the husband lives with the paramour in that house.

Articles 333 and 334 of the RPC which criminalize marital infidelity (that of having sexual intercourse with a person other than his/her spouse) clearly discriminate against women spouses. The abolition of this stricter moral standard on fidelity on married women vis-à-vis their male counterparts, which standard was set in the 1930's when the RPC took effect, is long overdue.

Consultations with and cases referred to Gabriela show that, in practice, Articles 333 and 334 are often resorted to only as "bargaining suits" to get the other party in a nullity petition to "cooperate" or to give in in support negotiations. These suits, while pursued in the initial stages, are often withdrawn or dismissed. Worse, separated or abandoned wives, who have no remedy under the law in the absence of a divorce law, are always under a constant threat of suit from their estranged husbands. They are blackmailed by their estranged husbands through Article 333 of the RPC and while they also have a ground to file under Article 334, they face the difficulty of proving the crime due to the inherent difficulty in the standards set by the law. In many cases, women who are faced by these threats are forced to forego legitimate custodial claims of their children while some are forced to give up their claims over conjugal properties, assets and the like.

Considering that these provisions in the RPC discriminate against and results to more difficulty for women, and considering further, that women are amply protected under Republic Act No. 9262 which criminalizes violence against women and their children, Gabriela Women's Party seeks the repeal of Articles 333 and 334.

Your support to this bill is earnestly sought.


REP. EMMI A. DE JESUS


REP. ARLENE D. BROSAS

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Introduced by Representatives Emmi A. de Jesus and Arlene D. Brosas

AN ACT DECRIMINALIZING ADULTERY AND CONCUBINAGE, AMENDING FOR THIS PURPOSE ARTICLES 333 AND 334 OF THE REVISED PENAL CODE

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

Section 1. Articles 333 and 334 of the Revised Penal Code are hereby repealed.

SEC. 2. *Effect on Pending Cases.* All pending cases under the provisions of Article 333 and 334 of the Revised Penal Code prior to its amendment by this Act shall be dismissed upon effectivity of this Act.

SEC. 3. *Immediate Release of Convicted Persons.* All persons serving sentence for violation of the provisions of Article 333 and 334 of the Revised Penal Code on Adultery and Concubinage prior to its amendment by this Act shall be immediately released upon effectivity of this Act: *Provided*, that they are not serving sentence or detained for any other offense or felony.

SEC. 4. *Repealing Clause.* All laws, presidential decrees, executive orders, rules and regulations and other issuances, or any part thereof, inconsistent with this Act are hereby repealed, modified or amended accordingly.

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

Approved,