

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 5290



Introduced by HON. MERCEDES K. ALVAREZ

EXPLANATORY NOTE

The bill seeks to amend certain provisions under of the Revised Penal Code to ensure the fundamental equality before the law of women and men. This bill requires the State to apply the law regardless of one's gender under Article II, Section 14 as mandated by the State of our Constitution.

Under the Revised Penal Code, Article 333, adultery may only be committed by a married woman and by the man who shall have sexual intercourse with her. On the other hand, under the same law, Article 334, concubinage may be committed by a husband only under certain conditions which are difficult to prove. These provisions have allowed other married persons not falling within the coverage to perpetuate marital infidelity but remaining unscathed from the application of the law. This bill seeks to eliminate this gender bias.

The immediate passage of this bill is earnestly requested.


MERCEDES K. ALVAREZ

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AN ACT

DEFINING THE CRIME OF SEXUAL INFIDELITY AND PROVIDING PENALTIES THEREFOR, AMENDING FOR THE PURPOSE ARTICLE 333 [ADULTERY,] ARTICLE 334 [CONCUBINAGE] AND ARTICLES 344 AND 345 OF TITLE ELEVEN, BOOK II OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE.

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

SECTION 1. The provision of Articles 333 and 334 of Act No. 3815 are hereby repealed and, in lieu thereof, Articles 333 and 334 should now read as follows:

“Title Eleven

CRIMES AGAINST CHASTITY

Chapter One

[ADULTERY AND CONCUBINAGE]

SEXUAL INFIDELITY

[ART. 333 –*Who are guilty of adultery.* – Adultery is committed by any married woman who shall have sexual intercourse with a man not her husband and by the man who has carnal knowledge of her, knowing her to be married, even if the marriage be subsequently declared void.

Adultery shall be punished by *prision correccional* in its medium and maximum periods. If the person guilty of adultery committed this offense while being abandoned with justification by the offended spouse, the penalty next lower to degree than that provided in the next preceding paragraph shall be imposed.

ART. 334. Concubinage. – Any husband who shall keep a mistress in the conjugal dwelling or shall have sexual intercourse under scandalous circumstances, with a woman who is not his wife, or shall cohabit with her in any other place, shall be punished by *prision correccional* in its minimum and medium periods.

The concubine shall suffer the penalty of *destierro*.]

ART. 333. SEXUAL INFIDELITY – SEXUAL INFIDELITY IS COMMITTED BY ANY LEGALLY MARRIED PERSON WHO SHALL HAVE SEXUAL INTERCOURSE WITH ANOTHER PERSON OTHER THAN THE MARRIED PERSON'S SPOUSE AND BY THE PERSON WHO HAS CARNAL KNOWLEDGE WITH THE MARRIED PERSON, KNOWING THAT PERSON TO BE LEGALLY MARRIED, EVEN IF THE MARRIAGE BE SUBSEQUENTLY DECLARED VOID.

ART. 334. PENALTY – SEXUAL INFEDELITY SHALL BE PUNISHED BY PRISION CORRECCIONAL.

THE PENALTY OF *PRISION CORRECCIONAL* IN ITS MAXIMUM PERIOD SHALL BE IMPOSED UPON AN OFFENDER WHO SHALL KEEP A PARAMOUR IN THE CONJUGAL DWELLING.

THE PENALTY OF *PRISION CORRECCIONAL* IN ITS MEDIUM PERIOD SHALL BE IMPOSED UPON THE OFFENDER WHO SHALL COHABIT WITH A PARAMOUR IN ANY OTHER PLACE.

THE PENALTY OF *PRISION CORRECCIONAL* IN ITS MINIMUM PERIOD SHALL BE IMPOSED IF THE OFFENSE WAS COMMITTED UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

A. WHEN THE ACCUSED SPOUSE HAD BEEN ABANDONED WITHOUT JUST CAUSE FOR MORE THAN ONE YEAR; AND

B. WHEN THE ACCUSED SPOUSE HAD BEEN SUBJECTED TO REPEATED PHYSICAL VIOLENCE OR GROSSLY ABUSIVE CONDUCT BY THE OFFENDED SPOUSE.

SEC. 2. Articles 344 and 345 of the Revised Penal Code arc, likewise, amended to read as follows:

“ART. 334. *Prosecution of the crimes of [adultery, concubinage.] SEXUAL INFIDELITY, seduction, abduction, rape and acts of lasciviousness* – The crime[s] of [adultery and concubinage] SEXUAL INFEDILITY shall not be prosecuted except upon complaint filed by the offended spouse.

The offended party cannot institute criminal prosecution without including both the guilty parties [,] if they are both alive, not in any case, if [he] THE OFFENDED PARTY IS LIKEWISE GUILTY OF SEQUAL INFIDELITY, OR HAD ABONDONED THE GUILTY SPOUSE WITHOUT JUST CAUSE FOR MORE THAN ONE YEAR OR [shall have] HAD CONDONED, consented or pardoned the offenders.

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“ART. 345. *Civil liability of persons guilty of crimes against chastity.* - Person guilty of rape, seduction or abduction shall also be sentenced:

1. To indemnify the offended woman;

2. To acknowledge the offspring, unless the law should prevent him from so doing.
3. In every case to support the offspring

[The adulterer and the concubine] PERSONS GUILTY OF SEXUAL INFIDELITY in the case provided for in article[s] and 333 [and 334] may also be sentenced, in the same proceeding or in a separate civil proceeding, to indemnify for damages caused to the offended spouse .”

SEC. 3. If any provision or part of this Act is held invalid or unconstitutional the remaining parts or provision not affected shall remain in full force and effect.

SEC. 4. All laws, decrees, orders, rules and regulations and other issuances or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 5. This Act shall take effect within fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,