

Barazar, Malique Iljanah C.

On a Shield Law

(1)

Republic Act (RA) No. 11458, an amendment to RA No. 53 or the Sotto law, was signed by Duterte on August 30, according to a copy of the measure made public by Malacañang on Wednesday, September 25.

Before the amendment, the 73-year-old Sotto law only covered publishers, editors, columnists, or reporters of print media, like newspapers and magazines.

With the change, even media practitioners from television, radio, online, and wire service news organizations cannot be compelled to reveal the source of any news item.

The only exception, reads the law, is if a court or committee of the Senate or House of Representatives deems that the information of the confidential source is necessary for national security.

The complete expanded Section 1 of the Sotto law now reads:

"Without prejudice to his liability under the civil and criminal laws, any publisher, owner, or duly recognized or accredited journalist, writer, reporter, contributor, opinion writer, editor, columnist, manager, media practitioner involved in the writing, editing, production, and dissemination of news for mass circulation, of any print, broadcast, wire service organization, or electronic mass media, including cable TV and its variants, cannot be compelled to reveal the source of any news items, report or information appearing or being reported or disseminated through said media, which was related in confidence to the abovementioned media practitioners unless the court or the House of

Representatives or the Senate or any committee of Congress finds that such revelation is demanded by the security of the State."

In the Senate, the counterpart measure expanding the Sotto law, Senate Bill No. 1255, was authored by Senate President Vicente Sotto III and then-senator Antonio Trillanes IV. Sotto's late grandfather, former senator Vicente Sotto, had authored the original law in 1946.

The House version of the bill, House Bill. No 684, was principally authored by Cebu 1st District Representative Raul del Mar.

President Duterte greenlights amendment to law on journalists' sources. Amendment now includes media practitioners from.

Ref:

<https://www.rappler.com/nation/240975-new-law-lets-online-broadcast-journalists-protect-sources>

On P.D. 1986

Enumerate the powers and duties

Section 3. Powers and Functions. - The BOARD shall have the following functions, powers and duties:

a) To promulgate such rules and regulations as are necessary or proper for the implementation of this Act, and the accomplishment of its purposes and objectives, including guidelines and standards for production, advertising and

titles. Such rules and regulations shall take effect after fifteen (15) days following their publication in newspapers of general circulation in the Philippines;

b) To screen, review and examine all motion pictures as herein defined, television programs, including publicity materials such as advertisements, trailers and stills, whether such motion pictures and publicity materials be for theatrical or non-theatrical distribution, for television broadcast or for general viewing, imported or produced in the Philippines, and in the latter case, whether they be for local viewing or for export;

c) To approve or disapprove, delete objectionable portions from and/or prohibit the importation, exportation, production, copying, distribution, sale, lease, exhibition and/or television broadcast of the motion pictures, television programs and publicity materials subject of the preceding paragraph, which, in the judgment of the board applying contemporary Filipino cultural values as standard, are objectionable for being immoral, indecent, contrary to law and/or good customs, injurious to the prestige of the Republic of the Philippines or its people, or with a dangerous tendency to encourage the commission of violence or of wrong or crime, such as but not limited to:

i) Those which tend to incite subversion, insurrection, rebellion or sedition against the State, or otherwise threaten the economic and/or political stability of the State;

ii) Those which tend to undermine the faith and confidence of the people in their government and/or the duly constituted authorities;lawphil.net

iii) Those which glorify criminals or condone crimes;

- iv) Those which serve no other purpose but to satisfy the market for violence or pornography;
- v) Those which tend to abet the traffic in and use of prohibited drugs;
- vi) Those which are libelous or defamatory to the good name and reputation of any person, whether living or dead; and
- vii) Those which may constitute contempt of court or of any quasi-judicial tribunal, or pertain to matters which are sub-judice in nature.

Provided, however, That deletions or cuts must not be made on the master negative of the films, and that such master negative shall be deposited with the Film Archives of the Philippines and shall be released for export purposes to the film owner only upon showing of the proper export permit; Provided, finally, That the film owner shall execute his own undertaking that such master negative shall be exclusively used for export purposes and not for local showing;

To supervise, regulate, and grant, deny or cancel, permits for the importation, exportation, production, copying, distribution, sale, lease, exhibition, and/or television broadcast of all motion pictures, television programs and publicity materials, to the end that no such pictures, programs and materials as are determined by the BOARD to be objectionable in accordance with paragraph (c) hereof shall be imported, exported, produced, copied, reproduced, distributed, sold, leased, exhibited and/or broadcast by television;

- d) To classify motion pictures, television programs and similar shows into categories such as "G" or "For General Patronage" (all ages admitted), "P" or "Parental Guidance Suggested", "R" or "Restricted" (for adults only), "X" or "Not

for Public Viewing", or such other categories as the BOARD may determine for the public interest;

e) To close movie houses and other similar establishments engaged in the public exhibition of motion pictures and television programs which violate the provisions of this Act and the rules and regulations promulgated by the BOARD pursuant hereto;

f) To levy, assess and collect, and periodically adjust and revise the rates of, fees and charges for the work of review and examination and for the issuance of the licenses and permits which the BOARD is authorized to grant in the exercise of its powers and functions and in the performance of its duties and responsibilities;lawphil.net

g) To deputize representatives from the government and from the various associations in the movie industry, whose main duties shall be to help ensure compliance with all laws relative to the importation, exportation, copying, distribution, sale, lease, exhibition and/or television broadcast of motion pictures, television programs, advertisements and publicity materials. For this purpose, the BOARD may constitute such Regulatory Council or Councils composed of representatives from the government and the movie and television industry as may be appropriate to implement the purposes and objectives of this Act. The BOARD may also call on any law enforcement agency for assistance in the implementation and enforcement of its decisions, orders or awards;

h) To cause the prosecution, on behalf of the People of the Philippines, of violators of this Act, of anti-trust, obscenity, censorship and other laws pertinent to the movie and television industry;

i) To prescribe the internal and operational procedures for the exercise of its powers and functions as well as the performance of its duties and responsibilities, including the creation and vesting of authority upon sub-committees of the BOARD for the work of review and other related matters; and

j) To exercise such powers and functions as may be necessary or incidental to the attainment of the purposes and objectives of this Act, and to perform such other related duties and responsibilities as may be directed by the President of the Philippines.

Ref: https://lawphil.net/statutes/presdecs/pd1985/pd_1986_1985.html

MTRCB does not have jurisdictions

(1) Section 14. Manila Film Center. - Motion pictures imported or produced by the management of the Manila Film Center whether singly or in joint venture with Filipino or foreign citizens, corporations or groups shall not be subject to the jurisdiction, supervision and control of the BOARD; Provided, That, such motion pictures are exhibited or shown only in the Film Center; Provided, further, That such motion pictures shall be subject to review and examination by the BOARD in case they are distributed for general viewing elsewhere in the Philippines.

(2) Filipino author Gilbert M. Coronel released a novel entitled Tragic Theater in 2009.

(3) In the 2010 [Filipino film The Red Shoes](#), part of the plot hinges on the supposed death of the father of the main character, Lucas, played by [Marvin Agustin](#), who was supposed to have been among the 169 workers buried alive in the accident at the construction of the Manila Film Center.

In the graphic novel, The Filipino Heroes League, the building was transformed from the Film Center to the FHL's headquarters.

Ref: <https://midas.mtrcb.gov.ph/site/#!/pd1986>

G.R. No. 155282

January 17, 2005

MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD (MTRCB),
petitioner,

vs.

ABS-CBN BROADCASTING CORPORATION and LOREN LEGARDA, respondents.

https://lawphil.net/judjuris/juri2005/jan2005/gr_155282_2005.html

Facts:

On October 15, 1991, at 10:45 in the evening, respondent ABS-CBN aired "Prosti-tuition," an episode of the television (TV) program "The Inside Story" produced and hosted by respondent Legarda. It depicted female students moonlighting as prostitutes to enable them to pay for their tuition fees. In the course of the program, student prostitutes, pimps, customers, and some faculty members were interviewed. The Philippine Women's University (PWU) was named as the school of some of the students involved and the facade of PWU Building at Taft Avenue, Manila conspicuously served as the background of the episode.

The showing of "The Inside Story" caused uproar in the PWU community. Dr. Leticia P. de Guzman, Chancellor and Trustee of the PWU, and the PWU Parents and Teachers Association filed letter-complaints with petitioner MTRCB. Both complainants alleged that the episode besmirched the name of the PWU and resulted in the harassment of some of its female students.

Acting on the letter-complaints, the MTRCB Legal Counsel initiated a formal complaint with the MTRCB Investigating Committee, alleging among others, that respondents (1) did not submit "The Inside Story" to petitioner for its review and (2) exhibited the same without its permission, thus, violating Section 7 of Presidential Decree (P.D.) No. 1986 and Section 3, Chapter III and Section 7, Chapter IV of the MTRCB Rules and Regulations.

In their answer, respondents explained that the "The Inside Story" is a "public affairs program, news documentary and socio-political editorial," the airing of which is protected by the constitutional provision on freedom of expression and of the press. Accordingly, petitioner has no power, authority and jurisdiction to impose any form of prior restraint upon respondents.

Issues:

- a. The issue for our resolution is whether the MTRCB has the power or authority to review the "The Inside Story" prior to its exhibition or broadcast by television.

The petition is impressed with merit.

- b. "SEC. 3. Powers and Functions. – The BOARD shall have the following functions, powers and duties.

x x x x x

b) To screen, review and examine all motion pictures as herein defined, television programs, including publicity materials such as advertisements, trailers and stills, whether such motion pictures and publicity materials be for theatrical or non-theatrical distribution, for television broadcast or for general viewing, imported or produced in the Philippines, and in the latter case, whether they be for local viewing or for export.^{1a\^/phi1.net}

c) To approve or disapprove, delete objectionable portions from and/or prohibit the importation, exportation, production, copying, distribution, sale, lease exhibition and/or television broadcast of the motion pictures, television programs and publicity materials subject of the preceding paragraph, which, in the judgment of the BOARD applying contemporary Filipino cultural values as standard, are objectionable for being immoral, indecent, contrary to law and/or good customs, injurious to the prestige of the Republic of the Philippines or its people, or with a dangerous tendency to encourage the commission of violence or of a wrong or crime, such as but not limited to:

x x x

d) To supervise, regulate, and grant, deny or cancel, permits for the importation, exportation, production, copying, distribution, sale, lease, exhibition, and/or television broadcast of all motion pictures, television programs and publicity materials, to the end and that no such pictures, programs and materials as are determined by the BOARD to be objectionable in accordance with paragraph (c) hereof shall be imported, exported, produced, copied, reproduced, distributed, sold, leased, exhibited and/or broadcast by television;

x x x x x."

c. "The law gives the Board the power to screen, review and examine all 'television programs.'

d. Article III of the Constitution. Albeit, respondent's basis is not freedom of religion, as in *Iglesia ni Cristo*,³² but freedom of expression and of the press, the ruling in *Iglesia ni Cristo* applies squarely to the instant issue.

Respondents claim that the showing of "The Inside Story" is protected by the constitutional provision on freedom of speech and of the press. However, there has been no declaration at all by the framers of the Constitution that freedom of expression and of the press has a preferred status.

If this Court, in *Iglesia ni Cristo*, did not exempt religious programs from the jurisdiction and review power of petitioner MTRCB, with more reason, there is no justification to exempt therefrom "The Inside Story" which, according to respondents, is protected by the constitutional provision on freedom of expression and of the press, a freedom bearing no preferred status.

It bears stressing that the sole issue here is whether petitioner MTRCB has authority to review "The Inside Story." Clearly, we are not called upon to determine whether petitioner violated Section 4, Article III (Bill of Rights) of the Constitution providing that no law shall be passed abridging the freedom of speech, of oppression or the press. Petitioner did not disapprove or ban the showing of the program. Neither did it cancel respondents' permit. Respondents were merely penalized for their failure to submit to petitioner "The Inside Story" for its review and approval. Therefore, we need not resolve whether certain provisions of P. D. No. 1986 and the MTRCB Rules and Regulations specified by respondents contravene the Constitution.

Consequently, we cannot sustain the RTC's ruling that Sections 3 (c) (d), 4, 7 and 11 of P. D. No. 1986 and Sections 3, 7 and 28 (a) of the MTRCB Rules and Regulations are unconstitutional. It is settled that no question involving the constitutionality or validity of a law or governmental act may be heard and decided by the court unless there is compliance with the legal requisites for judicial inquiry, namely: (1) that the question must be raised by the proper party; (2) that there must be an actual case or controversy; (3) that the question must be raised at the earliest possible opportunity; and, (4) that the decision on the constitutional or legal question must be necessary to the determination of the case itself.³⁸

WHEREFORE, the instant petition is GRANTED. The assailed RTC Decision dated November 18, 1997 and Order dated August 26, 2002 are hereby REVERSED. The Decision dated March 12, 1993 of petitioner MTRCB is AFFIRMED. Costs against respondents.

Ruling of the Supreme Court

Respondents then filed a special civil action for certiorari with the Regional Trial Court (RTC), Branch 77, Quezon City. It seeks to: (1) declare as unconstitutional Sections 3(b),¹³ 3(c),¹⁴ 3(d),¹⁵ 4,¹⁶ 7,¹⁷ and 11¹⁸ of P. D. No. 1986 and Sections 3,¹⁹ 7,²⁰ and 28²¹ (a) of the MTRCB Rules and Regulations;²² (2) (in the alternative) exclude the "The Inside Story" from the coverage of the above cited provisions; and (3) annul and set aside the MTRCB Decision dated March 12, 1993 and Resolution dated April 14, 1993. Respondents averred that the above-cited provisions constitute "prior restraint" on respondents' exercise of freedom of expression and of the press, and, therefore, unconstitutional. Furthermore, the above cited provisions do not apply to the "The Inside Story" because it falls under the category of "public affairs program, news documentary, or socio-political editorials" governed by standards similar to those governing newspapers.

On November 18, 1997, the RTC rendered a Decision²³ in favor of respondents, the dispositive portion of which reads:

"WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered:

1. ANNULING AND SETTING ASIDE the assailed Decision and Resolution of MTRCB dated March 12, 1993;
2. DECLARING AND DECREERING that Sections 3 (b), (c), and (d), 4, 7, and 11 of P.D. No. 1986 and Sections 3, 7, 28 (a) of its Implementing Rules do not cover the TV Program "The Inside Story" and other similar programs, they being public affairs programs which can be equated to newspapers; and
3. MAKING PERMANENT the Injunction against Respondents or all persons acting in their behalf.

SO ORDERED."

Petitioner filed a motion for reconsideration but was denied.

Hence, this petition for review on certiorari.

Petitioner MTRCB through the Solicitor General, contends inter alia: first, all television programs, including "public affairs programs, news documentaries, or socio-political editorials," are subject to petitioner's power of review under Section 3 (b) of P.D. No. 1986 and pursuant to this Court's ruling in [Iglesia ni Cristo vs. Court of Appeals](#) ;²⁵ second, television programs are more accessible to the public than newspapers, thus, the liberal regulation of the latter cannot apply to the former; third, petitioner's power to review television programs under Section 3(b) of P. D. No. 1986 does not amount to "prior restraint;" and fourth, Section 3(b) of P. D. No. 1986 does not violate respondents' constitutional freedom of expression and of the press.

Respondents take the opposite stance.

The issue for our resolution is whether the MTRCB has the power or authority to review the "The Inside Story" prior to its exhibition or broadcast by television.

G.R. No. L-59329

July 19, 1985

EASTERN BROADCASTING CORPORATION (DYRE) petitioner,

vs.

THE HON. JOSE P. DANS, JR., MINISTER OF TRANSPORTATION & COMMUNICATIONS, THE HON. CEFERINO S. CARREON, COMMISSIONER, NATIONAL TELECOM., COMMISSION, ET AL., respondents.

Ref: https://lawphil.net/judjuris/juri1985/jul1985/gr_l59329_1985.html

Facts:

This petition was filed to compel the respondents to allow the reopening of Radio Station DYRE which had been summarily closed on grounds of national security.

The petitioner contended that it was denied due process when it was closed on the mere allegation that the radio station was used to incite people to sedition. It alleged that no hearing was held and not a bit of proof was submitted to establish a factual basis for the closure. The petitioner was not informed beforehand why administrative action which closed the radio station was taken against it. No action was taken by the respondents to entertain a motion seeking the reconsideration of the closure action. The petitioner also raised the issue of freedom of speech. It appears from the records that the respondents' general charge of "inciting people to commit acts of sedition" arose from the petitioner's shift towards what it stated was the coverage of public events and the airing of programs geared towards public affairs.

Issues:

On March 25, 1985, before the Court could promulgate a decision squarely passing upon all the issues raised, the petitioner through its president, Mr. Rene G. Espina suddenly filed a motion to withdraw or dismiss the petition.

The petitioner alleged:

1. Petitioner Eastern Broadcasting Corporation has already sold its radio broadcasting station in favor of Manuel B. Pastrana as well as its rights and interest in the radio station DYRE in Cebu including its right to operate and its equipment;

2. Respondent National Telecommunications Commission has expressed its willingness to grant to the said new owner Manuel B. Pastrana the requisite license and franchise to operate the said radio station and to approve the sale of the radio transmitter of said station DYRE;

3. In view of the foregoing, petitioner has no longer any interest in said case, and the new owner, Manuel B. Pastrana is likewise not interested in pursuing the case any further.

The case, therefore, has become moot and academic. However, for the guidance of inferior courts and administrative tribunals exercising quasi-judicial functions, the Court issues the following guidelines:

(1) The cardinal primary requirements in administrative proceedings laid down by this Court in *Ang Tibay v. Court of Industrial Relations* (69 Phil. 635) should be followed before a broadcast station may be closed or its operations curtailed.¹

(2) It is necessary to reiterate that while there is no controlling and precise definition of due process, it furnishes an unavoidable standard to which government action must conform in order that any deprivation of life, liberty, or property, in each appropriate case, may be valid (*Ermita-Malate Hotel and Motel Operators Association v. City Mayor*, 20 SCRA 849).

(3) All forms of media, whether print or broadcast, are entitled to the broad protection of the freedom of speech and expression clause. The test for limitations on freedom of expression continues to be the clear and present danger rule — that words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that the lawmaker has a right to prevent, In his *Constitution of the Philippines* (2nd Edition, pp. 569-570) Chief Justice Enrique M. Fernando cites at least nine of

our decisions which apply the test — (*Primicias v. Fugoso* [80 Phil. 71], *American Bible Society v. City of Manila* [101 Phil. 386], *Cabansag v. Fernandez* [102 Phil. 152], *Vera v. Arca* [28 SCRA 351], *Navarro v. Villegas* [31 SCRA 931], *Imbong v. Ferrer* [35 SCRA 28], *Badoy v. Commission on Elections* [35 SCRA 285], *People v. Ferrer* [48 SCRA 382], and the *Philippine Blooming Mills Employees Organization v. Philippine Blooming Mills Co., Inc.* [51 SCRA 189]. More recently, the clear and present danger test was applied in *J.B.L. Reyes in behalf of the Anti-Bases Coalition v. Bagatsing* [125 SCRA 553].

(4) The clear and present danger test, however, does not lend itself to a simplistic and all embracing interpretation applicable to all utterances in all forums.

Broadcasting has to be licensed. Airwave frequencies have to be allocated among qualified users. A broadcast corporation cannot simply appropriate a certain frequency without regard for government regulation or for the rights of others.

All forms of communication are entitled to the broad protection of the freedom of expression clause. Necessarily, however, the freedom of television and radio broadcasting is somewhat lesser in scope than the freedom accorded to newspaper and print media.

Ruling of the Supreme Court

The Court's decision makes short shrift of respondents' procedural arguments that non-renewal of petitioner's license has made the petition "moot and academic" (brushed aside as "an afterthought or substitute for the respondents' original position that the closure was due to national security") and that mandamus would not lie to compel the reopening of the radio station brought about by their inaction on petitioner's timely application for renewal of the license.

The Court has granted the motion but this circumstance should not deter the Court from educating those who wield power which if exercised arbitrarily will make a mockery of the Bill of Rights.

G.R. No. 164785

April 29, 2009

ELISEO F. SORIANO, Petitioner,

vs.

MA. CONSOLIZA P. LAGUARDIA, in her capacity as Chairperson of the Movie and Television Review and Classification Board, MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD, JESSIE L. GALAPON, ANABEL M. DELA CRUZ, MANUEL M. HERNANDEZ, JOSE L. LOPEZ, CRISANTO SORIANO, BERNABE S. YARIA, JR., MICHAEL M. SANDOVAL, and ROLDAN A. GAVINO, Respondents.

Facts:

On August 10, 2004, at around 10:00 p.m., petitioner, as host of the program Ang Dating Daan, aired on UNTV 37, made the following remarks:

Lehitimong anak ng demonyo; sinungaling;

Gago ka talaga Michael, masahol ka pa sa putang babae o di ba. Yung putang babae ang gumagana lang doon yung ibaba, [dito] kay Michael ang gumagana ang itaas, o di ba! O, masahol pa sa putang babae yan. Sabi ng lola ko masahol pa sa putang babae yan. Sobra ang kasinungalingan ng mga demonyong ito.¹ x x x

Two days after, before the MTRCB, separate but almost identical affidavit-complaints were lodged by Jessie L. Galapon and seven other private respondents, all members of the Iglesia ni Cristo (INC),² against petitioner in connection with the above broadcast. Respondent Michael M. Sandoval, who felt directly alluded to in petitioner's remark, was then a minister of INC and a regular host of the TV program Ang Tamang Daan.³ Forthwith, the MTRCB sent petitioner a notice of the hearing on August 16, 2004 in relation to the alleged use of some cuss words in the August 10, 2004 episode of Ang Dating Daan.⁴

After a preliminary conference in which petitioner appeared, the MTRCB, by Order of August 16, 2004, preventively suspended the showing of Ang Dating Daan program for 20 days, in accordance with Section 3(d) of Presidential Decree No. (PD) 1986, creating the MTRCB, in relation to Sec. 3, Chapter XIII of the 2004 Implementing Rules and Regulations (IRR) of PD 1986 and Sec. 7, Rule VII of the MTRCB Rules of Procedure.⁵ The same order also set the case for preliminary investigation.

The following day, petitioner sought reconsideration of the preventive suspension order, praying that Chairperson Consoliza P. Laguardia and two other members of the adjudication board recuse themselves from hearing the case.⁶ Two days after, however, petitioner sought to withdraw⁷ his motion for reconsideration, followed by the filing with this Court of a petition for certiorari and prohibition,⁸ docketed as G.R. No. 164785, to nullify the preventive suspension order thus issued.

On September 27, 2004, in Adm. Case No. 01-04, the MTRCB issued a decision, disposing as follows:

WHEREFORE, in view of all the foregoing, a Decision is hereby rendered, finding respondent Soriano liable for his utterances and thereby imposing on him a penalty of three (3) months suspension from his program, "Ang Dating Daan".

Co-respondents Joselito Mallari, Luzviminda Cruz and UNTV Channel 37 and its owner, PBC, are hereby exonerated for lack of evidence.

SO ORDERED.⁹

Petitioner then filed this petition for certiorari and prohibition with prayer for injunctive relief, docketed as G.R. No. 165636.

In a Resolution dated April 4, 2005, the Court consolidated G.R. No. 164785 with G.R. No. 165636.

Issues:

In G.R. No. 164785, petitioner raises the following issues:

THE ORDER OF PREVENTIVE SUSPENSION PROMULGATED BY RESPONDENT [MTRCB] DATED 16 AUGUST 2004 AGAINST THE TELEVISION PROGRAM ANG DATING DAAN x x x IS NULL AND VOID FOR BEING ISSUED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION

(A) BY REASON THAT THE [IRR] IS INVALID INsofar AS IT PROVIDES FOR THE ISSUANCE OF PREVENTIVE SUSPENSION ORDERS;

(B) BY REASON OF LACK OF DUE HEARING IN THE CASE AT BENCH;

(C) FOR BEING VIOLATIVE OF EQUAL PROTECTION UNDER THE LAW;

(D) FOR BEING VIOLATIVE OF FREEDOM OF RELIGION; AND

(E) FOR BEING VIOLATIVE OF FREEDOM OF SPEECH AND EXPRESSION.¹⁰

Ruling of the Supreme Court

In these two petitions for certiorari and prohibition under Rule 65, petitioner Eliseo F. Soriano seeks to nullify and set aside an order and a decision of the Movie and Television Review and Classification Board (MTRCB) in connection with certain utterances he made in his television show, Ang Dating Daan.

The Court need not belabor the fact that the circumstances of petitioner, as host of Ang Dating Daan, on one hand, and the INC ministers, as hosts of Ang Tamang Daan, on the other, are, within the purview of this case, simply too different to even consider whether or not there is a prima facie indication of oppressive inequality.

The Court is at a loss to understand how petitioner's utterances in question can come within the pale of Sec. 5, Article III of the 1987 Constitution on religious freedom. The section reads as follows:

No law shall be made respecting the establishment of a religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

There is nothing in petitioner's statements subject of the complaints expressing any particular religious belief, nothing furthering his avowed evangelical mission. The fact that he came out with his statements in a televised bible exposition program does not automatically accord them the character of a religious discourse. Plain and simple insults directed at another person cannot be elevated to the status of religious speech. Even petitioner's attempts to place his words in context show that he was moved by anger and the need to seek retribution, not by any religious conviction. His claim, assuming its veracity, that some INC

ministers distorted his statements respecting amounts Ang Dating Daan owed to a TV station does not convert the foul language used in retaliation as religious speech. We cannot accept that petitioner made his statements in defense of his reputation and religion, as they constitute no intelligible defense or refutation of the alleged lies being spread by a rival religious group. They simply illustrate that petitioner had descended to the level of name-calling and foul-language discourse. Petitioner could have chosen to contradict and disprove his detractors, but opted for the low road.

Petitioner, as a final point in G.R. No. 164785, would have the Court nullify the 20-day preventive suspension order, being, as insisted, an unconstitutional abridgement of the freedom of speech and expression and an impermissible prior restraint. The main issue tendered respecting the adverted violation and the arguments holding such issue dovetails with those challenging the three-month suspension imposed under the assailed September 27, 2004 MTRCB decision subject of review under G.R. No. 165636. Both overlapping issues and arguments shall be jointly addressed.

Cybercrime Law

PRELIMINARY PROVISIONS

Ref:

https://www.lawphil.net/statutes/repacts/ra2012/ra_10175_2012.html

Section 1. Title. — This Act shall be known as the "Cybercrime Prevention Act of 2012".

Section 2. Declaration of Policy. — The State recognizes the vital role of information and communications industries such as content production, telecommunications, broadcasting electronic commerce, and data processing, in the nation's overall social and economic development. The State also recognizes the importance of providing an environment conducive to the development, acceleration, and rational application and exploitation of information and communications technology (ICT) to attain free, easy, and intelligible access to exchange and/or delivery of information; and the need to protect and safeguard the integrity of computer, computer and communications systems, networks, and databases, and the confidentiality, integrity, and availability of information and data stored therein, from all forms of misuse, abuse, and illegal access by making punishable under the law such conduct or conducts. In this light, the State shall adopt sufficient powers to effectively prevent and combat such offenses by facilitating their detection, investigation, and prosecution at both the domestic and international levels, and by providing arrangements for fast and reliable international cooperation.

Section 3. Definition of Terms. — For purposes of this Act, the following terms are hereby defined as follows:

(a) Access refers to the instruction, communication with, storing data in, retrieving data from, or otherwise making use of any resources of a computer system or communication network.

(b) Alteration refers to the modification or change, in form or substance, of an existing computer data or program.

(c) Communication refers to the transmission of information through ICT media, including voice, video and other forms of data.

(d) Computer refers to an electronic, magnetic, optical, electrochemical, or other data processing or communications device, or grouping of such devices, capable of performing logical, arithmetic, routing, or storage functions and which includes any storage facility or equipment or communications facility or equipment directly related to or operating in conjunction with such device. It covers any type of computer device including devices with data processing capabilities like mobile phones, smart phones, computer networks and other devices connected to the internet.

(e) Computer data refers to any representation of facts, information, or concepts in a form suitable for processing in a computer system including a program suitable to cause a computer system to perform a function and includes electronic documents and/or electronic data messages whether stored in local computer systems or online.

(f) Computer program refers to a set of instructions executed by the computer to achieve intended results.

(g) Computer system refers to any device or group of interconnected or related devices, one or more of which, pursuant to a program, performs automated processing of data. It covers any type of device with data processing capabilities including, but not limited to, computers and mobile phones. The device consisting of hardware and software may include input, output and storage components which may stand alone or be connected in a network or other similar devices. It also includes computer data storage devices or media.

(h) Without right refers to either: (i) conduct undertaken without or in excess of authority; or (ii) conduct not covered by established legal defenses, excuses, court orders, justifications, or relevant principles under the law.

(i) Cyber refers to a computer or a computer network, the electronic medium in which online communication takes place.

(j) Critical infrastructure refers to the computer systems, and/or networks, whether physical or virtual, and/or the computer programs, computer data and/or traffic data so vital to this country that the incapacity or destruction of or interference with such system and assets would have a debilitating impact on security, national or economic security, national public health and safety, or any combination of those matters.

(k) Cybersecurity refers to the collection of tools, policies, risk management approaches, actions, training, best practices, assurance and technologies that can be used to protect the cyber environment and organization and user's assets.

(l) Database refers to a representation of information, knowledge, facts, concepts, or instructions which are being prepared, processed or stored or have been prepared, processed or stored in a formalized manner and which are intended for use in a computer system.

(m) Interception refers to listening to, recording, monitoring or surveillance of the content of communications, including procuring of the content of data, either directly, through access and use of a computer system or indirectly, through the use of electronic eavesdropping or tapping devices, at the same time that the communication is occurring.

(n) Service provider refers to:

(1) Any public or private entity that provides to users of its service the ability to communicate by means of a computer system; and

(2) Any other entity that processes or stores computer data on behalf of such communication service or users of such service.

(o) Subscriber's information refers to any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which identity can be established:

(1) The type of communication service used, the technical provisions taken thereto and the period of service;

(2) The subscriber's identity, postal or geographic address, telephone and other access numbers, any assigned network address, billing and payment information, available on the basis of the service agreement or arrangement; and

(3) Any other available information on the site of the installation of communication equipment, available on the basis of the service agreement or arrangement.

(p) Traffic data or non-content data refers to any computer data other than the content of the communication including, but not limited to, the communication's origin, destination, route, time, date, size, duration, or type of underlying service.

Examples:

(1)

February 13, [Rappler CEO Maria Ressa was arrested](#) in connection with a cyber libel case filed by the Department of Justice (DOJ). The case stemmed from an investigative report published by Rappler in May 2012.

More than 5 years later, in October 2017, Keng filed a case with the National Bureau of Investigation (NBI) cybercrime division, claiming that the 2012 investigative report linking him with illegal drugs and trafficking did not observe "the ethical standards of journalism." The allegations were based on an intelligence report and previously published stories.

Republic Act (RA) No. 10175 or the Cybercrime Prevention Act of 2012 was passed in September 2012, or 4 months after the investigative report was published in May. No penal law is retroactive.

Keng's lawyers have argued that "the article written was committed by means of publication in the online platform and website of Rappler, which is open and available for public consumption since the date it was posted, which was on May 29, 2012 and updated on February 19, 2014."

In the DOJ resolution indicting Ressa, the principle of "multiple publication rule" was cited. According to the DOJ, though written in 2012, it was revised in February 2014, thus bearing a timestamp after the enactment of RA 10175.

As indicated above, no substantial changes were made in the February 2014 update of the story. Thus there is no basis for a "new cause of action for defamation."

Ref:

<https://www.rappler.com/about-rappler/about-us/223545-frequently-asked-questions-cyber-libel-case>