

Crime on a Keyboard: A Look into Online Libel in the Philippines

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Abstract

The development of technology carries with it the evolution of the way people interacts with one another. Social networking sites emerge as a form of communication where one can freely express themselves to connect to others. However, the passage the Cybercrime Prevention Act is believed to pose threats to this freedom. One of the most debatable provisions of the said law is online libel, which many still oppose despite being upheld as constitutional by the Supreme Court of the Philippines. Since Filipinos are considered to be one of the most active users of social media,¹ critics of the law claim that this law curtails one of the rights, which Filipinos treasure and exercise the most, the freedom of expression and speech. Mostly, the threat on the rights of Filipinos lies on the elements of the said crime, which are the determining factors to know whether a person violated a law or not. As these elements of the crime are subject to different interpretations, it demands to look beyond what the law merely states and the incorporation of concepts from other disciplines is appropriate.

Introduction

According to Aristotle's philosophy, man by nature is a social animal; therefore, it is believed that since birth, there is an urge for man to relate to others or be related to them and the best way to interact is by expressing oneself freely through speech and communication, a right that was granted by law.²

The premise may be true considering that when we are born, we would make sounds to express what we desire from our parents or people around us.³ As toddlers, a person develops the use of movements to communicate.⁴ And as one grows older, the level of communication improves because of the introduction of words formed into sentences.⁵ When we interact, we share part of ourselves – thoughts, feelings, reactions, opinions, beliefs, and even to the point of asserting our right. And as time pass, the form of communication evolves and it cannot be denied that as the lifestyle of people change, the modes of communicating also change.⁶

A new technological revolution gave birth to a modern manner of communication between people. Social networking sites such as *Facebook*, *Twitter*, and *Instagram* to name a few have emerged as new platforms of communication. A social networking site is an online location or a website where a person “makes a profile” and share different aspects of their life.⁷ The purpose of these sites is to connect

¹Universal McCann. (2013) *Wave7: Cracking the Social Code* [PDF Format]. Retrieved from http://wave.umww.com/assets/pdf/wave_7-cracking-the-social-code.pdf

²Sec. 4, Article III, 1987 Philippine Constitution.

³National Council for Curriculum and Development. (2009). Theme: Communicating. *Aistear Principles and Themes*. [PDF format]. Retrieved from http://www.ncca.biz/Aistear/pdfs/PrinciplesThemes_ENG/Communicating_ENG.pdf.

⁴Debbie Reinhartsen and Patsy Pierce as cited in National Center to Improve Practice. (1998). Chapter 7: Developing Communication Abilities. In *Early Childhood Collection (General)*. Retrieved from http://www2.edc.org/NCIP/LIBRARY/ec/Power_7.htm.

⁵Home Learning College. (n.d.) Section 1: Child and Young Person Development. *Supporting Teaching and Learning in Schools*. Retrieved from <https://www.homelearningcollege.com/docs/default-source/course-contents/ncfe-level-2-supporting-teaching-and-learning-sample.pdf?sfvrsn=2>.

⁶Gascoigne, Bamber. (2001, ongoing). History of Communication. In *History World*. Retrieved from <http://www.historyworld.net/wrldhis/PlainTextHistories.asp?historyid=aa93>.

⁷Lenhart, A. and Madden, M. (n.d.) Reports from Pew Internet Project (2001-2008): *Social Networking Websites and Teens: An Overview* [PDF format]. Retrieved from http://htlab.psy.unipd.it/uploads/Pdf/lectures/technology_for_young/Social%20Networking%20Websites%20and%20Teens%20text.pdf.

people by creating or expanding a personal network and make a bond between users whether they are related or not.⁸ However, problems arise when one tries to abuse the use of these tools, through their reactions and comments especially on Facebook. The contents of the Facebook posts are the focal point of analysis of this paper so as to determine the possibility of violating a law passed in the Philippines in 2012 known as RA 10175.

RA 10175, known as the Cybercrime Prevention Act, punishes offenses like cybersquatting, cybersex, child pornography, identity theft, illegal access to data, and the main subject of the paper, online libel which is basically a defamation or imputation of malicious statements published through the internet. While there is a global trend in decriminalizing libel,⁹ the recently passed law even imposed a stricter penalty for those who committed the crime through the internet in the Philippines because of the,

“numerous abuses in technology”¹⁰ especially in social networking sites as the “offender often evades identification and is able to reach far more victims or cause greater harm”.¹¹

Many Filipinos have criticized the law, specifically the said provision, alleging that the right of freedom of expression and speech through the use of computers will be restricted.¹² However, the Court believes that it “is not actually a new crime” but reinforcement to an old law on libel under the Revised Penal Code incorporating a new manner of publication by acknowledging technological advancements; hence, upholding the constitutionality of the provision.¹³

Now that the law is in full effect, this paper aims to assist Filipino social media users specifically those who use Facebook to deal with the provision of law by helping them identify the elements of online libel. Its idea is that the analysis of the elements can be very helpful to Filipino “netizens”, who avoid commenting or posting due to fear of being accused or held liable of such offense. This paper premises that knowing the provisions of the law is not enough to detect it and the boundaries in the understanding of law must be broadened. Certain fields from other related disciplines may be utilized and incorporated to comprehend and examine whether a certain “post” violates the law.

This paper limits its coverage to Filipino *Facebook* users as it is the most used Social Networking Site (SNS) by Filipinos¹⁴ as well as the platform where most comments and reactions can be analyzed since the social interaction between the parties can be best viewed in Facebook as supported by latter’s features like connections through common friends, groups, and pages.

Social Networking Sites, Facebook and Related Laws in the Philippines

According to Boyd and Ellison’s study, validated by research results conducted by Universal McCann in the last 2 years known as *Wave7* and *Wave8*,¹⁵ Social Network Sites (SNS) are platforms used by many people mainly to communicate to others already known to them and not necessarily create new relationships although the latter can be considered as a result of the said sites.¹⁶

⁸Danah M. Boyd and Nicole B. Ellison. (n.d). *Social Network Sites: Definitions, History and Scholarship* [PDF format]. Retrieved from www.danah.org/papers/JCJMCintro.pdf

⁹Dalangan-Fernandez, L. (2012). Libel provision in cybercrime law proposed by senators, later adopted by House members. Retrieved from <http://www.interaksyon.com/article/43564/libel-provision-in-cybercrime-law-proposed-by-senators-later-adopted-by-house-members>

¹⁰Official Gazette. (2012). For the Record: Public records of Senate Deliberations on the Cybercrime Prevention bill. Retrieved from <http://www.gov.ph/2012/10/03/for-the-record-public-records-of-senate-deliberations-on-the-cybercrime-prevention-bill/>

¹¹Jose Jesus M. Disini, Jr., et al. vs.. The Secretary of Justice, et al. G.R. No. 203335, February 18, 2014

¹²Santos Relos, Gel (2014, February 26). Does Online Libel Curtail Freedom of Expression. *Asian Journal*. Retrieved from <http://asianjournal.com/editorial/does-online-libel-curtail-freedom-of-expression/>

¹³Jose Jesus M. Disini, Jr., et al. vs.. The Secretary of Justice, et al. G.R. No. 203335, February 18, 2014

¹⁴The ten nations (2011). *The Ten Nations Where Facebook Rules In The Internet*. Retrieved from 247wallst.com/technology-3/2011/05/09/the-ten-nations-where-facebook-rules-the-internet

¹⁵Universal McCann. (2014) *Wave8: The Language of Content*. [PDF Format]. Retrieved from http://wave.umww.com/assets/pdf/wave_8-the-language-of-content.pdf.

¹⁶Danah M. Boyd and Nicole B. Ellison. (n.d). *Social Network Sites: Definitions, History and Scholarship* [PDF format]. Retrieved from www.danah.org/papers/JCJMCintro.pdf.

Recent researches and news confirm that the Philippines is still the social media capital of the world¹⁷ and Facebook is one of the most popular networking sites used in the country.¹⁸ According to reports there are 36,980,250 Filipino Facebook users¹⁹ and it is believed that “five Filipinos open a Facebook account every five (5) minutes”.²⁰ The presence of cheap digital gadgets like tablets and smartphones may be associated to the cause of such fact. What makes Facebook very popular in the Philippines is the fact that it can share up-to-date if not real time information, news, or pictures to family and friends (one may include strangers depending on the settings). This reality makes interaction better and bonds stronger especially if they are located in different places, as many Filipinos are situated overseas to work or study.²¹ It can be surmised that Filipinos use now a different method of communication to freely express themselves or impart certain parts of their lives.

The expanded forms related to the freedom of expression or communication can be linked to the adaptation of Filipinos to modernity. Still, it includes but is not limited to speaking or writing one’s opinion, reactions, comments, or beliefs. In the Philippines, this freedom of expression is a right and it exists together with laws that either give rise to the very life of other laws or limits the exercise of such right.

Pertinent provisions of the laws related to the subject matter include:

A. On protection of the right

No law shall be passed abridging the freedom of speech, of expression and of the press and the right of people to peaceably assemble to petition the government for the redress of grievances.²²

B. On the limitation of the use of rights

The following provision is also known as the principle of abuse of rights. This provision sets the standard in exercising one’s rights as the one who is granted a right cannot use the latter without observing the responsibility imposed with it.

Every person must, in the exercise of his rights, and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.²³

C. On the criminal prosecution when one abused the use of such right to defame others

Definition of Libel. Libel is defined “as a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause dishonor, discredit or contempt of a natural or juridical person, or to blacken the memory of one who is dead.” In libel, publication is a requirement, which must be in writing or similar means. On the other hand, slander constitutes oral defamation under Article 358 of the Revised Penal Code. Libel and slander are punishable by imprisonment (prison correccional).²⁴

Requirement for publicity. - Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and

2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of confidential nature, or of any statement, report

¹⁷Universal McCann. (2014) *Wave8: The Language of Content*. [PDF Format]. Retrieved from http://wave.umww.com/assets/pdf/wave_8-the-language-of-content.pdf.

¹⁸The ten nations (2011). *The Ten Nations Where Facebook Rules In The Internet*. Retrieved from 247wallst.com/technology-3/2011/05/09/the-ten-nations-where-facebook-rules-the-internet.

¹⁹Greene, R and Pagulayan, R. (n.d) *Harvard Study Finds 80.13% of Filipino Facebook Users Are Dumb; 4.36 Lacks Etiquette*. Retrieved from www.thephilippinepride.com/harvard-study-finds-80-13-of-filipino-facebook-users-are-dumb-4-36-lacks-etiquette/.

²⁰Five Filipinos (2012). 5 Filipinos Open A Facebook Account Per Minute. Retrieved from <http://www.rappler.com/life-and-style/2609-5-filipinos-open-a-facebook-account-per-minute/>.

²¹Cordova, J. (2011) *Why Facebook is Hugely Popular in the Philippines*. Asian Correspondent. Retrieved from <http://asiancorrespondent.com/54522/why-facebook-is-hugely-popular-in-the-philippines/>.

²²Sec. 4, Article III, 1987 Philippine Constitution.

²³Sec. 19, New Civil Code of the Philippines.

²⁴Art. 353, Revised Penal Code of the Philippines.

or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.²⁵

Libel means by writings or similar means. - A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by prison correctional in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.²⁶

D. A special law punishing libel through the use of internet

RA 10175, specifically the provision on online libel gives direct reference to the provision of libel in Revised Penal Code

Libel. - The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future.²⁷

Online Libel in the Philippines: The Crime on a Keyboard

Wave8, a recent study by Universal McCann, articulates that people use social networking sites or social media (in a broader perspective) to satisfy their needs for relationship, diversion, progression, recognition, and learning. It states that activities in social networking sites vary to attain these needs but the study concluded that the need for recognition has a huge impact on the reason of using SNS. It further states that people actually “invest emotionally on things they share online” and they “care deeply about how things they share are received by others” as well as their online reputation.²⁸ These things are not visible through physical actions but can be discernible through the contents of one’s reactions or comments in one’s posts. An SNS user believes that he/she has earned other’s respect through their positive response because of their likes and positive comments; however, its reverse might affect a person who may consider negative comments insulting or degrading to his/her reputation.²⁹

Because one has a freedom to share anything online about themselves or their opinions, some Filipinos believe that the power of free expression through this medium is too much for them to handle as they may receive statements which are not pleasing to them. On the other hand, some may really tend to abuse such right. This dichotomy may now give rise to a possible case of a language crime in the context of online libel.

Language crimes are “crimes which consider mere writing or uttering of specific words as sufficient to be considered as offenses having criminal intent and in which language is the major source of incrimination unless the contrary is proved”.³⁰ Just like in other countries, these kinds of crimes exist in the Philippines such as bribery, slander, and libel with the latter having been expanded to include those published online as a result of the technological growth and development of new ways of communication through the Social Networking Sites and applications.

In the Philippines, one tends to file a case for libel or slander when he/she feels that certain words are published or uttered to defame him/her, or sometimes words are just too harsh or insulting to the point of attacking one’s person’s dignity (commonly termed in the Philippines as “*yurakan ang pagkatao*”). Especially now that many Filipinos have at least one social media account where they can speak their mind freely, “it must be stressed that words which are merely insulting are not actionable as libel or slander per se and mere words of general abuse however opprobrious, ill-natured, or vexatious whether written or spoken, do not constitute a basis for an action for defamation for special damage. The fact that the language is offensive to the plaintiff does not make it actionable itself”.³¹

²⁵Art. 354, Revised Penal Code of the Philippines.

²⁶Art. 356, Revised Penal Code of the Philippines.

²⁷Section 4, RA 10175.

²⁸Universal McCann. (2014) *Wave8: The Language of Content*. [PDF Format]. Retrieved from http://wave.umww.com/assets/pdf/wave_8-the-language-of-content.pdf.

²⁹Universal McCann. (2014) *Wave8: The Language of Content*. [PDF Format]. Retrieved from http://wave.umww.com/assets/pdf/wave_8-the-language-of-content.pdf.

³⁰Jasim, Dr. Basim. (2011) Part 1: Detecting Language Crime - the possible contribution of forensic linguistics. Retrieved from <https://www.youtube.com/watch?v=jjlAMldhSzs>.

³¹MVRS Pub. Inc. vs. Islamic Da’wah Council, et al., G.R. No. 135306, January 28, 2003.

So, what constitutes the case of online libel? How do you identify if a statement is libelous or how can one avoid being accused of such?

To detect the said language crime, an analysis of its elements is important. The provision of online libel gave reference to the crime of libel from the Revised Penal Code; thus, the elements in the latter law were considered.³²

The Analysis of the Elements of Online Libel through an Interdisciplinary Approach

Since the content of the posts is the main argument of the crime, certain subjects from other disciplines like Language Studies, Sociology, and Psychology are incorporated with the provisions of law and cases to further determine the existence of the elements for proper prosecution of the crime.

The following are the elements of libel/online libel:

- a. The imputation must be defamatory;
- b. The imputation must be made publicly (through internet such as social media, etc);
- c. The imputation must be malicious; and
- d. The person defamed must be identifiable³³

First Element: There Must be a Defamatory Imputation

Defamation means the “offense of injuring a person’s character, fame or reputation through false and malicious statements. It is the publication of anything which is injurious to the good name or reputation of another or tends to bring him into disrepute”.³⁴

The imputation can cover any of the following: a) Crime allegedly committed by the offended party; b) Vice or defect, real or imaginary, of the offended party; c) Any act, omission, condition, status of, or circumstance relating to, the offended party which tend to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.³⁵ Some examples include: “branding somebody as having murdered his brother-in-law; calling one a bigamist and becoming rich overnight through questionable transactions are obviously libelous and slanderous for they are malicious imputations of criminal acts tending to cause dishonor, discredit and contempt of the complainant.”³⁶ Also, “a letter addressed to a lawyer was found libelous for using the words such as “lousy”, “inutile”, “carabao English”, “stupidity” and “satan” which cast aspersion on the character, integrity, and reputation of respondent as a lawyer and exposed him to public ridicule”.³⁷ “The word fool or crazy becomes defamatory if used to connote mental aberration”.³⁸ “The word “*mangkukulam*” (a witch) is undoubtedly an epithet of opprobrium. To say that the complainant is a witch or sorceress is to impute to her a vice, condition or status that is dishonorable and contemptible”³⁹ because she is being accused of using black art.

The concept of semantics, pragmatics and discourse analysis in the field of Critical Language Studies is greatly appreciated in the determination of the first element. Semantics focuses on the meaning of word per se as a result of sentence structure while Pragmatics takes into account the meaning of words as used in the sentence or that particular occasion (Horn and Ward, 2004, p.197).⁴⁰ Meanwhile, Critical Discourse Analysis (CDA) as defined by Fairclough is a discourse analysis that explore systematically the opaque relationships between (a) discursive practices, events, and texts, and (b) wider social and cultural structures, relations and processes; to investigate how such practices, events, and texts arise out of and are ideologically shaped by relations of power and struggles over power; and to explore how the opacity of these relationships between discourse and society is itself a

³²Article 353, Revised Penal Code.

³³Mendez vs. Court of Appeals and People of the Philippines G.R. No. 124491, June 1, 1999.

³⁴MVRS Pub. Inc. vs. Islamic Da’wah Council, et al., G.R. No. 135306, January 28, 2003.

³⁵Article 353, Revised Penal Code.

³⁶People vs. Dianalan, 13 C.A. Rep. 34.

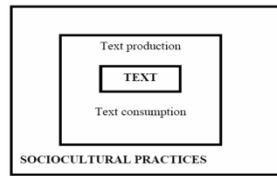
³⁷Buatis Jr. vs People, G.R. No. 142509, March 24, 2006.

³⁸People vs. Lladoc, CA-G.R. No. 01432-CR, April 16, 1962.

³⁹People vs. Carmen Sario, G.R. No. L-20754 and G.R. No. L-20753, June 30, 1966.

⁴⁰Horn L. and G. Ward (2004) *The handbook of pragmatics*, Massachusetts: Blackwell.

factor securing power and hegemony⁴¹ (1995a, p. 135, in Abalos, 2009). This concept may further be explained through the following diagram:



Text is the written utterance per se - the post or statement itself. Analysis of text involves linguistic analysis in terms of vocabulary, grammar, semantics, the sound system, and cohesion-organization above the sentence level⁴² (Fairclough, 1995b, p. 57 in Abalos, 2009). Text production and text consumption facet is the interaction of the writer and reader or receiver of the written statement which is greatly affected by the sociocultural practices of the place where the statement is uttered or published.

To evaluate whether one's post or statement is defamatory, certain tests are applied through the use of the above-mentioned concepts. In identifying defamation, it is important that one must consider the construction of words and the meaning they convey as employed by pragmatics. Words used are "construed in their entirety or as a whole"⁴³ and "taken in their plain, natural, and ordinary meaning as they would naturally be understood by persons reading them unless it appears that they were used and understood in another sense".⁴⁴ "It is not necessary that the defamatory imputation be in certain and expresses terms".⁴⁵ "Whether the statement is libelous depends upon the scope, spirit, and motive of the publication taken in its entirety".⁴⁶

Fairclough's framework could further support the detection of defamatory imputation through the relationship between text production (producer) and text consumption (consumer). In this case, the intention of the writer is immaterial as the question is not what the writer of an alleged libel means, but what is the meaning of the words he has used or conveyed to those who heard or read them⁴⁷ with the two facets influenced by the social cultural practices in the Philippines as what is taken into consideration is "what the meaning that the words in fact conveyed on the minds of persons of reasonable understanding, discretion and candor, taking into consideration the surrounding circumstances which were known to the hearer or reader".⁴⁸

Second Element: There Must be Publication of the Defamatory Imputation

Publication is the "communication of the defamatory matter to some third person or persons".⁴⁹ Libel is published "not only when it is widely circulated, but also when it is made known or brought to the attention or notice of another person other than its author and the offended party".⁵⁰ It is considered publication when a person "parts with possession of the article or statement under circumstances or make arrangements, whereby the same may be adequately read by a person or persons other than the victim".⁵¹ This can be referred to as the "Text" in Fairclough's Critical Discourse Analysis framework.

According to Article 355 of the Revised Penal Code, libel may be committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any other similar means. As stated earlier, the new generation has now access to new

⁴¹Fairclough p.135 as cited in Abalos (2009). *The Male Body as a Commodity: Empowering or Oppressing Women A Critical Discourse Analysis of Male Bodies Presented in a Female Magazine*.

⁴²Fairclough p.135 as cited in Abalos (2009). *The Male Body as a Commodity: Empowering or Oppressing Women A Critical Discourse Analysis of Male Bodies Presented in a Female Magazine*.

⁴³Jimenez vs. Reyes, 27 Phil. 52 (1914).

⁴⁴Novicio vs. Aggabao, 463 Phil. 510, 516 (2003).

⁴⁵Sazon vs. Court of Appeals and People of the Philippines, G.R. No. 120715, March 29, 1996 citing U.S. vs. O'Connell, 37 Phil. 767(1918).

⁴⁶Imperial, et al vs. The Manila Publishing Co, Inc., et al, 13 C.A. Rep 990.

⁴⁷U.S. vs. Sotto, 38 Phil 52 (1918).

⁴⁸People vs. Encarnacion, C.A. 48 O.G. 1817.

⁴⁹People vs. Atencio, CA-G.R. Nos. 11351-R to 11353-R, Dec. 14, 1954.

⁵⁰U.S. vs. Ubinana, 1 Phil. 471 (1902).

⁵¹Regalado, Florenz, (2009). *Criminal Law Conspectus*. Quezon City: National Book Store, Inc.

forms of communication through the internet, specifically social media. A post or comment in social media is considered as a publication because it is viewed by many social media users than the targeted person.

Third Element: There Must be Malice

Malice is a term used to “indicate the fact that the offender is prompted by personal ill-will or spite and speaks not in response to duty, but merely to injure the reputation of the person defamed”.⁵²

There are two kinds of malice considered in the Philippine law – malice in law, which is presumed from a defamatory imputation by the defendant; thus proof of malice is not required⁵³ and malice in fact, which denotes that the defendant was actuated by “ill-will or personal spite”⁵⁴ as may be “shown by proof of ill-will, hatred or purpose to injure”⁵⁵ to be presented and proved by the prosecution .

Since malice is a condition of the mind, it is not expressed but only be learned through statements of the person itself as it is implied. Malice is established either by presumption or by proof.⁵⁶

Subfields in Sociology and/or Psychology can further help in the examination of contents to determine whether there is in fact malice considering the surrounding circumstances. More often than not, a person writing a post, comment, or reaction is known to the person receiving it or targeted by it (unless one is a public figure). The social interaction, defined as the way “persons or group act with one another”⁵⁷ or even their individual backgrounds (the one posting and one receiving or targeted by the post) can help in clarifying the presence of this element through the words or statements they used. In addition, the aspect of sociocultural practices in Fairclough’s diagram may be employed as concept of malice can be different from others.

Fourth Element: The Person Defamed Must be Identifiable

For libel to prosper, “it is essential that the victim be identifiable, although it is not necessary that he be named. It is enough if by intrinsic reference the allusion is apparent or if the publication contains matters of description or reference to facts and circumstances from which others reading the article may know that the plaintiff was intended, or if he is pointed out by extraneous circumstance so that persons knowing him could and did understand that he was the person referred to”.⁵⁸ “Where no one is named or accurately described in the article complained of, it is not sufficient that the offended party recognized himself as the person attacked or defamed; it must be shown that at least a third person could identify him as the object of the libelous publication”.⁵⁹ Fairclough’s framework is also applicable to identify this element as evidenced by the text production and text consumption dichotomy; the one allegedly producing the post in relation to the one allegedly targeted by the post.

An Example of the Application of Interdisciplinary Studies in Detecting the Language Crime

“Putang ina mo!”; “Putang ka!” and “Putang!” (Literally translated: Your mother is a whore or prostitute! Adulterous Mother!; You are a whore or prostitute! and Whore!)

“*Putang ina mo!*” is a profane slang statement which is on top of the list of dirty words that Filipinos use.⁶⁰ Putang is a Spanish term which the Filipinos borrowed to refer to a moment in history where Spanish friars copulated with Filipinas and resulted to bastardization of good-looking Filipinos; hence, the negative connotation of the word. On the other hand, it can be considered as a mere expression of many Filipinos during a moment of extreme reactions and it is an accepted part of the

⁵²U.S. vs. Canete, 38 Phil. 253 (1918).

⁵³1st paragraph, Art. 354, RPC.

⁵⁴U.S. vs. Cañete, 38 Phil 253 (1918).

⁵⁵U.S. vs. Montalvo, 29 Phil 595 (1915).

⁵⁶People vs. Andrada, C.A., 37 O.G. 1783.

⁵⁷Garcera, Y. (n.d) Group Interaction and Social Processes [Powerpoint Presentation]. Retrieved from <http://www.slideshare.net/hersheyssa/group-interaction-and-social-processessociology-ppt>.

⁵⁸Corpus vs. Cuaderno, Sr., 16 SCRA 807 (1966).

⁵⁹Kunkle vs. Cablenews-American, 42 Phil. 760 (1922).

⁶⁰Top Pinoy Dirty Words(2013) In The Walrus. Retrieved from <https://www.facebook.com/AkoSiWalrus/posts/411220052295824>.

culture⁶¹ since usually one hears or writes these foul words either positively or negatively as in cursing someone while in a disagreement or argument⁶² or extreme delightment⁶³. The word “*puta*” does not necessarily connote the crime of prostitution, as previously defined in Article 202 of the Revised Penal Code.⁶⁴ As a rule, “the word is merely an expression of disgust or displeasure”⁶⁵ and does not in itself constitute an oral defamation or when written or published considered as libel. “It is seldom, if ever, taken in its literal sense by the hearer, that is, as a reflection on the virtues of a mother.”⁶⁶

Employing the concepts stated above, the following posts are compared and analyzed in order to detect the presence of the elements that may determine if the use of the profane word is libelous or not.

A status post from a Facebook user written on September 1, 2012 addressed to a Facebook user Miss Lal-lo 2012:

“a.k.a. kabit at pokpok... _____puta... malapit na karma mo puta...kasing baboy nang ugali mo...puta...kapal talaga ng mukha mo gaga...yan ang napala sa inyo... makasalan kase kayo ng asawa ko bobo kaya pati yun walang kaalam alam nadadamay sa kababuyan ninyo at kamalasan bobo na pokpok na kabit...hayup ka na _____ nagbasa ka na nang bible...oh ano maliwanag na ba sa yo bobo na ang mga kabit hindi tangap nang diyos bobo...ang mga katulad mo na pokpok, puta at lalo na sa kabit sa teacher kagaya mo gaga...yan ang maling mali na nakalagay sa bible...bobo ang asan na napunta anak mosa taba mo gaga...hahahahaahha.....bobo na fuck you...ano ganda sinasabi mo gaga eh laspag kana gaga...ganyan ang mga kabit...wait for your karma...tandaan mo may asawa yan teacher na yan at may anak...dadalhin mo yan gaga...tandaan mo pokpok na puta kabit...hindi ka pa tapos sa akin puta...putang pokpok...or putangkabit..kabit..kabit....fuck you _____ laspag na uki mo gaga.....puta ka talaga....proud kabit na putang pokpok.... _____”⁶⁷

Vis- a- vis, a post from Facebook users written June 22, 2013 and January 29, 2013 respectively which states:

“Putang ka Nicole, hahaha”⁶⁸ or NOYNOY RESIGN, Putang ka pinamahal mo yosi. HAHAHA”⁶⁹

It can be assumed that the statements in the first example is libelous while the second one is not libelous through the examination of the presence of the elements of the crime using primarily Fairclough’s diagram.

⁶¹Chinocracy. (2013). Putang ina Explesive That Defines. Retrieved from <http://chinocracy.blogspot.com/2013/02/putang-ina-expletive-that-defines.html>.

⁶²Shaveler180 and Jeo180.(n.d). Filipinos Misused Words. Retrieved from <http://www.bubblews.com/news/2451728-filipinos-misused-words;>

⁶³Chinocracy. (2013). Putang ina Explesive That Defines. Retrieved from <http://chinocracy.blogspot.com/2013/02/putang-ina-expletive-that-defines.html>.

⁶⁴People vs. Atienza, G.R. No. L-19857, October 26, 1968, (provision of the law on prostitution has now been repealed.

⁶⁵Reyes v. People, G.R. L-21528-29, March 28, 1969.

⁶⁶Reyes v. People, G.R. L-21528-29, March 28, 1969.

⁶⁷Translated as: a.k.a. mistress and whore..... _____ your karma is near whore.... as foul as your attitude...whore...shameless stupid...good thing that happened to you...you and my husband are sinners...you even joined in your disgusting acts and misfortunes those who does not know anything stupid mistress whore...you are an animal _____ read the bible...is it is clear stupid that mistresses are not welcomed by the lord stupid...woman like you who are a whore, prostitute at a mistress of a teacher like you stupid...that is most wrongful act in the bible... stupid.. where did your brain go...in your fats stupid... hahahahaahha... stupid fuck you...you are referring to what beauty...you are overused stupid...whores are like that...wait for your karma...remember that guy is a teacher who has a wife and kid...you will take that as a burden...remember that whore and a prostitute mistress...im not yet finished with you mistress....whore...whore...whore...whore...fuck you _____ your vagina is overused stupid....you are really a whore....a proud whore mistress _____ (Original texts are all in Uppercase, but due to publication purposes these are changed to Lowercase.)

⁶⁸Translated as “You are a whore nicole. hahaha”.

⁶⁹Translated as “NOYNOY RESIGN, You are a whore, you made cigarettes expensive. HAHAHA”.

The text aspect is acknowledged as evidenced by its publication since they are seen “on the wall” of a certain social media user and can be viewed by another user. The relationship between the text production and text consumption can be viewed in the way that victim (targeted person) is identifiable as her name was stated with particularity by the Facebook user (the writer of the post).

The presence of the remaining elements of defamatory remarks and malice reflect the socio-cultural practices that can be a determining factor of the existence of libelous statement. The latter is further supported by the assessment of the social interaction and background between the parties.

Assessing the language used in the first example, it can be perceived that the negative connotation of the word is the one referred to and there is a motive of defamation since the one who posted the comment tried to degrade the other’s persona by calling her a mistress, an animal and even other profane words in addition to the word “puta”. Malice is evident in the posts of the writer because their social connection is obviously a strained one as supported by other statements alleged by the Facebook user posting the status to such an extent implying that she really knows what she is referring to and the phrase “im not yet finished with you”. One should remember that even if a statement is true or a fact, it can be libelous if there is no good intention or justifiable motive that accompanies the publication⁷⁰ which in this case is apparent.

On the other hand, in the second example, the word “puta” is used as a reaction to something that happened. The word is not said in an insulting context due to the “hahaha” statement that followed it. It can be deduced that the word was said without malice because of the social interaction between parties.

Conclusion

Humans are social beings. People interact with one another through different forms of communication. As time changes, technology keeps pace with it. Technology progresses and computer applications are developed to satisfy the need of people to connect with one another with just a click away. While one has the freedom to express and share any aspect of their lives in the internet, one must remember the obligation to be respectful of others and responsible in what they share or post especially in Social Networking Sites. The provisions of online libel in RA 10175, though controversial, may now be viewed differently since it is in operation as of the moment. Instead of being threatened, Filipinos may avoid being accused through the incorporation of subfields from different disciplines in the analysis of its elements like Language studies and Social Sciences. The determination of the presence of elements like defamation or even malice can now be comprehended by Filipinos in order to defend themselves from prosecution of such crime (or even prosecute others in appropriate cases) and they can still fully enjoy and exercise the right of freedom of expression through Social Networking Sites like Facebook.

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⁷⁰Alonzo vs. Court of Appeals, People of the Philippines, et al., G.R. No. 110088, February 1, 1995.