

## Libel on the Internet under Philippine Law

First, the disclaimer. This is not intended as lawyerly advice. Neither does it refer a specific case or circumstance. Much less can this be considered as an offer to provide **legal services** or to advocate anything. It's just one person's opinion on a matter of increasing interest to bloggers and other denizens of cyberspace: what constitutes internet libel in the context of Philippine laws.

How is libel defined under Philippine laws? Article 353 of the Revised Penal Code defines libel 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 the dishonor, discredit or contempt of a natural or juridical person, or to blacken the **memory** of one who is dead".

For an imputation then to be libelous, the following requisites must concur: (a) it must be defamatory; (b) it must be malicious; (c) it must be given publicity; and (d) the victim must be identifiable.

If you call someone a scum-sucking, slimeball, swindling pimp, even if this is fairly accurate, and post it online, you may be sued for making libelous statements.

Defamatory words are those calculated to induce the hearers or readers to suppose and understand that that the person or persons against whom they were uttered were guilty of certain offenses, or are sufficient to impeach their honesty, virtue or reputation, or to hold the person or persons up to public ridicule. Philippine law also presumes every defamatory imputation to be malicious, even if true, if no good intention and justifiable motive for making it is shown (Article 254 of the Revised Penal Code). Malice exists when there is an intentional doing of a wrongful act without just cause.

The libel must be given publicity, circulated or publicized. Postings in a forum, message board or blog can certainly be considered as publication. Lastly, the victim or offended party must be identifiable.

What would be the liability of **service providers** for libelous acts committed by clients ?

Under Republic Act no. 8792, otherwise known as the **Electronic Commerce Act**, a party or person acting as a **service provider** incurs no civil or criminal liability in the making, publication, dissemination or **distribution** of libelous material if:

a) the service provider does not have actual knowledge, or is not aware of the facts or circumstances from which it is apparent that making, publication, dissemination or distribution of such material is unlawful or infringes any rights; b) the service provider does not knowingly receive a financial benefit directly attributable to the infringing activity; c) the service provider does not directly commit any infringement or other unlawful act and does not induce or cause another person or party to commit any infringement or other unlawful act and/or does not benefit financially from the infringing activity or unlawful act of another person or party (Section 30, in relation to Section 5, **E-Commerce** Law)

Hence, a service provider should not be held liable if he has no actual knowledge of the libel, does not benefit financially from the unlawful act or does not directly commit the libelous act or induce someone to do so. Of course, once the service provider gains actual knowledge of the libel, timely steps must be taken, within the service provider's authority, to remove the offending material by warning the perpetrator and, if all else fails, terminating the offender's account. By acting speedily on the matter, the service provider shows good faith and that it does not condone the libelous acts.

A fundamental sense of fairness and simple good manners and right conduct is usually enough to keep you, a good netizen, out of trouble.

ref.: <http://thewarriorlawyer.com/2007/02/20/libel-on-the-internet-under-philippine-law/> & <http://thewarriorlawyer.com/2007/03/04/libel-on-the-internet-under-philippine-law-part-ii/>

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