

Primer on the Anti-Photo and Video Voyeurism Act of 2009 (RA 9995)

There's an alarming rise in reported complaints of nude photos, mostly of women, being posted without the consent of the subjects in social networking sites such as [facebook](#). There's also a proliferation of sex scandals and sex videos. One of the usual complaints filed against the offenders is under **Republic Act No. 9995**, also known as the "**Anti-Photo and Video Voyeurism Act of 2009**". Here's a primer on this anti-voyeurism law.

What is the definition of "photo or video voyeurism"?

It is the act of taking photo or video coverage of a person or group of persons performing sexual act or any similar activity or of capturing an image of the private area of a person or persons without the latter's consent, under circumstances in which such person/s has/have a reasonable expectation of privacy, or the act of selling, copying, reproducing, broadcasting, sharing, showing or exhibiting the photo or video coverage or recordings of such sexual act or similar activity through VCD/DVD, internet, cellular phones and similar means or device without the written consent of the person/s involved, notwithstanding that consent to record or take photo or video coverage of same was given by such person's.

That's a very long definition. Please enumerate the specific acts prohibited and punished under the "Anti-Photo and Video Voyeurism Act of 2009".

1. To take photo or video coverage of a person or group of persons performing sexual act or any similar activity or to capture an image of the private area of a person/s such as the naked or undergarment clad genitals, pubic area, buttocks or female breast without the consent of the person/s involved and under circumstances in which the person/s has/have a reasonable expectation of privacy.
2. To copy or reproduce, or to cause to be copied or reproduced, such photo or video or recording of sexual act or any similar activity with or without consideration. It is immaterial if consent to record or take photo or video coverage of the same was given by such person/s.
3. To sell or distribute, or cause to be sold or distributed, such photo or video or recording of sexual act, whether it be the original copy or reproduction thereof. It is immaterial if consent to record or take photo or video coverage of the same was given by such person/s.
4. To publish or broadcast, or cause to be published or broadcast, whether in print or broadcast media, or show or exhibit the photo or video coverage or recordings of such sexual act or any similar activity through VCD/DVD, internet, cellular phones and other similar means or device. It is immaterial if consent to record or take photo or video coverage of the same was given by such person/s.

The first act speaks of "circumstances in which a person has a reasonable expectation of privacy", what does this mean?

It means circumstances in which a reasonable person would believe that:

1. he/she could disrobe in privacy, without being concerned that an image or a private area of the person was being captured; or
2. a private area of the person would not be visible to the public, regardless of whether that person is in a public or private place.

What do you mean by "private area of a person"?

It means the naked or undergarment clad genitals, pubic area, buttocks or female breast of an individual.

If there's an undergarment (e.g., brief or panty) covering the private parts, is this still covered by the law?

Yes. Based on the definition above, the genitals, pubic area, buttocks or female breast of an individual may be naked or clad with undergarment.

What is the meaning of “capture”?

With respect to an image, it means to videotape, photograph, film, record by any means, or broadcast.

What if the other person was aware of and consented to the taking of the photograph?

Even if there was consent to the taking of the photo, if there is no consent to the sharing or exhibition, then the offending party would still be liable.

What do you mean by “broadcast”?

“Broadcast” means to make public, by any means, a visual image with the intent that it be viewed by a person or persons.

What if the photo shows the breasts of a man, is this covered by the law?

No. The law only covers female breasts.

If the photo shows only the side of a female breast, without the nipple, is this still covered by the law?

Yes. The term “female breast” includes “any portion of the female breast”.

What is the penalty for committing any of the prohibited acts?

The court has the discretion to impose:

1. Imprisonment of not less than three (3) years but not more than seven (7) years, or
2. A fine of not less than P100,000 but not more than P500,000, or
3. Both.

Are these materials admissible in evidence?

As a general rule, no. The record, photo or video, or copy thereof, obtained or secured by any person in violation of this law shall not be admissible in evidence in any judicial, quasi-judicial, legislative or administrative hearing or investigation.

However, any peace officer may secure an order of the court to use the record or any copy thereof as evidence in any civil, criminal investigation or trial of the crime of photo or video voyeurism. The written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he/she may produce, and upon showing that there are reasonable grounds to believe that photo or video voyeurism has been committed or is about to be committed, and that the evidence to be obtained is essential to the conviction of any person for, or to the solution or prevention of such, crime.

Ref.: <http://jlp-law.com/blog/primer-on-the-anti-photo-and-video-voyeurism-act-of-2009-ra-9995/>

Look also here: www.law.aboutphilippines.ph

