

REPUBLIC ACT NO. 8353

AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as "The Anti-Rape Law of 1997."

SEC. 2. *Rape as a Crime Against Persons.* – The crime of rape shall hereafter be classified as a Crime Against Persons under Title Eight of Act No. 3815, as amended, otherwise known as the Revised Penal Code. Accordingly, there shall be incorporated into Title Eight of the same Code a new chapter to be known as Chapter Three on Rape, to read as follows:

"Chapter Three

"Rape

"Article 266-A. Rape; When And How Committed. – Rape Is Committed –

"1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:

"a) Through force, threat, or intimidation;

"b) When the offended party is deprived of reason or otherwise unconscious;

"c) By means of fraudulent machination or grave abuse of authority; and

"d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

"2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person.

"Article 266-B. Penalties. – Rape under paragraph 1 of the next preceding

article shall be punished by reclusion perpetua.

"Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be reclusion perpetua to death.

"When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be reclusion perpetua to death.

"When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion perpetua to death.

"When by reason or on the occasion of the rape, homicide is committed, the penalty shall be death.

"The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

"1) When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim;

"2) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution;

"3) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;

"4) When the victim is a religious engaged in legitimate religious vocation or calling and is personally known to be such by the offender before or at the time of the commission of the crime;

"5) When the victim is a child below seven (7) years old;

"6) When the offender knows that he is afflicted with Human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;

"7) When committed by any member of the Armed Forces of the Philippines or para-military units thereof or the Philippine National Police or any law enforcement agency or penal institution, when the offender took advantage of his position to facilitate the commission of the crime;

"8) When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability;

"9) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and

"10) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

"Rape under paragraph 2 of the next preceding article shall be punished by prision mayor.

"Whenever the rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be prision mayor to reclusion temporal.

"When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be reclusion temporal.

"When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be reclusion temporal to reclusion perpetua.

"When by reason or on the occasion of the rape, homicide is committed, the penalty shall be reclusion perpetua.

"Reclusion temporal shall also be imposed if the rape is committed with any of the ten aggravating/qualifying circumstances mentioned in this article.

"Article 266-C. Effect of Pardon. – The subsequent valid marriage between the offender and the offended party shall extinguish the criminal action or the penalty imposed.

"In case it is the legal husband who is the offender, the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action or the penalty: Provided, that the crime shall not be extinguished or the party shall not be abated if the marriage is void ab initio.

"Article 266-D. Presumptions. – Any physical overt act manifesting resistance against the act of rape in any degree from the offended party, or where the offended party is so situated as to render her/him incapable of giving valid consent, may be accepted as evidence in the prosecution of the acts punished under Article 266-A."

SEC. 3. *Separability Clause.* – If any part, section, or provision of this Act is declared invalid or unconstitutional, the other parts thereof not affected thereby shall remain valid.

SEC. 4. *Repealing Clause.* – Article 335 of Act No. 3815, as amended, and all laws, acts, presidential decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly.

SEC. 5. *Effectivity.* – This Act shall take effect fifteen (15) days after completion of its publication in two (2) newspapers of general circulation.

Approved, September 30, 1997.