

THIRTEENTH CONGRESS)
OF THE REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

5 NOV -7 P5:59

SENATE
Resolution No. 364

RECEIVED BY: 

Introduced by Senator M. A. Madrigal

RESOLUTION

DIRECTING THE COMMITTEE ON YOUTH, WOMEN, AND FAMILY RELATIONS AND THE COMMITTEE ON NATIONAL DEFENSE AND SECURITY TO INVESTIGATE, IN AID OF LEGISLATION, WHETHER OR NOT THE RIGHTS OF FILIPINO WOMEN ARE ADEQUATELY PROTECTED AND GUARANTEED UNDER THE VISITING FORCES AGREEMENT (VFA) BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA IN THE LIGHT OF THE ALLEGED RAPE OF A FILIPINA BY SEVERAL U.S. SERVICEMEN INSIDE THE SUBIC FREEPORT ZONE

WHEREAS, the Government of the Republic of the Philippines entered into an Agreement with the Government of the United States of America Regarding the Treatment of the United States Armed Forces Visiting the Philippines, or the RP-US Visiting Forces Agreement ("VFA" for brevity), on 10 February 1998, which Agreement was ratified by the Philippine Senate on 27 May 1999;

WHEREAS, Article V, paragraph 1 (a) of the VFA states that Philippine authorities shall have jurisdiction over United States personnel with respect to offenses committed within the Philippines and punishable under the laws of the Philippines;

WHEREAS, rape under Republic Act No. 8353 is a crime against persons punishable under the laws of the Philippines;

WHEREAS, Article V, paragraph 3 (d) of the VFA on the concurrent exercise of criminal jurisdiction states that in recognizing the responsibility of the United States military authorities to maintain good order and discipline among their forces, Philippine authorities will, upon request by the United States, waive their primary right to exercise jurisdiction except in cases of particular importance to the Philippines, and that if the Government of the Philippines determines that the case is of particular importance, it shall communicate such determination to the United States authorities within twenty (20) days after the Philippine authorities receive the United States request;

WHEREAS, the foregoing provision of the VFA is now being put to the test in the case of a 22-year-old Filipina who was allegedly raped by several U.S. servicemen inside the Subic Freeport Zone last 01 November 2005;

WHEREAS, under the said provision, it is the U.S. government which can decide whether erring American personnel may be tried in Philippine courts under Philippine laws; thus, should an American soldier or civilian commit a crime in the Philippines under the VFA, he would not be subject to Philippine laws, nor can he be tried by Philippine courts, and therefore can only be detained in facilities acceptable to the American authorities;

WHEREAS, a similar incident transpired in Okinawa, Japan where a 12-year old girl was abducted and raped by three US servicemen, which spurred a national outrage in Japan over the U.S. military presence;

WHEREAS, succeeding rape incidents in Okinawa also involving U.S. servicemen have prodded the Japanese government to request for an earlier handover of the accused servicemen to their jurisdiction contrary to their existing agreement that a formal charge must be filed first before handover;

WHEREAS, the Japanese government insisted on enforcing their jurisdiction to the case the "Japanese way" and to which the U.S. government had favorably agreed to concede;

WHEREAS, there is a need to determine if our country's agreement with the US government is indeed an agreement amongst equals and that the rights of Filipinos particularly of women are protected;

WHEREAS, the alleged rape incident should not be treated as an isolated case and should be seen as an issue of major importance to the Philippines especially since this represents not only an assault on an individual but also an affront to our nation and to Filipino women, in particular, who seem to be viewed as mere commodities by our so-called "visitors;"

NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved, to direct the Committee on Youth, Women, and Family Relations and the Committee on National Defense and Security to investigate, in aid of legislation, whether or not the rights of Filipino women are adequately protected and guaranteed under the Visiting Forces Agreement (VFA) between the Government of the Republic of the Philippines and the Government of the United States of America.

Adopted,


M. A. MADRIGAL