

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

OFFICE OF THE SECRETARY

8 APR -6

SENATE
S.B. No. 2151

RECEIVED [Signature]

Introduced by Sen. Juan Ponce Enrile

EXPLANATORY NOTE

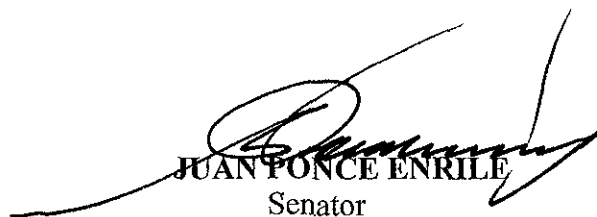
A study conducted in 2001¹ yielded that a total of 1,542 cases of rape involving minors were reported in the National Capital Region alone and this number is 8 times the number of reported cases published by the National Statistics and Census Board, with the Philippine National Police as the only source.

Significantly, among these, 252 cases involved those who were 7 years old and below; 260 cases involved children who were between 8 to 12 years old; and 697 cases (46.2% of the total cases documented by the said study) involved minors who were between 13 to 17 years old.

These statistics indeed raises serious concern considering the fact the United Nations Committee on the Rights of the Child has noted that statutory rape and sexual exploitation continue to be a major threat to the over-all security and well-being of Filipino children. Despite the enactment of laws protecting the basic rights and promoting the welfare of the Filipino children, many of them, particularly those who belong to the socially disadvantaged groups, including suspected child prostitutes, street children, drug addicts and the poor, continue to suffer from sexual abuse which demean their being and bring about humiliation and disgrace. More often than not, the perpetrators of these crimes remain at large and scot-free.

In order to correct this situation, this bill seeks to amend certain sections of the Revised Penal Code to raise the age of statutory rape from the current level to an internationally acceptable age level, not only so the Philippines can adhere to its commitment to international conventions to protect the child from all forms of sexual exploitation and sexual abuse. By raising the age of statutory rape from twelve (12) years old to sixteen (16) years old, we are essentially strengthening our resolve to protect a larger number of our minors from abusive and cruel members of our society and, at the same time, provide our youth and children the right environment where they can grow up as productive and helpful citizens of our country.

In view of the foregoing, the immediate passage of the bill is earnestly sought.


JUAN PONCE ENRILE
Senator

¹ Analysis of Rape Cases Committed Against Children and Women in the National Capital Region (NCR), Philippines by Winecito L. Tan (Department of Social Welfare and Development; United Nations Children's Fund)

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**AN ACT
MODIFYING THE DEFINITION OF THE CRIME OF RAPE INVOLVING MINOR
CHILDREN AND RATIONALIZING THE PENALTIES THEREFOR, AMENDING
FOR THE PURPOSE CERTAIN SECTIONS OF 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-Child Exploitation Law of 2008.*”

SEC. 2. Chapter Three, Title Eight, Article 266-A and Article 266-B of Act No. 3815 of the Revised Penal Code, as amended, are hereby amended to read as follows:

**Chapter Three
RAPE**

ART. 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 is otherwise unconscious;
 - c. By means of fraudulent machination or grave abuse of authority; and
 - d. When the offended party is under [twelve (12)] SIXTEEN (16) years of age or is demented, even though none of the circumstances mentioned above be present.

NO RAPE IS COMMITTED IF THE MAN WHO SHALL HAVE CARNAL KNOWLEDGE OF A WOMAN UNDER SIXTEEN (16) YEARS OF AGE IS HIMSELF BELOW EIGHTEEN (18) YEARS OF

AGE, UNLESS ANY OF THE OTHER CIRCUMSTANCES MENTIONED ABOVE IS PRESENT.

NO RAPE IS COMMITTED IF THE MAN IS A MUSLIM WHO SHALL HAVE CARNAL KNOWLEDGE OF A MUSLIM WOMAN WITH WHOM HE HAS CONTRACTED A VALID MARRIAGE UNDER THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1083.

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.

ART. 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 become *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)] TWELVE (12) years old;
6. When the offender knows that he is afflicted with the Human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or

any other sexually transmissible disease and the virus of 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 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 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 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 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 be imposed if the rape is committed by any of the ten aggravating/qualifying circumstances mentioned in this article.

SEC. 3. Chapter Three, Title Eleven, Article 337 and Article 338 of Act No. 3815, as amended, are hereby amended to read as follows:

Chapter Three

SEDUCTION, CORRUPTION OF MINORS AND WHITE SLAVE TRADE

ART. 337. *Qualified Seduction.* – The seduction of a FEMALE PERSON WHO IS A virgin over [twelve] SIXTEEN (16) years and under *eighteen years of age*, committed by any person in public authority, priest, home-servant, domestic, guardian, teacher, or any person who, in any capacity shall be entrusted with the education or custody of the woman seduced, shall be punished by [*prision correccional*] *PRISION MAYOR* in its minimum and medium periods.

The penalty next higher in degree shall be imposed upon any person who shall seduce his sister or descendant whether or not she be a virgin or over eighteen years of age.

Under the provisions of this chapter, seduction is committed when the offender has carnal knowledge of any of the persons and under the circumstances described herein.

ART. 338. *Simple Seduction.* -- The seduction of a female person [woman] who is single or a widow of good reputation, [over twelve (12)] AT LEAST SIXTEEN (16) but under eighteen years of age, committed by means of deceit, shall be punished by [*arresto mayor*] PRISION CORRECCIONAL.

SEC. 4. *Separability Clause.* -- If any part or provision of this Act is declared invalid or unconstitutional, the other parts thereof not affected thereby shall remain valid.

SEC. 5. *Repealing Clause.* -- Articles 226-A, 266-B, 337 and 338 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. 6. *Effectivity.* -- This Act shall take effect fifteen (15) days after completion of its publication in two (2) newspapers of general circulation.

Approved