


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

8 APR 17 1971

SENATE
S. No. 2172

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article II, Section 13 provides:

The State recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

The convention on the Rights of the Child provides for minimum standard of protection of children against sexual abuse and exploitation. The Philippines, in compliance with its state obligation has provided legislative measure to address the child sexual abuse and exploitation which the Committee on the Rights of the Child characterized as a "relatively advanced legal framework." Nevertheless, the Committee still has grave concerns about the sexual exploitation of children, including growing child prostitution, and the reported cases of child pornography in the state party."

More specifically, the Committee observes that the "minimum age of sexual consent" is not "clearly established" in the law and that the Penal code "imposes maximum penalties for sexual offenses when the victim is under twelve (12) years of age but imposes lower penalties for sexual offenses against minors over twelve (12) years of age." Thus, the Committee recommends that the Philippines review its domestic legislation on children's protection against sexual abuse and exploitation including providing equal sanctions to all sexual offenders. It likewise recommends that the Philippines "set a clearly defined minimum age of sexual consent at an internationally acceptable level in its domestic law."

Based on a comparative observation, the Philippines has one of the lowest minimum age established in determining statutory sexual abuses committed against children. Existing legislation also provides differential treatment on children in terms of

application of particular provisions of sexual abuse protection laws and in terms of imposition of these laws when a child is below or above the minimum age of consent.

Pursuant to the obligation of the Philippines under the Convention on the Rights of the Child, this bill amends the provision of the Penal Code by raising the minimum age of consent to determine statutory rape to below 16 years of age. In this regard, it amends or repeals the other provisions of the Penal Code, as well as special laws with the attempt to address the disparity in the treatment of those persons who are below twelve (12) years old and those twelve (12) years but below 18 years of age.

The Committee did not state the particular age that is acceptable at the international level but a comparative observation of other countries' laws around the world shows that the Philippines has one of the lowest minimum age for determining statutory rape.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

FOURTEENTH CONGRESS OF THE REPUBLIC)
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RECEIVED BY: [Signature]

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1 AN ACT
2 INCREASING THE AGE FOR DETERMINING STATUTORY RAPE AND OTHER
3 ACTS OF SEXUAL ABUSE AND EXPLOITATION TO PROVIDE STRONGER
4 PROTECTION FOR CHILDREN AND AMENDING FOR THIS PURPOSE ACT NO.
5 3815, AS AMENDED, ALSO KNOWN AS THE PENAL CODE

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

8 SECTION 1. *Short Title.* – This Act shall be known as the “Age of Statutory Rape
9 and Acts of Sexual Abuse Act of 2008.”

10 SECTION 2. The Penal Code, Article 266-A (1) (d) is hereby amended to read as
11 follows:

12 “Article 266-A. Rape – When and How Committed. Rape is committed:

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

15

16 (d) When the offended party is under SIXTEEN (16) [twelve (12)] years
17 of age or is demented, even though none of the circumstances mentioned above be
18 present.”

19 NO RAPE IS COMMITTED IF THE PERSON WHO SHALL HAVE CARNAL
20 KNOWLEDGE WITH ANOTHER WHO IS UNDER SIXTEEN (16) YEARS OF AGE
21 IS HIMSELF OR HERSELF UNDER EIGHTEEN (18) YEARS OF AGE; PROVIDED
22 THAT THE PERSON IS NOT MORE THAN TWO (2) YEARS OLDER THAN THE
23 VICTIM; PROVIDED FURTHER THAT NONE OF THE CIRCUMSTANCES,
24 MENTIONED IN PARAGRAPH 1 A, B, OR C ARE PRESENT.

1 SECTION 3. *Repealing Clause.* – Republic Act No. 7610 Section 5 (b), Act No.
2 3815 Articles 337, 338, 339, 342 and 343, and all laws, acts, presidential decrees,
3 executive orders, administrative orders, rules and regulations inconsistent with or
4 contrary to the provisions of this Act are deemed amended, modified or repealed
5 accordingly.

6 SECTION 4. *Separability Clause.* – If any provision of this Act is held invalid or
7 unconstitutional, the remainder of the Act or the provision not otherwise affected shall
8 remain valid and subsisting.

9 SECTION 5. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after
10 its publication in at least two (2) newspapers of general circulation.

11 Approved,

/jps