

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

SENATE

S.B. No. 2052

Introduced by Senator EDGARDO J. ANGARA

EXPLANATORY NOTE

Originally penalized under Article 335 of the Revised Penal Code as a felony against chastity, the felony of rape has been transferred to Articles 266-A up to 266-D, Title Eight, Book II of the RPC. Its inclusion in Title Eight of Book II indicates the vital change brought by RA 8353 or the "*Anti - Rape Act of 1997*" --- rape is now a felony against persons. It placed emphasis on the fact that rape is a violation of the dignity of every person, irrespective of gender. Under the present law, the felony of rape is committed in two (2) ways: a) carnal knowledge by a man of a woman, and b) sexual assault by one against another, regardless of gender.

The second mode is significant for it now recognizes rape thru the insertion of the "penis into another person's mouth or anal orifice," and rape thru the insertion of "any instrument or object, into the genital or anal orifice of another person." This proviso, however, did not contemplate a situation where a finger or any body part other than the genitalia is inserted into the female organ.

On 28 September 2000, the Department of Justice issued Memorandum Circular No. 22, providing guidelines on the interpretation of RA 8353. It opined that under the law "the insertion of a finger into a woman's vagina is not rape."

This issue was laid to rest when the Supreme Court in *People v Palma* [11 December 2003 (G.R. No. 148869-74)] ruled that insertion of a finger now constitutes rape with sexual assault.

Although the provision leaves no room for doubt as to its proper interpretation owing from the recent jurisprudence, Congress must still perform its task to amend the law and put in place the necessary wordings.

Therefore, I urge my colleagues to pass this measure.


EDGARDO J. ANGARA

1 **SEC. 2. *Separability Clause.*** If any provision of this Act or an application thereof
2 to any person or circumstance is held to be invalid, the other provisions of this Act, and
3 the application of such provision to other persons or circumstances, shall not be affected
4 thereby.

5
6 **SEC. 3. *Repealing Clause.*** All existing laws, orders, rules and regulations or
7 parts thereof deemed inconsistent with the provisions of this Act are hereby repealed,
8 amended, or modified accordingly.

9
10 **SEC. 4. *Effectivity Clause.*** This Act shall take effect fifteen (15) days following
11 its complete publication in the *Official Gazette* or in at least two (2) newspapers of
12 general circulation.

13
14 ***Approved,***