

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

}  
} 7 JUL -3 P5:29

SENATE

S. No. 867

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Introduced by SENATOR EDGARDO J. ANGARA

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**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.

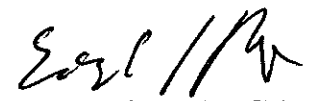
The second mode is significant for it now recognizes **rape thru the insertion of the "penis into another person's mouth or anal orifice,"** and **rape thru the insertion of "any instrument or object, into the genital or anal orifice of another person."** This proviso, however, did not contemplate a 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  
Senator

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**AN ACT AMENDING REPUBLIC ACT NO. 8353, OTHERWISE  
KNOWN AS "THE ANTI - RAPE LAW OF 1997"**

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

1       **SECTION 1.** Section 2 of Republic Act No. 8353, otherwise known as  
2 the "Anti - Rape Law" is hereby amended to read as follows:

3                               **Chapter III**

4                                       **RAPE**

5       **ART. 266-A. Rape, When and How Committed.** - Rape is  
6 committed-

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

9           a) Through force, threat, or intimidation;

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

12          c) By means of fraudulent machinations or grave abuse of  
13 authority;

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

17       2) By any person, who under any of the circumstances mentioned  
18 in paragraph 1 hereof, shall commit an act of sexual assault by  
19 inserting his penis into another person's mouth or anal orifice,  
20 or any instrument, [or] object, **OR ANY OTHER PART OF**  
21 **THE BODY** into the genital or anal orifice of another person."

22       **SECTION 2. Separability Clause.** If any provision of this Act or an  
23 application thereof to any person or circumstance is held to be invalid, the

1 other provisions of this Act, and the application of such provision to other  
2 persons or circumstances, shall not be affected thereby.

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

7  
8 **SECTION 4. *Effectivity Clause.*** This Act shall take effect fifteen (15)  
9 days following its complete publication in the *Official Gazette* or in at least  
10 two (2) newspapers of general circulation.

11  
12 *Approved,*