

Seventeenth Congress
Second Regular Session

HOUSE BILL NO. 6088



Introduced by Representative Ruby M. Sahali

EXPLANATORY NOTE

This bill seeks to further expand the definition of the crime of rape, amending for the purpose Act No. 3815, as amended, otherwise known as the "Revised Penal Code."

In 1997, Republic Act No. 8353, otherwise known as the "Anti-Rape Law of 1997" was passed to amend the crime of rape under the Revised Penal Code. Although the amendment classified rape as a crime against persons rather than a crime committed against honor, there are still issues which require further strengthening of the law to address the concerns of women rape victims.

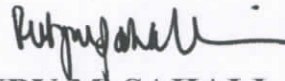
Presently, a woman rape victim encounters difficulty in filing charges because of the evidential rules concerning the crime of rape. More often, cases of rape are being dismissed in courts due to inability to prove beyond reasonable doubt that there was no consent. Consent must not only revolve around the woman's express refusal to engage in a sexual activity nor should it be presumed in the absence of overt physical effort to resist the act of rape.

The proposed measure is anchored on numerous jurisprudence of the Supreme Court which based its decisions on stereotype notion that a rape victim must employ physical resistance to counter sexual assaults. Likewise, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) noted that "*there should be no assumption in law or in practice that a woman gives her consent because she has not physically resisted the unwanted sexual conduct, regardless of whether the perpetrator threatened to use or used physical violence.*"

The proposed bill, therefore, enumerates circumstances manifesting resistance against the act of rape although the rape victims did not exert physical effort to counter unwanted sexual conduct. Consent shall not be presumed under these circumstances: 1) when the victim expressed verbal resistance; 2)

when the victim did not express verbal and/or physical resistance out of fear from physical harm and death threats; 3) when the victim has been drugged, intoxicated or otherwise unconscious during the commission of the act of rape; and 4) when the victim did not express any form of resistance due to physical and mental incapacity.

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



RUBY M. SAHALI

Lone District – Tawi-Tawi

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HOUSE BILL NO. **6088**

Introduced by Representative Ruby M. Sahali

AN ACT

FURTHER EXPANDING THE DEFINITION OF THE CRIME OF RAPE, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE “REVISED PENAL CODE”

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

SECTION 1. Article 266-A of the Revised Penal Code, as amended, is hereby further amended to read as follows:

“ART. 266 – A. *Rape, When and How Committed.* –

Rape is committed –

1. By **[a man]** ANY PERSON who shall have carnal knowledge of **[a woman]** ANOTHER PERSON WITHOUT THE LATTER’S CONSENT 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;

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

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]** THE penis, FINGER OR ANY PART OF

1 THE BODY, into another person's mouth or anal orifice, or any
2 instrument or object, into the genital or anal orifice of another
3 person."

4 SEC. 2. Article 266-D of the same Code, as amended, is hereby further
5 amended to read as follows:

6 "ART. 266-D. *Presumptions.* – Any physical overt act
7 manifesting resistance against the act of rape in any degree from
8 the offended party, or where the offended party is so situated as to
9 render him/her incapable of giving valid consent, may be accepted
10 as evidence in the prosecution of the acts provided under Article
11 266-A.

12 THE ABSENCE OF PHYSICAL RESISTANCE MUST
13 NOT BE TAKEN AS CONSENT ON THE PART OF THE
14 OFFENDED PARTY BUT ANY OF THE FOLLOWING
15 CIRCUMSTANCES MANIFEST RESISTANCE AGAINST THE
16 ACT OF RAPE:

17 A. WHEN THE VICTIM EXPRESSED VERBAL
18 RESISTANCE;

19 B. WHEN THE VICTIM DID NOT EXPRESS
20 VERBAL AND/OR PHYSICAL RESISTANCE OUT OF FEAR
21 FROM PHYSICAL HARM AND DEATH THREATS;

22 C. WHEN THE VICTIM HAS BEEN DRUGGED,
23 INTOXICATED, OR OTHERWISE UNCONSCIOUS DURING
24 THE COMMISSION OF THE ACT OF RAPE; OR

25 D. WHEN THE VICTIM DID NOT EXPRESS ANY
26 FORM OF RESISTANCE DUE TO PHYSICAL AND MENTAL
27 INCAPACITY."

28 SEC. 3. All laws, decrees, orders, rules and regulations and other
29 issuances or parts thereof which are inconsistent with the provisions of this Act

1 are hereby repealed, amended or modified accordingly.

2 SEC. 4. This Act shall take effect fifteen (15) days after its publication in
3 the *Official Gazette* or in a newspaper of general circulation.

4 Approved,