



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 1038

Introduced by 4Ps Partylist Representative
JC M. ABALOS

EXPLANATORY NOTE

Rape, a heinous criminal offense, is beyond being mere sexual violence; it is a grave transgression of an individual's human dignity. Lamentably, the majority of rape victims are women.

Republic Act No. 8353, also known as the Anti-Rape Law of 1997, brought about a significant transformation by reclassifying rape as a crime against persons instead of a crime against chastity. This profound shift meant that rape is no longer considered a private matter; it grant anyone with knowledge of the crime the authority to initiate legal proceedings on behalf of the victim, irrespective of whether the victim choose to pursue the case personally.

Despite the progressive intent, Article 266-C of the said law introduced the "forgiveness clause," which states that "the subsequent valid marriage between the offender and the offended party shall extinguish the criminal action of rape or the penalty imposed." This provision appears inconsistent with the law's reclassification of rape as a public crime. It raises the question: If criminal liability is extinguished by marriage or forgiveness in cases of already married couples, what is the purpose of converting it into a public crime if it hinders the State and other interested parties from pursuing legal proceedings?

Further, this provision, internationally recognized as the "marry-your-rapist" or "rape-marriage" law, was criticized by the United Nations for perpetuating

patriarchal norms – impeding women's agency in decision-making processes. While progress has been made globally in repealing or amending such laws, the 2021 United Nations Population Fund (UNFPA) report sadly noted that the Philippines, along with 19 other nations, maintains this type of legislation. Hence, considering its inconsistency with the current status of rape as a public crime under the Anti-Rape Law of 1997, the repeal of Article 266-C is warranted.

However, repealing the forgiveness clause alone is an insufficient legal remedy, given that the incidents of rape prior to marriage remain intact. Thus, it is imperative to introduce supplementary grounds for the annulment of marriages stemming from the commission of rape. Instances have arisen where victims are coerced into marrying their offenders, with some believing it can avert various forms of shame or adverse consequences. Although an existing ground for annulment exists when the consent of either party is obtained through force, intimidation, or undue influence, it does not adequately address the intricate and coercive nature of such scenarios when rape is involved. This bill then seeks to provide a legal remedy by adding the commission of rape by either party prior to marriage as a ground for annulment, acknowledging that the victim's initial consent was not freely given. This proactive measure is of paramount importance in bolstering the protection of victims, particularly those who may require additional time and resources to effectively initiate legal proceedings.

In accordance with both the Constitution and the international obligations of the State to uphold human rights principles, this bill proposes the repeal of Article 266-C of RA 8353, otherwise known as the Anti-Rape Law of 1997, while simultaneously proposing amendments to Articles 45 and 47 of EO 209, known as the Family Code of the Philippines.

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



J. M. ABALOS
Representative
4Ps Partylist



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AN ACT
PROTECTING RAPE VICTIMS AGAINST COERCED MARRIAGE BY
REMOVING PARDON AS A GROUND TO EXTINGUISH CRIMINAL
LIABILITY AND ADDING COERCION AS A CONSEQUENCE OF RAPE AS A
GROUND FOR ANNULMENT, REPEALING FOR THE PURPOSE ARTICLE
266-C OF REPUBLIC ACT NO. 8353, AS AMENDED, OTHERWISE KNOWN AS
"THE ANTI-RAPE LAW OF 1997," AND AMENDING ARTICLES 45 AND 47 OF
EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS "THE FAMILY CODE
OF THE PHILIPPINES"

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

SECTION 1. Short Title. - This Act shall be otherwise known as "An Act Protecting Rape Victims Against Coerced Marriage."

SEC. 2. Article 266-C of the Republic Act No. 8353, otherwise known as "The Anti-Rape Law of 1997," as amended, is hereby repealed.

SEC. 3. Article 45, Title I, Chapter 3 of the Executive Order No. 209, otherwise known as "The Family Code of the Philippines" is hereby **amended** to read as follows:

"Art. 45. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

(1) That the party in whose behalf it is sought to have the marriage annulled was eighteen years of age or over but below twenty-one, and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one, such party freely cohabited with the other and both lived together as husband and wife;

(2) That either party was of unsound mind, unless such party after coming to reason, freely cohabited with the other as husband and wife;

(3) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;

(4) That the consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife;

(5) That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable; or

(6) That either party was afflicted with a sexually-transmissible disease found to be serious and appears to be incurable. (85a)

(7) THAT EITHER PARTY WAS COERCED INTO CONSENTING TO ENTER INTO A MARRIAGE AS A CONSEQUENCE OF RAPE, IRRESPECTIVE OF THE PARTY'S SUBSEQUENT DECISION TO MAINTAIN COHABITATION WITH THE PARTNER WHO PERPETRATED THE ACT OF RAPE.

SEC. 4. Article 47, Title I, Chapter 3 of the Executive Order No. 209, otherwise known as "The Family Code of the Philippines" is hereby amended to read as follows:

"Art. 47. The action for annulment of marriage must be filed by the following persons and within the periods indicated herein:

(1) For causes mentioned in number 1 of Article 45 by the party whose parent or guardian did not give his or her consent, within five years after attaining the age of twenty-one, or by the parent or guardian or person having legal charge of the minor, at any time before such party has reached the age of twenty-one;

(2) For causes mentioned in number 2 of Article 45, by the same spouse, who had no knowledge of the other's insanity; or by any relative or guardian or person having legal charge of the insane, at any time before the death of either party, or by the insane spouse during a lucid interval or after regaining sanity;

(3) For causes mentioned in number 3 of Article 45, by the injured party, within five years after the discovery of the fraud;

(4) For causes mentioned in number 4 of Article 45, by the injured party, within five years from the time the force, intimidation or undue influence disappeared or ceased;

(5) FOR CAUSES MENTIONED IN NUMBER 7 OF ARTICLE 45, BY THE INJURED PARTY, WITHIN TWENTY YEARS FROM THE COMMISSION OF THE CRIME OF RAPE."

SEC. 5. *Separability Clause.* - If any portion or provision of this Act is held unconstitutional or invalid, the remaining portions or provisions shall not be affected.

SEC. 6. *Repealing Clause.* - 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. 7. *Effectivity.* - This Act shall take effect fifteen (15) days after completion of its publication in two (2) newspapers of general circulation.

Approved,