

SIXTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )



14 NOV 18 P1:43

SENATE  
S. No. **2454**

RECEIVED BY: *[Signature]*

Introduced by Senator Miriam Defensor Santiago

AN ACT  
REPEALING SECTION 17, PARAGRAPH 2, FIRST SENTENCE OF  
REPUBLIC ACT NO. 9851, ALSO KNOWN AS THE "PHILIPPINE ACT ON  
CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW, GENOCIDE,  
AND OTHER CRIMES AGAINST HUMANITY"

EXPLANATORY NOTE

Under the Rome Statute of the International Criminal Court, every state party should provide in its national criminal law that the state has jurisdiction over certain international crimes.

At present, Republic Act No. 9851, also known as "Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity," Section 17, paragraph 2, first sentence, provides:

In the interest of justice, the relevant Philippine authorities may dispense with the investigation or prosecution of a crime punishable under this Act, if another court or international tribunal is already conducting the investigation or undertaking the prosecution of such crime.

This provision is otiose and superfluous. On the one hand, under the principle of complementarity, it is the Philippines that has primary jurisdiction over international crimes. The general rule is that national jurisdiction will be primary at all times, when the state authorities regularly perform their functions of investigation or prosecution. The exception to the general rule is that the Court will assume jurisdiction in case the state is unwilling or unable to investigate or prosecute,

But, on the other hand, under this particular provision of the Philippine Act, Philippine law gives primary jurisdiction to an international tribunal. Hence, this provision should be repealed.<sup>1</sup>


*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
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<sup>1</sup> This bill was originally filed by Sen. Miriam Defensor Santiago during the Fifteenth Congress, Second Regular Session.

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

1 AN ACT  
2 REPEALING SECTION 17, PARAGRAPH 2, FIRST SENTENCE OF  
3 REPUBLIC ACT NO. 9851, ALSO KNOWN AS THE "PHILIPPINE ACT ON  
4 CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW, GENOCIDE,  
5 AND OTHER CRIMES AGAINST HUMANITY"

6 SECTION 1. Section 17, paragraph 2, first sentence, of Republic Act No. 9851,  
7 also known as the "Philippine Act on Crimes Against International Humanitarian Law,  
8 Genocide, and Other Crimes Against Humanity."

9 Section 17. *Jurisdiction.* – The State shall exercise jurisdiction over  
10 persons, whether military or civilian, suspected or accused of a crime  
11 defined and penalized in this Act, regardless of where the crime is  
12 committed, provided, any one of the following conditions is met:

13  
14 (a) The accused is a Filipino citizen;

15  
16 (b) The accused, regardless of citizenship or residence, is present in  
17 the Philippines; or

18  
19 (c) The accused has committed the said crime against a Filipino  
20 citizen.

21 ~~In the interest of justice, the relevant Philippine authorities may~~  
22 ~~dispense with the investigation or prosecution of a crime punishable under~~  
23 ~~this Act if another court or international tribunal is already conducting the~~  
24 ~~investigation or undertaking the prosecution of such crime. Instead, the~~  
25 **PHILIPPINE** authorities may surrender or extradite suspected or accused  
26 persons in the Philippines to the appropriate international court, if any, or to  
27 another State pursuant to the applicable extradition laws and treaties.

28 No criminal proceedings shall be initiated against foreign nationals  
29 suspected or accused of having committed the crimes defined and penalized  
30 in this Act if they have been tried by a competent court outside the

Philippines in respect of the same offense and acquitted, or having been convicted, already served their sentence.

SECTION 2. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 3. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,

/fldpnov2014