


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

5 FEB -2 P4:33

RECEIVED BY 

SENATE
P. S. R. No. 171

Introduced by Senator Miriam Defensor Santiago

RESOLUTION

RESPECTFULLY EXPRESSING THE SENSE OF THE SENATE THAT SINCE THE PHILIPPINES HAS BEEN A SIGNATORY TO THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT SINCE 28 DECEMBER 2002 THE PRESIDENT MAY NOW TRANSMIT THE ROME STATUTE TO THE SENATE FOR RATIFICATION PROCEEDINGS

WHEREAS, the International Criminal Court (ICC) was established by the Rome Statute of the International Criminal Court on 17 July 1998, when 120 states participating in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court adopted the Statute;

WHEREAS, the Preamble of the Rome Statute declares that the States Parties to the Statute are “mindful that during...[the twentieth] century millions of children, women and men have become victims of unimaginable atrocities that deeply shock the conscience of humanity”; that they recognize that “such grave crimes threaten the peace, security and well-being of the world”; and that they affirm that “the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation”;

WHEREAS, the Rome Statute, Article 1, provides, *inter alia*, that the International Criminal Court (“the Court”) “shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred in this Statute”;

WHEREAS, the Court aims to further victims’ rights and render justice under international law and to this end offers protection for due process and procedural safeguards to guard against abuse;

WHEREAS, the jurisdiction of the Court will be complementary to national courts, so that the Court will only act when countries are unable or unwilling to investigate or prosecute the crimes identified in Article 5 of the Rome Statute;

WHEREAS, the Rome Statute sets out the Court’s jurisdiction, structure, and functions, and provides for its entry into force 60 days after 60 States have ratified or acceded to it;

WHEREAS, the 60th instrument of ratification was deposited with the Secretary General of the United Nations on 11 April 2002, when 10 countries simultaneously deposited their instruments of ratification;

WHEREAS, accordingly, the Statute entered into force on 1 July 2002;

WHEREAS, as of 28 November 2003, 92 countries have become States Parties to the Rome Statute;

WHEREAS, the Philippines, in keeping with a rich jurisprudential history of human rights and humanitarianism, played an active role in the movement to draft the Statute, both at the official and non-governmental levels;

WHEREAS, during the Rome Conference on the International Criminal Court, the Philippines voted with 199 other states to adopt the Rome Statute, explaining that “The Statute contains the vital elements for establishing the Court, including the fact that the prosecution will have “*motu proprio*” powers [and that f]or the victims, it has provisions for restitution, compensation, and rehabilitation”;

WHEREAS, on 28 December 2002, the Philippines became the 124th signatory to the Rome Statute of the International Criminal Court after having taken an active part in the deliberations of the Rome Conference as a member of the Drafting Committee;

WHEREAS, the Constitution, Article II, Section 11, provides that “The State values the dignity of every human person and guarantees full respect for human rights”;

WHEREAS, the Constitution, Article II, Section 2, provides that “The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations”;

WHEREAS, the international obligation of the Philippines to protect human rights is embodied in conventional law, through the numerous human rights treaties that the Philippines has ratified or acceded to;

WHEREAS, in particular, the United Nations Charter and the International Convention on Civil and Political Rights (ICCPR) impose upon the Philippines the obligation to promote and protect human rights;

WHEREAS, the gravity of the crimes punished under the Rome Statute as violations of human rights and the laws of humanity or international humanitarian law, which are identified in the Rome Statute, Part 2, Article 5, as limited to: (1) the crime of genocide; (2) crimes against humanity; (3) war crimes; and (4) the crime of aggression, makes the issues involved fundamentally important to the Philippines and its people;

WHEREAS, the fundamental duty of the Philippines, and the imperative need, to protect human rights and advance the laws of humanity, or international humanitarian law, under the Constitution, treaty law, and customary international law, especially the rights to life and dignity, underscore the transcendental importance of the ratification of the Rome Statute;

WHEREAS, the Constitution, Article VII, Section 21 provides that “No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate”;

WHEREAS, by virtue of the above Constitutional provision, before the Rome Statute of the International Criminal Court can be valid and effective in the Philippines, it is necessary that the Statute be concurred in by at least two-thirds of all the Members of the Senate;

WHEREAS, the Statute has not been transmitted to the Senate for ratification, more than two years after the Philippines signed the Statute;

WHEREAS, on 13 March 2003, senior law students from the University of the Philippines requested the Department of Foreign Affairs (DFA) in writing that the DFA immediately transmit the ratification papers to the Senate;

WHEREAS, the DFA responded in writing on 25 March 2003 that it recommended ratification of the Rome Statute but that it was for Her Excellency President Gloria Macapagal Arroyo to decide "whether or not she would have the papers transmitted to the Senate";


WHEREAS, under international law, states enjoy some discretion as regards the decision to ratify treaties;

WHEREAS, the Rome Statute must be transmitted by the President to the Senate before the Senate can determine whether to concur in the Rome Statute or not;

WHEREFORE, be it resolved, as it is hereby resolved by the Philippine Senate, to respectfully express the sense of the Senate that since the Philippines has been a signatory to the Rome Statute of the International Criminal Court since 28 December 2002, the President may now transmit the Rome Statute to the Senate for ratification proceedings.

WHEREFORE, be it further resolved, as it is hereby resolved by the Philippine Senate, to express the sense of the Senate that a copy of this resolution should be circulated not only to the usual government agencies involved and other organizations concerned, but most especially to the Cabinet Oversight Committee on Internal Security.

Adopted,


MIRIAM DEFENSOR SANTIAGO
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