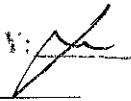


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SENATE
S. No. 3061

DATE RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

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

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 International Criminal Court will assume jurisdiction in case the state is unwilling or unable to investigate or prosecute.

On the other hand, under this particular provision of R.A. No. 9851, Philippine law surrenders primary jurisdiction to an international tribunal. Hence, this provision should be repealed.


MIRIAM DEFENSOR SANTIAGO

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SENATE
S. No. **3061**

Introduced by Senator Miriam Defensor Santiago

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

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

5 SECTION 1. Section 17 of Republic Act No. 9851, also known as the "Philippine Act on
6 Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against
7 Humanity" is hereby amended as follows:

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

12 (a) The accused is a Filipino citizen;

13 (b) The accused, regardless of citizenship or residence, is present in the
14 Philippines; or

15 (c) The accused has committed the said crime against a Filipino citizen.

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

23 No criminal proceedings shall be initiated against foreign nationals
24 suspected or accused of having committed the crimes defined and penalized in
25 this Act if they have been tried by a competent court outside the Philippines in
26 respect of the same offense and acquitted, or having been convicted, already
27 served their sentence.

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

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

Approved,

/fldp