

**NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)**



Senate
Office of the Secretary

23 NOV 28 A 8 :22

SENATE

P.S.R. No. 867

RECEIVED BY: _____

INTRODUCED BY SENATOR RISA HONTIVEROS

RESOLUTION

URGING THE EXECUTIVE DEPARTMENT OF THE REPUBLIC OF THE PHILIPPINES TO COOPERATE WITH THE INTERNATIONAL CRIMINAL COURT (ICC) AND ASSIST IN THE ICC INVESTIGATION INTO THE SITUATION IN THE PHILIPPINES

WHEREAS, on July 17, 1998, the Rome Statute of the International Criminal Court (ICC) was adopted in a conference participated in by 120 states, creating the ICC to investigate, prosecute, and try individuals for the gravest crimes under international law including genocide, crimes against humanity, war crimes, and the crime of aggression;

WHEREAS, the Rome Statute – whose twenty fifth anniversary we celebrated this year -- is the articulation of the collective global commitment to heal the wounds wrought by war, conflict and State-sponsored atrocity through mechanisms of international criminal justice;

WHEREAS, the Rome Statute provides that State Parties are obliged to "cooperate fully with the Court in its investigation and prosecution of crimes within [its] jurisdiction";

WHEREAS, the Philippines signed the Rome Statute on December 28, 2000, signifying its intent to be bound by the treaty; after Senate concurrence, the instrument of ratification was deposited on August 30, 2011 and on November 1, 2011, the Rome Statute entered into force in the Philippines;

WHEREAS, in 2009, Republic Act No. 9851, also known as the "Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity" was passed into law, where in its Declaration of Policy, the "state adopts the generally accepted principles of international law, including the Hague Conventions of 1907, the Geneva Conventions on the protection of victims of war and international humanitarian law, as part of the law our nation;"

WHEREAS, on April 24, 2017, a complaint was filed before the ICC pertaining to alleged summary killings in Davao City; on June 6, 2017, a supplemental communication was filed with regard to rampant killings related to the "War on Drugs";

WHEREAS, on February 8, 2018, the Office of ICC Trial Prosecutor Fatou Bensouda commenced preliminary examination of the alleged atrocities, later finding "reasonable basis to believe that the crime against humanity of murder has been committed on the territory of the Philippines between 1 July 2016 and 16 March 2019 in the context of the Government of Philippines 'war on drugs' campaign";

WHEREAS, on March 16, 2018, however, the Philippines submitted to the United Nations a Notice of Withdrawal from the ICC; on March 19, 2019, the ICC announced the country's departure from the Rome Statute effective March 17, 2019;

WHEREAS, despite the Philippines' withdrawal and subsequent efforts to obstruct the proceedings, the ICC resumed its investigation into the situation in the Philippines on July 18, 2023;

WHEREAS, the ICC stated that it "retains jurisdiction with respect to alleged crimes that occurred on the territory of the Philippines while it was a State Party";

WHEREAS, indeed, Article 172(2) of the Rome Statute clearly provides that "withdrawal shall not affect any cooperation with the Court in connection with criminal investigations and proceedings in relation to which the withdrawing State had a duty to cooperate and which were commenced prior to the date on which the withdrawal became effective, nor shall it prejudice in any way the continued consideration of any matter which was already under consideration by the Court prior";

WHEREAS, in *Pangilinan v. Cayetano* (G.R. Nos. 238875, 239483 & 240954, March 16, 2021), the Supreme Court confirmed that the Philippines' withdrawal "does not undermine or diminish the International Criminal Court's jurisdiction and power to continue a probe that it has commenced while a state was a party to the Rome Statute," and "does not discharge a state party from the obligations it has incurred as a member.. Whatever process was already initiated before the International Criminal Court obliges the state party to cooperate";

WHEREAS, the Court has likewise ruled that "it is not for this country to repudiate a commitment to which it had pledged its word. The concept of *Pacta sunt servanda* stands in the way of such an attitude, which is, moreover, at war with the principle of international morality" (*Agustin v. Edu*, G.R. No. L-49112, February 2, 1979);

WHEREAS, Article II, Section 11 of the 1987 Constitution affirms that the "State values the dignity of every human person and guarantees full respect for human rights," and the President himself has vowed to promote human rights and a "high level of accountability" for violations;

WHEREAS, the Philippines has historically been at the forefront of advancing humanitarian law and international justice, and it is high time that we affirm our commitment to these values before the international community;

NOW THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED THAT THE SENATE OF THE PHILIPPINES URGES THE EXECUTIVE DEPARTMENT OF THE REPUBLIC OF THE PHILIPPINES TO COOPERATE WITH THE INTERNATIONAL CRIMINAL COURT AND ASSIST IN THE ICC INVESTIGATION INTO THE SITUATION IN THE PHILIPPINES

Adopted.


RISA HONTIVEROS
Senator