


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

OFFICE OF THE SECRETARY

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SENATE  
S. No. 1446

RECEIVED BY: 

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Introduced by **Senator Richard J. Gordon**

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### EXPLANATORY NOTE

Throughout the centuries, millions of children, women and men all over the world have been victims of unimaginable atrocities that shock the collective conscience of humanity. Philippine history is not spared from such atrocities. Such acts are grave crimes that threaten the peace, security and well-being of the world, and yet only a handful of those responsible for those crimes have ever been brought to justice by local courts.

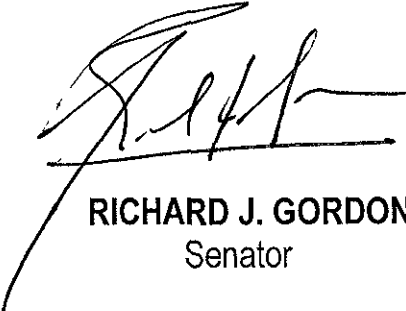
The Philippines, in “[adopting] the generally-accepted principles of international law as part of the law of the land and [adhering] to the policy of peace, equality, justice, freedom, cooperation and amity with all nations” (1987 Constitution, Article II, Section 2) must punish such crimes against the fundamental global order. While crimes against humanity under international law are already part of the law of the land (see *Kuroda v. Jalandoli* 83 Phil 171), there nevertheless is a need to codify these crimes within the domestic legal system to fully comply with Philippine obligations under various treaties and convention, keep pace with developments in the definition of international criminal law, and more importantly, to insure that those who commit war crimes, genocide, and crimes against humanity are not afforded impunity for their acts.

The bill draws on the 1998 Rome Statute of International Criminal Law, the 1948 Genocide Convention, the 1949 Geneva Conventions and their 1977 Additional Protocols, the Hague Conventions of 1899 and 1907, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, the 1989 Convention of the Rights of the Child, and the 1994 Convention on the Safety of the United Nations and Associated personnel, as codifications of, or evidence of, customary international law on the matter.

At present, the Philippines has ratified the 1949 Geneva Conventions and the 1977 Additional Protocol II, the 1948 Genocide Convention, the 1968 Convention of the Applicability of Statutory Limitations to War Crimes, and the 2000 Optional Protocol to the 1989 Convention on the Rights of the Child, among others. It has signed but not yet ratified the Rome Statute, 1977 Additional Protocol I, and the 1954 Hague Convention for the Protection of Cultural Property and its 1999 Second Protocol among others. While these treaties have yet to be ratified, this does not bar our sovereign Congress from adopting certain provisions thereof as part of our national legislation in the exercise of its plenary legislative power, as an expression of its commitment to international justice, and to ensure that the most serious crimes against humanity as a whole do not go unpunished. Likewise, we may use such instruments as evidence of customary law on the matter.

This bill is a result of the collaboration of the Department of Foreign Affairs (DFA), Office of the United Nations and International Organizations (UNIO), then under Assistant Secretary Rosalinda V. Tirona and the Philippine National Red Cross (PNRC) National IHL International Committee of the Red Cross and Red Crescent Societies (ICRC) Manila Head of Delegation and the ICRC Regional Legal Adviser in Bangkok.

The approval of this bill is therefore most earnestly sought.




**RICHARD J. GORDON**  
Senator

FOURTEENTH CONGRESS OF THE )  
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**AN ACT DEFINING AND PENALIZING CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW AND OTHER SERIOUS INTERNATIONAL CRIMES, OPERATIONALIZING UNIVERSAL JURISDICTION, DESIGNATING SPECIAL COURTS, AND FOR RELATED PURPOSES**

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

**PART 1. INTRODUCTORY PROVISIONS**

**SECTION 1. Short Title.** This Act shall be known as the "Philippine Act on Crimes Against International Humanitarian Law and Other Serious International Crimes."

**Sec. 2 Declaration of Principles and State Policies.**

- A. 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 a policy of peace, equality, justice, freedom, cooperation, and amity with all nations.
- B. The State values the dignity of every human person and guarantees full respect for human rights, including the rights of indigenous cultural communities and other vulnerable groups.
- C. The principles, rules and regulations of the Hague Conventions and the Geneva Conventions on warfare and international humanitarian law form part of the law of our nation.
- D. The most serious crimes of concern to the international community as a whole must not go unpunished and their effective prosecution must be ensured by taking measures at the national level, in order to put an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes, it being the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.
- E. The State shall guarantee persons suspected or accused of grave crimes under international law all rights necessary to ensure that their trials will be fair and prompt in strict accordance with international law and standards for fair trials. It shall also protect

1 victims, witnesses and their families, and provide appropriate redress to victims and  
2 their families.

3 **PART 2. DEFINING AND PENALIZING THE MOST SERIOUS**  
4 **CRIMES OF INTERNATIONAL CONCERN**

5 **Sec. 3. War Crimes.** War crimes, or crimes against international humanitarian law (IHL), are  
6 hereby defined and penalized as follows:

7 A. For the purpose of this Act, "war crimes" *applicable in both international and non-*  
8 *international armed conflict* means:

9 1. Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the  
10 following acts against persons or property protected under the provisions of the  
11 relevant Geneva Convention:

12 (a) Willful killing;

13 (b) Torture or inhuman treatment, including biological experiments;

14 (c) Willfully causing great suffering, or serious injury to body or health;

15 (d) Extensive destruction and appropriation of property, not justified by military  
16 necessity and carried out unlawfully and wantonly;

17 (e) Willfully depriving a protected person of the rights of fair and regular trial;

18 (f) Taking of hostages.

19 (g) Launching an attack against works or installations containing dangerous forces  
20 in the knowledge that such attack will cause excessive loss of life, injury to  
21 civilians or damage to civilian objects, and causing death or serious injury to  
22 body or health;

23 (h) Making non-defended localities and demilitarized zones the object of attack, and  
24 causing death or serious injury to body or health; and

25 2. Other serious violations of the laws and customs applicable in armed conflict, within  
26 the established framework of international law, namely, any of the following acts:

27 (a) Intentionally directing attacks against the civilian population as such or against  
28 individual civilians not taking direct part in hostilities;

29 (b) Intentionally directing attacks against civilian objects, that is, objects which are  
30 not military objectives;

31 (c) Intentionally directing attacks against buildings, material, medical units and  
32 transport, and personnel using the distinctive emblems of the Geneva  
33 Conventions in conformity with international law;

34 (d) Intentionally directing attacks against personnel, installations, material, units or  
35 vehicles involved in a humanitarian assistance or peacekeeping mission in

1 accordance with the Charter of the United Nations, as long as they are entitled  
2 to the protection given to civilians or civilian objects under the international law  
3 of armed conflict;

4 (e) *Intentionally launching an attack in the knowledge that such attack will cause*  
5 *incidental loss of life or injury to civilians or damage to civilian objects or*  
6 *widespread, long-term and severe damage to the natural environment which*  
7 *would be clearly excessive in relation to the concrete and direct military*  
8 *advantage anticipated;*

9 (f) *Attacking or bombarding, by whatever means, towns, villages, dwellings or*  
10 *buildings which are undefended and which are not military objectives;*

11 (g) *Killing or wounding a combatant who, having laid down his arms or having no*  
12 *longer means of defense, has surrendered at discretion;*

13 (h) *Making improper or perfidious use of a flag of truce, of the flag or of the military*  
14 *insignia and uniform of the enemy or of the United Nations, as well as of the*  
15 *distinctive emblems of the Geneva Conventions or other protective signs under*  
16 *international humanitarian law, resulting in death , serious personal injury or*  
17 *capture;*

18 (i) *Intentionally directing attacks against buildings dedicated to religion,*  
19 *education, art, science or charitable purposes, historic monuments, hospitals*  
20 *and places where the sick and wounded are collected, provided they are not*  
21 *military objectives;*

22 (j) *Subjecting persons who are in the power of an adverse party to physical*  
23 *mutilation or to medical or scientific experiments of any kind, or to removal of*  
24 *tissue or organs for transplantation, which are neither justified by the medical,*  
25 *dental or hospital treatment of the person concerned nor carried out in his or*  
26 *her interest, and which cause death to or seriously endanger the health of*  
27 *such person or persons;*

28 (k) *Killing, wounding or capturing an adversary by resort to perfidy;*

29 (l) *Declaring that no quarter will be given;*

30 (m) *Destroying or seizing the enemy's property unless such destruction or seizure*  
31 *be imperatively demanded by the necessities of war;*

32 (n) *Pillaging a town or place, even when taken by assault;*

33 (o) *Ordering the displacement of the civilian population for reasons related to*  
34 *the conflict, unless the security of the civilians involved or imperative military*  
35 *reasons so demand;*

- 1 (p) Committing outrages upon personal dignity, in particular humiliating and  
2 Degrading treatment;
- 3 (q) Committing rape, sexual slavery, enforced prostitution, forced pregnancy,  
4 enforced sterilization, or any other form of sexual violence also constituting a  
5 grave breach of the Geneva Conventions;
- 6 (r) Utilizing the presence of a civilian or other protected person to render certain  
7 points, areas or military forces immune from military operations;
- 8 (s) Intentionally directing attacks against buildings, material, medical units and  
9 transport, and personnel using the distinctive emblems of the Geneva  
10 Conventions in conformity with international law;
- 11 (t) Intentionally using starvation of civilians as a method of warfare by depriving  
12 them of objects indispensable to their survival, including willfully impeding  
13 relief supplies as provided for under the Geneva Conventions;
- 14 (u) Conscripting, enlisting or recruiting children under the age of eighteen years  
15 into the national armed forces or using them to participate actively in  
16 hostilities.
- 17 (v) Employing poison or poisoned weapons;
- 18 (w) Employing asphyxiating, poisonous or other gases, and all analogous liquids,  
19 materials or devices;
- 20 (x) Employing bullets which expand or flatten easily in the human body, such as  
21 bullets with a hard envelope which does not entirely cover the core or is  
22 pierced with incisions;
- 23 (y) Employing weapons, projectiles and material and methods of warfare which  
24 are of a nature to cause superfluous injury or unnecessary suffering or which  
25 are inherently indiscriminate in violation of the international law of armed  
26 conflict;

27 B. In case of a non-international armed conflict, serious violations of Article 3 common to  
28 the four Geneva Conventions of 12 August 1949, namely, any of the following acts  
29 committed against persons taking no active part in the hostilities, including members of  
30 armed forces who have laid down their arms and those placed *hors de combat* by sickness,  
31 wounds, detention or any other cause:

- 32
- 33 1. Violence to life and person, in particular murder of all kinds, mutilation, cruel  
34 treatment and torture;

- 1           2.     Committing outrages upon personal dignity, in particular humiliating and
- 2                 degrading treatment;
- 3           3.     Taking of hostages;
- 4           4.     The passing of sentences and the carrying out of executions without previous
- 5                 judgment pronounced by a regularly constituted court, affording all judicial
- 6                 guarantees which are generally recognized as indispensable.

7           C.     In case of an *international armed conflict*, the following grave breaches and serious  
8     violations of the laws and customs applicable in international armed conflict, within the  
9     established framework of international law, namely any of the following acts:

- 10          1.     Killing or wounding treacherously individuals belonging to the hostile nation or
- 11                 army;
- 12          2.     Compelling a prisoner of war or other protected person to serve in the forces of
- 13                 a hostile Power;
- 14          3.     Compelling the nationals of the hostile party to take part in the operations of
- 15                 war directed against their own country, even if they were in the belligerent's
- 16                 service before the commencement of the war;
- 17          4.     Unlawful deportation or transfer or unlawful confinement;
- 18          5.     The transfer, directly or indirectly, by the Occupying Power of parts of its own
- 19                 civilian population into the territory it occupies, or the deportation or transfer of
- 20                 all or parts of the population of the occupied territory within or outside this
- 21                 territory;
- 22          6.     Declaring abolished, suspended or inadmissible in a court of law the rights
- 23                 and actions of the nationals of the hostile party;
- 24          7.     Willfully depriving a prisoner of war of the rights of fair and regular trial;
- 25          8.     Unjustifiable delay in the repatriation of prisoners of war or civilians.

26          D.     The foregoing provisions applicable to non-international armed conflicts shall not  
27     apply to situations of internal disturbances and tensions, such as riots, *isolated and*  
28     sporadic acts of violence or other acts of a similar nature, as not being armed conflicts.

29          E.     Nothing in the foregoing provisions shall be invoked for the purpose of affecting the  
30     sovereignty of the State or the responsibility of the government to maintain or re-establish  
31     law and order in the State or to defend the national unity and territorial integrity of the State,  
32     by all means that are lawful under national and international law.

33          F.     The application of the preceding provisions shall not affect the legal status of the  
34     parties to the conflict.

1 G. Any person who commits any war crime as defined above shall suffer the main  
2 penalty of imprisonment for a specified number of years within a range from 15 to 30 years.  
3 When justified by the extreme gravity of the crime, especially where it results in deaths  
4 and/or serious bodily injuries, and by the individual circumstances of the convicted person,  
5 the Court may impose a term within a range from 30 to 40 years.

6  
7 **Sec. 4. Genocide.** Genocide is hereby defined and penalized as follows:

8  
9 A. For the purpose of this Act, "genocide" means any of the following acts committed  
10 with intent to destroy, in whole or in part, a national, ethnical, racial, religious,  
11 political, social or any similar stable and permanent group, as such:

- 12 1. Killing members of the group;
- 13 2. Causing serious bodily or mental harm to members of the group;
- 14 3. Deliberately inflicting on the group conditions of life calculated to bring about its  
15 physical destruction in whole or in part;
- 16 4. Imposing measures intended to prevent births within the group;
- 17 5. Forcibly transferring children of the group to another group.

18 B. Any person who commits genocide as defined above shall suffer the main penalty of  
19 imprisonment for a specified number of years within a range from 15 to 30 years.  
20 When justified by the extreme gravity of the crime, especially where it results in  
21 deaths and/or serious bodily injuries, and by the individual circumstances of the  
22 convicted person, the Court may impose a term within a range from 30 to 40 years.

23 **Sec. 5. Crimes Against Humanity.** Crimes against humanity are hereby defined and  
24 penalized as follows:

25 A. For the purpose of this Act, "crime against humanity" means any of the following acts  
26 when committed as part of a widespread or systematic attack directed against any  
27 civilian population, with knowledge of the attack:

- 28 1. Murder;
- 29 2. Extermination;
- 30 3. Enslavement;
- 31 4. Deportation or forcible transfer of population;
- 32 5. Imprisonment or other severe deprivation of physical liberty in violation of  
33 fundamental rules of international law;
- 34 6. Torture;



- 1           7. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced  
2 sterilization, or any other form of sexual violence of comparable gravity;
- 3           8. Persecution against any identifiable group or collectivity on political, racial,  
4 national, ethnic, cultural, religious, gender, or other grounds that are universally  
5 recognized as impermissible under international law, in connection with any act  
6 referred to in this paragraph or any crime within the jurisdiction of the Court;
- 7           9. Enforced disappearance of persons;
- 8           10. The crime of apartheid;
- 9           11. Other inhumane acts of a similar character intentionally causing great suffering,  
10 or serious injury to body or to mental or physical health.

11 B. For the purpose of paragraph A:

- 12           1. "Attack directed against any civilian population" means a course of conduct involving  
13 the multiple commission of acts referred to in paragraph A against any civilian  
14 population, pursuant to or in furtherance of a State or organizational policy to  
15 commit such attack;
- 16           2. "Extermination" includes the intentional infliction of conditions of life, inter alia the  
17 deprivation of access to food and medicine, calculated to bring about the  
18 destruction of part of a population;
- 19           3. "Enslavement" means the exercise of any or all of the powers attaching to the right  
20 of ownership over a person and includes the exercise of such power in the course  
21 of trafficking in persons, in particular women and children;
- 22           4. "Deportation or forcible transfer of population" means forced displacement of the  
23 persons concerned by expulsion or other coercive acts from the area in which they  
24 are lawfully present, without grounds permitted under international law;
- 25           5. "Torture" means the intentional infliction of severe pain or suffering, whether physical  
26 or mental, upon a person in the custody or under the control of the accused; except  
27 that torture shall not include pain or suffering arising only from, inherent in or  
28 incidental to, lawful sanctions;
- 29           6. "Forced pregnancy" means the unlawful confinement of a woman forcibly made  
30 pregnant, with the intent of affecting the ethnic composition of any population or  
31 carrying out other grave violations of international law. This definition shall not in  
32 any way be interpreted as affecting national laws relating to pregnancy;
- 33           7. "Persecution" means the intentional and severe deprivation of fundamental rights  
34 contrary to international law by reason of the identity of the group or collectivity;

1 8. "The crime of apartheid" means inhumane acts of a character similar to those  
2 referred to in paragraph A, committed in the context of an institutionalized regime of  
3 systematic oppression and domination by one racial group over any other racial  
4 *group or groups and committed with the intention of maintaining that regime;*

5 9. "Enforced disappearance of persons" means the arrest, detention or abduction of  
6 persons by, or with the authorization, support or acquiescence of, a State or a  
7 political organization, followed by a refusal to acknowledge that deprivation of  
8 freedom or to give information on the fate or whereabouts of those persons, with the  
9 intention of removing them from the protection of the law for a prolonged period of  
10 time.

11 C. For the purpose of this Act, it is understood that the term "gender" refers to the two  
12 sexes, male and female, and also to those of gay, lesbian and other sexual orientations,  
13 within the context of society. The term "gender" does not indicate any meaning different  
14 from the above.

15 D. Any person who commits a crime against humanity as defined above shall suffer the  
16 main penalty of imprisonment for a specified number of years within a range from 15 to 30  
17 years. When justified by the extreme gravity of the crime, especially where it results in  
18 deaths and/or serious bodily injuries, and by the individual circumstances of the convicted  
19 person, the Court may impose a term within a range from 30 to 40 years.

20 **Sec. 6. Additional Penalties.** In addition to the main penalty of imprisonment imposed  
21 above, the Court may order a commensurate fine under established criteria; and/or a forfeiture of  
22 proceeds, property and assets derived directly or indirectly from that crime, without prejudice to the  
23 rights of bona fide third parties. The Court shall also impose the corresponding accessory  
24 penalties under the Revised Penal Code, especially where the offender is a public officer.

### 25 **PART 3. SOME PRINCIPLES OF CRIMINAL RESPONSIBILITY**

26 **Sec. 7. Non-Diminution of International Law.** Nothing in this Act shall be interpreted as  
27 limiting or prejudicing in any way existing or developing rules of international law for purposes other  
28 than this Act.

29 **Sec. 8. Individual Criminal Responsibility.** In addition to existing provisions in Philippine  
30 law on principles of criminal responsibility, the following principles shall also be applied:

31  
32 A. *The appropriate Philippine Courts shall have jurisdiction over natural persons pursuant*  
33 *to this Act.*

34 B. A person who commits a crime within the jurisdiction of the Court shall be individually  
35 responsible and liable for punishment in accordance with this Act.

1 C. In accordance with this Act, a person shall be criminally responsible and liable for  
2 punishment for a crime within the jurisdiction of the Court if that person:

- 3 1. Commits such a crime, whether as an individual, jointly with another or through  
4 another person, regardless of whether that other person is criminally responsible;
- 5 2. Orders, solicits or induces the commission of such a crime which in fact occurs or  
6 is attempted;
- 7 3. For the purpose of facilitating the commission of such a crime, aids, abets or  
8 otherwise assists in its commission or its attempted commission, including  
9 providing the means for its commission;
- 10 4. In any other way contributes to the commission or attempted commission of such  
11 a crime by a group of persons acting with a common purpose. Such contribution  
12 shall be intentional and shall either:
  - 13 (i) Be made with the aim of furthering the criminal activity or criminal purpose of  
14 the group, where such activity or purpose involves the commission of a  
15 crime within the jurisdiction of the Court; or
  - 16 (ii) Be made in the knowledge of the intention of the group to commit the crime;
- 17 5. In respect of the crime of genocide, directly and publicly incites others to commit  
18 genocide;
- 19 6. Attempts to commit such a crime by taking action that commences its execution by  
20 means of a substantial step, but the crime does not occur because of  
21 circumstances independent of the person's intentions. However, a person who  
22 abandons the effort to commit the crime or otherwise prevents the completion of  
23 the crime shall not be liable for punishment under this Act for the attempt to  
24 commit that crime if that person completely and voluntarily gave up the criminal  
25 purpose.

26 D. No provision in this Act relating to individual criminal responsibility shall affect the  
27 responsibility of States under international law.

28 **Sec. 9. Irrelevance of Official Capacity.** This Act shall apply equally to all  
29 persons without any distinction based on official capacity. In particular, official capacity as a  
30 Head of State or Government, a member of a Government or parliament, an elected  
31 representative or a government official shall in no case exempt a person from criminal  
32 responsibility under this Act, nor shall it, in and of itself, constitute a ground for reduction of  
33 sentence. Immunities or special procedural rules which may attach to the official capacity  
34 of a person, whether under national or international law, other than the established

1 constitutional immunity from suit of the Philippine President during his/her tenure, shall not  
2 bar the Court from exercising its jurisdiction over such a person.

3 **Sec. 10. Responsibility of Commanders and Other Superiors.** In addition to other  
4 grounds of criminal responsibility for crimes defined and penalized under this Act:

5 A. A military commander or person effectively acting as a military commander shall be  
6 criminally responsible for such crimes committed by forces under his or her effective  
7 command and control, or effective authority and control as the case may be, as a result  
8 of his or her failure to exercise control properly over such forces, where:

9 1. That military commander or person either knew or, owing to the circumstances  
10 at the time, should have known that the forces were committing or about to  
11 commit such crimes; and

12 2. That military commander or person failed to take all necessary and reasonable  
13 measures within his or her power to prevent or repress their commission or to  
14 submit the matter to the competent authorities for investigation and  
15 prosecution.

16 B. With respect to superior and subordinate relationships not described in paragraph A, a  
17 superior shall be criminally responsible for such crimes committed by subordinates  
18 under his or her effective authority and control, as a result of his or her failure to  
19 exercise control properly over such subordinates, where:

20 1. The superior either knew, or , owing to the circumstances at the time, should  
21 have known that the subordinates were committing or about to commit such crimes;  
22 and

23 2. The superior failed to take all necessary and reasonable measures within his or  
24 her power to prevent or repress their commission or to submit the matter to the  
25 competent authorities for investigation and prosecution.

26 **Sec. 11. Non-Applicability of Statute of Limitations.** The crimes defined and penalized  
27 under this Act, their prosecution, and the execution of sentences imposed on their account, shall  
28 not be subject to any statute of limitations.

29 **Sec. 12. Superior Orders.** The fact that a crime defined and penalized under this Act has  
30 been committed by a person pursuant to an order of a government or of a superior, whether  
31 military or civilian, shall not relieve that person of criminal responsibility unless:

32 A. The person was under a legal obligation to obey orders of the government or the  
33 superior in question;

34 B. The person did not know that the order was unlawful; and

1 C. The order was not manifestly unlawful.

2 For the purposes of this section, orders to commit genocide or crimes against humanity are  
3 manifestly unlawful.

4 **PART 4. PROVISIONS FOR VICTIMS AND WITNESSES**

5  
6 **Sec. 13. *Protection of Victims and Witnesses.*** In addition to existing provisions in  
7 Philippine law and procedural rules for protection of victims and witnesses, the following measures  
8 shall be undertaken:

9 A. Philippine courts shall take appropriate measures to protect the safety, physical and  
10 psychological well-being, dignity and privacy of victims and witnesses. In so doing, the  
11 Court shall have regard to all relevant factors, including age, gender, and health, and  
12 the nature of the crime, in particular, but not limited to, where the crime involves sexual  
13 or gender violence or violence against children. The Prosecution shall take such  
14 measures particularly during the investigation and prosecution of such crimes. These  
15 measures shall not be prejudicial to or inconsistent with the rights of the accused and a  
16 fair and impartial trial.

17 B. As an exception to the general principle of public hearings, the Court may, to protect the  
18 victims and witnesses or an accused, conduct any part of the proceedings *in camera* or  
19 allow the presentation of evidence by electronic or other special means. In particular,  
20 such measures shall be implemented in the case of a victim of sexual violence or a  
21 child who is a victim or is a witness, unless otherwise ordered by the Court, having  
22 regard to all the circumstances, particularly the views of the victim or witness.

23 C. Where the personal interests of the victims are affected, the Court shall permit their  
24 views and concerns to be presented and considered at stages of the proceedings  
25 determined to be appropriate by the Court in a manner which is not prejudicial to or  
26 inconsistent with the rights of the accused and a fair and impartial trial. Such views and  
27 concerns may be presented by the legal representatives of the victims where the courts  
28 considers it appropriate in accordance with the established rules of procedure and  
29 evidence.

30 D. Where the disclosure of evidence or information pursuant to this Act may lead to the  
31 grave endangerment of the security of a witness or his or her family, the Prosecution  
32 may, for the purposes of any proceedings conducted prior to the commencement of the  
33 trial, withhold such evidence or information and instead submit a summary thereof.



1 J. Teachings of the most highly qualified publicists and authoritative commentaries on the  
2 foregoing sources as subsidiary means for the determination of rules of law.

3 **Sec. 16. *Relationship with Military Law.*** The application of military law to persons  
4 subject to military law for acts which may be constitutive of crimes under this Act shall be without  
5 prejudice to the investigation, prosecution and trial of said persons for crimes under this Act.

## 6 PART 6. JURISDICTION AND COURTS

7 **Sec. 17. *Universal Jurisdiction.*** The State shall exercise jurisdiction over persons,  
8 whether military or civilian, suspected or accused of the crimes defined and penalized in this  
9 Statute, including Philippine forces on peace-keeping, combat or similar missions abroad, no  
10 matter where these crimes occurred, even if they took place in the territory of another state,  
11 involved suspects or victims who are not nationals or residents of the State, or posed no direct  
12 threat to the State's own particular security interests.

13 However, in any of the latter cases, i.e. if the crimes took place in the territory of another  
14 state, involved suspects or victims who are not nationals or residents of the State, or posed no  
15 direct threat to the State's own particular security interests, the relevant Philippine national  
16 authorities may dispense with prosecuting a crime punishable under this Act and in lieu thereof  
17 transfer suspected or accused persons in the Philippines to the appropriate international court, if  
18 any, or to another state which may prosecute or be prosecuting the crime due to some link with  
19 that state.

20 **Sec. 18. *Philippine Courts, Prosecutors and Investigators.*** The Regional Trial Courts  
21 of the Philippines shall have original and exclusive jurisdiction over the international crimes  
22 punishable under this Act. Their judgments may be appealed or elevated to the Court of Appeals  
23 and to the Supreme Court under the existing system of jurisdiction of Philippine courts.

24 The appropriate instrumentalities of the State, namely the Supreme Court, the Department  
25 of Justice and the Commission on Human Rights, shall respectively designate special courts,  
26 prosecutors and investigators to investigate, prosecute and try, as the case may be, crimes under  
27 this Act. The special courts refer to designated branches of the Regional Trial Court and  
28 designated divisions of the Court of Appeals.

29 The State shall ensure that judges, prosecutors and investigators, especially those  
30 designated for purposes of this Act, receive effective training in human rights, international  
31 humanitarian law and international criminal law.

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