


8 OCT -8

SENATE

COMMITTEE REPORT NO. 134 RECEIVED BY: 

Submitted jointly by the Committees on Justice and Human Rights; and Foreign Relations on
OCT - 8 2008.

Re: Senate Bill No. 2669

Recommending its approval in substitution of Senate Bill Nos. 583, 1446, 1542 and 1861.

Sponsors: Senators Escudero, Gordon and Defensor Santiago.

MR. PRESIDENT:

The Committees on Justice and Human Rights; and Foreign Relations to which were referred Senate Bill No. 583, introduced by Senator Ejercito Estrada, entitled:

**“AN ACT
DEFINING AND PENALIZING CRIMES AGAINST INTERNATIONAL
HUMANITARIAN LAW, ADOPTING CORRESPONDING PRINCIPLES OF
CRIMINAL RESPONSIBILITY, OPERATIONALIZING UNIVERSAL
JURISDICTION, DESIGNATING SPECIAL COURTS, AND FOR RELATED
PURPOSES”**

Senate Bill No. 1446, introduced by Senator Gordon, entitled:

**“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”**

Senate Bill No. 1542, introduced by Senator Zubiri, entitled:

**“AN ACT
DEFINING AND PENALIZING CRIMES AGAINST INTERNATIONAL
HUMANITARIAN LAW AND OTHER SERIOUS INTERNATIONAL CRIMES,
OPERATIONALIZING UNIVERSAL JURISDICTION, DESIGNATING SPECIAL
COURTS, AND FOR OTHER PURPOSES”**

Senate Bill No. 1861, introduced by Senator Santiago, entitled:

**“AN ACT
DEFINING AND PENALIZING CRIMES AGAINST INTERNATIONAL
HUMANITARIAN LAW AND OTHER SERIOUS INTERNATIONAL CRIMES,
ADOPTING CORRESPONDING PRINCIPLES OF CRIMINAL
RESPONSIBILITY, APPLYING UNIVERSAL JURISDICTION, AND
DESIGNATING SPECIAL COURTS”**

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached bill, Senate Bill No. 2669, prepared by the Committees, entitled:


**“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 approved in substitution of Senate Bill Nos. 583, 1446, 1542 and 1861, with Senators Ejercito Estrada, Gordon, Zubiri, Defensor Santiago and Escudero as authors thereof.


Respectfully submitted:

Chairmen:


MIRIAM DEFENSOR SANTIAGO
Committee on Foreign Relations


FRANCIS “CHIZ” G. ESCUDERO
Committee on Justice and Human Rights

Vice-Chairman:


BENIGNO SIMEON “NOYNOY” C. AQUINO III
Committee on Justice and Human Rights

Members:

ALAN PETER "COMPAÑERO" S. CAYETANO
Committee on Justice and Human Rights

COMPAÑERA PIA S. CAYETANO
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GREGORIO B. HONASAN II
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JUAN PONCE ENRILE
Committee on Justice and Human Rights
Committee on Foreign Relations

RAMON BONG REVILLA JR.
Committee on Justice and Human Rights
Committee on Foreign Relations

RODOLFO G. BIAZON
Committee on Justice and Human Rights
Committee on Foreign Relations

*no reservations only because
ICC treaty should be
submitted for
ratification
first*

M.A. MADRIGAL
Committee on Justice and Human Rights
Committee on Foreign Relations

with serious reservations

EDGARDO J. ANGARA
Committee on Foreign Relations

JOKER P. ARROYO
Committee on Foreign Relations

RICHARD J. GORDON
Committee on Foreign Relations

MANUEL "LITO" M. LAPID
Committee on Foreign Relations

JUAN MIGUEL F. ZUBIRI
Committee on Foreign Relations

LOREN B. LEGARDA
Committee on Foreign Relations

of clarificatory questions

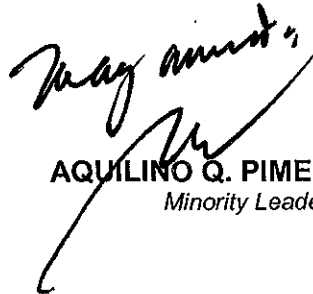
MAR ROXAS
Committee on Foreign Relations

ANTONIO "SONNY" F. TRILLANES IV
Committee on Foreign Relations

Ex-Officio Members:


JINGGO EJERCITO ESTRADA
President Pro-Tempore

 of amendments
FRANCIS N. BANGILINAN
Majority Leader

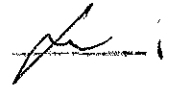

AQUILINO Q. PIMENTEL JR.
Minority Leader

Hon. MANNY VILLAR
Senate President
Senate of the Philippines
Pasay City

Republic of the Philippines
SENATE
FOURTEENTH CONGRESS
Second Regular Session

8 OCT -8 2015

RECEIVED BY



Senate Bill No. 2669

Prepared and submitted jointly by the Committees on Justice and Human Rights; and Foreign Relations with Senators Ejercito Estrada, Gordon, Zubiri, Defensor Santiago and Escudero as authors thereof

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

PART I. INTRODUCTORY PROVISIONS

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

3 **SEC. 2. *Declaration of Principles and State Policies.***

4 a. The Philippines renounces war as an instrument of national policy, adopts the
5 generally accepted principles of international law as part of the law of the land and adheres to
6 a policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

7 b. The State values the dignity of every human person and guarantees full respect for
8 human rights, including the rights of indigenous cultural communities and other vulnerable
9 groups.

10 c. The principles, rules and regulations of the Hague Conventions and the Geneva
11 Conventions on warfare and international humanitarian law form part of the law of our
12 nation.

13 d. The most serious crimes of concern to the international community as a whole
14 must not go unpunished and their effective prosecution must be ensured by taking measures
15 at the national level, in order to put an end to impunity for the perpetrators of these crimes
16 and thus contribute to the prevention of such crimes, it being the duty of every State to
17 exercise its criminal jurisdiction over those responsible for international crimes.

1 e. The State shall guarantee persons suspected or accused of grave crimes under
2 international law all rights necessary to ensure that their trials will be fair and prompt in strict
3 accordance with international law and standards for fair trials. It shall also protect victims,
4 witnesses and their families, and provide appropriate redress to victims and their families.

5 **PART 2. DEFINING AND PENALIZING THE MOST SERIOUS**
6 **CRIMES OF INTERNATIONAL CONCERN**

7 **SEC. 3. *War Crimes.* War crimes, or crimes against international humanitarian**
8 **law (IHL), are hereby defined and penalized as follows:**

9 A. For the purpose of this Act, “war crimes” applicable in both international and
10 non-international armed conflict means:

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

- 14 (a) Willful killing;
- 15 (b) Torture or inhuman treatment, including biological experiments;
- 16 (c) Willfully causing great suffering, or serious injury to body or health;
- 17 (d) Extensive destruction and appropriation of property, not justified by
18 military necessity and carried out unlawfully and wantonly;
- 19 (e) Willfully depriving a protected person of the rights of fair and regular
20 trial;
- 21 (f) Taking of hostages;
- 22 (g) Launching an attack against works or installations containing
23 dangerous forces in the knowledge that such attack will cause
24 excessive loss of life, injury to civilians or damage to civilian objects,
25 and causing death or serious injury to body or health;
- 26 (h) Making non-defended localities and demilitarized zones the object of
27 attack, and causing death or serious injury to body or health.

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

- 31 (a) Intentionally directing attacks against the civilian population as such or
32 against individual civilians not taking direct part in hostilities;
- 33 (b) Intentionally directing attacks against civilian objects, that is, objects
34 which are not military objectives;

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- (c) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- (d) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (e) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct military advantage anticipated;
- (f) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- (g) Killing or wounding a combatant who, having laid down his arms or no longer having means of defense, has surrendered at discretion;
- (h) Making improper or perfidious use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions or other protective signs under international humanitarian law, resulting in death, serious personal injury or capture;
- (i) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (j) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind, or to removal of tissue or organs for transplantation, which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (k) Killing, wounding or capturing an adversary by resort to perfidy;

- 1 (l) Declaring that no quarter will be given;
- 2 (m) Destroying or seizing the enemy's property unless such destruction or
3 seizure is imperatively demanded by the necessities of war;
- 4 (n) Pillaging a town or place, even when taken by assault;
- 5 (o) Ordering the displacement of the civilian population for reasons related
6 to the conflict, unless the security of the civilians involved or
7 imperative military reasons so demand;
- 8 (p) Committing outrages upon personal dignity, in particular humiliating
9 and degrading treatment;
- 10 (q) Committing rape, sexual slavery, enforced prostitution, forced
11 pregnancy, enforced sterilization, or any other form of sexual violence
12 also constituting a grave breach of the Geneva Conventions;
- 13 (r) Utilizing the presence of a civilian or other protected person to render
14 certain points, areas or military forces immune from military
15 operations;
- 16 (s) Intentionally using starvation of civilians as a method of warfare by
17 depriving them of objects indispensable to their survival, including
18 willfully impeding relief supplies as provided for under the Geneva
19 Conventions;
- 20 (t) Conscripting, enlisting or recruiting children under the age of eighteen
21 years into the national armed forces or using them to participate
22 actively in hostilities.
- 23 (u) Employing poison or poisoned weapons;
- 24 (v) Employing asphyxiating, poisonous or other gases, and all analogous
25 liquids, materials or devices;
- 26 (w) Employing bullets which expand or flatten easily in the human body,
27 such as bullets with a hard envelope which does not entirely cover the
28 core or is pierced with incisions;
- 29 (x) Employing weapons, projectiles and material and methods of warfare
30 which are of a nature to cause superfluous injury or unnecessary
31 suffering or which are inherently indiscriminate in violation of the
32 international law of armed conflict;

33 B. In case of a *non-international armed conflict*, serious violations of Article 3
34 common to the four Geneva Conventions of 12 August 1949, namely, any of the

1 following acts committed against persons taking no active part in the hostilities,
2 including members of armed forces who have laid down their arms and those
3 placed *hors de combat* by sickness, wounds, detention or any other cause:

- 4 1. Violence to life and person, in particular murder of all kinds, mutilation,
5 cruel treatment and torture;
- 6 2. Committing outrages upon personal dignity, in particular humiliating and
7 degrading treatment;
- 8 3. Taking of hostages;
- 9 4. The passing of sentences and the carrying out of executions without
10 previous judgement pronounced by a regularly constituted court, affording
11 all judicial guarantees which are generally recognized as indispensable.

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

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

32 D. The foregoing provisions applicable to non-international armed conflicts shall
33 not apply to situations of internal disturbances and tensions, such as riots,

1 isolated and sporadic acts of violence or other acts of a similar nature, as not
2 being armed conflicts.

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

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

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

16 **SEC. 4. Genocide.** Genocide is hereby defined and penalized as follows:

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

- 20 1. Killing members of the group;
- 21 2. Causing serious bodily or mental harm to members of the group;
- 22 3. Deliberately inflicting on the group conditions of life calculated to bring
23 about its physical destruction in whole or in part;
- 24 4. Imposing measures intended to prevent births within the group;
- 25 5. Forcibly transferring children of the group to another group.

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

1 **SEC. 5. Crimes Against Humanity.** Crimes against humanity are hereby defined and
2 penalized as follows:

3 A. For the purpose of this Act, “crime against humanity” means any of the
4 following acts when committed as part of a widespread or systematic attack directed against
5 any civilian population, with knowledge of the attack:

- 6 1. Murder;
- 7 2. Extermination;
- 8 3. Enslavement;
- 9 4. Deportation or forcible transfer of population;
- 10 5. Imprisonment or other severe deprivation of physical liberty in violation of
11 fundamental rules of international law;
- 12 6. Torture;
- 13 7. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced
14 sterilization, or any other form of sexual violence of comparable gravity;
- 15 8. Persecution against any identifiable group or collectivity on political, racial,
16 national, ethnic, cultural, religious, gender, or other grounds that are
17 universally recognized as impermissible under international law, in
18 connection with any act referred to in this paragraph or any crime within
19 the jurisdiction of the Court;
- 20 9. Enforced disappearance of persons;
- 21 10. The crime of apartheid;
- 22 11. Other inhumane acts of a similar character intentionally causing great
23 suffering, or serious injury to body or to mental or physical health.

24 B. For the purpose of paragraph A:

- 25 1. "Attack directed against any civilian population" means a course of conduct
26 involving the multiple commission of acts referred to in paragraph A
27 against any civilian population, pursuant to or in furtherance of a State or
28 organizational policy to commit such attack;
- 29 2. "Extermination" includes the intentional infliction of conditions of life,
30 inter alia the deprivation of access to food and medicine, calculated to bring
31 about the destruction of part of a population;
- 32 3. "Enslavement" means the exercise of any or all of the powers attaching to
33 the right of ownership over a person and includes the exercise of such

- 1 power in the course of trafficking in persons, in particular women and
2 children;
- 3 4. "Deportation or forcible transfer of population" means forced displacement
4 of the persons concerned by expulsion or other coercive acts from the area
5 in which they are lawfully present, without grounds permitted under
6 international law;
- 7 5. "Torture" means the intentional infliction of severe pain or suffering,
8 whether physical, mental, psychological and pharmacological upon a
9 person in the custody or under the control of the accused; except that torture
10 shall not include pain or suffering arising only from, inherent in or
11 incidental to, lawful sanctions;
- 12 6. "Forced pregnancy" means the unlawful confinement of a woman
13 forcibly made pregnant, with the intent of affecting the ethnic composition
14 of any population or carrying out other grave violations of international
15 law. This definition shall not in any way be interpreted as affecting national
16 laws relating to pregnancy;
- 17 7. "Persecution" means the intentional and severe deprivation of
18 fundamental rights contrary to international law by reason of the identity of
19 the group or collectivity;
- 20 8. "The crime of apartheid" means inhumane acts of a character similar to
21 those referred to in paragraph A, committed in the context of an
22 institutionalized regime of systematic oppression and domination by one
23 racial group over any other racial group or groups and committed with the
24 intention of maintaining that regime;
- 25 9. "Enforced disappearance of persons" means the arrest, detention or
26 abduction of persons by, or with the authorization, support or acquiescence
27 of, a State or a political organization, followed by a refusal to acknowledge
28 that deprivation of freedom or to give information on the fate or
29 whereabouts of those persons, with the intention of removing them from the
30 protection of the law for a prolonged period of time.
- 31 C. For the purpose of this Act, it is understood that the term "gender" refers to the
32 two sexes, male and female, and also to those of gay, lesbian and other sexual
33 orientations, within the context of society. The term "gender" does not indicate
34 any meaning different from the above.

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

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

13 **PART 3. SOME PRINCIPLES OF CRIMINAL RESPONSIBILITY**

14 **SEC. 7. *Non-Diminution of International Law.*** Nothing in this Act shall be
15 interpreted as limiting or prejudicing in any way existing or developing rules of international
16 law for purposes other than this Act.

17 **SEC. 8. *Individual Criminal Responsibility.*** In addition to existing provisions in
18 Philippine law on principles of criminal responsibility, the following principles shall also be
19 applied:

- 20 a. The appropriate Philippine Courts shall have jurisdiction over natural persons
21 pursuant to this Act.
- 22 b. A person who commits a crime within the jurisdiction of the Court shall be
23 individually responsible and liable for punishment in accordance with this Act.
- 24 c. In accordance with this Act, a person shall be criminally responsible and liable
25 for punishment for a crime within the jurisdiction of the Court if that person:
- 26 1. Commits such a crime, whether as an individual, jointly with another or
27 through another person, regardless of whether that other person is criminally
28 responsible;
 - 29 2. Orders, solicits or induces the commission of such a crime which in fact
30 occurs or is attempted;
 - 31 3. For the purpose of facilitating the commission of such a crime, aids, abets or
32 otherwise assists in its commission or its attempted commission, including
33 providing the means for its commission;

1 4. In any other way contributes to the commission or attempted commission of
2 such a crime by a group of persons acting with a common purpose. Such
3 contribution shall be intentional and shall either:

4 (i) Be made with the aim of furthering the criminal activity or criminal
5 purpose of the group, where such activity or purpose involves the
6 commission of a crime within the jurisdiction of the Court; or

7 (ii) Be made in the knowledge of the intention of the group to commit the
8 crime;

9 5. In respect to the crime of genocide, directly and publicly incites others to
10 commit genocide;

11 6. Attempts to commit such a crime by taking action that commences its
12 execution by means of a substantial step, but the crime does not occur
13 because of circumstances independent of the person's intentions. However, a
14 person who abandons the effort to commit the crime or otherwise prevents
15 the completion of the crime shall not be liable for punishment under this Act
16 for the attempt to commit that crime if that person completely and
17 voluntarily gave up the criminal purpose.

18 d. No provision in this Act relating to individual criminal responsibility shall affect
19 the responsibility of States under international law.

20 **SEC. 9. *Irrelevance of Official Capacity.*** This Act shall apply equally to all
21 persons without any distinction based on official capacity. In particular, official capacity as a
22 Head of State or Government, a member of a Government or parliament, an elected
23 representative or a government official shall in no case exempt a person from criminal
24 responsibility under this Act, nor shall it, in and of itself, constitute a ground for reduction of
25 sentence. Immunities or special procedural rules which may attach to the official capacity of
26 a person, whether under national or international law, other than the established constitutional
27 immunity from suit of the Philippine President during his/her tenure, shall not bar the Court
28 from exercising its jurisdiction over such a person.

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

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

- 1 1. That military commander or person either knew or, owing to the
2 circumstances at the time, should have known that the forces were
3 committing or about to commit such crimes; and
- 4 2. That military commander or person failed to take all necessary and
5 reasonable measures within his or her power to prevent or repress their
6 commission or to submit the matter to the competent authorities for
7 investigation and prosecution.

8 b. With respect to superior and subordinate relationships not described in
9 paragraph (a), a superior shall be criminally responsible for such crimes committed by
10 subordinates under his or her effective authority and control, as a result of his or her failure to
11 exercise control properly over such subordinates, where:

- 12 1. The superior either knew, or, owing to the circumstances at the time, should
13 have known that the subordinates were committing or about to commit such
14 crimes; and
- 15 2. The superior failed to take all necessary and reasonable measures within his
16 or her power to prevent or repress their commission or to submit the matter
17 to the competent authorities for investigation and prosecution.

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

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

- 24 a. The person was under a legal obligation to obey orders of the government or
25 the superior in question;
- 26 b. The person did not know that the order was unlawful; and
- 27 c. The order was not manifestly unlawful.

28 **For the purposes of this section, orders to commit genocide or crimes against humanity
29 are manifestly unlawful.**

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

31 **SEC. 13. *Protection of Victims and Witnesses.*** In addition to existing provisions in
32 Philippine law and procedural rules for protection of victims and witnesses, the following
33 measures shall be undertaken:

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

9 b. As an exception to the general principle of public hearings, the Court may, to
10 protect the victims and witnesses or an accused, conduct any part of the proceedings in
11 camera or allow the presentation of evidence by electronic or other special means. In
12 particular, such measures shall be implemented in the case of a victim of sexual violence or a
13 child who is a victim or is a witness, unless otherwise ordered by the Court, having regard to
14 all the circumstances, particularly the views of the victim or witness.

15 c. Where the personal interests of the victims are affected, the Court shall permit
16 their views and concerns to be presented and considered at stages of the proceedings
17 determined to be appropriate by the Court in a manner which is not prejudicial to or
18 inconsistent with the rights of the accused and a fair and impartial trial. Such views and
19 concerns may be presented by the legal representatives of the victims where the court
20 considers it appropriate in accordance with the established rules of procedure and evidence.

21 d. Where the disclosure of evidence or information pursuant to this Act may lead
22 to the grave endangerment of the security of a witness or his or her family, the Prosecution
23 may, for the purposes of any proceedings conducted prior to the commencement of the trial,
24 withhold such evidence or information and instead submit a summary thereof. Such
25 measures shall be exercised in a manner which is not prejudicial to or inconsistent with the
26 rights of the accused and a fair and impartial trial.

27 **SEC. 14. *Reparations to Victims.* In addition to existing provisions in Philippine**
28 **law and procedural rules for reparations to victims, the following measures shall be**
29 **undertaken:**

30 a. The Court shall follow principles relating to reparations to, or in respect of,
31 victims, including restitution, compensation and rehabilitation. On this basis, in its decision,
32 the Court may, either upon request or on its own motion in exceptional circumstances,
33 determine the scope and extent of any damage, loss and injury to, or in respect of, victims and
34 will state the principles on which it is acting.

1 b. The Court may make an order directly against a convicted person specifying
2 appropriate reparations to, or in respect of, victims, including restitution, compensation and
3 rehabilitation.

4 c. Before making an order under this section, the Court may invite and shall take
5 account of representations from or on behalf of the convicted person, victims or other
6 interested persons.

7 d. Nothing in this section shall be interpreted as prejudicing the rights of victims
8 under national or international law.

9 **PART 5. RELATIONSHIP WITH OTHER LAWS**

10 **SEC. 15. *Relationship with International Law.*** In the application and interpretation
11 of this Act, Philippine Courts shall be guided by the following instruments, developments and
12 references in international law:

- 13 a. The 1949 Geneva Conventions I-IV and their 1977 Additional Protocols I & II;
- 14 b. The 1954 Hague Convention for the Protection of Cultural Property in the
15 Event of Armed Conflict and its 1999 Second Protocol;
- 16 c. Customary international humanitarian law;
- 17 d. The 1948 Genocide Convention;
- 18 e. The 2000 Optional Protocol to the 1989 Convention on the Rights of the Child
19 on the Involvement of Children in Armed Conflict;
- 20 f. The 1998 Rome Statute of the International Criminal Court, its Elements of
21 Crimes, and its Rules of Procedure and Evidence;
- 22 g. International criminal law jurisprudence from various international criminal
23 tribunals;
- 24 h. Relevant and applicable international human rights instruments and
25 jurisprudence, mainly from the United Nations system; and
- 26 i. Teachings of the most highly qualified publicists and authoritative
27 commentaries on the foregoing sources as subsidiary means for the
28 determination of rules of law.

29 **SEC. 16. *Relationship with Military Law.*** The application of military law to persons
30 subject to military law for acts which may be constitutive of crimes under this Act shall be
31 without prejudice to the investigation, prosecution and trial of said persons for crimes under
32 this Act.

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PART 6. JURISDICTION AND COURTS

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

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

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

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

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

PART 7. FINAL PROVISIONS

SEC. 19. *Repealing Clause.* All laws, presidential decrees and issuances, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Statute are hereby repealed or modified accordingly.

SEC. 20. *Separability Clause.* If, for any reason or reasons, any part or provision of this Statute shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

1 **SEC. 21. *Effectivity.*** This Act shall take effect fifteen (15) days after its publication
2 in two national newspapers of general circulation. This publication shall not be later seven
3 (7) days after the approval hereof.

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5 Approved,