


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

SENATE
OFFICE OF THE SECRETARY

10 AUG 11 P2:21

SENATE
P.S.R. No. 85

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

RESOLUTION

EXPRESSING THE SENSE OF THE SENATE THAT SINCE THERE IS SEEMINGLY A SHIFT IN US POLICY ON THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT, THE PRESIDENT IS RESPECTFULLY REQUESTED TO TRANSMIT THE ROME STATUTE TO THE SENATE FOR CONCURRENCE

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

WHEREAS, the Constitution, Article 11, 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, on 28 December 2000, 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 Rome Statute provides that the International Criminal 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, namely genocide, crimes against humanity, and war crimes;

WHEREAS, the jurisdiction of the Court will be complementary to national courts, as 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 entered into force on 1 July 2002; as of 24 March 2010, 111 states have become States Parties to the Statute;

WHEREAS, the Constitution, Article 7, 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 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 is yet to be transmitted to the Senate for concurrence; almost ten years after the Philippines signed it;

WHEREAS, in the 2005 case of *Pimentel v. Office of the Executive Secretary* (462 SCRA 622), the Supreme Court ruled that neither the Senate nor the Supreme Court can compel the President to ratify a treaty for sole discretion of ratifying a treaty lies with the Executive;

WHEREAS, in the Thirteenth and Fourteenth Congresses, Sen. Miriam Defensor Santiago, chair of the committee on foreign relations, introduced three resolutions, respectfully calling for the transmittal of the Rome Statute to the Senate for concurrence. During the Thirteenth Congress, the Senate unanimously adopted one of Sen. Santiago's resolutions, through Resolution No. 94;

WHEREAS, the policy of Malacañang with regard to the Rome Statute is in line, with the position of the United States;

WHEREAS, the US, under the Bush administration, did not ratify the Rome Statute;

WHEREAS, the change in US leadership will likely pave the way for US ratification of the Rome Statute; the Obama administration has supposedly stated its intent to cooperate with the International Criminal Court; Cooperation with the Assembly of States Parties of the ICC is allegedly a key component of the Obama Administration's first National Security Strategy;

WHEREAS, even under the Bush administration, the US has been rethinking its policy to favor the Rome Statute because of the situation in Sudan; the US government under Mr. Bush has acknowledged that the Court may be the only effective tool for bringing accountability for the atrocities in Darfur;

WHEREAS, according to news reports, in May and June 2010, the Obama administration sent a large delegation drawn from all of main participants in policymaking on the ICC within the American government to the Review Conference in Kampala, Uganda;

WHEREAS, speaking about the past and future of US-ICC relations in light of the Review Conference, Harold Hongju Koh, Legal Advisor of the U.S. Department of State, allegedly declared: "After 12 years, I think we have reset the default on the U.S. relationship with the Court from hostility to positive engagement. In this case, principled engagement worked to protect our interest, to improve the outcome, and to bring us renewed international goodwill;

WHEREAS, it is the fundamental duty of the Philippines - as articulated in the Constitution, treaty law, and customary international law - to protect human rights, especially the right to life and human dignity; thus, the issue of ratification of the Rome Statute is one of transcendental importance;

WHEREFORE, be it hereby resolved by the Philippine Senate, to express the sense of the Senate that since there is seemingly a shift in US policy on the Rome Statute of the International Criminal Court, the President is respectfully requested to transmit the Rome Statute to the Senate for concurrence.

Adopted,

ACV

MIRIAM DEFENSOR SANTIAGO

/fldp