AN ANALYSIS OF THE UNITED STATES POSITION ON THE INTERNATIONAL CRIMINAL COURT AND ITS EFFECT ON THE RATIFICATION PROCESS IN THE PHILIPPINES: SOME IMPLICATIONS FOR SOUTHEAST ASIA

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ABSTRACT

The Rome Statute of the International Criminal Court, adopted in 1998 by 120 states and later signed by 139 states, entered into force on July 1, 2002, with the required minimum of 60 countries worldwide initially ratifying the treaty. The ICC is the first permanent and independent international criminal court that will prosecute the most serious crimes of international concern: genocide, war crimes, crimes against humanity and the crime of aggression, which has yet to be defined.

On 31 December 2000, the United States under President Clinton signed the Rome treaty creating the ICC. On May 2002, under the Bush administration, the US withdrew its signature from the Rome treaty, and worked for UN Security Council resolutions and bilateral immunity agreements—all intended to seek immunity for US nationals from any prosecution by the ICC. The US Congress also passed on August 2, 2002 the American Servicemembers' Protection Act which cuts military assistance to countries that become parties to the Rome treaty and gives authority to the President to waive this if the state enters into an immunity agreement with the US or if he decides that it is in the national interest of the US.

The study showed how the historical colonial experience of the Philippines and other forms of ties or relations with the US continues to play an important role in the decision making of whether to ratify or not the ICC and other issues related to the US. The study also showed how the US position of unsigning the Rome treaty, working on Security Council resolutions and getting countries to sign bilateral immunity agreements have seriously undermined the Court—resulting in non-ratification of the Rome treaty by most countries in the region. Such non-ratification has serious implications on both the negative and positive aspects of the human rights situation in the Southeast Asian region. While governments in the region succumb to US pressure and allow their people to be in more vulnerable situation, as an effect of non-ratification, more and more civil society groups realize they cannot depend on their governments to decide on the basis of principles like international justice and rule of law, which the ICC symbolizes and stands for. On the contrary, governments' decisions are based on their own political and economic interests, often at the expense of their people.

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