

CLERK OF COURT

REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

2018 MAY 16 11:59

EN BANC

SENATORS FRANCIS "KIKO" N.  
PANGILINAN, FRANKLIN M.  
DRILON, PAOLO BENIGNO  
"BAM" AQUINO IV, LEILA M.  
DE LIMA, RISA HONTIVEROS,  
and ANTONIO "SONNY" F.  
TRILLANES IV,

*Petitioners,*

- versus -

ALAN PETER S. CAYETANO,  
SALVADOR C. MEDIALDEA,  
TEODORO L. LOCSIN, JR., AND  
SALVADOR S. PANELO,

*Respondents.*

G.R. No. 238875

SUPREME COURT  
OFFICE OF THE CLERK OF COURT  
EN BANC  
RECEIVED

MAY 16 2018

BY: Bickj  
TIME: 3:41 j

X-----X

**PETITION FOR CERTIORARI AND MANDAMUS**

Senators FRANCIS N. PANGILINAN, FRANKLIN M. DRILON, PAOLO BENIGNO AQUINO IV, LEILA M. DE LIMA, RISA HONTIVEROS, and ANTONIO F. TRILLANES IV, respectfully state:

**I. STATEMENT OF THE CASE**

1. The present case presents a singular constitutional question that may have grave consequences to the Filipino nation. On March 17, 2018, the Secretary-General of the United Nations received notification from the Philippine government of its decision to withdraw from the Rome Statute "in accordance with the relevant provisions of the Statute."

However, this decision of the Philippine government to withdraw from the Rome Statute was made only by the Executive, without the participation of the Senate.

2. If the Executive can unilaterally withdraw from any treaty or international agreement, he is in a position to abrogate some of the basic norms in our legal system. Thus, the Executive can unilaterally withdraw from the International Covenant on Civil and Political Rights, the Geneva Conventions and the United Nations Convention on the Law of the Sea, without any checking mechanism from Congress. This would be an undemocratic concentration of power in the Executive that could not have been contemplated by the Constitution.

3. Given the dangerous consequences of the present case, the Honorable Court has the duty to apply the Constitution by declaring that the withdrawal from the Rome Statute requires the concurrence of at least two-thirds of all the members of the Senate. It is incumbent upon the Honorable Court to exercise this constitutional mandate to avoid a situation, now and in the future, where the Executive may upend some of the most basic norms of our legal system at his or her own behest.

## **II. NATURE OF THE CASE**

4. This is a petition for certiorari and mandamus under Rule 65 of the Rules of Court, seeking to (a) declare the withdrawal from the Rome Statute as “invalid or ineffective” without the concurrence of at least two-thirds of all the Members of the Senate; and (b) compel the Executive, through the Department of Foreign Affairs and the Philippine Permanent Mission to the United Nations, to notify the United Nations Secretary-General that it is cancelling, revoking and withdrawing its Instrument of Withdrawal received by the Secretary-General of the United Nations on March 17, 2018, given that such Instrument of Withdrawal is not consistent with the Constitution.

## **III. TIMELINESS OF THE PETITION**

5. While Rule 65, Section 4 of the Rules of Court provide that a petition for certiorari “shall be filed not later than sixty (60) days from notice of judgment, order or resolution,” the Executive’s act of withdrawing from the Rome Statute may be questioned anytime as it is a continuing impairment of the constitutional function of the Senate to concur in such withdrawal. Thus, the constitutional duty of the

Honorable Court “to determine grave abuse of discretion...on the part of any branch or instrumentality of Government”<sup>1</sup> is not extinguished by the 60-day period under the Rules of Court because of a continuing violation of the Constitution.

6. In any event, the present petition is being filed on May 16, 2018 or sixty (60) days from the Executive’s act of withdrawing from the Rome Statute on March 17, 2018.

#### **IV. THE PARTIES**

7. Petitioner Francis Pangilinan is an incumbent Senator of the Republic of the Philippines. He may be served with notices and other judicial processes at Rm. 516 & 4 (New Wing 5/F), GSIS Bldg., Financial Center, Diokno Blvd., Pasay City.

8. Petitioner Franklin M. Drilon is an incumbent Senator of the Republic of the Philippines, and the Senate Minority Leader. He may be served with notices and other judicial processes at Rm. 601 & 20 (New Wing 5/F), GSIS Bldg., Financial Center, Diokno Blvd., Pasay City.

9. Petitioner Paolo Benigno Aquino IV is an incumbent Senator of the Republic of the Philippines. He may be served with notices and other judicial processes at Rm. 510 & 5 (New Wing 5/F), GSIS Bldg., Financial Center, Diokno Blvd., Pasay City.

10. Petitioner Leila De Lima is an incumbent Senator of the Republic of the Philippines. She may be served with notices and other judicial processes at Rm. 502 & 16 (New Wing 5/F), GSIS Bldg., Financial Center, Diokno Blvd., Pasay City.

11. Petitioner Risa Hontiveros is an incumbent Senator of the Republic of the Philippines. She may be served with notices and other judicial processes at Rm. 527 & 9 (New Wing 5/F), GSIS Bldg., Financial Center, Diokno Blvd., Pasay City.

12. Petitioner Antonio F. Trillanes IV is an incumbent Senator of the Republic of the Philippines. He may be served with notices and other judicial processes at Rm. 519 & 15 (New Wing 5/F), GSIS Bldg., Financial Center, Diokno Blvd., Pasay City.

---

<sup>1</sup> CONSTITUTION, Art. VIII, Sec. 1.

13. Respondent Alan Peter S. Cayetano is the Secretary of the Department of Foreign Affairs. He may be served with notices and other judicial processes at the DFA Home Office, 2330 Roxas Boulevard, Pasay City.

14. Respondent Salvador C. Medialdea is the Executive Secretary of the Office of the President. He may be served with notices and other judicial processes at Malacañan Palace 1000 Jose P Laurel Sr., San Miguel, Manila.

15. Respondent Teodoro L. Locsin, Jr. is the Permanent Representative to the United Nations. He may be served with notices and other judicial processes at the DFA Home Office, 2330 Roxas Boulevard, Pasay City.

16. Respondent Salvador S. Panelo is the Chief Presidential Legal Counsel of the Office of the President. He may be served with notices and other judicial processes at Malacañan Palace 1000 Jose P Laurel Sr., San Miguel, Manila.

## V. STANDING OF PETITIONERS

17. Petitioners are senators who have the standing to file this petition due to the impairment of the Senate's constitutional function to concur in the Philippine government's decision to withdraw from the Rome Statute. As the Honorable Court ruled in *Tañada v. Saguisag*,<sup>2</sup> "the power to concur in a treaty or an international agreement is an institutional prerogative granted by the Constitution to the Senate..." Thus, any member of the Senate has standing to question before the Court the impairment of this institutional prerogative.

18. Petitioners are also suing as citizens because this case involves a "public right and [its] object...is to procure the enforcement of a public duty."<sup>3</sup> To be sure, the Executive has the public duty to follow the mechanisms of checks and balances under the Constitution.

19. The present case also involves an issue of transcendental importance that impacts on the country's constitutional checks and balances. It presents a constitutional issue that seriously affects the

---

<sup>2</sup> G.R. No. 212426, 12 January 2016.

<sup>3</sup> *Tañada v. Tuvera*, G.R. No. L-63915, 24 April 1985 citing HIGH, EXTRAORDINARY LEGAL REMEDIES (3rd ed.), sec. 431.

country's domestic legal system as well as the country's relations with the international community.<sup>4</sup>

## VI. PROPRIETY OF FILING IN THE SUPREME COURT

20. A direct recourse to the Honorable Court is necessitated by the important constitutional question raised by the Executive's withdrawal from the Rome Statute, which affects the core of the constitutional mechanism of checks and balances. This involves a pure question of law that falls squarely within the original jurisdiction of the Honorable Court "over petitions for certiorari, prohibition, mandamus..."<sup>5</sup> Thus, the present petition is invoking the Court's expanded certiorari jurisdiction under Article VIII, Section 1 of the Constitution "to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."<sup>6</sup>

21. In *Government of the United States of America v. Purganan*,<sup>7</sup> the Honorable Court held that while —

[a]s a general rule, a petition for certiorari before a higher court will not prosper unless the inferior court has been given, through a motion for reconsideration, a chance to correct the errors imputed to it. This rule, though, has certain exceptions: **(1) when the issue raised is purely of law, (2) when public interest is involved, or (3) in case of urgency.**<sup>8</sup>

In the same case, it was also stated that the "Court has allowed a direct invocation of its original jurisdiction to issue writs of certiorari when there are special and important reasons therefor."<sup>9</sup> In this case, there is no doubt that the constitutional question raised could seriously affect the domestic Philippine legal system, as well as the Philippines' international rights and obligations.

---

<sup>4</sup> See *Tañada v. Saguisag*, note 2 at 25.

<sup>5</sup> CONSTITUTION, Art. VIII, Sec. 5(1).

<sup>6</sup> See Dissenting Opinion of Justice Brion in *Araullo v. Aquino III*, G.R. No. 209287, 1 July 2014.

<sup>7</sup> G.R. No. 148571, 24 September 2002.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

## VII. RELEVANT FACTS

22. The Philippines, through its various Presidents and administrations since 1996, has actively participated in the establishment of the International Criminal Court (ICC). The ICC's Rome Statute, deposited with the Secretary-General of the United Nations, entered into force on July 1, 2002.

23. On August 30, 2011, the Philippines deposited its instrument of ratification of the ICC's Rome Statute, after having signed the Rome Statute on December 28, 2000. The Philippine Act on Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity (Republic Act 9851) was enacted on December 11, 2009, before the Philippines deposited its instrument of ratification of the ICC's Rome Statute. This law is an effective replication of many of the Rome Statute's provisions under domestic law, and serves as a basic ICC implementing law for the Philippines.<sup>10</sup>

24. On March 17, 2018,<sup>11</sup> the Honorable Court may take judicial notice<sup>12</sup> under Rule 129, Section 1 of the Rules of Court that the Secretary-General of the United Nations received notification from the Philippine government of its decision to withdraw<sup>13</sup> from the Rome Statute "in accordance with the relevant provisions of the Statute." The Note Verbale (diplomatic note) stated that the "decision to withdraw is the Philippines' principled stand against those who politicize and weaponize human rights, even as its independent and well-functioning organs and agencies continue to exercise jurisdiction over complaints, issues, problems and concerns arising from its efforts to protect the people." A copy of this Note Verbale is attached as Annex "A."

25. According to Article 127 of the Rome Statute, the withdrawal takes effect one year after the United Nations Secretary-General receives notification from the State Party.<sup>14</sup> Moreover, the

---

<sup>10</sup> <https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/0/234D37D36F42CBC1C12576B900293CC4>

<sup>11</sup> <http://globalnation.inquirer.net/165187/ph-pullout-icc-effective-year>

<sup>12</sup> RULES OF COURT, Rule 129, Sec. 1. *Judicial notice, when mandatory*. — A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, **the official acts of legislative, executive and judicial departments of the Philippines**, the laws of nature, the measure of time, and the geographical divisions. (Emphasis supplied)

<sup>13</sup> <https://www.nytimes.com/2018/03/14/world/asia/rodrigo-duterte-philippines-icc.html>;

<sup>14</sup> Rome Statute, Article 127: 1) A State Party may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Statute. The withdrawal

“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 to the date on which the withdrawal became effective.”<sup>15</sup>

26. However, the decision of the Philippine government to withdraw from the Rome Statute was made by the Executive, without participation of the Senate.

## VIII. GROUND

**THE EXECUTIVE DEPARTMENT, THROUGH THE DEPARTMENT OF FOREIGN AFFAIRS AND THE OFFICE OF THE PRESIDENT, GRAVELY ABUSED ITS DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN WITHDRAWING FROM THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT WITHOUT THE CONCURRENCE OF AT LEAST TWO-THIRDS OF ALL THE MEMBERS OF THE SENATE.**

## IX. DISCUSSION

### *A. The Rome Statute as a Law*

27. As a treaty validly entered into by the Philippines, the Rome Statute has the same status as an enactment of Congress.<sup>16</sup> In other words, the Rome Statute is a law in the Philippines. As a law, the

---

shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date. 2) A State shall not be discharged, by reason of its withdrawal, from the obligations arising from this Statute while it was a Party to the Statute, including any financial obligations which may have accrued. Its 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 to the date on which the withdrawal became effective.

<sup>15</sup> Rome Statute, Article 127(2).

<sup>16</sup> See *Abbas v. Commission on Elections*, G.R. No. 89651, 10 November 1989.

withdrawal from the Rome Statute requires the participation of Congress.

28. Under Article VII, Section 21 of the Constitution, entering into treaty or international agreement requires participation of Congress, *i.e.* through a concurrence of at least two-thirds of all the Members of the Senate.<sup>17</sup> The Executive initiates entry into a treaty or international agreement as the Chief Architect of Foreign Affairs. However, for such treaty or international agreement to be “valid and effective” in the Philippines, the participation of Congress is necessary because such treaty or international agreement becomes a law in the Philippines.

### ***B. The Executive Cannot Repeal a Law***

29. The Executive cannot abrogate or repeal a law. In the same vein, the Executive cannot unilaterally withdraw from a treaty or international agreement because such withdrawal is equivalent to a repeal of a law. Under the Constitution, it is only Congress that can repeal a law. In line with Article VII, Section 21 of the Constitution, the Executive’s withdrawal from the Rome Statute necessarily requires the participation of Congress through a concurrence of at least two-thirds of all the Members of the Senate.

30. Under the Constitution, the Executive’s function is to implement or execute existing laws, even those which he or she does not agree with. Thus, with respect to existing treaties or international agreements, the Executive may only enter into executive agreements that implement such existing treaties or international agreements. This is consistent with the Executive’s constitutional mandate to “ensure that the laws be faithfully executed.”<sup>18</sup>

31. An executive agreement must not be inconsistent with existing treaties or international agreements because this would be tantamount to amending or repealing a law which requires an act of Congress. *Bayan Muna v. Romulo*<sup>19</sup> addressed the validity of the RP-US Non-Surrender Agreement in the context of the Philippines’ ratification of the Rome Statute. In that case, the Honorable Court held that:

---

<sup>17</sup> CONSTITUTION, Art. VII, Sec. 21: “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.”

<sup>18</sup> CONSTITUTION, Art. VII, Sec. 17

<sup>19</sup> G.R. No. 159618, 1 February 2011.

“[A]n executive agreement cannot be used to amend a duly ratified and existing treaty...**Indeed, an executive agreement that does not require the concurrence of the Senate for its ratification may not be used to amend a treaty that, under the Constitution, is the product of the ratifying acts of the Executive and the Senate.**”<sup>20</sup>

Thus, the Court ruled that the RP-US Non-Surrender Agreement is not in contravention of the Rome Statute.

32. Given this, it is clear that the Executive alone cannot withdraw from an existing treaty or international agreement because such an act terminates “a treaty that, under the Constitution, is the product of the ratifying acts of the Executive and the Senate.”<sup>21</sup> Otherwise stated, the Executive alone cannot withdraw from an existing treaty or international agreement because such an act is equivalent to repealing an enactment of Congress.

33. In doing so, the Executive has committed usurpation of legislative powers penalized under the Revised Penal Code. Under Article 239 of the Revised Penal Code, usurpation of legislative powers is committed when “any public officer...encroach[es] upon the powers of the legislative branch of the Government, either by making general rules or regulations beyond the scope of his authority, **or by attempting to repeal a law or suspending the execution thereof.**”<sup>22</sup>

### ***C. Treaty Withdrawal Needs the Concurrence of at Least Two-Thirds of all Members of the Senate***

34. Under Article VI of the Constitution, the enactment of a law is an act of Congress, which requires the participation of both the Senate and the House of Representatives. Under Article VII, Section 21 of the Constitution, while a treaty or international agreement has the same status as a law, their entry involves the Executive because he or she is Chief Architect of Foreign Affairs. The participation of Congress is through the concurrence of the Senate, which must be a qualified majority, *i.e.* at least two-thirds of all its members, because the House of Representatives is no longer involved despite the creation of new law in the form of a treaty or international agreement entered into by the Philippines.

---

<sup>20</sup> Emphasis supplied.

<sup>21</sup> *Bayan Muna v. Romulo*, note 19.

<sup>22</sup> Emphasis supplied.

35. In the same manner, the withdrawal from a treaty or international agreement requires an act of the Executive and the concurrence of at least two-thirds of all members of the Senate, because the House of Representatives is not involved despite the repeal of a law in the form of withdrawal from a treaty or international agreement. In short, the Constitution requires a qualified majority of the Senate to enter or withdraw from a treaty or international agreement because the participation of the House of Representatives is dispensed with.

***D. Example of Revocation of Withdrawal from the Rome Statute***

36. A similar case is ICC State Party South Africa, which had notified the United Nations of its intention to withdraw, saying the ICC pursued “regime change.” The South African opposition Democratic Alliance challenged this in court, in the face of South African President Zuma’s party, the African National Congress, having an overwhelming majority in Parliament.

37. A South African High Court ruled on February 22, 2017 that President Jacob Zuma and his Cabinet’s October 16, 2016 ICC notification of withdrawal was premature, procedurally irrational, and that the government could not make the decision without the approval of Parliament.<sup>23</sup>

38. As the South African High Court aptly stated:

**This case turns on the separation of powers between the national executive and parliament in international relations and treaty-making. . . . The primary question is whether the national executive’s power to conclude international treaties, also includes the power to give notice of withdrawal from international treaties without parliamentary approval.**

---

<sup>23</sup> <https://www.nytimes.com/2017/03/08/world/africa/south-africa-icc-withdrawal.html>; see *High Court of South Africa (Gauteng Division, Pretoria)*, Case No. 83145/2016, *In the matter between Democratic Alliance and Minister of International Relations and Cooperation, Minister of Justice and Correctional Services, President of the Republic of South Africa, Speaker of the National Assembly, et al.*, 22 February 2017; at <http://www.saflii.org/za/cases/ZAGPPHC/2017/53.pdf>.

....

**The matter was argued largely on the basis that there is no provision in the Constitution or in any other legislation for withdrawal from international treaties. This may be considered to be an omission or lacuna. However, it appears to us that there is probably a good reason why the Constitution provides for the power of the executive to negotiate and conclude international agreements but is silent on the power to terminate them. The reason is this: As the executing arm of the state, the national executive needs authority to act. That authority will flow from the Constitution or from an act of parliament. The national executive can exercise only those powers and perform those functions conferred upon it by the Constitution, or by law which is consistent with the Constitution. This is a basic requirement of the principle of legality and the rule of law. The absence of a provision in the Constitution or any other legislation of a power for the executive to terminate international agreements is therefore confirmation of the fact that such power does not exist unless and until parliament legislates for it. It is not a lacuna or omission.**

**With regard to the conclusion of international agreements, it is not for parliament to engage in negotiating such agreements. It is for this reason that the Constitution gave that power to the national executive. It is thus provided for in the scheme of section 231 (1), for the executive to do what is in effect exploratory work: negotiate and conclude an agreement but not bind the country. As stated already, the executive does not have the power to bind South Africa to such agreement. The binding power comes only once parliament has approved the agreement on behalf of the people of South Africa as their elected representative. It appears that it is a deliberate constitutional scheme that the executive must ordinarily go to parliament (the representative of the people) to get authority to do that which the executive does not already have authority to do.**

**It would have been unwise if the Constitution had given power to the executive to terminate international agreements, and thus terminate existing rights and obligations, without first obtaining the authority of parliament. That would have conferred legislative powers on the executive: a clear breach of the separation of powers and the rule of law. On this basis, too, the national executive thus does not have and was never intended to have the power to terminate existing**

**international agreements without prior approval of parliament.**

In sum, since on the structure of s 231, **the national executive requires prior parliamentary approval to bind South Africa to an international agreement, there is no cogent reason why the withdrawal from such agreement should be different. The national executive did not have the power to deliver the notice of withdrawal without obtaining prior parliamentary approval. The inescapable conclusion must therefore be that the notice of withdrawal requires the imprimatur of parliament before it is delivered to the United Nations.** Thus, **the national executive's decision to deliver the notice of withdrawal without obtaining prior parliamentary approval violated s 231(2) of the Constitution, and breached the separation of powers doctrine enshrined in that section.**<sup>24</sup>

39. On this basis, the South African High Court ruled and ordered the following:

1. The notice of withdrawal from the Rome Statute of the International Criminal Court, signed by the first respondent, the Minister of International Relations and Cooperation on 19 October 2016, **without prior parliamentary approval, is unconstitutional and invalid;**

2. The cabinet decision to deliver the notice of withdrawal to the United Nations Secretary-General **without prior parliamentary approval, is unconstitutional and invalid;**

3. The first, second and third respondents – the Minister of International Relations and Cooperation, the Minister of Justice and Correctional Services and the President of the Republic of South Africa, **are ordered to forthwith revoke the notice of withdrawal referred in paragraph 1 above...**<sup>25</sup>

40. Thus South Africa, through its Permanent Mission of South Africa to the United Nations, notified the United Nations Secretary-General of its “Withdrawal of Notification of Withdrawal” as follows:

“I wish to inform you that the Gauteng High Court of the Republic of South Africa has on 22 February 2017 issued a judgement in the matter between the Democratic Alliance and the Minister of International Relations and Cooperation and others

---

<sup>24</sup> Citations omitted. *High Court of South Africa (Gauteng Division, Pretoria)*, Case No. 83145/2016, *In the matter between Democratic Alliance and Minister of International Relations and Cooperation, Minister of Justice and Correctional Services, President of the Republic of South Africa, Speaker of the National Assembly, et al.*, supra, note 23.

<sup>25</sup> *Id.*

and found that the **approval of the Parliament of South Africa had to be obtained before the Instrument of Withdrawal from the Rome Statute of the International Criminal Court can be deposited with the United Nations** as provided for in Article 127(1) of the Rome Statute of the International Criminal Court. Consequently, the abovementioned **depositing of the Instrument of Withdrawal was found to be unconstitutional and invalid**. In order to adhere to the said judgment, I hereby **revoke the Instrument of Withdrawal from the Rome Statute of the International Criminal Court with immediate effect.**<sup>26</sup>

41. Given that the Instrument of Withdrawal received by the Secretary-General of the United Nations on March 17, 2018 is inconsistent with the Philippine Constitution, the Honorable Court must order the Executive Department to carry out its cancellation, revocation or withdrawal, similar to the case of South Africa. This is necessary to implement the constitutional requirement that a treaty withdrawal needs the concurrence of at least two-thirds of all the Members of the Senate.

42. The Executive's withdrawal from the Rome Statute cannot also be justified under the so-called "residual powers" of the President. In *Marcos v. Manglapus*,<sup>27</sup> the President's residual power has been defined as the "unstated" power "to protect the general welfare of the people."<sup>28</sup> As an unstated power, the President's residual powers may only be invoked when there is no clear constitutional principle involved.

43. In the present case, however, the Constitution and the Honorable Court's jurisprudence are clear that the Executive has neither the power to terminate "a treaty that, under the Constitution, is the product of the ratifying acts of the Executive and the Senate," nor to effectively repeal such treaty which is equivalent to an enactment of Congress. It would be an extravagant claim to say that the President has the residual power to act like Congress in the termination of laws. To believe in such claim would fundamentally upend the constitutional allocation of powers and confer legislative powers upon the Executive—which is precisely what the Constitution is designed to prevent. Consistent with *Angara v. Electoral Commission*,<sup>29</sup> the Honorable Court has to "mediate[] to allocate constitutional boundaries [to] assert[] the solemn and sacred obligation assigned to it by the Constitution..."<sup>30</sup>

---

<sup>26</sup> Emphasis supplied. <https://treaties.un.org/doc/Publication/CN/2017/CN.121.2017-Eng.pdf>

<sup>27</sup> G.R. No. 88211, 15 September 1989.

<sup>28</sup> *Id.*

<sup>29</sup> G.R. No. L-45081, 15 July 1936

<sup>30</sup> *Id.*

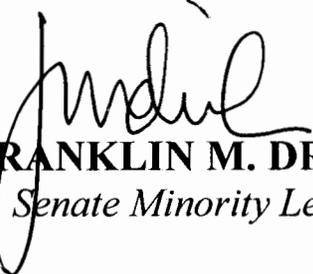
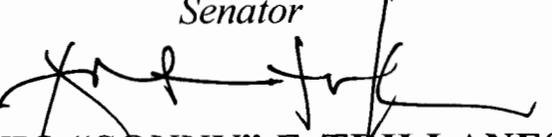
**PRAYER**

It is respectfully prayed that the Honorable Court:

- (1) **DECLARE** the withdrawal from the Rome Statute of the International Criminal Court as “invalid or ineffective” without the concurrence of **AT LEAST TWO-THIRDS** of all the Members of the Senate.
  
- (2) **COMPEL** the Executive Department, through the Department of Foreign Affairs and the Philippine Permanent Mission to the United Nations, to notify the United Nations Secretary-General that it is **CANCELLING, REVOKING OR WITHDRAWING** its Instrument of Withdrawal received by the Secretary-General of the United Nations on March 17, 2018, given that such Instrument of Withdrawal is not consistent with the internal law of the Philippines.

Other reliefs, just and equitable, are likewise prayed for.

16 May 2018.

 <b>FRANCIS “KIKO” N. PANGILINAN</b> <i>Senator</i>	 <b>FRANKLIN M. DRILON</b> <i>Senate Minority Leader</i>
 <b>PAOLO BENIGNO “BAM” AQUINO IV</b> <i>Senator</i>	
 <b>LEILA M. DE LIMA</b> <i>Senator</i>	
 <b>RISA HONTIVEROS</b> <i>Senator</i>	
 <b>ANTONIO “SONNY” F. TRILLANES IV</b> <i>Senator</i>	

***Copy furnished:***

**OFFICE OF THE SOLICITOR GENERAL**

134 Amorsolo St., Legaspi Village,  
Makati City, 1229

**ALAN PETER S. CAYETANO**

Department of Foreign Affairs  
DFA Home Office  
2330 Roxas Boulevard, Pasay City

**SALVADOR C. MEDIALDEA**

Office of the President  
Malacañan Palace  
1000 Jose P Laurel Sr.  
San Miguel, Manila

**TEODORO L. LOCSIN**

Department of Foreign Affairs  
DFA Home Office  
2330 Roxas Boulevard, Pasay City

**SALVADOR S. PANELO**

Office of the President  
Malacañan Palace  
1000 Jose P Laurel Sr.  
San Miguel, Manila

**EXPLANATION**

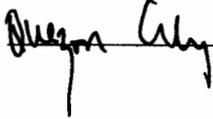
(Pursuant to Section 11, Rule 13 of the 1997 Rules of Civil  
Procedure)

Copies of this Petition for Certiorari and Mandamus are being served by registered mail due to distance, which makes personal service impracticable.



**FRANCIS "KIKO" N. PANGILINAN**  
*Senator*

REPUBLIC OF THE PHILIPPINES)

 \_\_\_\_\_ ) S.S.

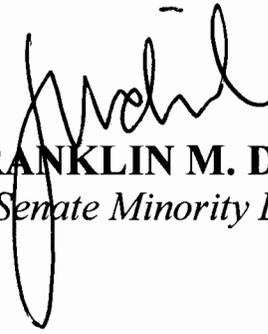
**VERIFICATION AND CERTIFICATION  
AGAINST FORUM SHOPPING**

We, **FRANCIS “KIKO” N. PANGILINAN, FRANKLIN M. DRILON, PAOLO BENIGNO AQUINO IV, RISA HONTIVEROS,** and **ANTONIO “SONNY” F. TRILLANES IV,** Filipinos, of legal age, with office address at the Senate of the Philippines, GSIS Bldg., Financial Center, Diokno Blvd., Pasay City., after having been sworn in accordance with law, hereby state:

1. We are Senators of the Republic of the Philippines and have caused the preparation and filing of the present Petition for Certiorari and Mandamus;
2. We have read and understood all the allegations contained therein, and the same are true and correct of our own personal knowledge based on authentic records;
3. The annexes attached to the petition are true, correct and faithful reproductions of the original documents;
4. The petitioners have not theretofore commenced any other action or proceeding involving the same issues in this Honorable Court, the Supreme Court, or any other tribunal or agency; that to the best of petitioners’ knowledge, no such action is pending before the Supreme Court, the Court of Appeals, or different Divisions thereof, or any tribunal or agency. Petitioners undertake to promptly inform the aforesaid courts and other tribunal or agency of that facts within five (5) days therefrom;
5. If petitioners should thereafter learn that some other similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different division thereof, or any other tribunal or agency, other than the aforementioned, petitioners undertake to promptly inform the said courts and such other tribunal or agency of such fact within five (5) days therefrom.



**FRANCIS "KIKO"  
N. PANGLINAN**  
*Senator*



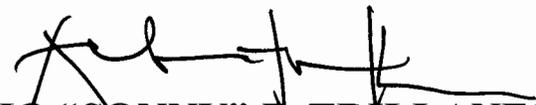
**FRANKLIN M. DRILON**  
*Senate Minority Leader*



**PAOLO BENIGNO "BAM"  
AQUINO IV**  
*Senator*



**RISA HONTIVEROS**  
*Senator*

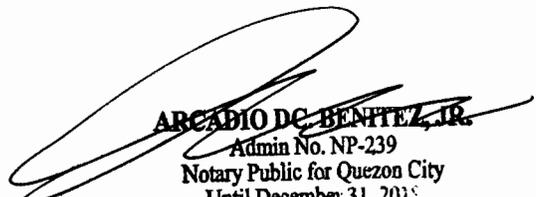


**ANTONIO "SONNY" F. TRILLANES IV**  
*Senator*

SUBSCRIBED AND SWORN to before me this 16<sup>th</sup> day of May 2018  
in Quezon City, affiants exhibiting to me the following:

NAME	COMPETENT EVIDENCE OF IDENTITY	DATE AND PLACE ISSUED
FRANCIS "KIKO" N. PANGILINAN	Diplomatic Passport Number D0002184A	11 Feb. 2017 in Manila
FRANKLIN M. DRILON	Diplomatic Passport Number D0004557A	15 Jan. 2018 in Manila
PAOLO BENIGNO "BAM" AQUINO IV	Diplomatic Passport Number D0001741A	10 Mar. 2017 in Manila
RISA HONTIVEROS	Diplomatic Passport Number D0001111A	06 Oct. 2016 in Manila
ANTONIO "SONNY" F. TRILLANES IV	Passport Number EC3665846	13 Mar. 2015 in Manila

Doc. No. 474  
Page No. 95  
Book No. C11  
5. 7. 2018



**ARCADIO D. BENITEZ, JR.**  
Admin No. NP-239  
Notary Public for Quezon City  
Until December 31, 2018  
Unit 209 Golden Sun Realty Corporation Bldg. II,  
29 Mindanao Avenue, Baguio Baguio, 1105 Quezon City  
Roll No. 62460 / 04-29-13  
MCLE Compliance No. V-0024378  
IBP No. AR001532 (Lifetime); 01-11-18; Quezon City  
PTR No. 5641481C; 01-10-18; Quezon City