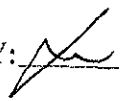




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SENATE

P.S. Res No. 395

RECEIVED BY: 

Introduced by SENATOR MANNY VILLAR

RESOLUTION

**STRONGLY RECOMMENDING TO THE PHILIPPINE GOVERNMENT THE IMMEDIATE
ACCESSION AND RATIFICATION OF THE UNITED NATIONS INTERNATIONAL
CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED
DISAPPEARANCES CITING THAT IT WILL BE FOR THE BEST INTEREST OF THE
COUNTRY AND THE PROTECTION OF THE FILIPINO DESAPARECIDOS**

WHEREAS, on December 20, 2006, the United Nations (UN) General Assembly during its 61st session adopted the International Convention for the Protection of all Persons from enforced disappearances, the said Convention is a significant development in recognizing enforced disappearances as an offense which in certain circumstances constitutes a crime against humanity and is therefore subject to international criminal prosecution;

WHEREAS, enforced disappearance, as defined by the UN, "is the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of law";

WHEREAS, the Convention expressly prohibits subjecting any person to enforced disappearance, and absolutely rejects any justification for its commission whether in a state of war or threat of war, internal political instability or any other public emergency. The Convention likewise provides for the criminal liability of state agents and persons acting on behalf of the state who are involved in enforced disappearances, as well as the rights to truth and material and moral damages for the victims and their families;

WHEREAS, in accordance with its Article 38, the Convention opened for signature beginning February 6, 2007. As of January 2011, there are already 88 signatory member states and 23 parties, i.e. countries that have expressed ratification or accession to the treaty. These include, among other, France, Japan, Italy, Belgium, Sweden, India, Lebanon, Brazil, Argentina, Cuba, Mexico, Uruguay, and Sierra Leone. The Convention will come into force 30 days after the submission to the UN Secretary-General of the 20th instrument for ratification or accession following Article 39 of the Convention, thus entering into force on December 23, 2010 as the last instrument of accession was submitted by Iraq in November 23;

WHEREAS, international organizations such as International Commission of Jurists, Amnesty International, Human Rights Watch and the International Federation for Human Rights in their joint written intervention stated, "*The Convention constitutes a large step forward in a long historical process. It effectively marks a significant development in applicable international law, all the while based as firmly established standards of customary international law. The Convention also responds to a substantial gap in the law – the absence of a treaty to address the multiple violations of human rights and international*

crime that enforced disappearance represents. The organizations welcome the recognition by the Convention of the right not to be subjected to enforced disappearance and the requirement put on States to prohibit and criminalize the practice in their national legislation. The Convention includes provisions related to the criminal responsibility of subordinates and superiors, to national and international preventive measures, extradition and international cooperation."

WHEREAS, the four international organizations have likewise called on member states of the Human Rights Council to adopt the Convention and for states to immediately ratify the said instrument in their respective countries;

WHEREAS, earlier on December 18, 1992, the UN General Assembly adopted the Declaration on the Protection of all Persons from Enforced or Involuntary Disappearance;

WHEREAS, it would be vital for the Philippines to become party to the Convention by ratifying the same as a signal that the Philippines is intent in upholding human rights;

WHEREAS, the Philippines is a UN member and a member of the Human Rights Council and is duty-bound to observe all international agreements and optional protocols for the promotion and protection of human rights, Despite government's avowed declaration for human rights, the grave and systematic killings, abduction and enforced disappearances mostly of activists continue;

WHEREAS, involuntary or enforced disappearance has yet to be defined and penalized in the country. The need for such legislation becomes increasingly important and urgent in the midst of the increasing and unabated commission of this offense. Article 4 of the Convention requires each States Party to take the necessary measures to criminalize enforced disappearance;

NOW THEREFORE BE IT RESOLVED, as it is hereby resolved, to strongly recommending to the Philippine government the immediate accession and ratification of the United Nations International Convention for the protection of all persons from enforced disappearances citing that it will be for the best interest of the country and the protection of the Filipino desaparecidos.

Adopted,



MANNY VILLAR