

**\*\*Title:\*\*** Pimentel, Jr. et al. vs. Executive Secretary et al.: A Legal Analysis on Treaty Ratification and Executive Discretion in the Philippines

**\*\*Facts:\*\***

This case arose from a petition for mandamus filed by Senator Aquilino Pimentel Jr., along with other individuals and organizations advocating for human rights and the establishment of the International Criminal Court (ICC). The petition sought to compel the Office of the Executive Secretary and the Department of Foreign Affairs (DFA) to transmit the signed copy of the Rome Statute of the International Criminal Court to the Senate of the Philippines for its concurrence.

The Rome Statute, which establishes the ICC, was signed on behalf of the Philippines by Charge d’Affaires Enrique A. Manalo at the United Nations headquarters in New York on December 28, 2000. The petitioners argued that under both domestic and international law, the ratification of treaties is a function of the Senate, hence the executive branch has a duty to transmit the signed treaty for Senate concurrence. They also invoked the Vienna Convention on the Law of Treaties, which enforces states to avoid actions that would defeat the object and purpose of a treaty after signing but prior to ratification.

The Office of the Solicitor General, representing the respondents, contested the petitioners’ legal standing and argued that the petition violates the hierarchy of courts. Substantively, it was contended that there is no ministerial duty on the part of the executive to transmit the Rome Statute to the Senate for concurrence.

**\*\*Issues:\*\***

1. Do the petitioners possess the legal standing to file the petition?
2. Is there a ministerial duty on the part of the executive branch to transmit the signed Rome Statute to the Senate for concurrence?
3. Is ratification of the Rome Statute obligatory under treaty and international law following its signing?

**\*\*Court’s Decision:\*\***

1. Among the petitioners, only Senator Pimentel was found to possess legal standing, as his role in the Senate directly involves treaty concurrence, thus having a substantial stake in the outcome.

2. The Supreme Court ruled that there is no ministerial duty on the part of the Executive Secretary and the DFA to transmit the signed Rome Statute to the Senate. The treaty-making process, as outlined in the Philippine legal system and supported by the Vienna Convention on the Law of Treaties, distinguishes between signing a treaty and ratifying it—where ratification is an executive act that expresses a state's consent to be bound by a treaty's provisions. The discretion to ratify a treaty, including the decision to transmit it to the Senate for concurrence, strictly lies with the President.

3. The Court also established that there is no legal obligation for a state to ratify a treaty post-signing, as ratification is a sovereign decision subject to the executive's evaluation of the treaty's implications for national interest.

**\*\*Doctrine:\*\***

The Court reiterated the doctrine that the power to ratify treaties lies with the President, subject to Senate concurrence. It distinguished the act of signing a treaty from ratification and underscored the executive's discretion in treaty ratification and its transmission to the Senate. The case further clarifies the separation of powers in the treaty-making process between the executive and the legislative branches under Philippine law.

**\*\*Class Notes:\*\***

- **\*\*Legal Standing:\*\*** Only individuals or entities directly affected by the issuance or non-issuance of a writ have the standing to file.
- **\*\*Treaty Ratification Process:\*\*** Distinguished from treaty signing, ratification is an executive act that formally confirms and accepts the provisions of a treaty, requiring Senate concurrence in the Philippines.
- **\*\*Executive Discretion in Foreign Affairs:\*\*** The President has the exclusive prerogative to negotiate treaties and decide whether to ratify them, emphasizing the doctrine of separation of powers.
- **\*\*Vienna Convention on the Law of Treaties:\*\*** Signing a treaty does not compel ratification; ratification is a sovereign act that expresses a state's consent to be legally bound by a treaty's terms.

**\*\*Historical Background:\*\***

The case underscores the Philippines' engagement with the international legal order and the nuances of treaty ratification in the context of the ICC's establishment. It illustrates the tension between international obligations and domestic legal procedures for treaty

ratification, highlighting the checks and balances between the Philippine executive and legislative branches in the treaty-making process.