



International Commission  
against the Death Penalty

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Navanethem (Navi) Pillay

**Vice Presidents**

Ruth Dreifuss

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Rodolfo Mattarollo

(1939-2014)

Asma Jilani Jahangir

(1952-2018)

Bill Richardson

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## ICDP Panel Discussion

### High-Level Side Event commemorating the 35th anniversary of the Second Optional Protocol to the ICCPR

June 24, 2024

## Situation of the DP in the Philippines

*Remarks by:*

*Commissioner Gloria Macapagal Arroyo*

Happy 35<sup>th</sup> anniversary of the 2<sup>nd</sup> Optional Protocol and congratulations, Marc, on your authorship of the Protocol.

### **I. My role in abolishing the death penalty in the Philippines and my country's acceding to the Second Optional Protocol to ICCPR during my presidency**

I was President of the Philippines when we abolished capital punishment on June 24, 2006. My Secretary of Foreign Affairs signed the 2<sup>nd</sup> Optional Protocol on September 22 that year, and the following year, we deposited our instrument of ratification with the U.N.

Our abolition and ratification differs somewhat from the experience of the other two countries in Southeast Asia which abolished the death penalty, Cambodia and Timor Leste. Cambodia abolished the death penalty in 1989 during its Constitutional transition from socialist rule, but it has not ratified the 2<sup>nd</sup> Optional Protocol. Timor Leste's U.N. Administrator abolished its death penalty in 1999 when the administration of the territory was transferred from Indonesia to the U.N., and the country joined the 2<sup>nd</sup> Optional Protocol in 2003, a year after it achieved independence. When the Philippines abolished the death penalty and ratified the 2<sup>nd</sup> Optional Protocol, we were neither transitioning from socialist rule nor from foreign control. I pushed the enactment supported overwhelmingly by Congress, though not so much by public opinion—there was strong opposition coming from anti-crime advocates and the powerful Filipino-Chinese business community. On the other side of the debate I was inspired by the letter of Pope, now Saint, John Paul II urging me not to implement the death penalty.

### **2. How the Second Optional Protocol played a role in ensuring that the Philippines remained abolitionist despite a lot of pressure to reinstate the death penalty**

For the Philippines, the 2<sup>nd</sup> Optional Protocol was a principal argument against attempts to restore the death penalty. Had we not ratified the 2<sup>nd</sup> Optional Protocol, our 2006 law abolishing the death penalty might have gone the way of our first 1987 abolition which was reversed in six short years in 1993.



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In 2017, the Philippine House of Representatives voted overwhelmingly to reinstate the death penalty for drug-related heinous crimes. I was a member of the House then, and I was one of a few who voted *No* to the bill. One congressman who voted *Yes* argued that the 2<sup>nd</sup> Optional Protocol is not a treaty nor an international agreement because the ratification did not have the concurrence of at least 2/3 of all members of the Senate. But despite the overwhelming *Yes* in the House of Representatives, the bill was stalled in the Senate. The Senate Committee on Justice suspended its hearing on the bill after the Senate adopted a resolution, supported by 14 out of 24 senators, reiterating that the termination of, or withdrawal from, international treaties can only be valid and effective with the agreement of the Senate itself. He was obviously referring to the 2<sup>nd</sup> Optional Protocol.

After the elections of 2019, there were other attempts to restore the death penalty, this time with a larger number of senators openly endorsing its passage. In 2021, the House passed a bill providing a mandatory penalty of death for the planting of false evidence during a drug crime investigation. The leader of the opposition to the restoration of the death penalty, as part of his arguments, reiterated that the Philippines is mandated by the Constitution to honor its obligations under international treaties which it ratified, particularly the 2<sup>nd</sup> Optional Protocol. Thus, the death penalty bill did not pass.

**3. And the role of key actors who have helped me in the efforts to keep my legacy alive: that of the abolition of the death penalty in the Philippines**

In 2006, Foreign Affairs Secretary Romulo, an abolitionist, initiated the signing of the the 2<sup>nd</sup> Optional Protocol, which helped prevent future backsliding.

In 2017, Senator Richard Gordon, chair of the Senate Committee on Justice and an abolitionist, suspended hearings on the death penalty bill.

In 2018, I was Speaker of the House of Representatives. After ascertaining that I had no plans to constitute a House panel to the bicameral conference committee, which is the last step in passing a law, Senate Majority Leader Miguel Zubiri, an abolitionist, never bothered to schedule the death penalty bill for plenary debate.

After the 2019 midterm elections, when more senators favored the death penalty, Senator Franklin Drilon led the opposition to the bill and invoked the 2<sup>nd</sup> Optional Protocol as one of his principal arguments.

In the Philippines, the most influential NGO for preventing the restoration of the death penalty is the Catholic Church. For example, in 2020, aside from arguing against the death penalty on moral grounds, the Catholic bishops also pointed out that the Philippines had made international commitments not to re-impose the death penalty and said, “Reviving it will go against this commitment.”



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In 2022, newly elected President Ferdinand Marcos, Jr., said regarding the death penalty: “....there is a practical issue and a moral issue involved. And the question is: Does society have the right to kill its own people....And as a practical matter, does the death penalty actually...discourage people from committing heinous crimes?...I think the data not only from the Philippines but from other countries shows that it doesn't.” These are words of our incumbent President.

Thus, we can say that each country arrives at its time and place in the evolution of its civil institutions, including the abolition of the death penalty, based on the leadership of key actors and the choice of its people.