

**RATIFICATION OF THE ROME STATUTE OF THE INTERNATIONAL
CRIMINAL COURT: RECOMMENDATIONS TO MALAYSIA'S
CONCERNS**

By

Muhammad Izzat bin Fauzan (2009996039)
Muhammad Shah Nizam bin Abdullah (2009953791)
Azeme bin Azhar (2009101995)

Submitted in Partial Fulfillment of the Requirements for the
Bachelor in Legal Studies (Hons.)

**Universiti Teknologi MARA
Faculty of Law**

June 2012

The students/authors confirm that the work submitted is their own
appropriate credit has been given where references have been made
to others.

ACKNOWLEDGEMENTS

This research project has been carried by a team, which has included Muhammad Izzat bin Fauzan, Azeme bin Azhar, and Muhammad Shah Nizam bin Abdullah. All three members have collectively worked together, each writing their own piece of the paper, which was then reviewed and edited amongst us, which was then amalgamated into the completed document that we have today.

We would like to extend many thanks to our supervisor, Puan Maryam Abdullah for her patience and guidance throughout the whole process.

We are also very grateful to Professor Abdul Ghaffur Hamid from the Ahmad Ibrahim Kuliyyah of Laws, IIUM for his willingness to spend his precious time with us, allowing for the team to pick his brain with regards to Malaysia and her various concerns in becoming a party to the Rome Statute.

Last but not least, we would like to extend our thanks to the staff of Perpustakaan Tun Abdul Razak, Universiti Teknologi MARA Shah Alam for being ever so helpful in helping us with our research in finding references within the library.

ABSTRACT

The International Criminal Court was established to fulfill the role of a permanent court to try perpetrators of crimes against humanity, which, in the past was put to trial via ad-hoc tribunals. This project is meant to identify the concerns Malaysia has in matters of adopting the Rome Statute of the International Criminal Court, and to propose viable solutions that Malaysia may adopt to deal with her concerns. In doing this, we have provided case studies of different models of implementation adopted by several state parties across the globe. We have managed to put forward academic arguments to deal with Malaysia's concerns and also viable models to be adopted in order to assist Malaysia to eventually adopt the Rome Statute. Though Malaysia's concerns are valid, nevertheless they can be overcome dealt with efficiently as we have outlined.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Statutes	vi
CHAPTER ONE: INTRODUCTION	
1.1 Background	1
1.2 Problem Statement	3
1.3 Research Objectives	3
1.4 Research Methodology	4
1.5 Literature Review	5
1.6 Scope and Limitations	7
1.7 Significance	7
1.8 Provisional Plan of Research	8
CHAPTER TWO: AN OVERVIEW OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT AND THE OBLIGATIONS OF A STATE PARTY	
2.1 Background	9
2.2 Obligations of a State Party	10
2.3 Principle of Complementarity	14
2.4 Exception to the Obligations	17
CHAPTER THREE: MALAYSIA’S CONCERNS IN ADOPTING THE ROME STATUTE	
3.1 Introduction	19
3.2 Options In Implementing The Legislation	19
3.3 Necessary Amendments to Malaysia’s National Laws	20
3.4 The Application of the Capital Punishment	22
3.5 Procedures and Personnel	23

CHAPTER FOUR: MODELS OF THE IMPLEMENTATION OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

3.1 Introduction	24
3.2 Japan	24
3.3 Germany	27
3.4 Mauritius	30
3.5 Canada	32

CHAPTER FOUR: THE PROPOSED APPROACH IN MALAYSIA'S ADOPTION

4.1 Introduction	34
4.2 Ratification: Now or Later?	34
4.3 Implementing the Law	35

CHAPTER 5: CONCLUSION

Bibliography	47
Appendices	
Appendix 1: Interview Questions	49
Appendix 2: Transcript of Interview with Professor Abdul Ghafur	52