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MALAYSIA AND THE ROME STATUTE: THE ISSUE OF SOVEREIGNTY

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Abstract

The announcement of Malaysia's accession to the Rome Statute on March 4, 2019 was met with strong objection by the opposition and some stakeholders. One of the main arguments made by those who opposed the Rome Statute was that "it will, in the end, destroy national sovereignty." Although the argument appears to be political rhetoric, it has already injected confusion among the general public and painted a dark picture that the Rome Statute is a hegemonic law that will rob Malaysia of its sovereignty. The main purpose of the present paper, therefore, is to set the record straight and to prove the simple fact that entering into a treaty is in fact a clear exercise of a State's sovereignty and not to lose sovereignty. Firstly, the paper reappraises the concept of sovereignty: in its original form and its evolution from 16th century to 21st century, on the basis of State practice, doctrine and judicial pronouncements. Secondly, arguments against the Rome Statute made by some powerful States are analysed and rebutted. Thirdly, Malaysia's situation is objectively evaluated in the light of a comparison between the Rome Statute and other onerous treaties to which Malaysia has already been a party. The paper concludes with the findings that States with their own free will restrict their sovereignty to subject themselves to international law and that Malaysia by no means will lose its sovereignty by acceding to a treaty. Most importantly the Government must prioritize the need to convince the people that it is the right thing to do - it is beneficial to the people of Malaysia or it can achieve the higher aim of protecting humanity.

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