

WINNING BACK THE WEST PHILIPPINE SEA

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Since the mid-20th century until the present, China has consistently implemented a long-term and systematic plan to take over the South China Sea, including the West Philippine Sea. To see this, we must take a quick long-term view and be aware of history:

- 1. In 1974, China forcibly dislodged the South Vietnamese in Crescent Group of the Paracels in the northern part of the South China Sea and took over those features.**
- 2. In 1987, China installed a weather radar station in Fiery Cross Reef in the Spratlys.**
- 3. In 1988, China forcibly evicted the Vietnamese from Johnson South Reef, seized Subi Reef from the Philippines, and took over these features.**

- 4. In 1995, barely three years after the departure of US military forces in Subic and Clark, China occupied Mischief Reef which is approximately 125 nautical miles (nm) from Palawan Island of the Philippines.**
- 5. In 2012, China seized Scarborough Shoal from the Philippines and China continues to blockade entry into the shoal.**
- 6. In the same year, China created an administrative unit, under the authority of the Province of Hainan, which administers all the features and the waters within its Nine-Dash Line in the South China Sea. The provincial government of Hainan enacted a law providing for the inspection, expulsion or detention of vessels “illegally” entering the waters claimed by China.**

- 7. In 2013, China occupied Luconia Shoals which is approximately 54 nm from Malaysia's Sarawak's coast.**
- 8. From the early 1990s until the end of 2013, China constructed air and naval bases in the Spratlys, destroying the coral reef systems that took thousands of years to form, and causing one of the worst environmental disasters in the world.**

For the Philippines, the 2012 seizure of Scarborough Shoal by China made us realize the dire need to stop China's illegal and creeping invasion of the West Philippine Sea.

We knew that the Rule of Law was on the side of the Philippines. That is why, in January 2013, when we initiated arbitration against China, we confidently put our fate in the hands of international institutions which embody the Rule of Law.

This was through the leadership of Former President Benigno S. Aquino III, who sadly passed away last Thursday, June 24, 2021. President Aquino or “PNoy” made the principled and courageous decision to sue China before an international tribunal to defend the rights of his countrymen under international law. History would tell if that was his greatest decision.

Almost four years after, on July 12, 2016, we were able to vindicate the rights of Filipinos over their waters through the Award issued by a Tribunal created under the United Nations Convention on the Law on the Sea or UNCLOS.

Shortly after the issuance of the Arbitral Award, then newly-elected President Duterte declared: “I will set aside the arbitral ruling. I will not impose anything on China.”

Hence, our country's fight for the West Philippine Sea lost its momentum as its leader, President Duterte, decided to set aside the Award in favor of Chinese loans and investments that have barely materialized until this day.

That said, what should we do?

First, the Award must be consistently raised before the United Nations General Assembly (UNGA) every year and whenever we can in other international fora. This is when we rely on the UN and other international institutions to serve not only as the primary promoter of the rule of law but also the court of world public opinion.

We believe that the Award has multilateral support because it benefits the coastal States of the South China Sea (*i.e.*, Vietnam, Malaysia, Indonesia and Brunei), whose lands and seas are encroached upon by China's nine-dash line. The Award also benefits the rest of the other countries in the world like the United States, the European Union and Japan because it affirms the freedom of navigation and overflight in the South China Sea.

Second, we should take concrete steps to consolidate support and assistance from the US, Australia, EU, Japan, ASEAN and other responsible nations. Most of the countries around the world believe in the Rule of Law and UNCLOS. These countries believe that the enforcement of the Award rendered under UNCLOS is the legitimate process of resolving the maritime dispute in the South China Sea, not China's method of bullying and deceit.

Third, we must make Chinese officials criminally accountable for having inflicted the most massive, near-permanent and devastating destruction of the marine wealth in the South China Sea. This finding has been unanimously upheld by the Award. Thus, former Ombudswoman Conchita Carpio Morales and I, with our counsel, Justice Antonio Carpio, submitted a Communication to the International Criminal Court to show that President Xi Jinping, Foreign Minister Wang Yi and former Chinese Ambassador Zhao Jinhua, among others, committed crimes against humanity for destroying the livelihood and food security of Filipinos.

We urge citizens of Vietnam, Malaysia, Indonesia and Brunei to submit similar communications to the ICC because they too have been affected by China's systematic and wanton environmental destruction.

Under ICC rules, any person—even citizens of the US, Australia and Japan—can submit information and evidence regarding the systematic and wanton environmental destruction committed by Chinese officials in the South China Sea.

Fourth, we also need to make China pay monetarily for its crimes. China mercilessly destroyed the breeding grounds of fish and other marine life in the Spratlys. More than half of our country's 110 million Filipinos live in coastal communities, relying on marine resources for their daily needs. Where will we get our food when we run out of fish?

The University of the Philippines Marine Science Institute conservatively estimated that our country is losing at least P33.1 billion annually from our damaged reef ecosystems due to China's reclamation activities and illegal fishing operations.

This sums up to P264.8 billion since the start of 2014 (around the time China started dredging) until the end of this year. This money may be used to save our fish and rehabilitate the marine ecosystem destroyed by China in our waters.

Fifth, it is time that our country develops a minimum credible defense posture, rejoin our partners in conducting joint patrols in the South China Sea and work to strengthen our alliance with the US. As a self-respecting country, we need the capacity to protect our territory and defend ourselves against external threats like China's incursions, as mandated by our Constitution.

To do this, we need to develop our own defense assets and call upon like-minded allies like the US, Australia and Japan, which share our respect for the Rule of Law and the values of freedom and democracy.

No other nation can support us more than we do ourselves, and there can be no unity over the right course of action unless we initiate this unity.

Sixth, we should assert our rightful position in the West Philippine Sea by relying on the skill, courage and patriotism of our Navy and Armed Forces which are capable of developing a credible minimum defense posture against any bully or aggressor, whoever that might be.

As we had previously said, we are opposed to war—as we should be. But if threatened by the use of force, we should be ready to inflict, at the very least, a bloody nose on any attacker who is out to harm us.

We therefore welcome the declaration from the US State Department that the West Philippine Sea is covered by the 1951 Mutual Defense Treaty between the Philippines and the US.

In 2019, US Secretary of State Michael Pompeo made a categorical declaration that “As the South China Sea is part of the Pacific, any armed attack on Philippine forces, aircraft or public vessels in the South China Sea will trigger mutual defense obligations under Article 4 of our mutual defense treaty.”

This year 2021, the US Department of State under Secretary Anthony Blinken, through his spokesperson, Ned Price, reaffirmed this assurance.

These declarations by the US State Department crystallize the US defense assurance that the South China Sea and, consequently, the West Philippine Sea, is covered by the defense obligations of both countries.

Seventh, and finally, our government must listen to its people. Nine out of ten Filipinos believe that it is important for the Philippines to regain control of the artificial islands built by China in the West Philippine Sea. Similarly, nine out of ten Filipinos also believe that it is important to strengthen the military capability of the Philippines, especially its navy. Furthermore, eight out of ten Filipinos believe that the South China Sea issues should be brought to the UN General Assembly.

We would like to invite all Filipinos around the world to help us defend our country's patrimony in the West Philippine Sea. If there is anything that should unite us Filipinos, it should be in defense of our national patrimony that has sustained us as a country throughout these times. As President Noynoy Aquino said, "we should stand up to China because it is the right thing to do." END