

IMPORTANCE OF INTERNATIONAL LAW TO THE PHILIPPINES

Stratbase ADR Institute Forum

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Good afternoon, Ladies and Gentlemen.

Let me start by stating that our country is facing challenges which threaten its very foundation that is built on the rule of law.

The Philippines has been a staunch advocate of a rules-based international system. Its experience as a nation that has been liberated from dictatorial rule, proves its commitment to human security, dignity and more importantly, its core values of democracy. As such, we as a people have always sought to identify with those nations which share the same belief that international order should be based on rules that are fair to the shared interest of all.

This is quite evident in our Constitution which is replete with principles in the conduct of its foreign policy. In embracing an independent foreign policy, the Philippines has adopted the generally accepted principles of international law.

I have shared time and again that the rule of law is the bedrock of peace, order and fairness in modern societies. The rise of a rules-based international system has been the great equalizer in global affairs.

Respect and adherence to international law have preserved peace and resolved conflicts. International law has given equal voice to nations regardless of political, economic or military stature, banishing the unlawful use of sheer force.

Yet, there are those who think that the rule of law does not apply to great powers. We continue to reject that view. There are actors, however, who believe that they have unbridled power to dominate their fellow nations because they have the superior firepower.

The militarization of the South China Sea remains to be one of the most important and contentious external threat not only in our country but in the region.

China has continuously rejected the rule of law by ostracizing the jurisdiction of the Permanent Court of Arbitration. More so, it has not only unceasingly refused to accept the arbitral ruling that is now an integral part of international law, but it has also unwaveringly flexed its muscle to deprive us of our sovereign rights. Since our northern neighbor is a signatory to UNCLOS, it cannot pick and choose arbitrarily what benefits China. Our northern neighbor must abide by the totality of UNCLOS.

What to do

What are our options to advance our national interest vis-à-vis South China Sea?

How do we communicate effectively and efficiently our aspirations for a global order that increasingly needs stability?

While our country appeared to be lax in enforcing what is right, it is not yet too late.

We can still change the path we ought to take and lead it towards achieving a global order wherein “right” is might.

We need to regain the respect of responsible nations by clearly standing up for the rule of law. We can begin by rallying for the support of other countries. We can seek the UN General Assembly to issue a Resolution that would effectively order China to abide by the arbitral ruling. Nonetheless, whether through multilateralism at the UN or with ASEAN or bilateral engagements, these provide us with glimmers of hope that we can triumph over an aggressor.

We must furthermore be able to police our own conduct and declarations to ensure that we do not project any opposing views that tend to undermine our lawful rights and interests.

What not to do

At the risk of sounding repetitive, the arbitral ruling is not an empty victory. Any person who views it as such carries the voice of China.

Let us not be willing victims by supporting and fuelling China's non-adherence to the rule of law. Concomitantly, we cannot remain silent.

According to my esteemed friend, Acting Supreme Court Chief Justice Antonio Caprio, the inaction of a State which is faced with a situation constituting threat or infringement of its rights refers to acquiescence; thus, it takes the form of silence or absence of protest in circumstances which generally call for a particular reaction signifying an objection.¹

By being silent, we have weaponized an aggressor to do more harm. By being silent, we have encouraged further aggression into our territories and marine resources.

As any responsible nation would do, we must act with peaceful resistance against threats to our sovereign rights and most importantly, the decline of the rule of law.

Previous Rulings

Aside from the South China Sea, a number of cases regarding territorial integrity and sovereignty has been resolved wherein the rule of law has been used as basis in delineating the rights of claimant states.

¹ Ian C. MacGibbon, *e Scope of Acquiescence in International Law*, 31 Brit. Y.B. Int'l L. 143 (1954). HTL
SERIALS as cited in page 227 of 'The South China Sea Dispute: Philippine Sovereign Rights and Jurisdiction in the West Philippine Sea' by Antonio T. Carpio)

The cases of the Kingdom of Netherlands versus Russia, Mauritius versus UK, and Nicaragua versus United States deserve significant attention. The losing parties in these cases ultimately and substantively complied with the award of the arbitral tribunal.

The question is why. Simply because these States opted to respect the rules-based international system. These states must therefore be considered exemplars of democratic countries that ought to be copied.

Moving Forward

As we continue to ponder our role in the future global order, let us ask ourselves what kind of international system we want to live in. Let us ask as well whether or not our actuations are aligned with our aspirations.

Our country is therefore confronted with two choices- do we stand strongly for the rule of law? OR do we, by default, allow ourselves to be ruled by China?

Should we end up with a misguided choice, for examples, do we want to suffer the political consequences of Cambodia or the debt trap challenges of Sri Lanka and Djibouti?

In closing, we want to respectfully commend President Duterte on his recent remarks about China's aggressive and unlawful behaviour in the South China Sea.

Nine out of ten Filipinos would be encouraged and inspired by this manifestation of our President's positive leadership.

If we truly adhere and respect the rule of law, we should actively seek to end any unlawful and aggressive attack to the rules-based international system.

The Filipinos have the moral high ground.

The Filipinos have the law on their side.

We are in the right.

Let us therefore speak with one voice - that adherence to the rule of law is the only way forward.

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