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Former Secretary of Foreign Affairs

**CONFERMENT OF HONORARY DOCTORATE DEGREE IN
HUMANITIES**

By

The Ateneo de Manila University (ADMU)

25 September 2018 (Tuesday) – Time: 3:30 p.m.-5:50 p.m.

**Venue: Rev Henry Lee Irwin Theatre (Grade School Complex),
Ateneo de Manila University, Loyola Heights, Quezon City**

“The Rule of Law”

**Rev. Father Jett Villarin, president of the Ateneo de Manila
University, members of the board of trustees, faculty, staff and
students, fellow awardees, honorable ambassadors, Amb. & Mrs.
Joey Cusia, Amb. Manolo Lopez, Amb. Jesus Tambunting, and Amb.
Lani Bernardo, my esteemed colleagues in the First Pacific Group of
Companies, Messrs. Oscar Reyes, Joey Lim, Eric Alberto and Jay
Lagdameo, members of my beloved family, my dear friends – Messrs
Willie Coscolluela, Spanky Perez and Tony Cumagun - other
distinguished guests, ladies and gentlemen.**

First of all, I would like to proffer my profound thanks to the Ateneo for sharing its tradition of excellence with us on this incredible day.

It is a great honor to receive this conferment from the Ateneo and I am deeply humbled by it. Let me just add that my wife, Gretchen, and I are very proud to have given all five of our children the gift of schooling at the Ateneo. Our daughter Inge, continues to lead the Emmaus Center, a Jesuit ministry on campus at the Ateneo while our two eldest grandsons, Joshua Isleta and Jaime Inocentes, are freshmen, both pursuing courses towards a career in diplomacy.

Last but not least, I would like to acknowledge the presence of my invaluable and most trusted friend of 50 years in the person of Mr. Manny Pangilinan who needs no introduction at the Ateneo. Let me say that a better friend than he, there is none.

With your kind indulgence, I have chosen to speak on the “Rule of Law” which I believe to be a timely and important subject. For many of us, this concept of the rule of law applies only in a domestic concept. That is to say, it governs the relationships within a Nation State, between its citizens and various juridical entities, within the government, and between the government and the people.

Indeed, all countries should be governed by the rule of law.

Democracies, as the saying goes, are governments of law and not of men.

However, what we must never forget is that the rule of law must also govern relations among states and other international entities.

After suffering two world wars, the international community had strived to establish international law as the bedrock foundation for the lawful governance of global affairs.

The United Nations is the centrepiece of these efforts to outlaw aggression between states and to promote more peaceful relations. Other international mechanisms, including the Bretton Woods system and the multilateral trading system anchored on the World Trade Organization, similarly aimed to have more order, stability and predictability in international economic relations.

Now, however, this international order seems beset by challenges on all sides. Alienated, disaffected and angry elements appear intent on tearing down much of what the international community has built in the Post-World War II era.

We face threats from embittered, anti-immigrant and right-wing populists, to economic super-nationalists, to the neo-authoritarians pushing against liberal democracy at home and asserting their power overseas, to religious extremists of so many kinds.

Here, in our own region, we have seen an example of such unilateralist action right on our very door step. In the South China Sea, despite our best efforts to find a peaceful and lasting resolution to our disputes that would account for the legitimate interests of all parties, we find China still obstinately acting in a contrary manner.

As a result, we are now in a new era of uncertainty. There is now disarray in the ranks of governments. We are casting around for ways to respond in a meaningful fashion to preserve the established order, while answering the frustration and fury of many electorates.

To be fair, much of the disenchantment arises from the failures of the current systems. Despite its many achievements, the United Nations has seemed increasingly powerless against so many instances of conflict. The U.N. did help in preventing the outbreak of general war since 1945 alongside the nuclear superpower balance.

But there has been an explosion of sub-state conflict involving non-state actors and as well terrible humanitarian catastrophes.

Economic globalization did reduce the number of absolute poor in the world, lifting up many developing nations, enabling them to participate and contribute at unprecedented levels in the global economy. But that progress has been uneven and too many have been left behind. Furthermore, repeated financial meltdowns, greater than the Great Depression of the 1930's, also a product of globalization, has shaken the core of the global economy.

The IT revolution has taken down barriers, facilitated communication, boosted creativity and productivity and brought people together more closely than ever before. But, paradoxically, the IT Revolution has also fuelled extremism and hate.

More ominously, it has permitted cyber-criminality, which respects neither law nor national borders, to spread like an uncontrollable cancer.

What does all this mean for the Philippines? How do we manage in an era of uncertainty that is perhaps deeper and darker than at any time in a generation? We seem to be drifting, like so many other nations, into a nebulous unknown.

The first, I believe, is to realize that the Philippines has a fundamental and enduring stake in the international system. We have always been an open and welcoming country. Over the past twenty years, we have also made profound decisions to become ever more engaged with the world in all dimensions. Politically, economically, technologically and in terms of people-to-people relations, the Philippines has not been wanting in efforts to reach out and work with other countries for the common good.

The second, and more importantly, is that the Philippines is not insignificant on the world stage. As a member of the community of nations, we have been active in global efforts to create rules for international order that would save us from a dog-eat-dog world of competing powers and naked interests. The Philippines was a Charter Member of the United Nations Charter. We worked for greater respect for humanity as a drafter of the Universal Declaration of Human Rights.

We participated actively in the decades-long effort that produced the United Nations Convention on the Law of the Sea (UNCLOS).

The Philippines took part in United Nations peacekeeping, from Korea to the Golan Heights. We have, within our means, joined mercy and humanitarian missions, including the Red Cross.

We helped forge international rules and norms for global disarmament and arms control, for trade and development, for health, for climate change and for migration, among others.

We are one of the Five Founding Members of ASEAN and an advocate of its multiplicity of dialogue mechanisms. We helped create APEC, the East Asian Summit (EAS) and the ASEAN Regional Forum (ARF).

Throughout this time, through successive administrations, the explicit or implicit operating assumption of the Philippines was that we were helping to build a more peaceful and prosperous world. The lodestone for all this effort, accomplished in various diplomatic forms, has been an abiding faith in the centrality of the rule of law.

As a developing country, albeit now a fast-growing one, which seeks both security and progress through engagement with the world, it is crucial for the Philippines to maintain solidarity with other countries and all stakeholders who share a similar faith. Whether it is to solidify peace and stability through UNCLOS in the South China, or to save the rules-based multilateral trading system in the WTO, or to protect our Planet Earth through the implementation of the Paris Accords, or to avoid a nuclear catastrophe with the Non-Proliferation Treaty (NPT), we must stand steadfast with responsible nations for the rule of law.

In this regard, may I recall that the Philippines has already made a tremendous contribution to the advancement of the Rule of Law. By initiating and winning its South China Sea arbitral case against China on July 12, 2016, we have shown the world that our country sought to resolve a serious dispute state-to-state in its regional neighborhood solely through legal, peaceful and transparent means.

The Arbitral Award safeguarded vital Philippine sovereign interests in the South China Sea against unjust encroachments by Beijing.

By ruling against the legality of the so-called Nine-Dash line claim, the Arbitral Tribunal demonstrated that Beijing had not acted in accordance with international law on areas affecting the maritime claims of the Philippines.

Allow me to quote Senior Associate Justice Antonio T. Carpio on this crucial point:

“Among coastal states in the South China Sea, the most important aspect of the Award is the ruling that China’s so-called historic nine-dashed line cannot serve as legal basis to claim any part of the waters or resources of the South China Sea. China, like all the other coastal states in the South China Sea, can only claim maritime zones not exceeding 350-NM from its coastline.

The Award in effect affirmed the existence of high seas in the South China, comprising about 25% of the waters of the South China Sea, and all around these high seas are the EEZs of the adjacent coastal states. In the EEZs, all the fish, oil, gas and other mineral resources can be exploited solely, and exclusively, only by the adjacent coastal state.”

Let me also recall that the decision to go to court, so to speak, was not done rashly in haste. The Philippines tried in vain to engage with China in discussions to resolve our differences. And since the ruling, China has continued its unilateralist actions leading to an increased militarization of the South China Sea through more construction on its artificial islands and naval upgrades.

It is truly unfortunate that Beijing chose not to work with us in finding an enduring legal way out of the disputes. If Beijing had taken part in the arbitration, the legal parameters of our common concerns would have been established for the eventual longer term resolution of our disputes through further negotiation.

Let me add further that such negotiations, after the tribunal outcome, would have placed the Philippines on a stronger footing vis-a-vis the rising power of China.

In any case, Beijing's rejection of the Arbitral Ruling is considered immaterial. The Ruling is now an integral part of international law. Even the Presidential Spokesman has recognized this.

It is the prerogative and the responsibility of an incumbent Administration to decide on our Foreign Policy and to craft our diplomacy. At the same time, in a democracy, the citizenry may freely express its views. Members of the foreign affairs community should also be encouraged to share their expertise, experience and proposals for the general good.

So where are we in this respect? Objectively speaking, are we at a stalemate? I would submit that we are not. China has not only rejected the Arbitral Ruling, but has steadily moved to consolidate its presence and power projection in the South China Sea. This can only be to the disadvantage of the Philippines and other regional claimant states.

Furthermore, while negotiations on a binding regional code of conduct may be commendable, we should take care that nothing in it will undermine the legal victory of the Philippines. Given Beijing's prevailing hostility to our legal process, we must be vigilant on this score.

Moving forward will clearly be a complex task, where action will be required on several fronts, to protect and promote the Arbitral Award. All our actions, however, must be guided by the Arbitral Ruling, the sterling manifestation of the Rule of Law.

While we are cognizant of the imperative not to start an armed conflict, we firmly believe that adherence to the Rule of Law is a profoundly pacifist way that everyone should be able to follow. The thought that war was the only alternative to setting aside the Arbitral decision cannot possibly be serious in this modern world.

We should therefore protest any further illegal action by China. This applies especially to violations of our airspace and maritime entitlements and illegal activities such as harassing our fishermen and stealing our natural resources.

Issuing protests is not an act of aggression. It is standard diplomatic practice. The important thing is to show our disagreement for the record so that it may never be said that we have renounced our legitimate claims in the South China Sea.

We must also be vigilant about further militarization on the artificial islands.

These are clearly of a destabilizing nature that affect the security not only of Southeast Asia but also of the entire East Asian region.

We have to remain aware of Beijing's larger game.

Beijing's stance risks exacerbating the potential of great power conflict, the one eventuality that nobody wants. If, indeed, China is intent on changing the status quo in the waters of our region, the Philippines should not be complicit in this strategic manoeuvre.

Taking into consideration the interests of other countries, the Philippines should also remain open to discussing the regional impact of the ruling. China will probably not attend, but we may proceed with other interested countries. To dispel any fear, we can have such discussions in a purely academic setting to begin with. There are many think tanks that would find such a discussion of great interest in contributing to a more clear, predictable and stable regional future.

The Philippines should of course actively participate in any international or regional event that seeks to establish norms or rules, whether legally binding or soft-law, that would strengthen further the foundations of the Rule of Law in inter-state relations within the region. The South China Sea is not the only area of dispute in East Asia. Improvements in one might hopefully lead to amelioration elsewhere.

In the case of the South China Sea, given the existence of multiple claimants, multilateral diplomacy is necessary. This means the involvement not just of other territorial claimants but also of other states who have varied interests in the South China Sea basin. So the member-states of ASEAN, the EAS and the ARF should be appropriately included for reasons of transparency and fairness to all concerned.

Since we are far from a peaceful, final, and lasting political settlement of the South China Sea disputes, it makes eminent sense to promote interim trust and confidence-building measures and other practical initiatives.

These may not touch on borders or sovereignty questions, but would instead focus on such areas as fishing, marine environment, the safety of shipping and the avoidance of collisions and other untoward incidents at sea.

However, we must take great care about resource-sharing arrangements. We must ensure that they conform with the Philippine Constitution and do not serve to undermine the Arbitral Ruling. Indeed, joint exploitation is so sensitive an issue we really should create a multisectoral consultative body, with our best legal minds, to assist the Administration in developing this initiative. It behoves us moreover to be transparent in our intentions.

The attitude of caution should also be present when we accept Chinese loans. Our country obviously needs greater investments to modernize infrastructure and sustain our growth to increase employment. Nonetheless, we should remain mindful of the numerous reports regarding so-called debt traps involving the injudicious use of loans from China in various countries.

Our ultimate objective is to lay the foundations for predictability and stability.

All we do before that are steps on the way to that objective, accomplished within a framework of diplomatic dialogue and cooperation reinforced by what should be a common commitment to the Rule of Law.

The Rule of Law is the only principle that can transcend the interests of various jurisdictions in the sphere of international relations. If we do not adhere to the Rule of Law, then we consign our regional affairs to the clash of national interests without rules. The regional order would then be one where the strong will impose on the weak, and the regional order will be designed not to serve our shared interests in a prosperous and progressive future but the rival interests of great powers.

The Philippines took a giant step in promoting the Rule of Law in our region, and indeed, for the whole world by recourse to Arbitration.

We are now at the crossroads of an opportunity which we should not let fall from our grasp. We are also beset by threats on all sides. As I said at the beginning, there are those not happy, for reasons right and wrong, with the current status quo in many areas.

The unifying principle that would help most in containing and eventually resolving international disputes is a solid adherence to the Rule of Law, through the different instruments and mechanisms that codify, explain and operationalize it.

Of course, this includes UNCLOS and the Arbitral Ruling that clarified critical points of its application in the South China Sea.

In conclusion, permit me to humbly leave a suggested approach on the table. As we continue to urgently request our government to seek a resolution from the UN General Assembly to have China abide by the arbitral outcome, Filipino citizens can and should continue to discuss the subject. Not only at home, but with our friends and allies overseas.

This can be done with think tanks, universities, CSOs and peoples organizations in a positive spirit of mutual engagement. I respectfully invite you, members of the Ateneo community, to join us in exploring – if you will – the various options on how we can move forward to pursue our respective entitlements and to make our region a safer place.

One major purpose of our think tank entity - the Stratbase ADR Institute - is not to work at cross-purposes with the Administration. Rather, it is to help keep this singular legal achievement of our Republic in the public mind so all people can explore it's full potential for consolidating the international Rule of Law.

The future may be unclear and uncertain today. But fidelity to the Rule of Law and believing that right is might would buttress a truly independent foreign policy.

Finally, how can each of us be helpful? We can help by understanding what is happening, by adding our voices to defend what is ours and by taking a united stand in upholding the rule of law and doing what is right.

I thank you.