

REMARKS OF AMB. ALBERT DEL ROSARIO

At the General Membership Meeting of JCI Manila

Ballroom 2, Raffles Hotel Makati

30 July 2019

Good evening everyone. It is an honor and a privilege to have been asked to join you tonight towards a two-fold purpose of rekindling our precious brotherhood as Jaycees and being able to share at the same time our humble thinking on Philippine foreign policy.

In a humorous way, standing before you, I find myself in a paradox. Why is that? While I was in foreign service, I knew a lot but I could only say very little. Now that I am out of the service, I know very little but I am being asked to say a lot. On that score, a failing memory is also not very helpful.

In context, I appear before you as a private citizen, a former government official, a fellow Jaycee and one who truly believes that democracy works best when there is freedom of expression and people are encouraged to do what is right.

To begin lightly, allow me to share my first public exposure in Washington, DC as Philippine Ambassador to the United States. On my very first day at work, I received a call from Mr. Wolf Blitzer of CNN inviting me for an immediate interview. Reluctantly, I accepted and found myself at CNN being made ready. Mr. Blitzer asked me if I had ever been interviewed on TV and I said never. That's fine, he said. It's like having a conversation in your living room. Then, before I knew it I was on camera in front of millions of Americans.

Before I could even answer his first question, I believe he was already on his third and fourth question. At the end of the interview, he saw me and asked why so glum chum? I told him I felt that I did not do well. He said, oh! you did very well – you even answered questions ambassadors are not supposed to answer!

I rushed to the office and learned that there was another interview with Jim Lehrer that evening. I immediately called a PR firm to ask if I could be tutored in being interviewed. The guy who answered said that he could do this in 2 minutes. First lesson: Do not accept an interview unless you have a message and that message must be clearly delivered right away. Please note that in many interviews, a message is delivered without regard for the question being asked. Second lesson: Keep your message short. Third lesson: If the interviewer wants to take you down a rosy garden path where you are not comfortable, just tell him I don't want to go that way. End of lesson.

ON CONTINUING TO BE RELEVANT

I served for five years as Ambassador to the US and another five years as Secretary of Foreign Affairs. As soon as I resigned as SFA, it behooved me to concentrate on the task of earning a living after a totality of 10 years in the service of our country. I also wanted to find a way, if possible, to be relevant and constructive in continuing the exercise of nation building.

Thus, we organized the think-tank group known as Stratbase ADR Institute (ADRI) which advances thinking and research on important issues including our foreign policy priorities with specific emphasis on promoting national security, economic diplomacy and protecting our people abroad.

In the interest of time and measured interest, we have been asked to focus on the South China Sea challenges which I am happy to do as it remains the most critical security challenge in our region.

ON UPHOLDING OUR ADVOCACIES

At ADRI, we are guided by the following precepts on the South China Sea and I mention several of them as our guide posts which may not necessarily be in their order of importance:

- 1) Observing a rules based international order which calls for three approaches namely: political, diplomatic and legal track.**
- 2) Adherence to and respect for the rule of law, including international law and UNCLOS which is the UN Convention on the Law of the Sea.**
- 3) Establishing that international law has given equal voice to all nations regardless of political, economic or military stature.**
- 4) Emphasis on peaceful settlement of disputes including the arbitration process.**

5) Calling on government to listen to its people.

6) Developing a minimum credible defense posture.

7) Upholding the importance of invalidating the nine-dash line by the UN PCA since our EEZ is larger than the land mass of the Philippines which makes China's external threat greater than World War II.

8) Pursuing our entitlements: What is ours is ours.

To manage tonight's expectation, I will share what I think is meaningful and then encourage us to have a significant dialogue. On a just in case basis, we probably would need to establish the boundaries of good order. I propose we follow Chatham House Rules which is the protocol in a London based forum where we can say anything without fear of attribution. Anyone who does not agree, please raise your hand. So thank you, we all agree then.

Allow me to say that there is a fundamentally important wellspring of our foreign policy. We see ourselves as an emerging democracy with a proud national tradition not only of fighting for freedom, but endeavoring to ensure that such freedom provides a better life for our people.

This was why, as a last resort in trying to manage the South China Sea dispute, the Philippines chose to go for arbitration. This dispute is multifaceted, involving several states claiming different portions of the South China Sea.

Arbitration is fully consistent with international law, the United Nations Charter and the United Nations Convention on the Law of the Sea. As a result, our legal position was found to be sound and the international arbitration tribunal ruled against Beijing's so-called Nine-Dash Line, which by claiming virtually the whole South China Sea, was the principal source of this dispute. The arbitral tribunal outcome was an incredible victory not only for the Philippines but also for the entire world. China could no longer claim the South China Sea as its own lake.

At this point, allow me to do a rewind.

ON VISITING WITH XI JINPING

My first encounter with then Vice President Xi Jinping involved a bilateral which was scheduled for only 20 minutes. From the outset, he was intimidating by his opening remarks involving numbers at random, asking if I was familiar with them. I apologized for my unfamiliarity with the data to which he immediately responded that those numbers he used were percentages of increase in trade, tourism and investment involving China and ASEAN countries. Having hit his marker, the topic quickly shifted to the South China Sea and I noted a discomfort in the atmosphere brought about by his own people. Where did I stand in relation to the subject of South China Sea and how would the Vice President react to the incongruity of our respective positions? I responded by saying that there were contradicting positions which require an effort to arrive at a meeting of the minds.

It was very clear in our diplomatic discussions with his people that the Chinese position of having in disputable sovereignty over nearly the entire South China Sea as represented by the nine-dash line was inflexible. In my view, China's position on the nine-dash line was not only an excessive claim but it was also unlawful.

I proposed that we pursue a substantive bilateral agenda of various non-controversial approaches while abstracting SCS for separate treatment. He did not seem to agree as the topic for discussion would shift quickly away from the South China Sea only to be brought back by him several times. I furthermore took the position that the Chinese claim appears to be significantly excessive and there should be an in-depth plan on how this can be discussed. The meeting scheduled for 20 minutes lasted for almost an hour and a half as he continued to veer away only to return minutes later to the same subject. I truly believe that he was trying to wear me out, but my position was both firm and respectful. At the end of our meeting, without smiling, he congratulated me for succeeding in conveying the views of my country.

Before boarding the car, one of our assistants had to rush back to the great hall to pick up a file he had forgotten. Upon his return, he reported seeing Mr. Xi Jinping lecturing his people with anger.

As we headed back to the embassy, the Chinese Ambassador asked if he could ride with me. He wanted to express his gratitude that our bilateral was marked with honesty and candor – that there was a firm position on the Philippine side which Mr. Xi Jinping did not expect.

I realized as early as then, that it would be Mr. Xi Jinping who would surely be the cause of my many sleepless nights in the years to come.

ON HIJACKING AN ENTIRE SEA

China's plans to dominate the South China Sea began in 1947. Its objective was, and still is, to secure the South China Sea as a sovereign territory and harness its resources to feed its population, fuel its economy, house its naval capabilities and become the new regional super power. With a pencil, China's planners looked at a map and drew nine-dash lines to mark a vague perimeter around the South China Sea. Previously it was said to have begun with eleven dashes, then it became nine, then 10, then back to nine again.

Clearly, accuracy was not important to the goal of unlawfully dominating about 3.5 million square kilometers of one of the world's most important sea lanes and South East Asia's most critical marine resource where millions depend on for their food and livelihood.

With nine little lines, the South China Sea became China's claim for "indisputable sovereignty", underpinning one of China's most potent modern fiction: that one nation could hijack and own an entire sea and all that lies beneath.

ON INVALIDATING CHINA'S NINE-DASH CLAIM

The Philippines challenged China's baseless claim through diplomacy to no avail. As a last resort, we turned to the sensible path of arbitration. Before an international panel of neutral experts, we presented the facts and our prayer for the rule of law.

Our overwhelming victory in the Arbitral tribunal is a vindication against China's unlawful expansion agenda, and its outcome is now an integral part of international law. The ruling upheld the need for a rules-based order over the waters in the South China Sea. It espoused that any claim not anchored on and supported by the UN Convention on the Law of the Sea should be denied.

However, our hope that the ruling's clarity on maritime entitlements would usher in constructive areas of cooperation was instead arrogantly ignored by China which continues to strongly flex its muscles against its smaller neighboring states.

We took a risk when we went to arbitration in 2013. As confident as we may have been in our case, ultimately the decision was not in our hands. We could then only hope that the neutral tribunal experts would agree.

The ruling of the international arbitral tribunal not only vindicated the Philippines but, even more importantly, upheld the rule of law over the waters and global commons of the South China Sea.

While there are those who may attempt to minimize the ruling, or undermine its status, there should be no doubt that the Philippines has made a strong contribution to our region. The ruling has benefited not only the claimants, including China, but also the rest of the world. Through it, we have more clarity on maritime rights – what we can claim, what we can do, and where we can find possible areas of cooperation. The more information we have on this, the better placed we are to resolve the disputes that remain before us.

In the wake of the ruling's release, many countries came forward in support of arbitration. The European Union, the United States, ASEAN members, Japan, Australia and other countries have shared our emphasis on the need to use peaceful means and give due respect for the rule of law. The G7 not only re-emphasized the importance of using peaceful means, they reiterated their “strong opposition to any unilateral actions which increase tensions, such as the threat or use of force, large-scale land reclamation, building of outposts, as well as their use for military purposes and urged all parties to pursue demilitarization of disputed features and to comply with their obligations under international law.

ON CONTINUING UNLAWFUL ACTIVITIES

We are all familiar with China's continuing unlawful activities. These include preventing our fishermen from pursuing their livelihood in our exclusive economic zone, blocking the Philippine development of our natural resources, destroying elements of the marine environment, erecting military facilities, and directly confronting our President with the threat of war.

It is therefore of utmost importance that, today, the Philippines call attention once more to the favorable rulings decided on by the Arbitral Tribunal, whose chief gift to the whole of our region and to the community of law-abiding nations was the invalidation of the nine-dash line. The landmark international decision should encourage Filipinos to stand with even greater confidence in a principled position on the West Philippine Sea.

ON THREATS OF WAR

To the deep dismay of our people, however, our government has persisted in allowing China to deprive our citizens of what is ours by continuing to shelve the tribunal outcome. We are still succumbing to threats of force including a threat of war. Surprising as it may sound, war – according to Foreign Minister Wang Yi - is not even a good option for China.

A war between the great powers or within ASEAN is still unlikely in any reasonable scenario. Professor Amitav Acharya of the American University observes that China's military action is unlikely as the costs will be too high. Over 60% of its gross domestic product depends on foreign trade, while imported oil accounts for 50% of its oil needs. Acharya has underscored the dependence of China's commerce on "access to sea lanes through the Indian Ocean, the Malacca Straights and other areas over which it has little control, and which are dominated by US naval power [....] An aggressive Chinese denial of South China Sea trade routes to world powers, and the disruption of maritime traffic the resulting conflict might cause, would be immensely self-injurious... it would provoke countermeasures that will put in peril [China's] access to the critical sea lanes in the Indian Ocean and elsewhere."

It may not be necessary therefore to shrink to China's threats of war.

It may be the high time for our government to assert our rightful position by relying on the skill, courage and patriotism of our AFP who are capable of developing a credible minimum defense posture against any bully or aggressor, whoever that might be? If we believe this, let us continue to say so.

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. For example, it is my understanding that this capacity, which may be delivered by Brahmos Missiles, may be acquired by our AFP from India and would be a good starting point.

Should we then undertake to stand more firmly in defending what is ours thereby, upholding the future security of all our people? If we truly believe this, let us continue to say so.

ON THE RULE OF LAW

In standing against Goliath, our task was well-defined. It was about pursuing the rule of law that is the great equalizer among states, regardless of size, power and influence.

It was about our beloved country – a developing nation without a strong military – whose people worked diligently to peacefully uphold the rule of law, thus enabling it to stand against a Goliath.

Our arbitral victory was our contribution to the world in helping to promote an international rules-based system towards fostering peace, stability and prosperity for all.

ON PHILIPPINES' BBB VS CHINA'S BBB

To match the Philippines' BBB or Build Build Build, China has its own BBB.

It is about bribery, brawn and bluster.

It is about a Goliath who is pursuing a strategy of employing its own 3 Bs – “Bribery, Brawn and Bluster” to achieve its wrongful objective of demonstrating that might trumps right.

It is furthermore about the Goliath who has rejected and vilified the arbitral outcome that is now an integral part of international law.

After unlawfully constructing and militarizing artificial islands in the SCS, it is about a Goliath who tried to lobby the tribunal. It is the same Goliath who has selectively utilized aspects of international law to its advantage while rejecting those portions which are not.

It is the very same Goliath who accused the former president of ITLOS of political bias simply because he is Japanese.

It is as well about the very Goliath, with its sheer bullying tactics, that reminds us of other Goliaths in the past.

We are also reminded about the lack of kindness that history has shown for similar creations.

It is about Our Government, and Our Allies, and Our People.

It is about our government's decision to shelve the arbitral victory in order to avoid China's displeasure and ire with the expectation of significant amounts of investments and aid for our Build, Build, Build infrastructure program.

It is about our additional silver platter offerings to Goliath of our country's strategic assets which would effectively result in providing a stronger position of domination against the Filipino people.

It is about our allies who have decided to enforce the tribunal outcome and uphold the rule of law on their own, disappointingly without the Philippines. For continuing to sail their ships and fly their aircraft in Freedom of Navigation and Overflight Operations, the people of the Philippines salute our friends from the US, Japan, Australia, Great Britain, France and others.

It is about who we are as Filipinos. Since nearly 9 out of 10 have taken the view that the Philippine government must advance to enforce the tribunal outcome, Filipinos are clearly rejecting the government's actions to shelve the tribunal results. When confronted by a bullying Goliath, no Filipino would naturally want to be described as a willing victim nor as an abettor.

In terms of allowing our government to acquiesce to the dictates of Goliath, it is about losing entirely what is most important to our people.

It is about the ignominy of losing our self-respect.

ON REPUTATIONAL COSTS FOR CHINA AND THE PHILIPPINES

On the matter of a country's character in international affairs, we may say that both the Philippines' and China's current positions are less than acceptable. For China, continuing on its current course presents high reputational risks to the history of its good people.

It may be helpful if we beg that specific queries be carefully considered which may lead us to calling a spade, a spade. We then have three questions.

First question: What should we call one that uses muscle to deprive others of their rights?

Answer: A BULLY

Second question: What should we call one that unlawfully takes a significant property of others?

Answer: A GRAND LARCENIST

Third question: What should we call one that refuses the rule of international law?

Answer: AN INTERNATIONAL OUTLAW

Let us turn now to our own country. The outcome of our arbitration was not only beneficial to the Philippines, nor only to the countries that rely on the Law of the Sea, but to all states determined to maintain peaceful relations by committing to international law.

The Philippines has had 3 years to take advantage of its position to develop and obtain the support of many countries whose principles are aligned with our own and with whom our own voice could be magnified. Sadly, however, this was not made to happen.

In this light, we must as well consider our own country's character since we have once been a reliable advocate for international law. Should we ask how we now see ourselves and how others see us? For a balanced view, we need to do that. Again, we ask three questions.

First question: What may we call one that acquiesces to the abuses against it?

Answer: A WILLING VICTIM

Second question: What may we call one that defends an aggressor at every opportunity?

Answer: AN ABETTOR

Third question: What may we call ONE THAT GAMBLES THE RIGHTFUL PATRIMONY OF ITS FUTURE GENERATIONS for unlikely gains in the present?

Answer: Sorry, I cannot help you. That is for each of you to ponder.

MOVING FORWARD

Where do we go from here? What should we now do as a willing victim and an abettor that has fully embraced our big northern neighbor who is clearly acting as a bully, a grand larcenist, and an international outlaw?

We must believe that there is still time for our country to do what is right for our people. While we have allowed more than a few occasions to pass, there are opportunities yet for the Philippines to lead in promoting the rule of law. Whether through multilateralism at the UN, or with ASEAN, or through our bilateral engagements with other states, or an all-out effort in pursuing all of the aforementioned, the path to gaining the support of the community of responsible nations remains. For the sake of our children and our grandchildren, this is the path we must take.

We reiterate our position that coercive diplomacy has no place in a rules-based international order. Our common goal is peace and prosperity without sacrificing our sovereignty and our sovereign rights.

How we choose to assert our rights and dignity as a nation today will be the legacy the next generations of our country will have to live with.

As Filipinos we must voice our sentiments to our government and exercise our right to raise our indignation against China.

We need ALL of our friends in the community of nations who believe in the rule of law to help us. But before we can hope for help, we must first demonstrate that we are worth helping.

ON GRANTING OF FISHING RIGHTS ON EEZ

If there is an agreement with China to fish in our EEZ, either written or unwritten, we believe this raises the following vital questions:

- 1) Is this to be viewed as a successful Chinese invasion without a shot being fired?**
- 2) Is this now a Philippine policy?**
- 3) Is this not a clear violation of our Constitution that mandates our President and our military to defend what is ours?**
- 4) To what extent will this adversely diminish or nullify what we had won in our arbitral tribunal victory?**
- 5) To what extent will this embolden the Chinese militia vessels to further bully our fishermen? And what is to happen to our poor fishermen? Will our Filipino fishermen be continually persecuted or prevented from fishing in our West Philippine Sea?**

- 6) Can we be assured that our lawful rights to oil and gas within our EEZ are being fully protected?**
- 7) With China's artificial island building, the massive destruction of the marine environment and now this, how much faster will it take to exhaust the fish resources?**
- 8) And when will we stop giving our northern neighbor primacy over that of our own people? When will Filipinos be FIRST and not LAST, in our own country?**

GOVERNMENT MUST LISTEN TO ITS PEOPLE

I think the Filipino people deserve answers to these questions.

The Government must listen to its people. Ninety-three (93) percent of Filipinos – [according to a recent Social Weather Stations/SWS survey¹] -- think it is important for the Philippines to regain control of the artificial islands built by China in the West Philippine Sea. This 93% is four points higher than the December 2018 survey result, and steadily has been increasing.

Similarly, 92% of Filipinos think it is right to strengthen the Philippines' military capability, especially the Navy, and 83% of Filipinos support bringing these issues to the United Nations, the Association of Southeast Asian Nations, or other international organization.

In contrast, the same survey found that 80% of Filipinos were satisfied with President Duterte's performance.

¹ The sampling error margins are at $\pm 3\%$ for national percentages

ON CRIMES AGAINST HUMANITY

Even as now, with full accommodations being granted to Beijing by our government, we continue to be faced with unlawful actions from our northern neighbor, a modern day goliath, whose intentions and activities are to force a doctrine of dominance and control on our region and beyond.

Notwithstanding our 2016 Philippine victory at The Hague which clarified our entitlements in the South China Sea, Beijing continues to commit atrocious actions including illegal dredging and artificial island building, thereby resulting in, among other things, a degraded marine environment that has negatively impacted on the livelihood and significantly diminished the food security of our fishermen and their families, not to mention all of us who are part of the consuming public.

Today, our Filipino countrymen are increasingly focused on the presence of hundreds of Chinese vessels operating around Pag-asa that serves to harass, bully, and persecute our fishermen.

To our poor fishermen, however, Beijing's actions may be viewed as crimes against humanity, given that they are planned by the Chinese government, accepted by the Chinese government, and nothing is done by the Chinese government to stop these persistent inhumane actions against a civilian population of over 300,000 Filipino fishermen who appear helpless against a powerful goliath.

We believe that the International Criminal Court (ICC) is a legal platform for us Filipino citizens to exact accountability for the injustices being particularly endured by our poor fishermen.

Our objective therefore is to hold as individually responsible President Xi Jinping, Foreign Secretary Wang Yi and Ambassador Zhao Jianhua for crimes against humanity committed against our fishermen in our territory during the period when the Philippines was a state party to the Rome Statute (1 Nov. 2011 – 17 March 2019).

ON DISTRUST OF CHINA

I have learned by firsthand experience that Beijing is not to be trusted and that their word is unreliable. When China makes a declaration, you can almost be sure that it is not consistent with what is happening on the ground.

Years ago, as the highest Chinese official was promising to his US counterpart that there would be no militarization of the SCS, precisely the opposite was taking place.

On Scarborough, an agreement in 2012 was brokered by the US regarding the withdrawal of ships by a certain time in order to break an impasse. We withdrew while China did not.

China's duplicity is now manifesting itself more closely to our people with the recent ramming of our fishing boat and the abandonment of our fishermen in the high seas.

To avoid being pathetic, this was followed with two clumsy attempts to fabricate a believable explanation.

WHERE DOES THE PHILIPPINES STAND TODAY?

Whereas the Philippines appears to have been lax in enforcing what is right, it is not too late. We can still redirect ourselves to help achieve a global order wherein right is might.

In the past three years, China has been provided a most favorable environment in the Philippines. As the recipient of many olive branches, it has had the opportunity to return the gesture, by acting in kind and with the respect of a good neighbor.

Over the same period, we have not seen the change that we would have wanted from Beijing. It has neither changed in its direction nor exercised greater restraint, despite its friendlier face, we do not see restraint in China's militarization and unlawful activity in the West Philippine Sea.

Beijing's aggressive actions are not accidental, they are intentional, and they can be expected to continue into the future.

President Xi Jinping's threat of war against the Philippines shows how their leadership perceives us. Despite an effort in this country to encourage sobriety and restraint, we all must be concerned that we will reap no more than a friendly

face.

First, I believe that our leadership should be categorical on protecting our sovereignty and our national patrimony. This refers to our stance on what is ours, by history and by law, in the West Philippine Sea and all throughout our archipelago.

This notion is at the core of our responsibility to be stewards of our resources for all Filipinos, including future generations. In consonance with our Constitution, we should pursue efforts to explore our resources to the ultimate benefit of the Filipino people. We cannot trade away our sovereignty or sovereign rights, and we should not give even the impression that we are willing to do so.

To further safeguard our interests and protect our rights, we should work with others, bilaterally and multilaterally, to ensure the freedom of navigation that underpins the safety of all our oceangoing trade.

Second, I suggest that we exhaust all diplomatic avenues that are available to us in promoting the ruling and the rule of international law. We must protest what is unlawful, coercive, and contrary to the correct principles that govern relations between states. We should seek cooperation from like-minded states. We should be ready to approach the UN General Assembly to appeal to the global village of nations.

Any suggestion of war should be shunned. Instead, we should exhaust our diplomacy by protesting the threat of war, however unlikely it may be in actuality. We cannot

allow others to play with the threat of war when our submitted disputes have already been clarified in the ruling. Yet, if trying to get everyone to adhere to the rule of law does not work, one other alternative is an approach characterized by a strategic build-up of defense capabilities for deterrence purposes. Some experts have suggested that the countries of the region should thoughtfully ramp up their defense transfers and invest in select military platforms as a matter of necessity. Although a cycle of reactive militarization will surely raise the stakes and the tension, this may still be a prudent path. In the words of a US-China relations expert, Ely Ratner, “Beijing will not compromise as long as it finds itself pushing on an open door.”

The least desirable option is sheer capitulation: for us, smaller states especially, to give in and to lose our sovereign equality and all that it signifies. This is not a win-win solution, only a guarantee that we bequeath our grievances to our children. This option is totally unsatisfactory.

Finally, I believe that we should reassume our leadership which is not a mantle easily shed. Even today, countries hope for us to lead from our position of strength. 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.

At the ADRI, we endeavor to contribute thoughtfully in order to serve the interests of the Filipino people.

Let us, therefore, respectfully convey to our president that we eagerly await his inspirational leadership by doing what is right. END