

# The Philippines and its Archipelagic Rebirth under the 1982 United Nations Conventions on the Law of the Sea (UNCLOS)

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UNCLOS is now widely regarded and recognized as the Constitution for the Oceans and Seas. (Supreme Court Associate Justice Antonio T. Carpio, the most authoritative legal expert on the Philippine claim in the West Philippine Sea conflict wrote in his Research Paper “Grand Theft of the Global Commons”). The ARCHIPELAGIC DOCTRINE of UNCLOS regards an archipelago as a single unit.

UNCLOS gives due importance to “archipelagic states” which are but a few. The Philippines, being an archipelagic state, benefits so much. The recent pronouncements by the Permanent Court of Arbitration in the Hague on the Arbitration between the Republic of the Philippines and the People’s Republic of China on Jurisdiction and Admissibility and later its ruling in favor of the Philippines are worth mentioning. The UNCLOS codification of international law on the oceans and the seas into one coherent system most likely helped the Permanent Court of Arbitration in its historical judicial task.

In the near future, conflicts of similar nature are not far-fetched and it is safe to say that it would be an easier task for any international tribunal to do its work.

For example, Webster’s New Universal Dictionary defines archipelago “as any large body of water studded with islands.” Archipelago, it says, came from the Greek words “archi” (chief) and “pelagos” (sea). Based on this etymology, the emphasis was on a body of water. On the other hand, international law books, including that of former Supreme Court Associate Justice Isagani Cruz defines an archipelago as “a group of islands, including parts of islands, inter-connecting waters and other natural factors favor an intrinsic geographical, economic and political entity, or which historically have been regarded as such.” Islands were given more importance.

UNCLOS provided a middle ground on the different emphasis when it said that “an archipelagic state means a state constituted wholly by one or more archipelagos and may include one or more islands.” In the case of the Philippines, our emphatic declaration on the second sentence of Art. 1 on our National Territory that: “The waters around, between and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines” is same as that of UNCLOS on internal waters of archipelagos except, that in place of regardless, it was irrespective and in place of Philippines, it was State. Additionally, “subject to its exclusive jurisdiction” after the State concluded the UNCLOS statement. This undoubtedly enforces our declaration of exclusive sovereignty over our archipelagic internal waters.

It also helps that the UNCLOS definition de-emphasized the difference between the two definitions of archipelago. Be that as it may, it would be prudent to consider China’s major

shift of gear, from land to water, so to speak, on this matter. The 2015 “China Military Strategy, declared that the traditional mentality that land outweighs the sea must be abandoned, and great importance has to be attached to managing the seas and oceans and protecting maritime rights and interests.

For instance, what if China intrudes into the international waters of either the Philippines (7,100 islands) or Indonesia (17,508 islands), the two largest mid-ocean states? Because of their geography and lack of resources, they can hardly secure their coastlines and internal waters, more so their contiguous zone, exclusive economic zone (EEZ) and continental shelf under the UNCLOS. Devoid of naval resources to defend their coastlines and internal waters, they could only resort to peaceful settlement. The UNCLOS archipelagic doctrine becomes the only handy recourse for the Philippines or Indonesia in this kind of disregard for international law.

The developments in the West Philippine Sea and on oceans and seas in Asia are worth watching and assessing because China, although a party from the beginning and as a signatory without reservation to UNCLOS, refuses to recognize and abide with the recent binding rulings of the Permanent Court of Arbitration on the South China Seas – West Philippine Sea dispute.

More disturbing, among other things, are reports from open reliable sources about Hina’s grand design in the South China Sea:

- China wants to control the South China Sea for economic and military purposes. China wants all the fisheries, oil, gas and mineral resources within the 9-dashed lines. China already takes 50% of the annual fish catch in the South China Sea as more than 80% of its coastal waters are already polluted. China has the largest fishing fleet in the world, with 200,000 sea-going vessels and 2,640 long-distance ocean-going vessels. Chinas per capita fish consumption is the highest in the world at 35.1kg/year to feed 1.4 billion people, while the rest of the Asia’s per capita consumption is only 21.6kg/year.
- China is the largest net importer of petroleum in the world. The South China Sea is rich in methane hydrates – said to be one of the fuels of the future. China wants to secure all these methane hydrates for itself.

As to China’s military, naval and civilian capabilities to protect its interest, take a look at these:

- China is mass-producing destroyers, frigates, corvettes and other warships at a faster rate than any other country in thr world history during peacetime. Its one aircraft carrier shall be two sooner than later.
- According to the U.S. Office of Naval Intelligence, “During 2014 alone, more than 60 naval ships and crafts were laid down, launched, or commissioned, with a similar number expected through the end of 2015.”
- China has a Second Navy – The Coast Guard. China deployed recently a 10,000-ton coast guard vessel, the world’s largest blue water coast guard vessel. A second 10,000-ton sister ship is under construction. China has more coast guard vessels than Japan, Vietnam, Malaysia and the Philippines combined. China’s Coast Guard is the largest blue water coast guard fleet in the world.
- China has a third Navy – Maritime Militia. China has maritime militia consisting

of hundreds of thousands of fishermen who are well trained to spy on foreign warships, harass foreign fishing vessels, and act as eyes and ears for the PLA Navy. Their fishing vessels, numbering about 20,000, are equipped with China's Beidou satellite navigation and communications systems. The PLA's official newspaper declared: "Putting on camouflage these fishermen qualify as soldiers, taking off the camouflage they become law abiding fishermen."

This awesome unraveled power was contained in Justice Carpio's "Research Paper on the South China Sea - West Philippine Sea Dispute." The odds seem formidable, yet, he believes that it is our solemn duty to avert the loss of what we won in the Permanent Court of Arbitration last year. This law professor is one with the esteemed Justice that we owe it to ourselves and the future generations of Filipinos to fulfill said duty.

Finally, let us appreciate and be caring of our bountiful and beautiful archipelago.  
**GOD BE WITH US AS EVER!**