

[TAKE IT FROM MY BARBER](#)

By Benjamin G. Maynigo

Let me start this article by publicly admitting my bias. I am a Filipino-American international lawyer with a Master of Laws Degree in International Law.

Whatever views I express on the issue at hand, therefore, should be understood that it is coming from that perspective.

SPRATLYS ISSUE

The Spratlys Islands are a chain of several hundred islands and reefs located in the busy maritime commercial path of the West Philippine Sea (South China Sea). These islands are known to be rich fishing grounds and believed to have vast deposits of oil and natural gas estimated to be about 17.7 billion tons. This is supposed to surpass even the

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reserves of
Kuwait

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The Philippines has claims of ownership and jurisdiction over some parts of the Islands. So do
China

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Vietnam

,

Taiwan

,

Malaysia

and

Brunei

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Most recently, there were reports in Beijing about China's planned installation of its most
advanced oil rig in the West Philippine
Sea .

“BULLY” and Sino Saber-rattling

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During Foundation Day to celebrate the 113th year of the Department of Foreign Affairs, President Aquino had this to say on the Chinese re the Spratlys Islands; "If we allow them to bully us, the next generation of Filipinos will find themselves squeezed into just one island. If we let them push us around, our 7,100 islands will dwindle into just two digits. It is not fair for others to claim what is clearly ours."

The fact that the President described the Chinese behavior and approach as "bullying", before a crowd of Philippine diplomats could actually mean a Call to Action for the latter to go ahead and "take the bully by the horns."

In almost the same period, another Call to Action was made by Filipino-American Billionaire lawyer Loida Nicolas Lewis over the reports of Beijing's planned installation of its most advanced oil rig in the West Philippine
Sea

Of course, Loida is doing this in her private capacity and as Chair of the U.S. Pinoys for Good Governance (USP4GG). The fact that she is a known supporter and friend of President Aquino is irrelevant. She had this to say in a YouTube broadcast; "This is an invasion, this is an intrusion, this is an appropriation of land and oil that belong to the Philippines.....China is a bully. C

China
is about to steal oil in our territorial waters."

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Quoting from the Philippine National Anthem she said, “Sa manlulupig, di ka pasisiil.” Then proceeded, “Here is a manlulupig, here is a bully, China who is about to rape our country, Mother Filipinas ... This is a Call to Action to all Global Filipinos ... Let us fight with placards, let us fight with words. We are like David. Let us sharpen that stone and hit it to Goliath China
.”

The broadcast ended with the following words from the same song, “Aming ligaya na pag-may nang-aapi, ang mamatay nang dahil sa iyo.”

SLING SHOT

As a supporter of both President Aquino and Loida, I know that they are sincere; they mean what they say and usually “put their money where their mouth is.”

China is a Goliath indeed by virtue of its vastly superior military forces of 2.17-million soldiers, extensive financial-and-economic resources and undisputed political influence in the community of nations. However, I am not so sure if it is as stupid as the Goliath that David was dealing with. We better have a sling and a stone that could not miss, penetrate Goliath’s defenses without difficulty and immobilize him so as to “bully” no more.

BILATERAL PACTS and BRIBERY

President Aquino also said during the DFA Foundation Day, “the territorial dispute over the Spratly Islands lands at West Philippine Sea (South China Sea) became complicated because the Arroyo administration included other countries in the exploration of the Philippines’ 200-nautical mile exclusive economic zone.”

Why would GMA allow it? It is alleged that in exchange for the grant of concessionary loans of \$2 billion / yr or a total of \$8 billion for 4 years which were easily sources of corruption, GMA had to give some concessions as well. These Arroyo concessions are costing the Philippines irreparable damage and could be within the realm of or as Ricky Carandang described as "Treason."

LAW OF THE SEA

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The best shot for the Philippines is International Law. This is the closest thing to Loida Lewis' call to "fight with words" All the States involved in the Spratlys I slands

dispute are all signatories to the Law of the Sea Convention. The position of all these States on maritime jurisdiction begins and ends with the provisions of the Convention. As Maritime expert Professor Ian Townsend-Gault said, "there is nothing vague or speculative about the basic principles applicable in the South China Sea

. The dotted lines indicated on Chinese and Taiwanese maps, the Philippine Kalayaan lines, and even the Vietnamese petroleum blocks designation, are now relegated to being merely of historical interest. "

The provisions on Exclusive Economic Zones (200 nautical miles from baselines) are quite clear and the doctrine of the continental shelf is a settled law. The International Court of Justice determined it in the North Sea Continental Shelf Cases of 1969.

The International Tribunal for the Law of the Sea and the Seabed Disputes Chamber were set-up precisely to deal with disputes. There is Customary international law based on more than 65 ocean-boundary agreements; jurisprudence of the International Court of Justice; and ad hoc courts of arbitration on maritime boundaries.

China, whose baseline is more than 900 nautical miles from the Spratlys is basing its claim on a map supposedly made during the Sung Dynasty on the 12th Century. International Law does not clearly support this assertion but China is a powerful member of the UN Security Council and it is determined to assert and enforce its claim.

BODYGUARD and SEA (Southeast Asia)□

To neutralize a bully, you may have to call on a bodyguard. The Philippines has a mutual-defense treaty with the United States

. That's why the former now wants a reassurance from the latter.

It is also a member of the Association of Southeast Asian Nations which believes in the right of every State to lead its national existence free from external interference, subversion or coercion; and in the settlement of differences or disputes by peaceful manner.

Working with the group to deal with China using peaceful, diplomatic and legal means would be the wiser move.

The Philippines had concluded several bilateral agreements with China. More than 80% of them were made during the Arroyo Administration under suspicious circumstances. President Aquino might want to pursue renegotiation of these agreements for the mutual benefit of both.

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Laws are made for the service of men. International laws are made for the service of Nations and men. China may want to display its MIGHT. But the Philippines can always assert its RIGHT!.

Editor's Note: The author is an International and Cyber Lawyer with an LL.B and LL.M; An Educator with an M.A. in Human Resource Development; An IT Chief Executive Officer with M.B.A.; Community and Trade Association Leader; Lecturer/Speaker/Writer; Political Strategist; Technology Pioneer. He is based in Washington, DC.

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