

# Historical and Legal Critique of the Philippines' Territorial Claims in the South China Sea

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## **Executive Summary**

The project “Historical and Legal Assessment of the Territorial Limits of the Philippines” was initiated by the China Institute for Marine Affairs, Ministry of Natural Resources. A multidisciplinary expert panel, composed of scholars in history and international law from the China Institute for Marine Affairs, the Chinese Academy of History, Wuhan University, Nanjing University, Beijing Jiaotong University, Guangdong University of Foreign Studies, Huaiyin Normal University and other institutions, jointly produced the report Historical and Legal Critique of the Philippines’ Territorial Claims in the South China Sea (hereinafter referred to as the Report). The Report aims to examine whether the Philippines’ territorial claims in the South China Sea are consistent with credible historical sources and generally recognized rules of international law, in order to determine whether those territorial claims comply with international law.

The Report reviews the formation process of the Philippines’ territorial boundaries and analyzes its various attempts and intentions to expand its territorial limits. It points out that the series of “grounds” put forward by the Philippines to support its “territorial sovereignty” over Huangyan Dao (Scarborough Shoal) and certain maritime features of the Nansha Qundao (Spratly Islands) are replete with misinterpretations and distortions of historical sources, and at the legal level, scarcely

demonstrate any probative value. They serve merely as pretexts for the Philippines to break through the limits imposed by international treaties and, therefore, to illegally expand its territorial limits. The Philippines' territorial expansion attempts undermine the international legal system and pose a threat to regional peace and stability as well as the post-war order arrangement.

The Report concludes that the Philippines' attempt to break through the territorial limits defined by a series of treaties with legal force and to extend its territory to Huangyan Dao and certain maritime features of the Nansha Qundao lacks historical evidence, manifestly contravenes the rules of international law concerning the acquisition of territory, and is devoid of historical and legal foundation.

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## Introduction

The territorial limits of the Philippines were gradually formed during the Spanish and American colonial periods and were inherited and confirmed by the Republic of the Philippines after independence. Since the 1970s, driven by domestic and international factors, the Philippine government has successively advanced new territorial claims over the land territory<sup>①</sup> of certain maritime features within China's Nansha Qundao (referred to by the Philippines as the "Kalayaan Island Group"<sup>②</sup>) as well as Huangyan Dao (referred to by the Philippines as "Bajo de Masinloc"). The Philippines' actions have revealed an intention to expand its territorial limits beyond those laid down in various treaties and accepted upon independence.

Over different decades, the Philippines has asserted territorial claims over Huangyan Dao and certain maritime features of the Nansha Qundao on the basis of shifting justifications such as geographical proximity, occupation of *terra nullius* and international treaty limits. To do so, it has dispatched military forces to occupy eight maritime features in the Nansha Qundao.<sup>③</sup> However, there are serious questions regarding the historical and international legal bases for the Philippines' territorial claims over these features. In view of this, based on credible historical

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① The term "land territory" is hereinafter referred to as "territory".

② The Philippines also refers to them as the "Kalayaan Islands".

③ In addition, the Philippines grounded its warship BRP Sierra Madre on Ren'ai Jiao in the Nansha Qundao, where it has remained for an extended period.

sources and generally recognized rules of international law, this Report aims to conduct a comprehensive examination of the history of the formation of the Philippines' territorial limits and to assess its claims in the South China Sea from both factual and legal perspectives.

The Report is structured as follows. Part I reviews the formation of the Philippines' territorial limits during the Spanish and American colonial periods prior to independence in 1946, and examines the Philippines' confirmation and acceptance of these colonial-era limits for a considerable period after independence. Part II elaborates on the Philippines' attempts and actions to expand its territory to Huangyan Dao and the Nansha Qundao, identifying and analyzing the main justifications for its territorial claims. Part III evaluates whether the Philippines' territorial claims to Huangyan Dao and certain maritime features of the Nansha Qundao have a solid foundation in historical facts and international law. Part IV explores the complicated impact of the Philippines' illegal territorial expansion in the South China Sea from the perspectives of the international legal system, regional peace and stability, and the post-war international order.

## I. The International Treaty Limits of the Philippines

The territory of the Philippines underwent an evolution from the initial lack of clarity, through partial delimitation, to the eventual precise definition. According to historical facts and international law, the limits of the Philippines' territory are explicitly defined by three international treaties, and its territory is bound by "International Treaty Limits."<sup>①</sup>

### 1.1 The Territorial Limits Before Independence Were Defined by International Treaties

Before the arrival of Spanish colonists in the Philippines, the area, comprising over 7,000 islands, did not form a unified State, nor did it possess "territorial limits" in the sense of modern international law. Instead, it consisted of fragmented territories based on the spheres of influence of tribes and chiefdoms. In 1542, a Spanish expedition led by Ruy Lopez de Villalobos reached the island of Samar and, in honor of the Spanish Prince Philip, named it Felipina.<sup>②</sup> The expedition subsequently applied the name "Las Filipinas" collectively to Samar, Leyte, and other islands.<sup>③</sup> Thereafter, the toponym "Philippines" gradually gained usage and dissemination, eventually evolving into a national and ethnic name.<sup>④</sup>

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① A map of the Philippine Islands produced in 1944 by the U.S. Army Map Service, Army Corps of Engineers, explicitly delimited the territorial limits of the Philippines within a borderline labeled "International Treaty Limits". See U.S. Army Map Service, "Philippine Islands 500k: Balabac Strait (Sheet NB 50-2)," Perry-Castañeda Library Map Collection, 1944, [https://maps.lib.utexas.edu/maps/ams/philippine\\_islands\\_500k/](https://maps.lib.utexas.edu/maps/ams/philippine_islands_500k/).

② Emma H. Blair and James A. Robertson (eds.), *The Philippine Islands 1493-1803*, Vol.3, 1569-1576, Cleveland: The Arthur H. Clark Company, 1903, p. 127.

③ Gregorio F. Zaide, *Philippine Political and Cultural History, Vol. I, the Philippines Since Pre-Spanish Times*, Manila: Philippine Education Company, 1949, p. 137.

④ Sonia M. Zaide, *The Philippines: A Unique Nation, with Dr. Gregorio F. Zaide's History of the Republic of the Philippines*, 2nd ed., Quezon City: All-Nations Publishing, 1999, p. 139.

On April 27, 1565, M. L. de Legaspi led Spanish colonial forces to occupy Cebu and its adjacent islands, formally inaugurating the historical process of Spanish colonization. By the end of the nineteenth century, the geographical contours of the Philippine Islands had been essentially established, as marked by the signing of two international documents.

The first was the Protocol between Great Britain, Germany and Spain concerning Sulu, signed in Madrid on March 7, 1885 (hereinafter the “1885 Madrid Protocol”), which established the boundary between the Spanish Philippines and British North Borneo.<sup>①</sup> The second was the Declaration on the Delimitation of Boundary between the Government of Spain and the Government of Japan, signed on August 7, 1895, which established the boundary between the Spanish Philippines and the Japanese-occupied Taiwan Island.<sup>②</sup>

In 1898, Spain was defeated in the Spanish-American War and was offered cede the entirety of the Philippine Islands to the United States. This marked a new stage in the shaping of the Philippines’ territorial limits. The United States and Spain defined the territorial limits of the Philippines with precise geographical coordinates in the Treaty of Peace between the United States and Spain (also known as the Treaty of Paris) in 1898.<sup>③</sup> The line based on the Treaty is a line historically known as the

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① Najeeb M. Saleeby, *The History of Sulu*, Manila: Bureau of Printing, 1908, p. 372.

② Chen Hongyu (comp.), *Compilation of Maritime Laws and Treaties of Southeast Asian Countries* (in Chinese), Tainan: Center for Southeast Asian Studies, Chi Nan University, 1997, pp. 26–27.

③ The Bureau of Insular Affairs of War Department, *A Pronouncing Gazetteer and Geographical Dictionary of the Philippine Islands, with Maps, Charts, and Illustrations*, Washington: Government Printing Office, 1902, pp.

“Paris Treaty Line.”<sup>①</sup>

Because the Treaty of Paris did not fully encompass all the Spanish-owned maritime features beyond the 3-league limit of North Borneo stipulated in the 1885 Madrid Protocol, the United States and Spain signed the Treaty for Cession of Outlying Islands of the Philippines Between the US and Spain in 1900 (hereinafter the “1900 Washington Treaty”), which expressly incorporated Sibutu Island and Cagayan Sulu into the Philippine Islands under the United States-governed Philippines (see Figure 1).<sup>②</sup> During the negotiations, the Spanish authorities never once mentioned any islands or reefs in the South China Sea, evidently no such features connected with the Philippine Islands.<sup>③</sup>

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① A map of the Philippine Islands produced in 1908 explicitly delimited the territorial limits of the Philippine Archipelago with the “Paris Treaty Line”. See Caspar W. Hodgson and A. Briesemeister, “Map of the Philippine Islands”, Library of Congress, 1908, <https://www.loc.gov/item/2013590196>.

② The Minister of State of Spain, *Spanish Diplomatic Correspondence and Documents 1896-1900*, Washington: United States Government Printing Office, 1905, pp. 397-398.

③ *Ibid.*, pp. 267-398. This was later confirmed in the Island of Palmas Case (USA v. Netherlands), between the United States and the Netherlands, when the United States submitted letters written during the 1900 negotiations with Spain.



Figure 1: Map of the Philippine Islands by the Bureau of Insular Affairs, War Department, 1902

In 1930, the United States and the United Kingdom concluded the Treaty Between the US and the UK concerning the Boundaries of the Philippines and North Borneo (hereinafter the “1930 US-UK Boundary Treaty”), which brought the Mangsee Islands and the Turtle Islands into the territory of the Philippine Islands under United States sovereignty.<sup>①</sup> Furthermore, in 1928, the Permanent Court of Arbitration determined that sovereignty over Palmas Island (Miangas), which lay within the Paris

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<sup>①</sup> Charles I. Bevans, *Treaties and Other International Agreements of the United States of American 1776-1949*, Washington: United States Government Printing Office, 1974, p. 477.

Treaty Line, belonged to the Dutch East Indies.<sup>①</sup>

Thus, the “Paris Treaty Line” that defined the limits of the Philippine Islands under United States rule evolved into the “International Treaty Limits”<sup>②</sup> or the “Treaty Limits of the Philippines”<sup>③</sup>. With the exception of Palmas Island, territorial sovereignty over the Philippine Islands within this limit belonged to the United States. The foregoing historical facts clearly demonstrate that none of these adjustments and modifications to the Paris Treaty Line involved any change on the side of the South China Sea.

By the early 1930s, the “Treaty Limits of the Philippines” constituted by three international treaties had established the basic framework of the territorial limits of the Philippine Islands under United States rule. This was subsequently confirmed by the 1935 Constitution of the Philippine Commonwealth.<sup>④</sup> Article 1 of the Constitution defined the “national territory”: the Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on the tenth day of December, eighteen hundred and

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① Edward M. Douglas, *Boundaries, Areas, Geographic Centers and Altitudes of the United States and the Several States*, Washington: United States Government Printing Office, 1930, p. 49.

② The map of the Philippines attached to the Report of the Joint Preparatory Committee on Philippine Affairs published by the United States in 1938 already featured a borderline delimiting the territorial limits of the Philippines labeled “International Treaty Limits”. See Department of State, *Joint Preparatory Committee on Philippine Affairs, Report of May 20, 1938*, Volume I, Washington: United States Government Printing Office, 1938, Appendix Map, p. 215.

③ A map of the Philippines produced by the U.S. Central Intelligence Agency in 1968 bears a borderline labeled “Treaty Limits of Philippines”. See Central Intelligence Agency, “Philippines”, University of Alabama Historical Map Archive, 1968, [http://cartweb.geography.ua.edu/lizardtech/iserv/calcrn?cat=Asia&item=/Asia1968a.sid&wid=500&hei=400&props=item\(Name,Description\),cat\(Name,Description\)&style=simple/viewdhtml.xs](http://cartweb.geography.ua.edu/lizardtech/iserv/calcrn?cat=Asia&item=/Asia1968a.sid&wid=500&hei=400&props=item(Name,Description),cat(Name,Description)&style=simple/viewdhtml.xs).

④ Raphael Perpetuo M. Lotilla(ed.), *The Philippine National Territory: A Collection of Related Documents*, Manila: Foreign Service Institute, 1995, p. 207.

ninety-eight, the limits which are set forth in Article III of said treaty, together with all the islands embraced in the treaty concluded at Washington between the United States and Spain on the seventh day of November, nineteen hundred, and the treaty concluded between the United States and Great Britain on the second day of January, nineteen hundred and thirty, and all territory over which the present Government of the Philippine Islands exercises jurisdiction.<sup>①</sup> The Constitutional Convention also specifically stressed that “Mindanao and the Sulu were part of the Philippines ... and prevent their secession from the country.”<sup>②</sup>

After Japan illegally occupied the Dongsha Qundao (Pratas Islands) in September 1937, which are adjacent to the Philippines, the United States and the Philippines discussed the possibility of extending the “international treaty limits” to include Huangyan Dao, but ultimately abandoned the idea due to insufficient evidence.<sup>③</sup> Official maps of the Philippines produced by the United States during World War II also confirm that Huangyan Dao was not “incorporated” into the Philippines after this discussion.<sup>④</sup> Therefore, the “international treaty limits” did not expand in the late 1930s. Following the attack on Pearl Harbor, Japan

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① “1935 Constitution of the Republic of the Philippines”, The LawPhil Project, May 14, 1935, <https://lawphil.net/consti/cons1935.html>.

② Rodolfo C. Severino, *Where in the World is the Philippines? Debating Its National Territory*, Singapore: Institute of Southeast Asian Studies, 2011, p. 22.

③ François-Xavier Bonnet, “Geopolitics of Scarborough Shoal”, *Irasec’s Discussion Papers*, No.14, November 2012, pp. 38-42.

④ 連合国最高司令官総司令部民事局文書（GHQ/SCAP Records, Civil Affairs Section）, Kanto Civil Affairs Region, 「Philippine Islands」(Maps of Kanto, n. d., ボックス番号: 2789, フォルダ番号: 14), 国立国会図書館デジタルコレクション, <https://dl.ndl.go.jp/en/pid/11907615/1/8>.

swiftly invaded and occupied the Philippines.<sup>①</sup> Japan had already formed a basic recognition before the war that the Philippine Islands were delimited by the “international treaty limits” and accordingly, the territorial limits of the Philippines remained unchanged during the Japanese occupation period.<sup>②</sup>

## 1.2 Succession to and Confirmation of the Territorial Limits After Independence

For nearly three decades after gaining independence in 1946, the applicable territorial scope of the bilateral treaties concluded between the Philippines and the United States, as well as Philippine domestic legislation, was consistent with the “international treaty limits” stipulated in the 1935 Constitution, clearly demonstrating the Philippines’ succession to and confirmation of the territorial limits established during the colonial period. The 1935 Constitution underwent three amendments respectively in 1939, 1940, and 1947, yet the provision on “national territory” remained unchanged and in force until 1973.<sup>③</sup> According to the conference records of the 1935 Constitutional Convention, the framers sought to ensure the integrity of the Philippine homeland by inscribing the national territory clause in the Constitution and clearly defining its

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① Ikehata Setsuho and Ricardo Trota Jose (Eds.), *The Philippine under Japan: Occupation Policy and Reaction*, Quezon City: Ateneo de Manila University Press, 1999, pp. 17-18.

② 外務省条約局, 「『フィリッピン』関係条約集 / 1942年」, アジア歴史資料センター, <https://www.jacar.archives.go.jp/das/meta/B10070285400>.

③ Gregorio F. Zaide, *The Republic of the Philippines (History, Government, and Civilization)*, Manila: Rex Book Store, 1970, p. 260.

scope.<sup>①</sup> There was absolutely no expansionist intention of the national territory.

Thereafter, the “international treaty limits” defined by the three treaties concluded during the colonial period constituted the territorial limits of the Philippines, which were confirmed by the 1947 Agreement on General Relations between the Philippines and the United States, the 1952 Mutual Defense Treaty between the Philippines and the United States, the Philippine Republic Act No. 3046 of 1961 on the baselines of the territorial sea, and Republic Act No. 5446 of 1968 amending the baselines act, along with other domestic legislation.<sup>②</sup> None of the islands or reefs of the Nansha Qundao or Huangyan Dao were incorporated (see Figure 2).

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① Jose M. Aruego, *The Framing of the Philippine Constitution*, Manila: University Publishing Co., Inc., 1936, pp. 123-125; Raphael Perpetuo M. Lotilla, *The Philippine National Territory: A Collection of Related Documents*, Manila: UP Institute of International Legal Studies and Foreign Service Institute, 1995, pp. 177-178.

② “Proclamation No.11-Publishing the Treaty of General Relations Between the Republic of the Philippines and the United States of America”, The LawPhil Project, October 22, 1946, [https://lawphil.net/executive/proc/proc1946/proc\\_11\\_1946.html](https://lawphil.net/executive/proc/proc1946/proc_11_1946.html); “Mutual Defense Treaty between the Republic of the Philippines and the United States of America”, The LawPhil Project, August 30, 1951, <https://lawphil.net/international/treaties/mutdef.html>; “Republic Act No.3046-An Act Define the Baselines of the Territorial Sea of the Philippines”, The LawPhil Project, June 17, 1961, [https://lawphil.net/statutes/repacts/ra1961/ra\\_3046\\_1961.html](https://lawphil.net/statutes/repacts/ra1961/ra_3046_1961.html); “Republic Act No. 5446-An Act to Amend Section One of Republic Act Numbered Thirty Hundred and Forty Six, Entitled ‘An Act to Define the Baselines of the Territorial Sea of the Philippines’”, The LawPhil Project, September 18, 1968, [https://lawphil.net/statutes/repacts/ra1968/ra\\_5446\\_1968.html](https://lawphil.net/statutes/repacts/ra1968/ra_5446_1968.html).

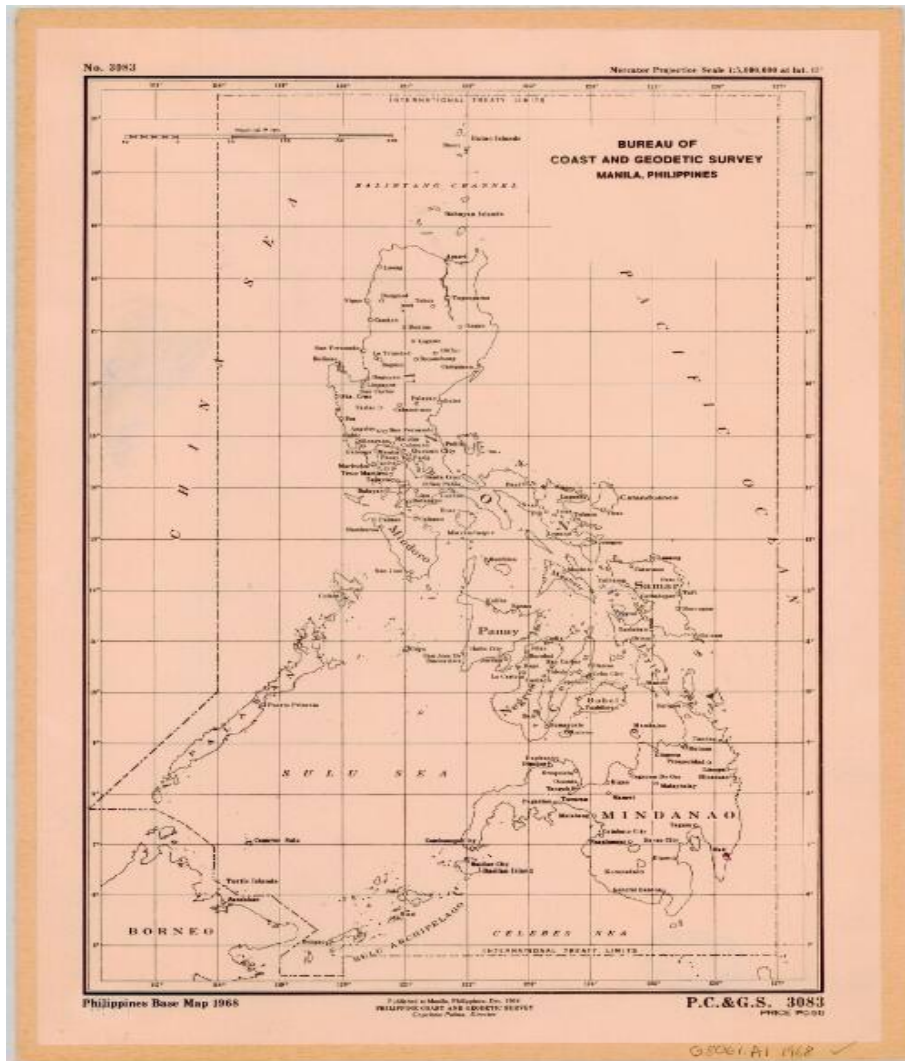


Figure 2: Map of the Philippines produced by the Philippine Bureau of Coast and Geodetic Survey, 1968

## **II. The Philippines' Expansionist Attempts in the South China Sea**

Since the 1970s, the Philippines has advanced territorial claims to certain maritime features of China's Nansha Qundao and to Huangyan Dao on various grounds, through the issuance of island-occupation communiqués and presidential decrees, constitutional amendments, and the enactment of republic acts, thereby revealing its attempts to break through the International Treaty Limits and expand its territory.

### **2.1 The Philippines' Territorial Claim to Huangyan Dao**

The Philippines' sovereignty claim to Huangyan Dao originated from its interference with an international amateur radio activity that China had authorized. In 1997, when an international amateur radio expedition team undertook its third landing on Huangyan Dao, it encountered interference from the Philippine side, which immediately drew protests from China.<sup>①</sup> Thereafter, the "grounds" advanced by the Philippines to assert sovereignty over Huangyan Dao have shifted repeatedly over time and with changing circumstances, displaying a markedly unstable character and falling broadly into the following three categories.

**First, claiming territorial sovereignty on the basis of maritime zones.** When the Philippines initially advanced its territorial claim to Huangyan Dao, it at one time relied on the reasoning that Huangyan Dao

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<sup>①</sup> Li Jing, Radio Waves on Huangyan Dao (in Chinese), Life Week, No. 20, 2012.

lay within its exclusive economic zone or on its continental shelf. For instance, in 1997, then-President Ramos publicly asserted that the Philippines had sovereign rights to explore and exploit the resources of Huangyan Dao because it was within the Philippines' exclusive economic zone.<sup>①</sup> This type of ground for territorial claims, which confuses the subjects regulated by the rules on territorial acquisition with those governed by the international law of the sea, continues to be invoked and implied in Philippine statements to this day, frequently appearing in the speeches of Philippine government officials and legislators as well as media publicity.

**Second, territorial claims over Huangyan Dao on the basis of discovery and occupation.** At a 1997 Senate hearing, the statements of the Philippine Secretary of Foreign Affairs offered an opinion that differed from the Philippines' initial position. He sought to ground the Philippines' territorial claim on long-term control and administration of Huangyan Dao and its surrounding waters, including traditional fishing activities, sheltering, marine scientific research, using as a military firing range, lighthouse operation, and sustained efforts against smuggling and illegal fishing.<sup>②</sup>

On April 18, 2012, the Philippine Department of Foreign Affairs

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<sup>①</sup> Fu Ying, China's Huangyan Dao and the 2012 Huangyan Dao Incident (in Chinese), South China Sea Strategic Situation Probing Initiative, September 25, 2023, <https://www.scspi.org/zh/dtfx/1695647997>; Xiao Xiqing, Storm-over the Nansha Qundao: An Assessment and Analysis of the Nansha Qundao Issue(in Chinese), Taipei: Taiwan Student Book Company, 2009, p. 364.

<sup>②</sup> Statement of the Philippine Foreign Affairs Secretary Domingo Siazon before the Public Hearing of the Senate Foreign Relations and Defence Committees on 5 June 1997.

released a document titled “Philippine Position on Bajo de Masinloc and the Waters Within Its Vicinity”, which for the first time set forth in relatively detailed terms the Philippines’ position and grounds on the issue of sovereignty over Huangyan Dao.<sup>①</sup> That document once again shifted the Philippines’ own position, denying that sovereignty was acquired on the basis of either the US-Spain treaty limits or the location of Huangyan Dao within the Philippines’ 200-nautical-mile exclusive economic zone. Instead, it characterized the primary grounds for its territorial claim as based upon the hydrographic surveys and mapping of Huangyan Dao conducted by the colonial authorities prior to Philippine independence, and the exercise of effective occupation and effective jurisdiction over the island after independence, among other contentions. These assertions sought to suggest that the Philippines was entitled, on the basis of legal institutions such as occupation and effectivités, to establish its territorial sovereignty over Huangyan Dao.<sup>②</sup>

Among Philippine statements of this kind, ancient maps are treated as a crucial basis for proving sovereignty over the islands and reefs of the South China Sea. In particular, the Philippines attaches great importance to the 1734 Carta hydrographica y chorographica de las Yslas Filipinas (hereinafter the “Murillo Map”). On the Murillo Map, three shoals are

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① Department of Foreign Affairs of the Philippines, “Philippine Position on Bajo de Masinloc and the Waters within Its Vicinity”, Official Gazette of the Republic of the Philippines, April 18, 2012, <https://www.officialgazette.gov.ph/2012/04/18/philippine-position-on-bajo-de-masinloc-and-the-waters-within-its-vicinity/>.

② *Ibid.*

marked in the waters west of Luzon Island, and the Philippine government contends that “Panacot” among them is present-day Huangyan Dao, thereby concluding that Huangyan Dao was first discovered by the Philippines prior to 1734.<sup>①</sup> The 1875 Carta General del Archipiélago Filipino is likewise repeatedly cited by the Philippines.<sup>②</sup>

**Third, reinterpreting the international treaties that define its territorial limits.**<sup>③</sup> In recent years, the Philippine side has departed from its post-2012 position that it does not rely on international treaties to claim sovereignty over Huangyan Dao, and has instead turned to an expansive interpretation of the “treaty limits” including the 1900 Washington Treaty. The current Philippine President, Marcos Jr., has asserted that the 1900 Washington Treaty enabled the Philippines’ “sovereign extent” to go beyond the limits set by the Treaty of Paris, and that this has long been reflected in the 1935 Constitution of the Philippine Commonwealth.<sup>④</sup>

Subsequently, a public statement of the Philippine Department of Foreign Affairs asserted that the Philippines’ sovereignty over Huangyan Dao rests on international law, legal principles, effective control, and

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① The names of the three features are all Tagalog transliterations; from north to south they are: “Galit” meaning anger; “Panacot” meaning threat; and “Lumbay” meaning sorrow. The Philippine side also uses this map as a “basis” for claiming sovereignty over certain islands and reefs of the Nansha Qundao. See Jay Tarriela, “PCG Spokesperson for the West Philippine Sea”, Facebook, October 2, 2025, <https://www.facebook.com/watch/?v=699193809174208>.

② “1875 Carta General del Archipiélago Filipino 1902 US Edition”, Institute for Maritime and Ocean Affairs, March 16, 2026, <https://imoa.ph/1875-carta-general-del-archipelago-filipino-1902-us-edition/>.

③ This type of “ground” is also invoked by the Philippine side to claim territorial sovereignty over certain islands and reefs of the Nansha Qundao. For the sake of brevity, the Report does not repeat the discussion here.

④ Ferdinand R. Marcos Jr., “Keynote Address of President Ferdinand R. Marcos Jr. for the 21st IISS Shangri-La Dialogue”, Presidential Communications Office, May 31, 2024, <https://pco.gov.ph/presidential-speech/keynote-address-of-president-ferdinand-r-marcos-jr-for-the-21st-iiss-shangri-la-dialogue/>.

“recognition obtained through international treaties and agreements,” and is jointly confirmed by the 1935, 1973, and 1987 Philippine Constitutions.<sup>①</sup> The Philippine Coast Guard spokesperson has argued that limiting the Philippines’ territorial rights solely by reference to the Treaty of Paris is a misreading of history and law, because Philippine territory was not fixed in 1898 but has been continuously expanded through subsequent agreements and recognized by Spain, the United Kingdom, and the international community.<sup>②</sup>

## 2.2 The Philippines’ Territorial Claim in the Nansha Qundao

The Philippines’ territorial claims over certain maritime features of the Nansha Qundao began in the 1970s. On July 10, 1971, President Marcos of the Philippines issued a statement officially and publicly advancing territorial claims over certain maritime features of the Nansha Qundao.<sup>③</sup> The Philippines successively dispatched military forces to occupy Mahuan Dao, Feixin Dao, Zhongye Dao, Nanyao Dao, Beizi Dao, Xiyue Dao, Shuanghuang Shazhou, and Siling Jiao in the Nansha Qundao. To support its territorial claims in the Nansha Qundao, the Philippines has put forward the following three categories of “grounds”.

### **First, claiming sovereignty over certain maritime features of the**

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① Department of Foreign Affairs of the Philippines, “DFA Statement on Recent Statements about the Extent of Philippine Territory”, Embassy of the Philippines in Singapore, October 7, 2025, <https://www.philippine-embassy.org.sg/dfa-statement-on-recent-statements-about-the-extent-of-philippine-territory/>.

② Jay Tarriela, “PCG Spokesperson for the West Philippine Sea”, Facebook, October 2, 2025, <https://www.facebook.com/watch/?v=699193809174208>.

③ The Office of the President ed., *Official Gazette, Republic of the Philippines*, Vol. 67, No. 29, 1971, pp. 5673-5674.

**Nansha Qundao on the basis of geographical proximity.** In July 1971, President Marcos asserted that certain maritime features of the Nansha Qundao were proximate to the Philippines and within its 200-nautical-mile economic zone, and should therefore belong to the Philippines; he further contended that, given their defense and security value, it was necessary to oppose China’s occupation of Taiping Dao and other features<sup>①</sup> In Presidential Decree No. 1596 of 1978, the Philippine government again stated that these features, “close to the Philippines... are part of the continental margin of the Philippine archipelago,” and now appertain to the Philippines.<sup>②</sup> Senate Bill No. 2699 and Republic Act No. 9522, enacted in 2009, further enclosed the so-called “Kalayaan Island Group” within the territorial scope of the Philippines by means of connecting lines.<sup>③</sup>

**Second, claiming sovereignty over certain maritime features of the Nansha Qundao through “trusteeship” on behalf of the Allied Powers.** The 1971 Official Gazette of the Philippines argued that, under “the 1951 Treaty of Peace with Japan (Treaty of San Francisco)”, the Nansha Qundao were territories under Allied trusteeship following World War II, and no party was permitted to station troops there without the

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① The Office of the President ed., *Official Gazette, Republic of the Philippines*, Vol. 67, No. 29, 1971, pp. 5673-5674.

② “Presidential Decree No. 1596-Declaring Certain Area Part of the Philippine Territory and Providing for Their Government and Administration”, The LawPhil Project, June 11, 1978, [https://lawphil.net/statutes/presdecs/pd1978/pd\\_1596\\_1978.html](https://lawphil.net/statutes/presdecs/pd1978/pd_1596_1978.html).

③ “Republic Act No. 9522-An Act to Amend Certain Provisions of Republic Act No. 3046, as Amended by Republic Act No. 5446, to Define the Archipelagic Baseline of the Philippines and for Other Purposes”, The LawPhil Project, March 10, 2009, [https://lawphil.net/statutes/repacts/ra2009/ra\\_9522\\_2009.html](https://lawphil.net/statutes/repacts/ra2009/ra_9522_2009.html).

consent of the Allied Powers.<sup>①</sup> In 1974, the Philippine side reiterated this assertion through diplomatic notes, further contending that “the Treaty of San Francisco” did not specify the disposition of the Nansha Qundao, that their status should be determined by the Allied Powers or the United Nations, and that the Philippines could thereby acquire sovereignty through occupation.<sup>②</sup>

**Third, asserting “occupation” of certain maritime features of the Nansha Qundao after World War II.** The 1971 Official Gazette of the Philippines stated that a Filipino, Tomas Cloma, had carried out exploration and occupation of certain maritime features of the Nansha Qundao from 1947 to 1950. The Philippines contended that these maritime features were *terra nullius* and could be claimed in accordance with modes of territorial acquisition recognized under international law, including occupation and effective administration.<sup>③</sup>

Presidential Decree No. 1596, promulgated on June 11, 1978, expressly “confirmed” the validity of Cloma’s “occupation” of certain maritime features of the Nansha Qundao, the so-called “Freedomland”, defined their extent by lines connecting specified geographical coordinates, and designated them in Tagalog as the “Kalayaan Island Group.” The Presidential Decree stated that the above-mentioned area,

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① The Office of the President ed., *Official Gazette, Republic of the Philippines*, Vol. 67, No. 29, 1971, pp. 5673-5674.

② Marwyn Samuels, *Contest for the South China Sea*, New York : Methuen, 1982, p. 104.

③ The Office of the President ed., *Official Gazette, Republic of the Philippines*, Vol. 67, No. 29, 1971, pp. 5673-5674.

legally belonging to no state or nation, must now be deemed to belong to and be subject to the sovereignty of the Philippines on the basis of history, indispensable necessity, and effective occupation and control established in accordance with international law. Furthermore, the Philippine side asserted that, although other states had previously advanced claims over certain parts of the area, such claims had been rendered ineffective by abandonment and could not prevail over the Philippines' claims founded on law, history, and equitable principles.<sup>①</sup>

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① “Presidential Decree No. 1596-Declaring Certain Area Part of the Philippine Territory and Providing for Their Government and Administration”, The LawPhil Project, June 11, 1978, [https://lawphil.net/statutes/presdecs/pd1978/pd\\_1596\\_1978.html](https://lawphil.net/statutes/presdecs/pd1978/pd_1596_1978.html).

### **III. Assessment of the Philippines' Territorial Claims in the South**

#### **China Sea**

In order to extend its territorial claims over Huangyan Dao and certain maritime features of the Nansha Qundao, the Philippines has advanced a series of “grounds”. It is noteworthy that these “grounds” have shifted continuously over time, with the development of events, and are even conflicting with each other. Whether at the historical or legal level, it is difficult to believe that the Philippines' territorial claims rest on sufficient foundations.

#### 3.1 Assessment of the Territorial Claim to Huangyan Dao

##### 3.1.1 Territorial Claim Based on the Maritime Zones

The assertion of sovereignty over Huangyan Dao on the basis of the so-called “exclusive economic zone and continental shelf” constitutes an erroneous interpretation of the relationship between the law of the sea and the rules on the acquisition of territory. “The land dominates the sea” is a fundamental principle of the law of the sea for determining the attribution and extent of maritime areas.<sup>①</sup> It is a basic tenet of international law that the regimes of the exclusive economic zone and the continental shelf, as provided for in the United Nations Convention on the Law of the Sea (the UNCLOS), cannot serve as a legal basis for territorial claims over any island or reef as land territory.

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<sup>①</sup> The *Grisbådarna Case* (Norway v. Sweden), Award, PCA Reports 1909, p.4.

The Preamble of the UNCLOS expressly states that it is intended to settle all issues relating to the law of the sea and to establish a legal order for the seas and oceans which has due regard for the sovereignty of all States.<sup>①</sup> Therefore, a State shall claim and enforce its maritime jurisdiction on the premise of respecting the territorial sovereignty of other States, and shall not deny or infringe upon the territorial sovereignty of other States under the pretext of maritime jurisdiction. Simultaneously, the UNCLOS also confirms that matters not regulated by this Convention continue to be governed by the rules and principles of general international law.<sup>②</sup> Further, taken together with the negotiating background of the UNCLOS, it is clear that the UNCLOS is the principal international legal instrument reflecting modern international law of the sea, but the matters it regulates are not exhaustive. Notably, the UNCLOS does not address the question of sovereignty over land territory.

Specifically, the regime of the exclusive economic zone is a legal regime that determines the extent of maritime zones which a continent or island can generate and the rights over matters including natural resources as well as scientific researches within them, and no State may claim territorial sovereignty over land on this basis.<sup>③</sup> The rights over the continental shelf likewise arise by virtue of sovereignty over the land

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① “United Nations Convention on the Law of the Sea”, Preamble, United Nations, December 10, 1982, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

② *Ibid.*

③ “United Nations Convention on the Law of the Sea”, Art.56, United Nations, December 10, 1982, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf); North Sea Continental Shelf Cases (Federal Republic of Germany v. Netherlands/Denmark), Judgment, I.C.J. Reports 1969, p. 51, para.95-96.

territory, and can in no way serve in reverse as a legal basis for claiming territorial sovereignty over any island or reef.<sup>①</sup> The attribution of sovereignty over Huangyan Dao shall be regulated by the territorial acquisition rules under international law. Therefore, the proposition once explicitly advanced by the Philippines—and still repeatedly implied to this day—that sovereignty over Huangyan Dao is determined by its location within the Philippines’ exclusive economic zone is manifestly devoid of any basis in international law.

Moreover, the limits of the exclusive economic zone and continental shelf in the maritime area adjacent to Huangyan Dao must be defined through delimitation before they can be determined. From the perspective of the law of the sea, the Philippines is entitled to claim an exclusive economic zone and continental shelf extending 200 nautical miles from its archipelagic baselines, but the outer limits thereof can only be determined after an equitable delimitation with States,<sup>②</sup> and this process has not yet been completed and remains subject to clear overlapping claims. In other words, pending the completion of maritime delimitation between China and the Philippines, it is far from certain whether Huangyan Dao is “enclosed” by the Philippines’ exclusive economic zone and continental shelf.

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① “United Nations Convention on the Law of the Sea”, Art. 67.1, United Nations, December 10, 1982, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

② “United Nations Convention on the Law of the Sea”, Arts. 73 & 84, United Nations, December 10, 1982, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

The Philippine argument also suffers from a manifest logical fallacy. Huangyan Dao, a part of Zhongsha Qundao, constitutes a naturally formed area of land which is above water at high tide<sup>①</sup> and, under international law including the UNCLOS, can generate at least a territorial sea extending 12 nautical miles. This means that Huangyan Dao cannot be within any exclusive economic zone or continental shelf; rather, it is situated within the maritime zone generated by itself. The Philippine argument confuses the actual character of the maritime zone in which Huangyan Dao is located and is clearly misleading.

### 3.1.2 Territorial Claim Based on Discovery and Occupation

**First, discovery cannot serve as a basis for the Philippines' acquisition of territory.** From the perspective of historical facts, the evidence relied upon by the Philippines to claim prior discovery of Huangyan Dao suffers from major defects. Multiple studies have demonstrated that “Panacot” on the Murillo Map is not present-day Huangyan Dao, but a depiction of coastal features near Luzon Island, and that the so-called “evidence” advanced by the Philippines is entirely the result of mistaken identification.<sup>②</sup> The map also does not satisfy the requirements of accuracy and official character, among other criteria, which are required when a map is used as evidence of territorial

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① “United Nations Convention on the Law of the Sea”, Art. 121.1, United Nations, December 10, 1982, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

② Xiaocong Li, Examining the Attribution of Huangyan Dao Through Ancient Maps—A Refutation of the Philippines' 2014 Map Exhibition (in Chinese), *Journal of Nanjing University*, No. 4, 2015, pp. 76–87; Shicun Wu, *South China Sea: History and Reality* (in Chinese), Hangzhou: Zhejiang Education Publishing House, 2026, pp. 364–379; Carlos Quirino, *Philippine Cartography: 1320-1899*, Manila : Vibal Foundation, 2010, p.73.

attribution. Simultaneously, it is clearly absurd to assert that sovereignty over every feature appearing on the map belongs to the Philippines, a point that can be seen from the content of the map itself. For instance, an annotation on the map near the Bohol Sea off the northern coast of Mindanao states, “*Desde Samboangan hasta Caraga por el norte es de España*” (From Samboangan to Caraga in the north is Spain’s). This indicates that the southern part of Mindanao, the Sulu Islands, and other areas depicted on the map did not yet belong to Spain at that time, let alone Huangyan Dao far away in the South China Sea.

From the perspective of international law, with the reduction of *terra nullius* and the rising legal threshold for the acquisition of territory, discovery of *terra nullius* by a State has long ceased to be regarded as a lawful mode of acquiring territory at the time when the map invoked by the Philippine side was drawn. None of the historical evidence currently adduced by the Philippines is capable of proving that, as a State, it discovered Huangyan Dao prior to that point in time. This “obsolete” mode of territorial acquisition cannot be invoked to support the Philippines’ territorial claim over Huangyan Dao. The Philippines’ continued propagation of its “prior” discovery of Huangyan Dao, on the basis of misused and distorted historical materials, amounts to nothing more than an ineffective repetition of its claim, which lacks legal foundation and serves to mislead the public by fabricating plausible but

false appearances.

**Second, the Philippines has failed to acquire territorial sovereignty over Huangyan Dao through occupation.** Under international law, a State may transform *terra nullius* into its own sovereign domain through effective occupation of a specific land area. To establish the occupation of a *terra nullius*, it is necessary to prove both the existence of acts of sovereignty exercised over it and the display of the intention to appropriate it as territory.<sup>①</sup>

**On the one hand, the Philippines has failed to prove the historical exercise of sovereignty over Huangyan Dao.** During the colonial period, neither Spain nor the United States ever exercised sovereignty or administrative jurisdiction over Huangyan Dao, nor were any recorded acts of administration ever performed.<sup>②</sup> The shipwreck rescue activities and related incidents that occurred at Huangyan Dao during the Spanish colonial period, as alleged by the Philippine side, cannot prove that the Philippines was exercising its territorial jurisdiction, because the carrying out of such activities does not presuppose a State's jurisdiction.<sup>③</sup>

The Philippine side has also repeatedly invoked the 1875 Carta

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① Hiroshi Taki, "Effectiveness", Oxford Public International Law, February 2013, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e698?rskey=BZbQFY&result=1&prd=OPIL>.

② Existing archives, maps, and sailing directions mostly recorded it as a hazardous area for navigation. See also Ricardo Padrón, "Las Indias olvidadas: Filipinas y América en la cartografía imperial Española", Universidade de São Paulo, 3º Simpósio Iberoamericano de História da Cartografia Agendas para a História da Cartografia Iberoamericana São Paulo, April 2010, pp.1-12, <https://3siahc.wordpress.com/wp-content/uploads/2010/04/ricardo-padron-3siahc.pdf>.

③ *Minquiers and Ecrehos (France v. United Kingdom)*, Judgment, I.C.J. Reports 1953, pp. 67-68.

General del Archipiélago Filipino in an attempt to prove its territorial sovereignty.<sup>①</sup> It should be noted that the Carta General del Archipiélago Filipino is merely a hydrographic chart intended to indicate navigational hazards and channel depths, rather than an administrative map depicting the extent of the Spanish Philippine Islands. It has no probative value for establishing territorial title. The fact that the Carta General del Archipiélago Filipino lacks probative value for territorial sovereignty has long been confirmed by international jurisprudence. In the 1928 Island of Palmas award, Judge Huber, a former President of the Permanent Court of International Justice, expressly stated that the map does not show political frontiers and therefore cannot be relied upon in respect of territorial sovereignty.<sup>②</sup>

The substantive claim of the Philippine side is that any feature appearing on that map belongs to Philippine territory, which in fact reveals a chaotic logic of the territory of delusion and is clearly absurd. The appearance on the map of parts of eastern Malaysia, Dongsha Qundao, and even the Taiwan region of China, which are unquestionably unrelated to Philippine territory, in itself disproves the Philippine argument. Furthermore, a clear piece of contrary evidence is that various official U.S. maps of the Philippine Islands also exclude Huangyan Dao from the scope of Philippine territory (see Figure 3).

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① Claudio Montero, “1875 Carta General del Archipelago Filipino 1902 US Edition”, Institute for Maritime and Ocean Affairs, March 16, 2026, <https://imoa.ph/1875-carta-general-del-archipelago-filipino-1902-us-edition/>.

② Island of Palmas Case (USA v. Netherlands), Award of 4 April 1928, R.I.A.A., Vol.2, 2006, p.853.

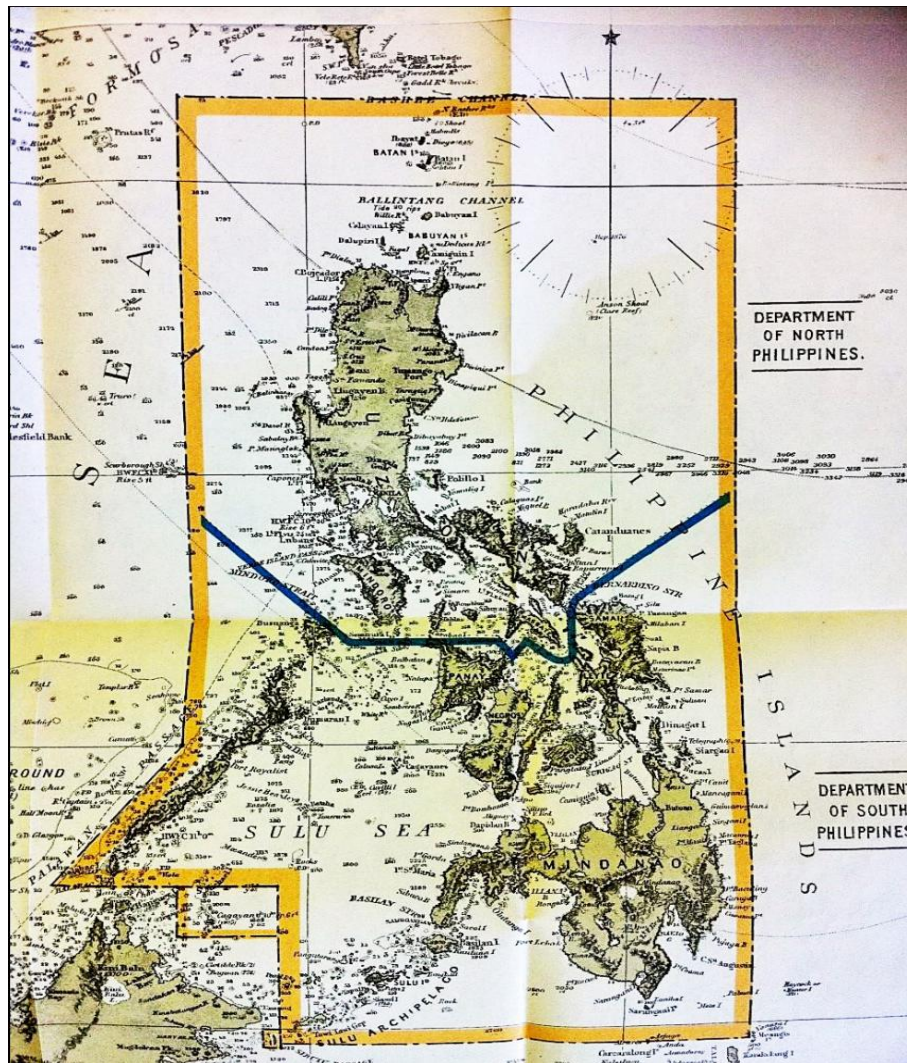


Figure 3: Map of the Philippine Islands produced by the Bureau of Insular Affairs, War Department, 1902

On the other hand, the Philippines has failed to demonstrate a clear *animus occupandi*. Prior to 1997, Philippine government agencies, in multiple maps and official communications, explicitly excluded Huangyan Dao from the Philippines' territory and merely claimed that the waters surrounding Huangyan Dao fell within their exclusive economic zone. During that period, China's clear and unequivocal acts in title of sovereign likewise precluded the possibility of Huangyan Dao being *terra*

*nullius*.<sup>①</sup> After 1997, although certain acts taken by the Philippines constituted State acts, they were not a gradual development of previous conduct but were deliberately created to bolster the Philippines' position in the dispute, and thus lack probative value under international law.<sup>②</sup>

**Third, the theory of *effectivités* has no room for application in the context of Huangyan Dao.** Through the use of expressions such as so-called “effective jurisdiction”, the Philippines appears to suggest that it has exercised sufficient *effectivités* over Huangyan Dao,<sup>③</sup> such that its claim prevails over those of other States and it may thereby acquire territorial sovereignty.

*Effectivités* are commonly used to describe acts taken by a State in the exercise of its governmental authority that indicate its intention to act as the territorial sovereign.<sup>④</sup> From the perspective of international jurisprudence, *effectivités* can neither extinguish nor alter an existing legal title, and it may only serve as one of the methods for determining sovereignty in situations where there is no established title.<sup>⑤</sup> *Effectivités* require, objectively, the existence of acts of State authority, and, subjectively, a clear intention and will to act in the name of the sovereign.

The *effectivités* claimed by the Philippines has no room for

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① For example, in 1994, a Chinese scientific expedition team for the South China Sea, with the approval of the Chinese Government, landed on the island to conduct survey activities and erected a survey monument.

② Territorial and Maritime Dispute (Nicaragua v. Colombia), Judgment of 19 November 2012, ICJ Reports 2012, p. 652.

③ Hiroshi Taki, “Effectiveness”, Oxford Public International Law, February 2013, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e698?rskey=BZbQFY&result=1&prd=OPIL>.

④ Marcelo G Kohen and Mamadou Hébié, “Territory, Acquisition”, Oxford Public International Law, November 2021, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1118>.

⑤ Frontier Dispute (Burkina Faso/Republic of Mali), Judgment of 22 December 1986, ICJ Reports 1986, p. 554.

application in the context of the clearly established sovereignty of China over Huangyan Dao. Simultaneously, the Philippines, objectively, did not perform any substantive acts manifesting sovereignty before the dispute arose, and, subjectively, did not display any intention to exercise sovereignty. Indeed, there were even official acts and statements to the contrary, including the issuance of a certification to the effect that Huangyan Island was not within the territory of the Philippines.

### 3.1.3 Territorial Claim Based on Treaty Interpretation

The territorial limits of the Philippines during the colonial period were primarily defined by three international treaties: the 1898 Treaty of Paris, the 1900 Washington Treaty, and the 1930 US-UK Boundary Treaty, and these limits were also confirmed by the Philippine government after independence. The Philippines has attempted, through distortion of these treaties and domestic legislation, among other means, to break through and reshape the treaty limits, which is both inconsistent with historical facts and constitutes a violation of international law.<sup>①</sup> It is noteworthy that the arguments advanced by the Philippine side since 2025 are in direct and perplexing contradiction to its 2012 statement, in which it expressly denied that its “sovereignty” over Huangyan Dao was founded on international treaties.<sup>②</sup>

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<sup>①</sup> The Philippine side maintains similar positions in respect of its claims to Huangyan Dao and certain islands and reefs of the Nansha Qundao; thus, no repeated analysis or refutation is presented in next section.

<sup>②</sup> See Part II of this Report.

### ARTICLE III<sup>8</sup>

Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following line:

A line running from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachi, from the one hundred and eighteenth (118th) to the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty five minutes ( $4^{\circ} 45'$ ) north latitude, thence along the parallel of four degrees and forty five minutes ( $4^{\circ} 45'$ ) north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty-five minutes ( $119^{\circ} 35'$ ) east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty five minutes ( $119^{\circ} 35'$ ) east of Greenwich to the parallel of latitude seven degrees and forty minutes ( $7^{\circ} 40'$ ) north, thence along the parallel of latitude seven degrees and forty minutes ( $7^{\circ} 40'$ ) north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude east of Greenwich, thence by a direct line to the intersection of the tenth (10th) degree parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

The United States will pay to Spain the sum of twenty million dollars (\$20,000,000) within three months after the exchange of the ratifications of the present treaty.

Figure 4: Text of the 1898 Treaty of Paris

**First, Huangyan Dao does not fall within the scope of cession under the three international treaties.** Applying the elements of treaty interpretation under international law, including the object and purpose, context, treaty text, and other supplementary materials, the 1898 Treaty of Paris clearly defined the scope of the territory ceded by Spain, i.e., the extent of the Philippine Islands. All the ceded territory in the central and northern parts of the Philippine Archipelago is situated between  $118^{\circ}\text{E}$  and  $127^{\circ}\text{E}$ , whereas the longitude of Huangyan Dao is approximately

117.7°E, which clearly falls outside the scope of cession.<sup>①</sup>

The 1900 Washington Treaty was supplementary to the previous treaty, confirming that Spain ceded to the United States any and all islands belonging to the Philippine Archipelago, situated outside the lines described in Article III of said treaty which Spain might have possessed at the time of the conclusion of the Treaty of Paris. The 1930 US-UK Boundary Treaty aimed to further clarify the attribution of islands situated between British North Borneo and the Philippine Islands, i.e., the attribution of islands proximate to North Borneo to the southwest of the Philippine Islands, and did not concern Huangyan Dao, which lies to the northwest of the Philippine Islands.

In fact, the U.S. Department of State, in both internal and external correspondence (see Figure 5), clarified the scope of the territory accepted, affirming that Philippine territory was confined within the limits stipulated by the treaties, and expressly explained what constituted other islands outside the line, namely certain additional islands to the United States, all of which lie to the northeast of the Island of Borneo. The principal islands are Cagayan Sulu and Sibutu with their dependencies.<sup>②</sup> Huangyan Dao is clearly not among them.<sup>③</sup> As noted above, numerous maps published by official U.S. agencies during the

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① See Figure 4: Article 3 of the 1898 Treaty of Paris.

② I.e., in Figure 5, "... certain additional islands to the United States, all of which lie to the northeast of the Island of Borneo, the principal islands being Cagayan Sulu, and Sibutu, and their dependencies ...".

③ Letter of Wilbur J. Carr in reply to the Secretary of War, October 9 , 1933, Box 10, Manuscript Division, Library of Congress, Washington, D.C.

colonial period also consistently depicted Huangyan Dao as lying outside the territorial limits.

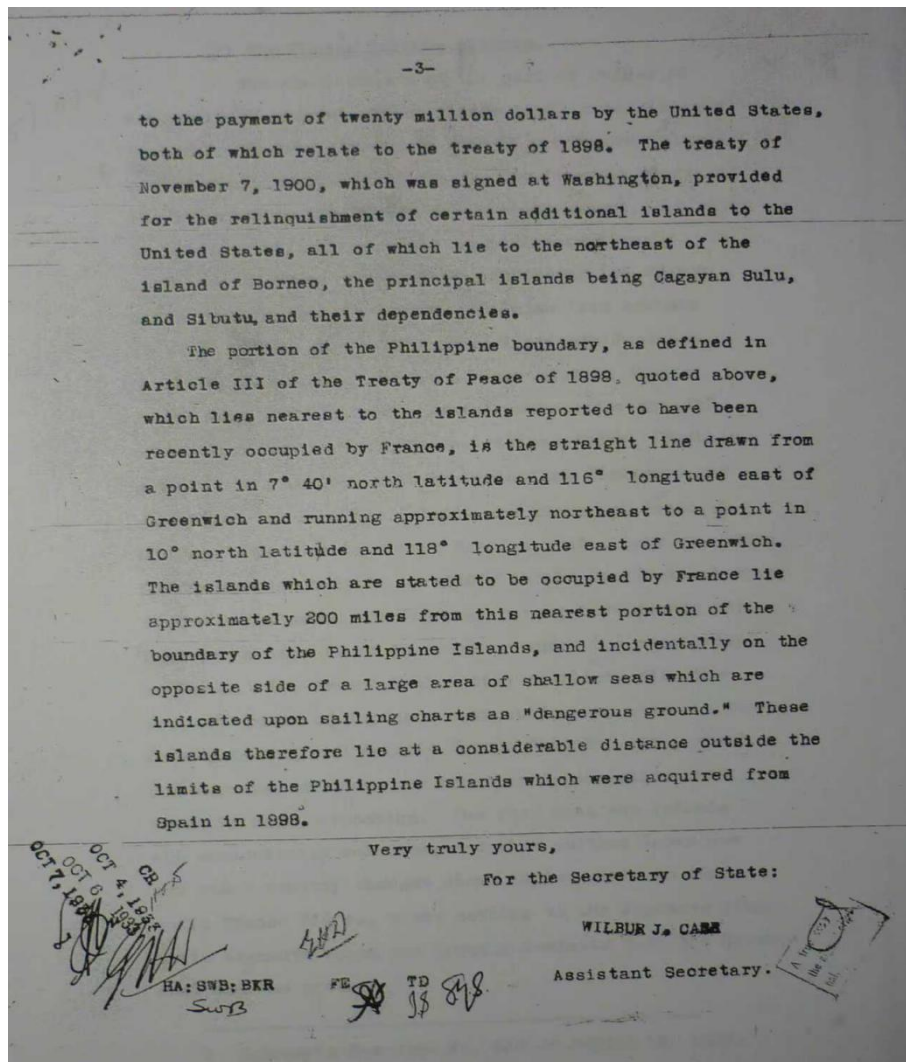


Figure 5: Archival correspondence of the U.S. Department of State, 1933

**Second, after independence, the Philippines recognized, through multiple means, that Huangyan Dao lay outside the scope of its territorial sovereignty.** This binds the Philippines under the principles of consent and *estoppel* in international law. For instance, well into the 1990s, Philippine official maps continued to depict Huangyan Dao as

lying beyond its territorial limits.<sup>①</sup> This position was also corroborated by official correspondence of various Philippine government agencies. In a letter dated February 5, 1990, the Philippine Ambassador to West Germany stated that, according to the Philippine National Mapping and Resource Information Authority, “the Scarborough Reef or Huangyan Dao” is not within the territorial sovereignty of the Philippines (see Figure 6).



EMBASSY OF THE PHILIPPINES  
ARGELANDERSTRASSE 1  
5300 BONN I  
WEST GERMANY  
2 February 1990

S i r :

# 5

Thank you for your letter dated 22 January 1990. According to the Philippine National Mapping and Resource Information Authority, the Scarborough Reef or Huangyan Dao does not fall within the territorial sovereignty of the Philippines. It is 10 miles off the line drawn under the Treaty of Paris; however, the area is within the 200-mile Philippine economic zone.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'B. Tan'.

BIENVENIDO N. TAN, JR.  
Ambassador

Mr. Dieter Löffler  
European DX Foundation e.V.  
Postfach 62 02 60  
5000 Köln 60

EINGEGANGEN

5. Feb. 1990

Erl.....

Figure 6: Reply letter of the Philippine Embassy in West Germany, 1990

<sup>①</sup> For example, Official Map No. 25 issued by the National Mapping and Resource Information Authority under the Department of Environment and Natural Resources in the 1990s clearly placed Huangyan Dao outside the territorial limits of the Philippines. See Figure 8.

The Certification of Territorial Boundary of the Republic of the Philippines issued by the Philippine National Mapping and Resource Information Authority on October 28, 1994, acknowledged that the territorial limits and sovereignty of the Republic of the Philippines are defined by Article III of the Treaty of Peace signed on December 10, 1898, between the United States and Spain, and confirmed that the territorial limits shown in Official Map No. 25 issued by the Department of Environment and Natural Resources through the National Mapping and Resource Information Authority (Authors' note: which depicts Huangyan Dao outside the territorial limits) are fully correct and reflect the true situation (see Figures 7-8). These statements by the Philippines not only constitute counter-evidence to its own territorial claim over Huangyan Dao, but also subject the Philippines to the constraints of international law based on the recognition of legal facts and the principle of *estoppel*.

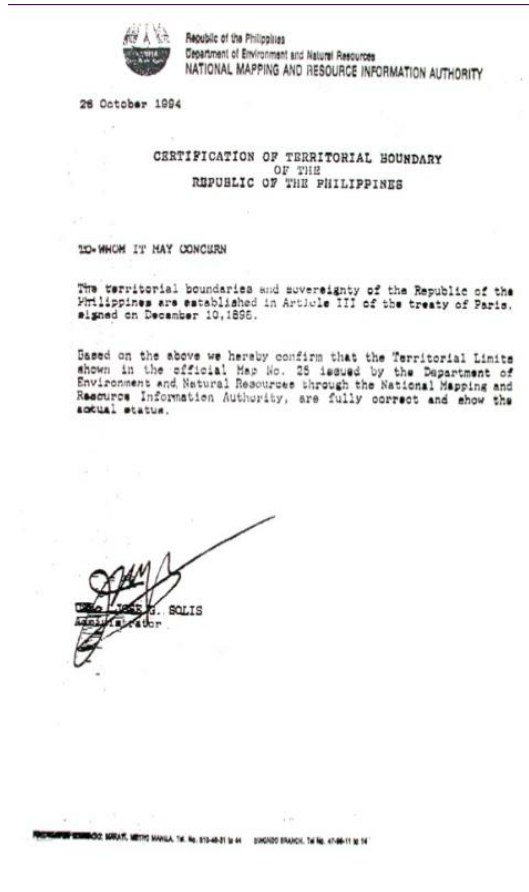


Figure 7: Certification letter of the Philippine National Mapping and Resource Information Authority (left)

Figure 8: Partial view of Philippine Official Map No. 25 (right)

**Finally, the Philippines' incorporation of Huangyan Dao into its territory through domestic legislation violates the rules of international law.** Territorial sovereignty can only be lawfully acquired in the manner generally recognized within the rules of international law on the territorial acquisition. Under the contemporary international legal system established after World War II and centered on the Charter of the United Nations, a State's attempt to acquire territory outside its national boundaries is a violation of international law and may well constitute a most serious internationally wrongful act, such as aggression or unlawful

annexation.

It must be observed that throughout the entire Spanish colonial period, Spain never exercised occupation, administration, or effective control over Huangyan Dao or the Nansha Qundao. Consequently, Huangyan Dao and certain maritime features of the Nansha Qundao were never Spanish territory, and they could not naturally have been “ceded” to the United States through any treaty and then transferred by the United States to the Philippines. The 1930 US-UK Boundary Treaty merely delimited the boundary between the Philippine Islands under United States sovereignty and British North Borneo; it did not concern Huangyan Dao or certain maritime features of the Nansha Qundao, still less did it incorporate them into Philippine territory, and it cannot serve as a basis for the Philippines’ sovereignty.

In other words, the territorial limits of the Philippines at the time of its independence could not have exceeded the extent acquired by the colonial sovereign. The treaties conferred no title upon the Philippines to claim sovereignty over Huangyan Dao or certain maritime features of the Nansha Qundao. This means that any territorial expansion by the Philippines after independence must be based on a sufficient foundation in international law. The fact is, however, that none of the bases of territorial claims advanced by the Philippines can be established. Therefore, the Philippines’ resort to domestic legislation, including

constitutional amendment, cannot serve as a basis under international law for its territorial claim over Huangyan Dao, and may even entail State responsibility for encroaching upon the territory of another State. In light of international jurisprudence, such as the Territorial and Maritime Dispute (Nicaragua v. Colombia), the effectiveness under international law of unilateral acts taken by the Philippines for the purpose of strengthening its claim, including amendments to its domestic law, is unfounded.<sup>①</sup>

### 3.2 Assessment of the Territorial Claim to Certain Islands and Reefs of the Nansha Qundao

#### 3.2.1 Territorial Claim Based on Geographical Proximity

**First, geographical proximity is not a mode of acquiring territory recognized by international law.** In the Island of Palmas Case, Judge Huber expressly stated in the award that there is no rule of international law that allows territorial sovereignty to be claimed over islands beyond the territorial sea merely on the basis of geographical proximity, and that proximity *per se* does not give rise to any sovereign title.<sup>②</sup> It has subsequently been cited by the International Court of Justice and various arbitral tribunals.<sup>③</sup>

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① Territorial and Maritime Dispute (Nicaragua v. Colombia), Judgment, I.C.J. Reports 2012, p. 652.

② Island of Palmas Case (USA v. Netherlands), Award of 4 April 1928, R.I.A.A., Vol.2, 2006, p.854.

③ Katharina Häusler, Jane A Hofbauer, Palmas Island Arbitration, <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e191>.

**Second, according to historical facts, the Nansha Qundao have never lain within the extent of the Philippine Islands.** In 1933, in response to France’s attempt to illegally occupy certain maritime features of the Nansha Qundao, then U.S. Assistant Secretary of State Wilbur J. Carr replied in a letter that, according to the definition of the Philippine boundary in Article III of the 1898 Treaty of Paris, these islands are about 200 miles distant from the nearest part of the limit of the Philippine Islands, and are on the opposite side of a large shoal area which is marked on the charts as Dangerous Ground, lying outside the limits of the Philippine Islands as acquired by the United States from Spain in 1898.<sup>①</sup> Furthermore, after long-term investigation and research, the legal advisers of the British government explicitly concluded in their report that the Philippine claims were dubious, and that the Nansha Qundao belonged to China and not to any other claimant.<sup>②</sup>

This clearly demonstrates that, whether viewed from the perspective of historical facts or legal analysis, no part of the Nansha Qundao has ever appertained to the Philippine Islands, still less could it constitute part of Philippine territory. The Philippines’ repeated invocation of the “principle of proximity” on the South China Sea issue, while deliberately evading the rules of international law and historical facts, is in essence a

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① Letter of Wilbur J. Carr in reply to the Secretary of War, October 9 , 1933, Box 10, Manuscript Division, Library of Congress, Washington, D.C.

② Cited by Anthony Carty, *The History and Sovereignty of the South China Sea*, trans. Wang Xiang et al., Beijing: New Star Press, 2023, pp. 116 & 122–127.

one-sided manipulation motivated by its own political and security interests. It has no treaty basis, no support in international jurisprudence, and cannot possibly be recognized by the international community.

### 3.2.2 Territorial Claim Based on Trusteeship

Trusteeship as an international legal institution refers to the placement of a particular territory under the administration of the United Nations pursuant to a relevant trusteeship agreement, whereby one or more administering authorities exercise provisional administration and governance under the supervision of the United Nations with a view to facilitating the progressive attainment of self-government or independence by that territory.<sup>①</sup> It must be noted that “trusteeship” is not a lawful mode of acquiring territory recognized by international law, yet it has been deliberately distorted and abused by the Philippines. The Philippines’ Allied “trusteeship” argument is a distortion of “the Treaty of San Francisco”, and the Treaty itself is illegal and invalid as well.

**There is simply no factual basis for Allied “trusteeship” in respect of the Nansha Qundao.** During the consultation and drafting stages of “the Treaty of San Francisco”, the United States, in order to legitimize and perpetuate its military control over Japan, professed that specific islands such as the Ryukyu Islands and the Bonin Islands would be placed under United Nations trusteeship. However, subsequent

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<sup>①</sup> Article 75 of the Charter of the United Nations provides, the United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements.

historical facts show that the United States never fulfilled any legal procedures for trusteeship, which is a total violation of the UN provisions that any trusteeship must be approved by the UN Security Council or the UN General Assembly.<sup>①</sup>

More importantly, the Nansha Qundao have never been a subject of “trusteeship.” Article 77 of the Charter of the United Nations provides that the trusteeship system shall apply to three categories of territories: territories now held under mandate; territories which may be detached from enemy states as a result of the Second World War; and territories voluntarily placed under the system by states responsible for their administration.<sup>②</sup> The express definition of the objects of “trusteeship” in Article 3 of “the Treaty of San Francisco” says, the scope of “trusteeship” only encompasses specific islands such as the Ryukyu Islands and the Bonin Islands, and does not include the Xisha Qundao (Paracel Islands) or the Nansha Qundao.<sup>③</sup> The treaty further explicitly required Japan to renounce all right, title and claim to the Xisha Qundao and the Nansha Qundao, without any mention of trusteeship measures for either of those two island groups.

In fact, the Philippines has never been able to produce any formal agreement reached among the Allied Powers or any relevant document to

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① Luo Huanxin, Historical Retrospect and Legal Analysis of the Status of the Ryukyus (in Chinese), World Military Affairs, No. 2, 2026.

② *Charter of the United Nations*, Chapter XII, Report of the United Nations, UN Doc. DPI/511, 1945.

③ See “Treaty of Peace with Japan (with two declarations)”, United Nations, September 8, 1951, <https://treaties.un.org/doc/publication/unts/volume%20136/volume-136-i-1832-english.pdf>.

support its own “trusteeship” assertion. In view of this, the Korean scholars observed that not a single state among the parties to the “the Treaty of San Francisco” expressed support for this theory, and no Allied ‘trusteeship’ ever existed.<sup>①</sup>

**The negotiation records prove that the Philippines is not entitled to invoke “the Treaty of San Francisco” to claim territorial sovereignty.** As a participant in the San Francisco Peace Conference and a signatory to “the Treaty of San Francisco”, the Philippines neither raised any objection nor asserted any right regarding the provisions on the disposition of the Xisha Qundao and the Nansha Qundao during the conference and the draft treaty consultations.<sup>②</sup> At the time of signing and ratifying “the Treaty of San Francisco”, the Philippines likewise expressed no position or claim whatsoever concerning the Nansha Qundao.

The Philippines’ silence at these series of crucial junctures demonstrates that, at the time, the Philippines considered the Nansha Qundao to be of no concern to itself. That the Philippine side now seeks to distort this treaty to endorse its acts of encroachment is entirely untenable.

### 3.2.3 Territorial Claim Based on Post-war Occupation

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① Hungdah Chiu and Choon-ho Park, *Legal Status of the Paracel and Spratly Islands*, Ocean Development & International Law, Vol.3, 1975, p.19.

② Full Text of Gromyko’s Speech at the San Francisco Conference on September 5, People’s Daily, September 9, 1951, p. 4.

The Philippines takes the “Cloma Incident” as its core basis and claims to have acquired territorial sovereignty over certain maritime features of the Nansha Qundao through “occupation” after the Second World War.<sup>①</sup> In fact, the so-called “post-war occupation” advanced by the Philippine side neither conforms to the rules of international law on the acquisition of territory nor accords with objective historical facts, and it possesses no legal validity whatsoever.

**After World War II, the Nansha Qundao were not *terra nullius* and could not constitute an object capable of acquisition through occupation.** China was the earliest discoverer, developer and administrator of the Nansha Qundao and had long since acquired territorial sovereignty over them. Ancient Chinese official gazetteers expressly placed the Nansha Qundao within Chinese jurisdiction and clearly defined their administrative affiliation.<sup>②</sup> China’s administration of fishing and other activities in the South China Sea also dates back to

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① The Official Gazette of the Republic of the Philippines of July 5, 1971 stated: Cloma carried out so-called “exploration” and occupation of certain islands and reefs of the Nansha Qundao from 1947 to 1950. These islands, islets, coral reefs, sand cays and shoals were regarded as *terra nullius* and could be acquired in accordance with modes of acquisition recognized under international law, including occupation and effective administration. See Official Gazette of the Republic of the Philippines, July 5, 1971, Library of Congress, 1902-2012, v.67no.29, pp.5673-5674. On June 11, 1978, the Philippines issued Presidential Decree No. 1596, again asserting the validity of Cloma’s “occupation” of certain islands and reefs of the Nansha Qundao. See “Presidential Decree No.1596-Declaring Certain Area Part of the Philippine Territory and Providing for Their Government and Administration”, The LawPhil Project, June 11, 1978, [https://lawphi-l.net/statutes/presdecs/pd1978/pd\\_1596\\_1978.html](https://lawphi-l.net/statutes/presdecs/pd1978/pd_1596_1978.html).

② For example, the Guangdong Tongzhi [General Gazetteer of Guangdong], compiled under the supervision of Ruan Yuan, Governor-General of Guangdong and Guangxi, and Li Hongbin, Governor of Guangdong, in the second year of the Daoguang reign (1822), records: “Changsha Hai and Shitang Hai both lie in the outer ocean east of the city.” See (Qing) Ruan Yuan, comp., Chen Changqi et al., eds., Guangdong Tongzhi, Daoguang 2 (1822) woodblock edition, juan 112, “Shanchuan Lue, Qiongzhou Fu, Wanzhou.” Also, the Wanzhou Zhi [Gazetteer of Wanzhou], revised under the supervision of Hu Duanshu, Magistrate of Wanzhou, in the eighth year of the Daoguang reign (1828), records: “Wanzhou has Qianli Changsha and Wanli Shitang, yet both are in the outer sea; vessels that strike the sands shatter instantly, and those that enter the tang have no way out.” See (Qing) Hu Ruishu, comp., Chen Ruguan, ed., Wanzhou Zhi, Guangxu 17 (1891) woodblock edition, juan 3, “Shanchuan Lue, Chuan.”

ancient times.<sup>①</sup> Having conducted extensive research in the historical archives of various States, Professor Anthony Carty likewise reached the clear conclusion in his published work that sovereignty over the Nansha Qundao had long been regarded as belonging to China.<sup>②</sup> In the aftermath of the Second World War, China, pursuant to the post-war arrangements, duly effected the takeover of the Nansha Qundao and enforced its sovereignty over them.

In fact, China's continuous exercise of territorial sovereignty over the Nansha Qundao was also clearly demonstrated in the very "Cloma Incident" that the Philippine side now repeatedly emphasizes. In 1956, in response to Cloma's appeal to the Philippine government to "incorporate" certain maritime features of the Nansha Qundao into Philippine territory, the Ministry of Foreign Affairs of the People's Republic of China issued a statement declaring that the Nansha Qundao had always been part of Chinese territory.<sup>③</sup> Thereafter, the Taiwan authorities also organized Nansha patrol forces to strengthen control, intercepted Cloma's vessels, and released them only after he signed a letter of undertaking not to intrude

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① Chinese fishermen in the Qing dynasty also traveled to the Nansha Qundao for production and livelihood and were subject to the administration of the Chinese government. The Genglubu [Manual of Sea Routes] handed down by generations of Hainan fishermen refers to the Nansha Qundao as "Beihai" [the Northern Sea] and records in detail the routes to and from the islands. Records of modern Western navigators also confirm that Chinese fishermen were active year-round in the Nansha Qundao, building shelters and storing provisions. See Monique Chemillier-Gendreau, *La souveraineté sur les archipels Paracels et Spratleys*, Paris: L' Harmattan, 1996, pp.188-189.

② Anthony Carty, *The History and Sovereignty of the South China Sea*, trans. Wang Xiang et al., Beijing: New Star Press, 2023, pp. 2–3.

③ Ministry of Foreign Affairs of the People's Republic of China, *China's Sovereignty over the Nansha Qundao Shall Not Be Encroached Upon*, *People's Daily*, May 30, 1956, p. 1.

into the Nansha Qundao again.<sup>①</sup>

**Prior to the 1970s, the Philippines took no act of occupation that reflected any official intention on its part.** In fact, during the “Cloma Incident,” both the Philippine government and Cloma himself expressly stated that the actions in question were purely private in nature and did not represent the policy of the Philippine government.<sup>②</sup> It is also noteworthy that, during the Philippine Congress’ amendment of Republic Act No. 3046 in 1968, only a few individual members of Congress mentioned Cloma’s Freedomland, while the other members were indifferent and showed no support.<sup>③</sup> This attitude stands in sharp contrast to the proactive approach of Philippine legislators in promoting the incorporation of the Sabah territorial claim into legislative instruments, and also confirms from a different angle that the Philippine Congress at the time did not recognize that the “Kingdom of Freedomland” belonged to Philippine territory.<sup>④</sup>

Furthermore, the Philippines had in fact once recognized the legal status of the Nansha Qundao as territory belonging to another sovereign, a position that is also in manifest contradiction to its subsequent stance. For example, on May 17, 1950, then Philippine President Quirino stated at a press conference that, given that the Nansha Qundao were garrisoned

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① Two of Our Naval Vessels Patrol the Nansha Qundao, United Daily News, Taipei, June 16, 1956, p. 1.

② Compilation of Archives on the South China Sea Islands (in Chinese), Vol. 2, 1995, p. 999.

③ Senate of the Philippines, “Congressional Record”, Sixth Congress, Third Regular Session, 1968, p. 355.

④ Kan Wang, “The 1960s Philippine Territorial Sea Laws in Sino-Philippine Territorial Disputes: A Historical and Legal Analysis”, *International Journal of China Studies*, Vol. 16, No. 1, 2025, p. 87.

by Nationalist troops, and out of the relationship of a friendly nation, the Philippines naturally sees no need to propose an occupation of that area.<sup>①</sup> This demonstrates that for a considerable period of time after the Cloma Incident, the Philippines never laid formal claim to sovereignty over certain islands and reefs in the Nansha Qundao. Accordingly, its relevant acts fail to satisfy the criteria for establishing occupation under international law.

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<sup>①</sup> Guo Yuan, The Philippines' Coveting of the Xisha and Nansha Qundao in 1950 and China's Response (in Chinese), *Journal of Hainan Tropical Ocean University*, Vol. 30, No. 4, 2023, p. 7.

#### **IV. The Danger of the Philippines' Territorial Expansion Attempts**

On the basis of persistently distorting and fabricating historical facts and misapplying international law, the Philippines continues to assert sovereignty over Huangyan Dao and certain maritime features of the Nansha Qundao by misleading international public opinion and carrying out unlawful and radical actions. It has seriously threatened peace and stability in the South China Sea region, become a factor of instability for the economic and social development of neighboring States, and is undermining post-Second World War international order arrangements, effectively shifting and diffusing to the international community the risks generated by its own pursuit of illegitimate self-interest.

##### **4.1 Challenging the International Legal System**

First, the Philippines' territorial expansion attempts challenge the international legal system centered on the Charter of the United Nations. The Charter of the United Nations expressly provides that the territorial integrity of any State shall be inviolable, particularly by means of the threat or use of force.<sup>①</sup> It must be recognized that the inviolability and certainty of territorial sovereignty and its limits constitute the very foundation on which the contemporary international legal system rests.

However, the Philippines has encroached by force upon certain maritime features of China in the South China Sea and, for decades, has

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<sup>①</sup> *Charter of the United Nations*, Art. 2, Report of the United Nations , UN Doc. DPI/511, 1945.

continuously sought to legitimize its unlawful occupation through domestic legislation, maritime operations, and manipulation of public opinion. This practice runs directly counter to the requirement, under the international legal system centered on the Charter of the United Nations, to respect the territorial sovereignty of other States. The Philippines' statements and actions violate the fundamental concern of the Charter of the United Nations for the territorial integrity of States and erode the certainty of States' territorial limits.

Second, the Philippines' territorial expansion attempts depart from the rules of international law on the acquisition of territory and deliberately conflate the rules on the acquisition of territory with the international law of the sea. International law contains clear provisions on how a State may lawfully acquire territory, and the modes of acquiring territory under modern international law are even more limited.<sup>①</sup>

The Philippines, having long had its territorial limits established, seeks to illegally expand its territorial scope by distorting the rules on the acquisition of territory and forcibly fitting factual evidence to support its claims. This not only constitutes a direct violation of the rules on the acquisition of territory but may also give rise to a pernicious "diffusion effect" among States. Simultaneously, in diplomatic settings and international propaganda, the Philippines deliberately confuses the

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<sup>①</sup> R. Y. Jennings, *The Acquisition of Territory in International Law: With a New Introduction by Marcelo G. Kohen*, Manchester: Manchester University Press, 2017, pp. 29-31.

question of territorial title over the maritime features in the South China Sea with questions of maritime delimitation and other issues, blurring the boundary between the rules on the acquisition of territory and the international law of the sea.

Third, the Philippines has employed domestic legislation as a tool for unlawfully expanding its territorial claims, thereby manifestly distorting the relationship between municipal law and international law. A State cannot unilaterally alter the attribution of territorial sovereignty over land territory through its domestic legislation. Domestic law may only confirm and declare such sovereignty after the State has acquired it through a mode of acquisition of territory recognized under international law.

However, the legislative practice of the Philippines runs entirely counter to this principle. The Philippines has successively enacted domestic laws incorporating Huangyan Island and certain features of the Nansha Qundao into its “territory”, in an attempt to encroach upon the territory of other States. Should this specious logic, that domestic law can substitute for and override rules of international law, gain general acceptance, the control of international law on States would inevitably be undermined, leading to the absurd situation where unilateral expansion by a State requires no more than domestic legislative authorization and is subject to no international legal constraints.

Finally, the Philippines' territorial expansion attempts involve a malicious misinterpretation of international treaties, seriously violating the rules of international law on treaty interpretation. The Vienna Convention on the Law of Treaties establishes the fundamental rules of treaty interpretation, requiring that a treaty be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of its object and purpose.<sup>①</sup>

The Philippines' practice of treaty interpretation on the question of the attribution of Huangyan Dao and certain maritime features of the Nansha Qundao is entirely contrary to these rules. The Philippines utterly disregards the ordinary meaning of the terms, the object and purpose of the treaties, supplementary materials, and other factors that ought to be considered, and through unilateral interpretation forcibly incorporates territory not covered by the three treaties into its scope. It also reneges on its own words after having long expressly recognized the territorial limits inherited on the basis of those three treaties, and even adopts a selective approach of accepting the treaties when convenient and discarding them when not. Should such unilateral and erroneous interpretations be widely emulated, the system of rules on treaty interpretation would exist in name only, and the normative foundation upon which the operation of international law depends would also be impaired.

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<sup>①</sup> "Vienna Convention on the Law of Treaties", Arts. 31-32, United Nations, International Law Commission, 1969, [https://legal.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf).

## 4.2 Threatening Regional Peace and Stability

First of all, the Philippines' territorial expansion attempts escalate maritime security risks in the region. Under the pretext of defending "sovereignty", the Philippines has frequently dispatched coast guard vessels, fishing boats, and even military forces into waters adjacent to Huangyan Dao and certain maritime features of the Nansha Qundao, engaging in dangerous methods such as ramming, close-in reconnaissance, and the laying of navigational obstacles to carry out provocations and disruption, seriously threatening the safety of maritime personnel and property of all parties and continuously heightening regional tensions. The Philippines' radical actions to unilaterally change the *status quo* expose the South China Sea, a vital global shipping lane, to unwarranted risks of conflict and also threaten the peaceful environment upon which the development of the littoral States of the South China Sea depends.<sup>①</sup>

Secondly, the Philippines' territorial expansion attempts manifestly violate the purposes and provisions of the Declaration on the Conduct of Parties in the South China Sea (DOC). The core essence of the DOC is that the Parties undertake to exercise self-restraint and refrain from actions that would complicate or escalate disputes and affect peace and

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<sup>①</sup> "United Nations Convention on the Law of the Sea", Arts.56&58, United Nations, December 10, 1982, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

stability.<sup>①</sup> However, a series of unilateral actions by the Philippines in recent years, including expanding military installations on illegally occupied maritime features and amending domestic legislation in an attempt to entrench its illegal claims, are all in contravention of those commitments. This has seriously eroded the foundation of mutual trust among regional States, exacerbated the divergence of positions among them, and placed unavoidable pressure on the negotiations for a Code of Conduct in the South China Sea, greatly impairing the joint efforts of China and ASEAN Member States to safeguard peace and stability in the South China Sea.

Thirdly, the Philippines' territorial expansion attempts undermine the overall interests of China-ASEAN relations. China and ASEAN are each other's largest trading partners and important strategic cooperative partners, and their relationship has long maintained a sound and stable momentum of development, with fruitful practical cooperation in various fields. Peace and stability in the South China Sea serve the common interests of China and ASEAN Member States. Nevertheless, for its own selfish interests, the Philippines has deliberately framed the South China Sea issue as a holistic disagreement between China and ASEAN, attempting to hijack ASEAN into endorsing its illegal claims. This not only does nothing to help resolve the issue, but also negatively impacts

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<sup>①</sup> DOC, para. 5.

the overall atmosphere of China-ASEAN cooperation and generates uncertainties for the prospect of building a China-ASEAN community with a shared future.

Finally, the Philippines' territorial expansion attempts introduce unwelcome and complex external factors. South China Sea affairs should properly be handled through joint consultation and independently by China and ASEAN Member States. This is both a longstanding and key principle upheld by the regional States and the fundamental guarantee for maintaining peace and stability in the South China Sea. However, the Philippines has continuously opened up military bases to external forces, frequently conducted highly targeted joint patrols and exercises, and taken the initiative to introduce external military forces into the South China Sea region. It must be clearly recognized that the intervention of external forces not only does not help resolve disputes but is, on the contrary, highly likely to intensify contradictions and undermine the sovereign security and long-term development interests of all littoral States of the South China Sea. Such a practice threatens the autonomy of regional States over the South China Sea issue and seriously deviates from the common aspiration of the regional States to build the South China Sea into a sea of peace, friendship, and cooperation.

#### 4.3 Undermining the Post-War Order Arrangements

The explicit disposition of territories that Japan had stolen through

aggression and expansion, through a series of legally binding international instruments including the Cairo Declaration and the Potsdam Proclamation, is one of the core achievements in the establishment of the post-war international order. Among them, the Cairo Declaration expressly provided that all the territories Japan had stolen from China shall be restored to China.<sup>①</sup> Article 8 of the Potsdam Proclamation further confirmed that the terms of the Cairo Declaration shall be carried out.<sup>②</sup> On the basis of its pre-existing territorial sovereignty, China, pursuant to these instruments possessing international legal force, swiftly resumed the exercise of sovereignty over the South China Sea Islands after the War.

As a sovereign State that gained independence after the Second World War, the territorial limits of the Philippines are clearly defined by the three international treaties and a series of historical instruments with international legal force. As discussed above, the Philippines, through its statements and practice over several decades after independence, repeatedly confirmed these limits.<sup>③</sup> That position not only constituted the Philippines' explicit acceptance, as a member of the international community, of the post-war territorial arrangements, but also represented a solemn commitment made by the Philippine Government at the time to uphold the post-war order in the Asia-Pacific centered on the Cairo

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① See Cairo Declaration.

② See Potsdam Declaration.

③ See Part 1.2 of this Report.

Declaration and the Potsdam Proclamation.

However, the Philippines' subsequent territorial expansion attempts have undermined the international order arrangements established after the Second World War. As a member of the post-war international community, the Philippines, whose territorial limits have never included any part of China's South China Sea Islands, has unilaterally advanced illegal claims over territory that already has a clearly established attribution, in an attempt to overturn the territorial arrangements jointly created and upheld by the international community after the War. Such conduct is not only a flagrant denial of the international legal obligations it has undertaken, but also a direct trampling on the order of territorial sovereignty among States that the post-war international community jointly constructed on the basis of the principles of justice and peace.

The Philippines' current territorial expansion activities stand in sharp contrast to its historical commitment to maintaining the treaty limits it accepted and respecting the post-war arrangements, fully exposing its opportunistic nature in arbitrarily overturning international commitments for the sake of transient self-interest. If a State can so readily renounce the legal position it has long upheld and repeatedly confirmed, the very foundation of good faith upon which international relations operate will inevitably be shaken, and the certainty of territorial limits that the post-war international order has sustained will also face grave risks.

## **V. Conclusion**

The land territorial limits of the Philippines were gradually formed during the Spanish and American colonial periods and were established in international law through three international treaties, as the International Treaty Limits. After independence, the Philippines succeeded to and confirmed the territorial limits established during the colonial period through its Constitution and other domestic legislation. Since the 1970s, however, the Philippine Government has frequently manifested an intention to expand its territorial limits, advancing territorial claims over certain maritime features of the Nansha Qundao and Huangyan Dao through such means as amending its Constitution, issuing decrees, and releasing statements.

Based on a comprehensive analysis of credible historical sources and generally recognized rules of international law, the new claims advanced by the Philippines in the South China Sea after independence are clearly devoid of historical basis and legal foundation, and they enjoy no sovereignty over over Huangyan Dao, nor any of the islands and reefs of the Nansha Qundao. The series of “grounds” advanced by the Philippines to support its territorial sovereignty over Huangyan Dao and certain maritime features of the Nansha Qundao, together with the measures it has taken, including domestic legislation and unlawful occupation, cannot establish territorial sovereignty in the South China Sea. Moreover, the

Philippine Government's inconsistent and frequently shifting legal positions are also illogically riddled with contradictions and are difficult to justify.

Thus, it can be seen that the Philippines' attempt to break through the territorial limits defined by a series of treaties with international legal force and to extend them to Huangyan Dao and certain maritime features of the Nansha Qundao lacks basic historical evidence, manifestly contravenes the rules of international law concerning the acquisition of territory, and is devoid of historical and legal foundation. It is necessary to clearly recognize that the Philippines' unlawful acts, while challenging the international legal order, constitute a grave threat to regional peace and stability and the maintenance of the international order, and must not be tolerated by the international community.