

■ STRATEGIC STUDIES PROGRAM

# THE PHILIPPINE MARITIME ZONES ACT, PHILIPPINE ARCHIPELAGIC SEA LANES ACT, THE SRDP REVITALIZATION PROGRAM

## Implications and Prospects in Strengthening the Philippines' Maritime Capacity

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### CHARTING THE COURSE: PERSPECTIVES ON SEA POWER<sup>1</sup>

When discussing sea power, it is not only essential but almost a disservice to omit the influential naval theorist Alfred Thayer Mahan from the conversation. His pioneering work continues to make waves in the 21st century, compelling even China to embrace his Western ideas to build and strengthen its maritime power (Holmes and Yoshihara 2005). China is referenced not merely as a testament to the continuing validity of Mahan's theories but as a rapidly emerging naval power. Its naval power has surpassed the United States Navy force posture by the number of battleships. It has achieved this feat since

2020 and is projected to increase the gap in the next decade or by 2030 (O'Rourke 2024).<sup>2</sup>

Just like how Mahan studied British naval power to theorize sea power, any scholar would benefit from studying the maritime landscape, which, according to Mahan, should not only be confined to its military aspect but should also include commerce and shipping (Manship 1964).

In the first chapter of his seminal book, *The Influence of Sea Power Upon History* (1980), Mahan identified six conditions that contribute to a nation's sea power—geographical position, physical conformation, the extent

<sup>1</sup> This draws heavily from the presentation of Captain Dianne Despi during the roundtable discussion "From Calm Seas to Rising Tides: The Philippines' Maritime Strategy in Response to Global Sea Powers" held on 16 July 2024.

<sup>2</sup> For a more detailed comparative inventory of naval battleships of US and China since 2000, see O'Rourke (2004).

of territory, population, the character of the people, and the character of the government (France 2006, 6, cited in Despi 2017). One scholar has simplified the conditions into two overarching and interrelated elements—territory and people. The first three conditions set out by Mahan refer to the geographical bases in developing a country's sea power. However, he insists that leaving out the “people dimension,” or even one condition, for that matter, would inhibit the realization of sea power.

The Philippines' unique geographical features predispose it to several advantages. It is enclosed by the South China Sea in the West, the Sulu and Celebes Seas in the South, the Pacific Ocean in the East, and the Bashi Channel in the North. Surrounded by waters rich in marine biodiversity and traversed by thousands of trading and commercial ships through the Sea Lines of Communication, its economic and commercial role cannot be underestimated. Militarily, “[g]eographic location encompasses a nation's capability for sea access, which allows it to exercise a certain degree of influence over its national and international maritime affairs, and for sea denial, which determines its natural resistance to external attack” (Despi 2017, 586–87).

The Philippines has been touted as one of the biggest shipbuilders in the world. However, as the Maritime Industry Authority (MARINA) would point out, this metric has been conflated by a bigger number of foreign shipbuilders who operate in the economic zones, enjoying preferential privileges that put domestic shipbuilders at a disadvantage (delos Santos 2024).<sup>3</sup>

The “people dimension” is something that the government can likewise leverage to realize the potential of its promising geographical position. While the Philippines is the 13th most populous country in the world—its population can be harnessed to develop human resources for various maritime industries and its adjunct sectors; it could likewise be developed into a potent force for civil–military defense and deterrence. These,

however, can only be made possible by instilling a strong maritime consciousness. Thus, this leads to the sixth condition: the role of the government in enabling such consciousness and forging and enforcing the necessary policies to cultivate and realize such consciousness.

Mahan developed his theory with the ultimate goal of establishing the U.S. as a world power. Smaller states or coastal nations, like the Philippines, may have more limited ambitions. According to Jacob Børresen (1994), a Norwegian sea power theorist, coastal states are at a significant disadvantage compared to major naval powers on the open seas. Therefore, these smaller states should maintain a navy capable of protecting their political and economic interests within their exclusive economic zones, continental shelves, and coastal waters. For Børresen, coastal states may engage in asymmetrical warfare, but for him, the Coastal State Navy's primary objectives are deterrence and maintenance of sovereignty.

Whether the Philippines subscribes to a Mahanian framework or operates at the level of deterrence and defense, one thing is imperative—it should be able to build a minimum credible defense posture to defend its sovereignty and sovereign rights, uphold its territorial integrity, and be a reliable (and not dependent) ally to naval powers, contributing to regional stability and security.

## ENABLING LAWS TOWARD ENHANCED MARITIME GOVERNANCE

Three of the twenty-eight priority legislative agendas signed into law by the Marcos administration promise to protect the country's maritime environment and enhance maritime domain awareness. Two of these important statutes are the Philippine Maritime Zones Act or Republic Act 120644 and the Philippine Archipelagic Sea Lanes Act or Republic Act 12065,<sup>5</sup> which aims to

<sup>3</sup> As presented by Mr. Luisito delos Santos, MARINA, in a forthcoming proceeding on the roundtable discussion: “Navigating Blue Economic Opportunities in the Philippine Maritime Transportation, Fisheries, Tourism, and Education Sectors” held in December 3, 2024 in Citidines, Manila. This RTD was co-presented by the Foreign Service Institute and the UP CIDS-Strategic Studies Program.

<sup>4</sup> Republic Act 12064, with the full title “An Act Declaring the Maritime Zones Under the Jurisdiction of the Republic of the Philippines,” was signed into law on 7 November 2024 alongside RA No. 12065 or the Archipelagic Sea Lanes Act.

<sup>5</sup> The full title of RA No. 12065 “An Act Providing for the Establishment Of Archipelagic Sea Lanes in the Philippine Archipelagic Waters, Prescribing the Obligations of Foreign Ships and Aircraft Exercising the Right of Archipelagic Sea Lanes Passage Through the Designated Archipelagic Sea Lanes, and for Other Purposes.”

operationalize the important provisions enshrined in the United Nations Convention on the Law of the Sea (UNCLOS) and reinforce the 2016 Arbitral Ruling, which decisively rejected China's nine-dash-line claim in favor of the Philippines.

The Philippine Maritime Zones Act outlines the State's authority and jurisdiction over its territorial seas provided by the UNCLOS, which includes—our internal waters, archipelagic waters, territorial sea, contiguous zone, exclusive economic zone (EEZ), and continental shelf. It upholds the country's commitment to a rules-based international order by aligning its essential tenets with UNCLOS. By defining the country's maritime boundaries, the country effectively strengthens its maritime rights and claims to exclusive maritime entitlements. The passage of the law also asserts the country's sovereignty and its sovereign rights and jurisdiction in the exclusive maritime entitlements.

Meanwhile, the Philippine Archipelagic Sea Lanes (ASL) Act complements the 1961 designation of archipelagic baselines, which are both guided by article 53 (3) of the UNCLOS. Determining sea lanes effectively defines and regulates the activity of foreign vessels and aircraft in designated ASLs.

Transit along or above the ASLs in “normal mode” is allowed, and archipelagic states governing these ASLs are prohibited from restricting access to foreign vessels and aircraft. Beyond these ASLs, ships, including commercial and military ones, can exercise innocent passage unless the archipelagic state says otherwise for national security reasons.

Section 7 of the ASL Act has provided the coordinates for the three ASLs of the country:

- (a) Philippine Sea–Balintang Channel–West Philippine Sea;
- (b) Celebes Sea–Sibutu Passage–Sulu Sea–Cuyo East Pass–Mindoro Strait–West Philippine Sea; and

- (c) Celebes Sea–Basilan Strait–Sulu Sea–Nasubata Channel–Balabac Strait–West Philippine Sea.

The National Mapping and Resource Information Authority (NAMRIA) has yet to issue a map to visualize these coordinates, but it assures the public that shallow, internal straits and waters usually no more than 100 meters in depth have been excluded from the list to restrict the passage of submarines in stealth mode, which requires them to be at least 300 meters deep in water.

Likewise, the administration also signed the Self-Reliant Defense Posture Revitalization Act or Republic Act 12024. The new act reinforces self-reliance as a State policy, which translates to building the domestic capacity to source, produce, and construct or build our own armaments and war material or to have a co-ownership of war technology if this is provided for by other governments (Pascasio and Mallari 2024).<sup>6</sup> While its Implementing Rules and Regulations (IRR) is still pending with the Department of Defense, the SRDP Revitalization Act aims to build the country's credible defense posture based on the collaborative efforts of various agencies, including the DOST, who will provide their research and development services. Through this, the country can be insulated from geopolitical risks and rivalries that may affect the availability of military supply and aid. The law also scales up the country's deterrent capacity, which can help reduce overreliance on military allies.

Another bill in the pipeline, the Blue Economy Bill, has been passed both the Lower and Upper House. It considered an integral policy instrument to strengthen maritime statecraft. The Blue Economy Bill, once passed, commits to the research, exploration, and possible exploitation of the country's marine entitlements, anchored on sustainable economic development practices. In a 2022 estimate made by researchers at the UP Marine Science Institute, led by Dr. Rhodora Azanza, the blue economy value of the country from its marine biodiversity, goods, and services is at US\$6 trillion.<sup>7</sup>

<sup>6</sup> To know more about the SRDP and its implications see forthcoming proceeding on Season 4, Episode 2 of the Katipunan Dialogue Podcast: “Defense Measures: Building the Philippines’ Self-Reliant Defense Posture”.

<sup>7</sup> Azanza, Rhodora, Katherine Sanchez-Escalona, and Danilo Largo. “A Sustainable and Inclusive Blue Economy for the Philippine Archipelago.” *Transactions of the National Academy of Science and Technology* 44, no. 2022 (January 1, 2022): 1–11. <https://doi.org/10.57043/transnastphl.2022.2564>.

While these laws enable the Philippines to sail into the horizon, experts believe that laws are just one step towards enhanced maritime governance.

## POLICY CONSIDERATIONS AND RECOMMENDATIONS

As an archipelagic nation with over 7,600 islands, it is easy to think compartmentally and be fragmented. This fragmentation can be explained by, if not fundamentally rooted in, as other scholars argue—weak political systems exacerbated by oligarch-driven elite capture. These elites often prioritize their own interests and local territories, which undermines their capacity to think and act from a national standpoint. This has caused the stunting, if not obsolescence, of the country's maritime defense capacity. Changes in foreign policy priorities concurrent with changes in administration are culprits to the disrupted implementation of marine- and maritime-related programs and initiatives.

While modernization plans and budgets have been consistent across different administrations, critics have observed and are wary of unresolved bureaucratic red tape and laborious procurement procedures that may continue to inhibit the realization of a robust defense capacity. This may prove a disservice to the broader public who expressed a preference for military action and diplomatic means to address the West Philippine Sea issue (GMA Integrated News 2024).<sup>8</sup>

The enactment of three maritime-related policies marks a significant milestone, yet it is crucial to recognize that this achievement represents just the initial phase of a broader endeavor. The effective implementation and thorough evaluation of these policies depend on meticulously articulating the finer details. Among the immediate priorities are:

establishing a Joint Congressional Oversight Committee that will ensure the implementation and address emerging issues related to the country's maritime zones, as provided by section 16 of the statute, and securing the International Maritime Organization's

(IMO) agreement on the designation of the sea lanes and its publication in accordance with section 10 of the Act and related provisions of UNCLOS. As discussed, the national mapping agency is prepared to release the new Philippine map, which aligns with the recently signed maritime laws.

The significance of the new statutes cannot be overstated. Nonetheless, critics emphasize the necessity of developing a cohesive and integrative policy framework that effectively harmonizes all marine- and maritime-related policies. Such a framework would encapsulate and articulate the nation's maritime policy and strategic vision. To this, the following policy endeavors can be initiated:

Revisiting and updating the 1994 National Marine Policy. Unfortunately, this is the only Marine Policy that has been formulated to date. In 2016, the UP CIDS conducted a review of available information on the policy and identified some policy gaps and strategies for a cohesive marine policy (Co, Gamboa, and Castillo 2016).

Revisiting the national and local marine and maritime policies can inform the drafting of a comprehensive and cohesive national marine and maritime policy that can integrate dimensions of maritime security, blue economy, maritime traditions and practices, and governance reforms, among others.

Revising and refining existing policies toward enhancing regional and international alliances, thereby solidifying the country's political and economic rights as an archipelagic state.

<sup>8</sup> GMA Integrated News. "OCTA: Patrols and Troops, Diplomacy Top Filipino Priorities on WPS." GMA News Online, May 7, 2024. <https://www.gmanetwork.com/news/topstories/nation/906060/octa-patrols-and-troops-diplomacy-top-philipino-priorities-on-west-philippine-sea/story/>.

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