

Inquirer Headlines / Nation

<http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20080326-126452/Esperon-admits-RP-lacks-firepower-to-defend-Kalayaan>

Esperon admits RP lacks firepower to defend Kalayaan

But pins hopes on UN

By Redempto Anda
Southern Luzon Bureau

Posted date: March 26, 2008

PAG-ASA ISLAND—The Philippines may lack the capability to defend its territorial claim over the Kalayaan Island Group in the disputed Spratlys, but it can bank on the support of the United Nations.

This was the assurance made by Armed Forces Chief of Staff Gen. Hermogenes Esperon to the contingent of soldiers guarding Pag-Asa, the seat of the municipal government of Kalayaan and the largest of the remote island group.

"We don't have enough firepower to last a single day in battle. But this won't happen now because the United Nations will not allow it," Esperon told the soldiers, their faces sun-baked, on Monday.

To illustrate the Philippines' lack of capability to assert control over its claimed territory, Esperon recalled Vietnam's invasion of Lawak Island, internationally known as Southwest Cay, in the early 1970s after Filipino soldiers temporarily left it unguarded.

"I remember the case of Lawak Island. When the sea level rose at high tide, we decided to temporarily vacate it and move to another place. Then somebody else took control of it and we couldn't come back anymore," he said.

Another case was China's occupation of Mischief Reef in 1995, under the very noses of the Philippine Navy forces guarding it.

Tourist destination

To avert similar incidents and to defuse political tension and strengthen its political governance, the Philippines is considering demilitarizing Kalayaan, said Palawan Vice Gov. David Ponce de Leon.

He announced plans by the municipal government to promote Pag-Asa as a tourist destination by organizing sightseeing tours, with one scheduled this summer.

Full government

Established by a presidential decree in 1978, the municipality of Kalayaan is set up as a full-fledged local government unit—except that there are hardly any warm bodies inhabiting the islands.

The town has an appointed chief of police who can lay claim to a zero-crime rate.

A number of government buildings and offices, including a municipal hall, have been built, but these are used largely by the soldiers because their regular occupants only make occasional visits.

As Palawan's 23rd municipality, Kalayaan receives its annual share of revenue, which, according to Mayor Rosendo Mantes, will amount to some P25 million this fiscal year.

"We spend the money for development projects in the municipality," he said.

But for much of the year, when the waters are rough and travel to Kalayaan is hazardous, the entire population of the municipality—with the exception of the soldiers who stand guard on a rotating two-month tour of duty—is in faraway Puerto Princesa, Palawan's capital city.

Even election campaigns are conducted on the mainland. But on the day itself, everyone, including Commission on Elections personnel, travels to Pag-Asa for the actual balloting.

Strong claim

According to Ponce de Leon, a professor of international and constitutional law at the Palawan State University's College of Law, the Philippines' claim to Kalayaan is sufficiently strong to warrant its inclusion in the archipelagic baselines that the government is to submit to the UN by 2009.

Compared to other countries claiming the Spratlys wholly or partly, and whose presence is defined mainly through military occupation, the case of Kalayaan is different because it exercises civilian political authority, he said.

“Military occupation is just an additional aspect of effective occupation. But we are already exercising effective jurisdiction, as shown by the presence of the municipality of Kalayaan. As far as we are concerned, on the rules and principles of international law, we have established that,” Ponce de Leon said, adding:

“Since we are already exercising effective occupation, we should assert the baselines to include Kalayaan. To do otherwise would mean losing our waters between Kalayaan and Palawan.”

Santiago’s warning

Malacañang has earlier indicated an inclination to treat Kalayaan as separate and outside Philippine baselines—a position that, a number of lawmakers said, would not only harm the country’s long-term interest in the region but also violate the Constitution.

In Manila, Sen. Miriam Defensor-Santiago Tuesday cautioned her peers against a new baselines bill declaring the Philippines as an archipelagic state, saying it would reduce our boundaries and would also require a change in the Constitution.

Santiago said the Philippines would be entitled to only 20 nautical kilometers (12 miles) of the territorial sea under the UN Convention on the Law of the Sea (UNCLOS).

“If the Philippines declares itself an archipelagic state, our zone of sovereignty would collapse,” she said in a statement.

“Our internal waters would become archipelagic waters where the ships of all states will enjoy the right of innocent passage. In addition, foreign states would have the right of so-called archipelagic sea lane passage. Ships of all states would have the right of passage and their aircraft would have the right of overflight. This is an almost colossal reduction from the wider boundaries of the International Treaty Limits under the Treaty of Paris.”

Santiago said the 1898 Treaty of Paris, under which Spain ceded the Philippines to the United States, had served as the basis for the present Philippine Baseline Law.

She said the bills pending in Congress, which seek to extend the archipelagic baselines to include Scarborough Shoal, would “eliminate such limits and, thus, the Philippines would lose its boundaries.”

Expert opinion

According to Santiago, who chairs the Senate foreign affairs committee, the Constitution has already defined the territory comprising the Philippine archipelago and all other territories over which the country has sovereignty or jurisdiction.

She said the Philippines would have to seek expert opinion to determine whether Kalayaan “constitutes another archipelago.”

“Under the UNCLOS, an archipelagic state can be composed of two archipelagos. If not, under international law, Kalayaan could be characterized as ‘other islands’ over which the Philippines is entitled to claim sovereignty,” Santiago said.

“International law does not recognize the drawing of archipelagic baselines as a method of claiming territorial sovereignty,” she said.

She added that a congressional commission on national territory should be established because the present bills “do not fully appreciate the magnitude and depth of the country’s territorial problems.”

Effective occupation

Santiago proposed that the Philippine government make an “effective occupation” of the disputed islands instead of exerting the Philippine claim through a baselines bill.

“The Philippines has already exercised many political and administrative acts of a sovereign nature over Scarborough Shoal. Such acts include military exercises, establishment of lighthouse, enforcement of laws against foreign vessels and nationals, which are evidenced by historical data,” she said.

The senator is also worried about the impact of the baselines bills on the Philippine claim to Sabah.

“If the pending bills abolish Section 2 of Republic Act No. 5446, which provides that the Philippines has acquired dominion and sovereignty over Sabah, North Borneo, and hence, the baselines of the territorial sea include baselines of the territorial sea around Sabah, the effect is to remove from Philippine law the affirmation of sovereignty over Sabah,” she said. ***With a report from Gil C. Cabacungan Jr.***

[^ Back to top](#)