

SOUTH CHINA SEA FISHERMEN/FORMER OFFICIALS BRING CHINA'S PRESIDENT XI TO INTERNATIONAL CRIMINAL COURT FOR CRIMES AGAINST HUMANITY

Manila, Philippines. – China's President Xi Jinping was hauled to the ICC by Filipino fishermen, former Philippine Foreign Affairs Secretary Albert del Rosario¹ and former Ombudswoman Conchita Carpio Morales² on March 15, 2019, just prior to the Philippines' exit as a State Party to the International Criminal Court ("ICC"), for crimes against humanity.

Outlined in the Communication submitted to the ICC is how President Xi Jinping and other Chinese officials committed crimes within the ICC's jurisdiction, in implementing China's systematic plan to control the South China Sea. Much of the evidence presented are widespread, highly publicised and have already been judicially vetted by the Tribunal in *The South China Sea Arbitration*.³

The situation is both unique and relevant because it presents one of the most massive, near permanent and devastating destruction of the environment in humanity's history. It adversely affects and injures not only myriad groups of vulnerable fishermen, including 320,000 Filipino fishermen, but also present and future generations of people across nations. This has seriously undermined the food and energy security of the coastal States in the South China Sea, including the Philippines.

The grave consequences of these actions justify the Court's involvement as it affirms one of the principles of the Rome Statute that "the most serious crimes of concern to the international community as a whole must not go unpunished and their effective prosecution must be ensured...."⁴

Though widely publicised, these atrociously inhumane actions of Chinese officials in the South China Sea and within Philippine territory remain unpunished, and it is only the ICC that can exact accountability on behalf of Filipinos and the international community, respecting the rule of law.

¹ Mr. Albert del Rosario was Philippine Secretary of Foreign Affairs from 2011 until 2016. Under his term, the Philippines filed and won a case against China pursuant to Annex VII of the United Nations Convention on the Law of the Sea ("UNCLOS").

² Ms. Conchita Carpio Morales was Ombudswoman of the Philippines from 2011 until 2018, with the constitutional mandate of prosecuting corrupt officials in the Philippine government.

³ *The South China Sea Arbitration (The Republic of the Philippines v. The People's Republic of China)*, PCA Case No. 2013–19 (Award, 12 July 2016), available on the website of the Permanent Court of Arbitration at <https://pca-cpa.org/en/cases/7/>

⁴ Rome Statute, Preamble, para. 4.

Following Articles 12(2)(a) and 127(2), the Court retains its jurisdiction over crimes committed on Philippine territory by Chinese nationals during the period the Philippines was a State party to the Rome Statute (1 November 2011 - 17 March 2019).

Possible consequences of the failure to exact accountability on these Chinese actions include (1) continued food and livelihood deprivation of Filipino fishermen, along with other groups of vulnerable fishermen in the South China Sea; (2) continued and forcible exclusion of non-Chinese nationals in the South China Sea; and (3) impunity and the license for the perpetrators to continue in the South China Sea and possibly elsewhere in the world, this most massive, near permanent and devastating destruction of the environment in humanity's history.