

NON DOMINUS SED PRO DOMINO:
REEXAMINING SABAH AND TAIWAN UNDER
INTERNATIONAL LAW AND PHILIPPINE PRACTICE

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The Philippines has problematic relations with two regimes that it considers to be, at best, *de facto* in character: Sabah, currently administered by Malaysia, over whose territory the Philippines has a subsisting claim; and Taiwan, legally identified as a province of China but currently administered outside central government control.

In relation to these areas, the Philippines has maintained a general stance of official non-recognition, while struggling to find non-official modalities for engaging their respective administering authorities and serving Filipinos under their control and jurisdiction. Those with regard to Sabah modalities have been relatively unstructured, being focused mainly on avoiding official statements relating to the province; while those relating to Taiwan are more developed, centering on the work of the Manila Economic and Cultural Office (MECO).

Both sets of modalities proved barely adequate to respond to stresses such as the 2013 incidents involving an alleged Taiwanese fishing vessel and acts of the *soi disant* army of the Sultanate of Sulu in Lahad Datu, Sabah. Furthermore, they provide no legal basis for other necessary administrative acts such as the delimitation of maritime zones drawn from these areas vis-à-vis those drawn from Philippine owned and administered territory; and in the case of Sabah, they prevent adequate provision of consular and other services to hundreds of thousands of Filipinos who are present in the area as native inhabitants or as migrants.

It is the author's contention that a juridical examination of Sabah, in light of international norms on territorial title and sovereignty, would show that the Philippines may officially recognize it as an area under *de jure* Malaysian administration without losing historic title as successor-State to the Sultanate

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of Sulu. In contrast, the One China Policy requires the Philippines to treat Taiwan as an integral part of China and its administration outside central government control as non-legitimate; but a review of state practice concerning *de facto* entities would show that the Philippines need not wholly disregard the Taipei government's control of Taiwan and its appurtenant waters in its administrative acts.

It is believed that such a clarification would help in identifying the permissible means of working with the respective administrations of Sabah and Taiwan. This would allow the Philippines to enter into official relations with the Sabah State Government, and provide consular services to Filipinos in Sabah, without violating its indisputable.