

Maritime and Environmental Security in the South China Sea: a Philippine Perspective

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In 2014, the People's Republic of China embarked on an island-building campaign in the Spratly Islands region, building three massive military bases and four smaller surveillance outposts within the span of two years. To accomplish this, it engaged in massive reclamation activities that excavated sand and other materials from surrounding seabed, buried entire coral reef structures and atolls, packed and paved them with concrete, setting the stage for the building and operation of artificial harbours, ports, and airfields in the middle of open sea. The area also happens to be a large marine ecosystem comprised mainly of large coral reef areas. Smaller South China Sea claimant countries have also undertaken their own and smaller reclamation projects to shore up structures on natural islands, or to build their own small outposts in shallow waters, over the years. But none approaches China's in scale or impact. It has inflicted a massive blow against the marine ecosystem in the South China Sea, at the heart of the fisheries habitat upon which surrounding States depend.

China's advance into the Spratly Islands region was primarily a military-strategic decision, intended to advance its Anti-Access/Area-Denial strategy within the first of its Two Island Chains. With this advance, China also uses its new bases to support its resource-hungry fishing sector (which also serve as maritime militia) to extract resources from the South China Sea, including areas within the Exclusive Economic Zone of the surrounding Southeast Asian States. While its bases do not yet officially host based military vessels or aircraft, they are already being used to extend the range and presence of its already massive fishing fleet. Thus, it is also supporting and accelerating the exploitation of the living marine resources of the SCS. Non-living resource exploitation is not far behind, as Chinese marine scientific research vessels have been scouring the seabed of the South China Sea as well, seeking new sources of minerals and energy. It is not far-fetched to assume that, even without its military components, China can fully and completely explore and take all of the natural resources of the South China Sea to the exclusion and detriment of the other littoral states.



The broad theme of this closed session at the French Ministry of Armed Forces is 'environmental security and how it relates to maritime security' in the South China Sea context. The aim of the debate is to understand how climate change-induced risks and how these trends can affect the armed forces and the strategic agendas, mainly in the South China Sea which is of particular interest to the French Ministry, from a military as well as an ecological point of view.

Initiated by a presentation from **Prof. Jay Batongbacal**, who gave his perspective on the issues stated above, the session was then followed by an open conversation involving all the distinguished participants.



Presentation: The Ecological and Maritime Security Problem in the South China Sea

A long-running and complicated issue

In the Philippines, the intersection between environmental security and maritime security happens to be the most visible in the South China Sea, which is, as **Prof. Jay Batongbacal** reminded us, 'a topic of its own'. In the past couple of years, since 2013, there have been major developments in the South China Sea, many of them revolving around how the dispute flared up between China and the Philippines. The dispute is one of the longest running and most complicated disputes; it actually started between the French, the Chinese and the Japanese in the 1930s. If the issue tended to be 'a bit ignored' during and after the war, apart from some private attempts to try to claim some of the islands, disputes started flaring up again after the 1960s because of the release of reports hinting that there might be vast oil reserves in the South China Sea, without clarifying where exactly those resources are. The idea nevertheless stuck and, 'triggered by the oil crises in the 1970s', many governments around the South China Sea began looking at the possibility of offshore oil resources in the South China Sea.

Island hopping and island grabbing

The Philippines, for instance, decided to 'make its move in the South China Sea' in the late 1960s, after decades of distancing themselves from the issue.

By the early 1970s, the Philippines started to express its interest in exploring for oil westward from the island of Palawan and into the South China Sea. At the time, the interest mainly focused on Reed Bank, which is part of the Spratly Islands. In these early attempts, the Philippine government failed to get the Americans, 'who were not so keen on it at the time', to invest in oil exploration there, and decided to first put troops on the

islands to protect the contractors exploring Reed Bank.

While this was going on, the UNCLOS negotiations began in 1972. At the time, there were still questions as to whether the Philippines could actually lay claim to the resources in Reed Bank, which is more or less 120 nautical miles away its coast, but the Philippines decided to make its move anyway. Not long after, Malaysia stated a claim to a continental shelf 'on an arbitrarily drawn area', followed by Brunei. In turn, Vietnam also reiterated its claims to the Spratlys and the Paracels after tensions flared up again between the Southeast Asian country and its Chinese neighbour in the late 1970s.

This led to what Prof. Batongbacal calls 'a round of island hopping and island grabbing' in the area, which was not so significant to the rest of the world, as this did not seem to pose any danger to the interests of external powers; and it remained that way up until the 2000s.

China's expanding horizon

The many attempts of the region to engage and negotiate with China resulted in the 2002 Declaration of the Conduct (DoC) of Parties where the parties involved committed to self-restraint, consultation and cooperation in the South China Sea. However, the DoC had very little substantial impact and was being 'basically ignored' by the late 2000s as China began expanding its horizon and extending its reach into the South China Sea.

The first tensions and clashes began between China and Vietnam around 2007, over oil explorations in the region of the Paracels, as China began a deliberate programme to expand its maritime presence by using its civilian maritime agencies, like China Marine Surveillance (CMS) and other maritime law enforcement agencies.

From 2008 to 2012, China then basically began doubling the time at sea of the CMS. China also started investing in the fishermen based in Hainan and along the southern coast by giving them financial support to modernise their fishing fleets, with GPS and modern communication devices, while 'encouraging them to fish further and further south'. In 1994, China had actually come up with an atlas of fishing in the South China Sea that they are now pretty much giving to its fishermen, telling them where to fish, what fish to find, and what seasons to do so, even as far as the waters of the Philippines and Indonesia, stated Prof. Batongbacal.

The Philippines grabs the attention of China

In the meantime, also pretty much ignoring the DoC, the Philippines, Vietnam and Malaysia began expanding their respective resources and activities into the South China Sea, and eventually 'that came to a head'. In the 1970s, when the Philippines explored Reed Bank, they found indications of the presence of natural gas but were unable to exploit it as it was technologically impossible to do so at the time. By the early 2000s, the Philippines, motivated by climate change issues and the need to find alternative sources of energy, started to look at natural gas as a viable source and reissued an

exploration contract for Reed Bank.

This 'grabbed the attention of China', who tried to discourage the Philippines and the Arroyo administration to continue with the contract. This eventually led to the signing of the Joint Maritime Seismic Understanding (JMSU) between the Philippines and China in 2004. 'Basically negotiated between the Philippine and Chinese national oil companies,' this bilateral agreement to jointly explore for oil in Reed Bank was, according to Prof. Batongbacal, 'sprung as a surprise, even to Department of Energy of the Philippines', who was 'not aware of the decision until it was called to the meeting for a signature'. This decision angered Vietnam, who saw this bilateral deal between China and the Philippines as a blatant violation of the 2002 DoC. Because of this, the Philippines and China were essentially forced to bring Vietnam in on what became a tripartite agreement in 2005. This trilateral agreement basically allows China to explore Reed Bank using its ships, to turn the data over for Vietnam to process and then to give the data over to the Philippines for interpretation. However, Prof. Batongbacal believes that 'China was obviously able to get more from that arrangement'.

A deteriorating relationship

Because of the controversy that it generated later in the Philippines, after it caught the public's attention by 2008, the Arroyo administration fell out of favour with the public amidst accusation of corruption and of selling out to China and didn't renew the contract. For Prof. Batongbacal, 'the damage was already done'. Furthermore, 'nobody knew what happened to the data'. The Energy Minister at the time and Prof. Batongbacal's 'mentor', however, has stated that China did turn over the data but when it came to Reed Bank, 'the data was blurred', due to low resolution, and was essentially 'useless'. This triggered a lot of resentment and anger on behalf of the Philippines, which later built up under the Aquino administration. Starting in 2010, Aquino's 'relationship with China did not start on the right foot' after tourists from Hong Kong were taken hostage in Manila, with many of them dying when the government 'botched the response'; Aquino undoubtedly got 'an earful from Chinese officials', which arguably dictated his attitude towards China later on – Prof. Batongbacal believes that Aquino's policies were very driven by 'his own personal biases and perceptions'.

A very public stand-off

The following summer, in 2011, an exploration vessel commissioned by the Philippines to further seismic explorations on Reed Bank was harassed by Chinese CMS vessels – it was the third incident of the sort, but the first one involving the Philippines as the first two were with Vietnamese vessels. Prof. Batongbacal argues that this incident put the maritime dispute and China's expansion in the South China Sea on the Aquino government's agenda.

As a result, in 2012, when Chinese fishermen were found fishing on Scarborough Shoal, the Aquino government decided to take a rather public and 'high profile' law enforcement action by arresting the

fishermen for 'illegally fishing on Philippine territory'. Unsurprisingly, 'China reacted very badly' and this led to 'a very public standoff' over the next few months between Chinese CMS ships and Philippine coastguard vessels in Scarborough Shoal, caught the public's eye as the press got involved. Aside from the perceived intrusion into Philippine sovereignty, the stand-off raised the awareness around environmental and ecological concerns amongst the public, particularly concerning coral reefs and fishing as the Chinese were caught digging through the coral and illegally fishing giant clown fish, which is an endangered species in the Philippines. This was arguably 'the first high profile incident as far as the Philippine public was concerned'.

Island-building bonanza and the biggest coral death event in history

When the stand-off ended and despite US mediation, China was *de facto* in control of Scarborough Shoal. As a result, the Philippine government eventually decided that it had no other recourse than to file an arbitration case against China, contesting not only China's actions in Scarborough Shoal but also its maritime claims in the South China Sea as well as the many harassment actions it took against Philippine vessels. Basically, the Philippines asked the tribunal of arbitration to 'evict China from the South China Sea'. This immediately aggravated China, who believed that the Philippines was acting on the behest of the United States as part of their grand strategy to 'kick them out of the South China Sea and Southeast Asia'. The Chinese refused to recognise the arbitration case and decided instead to start building artificial islands on the submerged reefs they controlled in the South China Sea. 'The biggest artificial island-building bonanza', according to Prof. Batongbacal, this creation of 1,300 hectares of new land, had a 'major environmental impact'; the impacted area was arguably 'much bigger', if not twice as big, as the sand needed for the construction of the islands was taken from the surrounding area. Other associated impacts also include the increased stability of the water and the destruction of fish habitats to the point that one marine scientist called the building of these artificial islands 'the biggest coral death event in history'. However, due to the lack of good statistics, there are 'only anecdotal evidences that it actually impacted on the fishing as well'. For instance, the decline in fish catch in 2014 and 2015 was attributed to what was happening in the South China Sea.

The environmental cost of China's strategic triangle

On Scarborough Shoal, Prof. Batongbacal argues that the Chinese have also started laying the groundwork for turning the shoal into an artificial island. According to him, the *modus operandi* goes like that:

- China first occupies the reef,
- then it allows fishermen to 'pave the ground' by cutting coral reef and taking the giant clam shells that are used as a substitute for ivory,
- before starting to build up the soil and reinforce it with concrete.

In Scarborough Shoal, Prof. Batongbacal has estimated

to 550 hectares the amount of coral reef that was 'cut up' that way. China's actions in the South China Sea and the massive environmental damage they're causing to the area are a side effect of China's strategic intentions to really establish 'forward operating bases in the South China Sea'. The Japanese are the ones who, early on in 2013, called attention to China's intention of creating a 'strategic triangle'. Having already taken over the Paracels and strengthened its position in the Spratlys, Scarborough Shoal is the only missing piece to complete a huge triangle in the South China Sea, which could be a massive 'kill box for any external forces operating there'. Even without going as far as activating these forward military bases, Prof. Batongbacal argues that the strategic triangle is already very much in operation as the Chinese artificial islands are actively operating as ports and potential airfields for private and commercial activities. Indeed, the ports are operating round the clock and are not only hosting Chinese military and law enforcement vessels but also an 'entire fleet of fishing vessels, which can moonlight as maritime militia'. It has also been proven that there are operational surveillance facilities on the artificial islands, such as radars, listening and jamming devices and other electronic warfare facilities.

The two-island chain strategy and environmental security

For Prof. Batongbacal, China has basically decided that the best way for it to 'win' the South China Sea is simply to 'treat it like it's its own': they mobilise their fishermen, as well as their petroleum fleets ; although a bit more carefully, they have deployed the marine scientific vessels, since 2016. This activity has actually now overflowed into the Pacific seaboard as well. Two years ago, public controversy was caused when it was revealed that Chinese vessels had been observed moving through the Benham Rise region and near Mindanao, which is where the Philippines has its extended continental shelf. Basically, China is using all available resources, civilian, scientific, commercial and of course, military, to explore and exploit the ocean, as part of its integrated strategy aimed at taking over the Southeast Asian region: its two-island chain strategy. As a result, environmental security is threatened by the massive fishing fleet that has been operating in the South China Sea for the past few years, and scientists have been sounding the alarm having noticed the so-called 'marker predator species' have been declining, which is generally seen as a 'prelude to a collapse'. The number of fishes in the South China Sea has also followed a pattern that points towards a sudden drop. While such a collapse would have a dramatic impact on Southeast Asian states as well as on China itself, China continues to invest more and more and to fish further away, thereby increasingly impacting Southeast Asian nations, like the Philippines, where the majority of the population lives in coastal areas and whose livelihood depends on the survival of its fisheries. Prof. Batongbacal fears that the South China Sea fisheries are on the way to a full-on collapse if this trend continues – and he doesn't see any sign that it won't. This will eventually lead Chinese fishermen to target interisland waters, where there has already been a certain level of illegal poaching activities, not just of food fish but also endangered species.

Natural disasters, climate change and the armed forces

The massive coral damage induced by this strategy further exacerbated the situation of the coastal communities that are already vulnerable to climate change. With the rise of sea levels, landslides, inundation, and extreme weather events at an average of 29 typhoons a year, which are getting stronger and deadlier, the Philippines is actually regularly cited as being in the top 3 of the countries most vulnerable to climate change.

The country has been able to respond by adjusting its disaster response institutions and by calling upon other countries for assistance, such as with Typhoon Haiyan. The region as a whole is experiencing more and more of these natural disasters, most recently with tsunamis and volcanos in Indonesia for instance. In the Philippines and in the region, this has pushed the armed forces to invest in humanitarian assistance and disaster relief (HADR) and to use its security alliances with the United States to enhance its capabilities. On the other hand, the United States have also seized the opportunity to engage in HADR cooperation and exercises with armed forces in the region, thereby building trust with other countries, and giving the United States a singular advantage over China, who doesn't engage in this kind of activities. Recently, because of the South China Sea dispute and China's increasing protective and possessive attitude towards the area, the United States has indeed been engaging the region in more cooperative and bilateral activities, especially regarding HADR and anti-terrorist operations, which is clearly part of its grand strategy to counter-act China's influence in the region.



Q&A and Debate

Following Prof. Batongbacal's insightful presentation, the floor was opened to the distinguished participants for a Q&A session.

Arbitration and Duterte's plans

When asked about what the Philippines and Duterte are now planning to do with the 2014 arbitration, Prof. Batongbacal believes the Aquino administration initially planned to use it as 'a leverage against China' and as a way to rally international support and pressure in an attempt to moderate China's position.

However, with the change of administration, this was arguably 'thrown to the wind' as Duterte, staunchly anti-American, took a different direction and decided to look at China as an economic opportunity that could finance its grand plans for infrastructure developments. In fact, in his first cabinet meeting, Duterte immediately instructed that he wanted what he called a 'soft landing' with China on the arbitration, but quickly took the position that he would not talk about the arbitration at all.

In a way, when it comes to the South China Sea dispute and the arbitration, the Duterte and Aquino administrations are different on three counts:

- legally, Aquino pushed for the arbitration while Duterte chose to focus on economic relations;
- diplomatically, Aquino depended on international support and multilateralism while Duterte has focused on improving bilateral relations with China;
- politically, Aquino tried to reenergise its relationship with the United States, while Duterte preferred to turn to China and Russia, antagonising Washington in the meantime. However, Prof. Batongbacal argues that the United States-Philippines alliance is stronger and has been more resilient than Duterte had expected. While it even got stronger after the crisis in Marawi, thanks to the crucial support by the United States and Australia, Duterte still chose to publicly thank China, despite its meagre aid. In fact, it has been argued that Duterte and the Philippines are playing a cleverer game, by hedging its interests with the US and China, and by keeping the arbitration 'in his back pocket' to use at a later date.

Nevertheless, the arbitration is becoming less and less effective as time goes by, and Prof. Batongbacal suggests it might already be 'too late' with certain points of view believing that the Duterte is getting closer to effectively renouncing the arbitration.

France and the EU's role in all that?

On the question of how visible France and the European Union are in the Philippines and in the South China Sea, Prof. Batongbacal believes that the Philippines has always and historically looked the other way – east and not west – and has tended to forget Europe. When asked about it, Prof. Batongbacal even claims that the respective changes in administration have left President Hollande's visit to the Philippines in the run-up to the COP 21 totally forgotten.

The EU is also not very present on the public's radar with EU projects in the Philippines less security related, such as its aid to rebuild Marawi, which is arguably 'less sexy'.

Nevertheless, Prof. Batongbacal believes that 'it doesn't have to stay that way'. If France and the EU would start being more visible in the South China Sea, this would reinforce the position that the area is an international common and doesn't belong to China. In the Philippines, public awareness on environment issues and climate change is strong, and, France and the EU could build on that and support regional efforts regarding the environment, by helping the region build up its capacities and capabilities for instance.

Benham Rise and the Pacific Seaboard

Concerning the eastern seaboard and the 'red line' that was the Benham Rise, Prof. Batongbacal put China's recent incursion in the area in the context of its

long-term projects in the greater Pacific region where Benham Rise 'just happens to be, and where it has two 'major oceanographic projects' – one near Hawaii and another near Indonesia. Prof. Batongbacal believes that while these 'major oceanographic projects' are officially studying the flow of Pacific currents, they are also part of another strategy that aims at exploring the ocean and at making them transparent to their surveillance. For instance, there are plans for an autonomous underwater vehicle base in the Marina Trench, at the edge of the Nine-dash line, which has also at times been referred to as the 10-dash line and the 11-dashline.

Coastguards in the region

Finally, regarding the Philippine coastguards, Prof. Batongbacal believes that they are 'struggling'. They have huge issues with corruption, which led to the recent decimation of the command staff from admiral down to captain, as well as an ongoing problem with the Navy with whom they are unable to settle the issue on how to operate the National Coast Watch Centre. There were plans for a regional school for coastguards, but it has not been set up yet and further cooperation with other coast guards in the region seem 'unlikely for now' as many of them are 'not so keen to face China'.

Prof. Jay Batongbacal is an associate professor at the University of the Philippines College of Law and director of the university's Institute for Maritime Affairs and Law of the Sea. He was a U.S.-ASEAN Fulbright Initiative Visiting Scholar in Washington, DC, in 2014-2015, assisted the Philippines in pursuing its claim to a continental shelf beyond 200 nautical miles in the Benham Rise Region, and is listed as one of the UNESCO/IOC experts for special arbitration under UNCLOS Annex VIII.

Memo written by Tom Eisenchteter for Asia Centre