



A NEW DIVIDE IN THE SOUTH CHINA SEA

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Nazery Khalid evaluates the prospect of peace in the South China Sea based on how the recent spat between China and Philippines is panning out.

“Within the four seas, all men are brothers” -- Confucius

The recent stand-off between Chinese and Philippine vessels in the South China Sea has once again sent the political temperature in this strategic sea lane soaring to worrying heights.

The prospect of a lull in tensions has ebbed and given way to choppy seas. Sparks flew again when the biggest ship in the Philippines’ naval fleet, *Gregorio del Pilar* came across eight Chinese fishing vessels in the disputed waters near the Scarborough shoal.

As the Philippines navy, which claimed that the Chinese vessels were trespassing the Philippines’ waters, prepared to board the fishing vessels and arrest the crew, two Chinese surveillance vessels dispatched to the area positioned themselves between the *Gregorio del Pilar* and the fishing vessels. Each side then traded accusations of trespassing and ordered the other to leave the waters.

The incident triggered a frenzy of diplomatic efforts by Beijing and Manila to prevent the situation from deteriorating further. This however was peppered by volleys of strongly worded condemnations and the exchange of warnings between the two nations. At the point of writing, vessels from both sides are still in a tense face-off.

Manila said the incident was “a clear violation of Philippine sovereignty” and described the Scarborough shoal as an “integral part” of its territory. This was matched by Beijing’s description of the incident as a “harassment of Chinese fishermen” by armed Philippine naval personnel, while emphasizing that the shoal, a mere 124 nautical miles off Luzon Island in the northern Philippines, is in China’s “territorial waters”.

High voltage

The standoff did not happen in a vacuum. The Scarborough shoal incident is the latest in a long line of confrontations between China and the Philippines in the Sea.

Tensions between the two States have been building over the last few years. The Philippines accused Chinese vessels of harassing its fishermen in waters Manila claimed to be within the State’s territory. China protested a Philippines vessel undertaking exploration activities in disputed waters in the Sea.

Adding to the tension, the Philippines has called upon the United States to come to its aid in the event of a naval conflict in the South China Sea. This has greatly upset China since it rejects any intervention from outside parties in what it insists is a regional matter to be resolved on a bilateral basis by the disputed parties.

Through the infamous ‘nine dotted lines’, China stakes a claim that stretches well into the territorial waters of the littoral States of the sea. The claim is devoid of any legal basis and has been flatly rejected by other claimant States. China’s increasingly aggressive acts toward enforcing this claim have unnerved the other claimant States and stoked tensions in the region.

How will the post-Scarborough shoal incident pan out? Will it fizzle like previous spats or will it get out of hand and come to an ugly, bloody, deadly conclusion? Will China and the Philippines take a deep breath and live up to their pronouncements of seeking diplomatic solutions to the dispute?

Standing in the middle

These are questions that other claimant States are particularly keen on finding out. Nations such as Malaysia and Brunei, which have not experienced the kind of face-off with China that the Philippines and Vietnam have had, will be closely observing the dynamics of such a confrontation. They will surely keep a close watch on



post-Scarborough shoal developments to prepare their options well in advance. The progression of events that unfold between China and the Philippines will provide a crucial indication in how China will act and react in the future, and consequently, how the party in dispute should respond.

The Philippines' inability to safeguard its interests in the Sea was cruelly exposed during the Scarborough shoal saga. The fact that China only dispatched ships belonging to paramilitary units to face off with a Philippine Navy ship is telling. This should provide plenty of food for thought for other claimant States on the need to back their posturing to defend their interests at sea with the capacity and capability to do so.

This does not mean other claimant States could give the might of China's navy a run for its money in a conflict, or even attempt to confront China militarily. They must walk the fine line of telling China it is wrong to act like a big bully while at the same time maintain harmonious relations with this regional giant and safeguard their other national interests.

Can the likes of Malaysia and Brunei expect their relations with China to remain cordial over their overlapping claims in the Sea? Would China continue to view its relations with these claimant States favorably if disputes in the Sea mount and those countries find themselves in China's crosshairs? Given Beijing's stern declaration that the South China Sea is an area of "core interest", one should assume that China will be just as adversarial with other claimant States if they threaten its interests in the Sea.

Cure for the itch

The fact that the incident occurred over fishing underscores the need for an agreement or joint-development between the Philippines and China—and for that matter among other claimant States—to explore fishery resources together and to agree on the conduct, regulations and jurisdiction of fishing activities. This is crucial to avoid the kind of situation like in Scarborough shoal from reoccurring.

Cooperation breeds understanding and confidence. It is a key aspect to peace that is currently needed in abundance amid the tense times in the Sea to prevent the parties in dispute from doing anything rash.

There is an urgent need for claimant States to engage one another at very high diplomatic levels to ensure such a stand-off does not reoccur. For them to hope that there will be a binding Code of Conduct appearing soon to save the day would be rather unrealistic.

To this end, it would be helpful for the parties involved to explore other modalities to ensure that situations like the Scarborough shoal incident do not escalate into something more serious. A model like the Prevention of Incidents at Sea Agreement (INCSEA) may be worth considering as an interim measure to prevent conflicts.

Over and above these operational remedies, the disputing parties must address situations arising from unresolved claims and counterclaims. While we can be encouraged by the progress made between ASEAN and China to implement the Declaration of Conduct (DOC), it would be far-fetched to expect the DOC to be the magic wand that can resolve rifts among ASEAN and China. They must no longer shy away from discussing the issue on existing regional multilateral platforms such as ASEAN Regional Forum and East Asia Summit. While ASEAN and China continue to work together to implement the DOC, more pressure must also be exerted on China to be transparent and clarify its claims in the Sea based on international law and principles.

Breaking the habit

It is certainly not in anyone's interest to see a further escalation of the situation in the Scarborough shoal, although the possibility of a full-blown conflict breaking out is rather distant. Nevertheless, it would be lazy of us to simply shrug off the incident and believe the disputing parties will move on and be nice to each other again until another incident happens.

This approach has not helped in avoiding maritime tensions in the past and it does not appear that it will work in untangling the current knot between China and the Philippines. Even if the tension dies down—as we all hope it does—there will surely be another incident in the Sea between them. Something more concrete than wishing the tension to subside without resolutely addressing the root causes of the problem needs to be done to avoid reoccurrences. We cannot just accept the periodic outbreak of incidents in the Sea as a given.



One wonders that if push comes to shove, will the parties in the dispute fire shots at one another? This possibility cannot be dismissed, judging from the rhetoric used by both sides immediately following the incident at the Scarborough shoal. Beijing condemned Manila's conduct as "beyond tolerance" and a "blatant challenge to Chinese territorial integrity", while Manila stressed that it would be "prepared to secure its sovereignty" if it was "challenged".

There seems to be little attempt by both sides to temper their language with diplomatic niceties. Their pronouncements indicate that both sides are willing to show some teeth in order to safeguard their interests, despite diplomatic maneuvering to calm the tension.

Further escalation could draw the involvement of the United States, which has thrown its support behind the Philippines in its disputes with China. Although Washington has declared that it does not side with any of the claimant States in the Sea and has denied that it is out to 'contain' China, many analysts believe that the 'pivot to Asia' policy of the United States is designed to rein China's growing influence in this key theater.

It is easy to understand China's grievances concerning diplomatic and military actions by the United States in the region, which Beijing believes are targeted towards China. Washington's support towards the Philippines, its declaration of having a 'national interest' in the South China Sea, its stationing of Marines in northern Australia, and its conduct of naval exercises with the Philippines and Vietnam in disputed waters have irked China that rejects the "intervention" by external powers in maritime disputes.

It is important to understand Manila's verve in standing up against Beijing in the context of these developments. No doubt the Philippines is emboldened by the presence of the United States in the region and by the latter's support in Manila's disputes against China. Whether or not Washington would come to Manila's aid in times of conflict is quite another thing, yet its public support has added a worrying new dimension to the South China Sea saga.

To be sure, not everyone in the Philippines or China supports the hawkish positions taken by those countries. However, should the spat turn ugly, nationalistic sentiments on both sides could hit fever pitch. Already there were public protests in the Philippines condemning China's actions. Goaded by the vociferous protests and the angry local constituencies, Beijing and Manila could take a

course of action that may result in a dispute spiraling into military conflict.

Such is the logic of unintended consequences. This could unleash similar sentiments in other claimant States should they find themselves in a similar situation. An already tense situation would be made even more unnerving if parties in dispute assume an increasingly adversarial stance against one another.

This of course would not be desirable at all. While tough talk may satisfy domestic constituencies, it will not be helpful to finding a diplomatic solution to disputes in the Sea.

One step closer

One wonders how united the Association of South East Asian Nations (ASEAN) members will be when they meet with China in Phnom Penh later this year to push forward an agenda for establishing a legally binding code governing their conduct in the South China Sea. Given the difficulty for them to come up with an 'ASEAN position', taking into account that not all members are claimant States and some are considered close allies of China, the prospect of a finalized Code of Conduct between ASEAN and China in the near future is rather dim.

China has thus far not shown any signs of wanting to change its stance on discussing disputes in the sea on a multilateral platform. On this basis, one should not put too much hope on the 2011 agreement in Bali between ASEAN and China to implement the Declaration on the Conduct of Parties in the South China Sea (COP), which was signed in 2002 to settle disputes in the Sea peacefully. While the agreement to implement the COP was a positive development, it has to be emphasized that the COP has failed to prevent incidents in the Sea among the parties in dispute.

Following this latest incident with the Philippines, it would be hard to imagine China wanting to be tethered to a binding code of conduct that will limit its strategic options. Add Vietnam's equally strong stance against China in maritime disputes and one is even more reluctant to wager on China agreeing to engage ASEAN on the matter anytime soon.

One hopes for reason to prevail in the Scarborough shoal and other disputed areas of the South China Sea for



the sake of regional peace, prosperity and stability. The Sea hosts so much economic interests and strategic importance to the littoral States as well as the international community, and it is imperative that the stakeholders ensure it remains peaceful and accessible to all. However, when evaluating the facts based on past and recent developments, one cannot help but feel very worried that a full-blown conflict is only a short fuse away.

Despite the current tensions, this most recent maritime dispute is not unfamiliar. If and when the tension cools off, many are optimistic that the parties concerned will come away from the Scarborough shoal incident with a renewed sense of realization that any shots fired would only disturb the peace that they and others cherish and need. This may spur efforts to work towards establishing long-lasting peace in the South China Sea.

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