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South China Sea Disputes: Nearing a Solution – Or Is It?

By P K Ghosh

Synopsis

The likely announcement by Philippine President Duterte of the Scarborough Shoal as an environmental marine sanctuary and off limits to fishermen could prove to be the first incremental step towards defusing the South China Sea disputes and in the process endow considerable strategic advantages to Beijing.

Commentary

ONE OF the most sensitive potential international flashpoints in the world -- the turbulent South China Sea -- was witness to a significant development which largely went unnoticed but may reduce the prevailing tension in the region. For some it may even sow the seeds of a long-term solution to this intensely complex imbroglio, though an incremental one.

On 12 Jul 2016, the Arbitration Court at the Hague had ruled with the damning verdict against China in a case brought about by the Philippines. Manila had lodged the suit against Beijing in 2013, saying that after 17 years of negotiations it had exhausted all political and diplomatic avenues to resolve the issue. The International Arbitral Court had concluded amongst others that "there was no legal basis for China to claim historic rights" within the sea areas falling within China's 'nine-dash line' which essentially claimed nearly 80% of the South China Sea.

The Philippine Turnaround

With no effective or available mechanism to enforce its verdict and with Beijing vehemently opposed to the arbitration proceeding, the ruling did little to either stabilise the situation or reduce the prevailing tension. Even the Philippines chose

not to celebrate the stunning legal victory as was the case with other claimant countries.

While there were numerous calls from the international community for adherence to the ruling, Beijing ignored these pleas and was persistent in its policies of militarisation and reclamation of geographical features in the South China Sea, causing continual alarm to the littoral states in the process.

However, in an astonishing move aimed at reversing Philippine foreign policy the Philippines' new president Rodrigo Duterte chose to place the verdict on the back burner and opted to befriend Beijing while admonishing the long-time ally the United States for what he termed hypocrisy and bullying. The new president obviously calculated that taking a less confrontational approach with Beijing on the South China Sea dispute would help him secure the much-needed aid from them -- and his calculations were not off the mark. In October 2016 Duterte visited Beijing in an effort to mend fences and boost trade.

While the two countries signed several deals worth nearly US\$13.5 billion on trade and agreed to cooperate on various issues including tourism, anti-narcotics and maritime trade, the most significant, however, is the two countries agreeing to seek "settlement through bilateral dialogue" on the South China Sea issue, a stance consistent with the Chinese view.

So What's The Big Deal?

The South China Sea dispute between Beijing and Manila concerns sovereignty, namely, maritime boundaries and is closely connected to the lives of ordinary fishermen from both sides, who rely on fishing for survival. Thus, fishing rights around Scarborough Shoal is one of the several contentious issues since 2012. China had deployed its Coast Guard to block the shoal from Filipinos, despite being only about 100 nautical miles away from Philippine coast and located well within its 200 nautical mile Exclusive Economic Zone. However, after the Duterte visit to Beijing, Filipino fishermen are now being allowed to fish near the resource-rich Scarborough Shoal (Huangyan) Island.

After this important development which signified a softening of the Chinese stand and a willingness to negotiate it has now been informed that President Duterte will soon issue an executive order declaring part of the disputed Scarborough Shoal a marine sanctuary off-limits to all fishermen, a move his office said was supported by his Chinese counterpart Xi Jinping.

Thus Duterte is expected to make a unilateral declaration barring fishermen from exploiting marine life at a tranquil lagoon that was central to years of bitter squabbling, and the basis of an arbitration case brought and won by the Philippines. Undoubtedly it will also bring strong criticism from his own constituency of fishermen. But as the larger picture emerges the various nuances of this move become clear from both sides.

Staunch environmentalist and former president Fidel Ramos, who in August 2016

broke the ice with Beijing as Duterte's special envoy, said a marine sanctuary was the right move and was "the highest form of aquaculture preservation".

Killing Many Birds with One Stone

With this move both the Philippines and China have killed many birds with one stone. Although Manila won the arbitration case at The Hague, Duterte avoided a chest-thumping stance so as encourage Beijing towards a compromise. China had come under sharp criticism for causing environmental losses especially in the Spratlys while enlarging and creating artificial islands. This had affected its image as a leading developing country upholding the environmental cause of the world. With this move it has shown its support for environmental causes.

Secondly it has, at the strategic level, proved to the world that bilateral talks may well be the way forward in "solving" the South China Sea and not the legal arbitration route as has been reiterated by the international community.

Admittedly, the move to declare the disputed areas as a sanctuary had been suggested many times earlier by scholars for reducing the regional tensions and as a natural de-escalatory measure. It was first suggested by Vietnamese and Philippine scientists of the Joint Oceanographic Marine Scientific Research Expedition (JOMSRE) who had proposed a *Marine Transborder Peace Park* in the disputed areas. This is consonant with UNCLOS but the effort to expand and include China and Laos failed, leading to a collapse of the initiative.

With the initiative now taking root, China has not only calmed the most vociferous claimant – Philippine, but also got them round to its point of view. In addition Beijing has also shown that it could get around observance of the international legal system, the verdict and yet produce the desired end result. However, it remains to be seen whether by this act, the South China Sea disputes may well be on the road to resolution, albeit incrementally, since after all it is peace and stability which is the primary aim of the all stakeholders.

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