

Summary of the November 10, 2021 “Maritime Security in the Asia Pacific Region: China and the Littoral States” Discussion

Introduction

On November 10, 2021, the Center for Asia Pacific Strategy (CAPS) hosted “Maritime Security in the Asia Pacific Region: China and the Littoral States,” the second of a four-part series of roundtable discussions that address current and future approaches to maritime security in the Asia-Pacific region. The discussion’s moderator was Commander Jonathan Odom, Military Professor of International Law at the George C. Marshall European Center for Security Studies, and panelists were the Honorable Philip Dalidakis, former Trade Minister of the State of Victoria, Australia and Dr. Jay Batongbacal, Director of the Institute for Maritime Affairs & Law of the Sea at the University of the Philippines Law Center.

Brigadier (Ret.) Andrew Cliffe, a member of the Board of Directors of the Center for Asia Pacific Strategy, provided opening remarks and introduced CAPS and the moderator and panelists.

Setting the Scene: China’s Behavior in the South and East China Seas

Commander Odom set the scene for the discussion by highlighting three themes in China’s behavior in the South and East China Seas. First, China is the only claimant state not only in East Asia but anywhere in the world which asserts its claim based on ambiguous “dashed lines” which are unjustifiable under international law. Second, China has dedicated tremendous amounts of resources over the past few years to fortify its position and solidify its power in the South and East China Seas territorial disputes to an unprecedented level. And third, China has sought to eliminate any method of resolving these disputes other than via bilateral negotiations in which it can leverage maximum pressure on the other claimant country.

For example, China has neutralized the collective strength of the Association of Southeast Asian Nations in several ways. First, China has co-opted its friends such as Cambodia and Laos, thereby negating the potential for ASEAN consensus on any substantive matter involving the South China Sea. China has also economically punished several East Asian states over the past decade, thereby messaging to them and other states that they should think twice before being too assertive in their territorial and maritime disputes with China. At the same time, China has sought to gain economic leverage over claimant states through its Belt and Road Initiative.

Impact of the South China Sea Arbitration

After having set the scene, Commander Odom shifted the discussion by asking Dr. Batongbacal whether the South China Sea situation generally and the Philippines v. China arbitration decision in particular will be an issue in the upcoming Philippine presidential election. Will the arbitration rulings fade away in the politics of the next administration in Manila, or will its importance endure?

Dr. Batongbacal responded that the arbitration decision and the South China Sea situation will be an issue in the elections because the current Philippine administration is aware that its posture in addressing China and its activities in the South China Sea has been weak in the past and the Philippines need to present a more robust posture. Also, there is now a lot more awareness by the Philippine public of China's role in its economy and the South China Sea. The key question, however, is how influential this issue will be for the voters as there are many other competing issues that they must consider.

Commander Odom invited Mr. Dalidakis to comment on whether non-claimant countries, such as Australia, the United States, and France, will continue to endorse the *Philippines v. China* ruling or whether the ruling will fade from the memories of these non-claimant countries as well.

Mr. Dalidakis pointed to the more overt and forward-facing postures of a number of non-claimant states on the issue as an indication that they will become even more engaged in the years to come. That the Australian government has become far more forward-facing in its opposition to decisions taken in Beijing despite the economic consequences demonstrates that it takes this issue very seriously.

Mr. Dalidakis returned a question, asking what to do in terms of a global order when the order one is looking to assert is not acknowledged by the very country with which it is seeking to assert.

Commander Odom stated the question is one of the grand strategic challenges presently facing the international community. Turning to Dr. Batongbacal, he asked how likely another country besides the Philippines might initiate a similar type of case (as the *Philippines v. China*).

Dr. Batongbacal stated that among the claimants, Vietnam is most likeliest to initiate a litigation against China. However, Vietnam is still hesitant because it has not yet reached the point where it feels that it has no other options. Malaysia is not ready to consider litigation because it has historically strived to resolve such issues quietly and behind closed doors. Brunei too is not considering this option because, with its small economy, it is especially susceptible to China's coercive policies. Indonesia, which is not a claimant to the territorial disputes in the South China Sea, may consider litigation against China for its unilateral petroleum exploration in Indonesia's exclusive economic zone.

Mr. Dalidakis added that countries should exercise more often the ability to go to an international court to seek some type of decision or jurisdiction over a disagreement. We may see more ASEAN countries utilizing that tool to draw the countries involved in a dispute away from confrontation.

Dr. Batongbacal agreed and added that the some offices within the Philippine government are actively considering and preparing for further litigation in case that becomes the direction that the government seeks to take.

Role of External Maritime Powers

Commander Odom then shifted focus by asking Dr. Batongbacal about the perception of the claimant countries on the growing presence of external maritime powers such as France, India, the United Kingdom, and Germany.

Dr. Batongbacal explained that each claimant country has had different reactions. For example, the Philippines openly welcomed the formation of AUKUS, which is probably based on its long experience with military alliances and security arrangements with the AUKUS countries. Vietnam has more cautious and dealing with it at arm's length, which can be understood by its history of Vietnam War with the United States. Malaysia is even more concerned and likely bordering on suspicious, as it has traditionally viewed the involvement of external powers as a potential danger. These diverse perspectives and reactions are preventing ASEAN from presenting a solid and united posture towards the external powers.

Commander Odom turned to Mr. Dalidakis and asked how these external powers can have presence in the region and increase security and stability and not worsen the situation.

Mr. Dalidakis stated that there are two groups of countries playing by two different sets of rules, which is bound to lead to instances of conflict and areas of disputation. Western OECD countries could learn from China's Belt and Road Initiative, in the way that China has been pushing its foreign policy and national interests with large amounts of foreign aid to achieve the outcomes it wants. In the South China Sea, because there are trillions of dollars of trade following through the various straits, both claimant and non-claimant countries have reason to prevent the dispute from gathering any military steam and instead see that it is resolved peacefully.

Commander Odom compared the various countries' activities in the South China Sea to those in the Arctic to emphasize China's rhetoric and behavior where other countries are operating in China's EEZ (South China Sea) to where China is operating in other countries' EEZ (the Arctic). China is seeking a double standard in some of these situations and demonstrating that these are in fact political and not legal issues.

Mr. Dalidakis responded by reiterating that each country is asserting its self-interest in pushing forward its own agenda for its own people.

Potentials and Challenges of Collective Action

Commander Odom agreed but emphasized that while countries assert their respective national interests, they have to do so in a lawful manner. He then returned to Dr. Batongbacal and asked whether ASEAN might be able to work together in a more concerted fashion to draw strength through numbers in protecting their claims in South China Sea against China's assertiveness.

Dr. Batongbacal stated that ASEAN's collectiveness on this issue has been under discussion but also a challenge because ASEAN was originally established to primarily work through economic and cultural integrity and not regional security issues. Because of the unwieldiness of the South China Sea issues for ASEAN, an option may be to form a separate claimants' bloc or maritime bloc to tackle them.

Commander Odom posited whether there might be a catalyst event that will bring countries such as Malaysia, the Philippines, and Vietnam, which have clashed with Chinese fishing vessels and maritime militia, together, with which they can also avoid the narrative that they are complicating the ASEAN system.

Dr. Batongbacal agreed that Chinese behavior in the South China Sea could be the catalyst for the other claimant countries to develop common positions or align and coordinate their responses. Because China employs the same tactics against all of them, they can exchange information and develop unified or at least consistent responses.

Commander Odom then asked Mr. Dalidakis what non-claimant and claimant countries can do together in terms of an agreement or policy to demonstrate collective strength to deter economic coercion by China.

Mr. Dalidakis explained that there has already been some collective response, an example of which is the support that Australia has received by the United States, Canada, the United Kingdom, and France when China imposed increased tariffs on Australian wine in 2020 and coal in 2021. Countries should continue to work together along common concepts such as openness, accessibility, fairness, and consistency in responding to China's coercive policies.

Commander Odom posed a similar question to Dr. Batongbacal, using the example of banana restrictions that China imposed on the Philippines. Could a political arrangement be reached that in such a scenario, other countries would step in and buy more bananas from the Philippines?

Dr. Batongbacal stated that that is indeed what the Philippines did in the situation, as they found alternative markets for the bananas. The smaller countries should band together and diversify their trade relations among themselves, and they should also diversify beyond their immediate region to decrease the degree of economic influence China has over them.

Mr. Dalidakis added that leaders of the countries need to distinguish between the activities of the Xi Jinping administration and the Chinese Communist Party with those of the Chinese people. While calling China to account for its aggressive or coercive policies, other countries can still practice soft diplomacy with the regular Chinese people.

Commander Odom agreed and added that another challenge that democracies face is China's intentional limitation of the information flow to its people. China also exploits the information system in democracies by utilizing state-owned media for the purposes of the government.

Mr. Dalidakis responded by stating that China's weakness is that it overplays its hand to the point where it pushes other countries together into a coalition. China will wake up one day and find itself outside of the international order and having to develop new strategies to re-enter the system.

Island-building by Other Claimant Countries?

Commander Odom posed his final question to the discussants, asking whether other claimant states such as Malaysia, the Philippines, and Vietnam should respond in kind to China's actions in the South China Sea by engaging themselves in island-building and seeking comparable gains on the features they occupy. And if so, should these countries seek the support of external powers such as the United States and Australia in undertaking these activities?

Dr. Batongbacal stated that engaging in an island-building race would not be productive, because it would undermine the sustainability of the environmental resources in the area, which is a primary interest of the claimants. Furthermore, an island-building race would increase the potential for conflict over control of the resources. Because other claimants cannot match China's ability to build islands, their response should be asymmetric to minimize the impact of China's artificial islands in the South China Sea. The key is for the other claimants to preserve the status quo by developing the islands that they do legally control and thereby maintain access to the region.

Mr. Dalidakis agreed and reiterated that the best measure to take in a territorial dispute is to take the opponent into a forum in which it is not a willing participant. That forum may very well be an international of dispute to challenge the opponent's position.

Commander Odom closed the session by thanking the panelists for their expert knowledge and discussion.