

Can ASEAN Prevent the Inevitable in the South China Sea?

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The 26th ASEAN Summit concluded in Kuala Lumpur on 27 April 2015 with the ministers once again 'sharing concerns' over the outstanding maritime territorial disputes in the South China Sea (SCS). In acknowledgment of certain member states' alarm at China's expanding footprint in the disputed island groups, a reference was made in the Chairman's Statement this year to the "land reclamation being undertaken...which has eroded trust and confidence and may undermine peace, security and stability." The statement is seen as an emerging consensus within the ASEAN towards common security challenges rooted in the SCS issues. Given that the 2012 Phnom Penh Summit did not result in a communique at all, a first in ASEAN's history, is this fresh 'rebuke' aimed at China coherent with the regional body's desired means of addressing the situation? Will ASEAN be able to work on newer areas of possible coordination as mooted by some analysts?

A Multilateral Non-Starter

The ASEAN members advocate full implementation of the 2002 Declaration on the Code of Conduct of Parties in the South China Sea (DoC) in accordance with the principles of peaceful co-existence to ensure stability in the region. Their adopted means of dialogue are channelled through the ASEAN-China relations framework and other multilateral fora. However, the nature of maritime disputes in the SCS is such that both bilateral and multilateral approaches have failed to take off thus far. Briefly put, China currently claims sovereignty over island groups spanning the entire SCS and Southeast Asian states too stake claim to individual island groups and are entangled with China in conflicting claims of sovereignty and sovereign rights.

Although the DoC was reached with hopes of multilateral conflict resolution showing the way forward, China has been accused of intransigence on actionable strategies and preventive diplomacy. In effect, China does not want to 'internationalize'

the disputes and rejects any negotiation centred on the concerns of claimants that may prove unfavourable in the end. The absence of any significant headway at a direct bilateral level has coincided with hostile flare-ups between the Chinese maritime forces and the Southeast Asian claimants in many instances.

With the multilateral approach rendered muted, the more directly involved and affected ASEAN member states have explored individual strategies, and have not shied away from military capability accretion or alliance-building in the recent years. Land reclamation in the SCS, the most controversial even though not an entirely new aspect of the disputes in the year 2015, also cannot be attributed to China alone. All claimants except Brunei have been reported to carry out habitational development and if Chinese reports are also to be cited, 'fortification' activities, in the disputed Spratly island group. More importantly, the DoC implicitly cautions against influencing the natural and legal status of geographical features in the SCS pending a comprehensive and durable settlement of the disputes. Since the determination of sovereignty claims have to precede a lasting settlement, any land reclamation can be justified depending on the side in the dispute one chooses to argue from.

The greater cause for concern is the potential of these artificial structures at sea to be used as military installations by the claimant states. Presently, the situation is rife with a security dilemma which mutually aggravates and further fuels the race to reclaim in the SCS. The ASEAN has not been an effective platform to address these hurdles and has not only failed to get China to commit to a concrete framework or even sustained dialogue towards a settlement but has also remained a divided house within itself.

Negotiating without a Code of Conduct

The haste with which China has pursued its strategic ends has shaken the cooperative face of its 'New Security Concept' for Asia. As China adapts towards a global posture, both the scale of its geopolitical ambition and the huge hard power differential that it enjoys, allows Beijing to ignore or circumvent a weak neighbourhood's woes. Thus, the Chinese position on the disputes is not likely to transform anytime soon.

Unsurprisingly, the ASEAN's verbal signalling does not cause a lot of consternation in Beijing. The SCS disputes do not impinge upon the whole of Southeast Asia and has only a moderate effect on some of the regional states' outlook towards China. Little surprise then that it remains a tall order to get all ASEAN members to stake their relations with China for the interests of a few. For these reasons, the Code of Conduct has remained elusive for over a decade as the claimants persistently move away from a framework for conflict prevention. It is futile to reiterate urgency for the Code until the states party to the disputes, including China, are satisfied with their

current positions and see them as positions of strength. In a repeated game of non-cooperation where each side views the other's actions as cheating, the spiral of retaliation becomes inexorable.

The recommendations from some observers for coordinated patrolling by Southeast Asian claimants in maritime zones currently claimed by China is unlikely to be a viable option in the short term in view of the existing military power gap between Beijing and the other claimants. In turn, it carries the added risk of degrading the security environment before a stable status quo is obtained. Another view is that the ASEAN must first reach a binding code of conduct among its own members before persuading China to show interest. This could possibly achieve some progress in stabilizing the status quo and could be further bolstered by diplomatic efforts from concerned states like Malaysia and Singapore to get to a non-partisan framework for dialogue where China's concerns are also considered. There should be significant grounds for mutual understanding over the region's extremely sensitive non-traditional security aspects such as degradation of the marine environment and loss of biodiversity on account of the detrimental consequences of land reclamation.

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