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Navigating Troubled Waters: The Philippines-China Bilateral Relationship in the context of the West Philippine Sea Dispute

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Navigating Troubled Waters: The Philippines-China Bilateral Relationship in the context of the West Philippine Sea Dispute

Matthew Angelo Nalos

The threat to Philippine maritime security in the West Philippine Sea has been prevalent since the early 1990s when China's growing military forces were strategically positioned to occupy and claim the area with assertive behavior vis-a-vis Beijing's rise as a major power in the Asia Pacific region.

On 8 February 1995, the Philippines discovered eight Chinese ships roaming around the Mischief Reef, nearly 200 kilometers from the islands of Palawan¹. In addition, the Philippines found that some of these Chinese ships were armed and their presence in the Mischief Reef was therefore not benign. For Manila, this act is a seeming construction of a Chinese military guard which directly compromises the country's national security since the reef is part of the Philippines' territory.

Following this aggression, the volatile tensions between China and the Philippines continue to tremendously influence Philippine foreign policy in a bid to protect the Philippines' territorial integrity and sovereignty and maintain a relationship with the Asian superpower. This report seeks to elaborate on the historical position of the Philippines on the West Philippine Sea and its implications for the incumbent Marcos Jr. administration.

The Philippines-China Relationship under Estrada and Macapagal-Arroyo

After the Mischief Reef incident in 1995, the diplomatic dispute between the Philippines and China on the West Philippine Sea was placed on the back burner, following the signing of the Framework of Bilateral Cooperation in the Twenty-First Century on 16 May 2000 under the administration of former President Joseph Ejercito Estrada. The agreement aimed to expand the cooperation between the two countries in the areas of business, military, education, and tourism, as well as to promote peace and stability in the West Philippine Sea.

The bilateral relationship was further strengthened when Gloria Macapagal-Arroyo rose to power. In the ten-year administration of former president Arroyo, the Philippines signed 65 bilateral agreements with China. Most of these were trade agreements in the infrastructure, mining, and agriculture sectors. The goal was to make China as the Philippines' most valuable trading partner and reduce the country's dependency on the United States. The Arroyo administration's efforts to expand the country's strategic economic relationship with China led to the recognition of this period as the *"golden age of the Philippines and China Relations."*²

The Aquino Administration and the Arbitral Award

Tensions between the Philippines and China heightened once more in early 2011 under the presidency of Benigno "Noynoy" Aquino III or PNoy. In particular, on 2 March 2011, Chinese patrol boats assertively pursued ships of the Philippine Department of Energy (DOE), which was then undertaking oil exploration in the Recto Bank located West of Palawan and southwest of the Malampaya gas field which is part of Philippine waters.³ Following the Recto Bank incident, the Aquino administration's relationship with China continued to sour as the Asian superpower relentlessly and aggressively pursued Philippine naval ships and fishermen within the West Philippine Sea.

With China's increasing provocation in the West Philippine Sea, the Aquino administration revived the U.S.-Philippines security alliance specifically through the 1951 Mutual Defense Treaty, under which security and military alliance were effectively institutionalized in 2012. Regarding the possibility



Image via Esquire.ph

of the United States' direct military alliance with the Philippines, then U.S. Secretary of State Hilary Clinton clarified during her state visit to the Philippines in 2011 that Washington would honor its treaty-shared obligations to the Philippines, as enshrined in the 1951 Mutual Defense Treaty.⁴ However, the extent of the United States' commitment was not spelled out in detail, and despite the United States' announcement and the assertion of China during the Scarborough shoal standoff in 2012, U.S. military aid or direct involvement did not materialize at this time.⁵

Nevertheless, to further expand the security arrangement between Manila and Washington, the two countries both signed the Enhanced Defense Cooperation Agreement (EDCA) on 28 April 2014 with the goal of 1) providing military aid to the Philippines and modernizing its Armed Forces and 2) ensuring rotational U.S. military presence in the Philippines to bolster security against external threats.⁶

Aside from taking steps to further enhance the U.S.-Philippines security relation, the Philippines challenged China's maritime claim on the West Philippine Sea through national and international law. First, the Aquino administration issued Administrative Order 29 series of 2012 wherein the name West Philippine Sea was mandated to be used to pertain to the territorial waters of the Philippines to its west. Then in early 2013, the Philippines instituted arbitral proceedings in the Arbitral Tribunal of the United Nations Convention on the Law of the Sea (UNCLOS) to legally pressure China and its claims through international law. The Philippines and the Aquino administration received

international support from governments around the world for this move.

On 16 July 2016, the Permanent Court of Arbitration (PCA) released the highly anticipated decision about the Aquino administration's petition on the West Philippine Sea. The PCA favored the Philippines' petition over Beijing's unilateral claims on the West Philippine Sea. The said arbitral award also addressed three main issues:

1. China's historic rights in the West Philippine Sea and the so-called nine-dash line doctrine,
2. The status of the West Philippine Sea maritime features, and
3. The legality of Chinese activities in the West Philippine Sea.⁷

(1) Historical rights and nine-dash-line doctrine

In the first issue, the PCA unanimously concluded that China's historic rights on the West Philippine Sea overlapped with the areas under the Philippines' continental shelf (CS) and exclusive economic zone (EEZ). In the lawful view of the Tribunal which is based on the UNCLOS where China is a signatory, the Philippines has maritime rights to exploit living and non-living natural resources in the islands and waters on the West Philippine Sea that is part of the Philippines comprehensive maritime zones. The Tribunal also found that UNCLOS does not permit other states to exploit living and non-living things within the CS and EEZ of a country using historic rights as basis. In other words, historical rights are not recognized under the UNCLOS, effectively debunking China's historic nine-dash line doctrine.

(2) Status of Maritime Features

Under the second issue, the PCA determined the legality of maritime features occupied by China on the West Philippine Sea. The PCA determined that the generation of EEZ and CS is not applicable to such "rocks", "low-tide elevations" (LTEs), or submerged banks as claimed by China. Rather, the PCA argued that the Spratly Island is part of the Philippines' EEZ, and China's claim of entitlement on the Scarborough Shoal overlapped with the Philippines' EEZ. With this, the Tribunal concluded that China's land reclamation and construction on the West Philippine Sea is not a fully entitled island and is incapable of extending China's EEZ.

(3) Legality of China's Activities

Regarding the legality of China's activities on the West Philippine Sea, the PCA concluded that China violated the provisions of UNCLOS about giving the Philippines sovereign rights in its EEZ and CS. To be specific, China interfered with the Philippines' territorial rights concerning fishing and petroleum exploration, and that the construction of artificial islands by the Chinese is also illegal. As such, Chinese fishermen are also prohibited from fishing in the Philippines' EEZ. However, since the arbitration has jurisdictional limits, the Tribunal did not decide which parties had sovereign rights in the disputed territories in the West Philippine Sea.



Image via Nikkei montage/Reuters

The Duterte Administration's Pivot Back to China

Despite this victory, the decision of the PCA was downplayed by the Duterte administration.⁸ In particular, former President Duterte ordered his cabinet to be cautious about the Philippines' legal award and during the Konrad-Adenauer-Stiftung Philippines' South China Sea forum on 23 November 2018, former defense secretary Delfin Lorenzana was quoted to say:

"But when the arbitral ruling was about to be announced, we were all in Malacañang, all the Cabinet members were there. When it finally came out, we had this meeting with the President and it was decided that, he called it, let's do it as a soft landing. He said we should not be overly celebrating because we might offend China."⁹

While undermining the important ruling, the Duterte administration conducted bilateral relations with China and seemed determined to break away from the United States. Early on in his term, the Duterte administration attempted to reduce the Philippines' dependency on the United States and sought a strategic economic relationship with China through the so-called Equi-Balancing Policy.¹⁰ The Philippines and China's economic interdependence was especially seen on the Duterte administration's flagship program called "Build Build Build". Under this program, China was envisioned to play a significant role in financing the Duterte administration's infrastructure projects, including Mindanao railways, bridges, as well as drug-rehabilitation programs and facilities.¹¹ However, the supposed economic interdependence between Manila and Beijing through "Build, Build, Build" did not actually lead to success and only partially materialized. The Duterte administration was confronted by the fact that Beijing did not fulfill its pledge of providing \$24 billion in loans and direct investments in the Philippine government projects, especially under the "Build, Build, Build" program.¹²

Finally, despite the Duterte administration's pivot to Beijing while downplaying the important ruling and the widespread international support Manila received for standing up against its powerful neighbor, China's military pressure in the West Philippine Sea has continued to escalate alongside ongoing maritime incursions by the Chinese toward the Philippine coast guard and naval vessels. Since 2019, the Philippines has been sending diplomatic notes to China for continuously violating its sovereign rights in the West Philippine Sea.¹³

The Marcos Administration Foreign Policy Choices on the West Philippine Sea

The current administration of Ferdinand "Bongbong" Marcos, Jr. seeks to be independent in its foreign policy, choosing no ally while creating no enemy. In direct contrast with the previous administration's invalidation of the arbitral award, the current administration seeks to lean toward the important ruling. In an interview before assuming the Presidency on 30 June 2022, the then president-elect emphasized that:



Image via Rappler

"We have a very important ruling in our favor, and we will use it to continue to assert our territorial rights. It is not a claim. It is already our territorial right."¹⁴

In the first eight months of his term, President Marcos Jr. has been raising the landmark arbitral award and focusing on international support in countering China's further expansion on the West Philippine Sea. To this end, President Marcos Jr. has conducted bilateral security dialogues notably with Japan, the United States, and Australia to strengthen and bolster the Philippines' security ties and gather international support against China's relentless claim on the West Philippine Sea.¹⁵ In terms of the United States, the Philippines' longtime ally, military troops and the AFP have recently concluded the 2023 Balikatan Exercise which was held last 11-28 April 2023. Under the Balikatan Exercise this year, there were approximately 17,000 members of the AFP and U.S military personnel underwent rigorous bilateral military training in areas of Ilocos Norte, Aurora, Zambales, Palawan, and Antique Philippines.¹⁶ Moreover, to further forge the US-Philippines strong relationship, President Marcos met President Biden in the White House for a high-level meeting regarding military enhancement and business on 1 May 2023.¹⁷

Nevertheless, the current president also continues to maintain a cordial relationship with China, evident with his state visit to Beijing last 3-5 January 2023. This visit included strategic bilateral talks on restarting plans for the joint exploration of the West Philippine Sea and improving the plight of Filipino fisher folk.¹⁸ Still, it should be noted that Chinese aggression in Philippine waters continues to this day.

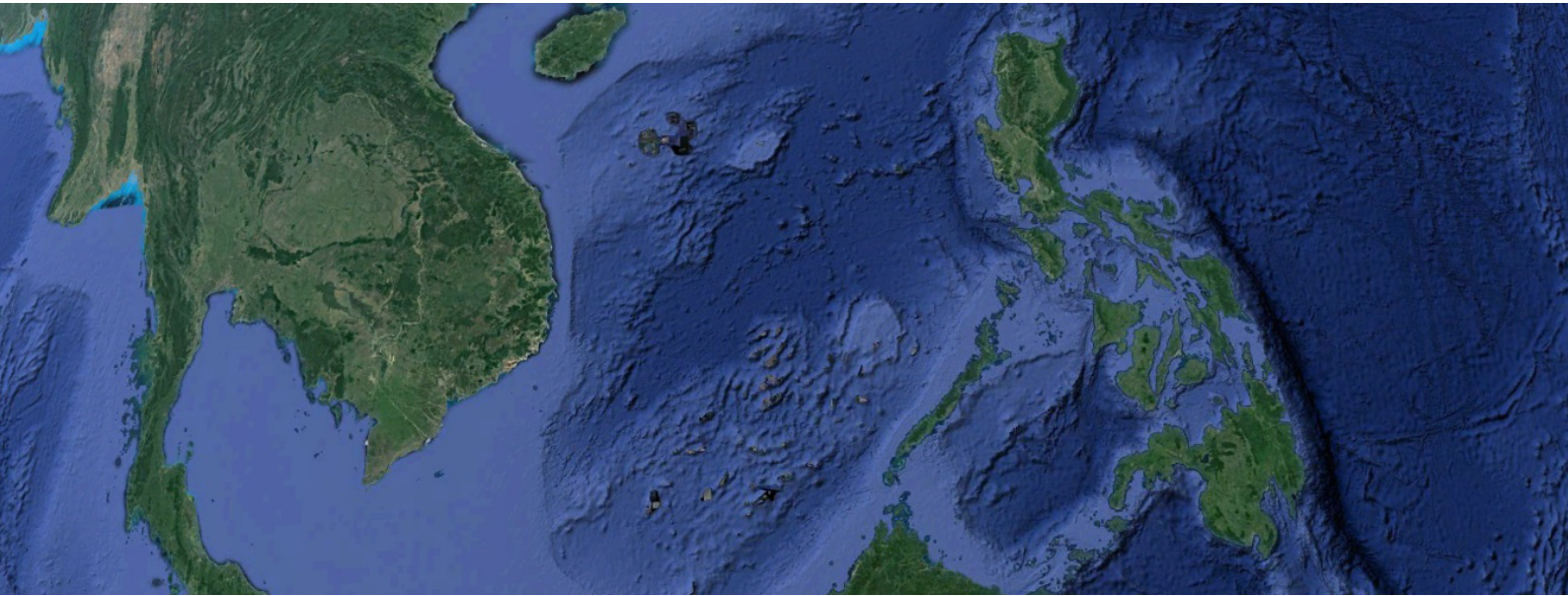


Image via Google Earth Pro

Conclusion

The Philippines' position on the West Philippine Sea has been dynamic and precarious due to the differing foreign policy strategies across different administrations. However, the assertion of China and its aggressive claims on the West Philippine Sea is still considered a hurdle for Philippine national security.

Given the developments, the following foreign policy action points are raised:

- 1. Proactive and objective actions based on consistent foreign policy.** Since the relatively changing foreign policy of the Philippines cannot constrain China's actions in the West Philippine Sea, the foreign policy approach should be more proactive and objective to hedge China's growing expansion on the West Philippine Sea. The foreign policy choices of the Philippines have been influenced by great powers, for example, the United States and China, to ensure its survival through a bandwagoning strategy. However, it is notable that the inconsistent foreign policy positioning has contributed to exacerbating the aggression in the West Philippine Sea. Because of this, the Philippines needs to scale up its consistent decision making and discuss what mechanisms are vital to employ to pacify its external aggressor.
- 2. Strengthening the arbitral ruling.** The Marcos administration should further examine how it can use the arbitral ruling to strengthen or legitimize the maritime position of the Philippines in the contested islands and waters on the West Philippine Sea given the fact that the ruling authoritatively affirmed the Philippines' maritime petition and voided China's nine-dash-line historic claim.
- 3. Re-examining alliances and resource priorities.** The Philippines should continue to upgrade its military equipment though increasing the budget for defense spending specifically and revisiting the Revised Armed Forces of the Philippines (AFP) Modernization Program (RAFPMP) which will primarily be directed at addressing the Philippines' external threats such as the territorial disputes on the West Philippine Sea. Aside from this, the Philippines has critical allies in East Asia, specifically Japan and South Korea. Recently, Japan and the Philippines agreed to expand joint military drills and boost security cooperation in order to counter China's increasing maritime incursions.¹⁹ On the other hand, South Korea has recently announced that it will continue to deepen its maritime security ties and naval cooperation.²⁰ With this, the Philippines should re-examine its relationship with its East Asian neighbors to boost its security cooperation effectively and diversify its allies.

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