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We can rethink territorial disputes in South China Sea

CREATING OPPORTUNITY: Fresh thinking should combine realism with idealism

THE territorial disputes in the South China Sea have long been seen as a national and regional security problem.

By themselves, they are not serious enough reasons for states to go to war with each other. They are, nevertheless, a source of insecurity in the region, especially for the smaller claimant countries.

The strategic significance of the disputes has been raised by the fact that rising China is a major claimant. Its behaviour is viewed as a gauge of how a strong China may behave in the future.

Such perceptions, along with Chinese rhetoric and actions, have the potential to fuel anti-China sentiments, competitive nationalism, reinforce historical antagonisms, and affect strategic alignments in the region.

Smaller claimant countries may turn to more powerful countries, like the United States, to deter and counter Chinese assertiveness.

Competitive strategic alignments, if they do occur, will make power politics more prominent in the Asian security region, working to the detriment of an Asean-centric rules-based order. Continuation of the disputes could also undermine Asean as an institution and its peace and security role in Asia.

Seeking to preserve respective claims, national strategies have emphasised physical, political, administrative and economic control

of disputed islets as well as political, diplomatic and military deterrence. Some have also attempted to expand their physical presence.

Strategies adopted by Asean member countries include putting the issue on the back burner, leaving it to be resolved by the next generation, and accommodating rival claimants, especially China.

At the regional level, Asean has focused on managing the disputes.

Though pragmatic, these national and regional strategies leave open the possibility of periodic tension and military clashes with the potential for worrying consequences.

Asean should begin to view the disputes not only as problems to be managed but also as an opportunity to strengthen peace and security in the region and as a means to construct a rules-based order grounded in principles.

Peaceful resolution is also in the strategic interest of China. Beijing can demonstrate its constructive leadership role and assure all that it plays by principles and rules it

advocates.

Leadership and magnanimity will enhance China's moral authority. Resolution would dilute strategic alignments that Beijing terms as Cold War politics.

Continued Chinese assertiveness, however, will tarnish Beijing's regional and global image and contribute to the kind of power politics that it seeks to avoid. Continuation of the disputes will also be a persistent problem in Beijing's relations with Southeast Asian countries.

It is crucial for all countries, including China, to balance parochial interests with larger national interests and the provision of regional public good.

Territorial disputes in the South



US Secretary of State **Hillary Clinton** greeting Sultan of Brunei **Sultan Hassanal Bolkiah** during her tour to **cool tensions** in the South China Sea. AFP pic

China Sea should be settled by negotiations involving all parties to the disputes. However, bilateral negotiation to settle multilateral disputes is a non-starter.

Who decides the rightful parties to the conflict? Even in the case of bilateral disputes, negotiations will not make headway in the context of hardened positions.

Should negotiations not make headway within a specified period of time (say 18 months), then disputes should be referred to a regional or international body with adjudication or arbitration powers.

No country has to unilaterally compromise or renounce its claim. The sovereign right to make national decision is also not compromised.

Reference to an international body is not without precedent in the region. Singapore, Malaysia, Indonesia, Thailand, and Cambodia have all referred cases to the International Court of Justice (ICJ).

Japan has recently proposed that its maritime dispute with South Korea be settled through the ICJ.

Despite precedents, referring disputes to an international body will not be easy or unproblematic. Major powers normally oppose in-

ternational adjudication in the belief that it curtails their power and influence.

On the contrary, submission to international adjudication has the potential to enhance a country's moral power and influence, and legitimise its international role.

Many other reasons may be cited as to why countries would not agree to submit these disputes to international adjudication. Such reasons may affect tactics and timing but should not stand in the way of fresh thinking that combines realism with idealism.

Dispute settlement by negotiations or reference to an international body requires considerable work by all claimant countries including clarifying and substantiating their claims, and by Asean as an institution.

Asean has attributes including moral authority, diplomatic power and influence, as well as convening power, that are not available to individual countries. Asean should take the lead in seriously exploring and tabling the idea to transform a problem into an opportunity.

Though difficult, perseverance in managing and settlement of the disputes would restore Asean's credibility.



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