

Navigating Disputes: South China Sea and The Role of International Arbitration in Territorial Conflict Resolution

By: Stephanie B. Magsumbol | June 7th, 2025

Introduction



Figure 1: South China Sea Islands. Generated by Gemini

With the ongoing domestic and international developments among nations, it is inevitable that territorial dispute arises due to rivalry and competition. Conflicting state interests involve cultural, political, economic, or social factors. In most cases, disputes among states arise due to the scarcity of resources related to oil and gas reserves. Additionally, domestic politics and cultural differences can also trigger boundary disputes whereby neighboring states have different interpretations of land ownership and occupation¹. It is evident that land territory has been considered as the most valuable asset to a country.

The South China Sea dispute involves competing territorial claims by Brunei, China, Malaysia, Philippines, Taiwan, and Vietnam. Tension escalated since the 1970s as countries began asserting control over various islands, especially when China strongly and continuously proclaimed expansive claims based on its so-called “nine-dash line”. For the Philippines, the dispute centers on the Spratly Islands, Paracel Islands, and Scarborough Shoal.

The irreconcilable claims over territory pose greater risk of armed conflict. The intense competition over shared resources is difficult to resolve. However, failure to address this conflict will result in greater poverty and landless population and might even lead to war. At this point, territorial dispute resolution becomes particularly important. International arbitration is one of the prevailing remedies available in international law for handling territorial disputes. In cases where the states are unwilling to resolve the conflict within themselves, the submission of the issue to third parties, like

¹ Scott F. Abramson and David B. Carter, “The historical origins of territorial disputes,” *American Political Science Review* 110, no. 4 (2016): 675-698, <https://doi.org/10.1017/S0003055416000381>.

international arbitration and adjudication, is crucial to peaceful resolution, preventing potential causes of violent international conflict.

An extensive body of literature has emerged, delving into various dimensions of South China Sea dispute. This article aims to provide a comprehensive understanding of key scholarly works that tackle about the South China Sea issue, particularly between the Philippines and China. This paper will examine the impact of international arbitration on both states and analyze its strengths, criticisms, and limitations within the context of international adjudication. The paper will highlight the geopolitical context, legal framework, and developments after arbitration will also be explored.

Geopolitical Context of the Conflict

The South China Sea, or “West Philippine Sea” in the context of the Philippines’ exclusive economic zone (EEZ), is vital for global commerce as it is a crucial shipping route, providing access to the Strait of Malacca and the port of Singapore, thereby controlling the supply chain of Asian and Middle Eastern economies. It caters to an estimated annual trade of about \$3.36 trillion². Also, the area is rich in mineral resources, oil, natural gas, and abundant fishing grounds. Moreover, the location is essential for the military operations of naval forces.

In 1947, China adopted a map showing the Paracel and Spratly Island chains as integral part of the Chinese nation³. The map entitled “Map of the South Sea Islands” was released in China in February 1948, depicting an

² Center for Preventive Action, “Territorial Disputes in the South China Sea,” Global Conflict Tracker, last modified September 17, 2024, <https://www.cfr.org/global-conflict-tracker/conflict/territorial-disputes-south-china-sea>.

³ “What is the South China Sea Dispute?” News at BBC, July 7, 2023, <https://www.bbc.com/news/July 7sia-pacific-13748349>

eleven-dash U-shaped line covering almost the entire South China Sea. In 1950, China reduced the dashes to nine without any explanation⁴. Based on such historic rights, China was trying to justify its control over the disputed areas. The assumed nine-dash line territory encompasses roughly 90 percent of the South China Sea and overlaps with the EEZ of other coastal states.

The Philippines Vs. China Arbitration Case

International legal dispute resolution involves states submitting conflicts to independent bodies that evaluate the merits of competing state claims and deliver a summary decision regarding the dispute settlement⁵. To understand the arbitration case between the Philippines and China, it is important to examine the cause of action and compelling reasons why the Philippines brought the dispute before an international tribunal.

In 2009, as protest to Vietnam-Malaysia submission to the United Nations (UN) about their extended continental shelf claims, China submitted to UN the map of the nine-dashed line territory – claiming to have indisputable sovereign rights and jurisdiction over the islands and adjacent waters in the South China Sea. China did not explain the basis of the dashes nor even give the corresponding coordinates. Such claims by China are of paramount importance to the sovereign interests of the Philippines to protect its waters. It appears that China aims to claim 80 percent of the EEZ of the Philippines in the South China Sea⁶.

⁴ Antonio T. Carpio, "The South China Sea Dispute: Philippine Sovereign Rights and Jurisdiction in the West Philippine Sea," *Philippine Law Journal* 90 (2016): 459.

⁵ Todd L. Allee and Paul K. Huth, "The Pursuit of Legal Settlements to Territorial Disputes," *Conflict Management and Peace Science* 23, no. 4 (2006): 285-307, <https://doi-org-ssl.oca.korea.ac.kr/10.1080/07388940600972644>.

⁶ Antonio T. Carpio, "The South China Sea Dispute: Philippine Sovereign Rights and Jurisdiction in the West Philippine Sea," *Philippine Law Journal* 90 (2016): 459.

Considering that the dispute is between sovereign states with unequal power, the Philippines opted to resolve the territorial dispute by filing an arbitration case in 2013. The case against China was based on the following issues: China's historical rights claims; the geological features in the Spratly as not capable of human habitation; maritime entitlement among coastal states; Filipino fishermen's traditional fishing rights in Scarborough Shoal; and harm to the marine environment. In fact, the Philippines enacted Republic Act No. 9522 which aligned its coastline to conform with the guidelines delineated by United Nations Convention on the Law of the Sea (UNCLOS). It bears noting that China was the only coastal state in the South China Sea that claims a maritime entitlement far in excess of the 350 nautical miles from its coast, which is contrary to the UNCLOS.⁷

On the other hand, China argued that the tribunal lacked jurisdiction since Beijing formally excluded itself from the compulsory dispute settlement procedures of UNCLOS. It even characterized the Philippines' submission as outside the purview of the tribunal⁸. Furthermore, the Chinese Embassy in the Philippines also stated that the arbitration was framed and manipulated by external powers like the United States⁹.

In July 2016, the Permanent Court of Arbitration ruled in favor of the Philippines, stating that China's claims of historical rights over the disputed islands, particularly the Spratly Islands, had no legal basis. The arbitration

⁷ Ibid.

⁸ Michael D. Swaine, "Chinese views on the South China Sea arbitration case between the People's Republic of China and the Philippines." *China Leadership Monitor* 51, no. 1 (2016): 1-13.

⁹ "Remarks of the Spokesperson of the Chinese Embassy in the Philippines on the Seventh Anniversary of the So-called Award on the South China Sea Arbitration," Embassy Update, Embassy of the People's Republic of China in the Republic of the Philippines, July 12, 2023, http://ph.china-embassy.gov.cn/eng/sgdt/202307/t20230712_11112236.htm.

court also decided that the unlawful Chinese activities in the South China Sea violated the Philippines exclusive sovereignty in its EEZ.

Post-Arbitration Situation

Despite the ruling of the Permanent Court of Arbitration, China's behavior was divergent and non-compliant to the tribunal, rejecting the arbitral award as "null and void and has no binding force." It continued to operate its land reclamation and build artificial structures on the Spratly Islands, leading to a number of confrontations with other claimant states¹⁰. For instance, between 2014 and 2015, China built a 590-hectare artificial island in Mischief Reef, turning it into a military base with a runway. Additionally, military operations have intensified, resulting in frequent standoffs and incidents involving fishing vessels, coast guards, and military forces.

It is evident that a weak state, like the Philippines, despite having a favorable ruling, can still be considered in a weak bargaining position with another state that has dominant power such as China. Political conflicts hinder states utilizing legal mechanisms in resolving territorial disputes. In the real political arena, not all weak states can act like David to fight against Goliath states.¹¹ Indeed, pursuing arbitration and enforcement of the adjudication is also political in nature.

The Philippines has evolving strategies in addressing the South China Sea conflict after the favorable arbitration ruling. Former president Rodrigo Duterte initially pursued a policy of appeasement toward China. It

¹⁰ "What is the South China Sea Dispute?," News at BBC, July 7, 2023, <https://www.bbc.com/news/world-asia-pacific-13748349>.

¹¹ Stephen E. Gent and Megan Shannon, "Bargaining power and the arbitration and adjudication of territorial claims," *Conflict Management and Peace Science* 31, no. 3 (2014): 303-322, <https://doi-org-ssl.oca.korea.ac.kr/10.1177/0738894213508710>.

downplayed the arbitration ruling and sought closer economic ties with China's Belt and Road Initiative. However, when China failed to deliver the promised investment and continued its assertive activities in the South China Sea, Duterte's administration shifted to "soft balancing," where it maintained its US alliance, fostered security relations with Japan, and pursued a regional code of conduct with ASEAN¹². On the other hand, President Ferdinand Marcos Jr. made a strategic shift and more assertive stance on the South China Sea issue. His administration actively exposes Chinese actions in the West Philippine Sea through the "transparent initiative," using media to call for domestic and international support¹³. Also, Marcos revitalized the Philippine's defense and alliances. For instance, the Enhanced Defense Cooperation Agreement (EDCA) expanded the joint military exercises with the US in other Philippine bases, including locations near Taiwan. Additionally, there were increasing military cooperation with other partners like Japan¹⁴ and Australia.

Furthermore, in navigating the South China Sea issue, the Philippines faces the difficult task of balancing its national interest amid tension with China and the US. Despite the rising territorial dispute over the South China Sea, the Philippines has maintained economic ties with China recognizing the value of trade and investment. Manila has adopted a "limited hard balancing" approach - enhancing its own defense capabilities and strengthening alliances

¹² Renato Cruz De Castro, "From Appeasement to Soft Balancing: The Duterte Administration's Shifting Policy on the South China Sea Imbroglio," *Asian Affairs: An American Review* 49, no. 1 (2020): 35–61, <https://doi.org/10.1080/00927678.2020.1818910>.

¹³ Aaron Jed Rabena, "The Philippines' Four-Pronged South China Sea Strategy," *Australian Institute of International Affairs: Australian Outlook*, (July 16, 2024), <https://www.internationalaffairs.org.au/australianoutlook/the-philippines-four-pronged-south-china-sea-strategy/>.

¹⁴ Aries A. Arugay, "Traversing Turbulent Waters: The Philippines' Evolving Indo-Pacific Strategy." The National Institute of Defense Studies: NIDS Joint Research Series No. 22 (Chapter 4) (2025): 53-61.

with the US, and other middle powers while still pursuing peaceful dialogue and economic cooperation with China¹⁵. Meanwhile, the US continues to play a vital yet evolving role in maintaining regional security by relying on its network of security alliances and partnerships throughout Southeast Asia¹⁶. In this time, the US approach to the South China Sea could take two main paths. One possibility is continued or increased engagement. If the US views active engagement in the dispute as an effective strategy to counter China, it may maintain or strengthen its current posture of support for allies, like the Philippines. Alternatively, there could be a major pullback. If US leaders conclude that involvement offers little domestic political advantage, the US might reduce assistance to the Philippines or shift the security burden elsewhere¹⁷. Notably, the United States-Philippines Mutual Defense Treaty is a critical pillar of Manila's security policy. Under this treaty, any armed attack on a Philippine public vessel in the Pacific area is a ground to invoke mutual defense. The US has reaffirmed its commitment, stating that attacks on Philippine forces in the South China Sea would trigger the treaty¹⁸. However, both parties are cautious as the US seeks to avoid unnecessary escalation with China, preferring to support the Philippines through capacity-building, intelligence sharing, and diplomatic backing rather than direct military

¹⁵ Renato Cruz De Castro, "Caught between appeasement and limited hard balancing: The Philippines' changing relations with the eagle and the dragon," *Journal of Current Southeast Asian Affairs* 41, no. 2 (2022): 258-278.

¹⁶ The Asia Foundation. 2024. "Critical Issues for the United States in Southeast Asia in 2025". Accessed last April 18, 2025 at <https://asiafoundation.org/wp-content/uploads/2024/10/Critical-Issues-for-the-United-States-in-Southeast-Asia-in-2025.pdf>

¹⁷ Lee Jaehyon, "Strategies of the Philippines, China, and the US in the South China Sea in 2025 and Future U.S. Policies on Alliances and the Indo-Pacific Region." February 24, 2025. The Asian Institute for Policy Studies. Accessed last April 19, 2025 at <https://en.asaninst.org/contents/strategies-of-the-philippines-china-and-the-us-in-the-south-china-sea-in-2025-and-future-u-s-policies-on-alliances-and-the-indo-pacific-region/>.

¹⁸ Chad De Guzman, "Why the U.S. Faces a Delicate Balancing Act on Countering China in the South China Sea," *World Conflict, Time*, last modified March 27, 2024, <https://time.com/6960916/us-military-intervention-south-china-sea-philippines-china/>.

confrontation¹⁹. Nevertheless, it gets more complicated as China views Philippines' closer alignment with the US as a threat to its strategic objectives in the South China Sea. It is evident that the Philippines' balancing strategy complicates China's attempts to strengthen its control over the contested waters.²⁰

On the other hand, the Association of Southeast Asian Nations (ASEAN) has consistently pursued a diplomatic strategy regarding the South China Sea conflict, focusing on peaceful resolution and adherence to international law. Since 2013, ASEAN has been actively negotiating with China to develop a more binding Code of Conduct (COC), although progress has been slow. The organization has held numerous discussions at both senior official and working group levels, demonstrating its ongoing commitment to diplomacy²¹. Despite such diplomatic efforts, ASEAN faced considerable obstacles in managing the dispute. Its effective intervention was complicated by the different levels of involvement and national interests among its member states in the dispute.

Challenges in Arbitration Rulings

While international arbitration provides a venue for smaller nations to assert their rights against larger powers, it also raises some challenges for legal

¹⁹ Sarang Shidore, "Defending Without Provoking: The United States and the Philippines in the South China Sea," Quincy Institute for Responsible Statecraft, February 12, 2025, <https://quincyinst.org/research/defending-without-provoking-the-united-states-and-the-philippines-in-the-south-china-sea/#h-law-not-war-the-2016-tribunal-award>.

²⁰ Renato Cruz De Castro, "The Philippines' Renewed "Hard Balancing" Policy toward China: Has the Time Come for De Facto Philippine-Taiwan Security Relations?" *The Global Taiwan Brief* 9, no. 5 (March 6, 2024), <https://globaltaiwan.org/2024/03/the-philippines-renewed-hard-balancing-policy-toward-china-has-the-time-come-for-de-facto-phBrief-9-taiwan-security-relations/>.

²¹ "Remarks by H.E. Le Luong Minh Secretary-General of ASEAN High-Level International Workshop 2015: Managing South China Sea Conflict from ASEAN Perspective," ASEAN, 26 June 2015, https://asean.org/wp-content/uploads/images/2015/July/SG_Remarks/SG%20remarks%20at%20SCS%20conference%2026%20June%202015_FIN.PDF.

battles. Under international law, an international court or tribunal could render a legally binding settlement only if the states concerned have expressly or implicitly consented to the exercise of jurisdiction by such international bodies²². The jurisdiction of international arbitral tribunals and courts is solely consensual. Also, the international arbitral awards are not self-enforcing. For enforcement, state must raise its enforcement to international judicial bodies.²³ As discussed above, although rulings from the Permanent Court of Arbitration carry weight of legal authority for the benefit of the Philippines, China does not adhere to or respect the court's rulings. It is unfortunate that compliance relies heavily on the willingness of the states involved to cooperate and implement the judgments.

Moreover, the arbitration tribunal has no strict enforcement mechanisms. International arbitration and adjudication lack a binding nature and there is no overarching global authority with the power to enforce international decision.²⁴ In certain cases, the UN Security Council holds the authority to implement rulings made by international bodies such as the International Court of Justice. However, the success of such enforcement largely depends on the political dynamics within the Security Council (considering that China is one of the members of such a Security Council) and the readiness of its member states to act.

Conclusion

²² Richard Bilder, *Adjudication: International Arbitral Tribunals and Courts*, Peacemaking in International Conflict: Methods and Techniques, (United States Institute of Peace, 2007), 195-226.

²³ Todd L. Allee and Paul K. Huth, "The Pursuit of Legal Settlements to Territorial Disputes," *Conflict Management and Peace Science* 23, no. 4 (2006): 285-307, <https://doi-org-ssl.oca.korea.ac.kr/10.1080/07388940600972644>.

²⁴ Stephen E. Gent and Megan Shannon, "The effectiveness of international arbitration and adjudication: Getting into a bind," *The Journal of Politics* 72, no. 2, (2010): 366-380, <https://doi.org/10.1017/S0022381609990788>.

This paper on territorial dispute resolution through international arbitration and adjudication is crucial for understanding scholars and policymakers for policy advice. It provides an opportunity to examine the strengths and weaknesses of international rulings in addressing the increasing number of territorial disputes.

It is evident that the Philippines-China arbitration case over the South China Sea exemplifies that international law could challenge the actions of rising powers. Such unique arbitrate ruling charts a legal precedent that other nations can rely on for future territorial disputes. Nevertheless, it highlights the limitation of international adjudication when major powers refuse to accept outcomes that challenge their sovereignty.

The South China Sea dispute also underscores the broader geopolitical implications of territorial conflicts. It highlights the significance of regional alliances and the strategic balance between diplomacy and deterrence. Indeed, this regional issue is a test of global order and security.

Author's Bio:

Stephanie Magsumbol is an intern at the Consortium of Indo-Pacific Researchers. She is a graduate student at Korea University in Seoul. Her research interest lies in International Law, South China Sea, and U.S.-Philippines relations.

The author thanks Dr. Indu Saxena and Jose Custodio for their extensive feedback and review.