

Claims in South China Sea Arbitration Undermine Efforts to Resolve Disputes

Kuan-Hsiung Wang, Professor
Graduate Institute of Political Science,
National Taiwan Normal University

Rising tensions in the South China Sea are threatening peace and stability in the region, which is one of the world's most important shipping channels. In recent months, amid growing concern in the international community, there has been considerable media coverage of the case filed by the Philippines at the Permanent Court of Arbitration (PCA) concerning the legality of mainland China's claims in these waters.

Thus far, two hearings have been held by the PCA—one concerning jurisdiction and admissibility in July 2015, with the court subsequently ruling on Oct. 29 that it had the power to hear the case, and another on the merits in November 2015. In the arbitration, the Philippines challenged the status of Taiping Island (Itu Aba), which is part of the sovereign territory of the Republic of China (Taiwan). By claiming that Taiping constitutes a rock rather than an island, the Philippines is undermining efforts to resolve disputes and promote stability.

Taiping Island

In 1946, the Republic of China (Taiwan) recovered islands and geological features in the Nansha Islands (Spratly Islands) from Japan, including the largest naturally formed island—Taiping. According to transcripts from the two hearings, Taiping has been described by the Philippines as a rock because it has an area of less than 0.43 square kilometers, no permanent population, no potable water, and is capable of generating limited quantities of agricultural produce.

Contrary to Philippine statements, however, Taiping possesses an adequate water supply. There are several groundwater wells on the island, some of which were in use long before Taiwan's Coast Guard Administration took over management of Taiping in 2000 from the ROC military. Taiping Island, which has a land area of 0.50 square kilometers, has consistently sustained more than 100 people, and is home to a functioning farm that produces a wide variety of fruits and vegetables including corn, sweet potatoes, mangoes and guavas. Furthermore, Taiping has a hospital to provide emergency medical treatment to the personnel stationed there.

It is evident that Taiping qualifies as an island in accordance with Article 121 of the United Nations Convention on the Law of the Sea (UNCLOS). So why then does the Philippines argue that it is a rock?

Exclusive Economic Zones

The distance between Taiping Island and the Philippine island of Palawan is around 199.6 nautical miles. As each is entitled to an exclusive economic zone (EEZ) of 200 nautical miles, this would create a wide area of overlap. Furthermore, if Taiping is deemed capable of generating a 200-nautical mile EEZ and a continental shelf, a delimitation of maritime boundaries would need to be conducted for the whole area, which is not within the jurisdiction of the tribunal.

Obviously, the claim that Taiping Island is a rock is fallacious. The Philippines raises the issue so it can contend that the EEZ around Palawan does not overlap with any other zone. However, the Philippines' argument differs from its position of April 5, 2011 when it stated—in

response to mainland China’s Notes Verbales of May 7, 2009—that it “exercises sovereignty and jurisdiction over the waters around or adjacent to each relevant geological feature in the KIG [Kalayaan Island Group] as provided for under the United Nations Convention on the Law of the Sea.”

The Philippines’ argument regarding Taiping Island is simply a legal tactic that does not contribute to the practical resolution of disputes in the South China Sea. On the contrary, its position might further escalate tensions.

Misleading Assertions

In its statement to the tribunal, the Philippines also misrepresents quotes by ROC President Ma Ying-jeou. In one case, it alleges that the president wrote the ROC government claimed sovereignty over insular features in the Nansha Islands for the first time in 1935. In fact, in the source for these quotes, the president states that the ROC issued a map of the islands in 1935 that for the first time divided them into four different groups. In the same passage, President Ma clearly states that the ROC government defended its sovereignty over the islands through diplomatic means in the early 20th century.

By challenging the legal status of Taiping Island, the Philippines is in fact undermining its own case for the fair and just application of UNCLOS. In order to ensure long-term stability in the region, all parties concerned must respect the principles and spirit of international law and pursue peaceful cooperation for mutual benefit, as outlined in President Ma Ying-jeou’s South China Sea Peace Initiative.