

Recent Ripples in South China Sea

Aarish U. Khan

ISLAMABAD: In the backdrop of tensions between China and the Philippines over Huangyan Island in the South China Sea, the Institute of Regional Studies (IRS) Islamabad, organized a roundtable discussion on the subject here on Thursday. The Huangyan Island in the South China Sea attracted international attention in April when a Philippine warship harassed about a dozen Chinese fishing vessels in its vicinity. Tensions have been escalating in the area since then with claims and counter-claims of the exercise of sovereignty over Huangyan Island (also known as Scarborough Shoal) by Beijing and Manila. While Beijing claims exclusive sovereignty over the shoal urging other countries to stay out, Manila wants international mediation for the resolution of what it calls a “territorial dispute” with China.

Mr. Aarish U. Khan, Research Analyst at IRS who was the main speaker of the roundtable, shared that China claims to have discovered Huangyan Island as far back as in the 13th century, and that it approved and published the names of the 132 islands, shoals, reefs, and sand bars in the South China Sea (including the Huangyan Island) as part of the Chinese Zhongsha Islands in 1935. Since then, it has conducted fishery, scientific exploration, radio communication, and sea traffic in the area, shared Khan.

Khan referred to several official recorded statements by Chinese leadership in the 1950s reaffirming Chinese control of the territories. He quoted Article 2 of the Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone of 1992, which states: “The land territory of the People's Republic of China includes the mainland of the People's Republic of China and its coastal islands; Taiwan and all islands appertaining there to including the Diaoyu Islands; the Penghu Islands; the Dongsha Islands; the Xisha Islands; the Zhongsha Islands [containing Huangyan Island] and the Nansha Islands; as well as all the other islands belonging to the People's Republic of China.” Khan added that at the time of this reiteration, it was not disputed by any other country at the time (including the Philippines).

Khan shared that Philippines started making public claims on the territory only after mid-1997, which culminated finally in the amendment of the Philippine Territorial Sea Baselines Act in 2009 to include Huangyan Island into its territory through a reinterpretation of the international maritime laws in its favor. Quite interestingly, however, according to Khan, the official maps of the Philippines published from 2006 to 2011 have all marked Huangyan Island as outside the boundary of the Philippine territory.

Khan shared that the Philippines claim of sovereignty over Huangyan Island rested partly on its geographical proximity to it. Khan asserted, however, that according to international judicial practice and international case law, geographic proximity did not constitute a basis for one country to occupy the territory of another country. He cited several examples of countries having remote off-shore territories, which are much closer to other countries than to their own. Khan also contested the Philippines claim on Huangyan Island on the basis of United Nations Convention of the Law of the Sea (UNCLOS). “UNCLOS does not have any provision to change a country's sovereignty over a territory, let alone empowering any nation to extend its EEZs to include territories of other countries,” said Khan.

Report: Roundtable on “Recent Ripples in the South China Sea” with Mr. Aarish U. Khan, Research Analyst at the Institute of Regional Studies (IRS) Islamabad, on June 14, 2012

Referring to some news reports, Khan shared that in 1997, a court in Olongapo, Philippines, dismissed charges of illegal entry of 21 Chinese fishermen at Scarborough Shoal, asserting that the prosecution had failed to establish Philippines claim on the territory. Under international law, he added, such judicial decision could create legal obligations on the Philippines state.

Brig. (Retd.) Bashir Ahmed, Senior Fellow at IRS, added that since China was pursuing peaceful neighborhood policy for several decades, and enjoying cordial relations with all the ASEAN countries, Japan, South Korea, and Australia, Philippines would be doing itself and the whole region a disservice by indulging into a territorial dispute with China at a time when the international strategists were looking forward to the 21st century as an Asian century owing to the development potential as well as progress of the region.