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Why the South China Sea Verdict Is Likely to Backfire

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On July 12, the Permanent Court of Arbitration in the Hague issued a decision that could greatly impact the ongoing tensions in the South China Sea. Ruling on a case brought by the Philippines in 2013, the decision of the five-judge panel represented an emphatic victory for Manila's position and a near total repudiation of China's claims. In its most significant finding, the tribunal flatly rejected China's argument that it enjoys historic rights over most of the South China Sea. Such a claim, the panel ruled, had no legal basis. The ruling was a sweeping rebuke of Beijing's conduct, especially its seizure of uninhabited reefs and its construction of artificial islands. Such actions, the tribunal concluded, violated China's obligations under the United Nations Convention on the Law of the Sea.

Philippine leaders were ecstatic about the decision. "It's an overwhelming victory. We won on every significant point," stated Paul Reichler, Manila's chief counsel in the case. The overall decision was not that much of a surprise, but the categorical nature of some of the language was surprising even to seasoned regional observers. "It goes much farther than most people expected that this was going to go. It's really devastating to China," concluded Bonnie Glaser at the Center for Strategic and International Studies.

Beijing's reaction was swift and ferocious. President Xi Jinping reiterated that the waters had been Chinese territory since ancient times and this ruling could not invalidate such history. Foreign Minister Wang Yi was more succinct and caustic. "This farce is now over," he stated. "China opposes and will never accept any claim or action based on those awards."

The Chinese reaction came as no surprise. Beijing had rejected the legitimacy of the arbitration proceedings from the very beginning, and as a decision drew near, the hostile rhetoric intensified. Moreover, China's actions in the South China Sea became more brazen, most notably a live-fire drill by the Chinese navy earlier this month.

There is likely to be much celebrating in Manila regarding the tribunal ruling. It is about as definitive a legal victory for the position taken by the Philippines' government as any leader there could have hoped. New president Rodrigo Duterte has been given a diplomatic and propaganda bonanza.

The danger for the United States as Manila's security guarantor is that Duterte and his government may take the ruling too seriously and believe they have a mandate to really press Beijing. The tribunal's decision does nothing to change the configuration of power in and around the South China Sea. The Philippines is still a small, weak country; China is still a large, powerful country. And regardless of the tribunal's ruling and reasoning, the Chinese still believe that their position is right and just. They are not about to back down.

Like any great power, Beijing is not about to subordinate what it sees as vital national interests to the whim of an international tribunal. In this regard, it is worth remembering that the United States, for all its huffing and puffing, is not even a signatory to the Law of the Sea Treaty. If anything, the ruling may well harden the perception in Beijing and Moscow that the Western liberal democracies use international law as an ideological battering ram when convenient—and that it is imperative for them to stand up to the West.

That is why this dynamic places the United States in an awkward and potentially dangerous position. Washington maintains a security treaty with Manila, and however much the “mutual” aspect of that treaty obligation is a laughable fiction, it does not change the underlying reality that Philippine leaders and the Philippine public believe the United States has an obligation to come to their defense if a war breaks out. Weeks ago, Duterte already asked whether the United States backed its treaty ally, and he certainly expected a positive answer.

The danger is that the expectation of U.S. support might encourage Manila to take a bolder stance than it might otherwise think prudent—or would in fact be prudent. That is an inherent danger whenever a major power links its security to the agenda of a small client state. Matters can get out of hand quickly if the client acts in a reckless manner. One need only recall what happened to czarist Russia with its fateful decision to back its small Serbian ally against Austria-Hungary in 1914.

China is already suspicious that the United States is using the Philippines as a pawn against Beijing’s interests in the South China Sea. Indeed, some Chinese officials even believe that Washington prodded Manila to pursue the case with the arbitration panel.

Washington needs to be alert to potential dangers. The defense alliance with the Philippines is an unwise commitment that provides far more risks than benefits to America. It should be rescinded.

But even if U.S. officials are not willing to go that far, they should at least make it very clear to the Duterte government that the United States will not tolerate foolish provocations directed against Beijing. Manila should be content to pocket the tribunal’s decision for the symbolic diplomatic victory that it is. The decision does not give the Philippines a writ to challenge China’s power in the South China Sea. It certainly does not give Manila a writ to do so if it risks dragging America into an armed conflict.