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“Pendulum Swings” in the Philippines’ South China Sea Approach?

Policy Continuities from the Ramos to Duterte Administrations

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“Rodrigo Duterte and his predecessors (Ramos, Estrada, Arroyo and Aquino III)”

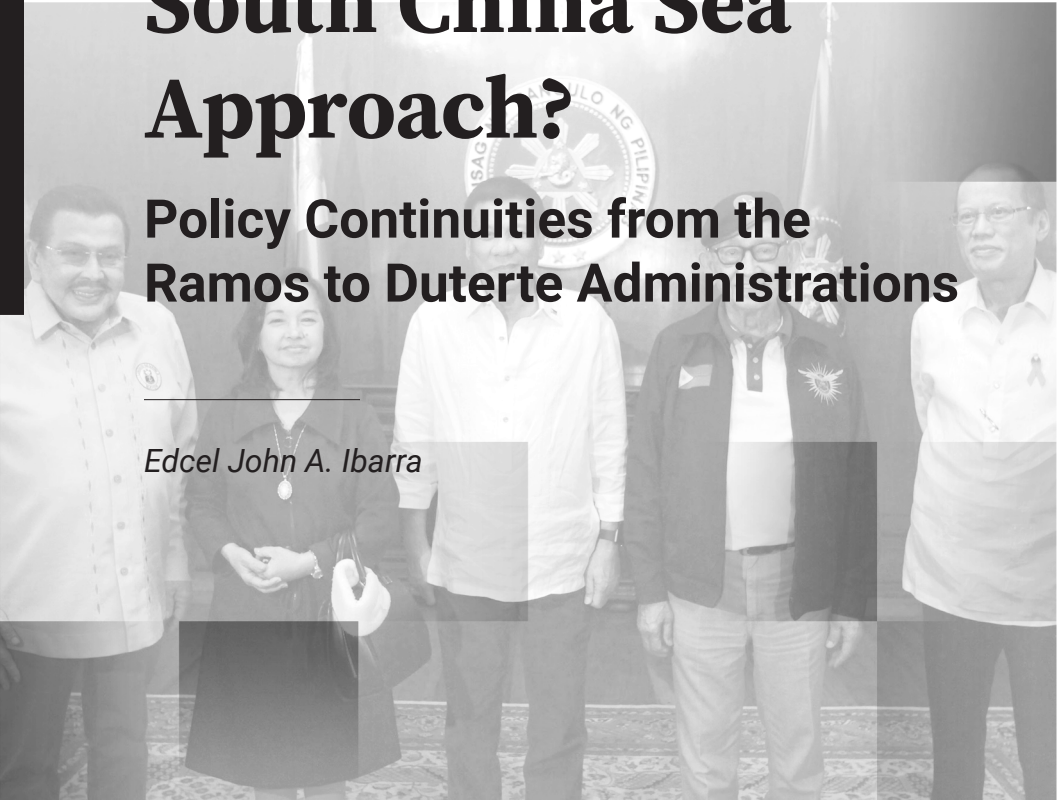
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Abstract

Several observers have likened Philippine foreign and security policies on the South China Sea to a pendulum, with each administration swinging away from their predecessor’s approach. Thus, the Philippines’ South China Sea approach has seemed inconsistent. Yet despite the oscillations, there remain some continuities. I survey the Philippine government’s actions on the South China Sea under five presidential administrations: Ramos, Estrada, Arroyo, Aquino, and Duterte. From 1995 to 2022, I observe that the country’s foreign and security policies have consistently rested on five pillars: (1) bilateral diplomacy with China, (2) multilateral diplomacy through ASEAN, (3) grounding in the law

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of the sea, (4) maintaining the alliance, and (5) modernizing the military. Remembering these policy continuities matters for current and future policymaking on the South China Sea. Consistency is not always desirable and may result from stubbornness. Before aiming for consistency, the Philippines must ensure the correctness of the foreign and security policies it has consistently pursued so far.

Keywords: Philippines, foreign policy, national security, South China Sea

Introduction

The late Aileen S. P. Baviera, a Filipino professor of Asian Studies at the University of the Philippines, had observed that the Philippine foreign and security policies on the South China Sea were “swinging wildly from one end to the other, like a pendulum quite suddenly unhinged” (2017, 158). This metaphor of “pendulum swings” have captured vividly what past studies have already detected and what contemporary and future research have confirmed—that the Philippines was behaving erratically on the South China Sea issue (see e.g., Buszynski 2002; Heydarian 2016; De Castro 2016, 2020, 2022). These abrupt policy shifts have left observers perplexed, prompting one to ask, rather exhaustedly, why the Philippine foreign and security policies “oscillate so much” (Tran 2019, 261). The seeming perplexity of the Philippine approach matches the complexity of its object. The South China Sea is a semi-enclosed body of water between East and Southeast Asia. It is a hotbed of problems: overlapping territorial claims by the Philippines, Malaysia, Brunei, Vietnam, and China, as well as Taiwan; overlapping maritime claims by these countries plus Indonesia; power projection among the naval powers, including the United States, Japan, and Australia; and increasingly, overfishing, marine environmental destruction, and navigational risks.

However, the Philippines’ South China Sea approach still demonstrates some continuities despite the oscillations. To supplement a “pendulum swings” history of the Philippines’ behavior, I highlight continuities in the country’s foreign and security policies on the South China Sea since 1995, when the territorial and maritime disputes first became a top national security concern, until 2022, the end of President Rodrigo R. Duterte’s term. I suggest that the seeming inconsistencies in the Philippines’ behavior may primarily be epistemological

rather than ontological. Odds are stacked against observing continuities because of the Philippines' centralized policymaking in foreign affairs and security administration, personalized politics, lack of incentives, and limits in state resources and capacity.

What if there have been continuities in the Philippine's foreign and security policies on the South China Sea? For one, we can reasonably expect the countries' policies to remain on the same path if the factors contributing to the consistencies persist. Even without knowing those factors, their sheer persistence for nearly three decades suggests that they may continue to shape the Philippines' behavior for the years to come. For another, knowing these policy continuities can help us evaluate whether those foreign and security policies rest on the correct pillars. The larger time scale needed to observe policy continuities helps us better detect and learn history's lessons. Consistency is not always desirable and, indeed, may result from stubbornness. The Philippines must first ensure the correctness of its policies before aiming for consistency.

This article proceeds as follows. I briefly chronicle a “pendulum swings” history of Philippine foreign and security policies on the South China Sea. Next, I explain why that account may be untenable. Finally, before the conclusion, I highlight continuities in the Philippines' foreign and security policies. They rest on five pillars: (1) bilateral diplomacy with China, (2) multilateral diplomacy through ASEAN, (3) grounding in the law of the sea, (4) maintaining the alliance, and (5) modernizing the military. I discuss each of these, focusing on atypical cases—that is, presidential administrations not typically associated with that pillar.

Swings

A history of “pendulum swings” in the Philippine's foreign and security policies on the South China Sea begins with the Mischief Reef incident. In 1995, the Philippines discovered that China had built structures on the reef, which was then unoccupied. Mischief Reef lies too close for the Philippines' comfort, only around 230 km from the island of Palawan—about the distance across the Taiwan Strait from Xiamen, China to Taichung, Taiwan or from Manila to Baguio (The Philippines' Summer Capital). In response, Fidel V. Ramos's administration (1992 to 1998) adopted a “liberal” policy, courting diplomatic support from international organizations, especially ASEAN and the then newly established ASEAN Regional Forum. Eventually, however, the administration shifted to a

"realist" policy by the end of its term, courting instead military support from the United States—the Philippines' only treaty ally. The move reversed not only the country's previous "liberal" policy but also its previous security policy of asserting military independence after the Philippine Senate canceled the military bases agreement with the United States in 1991 (Buszynski 2002).

The new "realist" policy continued under Joseph E. Estrada's administration (1998 to 2001) (Buszynski 2002). Estrada and the Senate reversed the Philippines' security policy in 1999 by ratifying the 1998 Visiting Forces Agreement (VFA) with the United States. However, the reversal cannot be overstated. The Senate, hostile to stronger security ties with the United States in 1991, now supported it. The VFA allows US troops, ships, and planes to visit the Philippines without the usual restrictions for foreign militaries (VFA 1998).

After Estrada's ouster, Gloria Macapagal Arroyo's administration (2001 to 2010) continued to strengthen the Philippines' security ties with the United States, supporting the latter in the global war on terror after the September 11 attacks. However, the administration shifted to an "equi-balancing" policy after 2004. Philippines-US relations soured after Arroyo pulled back the Philippine contingent in Iraq, giving in to a militant group's demand to save a Filipino migrant worker they were holding hostage. The Philippines sought to strengthen ties with China to compensate for the souring of relations with the United States. The move resulted in a "golden age of friendship" in which the Philippines and China cooperated on landmark projects on the Philippines' telecommunications and transportation infrastructure and a watershed tripartite project (with Vietnam) on joint exploration of offshore oil and gas in the South China Sea. These deals, however, were eventually canceled by the end of Arroyo's term because of alleged corruption in the infrastructure projects and constitutional challenges to the joint exploration project (Heydarian 2016).

Despite the anomalies in previous deals with China, Benigno S. Aquino III's administration (2010 to 2016) continued seeking stronger ties with the rising power. However, a series of incidents in the South China Sea pushed the administration to shift to "balancing" against China (De Castro 2016). It reached a climax with the Scarborough Shoal standoff in 2012, in which the Philippines lost control of the reef to China. In response, the administration launched arbitration against China and strengthened its security ties with the United States through the 2014 Enhanced Defense Cooperation Agreement (EDCA). EDCA

allows US troops to maintain a rotational presence in agreed sites around the country, place military equipment there, and build improvements (EDCA 2014). While Philippine relations with the United States warmed, its ties with China soured, with both sides spouting heated rhetoric because of the arbitration and unceasing incidents in the South China Sea.

Two weeks in, Rodrigo R. Duterte's administration (2016 to 2022) received the ruling in the arbitration. The Philippines overwhelmingly won, but the administration decided to tone down the victory. Indeed, the administration shifted to an "appeasement" policy with China (De Castro 2020, 2022) and moved to "separate," at least nominally, from the United States (*Voice of America* 2016). With Philippines-China relations warmed, and Chinese investment in Philippine infrastructure projects returned, time coursed through China's Belt and Road Initiative. Both sides also restored and expanded bilateral diplomatic mechanisms to deal with South China Sea issues. A watershed was an agreement in 2018 to begin negotiations on joint development in the South China Sea. Philippines-US relations, meanwhile, faced a crisis when Duterte canceled the VFA in 2020. The cancellation would take effect after six months. Then, the COVID-19 pandemic hit. China took the opportunity to assert its claims in the South China Sea. Duterte postponed the cancellation and, reversing the policy of toning down the arbitration award, began raising it with President Xi Jinping and in international forums.

Incidents in the South China Sea continued, and Duterte eventually canceled the cancellation of the VFA. Thus, by the end of the Duterte administration, the Philippines had effectively shifted to "soft" and eventually to "limited hard balancing" (De Castro 2020, 2022).

Locked in a Pendulum?

It should come as no surprise that every presidential administration implements new foreign and security policies. This is due to four factors. First, the Philippine president is the chief architect of foreign policy and commander-in-chief of the armed forces and, therefore, has substantial institutional leeway to shape the country's approach based on individual preferences alone. Compare the president's institutional latitude in economic policy, for example. The president must contend far more often with Congress and interest groups, who have more legitimate avenues to block unfavorable policy changes.

Second, Philippine politics is personalized. Political parties are too underdeveloped to formulate platforms that outlive electoral cycles. Even if a party line exists, they are too weak to discipline members into toeing it. Thus, priorities often change from one president to the next, even if they identify with the same party or coalition.

Third, there is no political incentive to plan beyond a presidential term. Philippine presidents under the 1987 Constitution are elected only for a single, nonrenewable term of six years. They may not run for reelection, which limits planning to six-year cycles.

Last, the Philippines is a relatively weak and small state, with limited resources (hence, small) and limited capacity to explore, extract, develop, and deploy these resources (thus, weak).² Limited resources and limited capacity constrain a state from formulating and, especially, implementing policies for the long term. Even if a long-term plan is developed, a relatively weak, small state will find it challenging to implement the program and maintain consistency against adverse reactions by greater powers (Wivel 2021). Thus, a relatively weak, small state must adjust along the way, ensuring inconsistency. The adage "no plan survives first contact with the enemy" (attributed to the Prussian commander Helmuth von Moltke) is especially true for a relatively weak small state. Its policies are often reactive out of necessity and are constrained from being truly proactive (Wivel 2021).

These factors—centralized policymaking in foreign affairs and security administration, personalized politics, lack of incentives, and limits in state resources and capacity—mean that policy continuity can hardly be expected. Yet this is not to say there cannot be any continuities in Philippine policies. Some continuities must still exist. Historical institutional theory has argued that past policies can create path dependencies, constraining future policy choices (Hall and Taylor 1996). Unless new ones outrightly displace past policies, they are

2 According to Lowy Institute (2023), the Philippines is a weak, small state relative to China and other claimant states in the South China Sea, including Indonesia, except only Brunei, as well as major user states, including the United States, Japan, Australia. The Lowy Institute's *Asia Power Index* has branded the Philippines as a middle power since 2021, but between then and 2023, the Philippines has remained second from the bottom on the list of middle powers, above only North Korea, among the 26 Asian countries surveyed.

often only layered on, kept in the background but not removed (i.e., neglected), or kept in letter but not in spirit (i.e., reoriented toward a new goal) (Mahoney and Thelen 2009). In other words, future policies can contain glimpses of past ones. The thread connecting them—the past to the future—must indicate the presence of some continuities in the policy.

A “pendulum swings” history of Philippine foreign and security policies obscures these continuities. The perceived lack of consistency in the Philippines’ behavior is primarily epistemological rather than ontological. Because of the factors above, an analyst is likely to observe inconsistencies more than consistencies.

Because the problem is primarily epistemological, the remedy is to change the analytical approach. First, increase the level of analysis from the individual to the state. Thus, I focus not on the president, who can be fickle, but on the government as a whole—the president, military, bureaucracy, Congress, and Supreme Court. Each president often has their agenda, which makes focusing on presidents biased toward inconsistencies. Second, focus on outcomes rather than intentions. Different government actors often have different policy preferences. Even if they unite, there is no guarantee for a relatively weak, small state that the outcome will align with the whole of government’s intention. Third, enlarge the time scale. Thus, I focus less on transitions between two presidential administrations—when “pendulum swings” are likely to be observed anyway—and more on successive administrations over decades.

Continuities

Philippine foreign and security policies on the South China Sea from 1995 to 2022 have rested on five pillars: (1) bilateral diplomacy with China, (2) multilateral diplomacy through ASEAN, (3) grounding in the law of the sea, (4) maintaining the alliance, and (5) modernizing the military. Each pillar has, in general, consistently figured in the five previous presidential administrations.

Bilateral Diplomacy with China

The Philippines is engaging China in bilateral diplomacy. This pillar is often associated with the Arroyo and Duterte administrations because of their friendliness toward China, but it has, in fact, begun under the Corazon C. Aquino

administration (1986 to 1992), expanded during the Ramos administration, and continued by the Estrada administration. Though often branded as the most confrontational of Philippine administrations toward China, the Aquino III administration remained open to bilateral diplomacy.

Corazon C. Aquino conducted summit diplomacy in her visit to China in 1988. Concerned with economic recovery after Ferdinand E. Marcos Sr.'s dictatorship, Aquino had trade at the top of her agenda, but she was still able to raise the South China Sea issue with China's leader, Deng Xiaoping. Deng told Aquino that China and the Philippines could "shelve the issue for now and pursue joint development" (FMPRC 2016). With Deng's assurance, bilateral relations remained calm: the South China Sea disputes would not feature in the bilateral agenda until the Mischief Reef incident in 1995.

The Ramos administration expanded Philippine bilateral diplomacy with China after the Mischief Reef incident. The Philippines and China had already established foreign ministry consultations in 1991 (China Embassy PH 2009). Philippine officials used this mechanism in March 1995 to talk to their Chinese counterparts about Mischief Reef (Memorial of the Philippines, *South China Sea Arbitration* 2014, annex 177). In August 1995, the Philippines and China also launched a bilateral consultation mechanism specific to the South China Sea issue (annex 180)—more than two decades before the Duterte administration launched (relaunched?) the Bilateral Consultation Mechanism on the South China Sea (BCM) with China in 2017. Moreover, after initial talks at that meeting and in another meeting in 1996, the Philippines and China established expert groups on fisheries cooperation, the marine environment, and confidence-building measures (Baviera 2001)—breakout bodies that resemble the working groups of the BCM. Thus, "[w]hile diplomatic ties were bad after 1995, it must be remembered that the most intensive period in relations between the two countries, in terms of high-level exchange of visits and dialogues, in fact came on the heels of the Mischief Reef dispute" (Baviera 2001, 11).

Estrada, despite his short term as president, also conducted summit diplomacy in his visit to China in 2000. The result was a framework for Philippines-China bilateral cooperation, including on the South China Sea issue (FMPRC 2000). In the background, the expert groups on fisheries cooperation and confidence-building measures continued meeting (Baviera 2001). The bilateral mechanisms established during the Ramos administration did not last for long. The two

countries convened their last expert group meeting, the third meeting on confidence-building measures, in April 2001, under the Arroyo administration (FMPRC 2016).

The Aquino III administration wanted to maintain the Philippines' relations with China but was prevented by China's narrowing of openings for bilateral diplomacy after the Philippines filed an arbitration case in January 2013. To manage the Scarborough Shoal incident in 2012, the Philippines held around 50 bilateral meetings with China (DFA 2013c). In foreign ministry consultations in October 2012, the Philippines even proposed increasing the frequency of these annual senior-level exchanges to twice a year. The proposal did not bear fruit. The foreign ministry consultations convened for the last time under the Aquino III administration in June 2013; the next round would be in January 2017, under the Duterte administration (see DFA 2013b; FMPRC 2017). Philippine officials might have lost faith after China begun dredging, building artificial islands, and constructing structures on its occupied features in the South China Sea toward the end of 2013. Indeed, because of this, the Philippines had to amend its complaint to the arbitral tribunal, saying that China's actions were "aggravat[ing] and extend[ing] the dispute" (South China Sea Arbitration 2016, paras. 1110–11).

Aquino was set to visit China in September 2013 for the China-ASEAN Expo, where the Philippines was the country of honor. But days before the trip, China asked "for the president to visit ... at a more conducive time," according to the Philippine Department of Foreign Affairs (DFA) (Reuters 2013b). Likewise, the DFA invited the Chinese foreign minister for talks to de-escalate tensions, but the Chinese foreign ministry ignored the invitation (DFA 2013c). Despite the snubs, however, the administration kept bilateral diplomacy as a component of its three-track approach to the South China Sea disputes. The arbitration was only one track (the "legal" track). Alongside it, the Philippines also sought to conclude a COC through ASEAN (the "political" track) and continue bilateral diplomacy with China (the "diplomatic" track) (DFA 2013a). But the Philippines could not continue with bilateral diplomacy because China had set conditions to resume talks. According to the Philippine DFA, "The Chinese unequivocal message [was]: *Tanggapin ninyo na amin ang buong South China Sea bago tayo mag-usap* [Accept that the entire South China Sea is ours before we talk]. It ha[d], therefore, become impossible to continue bilateral discussions on disputes in the West Philippine Sea with China on the basis of this rigid position" (DFA 2013c).

Just as Philippine officials might have lost faith in China, Chinese officials might have also lost faith in the Philippines because of the arbitration. But they should not have been shocked by the move, and they should not have viewed it as adversarial. Philippine officials consulted their Chinese counterparts many times before launching arbitration. They even invited them to file a case together. Indeed, the arbitral tribunal, reviewing extensive records of Philippines-China talks since 1995, observed that "China was aware of the issues in respect of which the Parties disagreed and [could not] have been taken by surprise when the Philippines decided to proceed with arbitration" (*South China Sea Arbitration*, Award on Jurisdiction 2015, para. 343). Moreover, China was free to participate in the proceedings—it chose not to.

Aquino's use of heated rhetoric against China also contributed to the souring of relations. Aquino infamously compared China's assertiveness in the South China Sea to Nazi Germany's annexation of Czechoslovakian land before World War II—twice, and each before the international press (*New York Times* 2014; *Guardian* 2015).

Why has the Philippines persisted with this pillar? First, the Philippines has wanted to resolve its disputes with China in the South China Sea peacefully through negotiations. The use of force is not a viable option. For one, the Philippines has paltry military capabilities, especially in the maritime and air domains, compared to China. For another, the Philippines, a founding member of the United Nations, has long supported the development and strengthening of international institutions, including international law, in which the peaceful resolution of disputes is a key tenet. Second, the Philippines has wanted to manage, if not resolve, its disputes with China to attract Chinese aid, trade, and investment for economic development. This goal is understandable for the Philippines, a developing country that has failed to catch up to the rapid economic rise of its neighbors, Taiwan and Malaysia.

Multilateral Diplomacy through ASEAN

The Philippines has pushed ASEAN to engage China in multilateral diplomacy. The goal is to conclude a code of conduct in the South China Sea (COC), among others. A COC would set rules of behavior and promote cooperation in the disputed areas, reducing tensions and preventing armed conflict between the parties.

This pillar is often associated with the Duterte administration. The Philippines was in rotation as ASEAN chair in 2017 and ASEAN country coordinator for ASEAN-China relations from 2018 to 2021. In these roles, the Philippines helped move forward COC negotiations, which had stalled since 2002. Progress came at an astonishing pace. In 2016, the parties agreed on the guidelines for hotline communications for maritime emergencies in the South China Sea and a joint statement on the application of the Code for Unplanned Encounters at Sea (CUES) (an agreement meant to prevent incidents between navies) to the South China Sea. In 2017, the parties also agreed on a COC framework, and a year later, they agreed on a single draft COC negotiating text (ASEAN Secretariat 2020; Thayer 2018).

Yet the Philippines has long championed a COC. This began under the Ramos administration. In 1992, the Philippines chaired the ASEAN foreign ministers meeting and pushed for an ASEAN statement on the disputes (Severino 2010). At that time, ASEAN (i.e., Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand) agreed and adopted one. The 1992 ASEAN Declaration on the South China Sea called for, among others, “establishing a code of international conduct” (para. 4), marking the first time that an ASEAN document mentioned a COC. ASEAN wanted China to also sign the declaration at that time because the Chinese foreign minister was already in the meeting as a guest. China refused because it was not part of the drafting but said that it agreed in principle (Severino 2010).

The Philippines invoked the declaration and called for a COC after the Mischief Reef incident. While the Philippines was raising the issue in ASEAN, it also negotiated a bilateral COC with China. China agreed, and the two countries adopted one in August 1995 (Memorial of the Philippines, *South China Sea Arbitration* 2014, annex 180). The Philippines raised the issue too in the then newly formed ASEAN Regional Forum (ARF), whose stated goals included confidence-building and conflict prevention. But China blocked the effort to internationalize the issue in ARF, not least because the United States and its Asia-Pacific allies would have had a say as fellow ARF members (Buszynski 2003).

Urged by the Philippines, ASEAN again called for a COC in 1996. The Ramos, Estrada, and Arroyo administrations worked to move negotiations forward. The Philippines and Vietnam were assigned to prepare a draft modeled on the Philippines-China bilateral COC. Since the Philippines and Vietnam could not

agree, the Philippines prepared its draft to fast-track the process (Buszynski 2003). Vietnam did the same afterward, and both submitted their separate drafts in 1999. ASEAN then arrived at a combined compromise draft and showed the document to China. China prepared its draft and presented one to ASEAN in 2000. However, ASEAN and China could not agree. In 2002, Malaysia proposed shifting from a legally binding COC to a political declaration instead. The Philippines initially rejected the idea, but facing a choice between a political declaration and no action at all, it gave in (Buszynski 2003). The result was the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC). The DOC kept the goal of concluding a COC but consigned the task to the future (para. 10).

ASEAN and China were slow to implement the DOC. In 2005, ASEAN presented a draft of implementing guidelines to China. But because a provision stated that ASEAN members would consult one another first before talking to China—as they had done before in the late 1990s—China rejected the draft. ASEAN and China agreed on the guidelines six years later, in 2011, after ASEAN dropped that provision (Severino 2010; Thayer 2013). In 2012, the parties established expert groups to explore maritime cooperation on certain issues (Thayer 2013). They would not agree on any actual project until four years later, in 2016, with the guidelines for hotline communications and the joint statement on CUES.

The Philippines, under the Aquino administration, called again for a COC after the 2012 Scarborough Shoal standoff. The Philippines pushed for an ASEAN statement on the situation (Official Gazette 2012), but Cambodia, the ASEAN chair, blocked a joint communiqué that mentioned the incident. Cambodia, echoing China's position, reasoned that the issue was bilateral rather than regional. This moment marked the first time in ASEAN's then 45-year history that no joint communiqué was released. Sensing a diplomatic crisis, the Indonesian foreign minister conducted shuttle diplomacy within ASEAN and arrived at a consensus document, the 2012 ASEAN Six-Point Principles on the South China Sea. Indonesia also prepared and presented a new draft COC (Thayer 2013).

Despite Indonesia's efforts, the Aquino administration might have been disappointed in ASEAN. The Philippines launched arbitration without consulting ASEAN. China also reportedly asked the other ASEAN countries to convince the Philippines to drop the case. However, it did not succeed. In August 2013, China gave in to ASEAN's long-standing request and agreed to relaunch COC negotiations (Thayer 2013).

Disappointed or not in ASEAN, the Aquino administration kept the goal of concluding a COC. ASEAN countries and China met in September 2013 for their first COC consultations since the late 1990s. Between 2014 and 2015, the parties also began negotiations on what would eventually become the guidelines for hotline communications and the joint statement on CUES. In 2016, at a special ASEAN-China foreign ministers meeting in Kunming, China, ASEAN countries reached a consensus on a statement urging China to fast-track COC consultations, but in a déjà vu of the 2012 crisis, China reportedly blocked the statement (Thayer 2017).

Why has the Philippines persisted with the pillar? First, the Philippines intends to resolve its disputes in the South China Sea peacefully not only with China but also with its fellow Southeast Asian claimants. Second, the Philippines believes that the disputes must eventually be resolved multilaterally, and it sees ASEAN as an appropriate forum for these negotiations. Even if the Philippines and China agreed on a deal, any agreement must be acceptable to all the other claimants. Third, the Philippines intends for ASEAN to lead in regional peace and security, which is the original vision for the organization. The Philippines has long supported Southeast Asian regionalism and is a founding member of ASEAN. It is Southeast Asian countries' most successful attempt yet at region-building. Last, although it has been argued that China has undermined ASEAN centrality at times, the great power continues to engage the organization.

Grounding in the Law of the Sea

The Philippines grounds its South China Sea claims in the 1982 UN Convention on the Law of the Sea (UNCLOS). This pillar is often associated with the Aquino III administration because of the arbitration, but it has actually begun under the Ramos administration and continued by the Estrada and Arroyo administrations. Moreover, although the Duterte administration initially decided not to “taunt or flaunt” the arbitration award (ABS-CBN News 2016), it eventually defended the judgment in public.

The Ramos administration began harmonizing Philippine law with the law of the sea in 1994. It adopted a national marine policy, becoming one of the first countries in Asia to do so. The policy coincided with UNCLOS's entry into force and served to guide the Philippines' implementation of the convention. Among other things, the policy acknowledged that treating the 1898 US-Spain Treaty

of Paris lines as the Philippines' maritime boundaries—a theory popular among Filipino legal scholars at that time—was incompatible with UNCLOS. The policy also established an interagency coordinating mechanism for maritime matters: Cabinet Committee on Maritime and Ocean Affairs (CABCOM-MOA) (Batongbacal 2015). The Estrada administration strengthened CABCOM-MOA by adding supporting organs: a working-group-level technical committee and a permanent secretariat, the Maritime and Ocean Affairs Center under the DFA (DFA-MOAC) (Strengthening 1999).

The Arroyo administration, though initially uninterested in harmonization, eventually advocated it. Purportedly to rationalize the bureaucracy, the administration abolished CABCOM-MOA and the technical committee and transferred their functions to DFA-MOAC in 2001. But DFA-MOAC was unable to keep up with its extra workload. The Philippines was cramming to meet a May 2009 deadline to submit claims for extended continental shelves (ECS) to an UNCLOS commission. Thus, the Arroyo administration elevated DFA-MOAC into the Commission on Maritime and Ocean Affairs under the Office of the President in 2007 (Batongbacal 2015). The Arroyo administration did not only prepare an ECS claim, it also amended domestic law to conform with UNCLOS. In March 2009, the Philippines adjusted its archipelagic baselines (the perimeter from which all maritime zones, including any ECS, would be measured) to conform with the convention's length and shape requirements. Using these baselines, the Philippines completed and transmitted its partial submission for an ECS in the Benham Rise (now the Philippine Rise) in the Philippine Sea in April 2009 (Batongbacal 2015). The UNCLOS commission endorsed the submission three years later, in April 2012.

Adjusting the baselines was politically contentious. The Philippines could have selected a legally problematic formula, but the Arroyo administration succeeded in lobbying for a safer formula. The House of Representatives presented a version that would have enclosed Scarborough Shoal and the Kalayaan Island Group (KIG) with the rest of the Philippine archipelago. That would have violated UNCLOS's length and shape requirements. The Senate, meanwhile, presented a version that would have enclosed only Scarborough Shoal and applied UNCLOS's "regime of islands" provisions (art. 121) to the KIG. This would not violate the convention's length requirements but would likely violate shape-related criteria. The administration preferred applying the "regime of islands" provisions to

both Scarborough Shoal and the KIG (Trillanes, n.d.). This formula prevailed in Congress in the end.

The law was challenged before the Supreme Court but was upheld by the justices. In the end, the legal theory that the 1898 US-Spain Treaty of Paris lines represented the Philippines' maritime boundaries was discredited (*Magallona v. Ermita* 2011).

The attempts under the Ramos and Arroyo administrations to harmonize Philippine claims with UNCLOS, without doubt, helped the country win the arbitration. Among others, the baselines law aligned with the Philippines' case, which rested on treating Scarborough Shoal and each reef in the KIG as independent units subject to UNCLOS's "regime of islands" provisions.

The Duterte administration, though initially dismissive of the award, eventually also advocated it. Despite deciding earlier not to "taunt or flaunt" the award, Duterte raised it personally to China's president, Xi Jinping, in April 2019 (*Rappler* 2019). He also raised it in a speech at the UN General Assembly in September 2020. There, he reaffirmed the Philippines' commitment to UNCLOS and added that the ruling was "now part of international law, beyond compromise and beyond the reach of passing governments to dilute, diminish, or abandon" (PNA 2020). Yet Duterte seemed defeatist again in May 2021: "*Papel lang iyan. Itatapon ko iyan sa wastebasket*" [It's just paper. I'll throw it in the wastebasket] (CNN Philippines 2021). Still, despite Duterte's antics, Philippine diplomats continued to be guided by the award in dealings with their Chinese counterparts. Philippine military and coast guard officers, as well as fisheries authorities, also continued to abide by the ruling in day-to-day operations (Batongbacal 2021).

Why has the Philippines persisted with this pillar? Resorting to international law is one way for small states, like the Philippines, to mitigate power asymmetries, in this case, with China. The Philippines has little choice but to believe that international law could prevent great powers from abusing and annihilating small states. Harmonized claims allow the Philippines to make stronger demands for China to respect the country's rights under international law. It also allows the Philippines to gain support from other countries. If the Philippines insisted on claims that patently violate international law, it might only encourage China to be more assertive in the South China Sea and discourage other countries from supporting the Philippines.

Maintaining the Alliance with the United States

The Philippines has consistently maintained its alliance with the United States over the years. This alliance is often associated with the administrations of Ramos, Estrada, and Aquino due to significant agreements such as the VFA and EDCA. Despite the friendly approach of the Arroyo and Duterte administrations towards China, they have still maintained the United States as the only treaty ally of the Philippines.

The Arroyo administration allowed alliance cooperation to continue. Even though the United States was "disappointed" in the Philippines after withdrawing from Iraq (CNN 2004), it still continued to assist the Philippines in counterterrorism operations in Mindanao, in the country's south. Assistance came through military exercises, training, equipment, intelligence sharing, and civilian rehabilitation (De Castro 2009). Although activities focused on counterterrorism rather than external security, they still helped strengthen the alliance. Military exercises promoted interoperability and tested interallied coordination. New institutions were also created; among them is the Security Engagement Board (De Castro 2009). This board complements the Mutual Defense Board and extends alliance cooperation to nontraditional security issues. The extended scope of cooperation is beneficial, because many issues in the South China Sea are nontraditional in nature, such as maritime search and rescue and maritime crimes. The United States also assisted the Philippine Navy and Coast Guard in enhancing maritime domain awareness. The assistance covered the Sulu-Celebes Seas (De Castro 2009), but any knowledge gained is, without doubt, transferrable to the South China Sea.

The Duterte administration also allowed alliance cooperation to continue in the background. Though at first, Duterte threatened to cancel the allies' largest annual military exercise, *Balikatan*, he later on allowed it and other interallied military exercises to continue. The Philippines also joined the United States, Japan, and India in a joint sail in the South China Sea in 2019. Similarly, although Duterte initially threatened to cancel EDCA, he eventually allowed construction in EDCA sites to continue, but the focus of projects shifted from maritime security to humanitarian assistance and disaster relief (Lum et al. 2022). The allies also continued consultations in established mechanisms, such as the Bilateral Strategic Dialogue, launched in 2011, and the Two-plus-Two Ministerial Dialogue, launched in 2012 (see US Embassy Manila 2023). In April

2022, the allies also inaugurated a new mechanism: the maritime dialogue, a forum for senior officials to discuss shared maritime concerns, including the South China Sea disputes (US Embassy 2022). The maritime dialogue was itself a product of a milestone joint statement, the Joint Vision for a 21st Century United States–Philippines Partnership, released in 2021 to mark the 75th anniversary of Philippines-US diplomatic relations (US DOS 2021). The alliance nearly broke down when Duterte canceled the VFA in early 2020, but he postponed the cancellation’s entry into force three times, before canceling the cancellation in mid-2021 (PNA 2021). The postponements and eventual cancellation coincided with increased Chinese assertiveness in the South China Sea during the COVID-19 pandemic.

Why has the Philippines persisted with this pillar? Even as the Philippines pursued bilateral diplomacy with China, incidents in the South China Sea continued. The Philippines has an interest in deterring China from these actions. But the country is unable to deter China on its own. While military modernization is underway, it must rely on the United States. The United States commands the world’s most powerful military and is the Philippines’ only treaty ally. The Philippines has no other country to turn to. Of course, it could negotiate a new security arrangement with another country, but negotiations on military matters are delicate—an agreement is not guaranteed. Even if both sides agree, building institutions for collective defense takes time.

Modernizing the Military

The Philippines has made significant improvements to its military over the years. The modernization initiative was first introduced during the Corazon Aquino administration, but it was the Ramos administration that passed the AFP Modernization Act in 1995. The Aquino III administration also launched the Revised AFP Modernization Program in 2012, after the original modernization law expired in 2010. However, the Estrada and Arroyo administrations faced challenges in implementing the plan due to various domestic and international factors, which necessitated a shift in focus towards internal security. Despite hints by the Duterte administration that the military would return to internal security, it continued to implement the Aquino-era modernization plan.

The Corazon Aquino administration considered a modernization plan as early as 1989 (Buszynski 2002). At that time, the Philippines’ military bases agreement

with the United States was about to expire. The Philippines had long relied on its treaty ally and former colonial protector to defend the country from external threats. The AFP was well-equipped to combat internal security threats, especially communist and separatist insurgencies, but ill-equipped for territorial defense. Yet the fate of the Bases Agreement was uncertain amid rising Filipino nationalism. Modernizing the AFP was a contingency should the public and especially the Senate oppose renewing US bases (De Castro 2005). The Senate did vote against in 1991. The administration assigned the AFP to draft another plan afterward (De Castro 1999). But the other, civilian government agencies and the entire Congress were skeptical of giving a larger share of the budget to the military. The country, having just transitioned to democracy, had not forgotten the AFP's role in repressions under Marcos Sr.'s dictatorship. Besides, economic recovery remained the priority then (De Castro 1999).

The Ramos administration revisited the modernization plan and launched a 15-year program in February 1995, a mere month after discovering Chinese structures on Mischief Reef. Modernization was meant to strengthen the navy and air force, but the program ended in 2010 without reaching this goal. Unfortunately, from the late 1990s to the early to mid 2000s, the government was distracted by internal security threats. Ramos and Estrada confronted a growing communist movement and, with it, increased insurgent guerilla attacks (De Castro and Lohman 2010). In addition, Estrada faced a swelling militant Islamist separatist group in Mindanao that had begun occupying a few towns in the region (Honasan 2000). Arroyo encountered resurgent militant Islamist organizations emboldened by the September 11 attacks (Niksch 2007). Modernization was also beset by funding problems, worsened by the financial crises of 1997 and 2007–2008 (De Castro 2005).

Meanwhile, although incidents with China in the South China Sea continued after the occupation of Mischief Reef, Chinese assertiveness toned down after 1995. It would resurge only in 2007, when China had significantly expanded its maritime surveillance fleet and increased its patrols in the South China Sea (Chubb 2021). Indeed, between 1995 and 2007, China's behavior assured the region that the great power was adhering to international norms, especially when it agreed to a DOC in 2002 and acceded to the 1976 Treaty on Amity and Cooperation in Southeast Asia in 2003 (see e.g., Buszynski 2012). Thus, the Philippines had little incentive to build up external security capabilities then. Still, successive administrations kept the modernization law intact, even if only nominally.

The Aquino administration revived and revised the modernization plan in December 2012, a few months after the Scarborough Shoal standoff. The revised program divided appropriations into three five-year “horizons” from 2013 to 2028. Under Horizon 1 (2013–17), the Aquino administration divided funds almost evenly among the army, navy, air force, and joint staff. Assets acquired include helicopters and trainer, transporter, and fighter planes. Under Horizon 2, the Duterte administration increased funds for the Air Force sixfold and the Navy nearly threefold. Assets acquired included amphibious armored vehicles, antisubmarine helicopters, warships, and cruise missiles (Amador et al. 2022; PNA 2022). For horizon 3 (2023–28), the government is eyeing more fighter planes, warships, missiles, and perhaps submarines (PNA 2023a, 2023b).

In the South China Sea, Duterte also allowed the defense and transportation departments to build a beaching ramp and a sheltered port and repair the runway on Thitu Island (*Philippine Daily Inquirer* 2020), the Philippines’ largest occupied reef in the Spratly Islands.

Why has the Philippines persisted with this pillar? The Philippines has very limited military capabilities. Within ASEAN, it ranks above only Brunei, Myanmar, Cambodia, and Laos (Lowy Institute 2023). Moreover, it cannot forever rely on its treaty ally, the United States. For one, the United States had been ambivalent about the applicability of the 1951 Mutual Defense Treaty (MDT) to the South China Sea. This changed only in 2019, when the US state secretary, Mike Pompeo, unambiguously stated the South China Sea is covered (Reuters 2019a). The US ambassador to the Philippines at that time, Sung Kim, added that armed attacks by China’s maritime militia are also covered (*Philippine Star* 2019). In early 2022, the United States abandoned its position of not taking sides in the South China Sea disputes. The US Department of State explicitly supported the Philippines’ maritime (albeit not territorial) claims, called China’s maritime claims “unlawful,” and endorsed the arbitration award (US DOS 2022). For another, even with these recent clarifications, an armed attack against the Philippines in the South China Sea may not automatically oblige the United States to come to the country’s aid. The MDT specifies that any assistance must still pass through “constitutional processes” in both countries (art. 4). Thus, in the end, the Philippines must still undertake self-help as a contingency should the United States get delayed in or be impeded from providing security assistance to the Philippines.

Conclusion

This article has sought to supplement a "pendulum swings" history of Philippine foreign and security policies on the South China Sea by demonstrating consistent behavior from the Ramos to the Duterte administrations. From 1995 to 2022, the Philippines' approach has rested on five pillars: (1) bilateral diplomacy with China, (2) multilateral diplomacy through ASEAN, (3) grounding in the law of the sea, (4) maintaining the alliance, and (5) modernizing the military.

What accounts for the continuities? The answer is beyond the scope of this article, but I offer some preliminary observations. Institutional path dependence may be a factor. The actions taken after the Mischief Reef incident continued to chart the trajectory of Philippine foreign and security policies on the South China Sea. The bilateral diplomatic mechanisms established during the Ramos administration, though stalled during the Estrada and Arroyo administrations, resurfaced during the Duterte administration. Calls for ASEAN to lead in COC negotiations pervaded all future administrations. The harmonization of the Philippines' laws with UNCLOS continued and later helped the Philippines win the arbitration. The alliance with the United States got only stronger, not weaker, after the closure of US bases in the Philippines in the early 1990s. The Philippines also continued to enhance its military capabilities against external security threats. All administrations after Ramos seemed to play variations on the same theme—although each administration varied in their execution.

More specifically, gradual institutional change may account for the continuities. Policies leave legacies in the institutions through which they have been formulated and implemented. Thus, "policymakers forged institutional foundations, which subsequent policymakers cannot simply neglect" (Takagi 2022, 342). Indeed, I would think that Ramos-era policies were merely layered on, drifted (neglected but left to stand), or converted (repurposed for new goals but still left to stand)—but not displaced (abandoned) (see also Mahoney and Thelen 2009).

In the end, remembering these continuities in Philippine foreign and security policies on the South China Sea can help us evaluate whether these policies rest on the correct pillars. Indeed, consistency is not always desirable and may result from stubbornness. For example, the BCM, though hailed as a milestone in 2017, is not, in fact, new. The Philippines and China had already established a similar

mechanism in 1995. The BCM's working groups, established in 2018, are similar to the expert groups established in 1999. The previous effort failed, and we need to find out why. Further research is thus necessary because the factors that led to the failure before might affect the BCM's success in the future.

Additionally, insisting on a COC may be pointless because ASEAN countries and China have not reached an agreement even after three decades. The military and legal situation in the South China Sea has changed dramatically since 1992. Instead of pushing for a COC, it may be more effective to focus on practical cooperation with willing countries, as suggested by Ibarra in 2022. Therefore, the Philippines must first ensure the correctness of the foreign and security policies on the South China Sea it has so far consistently pursued.

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