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Why the South China Sea ruling has just made things tougher for Xi Jinping



The five-judge tribunal that ruled on the arbitration case between the Philippines and China in the South China Sea dispute. Permanent Court of Arbitration, The Hague

by **Geoff Raby**

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AFR Contributor

As the old saying goes, "be careful what you wish for, God may grant it". The International Tribunal at The Hague handed down what seems to be **an unambiguously clear** and potentially far-reaching decision rejecting China's claims in the South China Sea in their entirety and finding that China has "illegally" harassed fishermen exercising traditional fishing rights, and caused irreparable environmental damage with some of its construction activities around rock formations.

The Philippines seems to have prevailed on every major point in dispute. Those in the international community seeking certainty, predictability and the application of due legal process have got what they wished for. The Australian Foreign Minister has already made an early start out of the boxes, asserting that the decision is "final and binding" on the parties and upping the ante by declaring that it is an "important test case for how the region can manage disputes peacefully".

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Rightly or wrongly, **China has never accepted the court's jurisdiction** and said from the beginning that it would not accept its judgment. So China's official response is no surprise. President Xi Jinping has said "China will not accept any proposition or action

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in the South China Sea, under any circumstances, will not be affected by the award".

A strong judgment

So after three years of sittings, [an unusually unambiguous judgment](#), and assertions that peace in our region depends on one state submitting to international arbitration to which, as a sovereign state, it chose not to submit to, tensions will now increase. With no power to enforce its judgments, the dispute that led to The Hague is still there and likely to be more intractable.

The furious Chinese response and aggressive nationalist venting on social media against the court, the Philippines and the United States which, while a non-signatory to the convention, is widely seen in China as the black hand behind the case being initiated, would probably have been no different if a more ambiguous finding had been made. The government has been beating the nationalist drum on this issue for a long time, as had the former Philippines administration.

China's leadership is now under enormous popular pressure to be seen to be standing up for China's territorial sovereignty. Even young and reasonable people are rejecting out of hand the court's decision.

It is also a [dangerous moment politically](#) for Xi. Having used the anti-corruption campaign to set himself up as China's new autocratic ruler, he has made many enemies among the elites. Now any sign of weakness in the face of what will be seen widely in China as national humiliation will provide a legitimate opening to attack him.

While China's foreign ministry and state-run media have already responded with their now-familiar tone of shock, hysteria and wounded sense of betrayal, the substantive response will not be rushed. Although Beijing has had three years in which to work through its options systematically, it will carefully monitor responses among regional neighbours and beyond the region. What is for sure is that calls for China to "play cricket" and go along with the court's judgment will fall on deaf ears. Xi's tenure could not survive that.

Potential belligerence

As a great power in the region, China could do immense damage over this issue, including to Australia. It could adopt a belligerent attitude towards a variety of forms of regional cooperation, it could dare the US to challenge it more directly by more aggressively building and militarising various structures, it could move more oil exploration and drilling platforms into the area, and it could increase its harassment of fishing boats from other claimant states. Such actions, individually and collectively, will all introduce much greater risk and potential instability into the region. China could also declare an air identification zone over the area, as it did with the Daiyu/Senkaku Islands in its dispute with Japan, inviting other states to challenge it.

These are the sorts of measures that Xi and his advisers would now be contemplating. His political survival might depend on his adopting at least some of them. None of

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these things are in Australia's interest, yet there is little that can be done to prevent them happening. Collectively, or even individually, they escalate tensions in the region, increase uncertainty, and work against regional cooperation and integration.

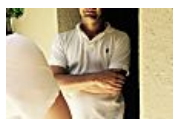
International courts cannot impose their will on sovereign states, no matter how valid the findings in law, and few if any states would today be prepared to go to war to enforce the court's judgments. In the end, all that is left is diplomacy. The South China Sea contains the same disputed territories after The Hague's decision, even if some claims are not seen to be as strong as others.

Negotiation between claimant states is the only path towards some sort of resolution. That was true before Tuesday's judgment and remains just as true afterwards. The Hague has been a detour, which is likely to increase tensions. By denying China's claims any legitimacy, it will make it so much harder politically for China's leaders to manage. A great deal of statesmanship within the region will be needed to find a way back towards the negotiating table. Territorial disputes in the region will not be resolved by unenforceable court judgments, let alone by hectoring and lecturing.

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