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Comparing China's Claims and Policies in the East and South China Seas: Implications for Regional Security

Yang Fang and Mingjiang Li

Abstract

The paper focuses on this research question: what long-term impact does China's territorial and maritime security policy in East Asia have on regional security? To address this question, the paper attempts to compare China's claims and actual policies in the East China Sea and South China Sea and explores the motivations behind Beijing's positions and behaviours in the two disputes. More specifically, this paper examines a few interrelated issues: similarities and differences in China's claims in these two disputes from historical and legal perspectives, China's strategic and security calculations and its changing tactics in handling these two disputes in the past few years, the major factors behind China's behaviours in the two disputes. We conclude that it is unlikely that China will make any major concessions in the near future and that regional security in East Asia will continue to face many uncertainties for a fairly long period of time.

Key words: East China Sea dispute, South China Sea dispute, Chinese maritime security policy, East Asian security

Introduction

The East China Sea and South China Sea disputes between China and its neighbouring countries have again attracted worldwide attention in recent years. Tensions have been flaring almost simultaneously in the two seas since the late 2000s. In the East China Sea, China and Japan, the two largest economies in East Asia, have been locked in a series of tit-

for-tat political and diplomatic spats and security conflicts since 2010. The dispute is complicated by the Chinese historical animosities towards Japan and the potential threat perceived by the Japanese from a rising China.

The South China Sea is also a regional flashpoint that has soured relations between China and multiple Southeast Asia countries, in particular the Philippines and Vietnam, and to a lesser extent, Malaysia, Brunei, and Indonesia. The dispute is closely linked to the growing resource interest, increased capabilities of various claimant countries, strong national sentiment, as well as continued legal contestations and third-party involvement. As a matter of fact, the American strategist Robert Kaplan (2011) even posited that the South China Sea would be 'the future of conflict'.

Due to the different geographic locations and parties involved, as well as various contentious events and crises that have emerged in the past, it is natural that most analysts would treat the two disputes separately. Very often, observers attempt to draw conclusions about China's intentions from either one of the maritime territorial disputes. This kind of in-depth studies on a single case is certainly very useful as it could reveal many deep-rooted motivations for China's actions in the dispute. We contend, however, that a more useful approach is to compare China's policies in the two disputes. The risk of examining one case only is that we may regard some policy motivations in response to contingencies as inherent and persistent factors. The good thing of comparing the two cases is that it helps us figure out the differences and similarities in China's policies and behaviours in the two disputes. Only through comparison can we find out some of the underlying domestic and international factors that shape China's views and policies towards maritime territorial disputes in East Asia.

To achieve the objective, the paper is structured as follows. The first section reviews Chinese claims in the two seas from historical and legal perspectives and examines the similarities and differences of its claims in the two seas. This is followed by a comparison of Chinese policies in handling the two disputes throughout 1990s-2000s and the 2010s. The third section analyses the impact of China's maritime security policy on regional security in East Asia. We reach a few conclusions at the end of the paper. First, China's claims and policies in the two disputes are both strongly influenced by China's own understanding of the histories of the disputes. Second, domestic nationalism continues to serve as a major constraint on China's policy making in the two disputes. Third, China is not fully prepared to adhere to the international laws (or at least not the sets of international laws and norms that other countries have been urging China to adhere) to resolve the disputes. Rather, the inclination of relying on the growth of Chinese hard power to resolve the disputes seems to be on the rise, even though Beijing may exercise restraint under certain circumstances. The interaction of these closely-intertwined factors will continue to shape China's non-compromising hard line on the disputes in the East and South China Seas. We have reasons to believe that East Asian regional security will continue to face many challenges.

China's Claims in the East and South China Seas

China's Claims in the East China Sea

The disputes in the East China Sea between China and Japan are comprised of two parts: a maritime dispute caused by competing claims over overlapping Exclusive Economic Zones (EEZs) and Continental Shelf, and a territorial dispute over a group of tiny insular formations known as Diaoyu Islands in China and Senkaku Islands in Japan (hereafter referred to as Diaoyu/Senkaku Islands).

According to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), coastal states are entitled to claim up to 200 nautical miles (nm) of EEZs and 350 nm of Continental Shelf. China and Japan, however, are disadvantaged by the geographical condition because the widest area between the Chinese coast and Okinawa is less than 400 nm. Consequently, a substantial area of EEZs overlaps between the two sides. The two states disagree on the method of delimitation of EEZ and Continental Shelf in the East China Sea. Japan insists that an equidistance line between the baselines of the two countries should be the line of delimiting both the EEZ and Continental Shelf (Ministry of Foreign Affairs of Japan, 2015). China claims the EEZ and Continental Shelf should be delimited separately, with a 200nm EEZ from the Chinese baseline and an extended continental shelf as far as the edge of the Okinawa Trough based on the principle of 'natural prolongation' (Zhang, Yu & Dong, 2006). Beijing believes that its position on the demarcation of the East China Sea continental shelf aligns with UNCLOS and international practice (International Court of Justice, 1968).

The disagreement over boundary delimitation became a salient issue in 1996 when both China and Japan acceded to the UNCLOS and proposed different measures of delimiting their EEZs and Continental Shelves. However, it was not until 2004 that the dispute re-emerged with a high profile. Japan protested that one of China's drilling fields *Chunxiao* has the potential of siphoning off oil from the Japanese side of the median line (Manicom, 2013). China argued that the oil field is located in the west of the median line, which is well within the Chinese waters.

The legal basis of Chinese claim over the Diaoyu/Senkaku Islands has been stated in the white paper "Diaoyu Dao, an Inherent Territory of China" published by the State Council in September 2012 (State Council, 2012). Overall, China has rebuked the Japanese claims on three legal grounds. First, China claimed that it had discovered, named, exploited, and

exercised jurisdiction over the island groups for hundreds of years before the Japanese discovered them. To prove this, the white paper cites official and nonofficial historical records, as well as Chinese and foreign maps.

Second, China and Japan refer to different treaties they have signed after WWII and differ in their understanding of whether Japan has renounced these islands to China. Japan refers to the *Treaty of San Francisco* which it signed with the United States and other countries. Japan insists that the Diaoyu/Senkaku Islands were not included in the territory which Japan renounced according to this treaty, and thus these islands were reverted to Japan by the United States when the United States returned the administrative rights to Japan in the early 1970s. On the contrary, the Chinese white paper mentions that China was not involved in the negotiations of the *Treaty of San Francisco*. Instead, China refers to the *Cairo Declaration*, the *Potsdam Proclamation* and the *Japanese Instrument of Surrender* and argues that the Diaoyu/Senkaku islands were part of the territories that Japan should have returned to China after the end of WWII (State Council, 2012).

Third, the debate centres on the question whether the Diaoyu/Senkaku Islands were part of Taiwan. If yes, the islands should have been given back to China together with Taiwan after WWII. The Chinese white paper points out that the Diaoyu/Senkaku Islands were ceded to Japan together with Taiwan Islands with the conclusion of the *Treaty of Shimonoseki* after the Qing Dynasty was defeated by the Japanese naval force in 1895. Subsequently, the jurisdiction over Diaoyu/Senkaku Islands was returned to China as part of Taiwan according to various international political documents during and after WWII (State Council, 2012).

Japan, of course, has offered counterarguments against the Chinese positions and claims. The Japanese government argues that the islands had no owner when Japan carried

out the investigation and subsequently claimed these islets. Tokyo has also usually pointed to the fact that none of the above-mentioned treaties or statements, including *the Treaty of Shimonoseki*, the *Treaty of San Francisco*, the *Cairo Declaration*, and the *Potsdam Proclamation*, had explicitly mentioned the Diaoyu/Senkaku Islands (Sun, 2014). It is also clear that the Sino-Japanese dispute over the Diaoyu/Senkaku has been complicated by post-WWII settlements and the transfer of administrative rights between the United States and Japan in early 1970s.

It is also important to note that the island dispute has been strongly influenced by nationalism in both countries, more so in China than in Japan. For many Chinese, the dispute is part and parcel of the historical narrative of Japan bullying and invading China for half a century from the late nineteenth century to the mid-twentieth century. In the minds of the vast majority of Chinese people, imperialist Japan took the islands from China when the Qing regime was weak. They believe that Japan's insistence on sovereignty over the islands is another piece of evidence that Japan does not repent on the history issue between the two countries. Many Japanese are now increasingly concerned about the growth of China's military power and the growing nationalistic sentiment in China. In this context, making any concession over the Diaoyu/Senkaku islands would be regarded as a show of weakness to China.

The United States is considered as playing an 'ambiguous' role in the dispute (Sun, 2014). China blamed the United States for arbitrarily expanding its jurisdiction to the Diaoyu/Senkaku Islands after it signed the *Treaty of San Francisco* with Japan. Facing the opposition from China, the United States claimed that it would maintain a neutral position on the sovereignty issue, despite the return of administrative rights over the islands to Japan (State Council, 2012).

China's Claims in the South China Sea

China claims all four major island groups in the South China Sea. These groups are the Dongsha /Pratas Islands, the Xisha/Paracel Islands, the Zhongsha/Macclesfield Islands and the Nansha/Spratly Islands. The South China Sea disputes mainly involve competing claims over the Spratly Islands between China and four ASEAN countries (Vietnam, the Philippines, Malaysia, and Brunei), as well as the dispute between China and Vietnam over the Paracel Islands. Taiwan is also a claimant party to the South China Sea, but because of the 'one-China' principle, other claimant states do not regard Taiwan as an official actor in the South China Sea disputes. Indonesia has officially stated that it is not a disputant country in the South China Sea. But depending on how China defines the contentious nine-dash line, Indonesia's claim of 200 nm of EEZ from the Natuna Islands may overlap with Chinese claims of maritime zone and interests.

Similar to its claims in the East China Sea, China argues that it is the first country that discovered the South China Sea islands and this can be traced back to the second century BC as evidenced by historical records. China claims that it is also the first country that exercised jurisdiction over these waters, starting from the Song Dynasty in the Paracel Islands. Many analysts have raised doubts about the credibility of some of China's historical evidences, in particular those pre-modern historical records. China rejects other countries' claim that these islands had been *terra nullius* when other states began to take action or claim ownership over these land features (Gao & Jia, 2013). For instance, the actions taken by the France and the Philippines with the reason of *terra nullius* in 1933 and 1971 respectively are invalid in China's view. China also maintains that it has 'consistently protested against foreign challenges' to its sovereignty, invalidating other countries' claims over the South China Sea.

China's claim is not just confined to the land features and the maritime zones that may be derived from them in accordance with UNCLOS. The scope of Chinese claims in the South China largely depends on how China interprets the nine-dash line. The line used to contain eleven dashes when it was publicized by the Republic of China government after WWII. In the 1950s, the People's Republic of China government decided to abandon two dashes in the Tonkin Gulf. To date, China has not clarified the meaning of the nine-dashed line. In general, there are four variations on the interpretation of the nine-dash line (Li, 2015). While the four schools of thought agree that China should claim all the land features in the South China Sea, they differ on the issue of maritime zones and rights that China should and can claim in the South China Sea within the nine-dash line region.

The first school of thought, maintained by some Chinese maritime legal experts and International Relations scholars, argues that the nine-dash line only allows China to claim ownership of the land features in the South China Sea. All claims of maritime zones and rights have to be based on these land features in accordance with UNCLOS and other maritime international laws. This perspective seems to be a minority view. This view is in close alignment with the UNCLOS and other relevant international laws.

The second school of thought contends that China should claim historical waters in the whole nine-dash line area. Proponents of this view have not elaborated on the details of such historical waters claim. This view is also articulated by a very small group of Chinese scholars.

The third school of thought advocates that the nine-dash line is the boundary of China's maritime jurisdiction. This view is supported by some maritime agencies and the Chinese navy. The belief is that given the historical record of China's activities in the South China Sea, China has the right to enforce law and order in the entire nine-dash line area.

The fourth school of thought posits that China should be entitled to historical rights, mainly fishing rights and the right to explore and exploit various energy and mineral resources in the entire nine-dash line area, in addition to sovereignty over the land features and maritime zones and rights permitted by UNCLOS. Some Chinese analysts believe that China has already made a historic rights claim in the South China Sea. They often refer to the fact that the 1998 Law on the Exclusive Economic Zone and Continental Shelf states that 'the provisions of this Law shall not affect the historic rights enjoyed by the People's Republic of China.' Despite some minor differences among the proponents of the historical rights claim, it appears that this school of thought is increasingly becoming the mainstream view in China. (Jin, 2012)

In reality, various official Chinese statements have suggested that China claims all the land features, the adjacent waters of these land features, and relevant waters in the South China Sea. The ambiguities rest with the two words 'adjacent' and 'relevant'. China maintains an ambiguous position on the nine-dash line because there is still no domestic consensus among different agencies and research communities as to how China should clarify its claim in order to maximize its interests in the South China Sea disputes. What further complicates any official effort to clarify the nine-dash line is the fact that the general public in China tends to view the South China Sea as China's territory without making any legal distinction between land features and the waters in the South China Sea. Their general understanding, conditioned for decades by Chinese geography textbooks and media narratives, is such that the South China Sea is 'China's sea'. The Chinese public has this expansive view of China's claim in the South China Sea largely because they have been informed and have genuinely believed that the most southern tip of China's territory is the James Shoal, which is a submerged feature close to the Eastern part of Malaysia. This

nebulous public view of the South China Sea evokes very strong nationalistic sentiments and has significantly constrained decision makers' capacity to clarify the 'nine-dash line' issue.

When other countries challenge China's legal grounds for claiming maritime boundary and historical rights in the nine-dash line area, Chinese officials and analysts would usually cite that Chinese activities, jurisdiction, and exercise of rights had existed long before the UNCLOS or any other contemporary maritime international law. They argue that according to intertemporal international law, China's claims and rights in the South China Sea could be supported by other customary international laws and norms and should not have been abrogated by the emergence and acceptance of contemporary maritime international laws. Some Chinese analysts argue that the notion of historic rights is a developing concept and has not been studied thoroughly. The principle of historic rights is derived from state practice rather than UNCLOS (Zou, 2001, pp. 149–168). But the Chinese authorities have failed to comprehensively articulate specific customary international laws and norms that China could use to validate its historical rights position in the South China Sea.

When China submitted the nine-dash line map to the UN Commission on the Limits of the Continental Shelf (CLCS), countries including claimants of the South China Sea as well as third parties (such as Indonesia) put pressure on China to clarify its legal position in the South China Sea. Through its Note Verbale submitted to the CLCS, Indonesia commented that the Chinese nine-dash line 'clearly lacks international legal basis and is tantamount to upsetting the UNCLOS 1982' (United Nations, 2010). Nevertheless, China has not explicitly explained the legal basis of the line. The only occasion where the government mentioned the geographic scope of Chinese claims was on 29 February 2012 when the spokesman of Ministry of Foreign Affairs (2012) responded to a journalist's question with the following remarks:

At the core of the South China Sea dispute are the territorial sovereignty dispute over some of the Nansha Islands (Spratly Islands) and the demarcation dispute over part of the waters of the South China Sea. What should be pointed out is that neither China nor any other country lays claim to the entire South China Sea.

This may indicate that China does not feel confident enough to claim all waters within the nine-dash line. Literally, this may mean that the historical water and maritime boundary interpretations of the nine-dash line are not favoured by the decision-making community in China. At the same time, for China, the nine-dash line could not be abandoned because it serves two purposes. First, the adoption and evolution of the nine-dash line is a process of China responding to other countries' activities and infringement on China's interests in the South China Sea since the 1930s (Zou, 1999, p. 34). Second, China could potentially use the line to defend its claims in the future maritime boundary delimitation in the South China Sea (Zou, 2012, pp. 23-24). Even for advocates of the first school of thought, the nine-dash line is still valuable for it tells the world that China did reaffirm its claim over all the land features in the 1940s by publicizing the eleven-line map.

Comparing China's Claims in the East and South China Seas

The legal grounds for Chinese claims in the East and South China Seas share some similarities. For example, China frequently cited historical evidence as legitimate reasons to support its claim. Beijing has repeatedly proclaimed that China was the first country to discover, name, exploit, and exercise jurisdiction over the islands in the two seas. In both cases, China claims that it lost control of these land features to other powers when it was weak. Also, China's official position suggests that the sovereignty issue of the islands in both seas was settled during WWII through various international documents and that China's ownership of these territories should be regarded as part of the post-war regional order.

Beijing complains that China failed to take full control of these islands mainly because of the Cold War and other countries' containment policy against China. China continues to be resentful of the fact that the negotiation and conclusion of the *San Francisco Treaty* excluded the People's Republic of China's participation. Consequently, the treaty did not specify the names of islands in the East and South China Sea nor designate China to take over the islands after Japan renounced these territories. In this regard, the ambiguities regarding ownership of these maritime land features in the *San Francisco Treaty* have created problems between China and its neighbours (Dzurek, 1996, pp.16-17).

In general, China relies more on international laws to defend its claims in the East China Sea than in the South China Sea. China cites the UNCLOS to defend its claims over the EEZ and the continental shelf in the East China Sea. Conversely, whenever China defends its claims in the South China Sea, it downplays the role of UNCLOS. China remains ambiguous as to the legal status of the features enclosed by the nine-dash line in the South China Sea (Zou, 2012, pp.18-34). In its Note Verbale submitted to the UN CLCS, China used the ambiguous wordings such as 'adjacent waters' and 'relevant waters' without explaining whether the features are entitled with rights over territorial seas and/or EEZs.ⁱ When critics note that China's claims in the South China Sea are too expansive and are not in line with UNCLOS, Beijing argues that it applies not only UNCLOS but also customary law. As pointed out by Gao Zhiguo and Jia Bingbing (2013), two well-known Chinese maritime lawyers, treaty law and customary international law are two systems of international law. Historical rights and principles such as discovery and occupation can only be understood through customary international law. They further argue that the search for solutions to the South China Sea disputes should refer to both treaty law and customary international law. This indicates that China prefers to rely on the international law as a whole package rather than the UNCLOS alone in the South China Sea disputes.

By and large, the scope of China's claim in the East China Sea is much clearer than that in the South China Sea. Although China may not claim all waters within the nine-dash line, the actual patrols and operations conducted by the maritime law enforcement agencies and the People's Liberation Army Navy (PLAN) reflect a broad interpretation of the nine-dash line (Taylor, 2011, p. 305).

China's Policies in the Two Disputes

Chinese Policies in the 1990s and 2000s

Both the East China Sea and the South China Sea disputes became hot regional security issues after the late 1960s. But there have been some significant differences in China's approaches to the two disputes. In East China Sea, China protested American decision to return the administration of the Diaoyu/Senkaku islands to Japan in the early 1970s. But for nearly 40 years from the early 1970s to the late 2000s, China did not take any concrete action to challenge Japan's actual control of the islands. Chinese vessels, including naval and maritime law enforcement vessels, have rarely entered the 12 nm of the waters near these islands. Chinese authorities have been quick in suppressing various social groups in China that were prepared to land on the islands to declare China's sovereignty. For a long time, China also refrained itself from exploiting energy resources in the East China Sea even though it was in constant need of supply of a large amount of energy resources to fuel its rapidly growing economy. Given China's adamant sovereignty position on the islands and strong public pressure for a hard-line stance towards Japan, Beijing's moderate approach and self-restraints are perplexing. China may have sought to maintain stable relations with Japan for the purpose of countering the former Soviet Union in the 1970s and 1980s, in addition to the fact that China did not have the capability to challenge Japan even if it wanted to. But Soviet Union factor would no longer be pertinent after the

end of the Cold War. A more plausible explanation for China's non-provocative approach in the 1990s and 2000s is that Beijing was concerned about the Japan's stronger power, including military and economic power, and the possibility of US involvement if any conflict would occur between China and Japan. In a sense, it is perhaps fair to say that Japanese power (plus American power) has effectively deterred China from pursuing any policy aimed at changing the status quo over the Diaoyu/Senkaku islands.

However, China's handling of the South China Sea disputes was quite different in the past decades. Beijing has been far more willing to use military power for the pursuit of its interests in the South China Sea as compared to the East China Sea. In 1974, a naval war occurred between China and South Vietnam, resulting in the latter's defeat and China's full control of all the Paracels islands. In 1988, China won another naval conflict with Vietnam, which led to Chinese occupation of a few land features in the Spratlys. In 1995, China took control of the Mischief Reef, causing significant frictions with the Philippines and anxieties in many Southeast Asian states. Before the 2000s, Chinese law enforcement vessels patrolled the Spratlys area only occasionally largely because the limitations of Chinese capabilities.

Throughout the 1990s and much of the 2000s, Chinese policies towards the two seas had generally been consistently conciliatory, with the exception of the Mischief Reef incident. In its official policy statements, China has always advocated 'shelving disputes and carrying out joint development' in both seas. The proposal was initially conveyed by the former Chinese leader Deng Xiaoping in 1978 at a Tokyo press conference when he responded to a question on the Sino-Japanese dispute over the Diaoyu/Senkaku islands. Deng further elaborated on this proposal and suggested applying it to the Spratly Islands in the South China Sea at the third plenary session of the Central Advisory Commission of Communist Party of China in October 1984. Echoed by Chinese leaders in subsequent

meetings with other claimants in the South China Sea, this proposal 'has become the guiding principle or policy for China in dealing with territorial conflicts in the South China Sea' in both Deng's and post-Deng's eras. During the visit to Singapore in 1990, China's then premier Li Peng reiterated the proposal on behalf of the Chinese government (Lee & Chen, 2008, pp.156-157).

In the East China Sea, despite that small skirmishes occurred occasionally, there has been a track record of cooperation between China and Japan in the maritime realm (Manicom, 2014). The two countries made two major breakthroughs. First, China and Japan signed a fishery cooperation agreement in 1997, in which a Provisional Measures Zone (PMZ) was designated in the middle of the East China Sea without affecting their maritime claims (Zhongguo yuyenianjian, p. 16; Manicom, 2014, pp.66-91). Second, after eleven rounds of intensive negotiations from 2004 to 2007, the two countries reached a 'principled consensus' on maritime cooperation in the East China Sea in 2008. China welcomed Japanese participation in the development of *Chunxiao* gas field in spite of the fact that the field is located on the western side of the median line claimed by the Japanese. Unfortunately, the implementation of the joint exploitation has yielded little progress (Han, 18 Jun 2008).

In both cases, the Chinese government was willing to compromise and share fishery and hydrocarbon resources. As observed by James Manicom (2014, p. 83), China lost substantial areas of traditional fishing grounds due to the implementation of the bilateral fisheries agreements with Japan, South Korea and Vietnam. In his view, the conclusion of the 2008 consensus was partly a result of improved relations between the Chinese government and the Yasuo Fukuda administration. But subsequent effort in implementation was stalled due to a range of factors such as conflicting interpretation of the major provisions and the unusual formality. In Zhang Xinjun's words, the failure of implementation

should be attributed to a lack of 'good faith and reciprocity' between the two countries (Zhang, 2011, pp. 53-65).

While China had not softened its stance on the sovereignty claims over the South China Sea, it did not want the dispute to escalate into a regional conflict. China believed that maintaining a peaceful security environment in the peripheral regions would facilitate the domestic economic development. It advocated the 'good neighbour policy' and strengthened its connections with Southeast Asia through pragmatic cooperation. In 2002, China acceded to the *Declaration on the Code of Conduct* (DOC): a turning point of China's management of disputes and a major breakthrough achieved among claimants. While the DOC is not legally binding, it does state that all parties should refrain from using force and seek cooperation. Despite occasional skirmishes over resource exploration rights and fishing activities, the situation in the South China Sea was generally peaceful in much of the 2000s.

Although China insisted on the policy of solving dispute on a bilateral basis, it generally embraced multilateral cooperation on some non-traditional security issues. It participated in the trilateral Joint Seismic Survey Undertaking with Vietnam and the Philippines in 2005. However, the project was suspended in 2008 when the Philippines withdrew. According to the Philippines, eighty per cent of the identified joint development area was located in its claimed waters, implying that the joint development was an encroachment to the Philippines' sovereignty in the South China Sea (Lee & Chen, 2008, p. 168; Wain, 2008; Buszynski, 2010, pp. 101-102).

Chinese Policies in the 2010s

The generally peaceful situation in the East and South China Seas, however, ended in the late 2000s. In the East China Sea, a series of crises started when the Japanese detained a Chinese captain for ramming into a Japanese Coast Guard vessel in 2010. The tension was

further heightened when the Japanese government nationalized three of the five Diaoyu/Senkaku Islands in September 2012 and the Chinese citizens retaliated by organizing massive anti-Japanese protests in more than 200 cities. The Chinese maritime law enforcement ships increased the frequency of regular patrols in the EEZ and even entered the territorial sea of the Diaoyu/Senkaku Islands. Relevant Chinese authorities decided to include the area in official national weather forecast and announced China's maritime baseline at the Diaoyu/Senkaku islands. Existing tension was further fuelled with China's sudden announcement of the Air Defence Identification Zone (ADIZ) in November 2013 and Japanese prime minister Shinzo Abe's surprise visit to the controversial Yasukuni Shrine in December 2013. In the past few years, the Chinese air force and navy conducted numerous exercises in the East China Sea and West Pacific. Part of the motivations of these exercises was a show of muscles in response to the escalation of security tensions between the two countries. China believes that through these measures it has successfully changed the status quo over the actual control of the Diaoyu/Senkaku islands from exclusive Japanese control to joint control by the two countries.

As the tensions and disputes over the Diaoyu/Senkaku islands kept rising, American political and military leaders repeatedly vowed that the US-Japan security alliance covers these islands and that Washington is obliged to assist Japan if conflict would occur between China and Japan. China is very resentful of this American policy position. Chinese Foreign Ministry spokesperson stated:

The Diaoyu islands are inherently China's territory. Other people's words and actions can neither change this fact nor weaken the resolve and will of the Chinese government and people in safeguarding China's sovereignty and territorial integrity. The US-Japan security alliance is an arrangement formed during the Cold War. China is strongly opposed to any

effort in using this alliance to harm the interest of a third party. (Xinhua News Agency, 2015, April 9)

From September 2012 to late 2014, China and Japan had very confrontational interactions in the East China Sea. The security tensions between the two countries kept high. At one point, a Chinese naval vessel even turned on the fire-control radar targeting a Japanese warship and a military helicopter (New York Times, 2015 Feb. 5). Fearing the possibility of rising security conflicts leading to accidental military confrontation, China and Japan reached a four-point agreement in dealing with the history issue and territorial dispute between the two countries at the APEC meeting in Beijing in November 2014. In the document, the two countries vowed to ‘prevent the situation from aggravating through dialogue and consultation and establish crisis management mechanisms to avoid contingencies.’ They also agreed to ‘gradually resume political, diplomatic and security dialogue through various multilateral and bilateral channels and to make efforts to build political mutual trust’(Xinhua News Agency, 2014, November 7). After that, the defense authorities of the two countries began to engage in talks on maritime crisis management mechanism (Japan Times, 2015, March 14). These are clear evidence that neither China nor Japan is prepared to be engaged in a major military conflict over the islands dispute. The Chinese Coast Guard vessels have also gradually reduced the frequency of their patrol activities in the waters near the Diaoyu/Senkaku islands, in particular in the 12 nm of territorial sea of these land features.

Similarly, tension surrounding the South China Sea dispute intensified since China attached the nine-dash line in its Note Verbale to the United Nations (UN) when responding to the Joint Submission made by Vietnam and Malaysia to the UN’s CLCS. This evoked criticisms and speculations in ASEAN and international community on the legality of the nine-dash line and the Chinese ambitions. As the situation evolved, China defended its

claims by employing a combination of military, paramilitary, legal, and diplomatic means. These include the increasing number of patrols by the surveillance ships in the disputed waters, harsher Chinese law enforcement activities against foreign fishing vessels, forceful measures to prevent Vietnam and the Philippines from exploiting the energy resources in areas that Beijing believes are disputed, the establishment of Sansha City to govern the claimed nine-dash line area, the control of the Scarborough Shoal after the two-month confrontation with the Philippines in 2012, the deployment of oil rig HYSY 981 in the waters off the Paracel Islands in 2014, the massive land reclamation construction on its controlled islands and reefs in the South China Sea, and the on-going installation of both civilian and military facilities on those artificial islands.

In early 2013, the Philippines, realizing that it had few other policy options in dealing with China in the dispute, decided to submit an arbitration request to the International Tribunal for the Law of the Seas. Manila intended to challenge the legality of China's nine-dash line, confine the maritime entitlements of those land features occupied by China in the Spratlys, and restrain China's law enforcement activities in the South China Sea through the award of the Tribunal. Beijing has declared that it would neither participate in the arbitration nor recognize and accept the decision by the Tribunal. China defended its non-participation and non-recognition position in an official position paper (China Daily, 2014). It remains to be seen how China will actually react in response to the upcoming result of the Philippines arbitration case.

In matters of the South China Sea, the primary goals of China are to 'create new facts on the water' and to pre-empt US involvement (Taylor, 2012). As a latecomer in the South China Sea compared to Vietnam, the Philippines, and other countries, China believes that it has lagged behind the other claimant states in drilling oil and gas in the disputed waters and constructing facilities on the land features in the Spratlys. Many policy elites in China

maintain that Beijing has to seize the 'fleeting opportunity' to bolster its claims (Holmes, 2012).

Yet, in actual policy practice, Beijing has also made great efforts trying to reduce the diplomatic frictions and security tensions between China and some claimant countries. Chinese leaders, on numerous occasions, have reiterated China's position of resolving the disputes through peaceful means. Each time when there was serious conflict with Vietnam in the South China Sea, China attempted to use high-level party-to-party channels between the two countries to dampen the tensions. Beijing announced that it would provide RMB 3 billion to set up a China-ASEAN maritime cooperation fund to help implement various maritime projects with ASEAN countries. After mutual concessions, China and ASEAN countries reached an implementation guideline for the DOC. Beijing, with some reluctance, eventually agreed to start the negotiations with ASEAN countries on a formal and binding Code of Conduct in the South China Sea. China's willingness to accept ASEAN's role in the South China Sea was further demonstrated in the 'dual-track' approach proposed by Chinese foreign minister Wang Yi at a press conference after the China-ASEAN (10+1) Foreign Ministers' Meeting in 2014 (Ministry of Foreign Affairs, 2014). According to the 'dual-track' approach, China favours diplomatic negotiations among direct parties concerned in the disputes on the one hand, and it also accepts ASEAN to participate in the process of maintaining peace and stability on the other hand. China now explicitly recognizes the ASEAN's role in dispute management and multilateral cooperation, and implicitly includes the possibility of multilateral negotiations on issues such as boundary delimitations involving more than two claimants. In the meantime, China also participated in the meetings with senior officials from ASEAN and initiated a number of maritime cooperation projects. Such a more inclusive attitude towards ASEAN reflects the Chinese

intention of managing disputes within the ASEAN framework and trying to minimizing the external powers' involvement.

While Chinese public hail the remarkable progress in the land reclamation project in the South China Sea, the project raised regional concern over China's intent to enforce an air defence identification zone (ADIZ) in the South China Sea, as it has done so in the East China Sea (Desker, 2015). The United States has also repeatedly urged China to stop the land reclamation and facility construction and eventually sent a guided missile destroyer *USS Lassen* to conduct 'freedom of navigation' (FON) patrols in the 12 nautical miles of Zhubi/Subi Reef to check the Chinese legal position on the low-tide elevation as well as to show support for its Southeast Asian allies and partners. Chinese reaction was relatively mild and self-restrained. In responding to *Lassen's* FON operation, the PLAN dispatched two warships to monitor, follow and warn the US vessel without any direct confrontation. The Foreign Ministry spokesperson highlighted to the press that the US patrol activities threatened 'China's sovereignty and security interests' but downplayed the legal aspects of the dispute (Li & Zhang, 2015). Apart from the United States, other countries such as Japan and Australia have also been invited to join the FON operation. As a result, such operations are likely to increase in the South China Sea in the future.

Thus, a major challenge for China in handling these disputes is how to strike a balance between 'maintaining stability' in its neighbourhood and 'safeguarding rights' in the disputes. Chinese scholars are increasingly aware that China needs to revise its maritime policies. They reiterate that the heightened tension in the South China Sea may have hurt relations with Southeast Asian countries which are key partners in the implementation of the 'One Belt One Road' initiative in the long run (Xu & Ma, 2015). Scholars such as Xue Li (2014) and Zhang Jie (2014, pp. 45-60) also suggest that China should abandon the 'strategic ambiguity' and clarify its South China Sea claims.

Despite these Chinese reassurance policies towards ASEAN countries and the suggestions for caution by some Chinese analysts, it seems that it has been an accepted fact that China has been increasingly assertive in the East and South China Seas. As pointed out

by Alastair Iain Johnson (2013, pp. 7-48) and Michael Yahuda (2013, pp. 446-459), there has been increasing narratives in US media, pundit, and academic circles about China's 'new assertiveness'. There are a number of propositions that pundits have used to explain China's more assertive behaviour in the region. First, many people believe that China has truly significantly changed its own regional security policy in the past few years. China has aimed to end its passivity toward territorial disputes in the past two decades (You, 2013). In the view of a Chinese scholar, China has been changing its passive approach on the maritime disputes by advocating 'building a strong maritime power'. Beijing believes that other claimant countries have taken advantage of China's passive posture in the disputes and gained at the expense of Chinese interests. Therefore, Chinese decision makers concluded that China should adopt 'dual tactics' which should not only advocate cooperation but also actively defend its 'bottom line' (Jia, 2013, p.21). Various official Chinese policy statements indicate that Beijing is more inclined to use a heavy-handed approach to protect whatever it perceives as its legitimate maritime interest in the East and South China Seas.

Other analysts believe that China's assertiveness in both seas is largely a response to the policies and actions of other claimant parties and non-claimant actors. For instance, the International Crisis Group (2013), in one of its reports, describes China's behaviour in these maritime disputes as 'reactive assertiveness'. Such strategy is also called 'one-plus' by You Ji (2013), who claims that China is taking 'an asymmetric but proportional way' in responding to an initiator's provocation. In other words, China was merely responding to a perceived provocation initiated by another country, but it moved further to exploit the opportunity to change the status quo in its favour, as witnessed in both the Scarborough Shoal standoff and Diaoyu/Senkaku Islands incidents. In these events, China was reactive and free of armed rifts, but the level of assertiveness is unprecedentedly high. The vast majority of Chinese policy elites seem to believe that China's heavy-handed approach to the South China Sea

disputes is necessary because the other claimant states have taken various actions to challenge and even provoke China. Very few Chinese officials and analysts realize that China's own behaviour and reactions have contributed to the deterioration in the South China Sea situation in the past few years.

A third school of thought contends that the underlying cause of the friction between China and its neighbouring states is a result of geostrategic contentions between China and other major powers in the Asia Pacific, in particular the United States. It is believed that China has become confident of engaging in strategic contentions with other major powers, making a departure from the Deng Xiaoping's 'keeping a low profile' (*tao guang yang hui*) policy (Glaser & Szalwinski, 2013). China proposes 'a new type of relationship between the major countries', which implicitly sends the message that the United States has to respect China's 'core interests' and accept a rising China to participate in the global agenda setting and rulemaking on an equal footing (Huang, 2013). Increasingly, China is also dissatisfied with US dominance over the existing regional architecture. In particular, China believes that the US 'rebalancing strategy' is aimed at containing China and has encouraged US allies to challenge China's stance in maritime territorial disputes. Beijing does not seem to believe that freedom of navigation in the South China Sea is an issue. Chinese elites frequently note that the American government and military's proclaimed efforts to protect freedom of navigation in the South China Sea is disingenuous. They contend that American freedom of navigation operations in the South China Sea are simply a show of muscles to deter China. They argue that the US uses the freedom of navigation rhetoric only as an excuse to justify American military presence and activities in the region. Meanwhile, China believes that the United States is uneasy about the change of power balance in the region and is 'fishing in the muddy water' (*hun shui mo yu*) by stirring up the South China Sea dispute and encouraging its Southeast Asian allies and strategic partners to challenge China (Wen, 2012).

More recently, China appears to have become even more concerned about American interventions in the disputes as the US is increasingly interested in organizing some sort of a coalition with Japan, Australia, India, and some ASEAN countries against China, for instance in the area of freedom of navigation operations in the South China Sea. Therefore, China demands that the United States stop intervening in its territorial disputes with neighbouring countries. It is believed that the deployment of the oil rig HYSY 981 was designed to test the US resolution in supporting Southeast Asian claimants. The construction on the land features in the South China Sea is aimed to increase the Chinese presence in the South China Sea and to pre-empt US intervention should conflict occur. In response to American criticism of China's efforts in militarizing the land features under Chinese occupation, Chinese policy elites counter-argue that China's military facilities are partly a response to American show of force in the South China Sea.

Comparing Chinese Policies in the Two Disputes

There are many similarities in China's policies and actions in the East China Sea and South China Sea disputes. First of all, China's behaviours in both disputes have been motivated by a strong sense of entitlement. China believes that all the actions that it has taken in the two disputes are legitimate because of China's own understanding of the history of the disputes. Domestic nationalist sentiment continues to put pressure on the decision makers to pursue a heavy-handed approach towards the disputes. It is unlikely that China may decide to make any significant compromise on these disputes. Second, policies towards maritime territorial disputes have been part and parcel of China's international strategy. They cannot be too inconsistent with the overall foreign policy. In the 1990s and much of 2000s, China adopted a relatively moderate stance towards the disputes largely because of the low-profile international strategy. In recent years, there have been more problems between China and the other disputant states partly because of the re-orientation

of China's foreign strategy. It remains to be seen whether and how Beijing may decide to readjust its regional security policy given all the backlashes in China's regional relations that have resulted from a more assertive maritime security policy in the past few years. Third, the two cases also reveal a dilemma for China in handling these disputes, that is, Beijing needs to constantly balance its different interests in the region, including China's own position in all the regional strategic realignments, political influence in the region, and economic interests. Because of these overlapping and conflicting interests, it is quite challenging for China to be excessively assertive.

Fourth, the two cases also suggest that China's strategy in handling the disputes exhibits one commonality. Beijing has been quite adept at practising creeping assertiveness to seek gains at opportune times. In many cases, Beijing took advantage of other claimant countries' unilateral actions or flawed policy to change the status quo in the disputes to China's favour. Fifth, there is little evidence to suggest that China may be interested in resolving the disputes through legal means. Sixth, the developments in both disputes indicate that China is developing even stronger desire to change the status quo. China is becoming less and less willing to make substantive concessions and less and less tolerant of other players' moves in the disputes, even though at times when the diplomatic pressures were too high China would make tactical concessions such as the maritime cooperation proposal with ASEAN and the COC negotiations. Seventh, apparently China is not prepared to use its military force to settle these disputes in the near future. For now and perhaps the coming decade, it will rely more on its maritime law enforcement capabilities to protect that it sees as its legitimate interests; but the Chinese military power is always behind the scene. Lastly, in both cases the United States plays a significant role for the peace and stability in the region. American intervention may have helped prevent the disputes becoming out of control, but it is also quite clear that US role has limitations. Washington has not been able

to stop China from changing the status quo in both disputes in the past few years. Very likely, Sino-US strategic contest in the East China Sea and the South China Sea will continue and may further intensify as China's power grows.

There are also a few differences in China's approaches towards the disputes in the East and South China Seas. In the East China Sea disputes, it is well understood that the long existing historical animosity among the Chinese public caused by the Japanese invasion during WWII has prevented the two countries from achieving genuine reconciliation. The grievances and frustration among Chinese public held the government back from making any compromise on the sovereignty issues (Swaine, 2013). In effect, the Chinese government can manipulate national sentiments to put pressure on the Japanese government. A study by James Reilly (2013, pp. 18-39) shows that the Chinese leaders 'initially tolerated before cooling' in cases of anti-Japanese protests in the past. The 2012 protest against the Japanese nationalisation of the Diaoyu/Senkaku Islands resulted in the populist boycott of Japanese consumer goods with the support from the Chinese government.

That said, in the East China Sea, China considers itself more as a status quo preserver rather than a revisionist player. It aims to achieve the limited strategic goal of forcing Japan to recognize the dispute over Diaoyu/Senkaku Islands. From the Chinese perspective, it is Japan that has broken the consensus, provoked dispute, and escalated the tension in the Diaoyu/Senkaku. In particular, China accused Japan for disregarding the common consensus to shelve the dispute, reached during the normalization of Sino-Japanese relations in 1972 and the conclusion of the Peace and Friendship Treaty in 1978 (Zhai, 2014). China therefore should no longer tolerate but respond forcefully with strong determination (Yu, 2012, p. 5). The Chinese leaders reiterated that Japan is the one that challenged the post-war

international order, and therefore, the international community should be mindful of the resurgence of Japanese militarism (Hagström, 2015, pp. 131-132).

Also, it is obvious that China's behaviour in the South China Sea has been far more assertive than in the East China Sea both in history and in the past few years. As military power is becoming a more significant factor in China's calculation in the disputes, the chances of military skirmishes have slightly increased. Given the track record of China's involvement of naval conflicts with Vietnam, the South China Sea may more likely experience major military conflict as compared to the East China Sea in the longer run.

Conclusion: The Impact of China's Maritime Security Policy on Regional Security

All the discussions above lead to two related central questions: Does China have a clear grand maritime security strategy in East Asia? What impact does the Chinese strategy have on regional security? Some observers such as Bonnie Glaser (2014) speculate that China appears to have a well-coordinated central maritime strategy especially in instances where its maritime behaviour are assertive and destabilizing (McDevitt, 2015; Martinson, 2014). Other analysts such as Linda Jakobson (2014) argue that the fractured authority and diverse interests among myriad actors are impeding the formation and implementation of China's maritime strategy. The Chinese research community seems to believe that Beijing has not developed a coherent long-term maritime strategy yet. Many Chinese researchers are searching for a grand maritime strategy for the Chinese government.

It may be true that China has not formulated a holistic maritime strategy for the longer future simply because it has many tasks to complete inside China, for instance its domestic institutional reforms. Taking the consolidation of maritime law enforcement agencies (MLEAs) as an example. The determination of reshuffling the MLEAs may have been driven by the imperative of responding effectively to the emerging security challenges facing China in the East and South China Seas, as some believe that China had gained by deploying its

maritime law enforcement vessels in the Scarborough Shoal and in the Diaoyu /Senkaku Islands to change the status quo of the disputes (Zhang, 2014, pp. 25-32). Nevertheless, despite the fact that Chinese government has been so determined to carry out the structural reform since March 2013, limited progress has been achieved so far (Martinson, 2014). As pointed out by the former leader of China Marine Surveillance Yu Zhirong (2014), the consolidation of maritime law enforcement agencies under a unified leadership has improved the institutional structural setting, but more needs to be done to enhance overall ocean management capability. In fact, issues related to staffing and training have been far more intractable. In particular, China urgently needs a maritime law to guide maritime research, policymaking, coordination, implementation and information sharing.

Despite the different views regarding the existence of China's grand maritime strategy, our analyses in this paper make clear that China does have some clear strategic goals in the East and South China Seas disputes. These goals include sharing the resources available in these maritime areas, exercising sovereignty over the islands and other land features, and striving for dominance in the maritime domain in China's neighbourhood. Beijing's ambiguous stance on some elements in its claim in the South China Sea may testify its long-term ambition in the region. Apparently, China has also effectively used creeping assertiveness as a tactic and non-military capabilities in pursuing its interests in these disputes. And China continues to invest a lot to develop these capabilities and modernize its military. In actual policy practise, China has been careful to seek some sort of balance between 'safeguarding maritime interests' and 'maintaining stability' in its relations with neighboring countries, even though many outside analysts may believe that China's assertiveness has produced significant backlashes in Beijing's strategic and political ties with some players in East Asia. These goals, means, and tactics constitute China's current maritime security strategy. It remains to be seen how the existing maritime strategy may evolve in the medium and long term as China's power further grows. From

the analyses in this paper, it is perhaps plausible to conclude that Beijing is unlikely to be less assertive in dealing with maritime disputes in the region in the future.

It is certainly possible that Beijing may soften its tactical approach towards the two disputes from time to time, especially when external pressures on China are extremely high. But the softer approach may be temporary because China's positions and policies in the two disputes are both strongly shaped by the historical narratives that have existed in China for decades. Some elements in these historical discourses, particularly in the context of the South China Sea, are mythical. As long as these historical narratives are embraced by the Chinese public, it is difficult to imagine a fundamental shift in China's policies towards these territorial and maritime disputes. Besides, domestic nationalism in response to the disputes is on the rise, creating significant constraints for the political leaders and the policy circle. In today's China, talking tough on the disputes is seen as politically correct; suggesting moderation is seen as betrayal of national interest.

Despite the international community's constant urge and strong pressure on China to adhere to international laws related to regional maritime disputes, it appears that China is not prepared to genuinely address these appeals. Very likely, China will continue to downplay and even avoid international laws in the South China Sea dispute. The inclination to rely on hard power and capabilities to handle the differences and resolve the disputes seems to be on the rise, even though Beijing may exercise restraint from time to time in order to maintain a positive regional image, cordial political relations with neighbouring countries, and downplay strategic contentions with other major powers. It is a common view within the Chinese policy community that time is on China's side as it continues its rapid rise. Many Chinese policy analysts believe that Beijing should not rush to resolve these disputes because it may have more options in the future as its hard power grows. All these current Chinese policies and emerging new thoughts for future policies suggest that China's

non-compromising hard line in the disputes in the East and South China Seas is very likely to prevail. And of course, it is difficult to imagine that other claimant parties would dramatically change their policies to make significant compromises in these disputes in the future. It is quite plausible to contend that regional security in East Asia will continue to face many uncertainties and challenges in the coming decades.

Notes

ⁱ The Joint Submission dated 6 May by Malaysia and Viet Nam, as well as the Communications submitted to the UN Secretary-General by China with regard to the Joint Submission of Malaysia and Viet Nam. See UN website www.un.org/Depts/los/clcs_new/submissions_files/submission_mysvnm_33_2009.htm

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