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**Jonathan LONDON and VU Quang Viet**

**Viet Nam, China, and  
the conflict in the Southeast Asian Sea**

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Professor Mark R. Thompson

**Southeast Asia Research Centre**

The City University of Hong Kong  
83 Tat Chee Avenue  
Kowloon Tong, Hong Kong SAR  
Tel: (852) 3442 6330  
Fax: (852) 3442 0103  
<http://www.cityu.edu.hk/searc>

## **Viet Nam, China, and the Conflict in the Southeast Asian Sea**

Dr. Jonathan D. London is a professor at the City University of Hong Kong. Dr. Vu Quang Viet, is an independent analyst and formerly a statistical analyst at the United Nations.

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Pham Van Dong University, Quang Ngai, Viet Nam

The October 2011 accord between Hanoi and Beijing to resolve their territorial and maritime disputes in the Southeast Asian Sea (SEAS) in a peaceful manner<sup>1</sup> was initially greeted with smiles, largely because it seemed to promise a respite from worsening tensions between the neighboring Leninist states. But nervous smiles in the high politics of East Asia have never been particularly informative. And from the standpoint of 2013 it is apparent that that paper accord has not resolved underlying causes of the tensions and, indeed, has failed even to “paper-over” the dispute. Just one month after the accord was signed an unknown Vietnamese source broadcast video footage of a Vietnamese coastguard vessel ramming a Chinese surveillance vessel in an undisclosed location. The incident was met with official silence from Beijing; an indication the incident occurred quite close to Viet Nam indeed. Just a few days later Vietnamese and Chinese officialdom assembled in Honolulu at the APEC meetings. There, President Obama and Hu Jin Tao continued their tense dialogue, followed by an announcement by Mr. Obama that the United States was nearing

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completion of a Trans-Pacific Partnership agreement that would form an economic community *exclusive of China* and inclusive of Australia, New Zealand, Malaysia, Singapore, Chile, Peru and, notably, Viet Nam. Japan is expected to join soon. With some justification, Beijing sees the TPP as an indication of Washington's efforts to limit its power and has responded with various efforts to mitigate any adverse impacts, largely by signing bilateral trade deals with Korea, Japan, and other partners. Other developments, most notably Sino-Japanese tensions, work against the latter scenario.

In the 18 months since the APEC meetings, much has occurred, but absolutely nothing of a sort that has diminished tensions in the Southeast Asian Sea. Indeed, it will be argued here that Beijing's behavior over this period can only be understood as a process of neo-imperialist expansion of the gunboat diplomacy sort. The first was the Chinese-Philippine standoff at Scarborough Shoal, in which the Chinese occupied waters and land features long claimed by the Philippines and refuse to leave. The second was the spectacular collapse of ASEAN'S relevance in diplomatic affairs, occasioned by Phnom Penh's demonstration that its stance on the Southeast Asia sea I whatever Beijing dictates it to be. Third was China's formalization of its illegitimate "cow's tongue" claim over 80 percent of the Southeast Asian Sea through its establishment of "Sansha City," a jurisdiction with zero basis in international law. (Imagine any other country, including the United States in its imperialist heyday doing the equivalent. Ok, perhaps a bad example!). The cow's tongue now adorns Chinese passports, maps (including some sold in the Philippines) and official Chinese seals. Fourth has been the intensification of provocative naval maneuvers since 2008 including 'increased patrols' over waters with 24 additional marine surveillance ships of which almost a half was transformed from warships that "... have no other mission

but to harass other nations into submitting to China's expansive claims" 2 on the cow's tongue over which Beijing has no legal claim. Finally, but not least worrisome, is the continued promotion of nationalism and "manifest destiny" as a means of fomenting domestic support. A tendency which not only emphasizes the need for "regional stability" (on Beijing's terms) but regularly appears to invite ultra-nationalist and even fascistic tendencies in Chinese politics; this is no exaggeration.

Nor are other developments in the region easing tensions. The most obvious example is the standoff around the Senkaku/Daiyou Islands, which Beijing seems willing to pursue at any cost; within the last year the dispute has worsened with no signs of abating. If that conflict should spin out of control the entire region will be transformed. There is, in addition, a great deal of uncertainty as to how the US would respond. The situation with the DPRK also has implications for the US security posture. There are already indications that the Philippines desire a return of some substantial sort of US naval power to Subic Bay. Finally we have seen the development of a real arms race in East Asia, in part fueled by Beijing's somewhat predictable military expansion. The big beneficiaries here seem to be Russia and the U.S. The loser is regional security and the range of worthy causes on which money will not be spent. Perhaps the most worrisome factor in regional politics is the seeming inability of political elite to transcend the 'politics of face,' a deep-seated cultural attribute of East Asia that has long outlived its usefulness. All of the above has even cautious observers worried about regional tensions.

The persistence of tensions in the Southeast Asian Sea in the context of a dynamic regional and geopolitical landscape gives occasion to review the merits and demerits of the Vietnamese and Chinese states' rival claims in the Southeast Asian Sea, to explore the domestic and international political dynamics that animate the conflict, and to ponder conditions under which the conflict might be resolved nonviolently. As we are most familiar with the Vietnamese case, we will devote particular attention to unpacking the politics of Viet Nam's position in the conflict.

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2<http://articles.latimes.com/2013/mar/27/world/la-fg-china-maritime-20130327>

Moreover we do so from a perspective that is trained on a Vietnamese perspective and assumes, in light of the evidence, that Viet Nam's claims are indeed legitimate. We probe ways Viet Nam can promote its interests in the face of Chinese imperialism.

Overall we contend that another Sino-Viet war would be disastrous. But that it remains difficult to imagine how a peaceful resolution can be achieved without basic changes in the existing political calculus. To better understand the conflict and why Beijing's designs on the region are unacceptable requires historical perspective on the disputed claims, attention to attitudes and behaviors that have underlay recent troubles, and a reminder of just how grandiose and illegitimate Beijing's claims are. No doubt, China is a large and powerful country and an emerging superpower to boot. But this must not mean that Beijing can simply do as it pleases. The only solution, it would seem, would be for Beijing to relinquish its illegitimate claim under the banner of a regional, *multilateral* treaty and a binding code of conduct. Achieving such an outcome will require the promotion of disincentives to kinds of expansionism and gunboat diplomacy that Beijing seems intent on practicing. It will also require leaders in Viet Nam to more energetically cultivate international and domestic legitimacy.

### **Historical facts do not support Beijing's claims**

Let us begin by evaluating the legitimacy claims that animate the disputes between Viet Nam and China in particular. The historical dimensions of the current dispute are difficult to summarize in brief. It is useful to break the conflict down into three separate if interlinked cells. First there is the status of the Paracels Islands and adjoining waters, over which Hanoi, Beijing, and Taipei have laid claims. Second is the status of Spratly islands and adjoining waters, to which Viet Nam and China are two among five claimants, joined by the Philippines, Malaysia, and Brunei. Finally there is the status of the Southeast Asian Sea itself – a vast maritime region that until now has been erroneously called the South China Sea. The geographical designation South China Sea is inappropriate for a sea that lies in Southeast Asia and the

international community should cease and desist from referring to it as such.

### ***The Paracels Islands***

With respect to Paracels the evidence is as follows. During the period when Vietnam was divided into two lordships under King Le, the annalist Le Qui Don wrote in 1774 in his Phu bien tap luc (府編雜錄) recorded annual trips sent by Nguyen lord of the South to the Paracels.

When Vietnam was unified, the first king, King Gia Long declared sovereign claims over the Paracels in 1816.<sup>3</sup> Gia Long and two subsequent Kings demonstrated effective sovereignty and control over the islands through repeated and well-documented official visits and reports over five decades. King Minh Mang annually from 1835-1838 sent troops to the Paracels, so did King Thieu tri until 1854.<sup>4</sup> These continuous actions clearly signify the effective control over the Paracels.

French colonization of Viet Nam in 1884 was followed by a period of neglect.

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3 The action of King Gia Long was recorded by two foreigners.

**French Bishop Jean Louis Taberd wrote that King Gia Long planted a flag of Vietnam in 1816 on Hoàng Sa** in Note on the Geography of Cochin China, Publishen in English in, *Journal of the Asiatic Society of Bengal*, Issue 69, 1837, page 745. **Taberd wrote:** "*The Pracel or Parocels, is a labyrinth of small islands, rocks and sand-banks, which appears to extend up to the 11th degree of north latitude, in the 107th parallel of longitude from Paris. Some navigators have traversed part of these shoals with a boldness more fortunate than prudent, but others have suffered in the attempt. The Cochin Chinese called them Cón úng [Cát Vàng – or Hoang Sa in Vietnamese which refers to the Paracels]. Although this kind of archipelago presents nothing but rocks and great depths which promises more inconveniences than advantages, the king GIA LONG thought he had increased his dominions by this sorry addition. In 1816, he went with solemnity to plant his flag and take formal possession of these rocks, which it is not likely any body will dispute with him.*"

Taberd also drew up a highly professional map of Annam (as Vietnam was known at that time), *Annam Đại Quốc Họa Đồ - Tabula Geographica Imperii Ananmitici* (Map of Great Annam) that includes the Paracels. The Map was printed in his *Latin Vietnamese Dictionary*. J. L. Taberd, *Dictionarium Anamitico Latinum*, published in 1838, by J. Marshnam, in Serampore (Bengale) and reprinted as a photocopy by NXB Văn Hóa và Trung Tâm Nghiên cứu Quốc học, 2004, Vietnam.

Jean Baptiste Chaigneau (1769-1825), a French navy soldier and adventurer, had written in his *Memoire sur la Cochinchine* about the event sometime before his death in 1825; it was posthumously published in 1925 in *Bulletin Des Amis du Vieux Hue*, no. 2, 4, and 6.

4 Ming Mang's actions were recorded in official history **Đại Nam Thực Lục Chính Biên**

(大南寔錄正編 --the Veritable Records of Đại Nam (books 104, 122, 154, 165). King Thiệu Trị's actions were recorded in Châu Bản Thiệu Trị (book 42 page 83, and book 51 page 125)—memos to the king although they were not recorded in official history.

Guangdong *province*, which was never a sovereign nation, began to make its own claims on the Paracels beginning in 1909. The Republic of China made its first claims in 1932, and only on the Paracels, in a written communiqué to the French. The ROC cited two reasons, both illegitimate. The first of these was that because Viet Nam was in the past under Chinese suzerainty, the islands were Chinese. The second rationale, widely cited by Chinese authority, was a settlement signed in Beijing in 1887 (some seventy years after Gia Long's initial claims) between the French Governor of Tonkin and Chinese with the title "*Convention relative à la delimitation de la frontière entre la Chine et le Tonkin.*" The agreement only on the gulf of Tokin stated that the islands east of 105°43' belong to China. Importantly, however, the Paracels, lies east of 105°43', off the coast of what was Annam, present-day central Viet Nam, and was not under Tonkin's jurisdiction.

Bowing to the pressure of Vietnamese and French local officials,<sup>5</sup> on 8 March 1925, the Governor General of Indochina declared the Paracels and the Spratlys to be French territory.<sup>6</sup> In 1933, France officially reasserted sovereignty.<sup>7</sup> However, it occupied only the Crescent group of islands in the Paracels, where it constructed a military base, weather station, and radio station in 1937. During the period of French neglect, at least one Japanese firm registered under a Chinese and employing Chinese workers began mining guano on Woody Island, which lies in the Amphitrite section of the archipelago. The French sent a group of native police in 1939.<sup>8</sup> After the WWII

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5 The pressure of local officials was reflected in the letter written by the Chief Resident of Annam, Hue, to the Governor-General of Indochina on 22 January 1929, arguing the fact that the Paracels belonged to Vietnam, citing the actions of King Gia Long which was affirmed by Bishop Taberd, and the Annamese Minister Thân Trọng Huề before his death. The letter stated that France should have reacted the declaration of sovereignty in 1909 by the Governor of Guangdong Province. (See Monique Chemillier-Gendreau, *Sovereignty over the Paracel and Spratly Islands*, Kluwer Law International, 2000, Annex 8, p.180-182.) See also the discussion on the history of the Paracles as part of the continuous pressure by Lacombe (Alexis Elijah), *L'histoire moderne des îles Paracels, L'Eveil de l'Indochine*, Hanoi, Vietnam, No. 788, 22 Mai 1932.

6 Monique Chemillier-Gendreau, *ibid.*, p. 37.

7 French Ministry of Foreign Affairs, French Journal Official, July 26, 1933 (page 7837).

8 The presence of the Japanese and Chinese on the Spratly was reported in *Economie de L'Indochine 19 Mai 1929*, ([http://hoangsa.org/forum/downloads/63868-N5561322\\_PDF\\_1\\_-1EM.pdf](http://hoangsa.org/forum/downloads/63868-N5561322_PDF_1_-1EM.pdf)) published in Hanoi. The report had a photograph taken on July 1926 showing a 300meter long wharf built by Japanese to transport phosphates to ships. See also Marwyn Samuels, *Contest for the South China Sea*, New York/London, 1982, p. 55-60.



the French never returned to Woody Island but did return to Pattle Island to reoccupy the Crescent group of the Paracels in 1956 to transfer sovereign control to the government of the Republic of Viet Nam. The Republic of China took control over the Amphitrite, where Woody Island is located, after the defeat of the Japanese. In 1955 the PRC took control. In 1974 the PRC seized the Crescent Islands by force, which resulted in the death of 54 Vietnamese and the detention of 48 others as well as one US Military advisor. China has retained illegitimate control over the entirety of the Paracels since 1974.

### *The Spratly Islands*

Next we come to the Spratly islands and adjoining waters. The Spratly islands consist of 36 islets and more than one hundred outcroppings and sandbars that total five km square, but which are spread over a sea area of some 600,000 km<sup>2</sup>. The largest single islet is Itu Aba, which is 0.5 km<sup>2</sup>, and which was occupied by Taiwan since after WWII. The Spratlys were first claimed in part by France in 1887, and then in their entirety in 1933 as *terra nullius* to prevent Japanese intrusion to no objection from Taiwan.

After WWII, the French did not reassert sovereignty, but the Republic of Viet Nam sent troops to many islands, while the Philippines also declared certain areas as *terra nullius*. Malaysia and Brunei made claims on several reefs and cays in 1982 and 1983. The Republic of China made no claims on the Spratly Islands in its 1932 Communiqué concerning the paracels.<sup>9</sup> In 1946, Chiang Kai Shek claimed both the Paracel and Spratleys taking advantage of its assignment by the allies to guard the area above the 16<sup>th</sup> parallel. The next Chinese claim was made by the PRC in 1951, when Zhou En Lai made the claim that the Paracels and Spratlys had always been Chinese territory. It seems that the Chinese claim was most likely made in coordination with the Soviet Union, who at the San Francisco Peace Conference held

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<sup>9</sup> Monique Chemillier-Gendreau, *ibid.*, Annex 10, pages -184-196: Note of 29 September 1932 from the Legation of the Chinese Republic in France to the Ministry of Foreign Affairs, Paris

just one month after Zhou's statement, put forward thirteen amendments to the Peace Treaty, including one to give the Paracels and Spratlys to China. The amendments were voted down 48 to 3.<sup>10</sup> But Beijing's efforts to project its power were just beginning and PRC officials continued to argue erroneously that the San Francisco Peace Treaty signed between Japan and the allies to end World War II gave the Paracels and Spratlys back to China. In fact the treaty simply states that "Japan renounced all right, title and claim to the Spratly Islands and to the Paracel Islands."<sup>11</sup>

The Peace Treaty between the Republic of China (Taiwan) and Japan on April 28, 1952 only repeated what was signed between Japan and the allies. Japan has renounced all right, title, and claim to Taiwan (Formosa) and Penghu (the Pescadores) as well as the Spratly Islands and the Paracel Islands under the provisions of Article 10 of the San Francisco Treaty.<sup>12</sup> Nowhere in the document is it stated that the islands were returned to Republic of China, but it has since been interpreted as such by Beijing. Not only that, it stated that "the United States recognized China's sovereignty over Nansha Islands [the Spratlys] in a series of subsequent international conferences and international practice."<sup>13</sup> But China's assertion is plainly contrary to the policy of the US "which has taken no position on the legal merits of the competing claims." Quite to the contrary, "The US would view with serious concern any maritime claim or restriction on maritime activity in the South China Sea that was not consistent with international law" (US State Department's statement on 10 May 1995).<sup>14</sup>

Still, China has no historical evidence to show that it ever exercised sovereignty over the Spratlys. As with the Paracels, the Spratlys had never been

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10 James William Morley, The Soviet-Japanese Peace Declaration, Political Science Quarterly, Summer 1957

11 Treaty of Peace with Japan. <http://www.taiwandocuments.org/sanfrancisco01.htm>

12 Treaty of Peace between the Republic of China and Japan. <http://www.taiwandocuments.org/taipei01.htm>

13 The Issue of South China Sea, Ministry of Foreign Affairs People's Republic of China June 2000. Posted on the website of Federation of American Scientist: <http://www.fas.org/news/china/2000/china-000600.htm>.

14 B.Raman, Re-visiting the South China Sea, 3 April 2001. <http://www.southasiaanalysis.org/%5Cpapers3%5Cpaper222.htm>.

depicted as part of China in historical records. Nor did China occupy any of the Islands at any point before the 1980s, including in the heyday of Zheng He. The PRC argues that the Chinese were the first to discover, name, develop, conduct economic activities on and exercise jurisdiction over the islands in the South China Sea.<sup>15</sup> However, China's boundary can be shown to end at Hainan Island after careful examination of Chinese official historical records, from the History of Ming Dynasty (*Ming Shi* / 明史), the History of Qing Dynasty (*Qing Shi Gao* / 清史稿) and the maps of GuangDong which were prepared over many dynasties and officially published in the Essential Maps of Quang Zhou (广州历史地图精粹 / Guangzhou lishi ditu Qingcui)<sup>16</sup>. This source included administrative maps down to the district level and prepared during the Qing Dynasty and the Republic of China period. Another more authoritative map called Huangyu quan lan tu (皇輿全覽圖) as it was ordered by Emperor Kangxi of the Qing Dynasty. The map was wood-printed in 1717 after 10 years of works under a Jesuit team with knowledge of western Cartography. China also ends at Hainan Island.<sup>17</sup> The copper-printed copy made by the Jesuit Matteo Ripa is still kept at part of King George III's Topographical Collection at British Library in London.<sup>18</sup>

All the books that China cited for the purpose of showing some vague evidence of Chinese knowledge of the Paracels and the Spratlys were records of travelers and explorers. Clearly China has no historical evidence to show that its national governments had had authority or even considered the Paracels as part of China before 1909. Hence, the claim that China was the first to discover, name, develop, conduct economic activities on and exercise jurisdictions" is without merit. As for

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15 China's Ministry of Foreign Affairs. <http://www.fmprc.gov.cn/eng/topics/3754/t19231.htm>

16 Published by the No. 1 Historical Archives of China, Guangzhou Yuexiu District, Guangzhou People's Government Archives (广州市档案馆 中国第一历史档案馆 广州市越秀区人民政府), 2003.

17 History of the map is described in Cordell D.K. Yee, Chapter 7, Traditional Chinese Cartography and the Myth of Westernization trong *The History of Cartography*, Volume 2, Book 2, the University of Chicago Press, 1994.

18 Ref. K.top. 116.15, 15a. 15b.2 (K.Top is abbreviated from King's Topographical collection)

Viet Nam, its claims over the Spratly's are primarily based on French claims. Other historical evidence is thin, though references of Vietnamese activity in the Spratlys dates back as early as 1776.

This brings us finally to the controversial notes sent in 1951 by the Vietnamese Foreign Minister Pham Van Dong, to Zhou En Lai. The note has become the center piece of Beijing's efforts to distort the historical record and suggest, erroneously, that Viet Nam has renounced its claims, when the note did no such thing. There are three problems with Beijing's attempt to play the Pham Van Dong card. First and most important, Pham's note indicated in four sentences support for the 12 miles of territorial sea. Nowhere did Pham indicate that Viet Nam was ceding sovereignty of China over the Paracels or the Spratlys.

Second, Pham at the time represented the Democratic Republic of Viet Nam, whereas it was the Republic of Viet Nam that received the transfer of power from the French and had established sovereignty over the islands. Hence, the Pham's note had no bearing on the matter of sovereignty. As one observer put it, "One cannot abandon something one has no control of."<sup>19</sup> Both the Republic of Vietnam and the communist National Liberation Front (of South Vietnam) protested China's claims.

Finally, North Vietnam was both at war and was heavily dependent on Chinese aid. At that particular juncture, the Communist Party of Viet Nam was in no position to object. Later, The Provisional Revolutionary Government of South Vietnam (supported by North Vietnam), voicing its opposition to China's violent occupation of the Paracels in 1974 called for settlement on the basis of equality, mutual respect, friendship and good neighborhood.<sup>20</sup> It is necessary for Beijing and its supporters to

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19 Monique Chemillier-Gendreau, *Sovereignty over the Paracel and Spratly Islands*, Kluwer Law International, 2000, page 130.

20 "Chính phủ Cách mạng Lâm thời Cộng hòa Miền Nam Việt Nam ra tuyên cáo như sau: "Vấn đề chủ quyền và toàn vẹn lãnh thổ là vấn đề thiêng liêng đối với mỗi dân tộc. Trong vấn đề biên giới lãnh thổ, các nước láng giềng thường có sự tranh chấp do lịch sử để lại, có khi rất phức tạp, cần được nghiên cứu. Trước sự phức tạp của vấn đề, các nước có liên quan cần xem xét vấn đề này theo tinh thần bình đẳng, tôn trọng lẫn nhau, hữu nghị và láng giềng tốt, và giải quyết bằng thương lượng." Statement of PRGSVN

reject fanciful historical accounts in favor of evidence that meets international criteria for evaluating sovereign claims.

### **The U-shaped line and international law**

This leads to the final component of the present troubles. France's claim on the Spratlys in 1933 met no objection from the Republic of China. Nonetheless, France's claim led an ROC bureaucrat Bai Meichu to concoct his 11-dot U shape map, which depicted 80 percent of the Southeast Asian sea as China's territory.<sup>21</sup> The map, which was printed in 1947, was without coordinates, and remained without coordinates. The 11-dot U shape was modified by PRC to 9-dot U and submitted in 2009 to the United Nations, claiming that the demarcated area is China's historical territory. It bears emphasis that the claim within the U-shaped line is not recognized by any international law and is therefore completely illegitimate. There are signs Beijing knows this. How else to explain the coupling of Beijing's claim of "indisputable sovereignty" with its offer to jointly exploit resources? The latter contradicts the former or seeks to restore the myth of Chinese imperial benevolence.

The account presented here is oriented to established international criteria regarding sovereign territorial claims. The two sets of criteria that are used in this paper are based on precedent decisions made by the International Court of Justice and other international arbitrators, the United Nations Charter, and the United Nations Convention on Law of the Sea (UNCLOS). *A claim of sovereignty* must be reflected in public proclamation and actions by a national government, and not by local

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21 Peter Kien-Hong Yu, "The Chinese (Broken) U-shaped line in the South China Sea: Points, Lines and Zones", *Current Southeast Asia*, vol. 25, no. 3, 2003. p. 407. On the arbitrary creation of the 9-dotted U shape line dreamed up in 1947 by Bai Meichu, an official of the Republic of China (now Taiwan), Yu wrote: "It is quite probable, however, that he was prompted by a primordial possessive instinct (that as the adage goes, views possession as nine-tenths of the law.) Indeed, Bai notes the French occupation (from July 1933) of six islands in the Nansha (or Spratly) island group the South China Sea (SCS) and states that or arguably felt that Chinese sovereignty must somehow be protected." Later in 1947 this map was released by Republic of China (see Li Jinming and Li Dexia, *The Dotted Line on the Chinese Map of the South China Sea: A Note*, *Ocean Development & International Law*, 34:287-295, 2003).

authorities only. A claim must involve two elements, each of which must be shown to exist: the intention and will to act as a sovereign and some actual exercise or continued display of such authority. A claim must not be contested at the critical time of proclamation. Silence means acquiescence. A claim must not be exercised by force or threat of force. Historical entitlement to the ocean is not recognized by international laws. *Evidence of historical sovereignty* must be official documents; which take precedence over other historical documents that record the actions of a national authority. Historical evidence must also be transparent with respect to sources that are verifiable.

Evidence suggests Beijing's claims of historical sovereignty over the Paracel and Spratlys Islands are false and baseless. A careful examination of Chinese official historical records of the Ming and Qing Dynasties shows that China's boundary has historically ended at Hainan Island. All the books Beijing cites as evidence of Chinese knowledge of the Paracels and the Spratlys were records of travelers and explorers. Beijing has no historical evidence to show that its national governments had had authority or even considered the Paracels as part of China before 1909; more than 130 years after Viet Nam had established its sovereign claims.

### **Political Dynamics: Domestic and International**

It is no surprise that Viet Nam and China both covet and desire sovereign control over the disputed islands and adjoining waters. Nor should it be surprising that interested third parties, including the United States, have an interest in the conflict, as its implications are indeed geopolitical in scope. The region is rich in marine life and lies over significant if undetermined quantities of hydrocarbons. The region is a vital and strategic shipping lane. But it is also worth considering the domestic and international dynamics of the conflict, which are not always obvious.

For Viet Nam, a country with a comparatively small economy and a long coast line populated by people dependent on the sea, access to the East Sea (as it is known

in Viet Nam) is indeed a vital national interest. The potential contribution of resource rents to Viet Nam's economy is very significant. Unlike China, Viet Nam does not possess one trillion dollars in foreign exchange and lacks the global reach that China is rapidly developing. Even more basically, the natural wealth of the Southeast Asian Sea is important to the livelihoods of millions of Vietnamese. China's recent behavior, including the illegal seizure of Vietnamese boats, is particularly regrettable. The sight of a superpower demanding ransom from the poor is an ugly one indeed. China, too, has important domestic interests. Among the most important of these are access to raw materials, including sea products and fossil fuels. China's insatiable appetite for raw materials is a global concern and it is encouraging that China is at the forefront of efforts to develop alternative energy. In the mean time, it must not be allowed to simply push smaller countries around. A problematic aspect of East Asian heritage concerns face. Beijing does not want to lose face by recognizing that its claims of sovereignty are excessive.

It is also important to recognize the nuances of Vietnamese domestic and international politics. In a recent *Post* article, our colleague and friend Joseph Cheng asserted that Hanoi was tolerating or promoting protests to distract the population from the country's faltering economy. This is simply wrong, however, and reflects Professor Cheng's quite limited familiarity with politics in Viet Nam. Having attended one of the protests in Hanoi recently, one of the present authors can confidently state that those protesting China's actions are normal folks. If anything, Vietnamese authorities have belatedly recognized that their own legitimacy is in question if it fails to confront China. Multiple conversations with middle-aged Vietnamese yield a common sentiment: dread at the prospect of a return of war, but resolve in the face of Chinese imperialism. The formula is old and known to all Vietnamese. If Vietnam were to bow to China there simply wouldn't be a Viet Nam. There are few things in politics that link Vietnamese globally, but the maritime disputes with China certainly do. Perhaps the most significant international dimension of the conflict has arisen in response to Beijing's clumsy and aggressive

approach: the United States has declared that protecting free activity in the region is a national security interest.

### **Solutions?**

For Viet Nam and China to achieve a peaceful settlement, three hurdles need to be overcome. First, it is necessary for both sides to submit to an impartial assessment of the historical sovereignty claims advanced by each side. However, Beijing is unlikely to acquiesce. Second, there is a need for China to cease and desist from its illegal acts on the high seas. But this is unlikely, too. Third, given the importance of the Southeast Asian Sea to regional and world trade, there is a need for regional and world powers – and not only China – to reach a binding multi-lateral agreement on the region. UN's Law of the Sea (UNCLOS) may play a role. It states that all structures in the sea in their natural states, be they islets and sandbars in the SEAS that cannot sustain human life do not deserve EEZ except 12 nautical miles of territorial water. That interpretation if accepted would take away a big chunk of the area currently under contentious and dangerous disputes among nations and put them in the category of international high sea. The International Tribunal on the UNCLOS should be in a position to give an opinion. Again China may object to this. It only wants bi-lateral negotiations on a multi-lateral issue so it can put pressure on smaller and weaker nations. China has many times floated its proposal to share with them some hydrocarbon resources and control over fisheries as long as others accept sovereignty on the Southeast Asian. This is ridiculous. It looks like a thuggish giant who come to other people's houses and threaten to kill them if they do not agree with a few bones they generously offer. It seems to us that the only fair solution to the sharing of resources in the SEAS is to distribute net rent from resource exploitation in



proportion to the length of relevant coastlines of the countries bordering the SEAS ignoring all national structures in the SEAS. These countries include China, Brunei Malaysia, The Philippines and Vietnam.

Viewed on their face, the three conditions laid out above would seem reasonable enough. Why not submit the case to arbitration? Why not cease the illegal detention of Vietnamese craft. And why not seek a multilateral resolution that recognizes the international importance of the Southeast Asia Sea. To see why not requires a closer examination of Beijing's claims and ambitions in the region, which are imperialist in their nature. Professor Amitav has correctly argued that China at present is seeking to extend its own version of the Monroe Doctrine.

There is a need to acknowledge that Beijing's foreign policy environment is an echo chamber in which the repetition of fanciful claims is taken as truth. However impressive China's rise has been, the world cannot be expected to accept Beijing's version of the Truth, for this version is so often self-serving. There is a need for interested parties, including the United States, to ensure that China ceases and desists from its reprehensible and indeed criminal conduct, particularly as it concerns the livelihood of Vietnamese fisherman whose livelihoods and physical wellbeing are at stake. How this can be achieved is, of course, far from clear. At best, Beijing's claims rest on a combination of fanciful history, flimsy evidence, and false statements, as is illustrated above. Beijing's aim obviously is more than the possession of a few islets and sandbars. It wants to control the Southeast Asian Sea and subject other countries to its control, or at least to its sphere of influence while taking possession of the hydrocarbon and fishery resources in the SEA.

### **Viet Nam: A Third Path?**

An interesting characterization of Vietnamese predicament has been circulating for some time. The characterization, which is said to represent Viet Nam's leaders fundamental concerns and whose exact origins we do not know, says something along the following lines: "Follow the U.S. and lose the regime, follow China and lose the country." This quip, while funny in respects, speaks to a profound dilemma facing Viet Nam's leadership; a dilemma which, while not new, has a fresh relevance, and requires a fresh approach. First let us dissect the dilemma, both in general terms and with respect to the Southeast Asia Sea. We can then observe its implications for Viet Nam. This leads us to propose a third path that involves neither losing the country nor plunging Viet Nam into chaos.

Coping with an expansionary China or – more constructively – building partnerships with a rising China, may be a 'new' issue for much of the world. For Viet Nam is and has always been an existential reality. For the Communist Party of Viet Nam, China has always posed opportunities and threats. On the one hand, the Chinese Communist Party (CCP) has provided Viet Nam with material and non-material assistance at various critical juncture's in Viet Nam's independence struggle. On the other hand, the CCP has sought to manipulate, undermine, and contest Vietnamese independence. It is also the case that the CPV's historic relations with the CCP are a sore point in Viet Nam's own domestic politics. In part because the disastrous application of CCP-inspired land reforms and cultural policies from the 1950s to the 1970s and in part because at certain times, such as 1951 and 1974, the CPV may have placed excessive trust in Beijing's comradeship, manifest in unnecessary and ultimately self-defeating attempts to cultivate Beijing's support for a peaceful and friendly relationship built on mutual respect. Only to be burned. China in general and

the CCP in particular has always been a double edged sword for Viet Nam and the CPV. With respect to the Southeast Asia Sea, the CPV faces the wrong edge of sword and has yet to demonstrate its willingness to maneuver out of this position, save the purchase of military deterrents (such as submarines, fighters, missile technology, patrol boats and aircraft). This, by itself, is the wrong approach.

Historically, the CPVs relationship with the United States may be reasonably characterized as disastrous, at least until recently. The main reason, of course, is the U.S. failure to recognize the CPV and its subsequent efforts to undermine, defeat, and destroy the CPV militarily. The USA's military intervention in Viet Nam, initially based on fabrications (e.g. 'The Tonkin Incident'), deteriorated into a conflict that visited catastrophic damage on Viet Nam and the Vietnamese people. We do not wish to dwell on the Johnson and Nixon administrations' illegitimate war and the many criminal acts overseen by the likes of McNamara and Kissinger, but we cannot help seize on the irony that Beijing's illegal seizure of the Paracel's in 1974 was the direct result of both the CPV and the Nixon administration's bids to cultivate better relations with the CPP, a short term strategy that has proven to be damaging over the long term, not only because the CPV watched China seize the Paracels but because it gave China a foothold in the Southeast Asia Sea that is has continuously sought to expand. As for the U.S., the Nixon-China dynamic had the benefit of increasing pressure on the Soviet Union and building a constructive relationship with a country that would soon challenge the US's own hegemonic position, including in East Asia. The CPV's reluctance to cultivate closer military ties with US is borne out of two rationales: angering the CCP on the one hand and allowing 'peaceful evolution' that would ultimately result in the demise of the CPV on the other. And yet both of these rationales are without merit.

With the respect to Beijing, there is indeed a need to build a relationship that is constructive and is based on mutual respect. It is not clear Beijing respects Hanoi beyond the kind of paternalistic (Anh-Em) relationship that has continuously visited harm on Viet Nam. We have no illusions, as Viet Nam's largest trading partner and as a world-scale military power right next door, Viet Nam *must* maintain a positive and constructive relationship with China. On the other hand, sitting silently (im lặng) save a few conferences that draw hardly any international attention, is a sure path to ceding the Southeast Asia Sea. Viet Nam is a sovereign state not a tributary state and Viet Nam has its own strategic interests that are independent and, by necessity, different than China's. The CPV's relationship with the CCP and Viet Nam's relationship with China must be based on principles of partnership and not paternalism.

With respect to Washington, the CPV has a right to be skeptical. All countries and states should be skeptical of the USA's intellectually bankrupt insistence on subjecting the world to market principles. In addition CPV should be watchful of a negotiated division into spheres of influence among big powers where its interest is sacrificed. On the other hand, there is a great deal to be gained economically and in other respects through more active and energetic engagement with the U.S. Nor does cultivating a closer relationship with the US need entail a zero-sum game with respect to Beijing, as we will emphasize further, below. Alas, the CPV's partnership with the US, and indeed Viet Nam's standing in international affairs, is at present limited by CPV's insistence on maintaining a repressive political system. This brings us squarely to the rationale that if the CPV cultivates stronger ties with Washington, which will require relaxing constraints on basic freedoms (speech, association, etc), will place one-party rule in peril. Such a perspective is wrong, however, insofar as it assumes

that the CPV is incapable of reforming itself.

How did a paper on Viet Nam's claims in the Southeast Asia Sea lead us to a discussion of the CPV itself? This can be stated in very simple terms. It is our view that Viet Nam's national security and its national interests, economic and otherwise, stand to gain immensely from improvements in its international stature. Yet improvements in Viet Nam's international stature will only come with fundamental institutional reforms, including political and economic reforms that Viet Nam so obviously needs. There are very, very many people in Viet Nam, including scores with longstanding links to the Party that recognize Viet Nam stands to benefit from more competent and accountable government and a more open political and democratic system that lives up to Viet Nam's international obligations and to the aspirations of all Vietnamese. Undertaking fundamental reforms need not spell the demise of the CPV. There are many bright and talented people who have been needlessly sidelined by political conservatism and interest group politics. On the contrary, we believe Viet Nam will stand to benefit immensely from fundamental reforms. And that such reforms will not only permit a more vibrant economy, but also align Vietnam with the larger part of the world that shares the same aspiration for freedom, democracy, equality, fairness and other human values, thus bolstering Viet Nam's international standing and ultimately strengthen its position in regional and world affairs. Then - and only then - will Viet Nam and China be on an equal footing.