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FLORIDA INTERNATIONAL UNIVERSITY

Miami, Florida

A BILATERAL ANALYSIS OF THE SOUTH CHINA SEA DISPUTE: CHINA, THE PHILIPPINES, AND THE SCARBOROUGH SHOAL

A thesis submitted in partial fulfillment of

the requirements for the degree of

MASTER OF ARTS

in

ASIAN STUDIES

by

Adam Nieves Johnson

2012

To: Dean Kenneth G. Furton
College of Arts and Sciences

This thesis, written by Adam Nieves Johnson, and entitled A Bilateral Analysis of the South China Sea Dispute: China, the Philippines, & the Scarborough Shoal, having been approved in respect to style and intellectual content, is referred to you for judgment.

We have read this thesis and recommend that it be approved.

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ABSTRACT OF THE THESIS

A BILATERAL ANALYSIS OF THE SOUTH CHINA SEA DISPUTE:

CHINA, THE PHILIPPINES, & THE SCARBOROUGH SHOAL

by

Adam Nieves Johnson

Florida International University, 2012

Miami, Florida

Professor Thomas Breslin, Major Professor

The South China Sea is a sea with strategically important shipping lanes, an abundance of maritime resources, and potentially large amounts of oil and gas deposits. Because of the significance of the sea, China has claimed almost all of it, which has caused the Association of Southeast Asian Nation members (ASEAN) whose countries surround the sea (Vietnam, Singapore, Indonesia, Malaysia, Brunei, and the Philippines) to take a stance against the encroachment. The most important non-Chinese claimant in the dispute is the Philippines, which shares a mutual defense treaty with the United States. The dispute has been analyzed from a bilateral perspective between China and the Philippines. A theoretical analysis of the dispute has been conducted through a Neorealist paradigm. How the two countries define international law and engage in diplomatic and military policies has also been closely examined. China has not sought foreign intervention whether from a nation or international organization, while the Philippines has preferred as much multilateralism as possible. A recent Scarborough Shoal dispute between the two countries has changed the dynamic of the dispute, and in examining the event and its outcome an inevitable conclusion of military action has been reached.

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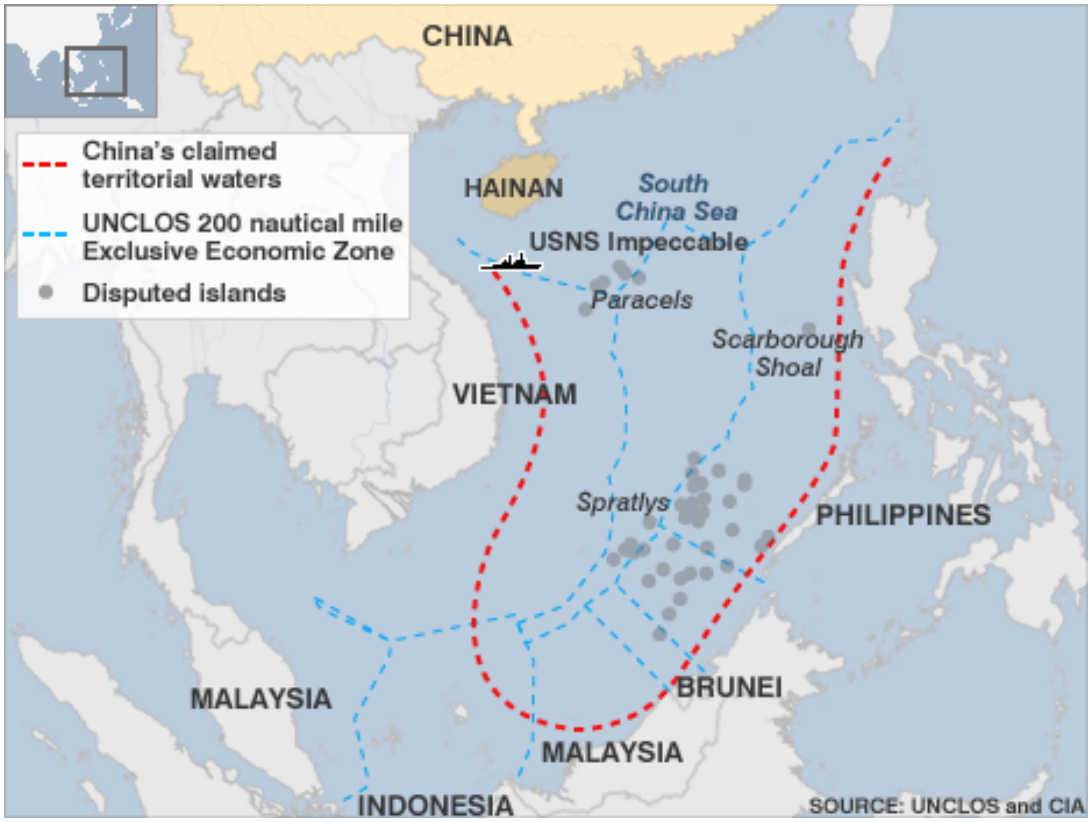
CHAPTER I

A BRIEF INTRODUCTION TO THE DISPUTE

For decades, China, Malaysia, Taiwan, Vietnam, the Philippines, Brunei, and Indonesia have been engaged in a tense standoff of muscle-flexing and stern words over who controls a South China Sea that is rich in resources and strategically important. The standoff led to a great deal of headache for leaders in the region, while also bringing all of the countries (minus China) closer together. Besides China, the countries involved are significantly weaker both militarily and economically even though they are somewhat unified. Because they are weak, these nations are seeking the assistance of the United States as it increasingly exits the Middle East and enters into East and Southeast Asia.

What this fight is truly about goes deeper than what many call a "territorial dispute," and tension has increased since China has become a bigger power on the world stage. As China's economy has grown exponentially, so has its thirst for oil, and as the Middle East proves to be increasingly volatile China has to secure oil by any means necessary. In regards to territory, China claims it has the right to almost the entire South China Sea (See Figure 1.1). The other countries around the Sea dispute these claims and have been becoming more and more audacious towards their powerful nemesis. In the last year the Philippines and Vietnam have increased not only their rhetoric, but also actions by engaging in live-fire drills in the Sea, hosting joint naval exercises and oil explorations, and calling for international mediation spearheaded by the United States.

Figure 1.1: UNCLOS and CIA South China Sea Map



As part of the Pacific Ocean, the South China Sea goes from the Taiwan Strait all the way south to the Strait of Malacca. The region is economically important for a multitude of reasons, and not just to the seven countries already mentioned in the direct vicinity but also to countries that could be affected indirectly such as South Korea, North Korea, and Japan. These indirect actors are following the events on the ground, and will be significantly impacted by the actions that take place. The South China Sea is home to an abundance of biodiversity including fishes, which are vital for the Philippines. Fisheries are important for economic livelihoods, and also provide food for the table.

International trade is another important factor that makes the South China Sea a significant region. An estimated 60,000 oceanic vessels go through the Strait of Malacca annually, this makes up approximately half of the tonnage that is transported through the world's oceans. What is most important about this maritime transportation is the oil that goes through this region. A little over half of the world's exported oil supplies and two-thirds of the world's exported natural gas go through the South China Sea annually. As previously mentioned, there are countries in the region that are not directly involved in the dispute, but are still affected by the dispute. Japan and South Korea receive an estimated 80 percent of their oil through South China Sea maritime routes. To compare this to other vital maritime routes, the amount of oil that is transported through these routes on a daily basis is roughly six times the amount that passes through the Suez Canal and almost sixteen times greater than the amount that goes through the Panama Canal.

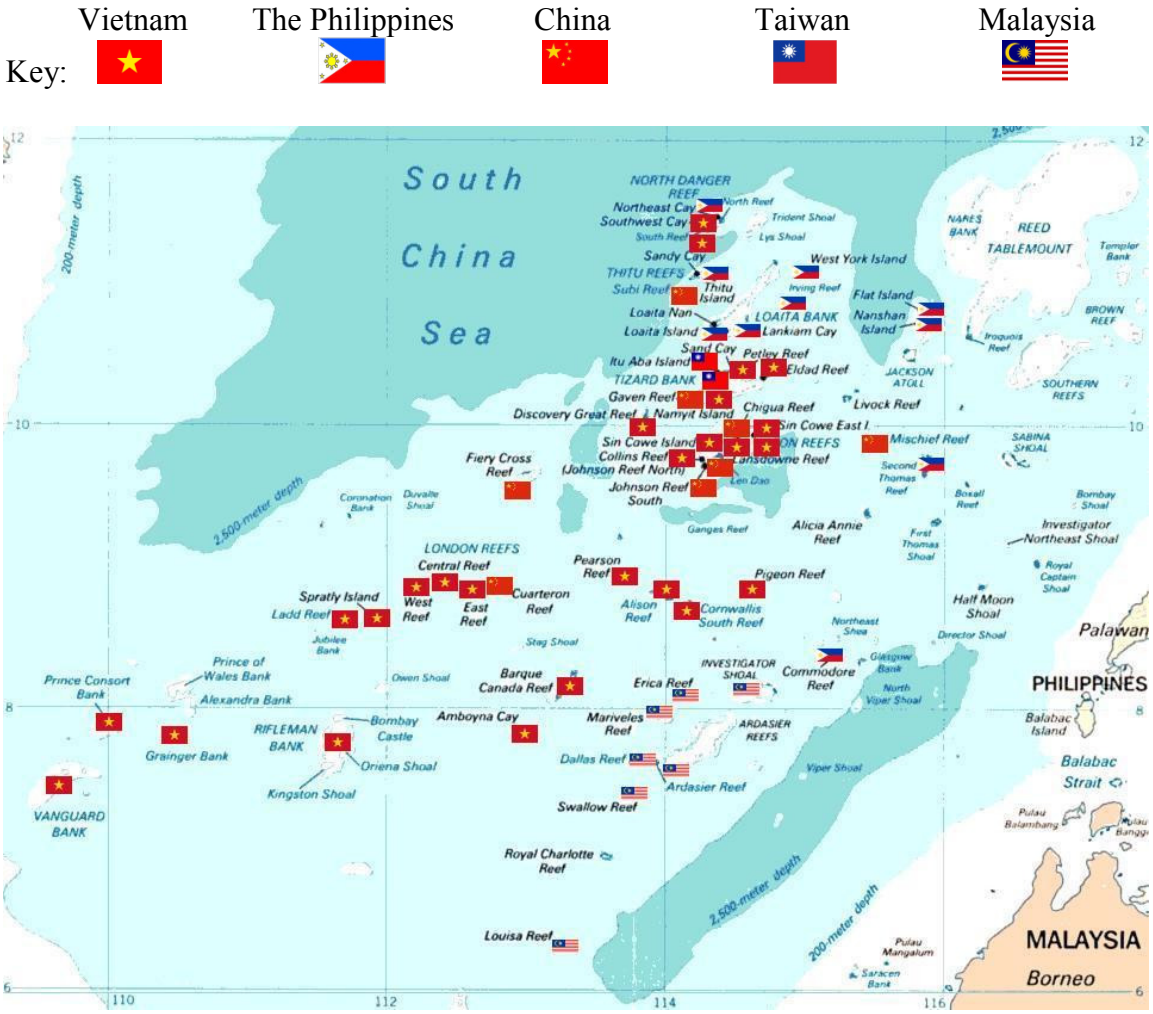
Besides oil transportation in the region, what is even more important, especially to a growing China, is the abundance of oil and gas reserves found in the region. Given the tense political and military climate in the sea, legitimate and widespread exploration has been quite difficult. While no one knows for certain, Chinese estimates are as high as 213 billion barrels of oil reserves. If true, the region would be second in the world, behind Saudi Arabia. American scientists, who claim that roughly 28 billion barrels exists, dispute China's estimate, but claim there are also large natural gas reserves. With that much oil and gas on the line, tensions will rise. Ownership of those reserves can either help keep China on pace to be the world's biggest economy, or it can help the countries around it develop and strengthen their economies.

The significance of these vital maritime routes, the opportunity to tap into plentiful oil and gas reserves, and a profuse amount of marine life and resources are the three main reasons why these countries are engaged in an intense dispute. In the South China Sea, it is estimated that there are anywhere from 90 to 650 islands, and of these roughly 50 are occupied by citizens of the aforementioned countries. These islands form four major groups to make the complex situation somewhat easier to understand. One of the little known island groups is the Pratas Islands. The Patras Islands are generally viewed being part of Taiwan, but the People's Republic of China also claims them. Another group is the Macclesfield Bank, which is claimed by the Philippines, China, and Taiwan. The Paracel Islands between China and Vietnam is "administratively controlled" by the Chinese province of Hainan, but Vietnam and Taiwan also lay claim to the island group. It is important to note that before 1974 South Vietnam controlled multiple islands in the group, but lost them to China in the Battle of the Paracel Islands in 1974. The most significant and important island group relating to this thesis is the Spratly Islands. These islands form the most southern island group in the Sea and are home to the most islands out of the four groups, but many of these "islands" are not habitable and are actually rocks, reefs, cays, and islets.

The Spratly Islands are claimed by China, Vietnam, and Taiwan; different portions of the island group are claimed by Malaysia, Brunei, and the Philippines. The Philippines claim is most important for reasons that will be discussed in this thesis. All of the countries with the exception of Brunei have established a military presence on these islands and "occupy" some of them. As can be seen on the map below (See figure 1.2), China, which is the biggest power in the region (and furthest away), occupies

between seven and nine of the Spratly Islands. Vietnam occupies twenty-seven islands, making it the country with the most, while the Philippines occupy nine islands. Taiwan boasts having the largest island in the sea, Itu Aba, and Malaysia controls five of the islands.[1]

Figure 1.2: Spratly with flags



To create a U.S.-centric comparison of this dispute so that one from the West could understand it better, one should imagine himself or herself as a resident from

[1] Rousseau, Richard. "South China Sea: Rising Tensions, But No Permanent Solutions On the Horizon." *Foreign Policy Journal*. September 16, 2011. http://www.foreignpolicyjournal.com/2011/09/16/south-china-sea-rising-tensions-but-no-permanent-solutions-on-the-horizon/

Jamaica, Cuba, or any other island in the Caribbean Sea. Now imagine that the United States just declared sovereignty and territorial integrity over the entire Caribbean Sea. Think about the affect that would have on the seventeen island nation-states in that Sea, and not just those island nations, but also countries such as Venezuela, which are skeptical of American hegemony on their doorsteps. A territorial claim like this could have serious potential to dangerously affect fishing rights, oil exploration, and commercial shipping lanes by the island countries in the Caribbean Sea. Since the United States has a monopoly of power in the region, the U.S./Caribbean Sea example has many of the same parallels. While the Caribbean nations are significantly weaker in regards to economy, military, and political clout than the South China Sea nations, a territorial dispute with the U.S. claiming all of the Caribbean draws a similar parallel to the South China Sea dispute. If the United States made a claim this enormous and erroneous, the publicity and international condemnation it would receive would be significant. The claims of the People's Republic of China to the South China Sea have not received much condemnation from the international community as a whole, even though the South China Sea is extremely important to the world.

The People's Republic of China, however, has created an anxious feeling in the region. In recent years tension has spiked, and even the smaller countries such as Vietnam and the Philippines have become less restrained in rhetoric and actions. Whether it has been Chinese naval vessels cutting the cables from Vietnamese oil exploration ships, the Philippines sending warships into disputed areas, or the Vietnamese Navy engaging in confrontational live-fire exercises that the Vietnamese know will anger China, the South China Sea is boiling with tension and uncertainty. As

more and more naval warships from all sides are patrolling the Sea, the dispute is becoming more militarized and less diplomatic.

While the dispute is termed a regional one, it has global implications, therefore making it an American issue mainly because the smaller countries in the region (the ASEAN) have chosen to seek U.S. power in the region to balance China's. As the United States has drawn down its commitment in the Middle East, it has shown its Southeast Asian allies that it is committed to them by way of military aid, and even the recent deployment of Marines in Australia. The United States began to significantly catch China's eye in 2010 while at a regional forum in Hanoi, Secretary of State Hillary Clinton said, "The United States has a national interest in freedom of navigation, open access to Asia's maritime commons, and respect for international law in the South China Sea." It was there where she also pushed for a binding code of conduct so that there would be a set of rules in place, but that still has not happened.

China's rebuttal to this and to Hanoi's persistence in having external powers help mediate the dispute was quite harsh. In one of its main military papers, Beijing stated, "China resolutely opposes any country unrelated to the South China Sea issue meddling in disputes, and it opposes the internationalization of the issue."[2] What this rhetoric means, is that no external international organization or country will be invited by China to have a say in how the territorial dispute is fixed. In all actuality, this dispute would be perfect for an organization such as the International Court of Justice to settle, but China will not let this happen. There are many dynamics to the South China Sea dispute, and it

[2] Buckley, Chris. "China warns outside nations to stay out of sea dispute." *Reuters.* June 15, 2011.

is good to understand and know all of them. As the bilateral dispute between China and the Philippines becomes more complex with new foreign policies and power shifts taking place, the purpose of this thesis is to highlight these new shifts and explain them in better detail.

CHAPTER II

A CHINESE HISTORICAL AND LEGAL ANALYSIS OF THE DISPUTE

Human rights, international law, piracy, and countless other international issues have different meanings to different countries around the world. It is of the upmost importance to understand how every country in the dispute perceives international laws and the organizations that are in charge of them. This section will only focus on China, because as it is the biggest and most significant player in the dispute, due to the way the People's Republic of China was formed, it has a different view towards international laws that were mainly a tool of the West. China does not believe that the West took the consideration of countries such as itself when it enacted its new world order, especially since China was not at the table when many of these international laws and the organizations that oversee them were created.

Important Legal Documents "Affecting" the Dispute

The United Nations Convention on the Law of the Sea (UNCLOS) was established on December 10, 1982. The convention covers a great deal of oceanic issues such as navigation, continental shelves, and most importantly to the South China Sea dispute, Exclusive Economic Zones (EEZs). What is important about EEZs is that a country has exclusive economic sovereignty over 200 miles of ocean that surround its territory. The purpose was so that countries could not deplete the maritime resources in waters that did not belong to it. It would be the sovereign right of every individual country to manage and rationally exploit their own waters and no other country could do

so in their 200-mile border. The map (See Figure 1.1 pg. 2) gives an example of how the UNCLOS would be applied in the South China Sea.[3]

China decided to write legislation of its own, February 25, 1992, the Standing Committee of the National People's Congress adopted the "Law on the Territorial Waters and Their Contiguous Areas" (Territorial Sea Law). While Beijing's law did not specify its exact territorial claim, it did declare sovereignty over the Paracel and Spratly Islands.[4] A year later in 1993, Beijing published its own map showing where its territorial waters extended. They can be seen as the red dotted line on the UNCLOS map (Figure 1.1 pg 2) in Chapter 1.

On July 22, 1992 in Manila, the ASEAN foreign ministers drafted the ASEAN Declaration on the South China Sea. The ASEAN Declaration made the South China Sea territorial disputes a multinational affair, but also set a foundation upon which disputes can be settled and a framework in which to settle them.[5] But one key factor was left out of this declaration, China. At this time the ASEAN countries were beginning to feel threatened by China, mainly because Beijing was earning a reputation by contradicting itself with its words and actions. Even though China expressed support for this Declaration, it occupied another Vietnamese island (Da Lac Reef) in the same year.

While the ASEAN Declaration on the South China Sea was a positive move in theory, it lacked a signature from China, and also lacked the "teeth" necessary to enforce

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[3] United Nations. *United Nations Convention on the Law of the Sea.* 1982. http://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm

[4] Dillon, Dana. "Countering Beijing in the South China Sea." *Hoover Institution*, Stanford University. Policy Review - No. 167. June 1, 2011. http://www.hoover.org/publications/policy-review/article/79931

[5] Association of Southeast Asian Nations. *ASEAN Declaration on the South China Sea.* Manila, Philippines. July 22, 1992. http://www.aseansec.org/1196.htm

anything, especially against an aggressor such as China. Because of this dilemma, the Declaration on the Conduct of Parties in the South China Sea (aka the DOC) was signed on November 4, 2002.[6] Leaders from the ASEAN and China met at the Eighth ASEAN Summit in Phnom Penh, Cambodia to draft a new declaration that would build a foundation to stabilize the region. All parties there collectively agreed that this summit made a significant contribution to the maintenance of peace and security in the region, while erecting a stage for peaceful development and cooperation.

The Declaration on the Conduct of Parties in the South China Sea's goal was to establish a "code of conduct" in the South China Sea, which had been debated for over a decade. The idea of a code of conduct for the region started with the ASEAN Declaration on the South China Sea of 1992, where it stated that all parties are to abide by the principles stated in the Treaty of Amity and Co-operation in Southeast Asia (aka the TAC) as the core for creating an international code of conduct for the South China Sea. In summits and ministerial meetings of the past, a code of conduct for the South China Sea was always brought up and discussed, but nothing tangible ever came to fruition.

When the DOC was created in 2002, both ASEAN members and China showed the world that regional players could work out their differences and create (for the first time) a code of conduct for countries located in the South China Sea region. There is much significance in the DOC's creation, because world powers such as the United States, the European Union, or organizations such as the United Nations, or NATO did

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[6] Association of Southeast Asian Nations. *Declaration on the Conduct of Parties in the South China Sea*. 2002. http://www.aseansec.org/13163.htm

not have to sit in or mediate these talks. It showed that different countries in a region could work together without an external mediator making them settle their differences, or so they thought. Time and 1.3 billion Chinese hungry for fish and thirsty for energy would bring about a different outcome.

China's Historical/Legal Claims in the South China Sea

China has laid down its legal claim in the argument of "first discovery," which is made on the basis of its historical records. Beijing argues that the Spratly and Paracel islands were first discovered by the Chinese in the 2nd century AD, and since then have been exploited and occupied by ethnic Chinese.[7] China backs up this argument with 3rd & 18th century maps and archaeological artifacts found on the islands that bear similarities to China's Han Dynasty. These arguments are subjective, and come at a time period before many international law structures were set in place. This is important due to the colonial events prior to the independence of the respective countries, pre-World War II events, and post-World War II international structures that were set in place. For instance, in the 1930s, France placed the Spratly Islands under French colonial Vietnamese territory and control. The People's Republic of China argues that even though France did this, it does not mean that China's claims were invalid or not legitimate. The People's Republic of China goes even further to say that during the time when France did this China's former Nationalist government (much weaker than France at the time) was sending a formal protest through the proper diplomatic channels. In addition to this, before the signing of the 1951 San Francisco Treaty, China's Zhou En

[7] Chang, Felix K. "Beyond the Unipolar Moment - Beijing's Reach in the South China Sea." *Orbis. Foreign Policy Research Institute*. 1996

Lai maintained "the peace makers could not overrule the undisputed sovereignty of China over the Spratly Islands." In regards to Vietnam's post-French colonial claims, China has often reminded Vietnam of the stance of North Vietnam prior to 1975, which supported the position of the People's Republic on the Spratly and Paracel Islands.[8]

When discussing China's argument in regards to having legal sovereignty over the Spratlys it is important to note that Taiwan has a similar legal claim. Taiwan also uses the argument of first discovery as China does through the argument that it is the true Republic of China. It also claims its sovereignty because of past economic activities and 13th - 15th century Chinese maritime expeditions. When the Chinese Civil War broke out between the Nationalists and Communists, control of the islands was also important for both sides. These competing claims between the Nationalists and the Communists only intensified with the start of the Sino-Japanese War during the 1930s, and even countries such as France and Japan took advantage of a weak China that just endured a bloody civil war and occupied many of its Spratly Islands. Even though Japan occupied different Spratly Islands post-WWII, Taiwan maintains that it had an understanding with Japan that the islands it occupied would be placed under its jurisdiction[9]. The Nationalists (now of Taiwan) claim that in 1947 they restored their sovereignty over the Spratly Islands. To back this claim, they point to the 1952 Sino-Japanese treaty that recognizes Taiwan's sovereignty over the islands[10]. Even though the 1951 San Francisco treaty did not include the Spratly Islands as being part of Taiwan, China believes its

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[8] Catley, Robert, and Makmur Keliat. *Spratleys: the dispute in the South China Sea*. Ashgate. 1997.

[9] Catley, Robert, and Makmur Keliat. *Spratleys: the dispute in the South China Sea*. Ashgate. 1997.

[10] Samuels, Marwyn S. *Contest for the South China Sea*. New York, London, Methuen Co Ltd. 1982.

sovereignty over them cannot be invalidated.[11] If one believes that Taiwan will sooner or later be a province of China, and because the mainland does not believe Taiwan exists as an independent nation, both Taiwan and China's claim are one and the same.

What International Law Says About These Claims

When these claims are reviewed under the lens of International Law, there are considerable limitations to the claims of every country involved. The principle of first discovery (argued by China and Taiwan), in fact, can successfully provide adequate grounds for obtaining a territory. Even though it is possible to acquire territory with the principle of first discovery, by no means does it automatically establish a permanent ownership, because it can be superseded by another claim through the principle of occupation. What occupation means is that the said island or group of islands should not already be occupied by another country or it must be unappropriated (*res nullius*). Also, a true occupation is one of a physical presence.[12]

If these requirements are kept in place, it means that the claims of Taiwan and China are questionable. Especially since the fact that when both of those countries occupied parts of the Spratly Islands, it was only after the San Francisco Treaty that gave no clear answer to who the islands would belong to. Taiwan did not occupy the islands until 1947, while China did so in 1988. So while China gives evidence that it discovered the islands many centuries in the past, since the Chinese (whether Taiwan or China) did

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[11] Kivimaki, Timo. *War or Peace in the South China Sea.* Nordic Institute of Asian Studies. NIAS Press. September 19, 2002.

[12] Nordquist, Myron H., and John Norton Moore. *Security Flashpoints - Oil, Islands, Sea Access and Military Confrontation.* Martinus Nijhoff Publishers. 1998.

not continually occupy them since their discovery, their legal argument is not the most persuasive.[13]

In addition, there is even more legal controversy behind China and Taiwan's claims in the South China Sea. While China's argues that its people were engaged in maritime activities around the Spratly and Paracel Islands in the 2nd century, many historians actually date this activity around the 5th century.[14] Also, in regards to China's maritime activities, scholars and historians point out that while they were in the South China Sea region, they were not around the Spratly and Paracel Islands. While this region was important for trade and tribute paying to the China Empire, the majority of action took place along the coastal areas of the countries surrounding the South China Sea, and not through the high seas areas of the Paracel and Spratly Islands.

With this counter-argument against Chinese claims comes another one regarding the Han Dynasty artifacts found on the islands that China uses for its claim. In legal terms, the argument of Han Dynasty artifacts found in the Spratly Islands as a basis for territorial claims is not convincing enough. First off, because artifacts have been found on certain islands, it does not mean that there were Chinese settlements there too. It can simply mean that traders and explorers made it to different islands, because while there are artifacts, there are no signs of settlements that the Chinese lived in centuries ago. Also, in terms of boundaries and sovereignty in East Asia in those times, state boundaries

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[13] Dzurik, Daniel J. *The Spratly Islands Dispute: Who's On First?* International Boundaries Research Unit. Maritime Briefing. Volume 2 - Number 1. 1996.

[14] Chemillier, Monique. *Sovereignty over the Paracel and Spratly Islands.* Kluwer International Law. 2000.

were not drawn in the form of precise territorial borders. State boundaries were not that decisive until the sovereign state system of the Western nation-states developed.

How China Perceives International Law and Treaties

International Law and its legitimacy changed greatly on May 22, 1969 when the United Nations Conference on the Law of Treaties convened at Vienna. At this conference 110 states were in attendance, which at the time was nearly all of the existing nation-states in the world. There was one state that was not there though, and it was the People's Republic of China. At the time in world affairs and the United Nations, Communist China was represented by the Republic of China (Taiwan). Communist China could not participate in the Conference, but at the same time it did not show interest in being a party to the convention or holding itself to international treaties and laws that other nation-states would abide by. Since the beginning of the People's Republic of China, many states have accused Communist China of violating a number of treaties and international laws. Because of this, it is hard to study or resolve accusations and arguments if both sides do not to subscribe or translate the law of treaties in the same manner.

Scholars and policymakers in the West believe that the two main sources of international law are custom and treaties. Article 38 of the Statute of International Court of Justice states that the Court will validate: "(a) International conventions, whether general or particular, establishing rules expressly recognized by the contesting states. (b) International custom, as evidence of a general practice accepted as law." There is a debate though, about how treaties and rules of conduct become reality in a way they can be legally enforced. "Source of law" is known in the West as the point in history at

which the status quo rules of conduct would come into existence and be legitimately legal. The "source of law" is not, however, necessarily the "cause" of the law.

The main issue at hand regarding international law and its "sources," is that at a time where international law through the United Nations was surging, Communist China was marginalized and at odds with the capitalist Western powers that ran the UN. Just as Western countries look to their legal scholars and judicial decisions as contributing resources of international law, the Communist Chinese did the same. Ying T'ao, a very influential post-WWII Chinese writer saw international law, whose source was Western, as rules from the bourgeoisie class. In one of his books he states "the substantive sources of bourgeois international law are the external policy of the bourgeoisie, which is also the will of the ruling class of those big capitalist powers."[15] Ideology such as this was prevalent in Communist China at that time, and Ying T'ao believed that international law was an instrument of the bourgeoisie of the West.

Interestingly enough though, Communist China has placed an emphasis on the role of treaties as a source of international law since its inception. What was known as China before the Communists' takeover of 1949 had produced and adhered to several hundreds of treaties and agreements with other nation-states and kingdoms. Since China became communist, it has engaged in the creation and adherence to several thousand treaties and agreements with other nation-states. As stated before, while treaties and customs are both equally binding under international law, China regards treaties as more unequivocal and able to eliminate counter-arguments of customary rules.

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[15] Ying, T'ao. *Recognize the True Face of Bourgeois International Law from a Few Basic Concepts*. KCWTYC 1:46:47. 1960.

The reasoning behind China's preference for treaties over customary law is that the overwhelming force of hard power can affect customs that have taken place for centuries when the losing side is forced to the negotiating table to sign a biased treaty. Communist China is known for seeking out bilateral treaties with smaller countries to exploit its own strength and the other countries' weaknesses. A prime example of this is the territorial dispute over the South China Sea, but there is also another important reason why it prefers treaties: Communism. Since China was one of the first Communist countries to exist, its government had to emphasize treaties as an important source of international law. Because Communist China was not officially recognized by world powers for so many years after its inception and many of the "norms" and "customs" in international law were created without its participation, not only was there a divide in customs and norms between Communist China and the West, but also between Communist China and other Communist countries, which is why treaties that the PRC emphasizes "equal" and "just" treaties the most.[16]

What is a "treaty" in the eyes of the Communist Party? Different countries and cultures perceive treaties, customs, and laws in different ways, and Communist China is no different. Two of Communist China's most influential legal writers have been Wei Liang and Wang Yao-t'ien and their definition of treaties will give insight to the way in which Communist China sees treaties. Wei Liang defines a treaty as "an agreement between two or more states, which must have received the unanimous consent of all the contracting parties." The definition of treaties by Wang Yao-t'ien is slightly different,

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[16] Chiu, Hungdah. *The People's Republic of China and the law of treaties.* Cambridge, Mass.: Harvard University Press, 1972.

"an international treaty is a document between two or more states concerning the establishment, change, or termination of their supreme rights and duties." It is interesting to note that these definitions are pretty similar to other definitions, and there is no mention of or differentiating between equal and unequal treaties, especially since China has been the victim of the latter many times.

One important aspect of treaties that Communist China does not recognize is the subject of who can be a party to them. As Wang Yao-t'ien's definition stated "two or more states," Communist China also sees treaties as instruments of law between independent entities, not dependent entities such as international organizations. The reasoning for this view towards international organizations is not quite certain. It could be that international organizations are dependent entities, which means that these organizations are at the mercy of their bankrollers and protectors. Examples would be the North Atlantic Treaty Organization (NATO), the Shanghai Cooperation Organization (SCO), the United Nations (UN), and most importantly the Association of Southeast Asian Nations (ASEAN). These organizations will always serve the interests of the countries that run and financially back them. For instance, the Association of Southeast Asian Nations is going to do what is best for its member countries, not China. The belief of the ASEAN acting in the interest of its community has had a significant impact on finding a legal settlement for the South China Sea dispute.

China's interpretation of international law creates a significant problem with the West and other parts of the world such as the Association of Southeast Asian Nations. One of the "fathers" of international law, Lauterpacht Oppenheim, defines treaties as "agreements, of a contractual character, between States, or organizations of States,

creating legal rights and obligations between the Parties." In addition, there are some legal scholars who believe international organizations are also subjects of international law. Chinese legal theory disagrees with these beliefs, and argues that international organizations are not subjects of international law nor do they have the legitimacy in treaty making or signing. Also, the true parties to any treaties are the members of the organizations involved.[17] It is also important to note that while Communist China regards the participation of international organizations in treaties in this manner, it has not stopped Beijing from concluding treaties to which international organizations have been parties. So that there is not confusion, treaties regarding the establishment of international organizations are looked at with legitimacy despite changes to a country's government. An example of this would be the 1942 United Nations Declaration. It established an organization in which Communist China sought immediate seating on October 1, 1949.

In regards to international law, and to clear up any misconceptions about treaties, they can be given different names and come in different forms. In the practice of international treaties, certain types of treaties go under certain names. The way Communist China views different types of treaties is of the utmost importance. How treaties are concluded is also equally important. For instance, the legal writers in Communist China do not believe treaties can be concluded in oral form.[18] Their practices suggest that the main preference has always been and will continue to be in

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[17] Meng, K'ung. *A Criticism of the Theories of Bourgeois International Law on the Subjects of International Law and the Recognition of States.* KCWTYC. 2:50-51. 1960.

[18] Wang Yao-t'ien. *International Trade Treaties.* Peking: Ts'ai-cheng ching-chi ch'u-pan-she, 1958. Pg 13.

written form, while a great many Western jurists believe that treaties can be concluded orally.[19] From a Chinese perspective, Wang Yao-t'ien differentiates six different titles used for creating treaties:

> 1. Treaty - This name is used to designate the most important of international documents, regulating the political, economic, or other relations between contracting states, such as a treaty of alliance and mutual assistance or a treaty of commerce and navigation.
> 2. Agreement - A treaty regulating special or provisional problems of the contracting states is called an "agreement," such as a trade agreement or a payment agreement.
> 3. Convention - An agreement regulating special problems among several states is called a "convention" [Kung-yueh] such as a postal convention or a telecommunication convention. A bilateral agreement of this type is generally translated into Chinese as "chuan-yueh" [Convention], such as a consular convention or a boundary convention.
> 4. Declaration - This is an international document which generally provides only for general principles of international relations and international law. Sometimes it also provides for specific obligations, such as the 1856 Paris Declaration concerning the law of sea warfare or the Cairo Declaration of December 1, 1943.
> 5. Protocol - This is an international document containing an agreement on individual problems. Sometimes it amends, interprets or supplements certain provisions of a treaty, such as the general conditions for the delivery of goods concluded by foreign trade ministries of socialist states or the Soviet-Japanese protocol on reciprocal application of most-favored-nation treatment concluded on October 19, 1956.
> 6. Exchange of notes - These are notes exchanged between two states to define certain matters already agreed upon by them.[20]

Knowing these titles and how Chinese jurists perceive them is very significant in regards to international law. Recently, the Chinese government was quoted as calling a "Declaration" on the South China Sea unbinding for being a declaration rather than being a treaty. Reneging on the Declaration's importance meant that Chinese jurists were flip-flopping on what they perceive as legitimate treaties. The way in which treaties are classified in China is also very important to understand. Treaties are arranged into fourteen different categories in the Official Compilation of Treaties of the People's

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[19] Oppenheim, Lauterpacht. *International Law*. Vol I. 8th ed. London, 1955. Pg 877.

[20] Wang Yao-t'ien. *International Trade Treaties*. Peking: Ts'ai-cheng ching-chi ch'u-pan-she, 1958. Pg 12.

Republic of China. While some of the categories are subdivided, this list gives a solid example of how Communist China classifies its treaties.[21]

1. Political
    (1) Friendship
    (2) Joint announcement, communiqué, or declaration
    (3) Others
2. Legal
    (1) Consular relations
    (2) Nationality
3. Boundary
4. Boundary problems (use of boundary river, etc.)
5. Economic
    (1) Commerce and navigation
    (2) Economic aid, loan, and technical cooperation
    (3) Trade and payment
    (4) General conditions for delivery of goods
    (5) Registration of trademark
    (6) Others
6. Cultural
    (1) Cultural cooperation
    (2) Broadcasting and television cooperation
    (3) Exchange of students
    (4) Others
7. Science and technology
8. Agriculture and forest
9. Fishery
10. Health and sanitation
11. Post and telecommunication
12. Communication and transportation
    (1) Railways
    (2) Air transportation
    (3) Water transportation
    (4) Highway
13. Law of war
14. Military

[21] Chiu, Hungdah. *The People's Republic of China and the law of treaties.* Cambridge, Mass.: Harvard University Press, 1972. Pg 21.

What China's Foreign Policy Says About Its International Law

When Mao Zedong's Communist Party came to power in 1949, the civilized world saw it as anything but peaceful. The party's Great Leap Forward, Cultural Revolution, Communist expansion (i.e., Korea and Vietnam), and Tiananmen Square Massacre (to name a few) helped solidify the belief that China was anything but peaceful. In 2003, China was set on changing the way its rhetoric and image would be perceived abroad. During the Boao Forum in Asia, Vice President of China's Central Party School, Zheng Bijian proposed the term "peaceful rise" regarding China's new foreign policy initiative.[22] The new slogan from Beijing would be used to help develop good relations in a dangerous neighborhood, to take a more responsible role in global affairs, and to lessen the worries of other countries such as South Korea, Japan, and the United States.

Other countries have still been worried, but not about China's "peace," but its "rise," which is why in 2004 the term went from "peaceful rise" to "peaceful development."[23] World powers know that if a populous country such as China were going to ascend, the end result for them would be descending. Such has been the case for the economies of Japan, Germany, and the United States. Uproar has not been extreme in these countries though, and that may be attributed to the "peaceful" rhetoric of the Communist Party. In 2005, Li Zhaoxing the Foreign Minister of China stated in a utopian manner that "China's development cannot materialize without the world. And a stable and prosperous world also needs China. So long as we hold high the banner of

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[22] Jiabao, Wen. "The Rise of China Doesn't Exist Any Threat to Others." March 15, 2004. http://news.creaders.net/headline/newsPool/14A196875.html

[23] Men, Jing. *Changing Ideology in China and Its Impact on Chinese Foreign Policy.* New Dimensions of Chinese Foreign Policy. Guo and Hua. 2007.

peace, development and cooperation, and hold on to the path of peaceful development, we will surely make new contributions to world peace and development."[24]

Many governments around the world have questioned the seriousness of China's "peaceful development," and have wondered if Chinese actions legitimize the rhetoric. One area of China's rhetoric that is not backed by tangible actions is China's policy of multipolarity. During the Cold War era, Beijing sought a multipolar global power structure, which can be attributed to its strained relations with both the United States and the Soviet Union. In 1990, when it was evident that the Cold War was ending, Deng Xiaoping reaffirmed China's favoritism towards a multipolar power structure when he stated, "Nowadays the old structure is in the process of transformation, and the new structure is not yet formed…. No matter how many poles there will be in the world, three poles, four poles, or even five poles… for the so-called multipolarity, China should be counted as one of the poles."[25] It seems that when Deng states, "the new structure is not yet formed" that he is insinuating that after the Cold War, a new multipolar world will emerge that China should and will be a part of.

The rhetoric of the Chinese Foreign Ministry still seems as if it still can vividly remember the horrible days of unequal treaties. The Ministry believes that a multipolar world without one hegemony and power politics can result in an equal global order that can contribute to peaceful international relations and development.[26] While the Chinese

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[24] Zhaoxing, Li. "Banner of Diplomacy Stressed." *China Daily*. August 23, 2005. p.4.

[25] Xiaoping, Deng. *Speech - International Situation and Economic Problems.* Selected Works of Deng Xiaoping. p. 353. March 3, 1990.

[26] Men. *Changing Ideology in China and Its Impact on Chinese Foreign Policy*. Pg 30.

Foreign Ministry has not directly mentioned the United States, the multipolarity that it seeks is clearly to counterbalance a unipolar America. Beijing's beliefs in multipolarity were evident when the Ministry stated, "At present, by virtue of its economic, technological, and military advantages, an individual country is pursuing a new 'gunboat policy' in contravention of the United Nations Charter and the universally-acknowledged principles governing international relations in an attempt to establish a unipolar world under its guidance."[27]

But how sincere is Beijing about multilateralism in regards to its foreign policy and international law making? In regards to issues such as Iran and North Korea's nuclear program, China has sought a multilateral approach. In contrast, with the issue of Taiwan, Beijing has taken a more bilateral approach. This was affirmed in March of 2005 when Beijing passed an anti-secession law. In regards to Southeast Asia, Beijing's policy has been quite bi-polar. In the rhetoric it uses on the global stage, it speaks of multilateralism and equality with treaties such as the Treaty of Amity and Cooperation in Southeast Asia and the Joint Declaration on the China-ASEAN Strategic Partnership for Peace and Prosperity, which was done in 2003. As the oil reserves in the South China Sea became a bigger issue, the oil companies of China, the Philippines, and Vietnam concluded the Tripartite Agreement for the Joint Marine Seismic Undertaking in the Agreement Area in the South China Sea as a means to have a code of conduct in regards to oil exploration. All of these treaties were hailed as crucial breakthroughs in East Asian multilateralism, but since then have just proved to be a false face of soft power for the

[27] Chinese Foreign Ministry. http://www.chinaembassy.se/eng/zgwj/jbzc/t100415.htm

world to see. In all actuality, tension in the South China Sea has risen and China has sought to handle these problems bi-laterally in a bullying fashion.

It seems as if there is a direct correlation as China was trying to become a world power, it promoted multilateralism. But as China has become more of a world power it seeks bilateral talks and agreements to exploit weaknesses in other countries. Is this true? Is China more multilateral when it's weak and more bilateral when strong? Concerning the territorial disputes in the South China Sea, the Chinese Foreign Ministry believes that for the last decade it has put the dispute to the side in exchange for common development. But the actions in the Sea, amount to any but "common development."

CHAPTER III

A FILIPINO HISTORICAL AND LEGAL ANALYSIS OF THE DISPUTE

The Philippines Historical/Legal Claims in the South China Sea

While the Philippines has a great deal at stake in the dispute, it lays a claim different from the others mentioned, which is on the principle of *terra nullius* (no man's land). The Philippines first claims that there was no effective occupation or a legitimate exercise of sovereignty over the Spratly Islands by any country before the twentieth century. The government of the Philippines claims that before naval technology progressed by the early 20th century, that the countries' who claimed to have been traveling there are false because of the long distances it would have taken to travel there and the level of danger that those travels involved. Because travel to the islands would have been arduous, the Spratly Islands were an unoccupied territory and did not belong to any country.[28] Vietnam also argues that Japan (the first real Asian naval power), did acquire the islands but later had to surrender them at the time of the 1951 San Francisco Treaty; but when Japan renounced its sovereignty over the islands it did not cede them to any particular country. Also, the Philippines uses *res nullius* in its claim as well because of the Filipino Thomas Cloma, who sailed frequently to the Spratly Islands from 1947-1950 and proclaimed part of the archipelago as *res nullius*, which he names Kalayaan. He owned Kalayaan as a Filipino citizen and then later on transferred it to the government of the Philippines.[29]

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[28] Dzurik. *The Spratly Islands Dispute: Who's On First?*

[29] Catley. *Spratleys: the dispute in the South China Sea*.

What International Law Says About The Philippine Claims

Another important consideration is the strength of the argument of *res nullius*, because of its lack of accuracy in regards to the Philippines's argument. While territory can be obtained through *res nullius* in international law, the Philippines are not the most convincing with the use of this claim. Before the Philippines began laying claim to some of the Spratly Islands, Taiwan, China, and Vietnam were already competing with each other to establish sovereignty in the region with Taiwan and Vietnam already occupying different islands since 1956. In legal terms, *res nullius* means that a territory should either be unoccupied or there should be no effective occupation by another country. This means that the Philippines claim of *res nullius* is different than what has been widely accepted in international law. Also, effective occupation does not mean every inch of the territory must be occupied and controlled, just that there must be a sufficient central force so that the occupation is valid.[30]

How the Philippines Perceive International Law and Treaties

While China views international law and its organizations as tools of the to uphold the status quo of the West, the Philippines might as well be considered the West in Beijing's eyes. Geographically speaking, the archipelago is in the Southeast, but given Manila's relationship with the United States, it is using every international law instrument possible to combat Beijing in this dispute. Whether in its own regional bloc, the ASEAN, or internationally through the United Nations, Manila is exhausting every multilateral channel it can with the hopes of solving the dispute peacefully. The

[30] Baker, John C., and David G. Wiencek. *Cooperative Monitoring in the South China Sea - Satellite Imagery, Confidence-Building Measures, and the Spratly Islands Dispute*. Praeger Publishers. 2002.

Philippines adheres to the laws of the UNCLOS strictly, because in the dispute it favors the archipelago the most, but not in the eyes of China. To Beijing, they have sovereignty over the Spratly Islands, so in their eyes the UNCLOS is in their favor.

What The Philippines Foreign Policy Says About Its International Law

Because of a recent dispute that has just taken place at the Scarborough Shoal, Manila is showing the international community what every sovereign country has the potential to do with respect to international law. After the dispute, the Philippines asked China to allow for the International Tribunal on the Law of the Sea to arbitrate the conflict in that area. Beijing stuck to its tradition of rejecting outside interference and arbitration, so the Philippines decided to unilaterally bring the conflict to the tribunal that is located in Hamburg, Germany. For the tribunal, Manila's Foreign Secretary Albert del Rosario is preparing a presentation for the tribunal, which was established on December 10, 1982 for the purpose of negotiating on issues related to the United Nations Convention on the Law of the Sea. Del Rosario wanted to make an international statement by taking the dispute to the Hamburg tribunal, because abiding by the rules set by the UNCLOS was the "legitimate way of dealing with conflicting and overlapping claims" in the South China Sea according to Manila's policy.[31]

The International Court of Justice (ICJ) Dynamic

To the Philippines, the South China Sea dispute would be a perfect case for the International Court of Justice to take care of. In all actuality, ICJ mediation could bring a great deal of future peace into East Asia starting with the South China Sea dispute.

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[31] Esmaquel II, Paterno. "PH promises UN peace in the South China Sea." *Rappler.* April 30, 2012. http://www.rappler.com/nation/4840-ph-promises-un-peace-in-south-china-sea

Southeast Asia is potentially the future area of conflict, and if these issues can be settled peacefully, then it might be about to set a global precedence. In the 20th century, territorial disputes among others were mainly settled through two very catastrophic world wars in Europe. But Europe is a landscape, while East Asia is a seascape. When it came to war, vast armies could march over land to fight their adversaries. In East Asia, it will be all about the navies of the countries, with the exception being the Korean peninsula. While wars seemed to take care of the disputes in Europe, it would be horrible to see the disputes in East Asia handled the same way, especially the South China Sea dispute. China's actions are starting to be reminiscent of those of Imperial Japan's leading up to World War II, hopefully history will not repeat itself.

In regards to the South China Sea, the Association for Southeast Asian Nations must set the tone for consensus and cooperation on this dispute. But for the ASEAN countries to have the best argument in regards to international law, they will have to fully accept the International Court of Justice's rulings and legitimacy in everything, including their own issues. The countries of Southeast Asia have turned to the ICJ already three different times. The first time was in regards to the Preah Vihear Temple issue between Cambodia and Thailand in 1959. In 1998, Indonesia and Malaysia went to the ICJ to solve sovereignty issues of the two islands in the Celebes Sea, Pulau Ligitan and Pulau Sipadan. The latest dispute was in 2003 between Malaysia and Singapore in an effort to resolve the territorial disputes regarding the Pedra Branca, Middle Rock, and South Ledge.

What is important to note about these issues, is the way they were "resolved" by the International Court of Justice. For instance, the 1998 Pulau Ligitan and Lulau

Sipadan dispute between Indonesia and Malaysia took four years to resolve, and at the end Malaysia was granted sovereignty over both of the islands. While this was a breakthrough, the ICJ never determined maritime boundaries in the area. And in regards to the 2003 dispute between Malaysia and Singapore, it was resolved in 2008 and the South Ledge was split in two with each claimant getting a half. In addition, Singapore was awarded Pedra Branca, while Middle Rock and awarded to Malaysia. Even though the diplomats of both countries called this case a "win-win," neither of the countries to date has been able to figure out how the borders of the territory's waters will be drawn.[32]

With thousands upon thousands of islands in this region, the disputes will be complex and arduous. Borders on land are easier to control than borders in the ocean, so it is important for the ASEAN countries to legitimize their argument with China as much as possible by having open lines of communication with each other. In regards to internal disputes, the ASEAN countries must show respect to each other and respect to the ICJ. They must be the models for how countries and organizations should act when it comes to territorial disputes with the Philippines setting the best example. By the ASEAN acting with a greater deal of diplomacy and respect, even more pressure will be put on China, which is the main country that does not want the South China Sea dispute to be handled by the ICJ or any other external organization or countries.

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[32] Strachan, Anna Louise. *Resolving Southeast Asian Territorial Disputes - A Role for the ICJ.* Institute of Peace and Conflict Studies. No. 133. October 2009.

CHAPTER IV

AN ANALYSIS OF CHINESE FOREIGN AND MILITARY POLICIES

What China's Foreign Policy Really Says

When it comes to the "peaceful development" rhetoric, this must be studied more in detail in regards to the South China Sea. Nothing in the waters of the South China Sea screams the opposite of peace like a new aircraft carrier from a neighbor that is the region's biggest consumer of energy. The days of China keeping a low profile have passed especially as China continues to clash with U.S. policy and in some ways counterbalance it. Beijing is telling the world that there is another answer besides U.S. hegemony. As China continues to disagree with the United States whether on issues related to Iran, North Korea, or the South China Sea, its rhetoric of "peaceful development" will be put to the test as its policies can be perceived to be more confrontational than peaceful.

For decades now, millions of China's citizens have begun to flourish economically. They watched in 2008 as their country hosted one of the most extravagant Olympics to date, and they grow more confident and success-hungry as China's international prestige rises. So while Beijing's government commits to a "peaceful development" strategy because of pressure from world powers on one front, it is also faced with growing pressures internally to stop acting shyly and timidly on the world stage. It is no secret that China is becoming economically stronger at a time where the rest of the world is becoming more economically unpredictable. So there may come a time or a flashpoint in which China will show the world it has to take a proactive approach to its foreign policy and disregard the rules and norms dictated from the West.

There is one significant problem for China if it tries to become a counter-balance to the United States, and that is the U.S.'s new emphasis on Asia. How can China counter-balance the U.S. successfully? How would the world perceive its leadership? Even policymakers in Beijing have a hard time answering this question. Because the country is so large with such a large population, it is doing everything it can to promote intellectual growth in regards to foreign policy inside its own borders, with no real thought on how people beyond them perceive it. The foreign policy of Beijing is not the most refined as far as world powers are concerned, and the world is much bigger now than it was during times when the Middle Kingdom was a world power.

While the U.S. led the world in military spending last year at 711 billion dollars, China came in second with an estimated 143 billion dollars, and many experts believe that number is far higher than what the PLA reports.[33] With a growth in its military, advancements in weaponry, more naval missions, and peacekeeping operations, Beijing knows its people are quite vulnerable as it rushes to meet the increasing needs for food, energy, and other resources. As different world events take place, such as Iranian oil sanctions, the Greek debt crisis, or the South China Sea dispute, Beijing has learned that its economy can be affected by these external events. The worst part about it is that China's Ministry of Foreign Affairs has not been able to catch up with the country's rise. The Ministry has not been able to completely brand it and its world ambitions. The "peaceful development" slogan only goes so far, because this is China we are talking

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[33] Sipri. "Military spending: how much does the military cost each country, listed." *The Guardian*. 2012. http://www.guardian.co.uk/news/datablog/2012/apr/17/military-spending-countries-list

about, and its military and economy are far too large to be compared with developing nations.

For the Ministry of Foreign Affairs, it will be an arduous task to brand China in a simple across-the-board manner when it comes to its "peaceful development" strategy. While the major decisions are still made by the Communist Party's top leadership, the Politburo, the dynamics and players shaping the decision-making process are growing rapidly. Security officials, PLA generals, private corporation executives, and others are starting to shape Beijing's foreign policy. A new up-and-coming dynamic that is sure to affect China's foreign policy in the South China Sea and elsewhere, can be simply coined as "foreign princeling policy." These princelings are descendants of past powerful and successful communist party members, and whether they were put in charge of state owned enterprises or turned those enterprises into private corporations that remain close to the government; they are Communist Party members nonetheless. While their wealth and prestige do not emulate the virtues of communism, they still wield powerful positions inside the party or control companies or sectors vital to China's economy. The party's Politburo committee is practically split in half between "princelings" and "true communists." It is safe to argue that these princelings and the companies they control draw a close correlation with Imperial Japan's zaibatsu. These princeling-run corporations receive a significant amount of assistance from the government and have monopolized their sectors. After another generation or two there is a strong probability that they will be a mirror image of the zaibatsu of the past. The important question to ask is will these Chinese zaibatsu-like corporations have the same impact on China's foreign

and "defense" policies as the Japanese zaibatsu had on their Emperor? This is a very important future dynamic that the People's Republic of China has not gone through.

In reaction to Japan's actions in the 20th century, there has been resentment and fear the region. As China grows strong economically and militarily, that same fear and resentment can arise no matter how much China's Ministry of Foreign Affairs tries to charm neighboring countries, especially in South China Sea. It seems that the saying "more money, more problems" holds true in foreign policy as well. China may either keep on limiting itself with its "peaceful development" strategy, or walk away from it and openly compete with the United States, but it cannot stay somewhere in between for too much longer. Some perceive that China's concerns and priorities will always conflict with those of the West's. Beijing's future foreign policymakers have the opportunity to take these variables into account, along with the non-governmental dynamics that can influence its foreign policy when it comes to the South China Sea dispute.

China's Nationalism Dynamic

A very important dynamic in China's foreign policy that must be understood is its ever-growing nationalism. Over the last decade, especially since the 2008 Beijing Olympic Games, Chinese nationalism has grown exponentially. While this may sound like a positive trend, there are also very negative consequences to high levels of nationalism. It can be a very powerful tool for the Communist Party, but also a tool that the Party must be quite delicate with. In order for Beijing to maintain internal solidarity at times it will exploit nationalistic undertones on issues such as economic relations with the United States, anti-Japanese sentiment or Taiwan seeking independence. In regards to the South China Sea, nationalism can become very spontaneous and dangerous with

just one instance of a Filipino or Vietnamese naval vessel arresting Chinese fishermen or oil surveyors in their territorial waters. Dangerous nationalism such as this has the ability to push Beijing's foreign policy into a hard-power direction. So while China's nationalism grows and becomes more overt, it seems that the nationalism of its neighbors is doing the same thing. While China's neighbors are individually weak, they are collectively strong and even stronger when they look towards the United States, which is happening more as China becomes stronger. Because of the ASEAN's new pivot, the South China Sea dispute is not just a regional matter; it's now an international matter.

Is Nationalism and Public Opinion Party-Made?

The true question to ask is where does nationalism come from? Being that the state owns the media and controls education, does the state truly control nationalism? In regards to pure nationalism, does China mimic Japan, or is it closer to North Korea? Whatever the case may be, China's rise in nationalism is being shaped by public opinion. The important question to ask is who shapes public opinion. Where nationalism originates from is important to ask because the last few years, as experts inside and outside China have recognized, public opinion has been the main driving force behind Beijing's new boldness in foreign policy decision making. With fierce nationalism on the rise, Beijing has to show its citizens that it will take a firm stance on foreign forces deemed as "hostile."[34] If Beijing does not take a strong enough stance, then the Communist Party may lose credibility among its people. In recent years, there have been multiple examples of Beijing's new hawkish foreign policy. Look no further than the

[34] Sun, Yun. "Chinese Public Opinion: Shaping China's Foreign Policy, or Shaped by It?" *Brookings* Institution. http://www.brookings.edu/opinions/20

Diaoyu and Senkaku Islands disputes with Japan, the potential US arms sales to Taiwan, and especially the territorial dispute in the South China Sea. While great deals of these hawkish foreign policy responses are unpopular internationally, Beijing's excuse is that it is the will of its people and their "public opinion."

Is the public opinion card an important one for the Communist Party to play? The foreign policies of many central governments around the world are hostage to popular opinion and public sentiment, especially with democratic countries such as the United States. For instance, if American politicians fail to defend Israeli interests, it can mean fewer votes in re-election and significantly less funding for future campaigns. For American politicians to stay successful they must either respect public opinion, or exploit it at flashpoints such as 9/11 under the Bush Administration, or after the release of the KONY 2012 Invisible Children Video under the Obama administration.

In a non-democratic country such as China, this process is very different. The Communist Party essentially has the means to shape the public opinion of its citizens, while the citizens have limited ways of collecting the information possible to set a foundation for expression and also the means to express that opinion. So examining the link between public opinion and foreign policy-making is quite important. To understand how much public opinion affects government decision-making is crucial in regards to issues such as the South China Sea, but it could also be argued that the Communist Party shapes public opinion in a way to advance its own political agenda.

When it comes to receiving information so that a Chinese citizen can formulate a person opinion, the information that is relied upon must be carefully examined and critiqued. The problem that arises is when one is a citizen in China, one has no choice

but to rely on Chinese media, which is censored by the Communist Party and the government. Chinese censorship is administered via the Communist Party's Propaganda Department, which is the political core for the creation and exportation of party ideology. It is important to note that the Propaganda Department has an almost complete monopoly over what Chinese citizens view and read from media sources.

Two of the biggest news organizations in China are the China Central Television (CCTV) and Xinhua News Agency, and they are practically owned and managed by Beijing. For instance, when Xinhua News Agency covers foreign affairs issues regarding China, the Ministry of Foreign Affairs first approves its media content so that its tone is in line with Beijing's official position. For an American, it would be as if the U.S. Department of State approved everything that came from American news sources. Other domestic media outlets in China, mainly smaller ones, are required to use Xinhua's official story. If these media outlets fail to do this, the government will shut them down. So in essence, all news regarding international affairs issues is given to Chinese citizens indirectly from the Communist Party. An example of this would be what Chinese citizens learned from the "Arab Spring" in 2011. Every Chinese media outlet was required to cover the events throughout North Africa and the Middle East with Xinhua's reporting, which meant that every news agency in China cited Xinhua and did no actual research. On top of that, they were not even allowed to translate media coverage from foreign agencies.[35] Beijing went even further by blocking its Internet users from

[35] Ford, Peter. "Why a nervous China aims to shield citizens from Egypt news," *The Christian Science Monitor*, February 1, 2011, http://www.csmonitor.com/World/Asia-Pacific/2011/0201/Why-a-nervous-China-aims-to-shield-citizens-from-Egypt-news.

searching for terms like Jade Revolution and Arab Spring. The Communist Party did not want its citizens watching citizens from multiple countries demanding change in government, especially watching it live. More importantly, when it comes to issues in the South China Sea, Xinhua and CCTV are forced to get their information straight from the State Council.

So since media outlets must report following the Party's foreign policy platform, the news is not completely factual and is quite biased. In 2011, if Chinese media mentioned any of the Middle Eastern uprisings such as the ones in Libya, Egypt, or Syria they gave a very slanted analysis of the scene. When and if the Chinese media outlets discussed the events on the ground, they placed a great deal of emphasis on the domestic insecurity in the countries and how much of a negative effect foreign intervention had on those countries. The Communist Party did not let the media outlets focus on how the governments being overthrown oppressed their people through corrupt authoritarian regimes, neither did they speak of the human rights violations committed by those regimes.

The media bias is especially evident when discussing the foreign policy issues regarding North Korea, which is portrayed as a "victim" to the Chinese people because of South Korean and American aggression. Evidence of this surfaced in March of 2010 with the Chinese media's coverage of the sinking on the South Korean Navy ship the Cheonan, because North Korea was not blamed for the sinking. In November of 2010, when the North Korean military shelled Yeonpyeong Island with artillery that resulted in civilian casualties, Chinese media outlets called it an "exchange of fire."

It is not just the state-owned media in China that the Communist Party censors. Private and commercial media outlets also have to fall in line with Beijing's policy in regards to international news. While they have more autonomy in regards to answering to Beijing before announcing their news, they must in no way cover events in a way that will contradict the government's official stance. If these non-state-owned news agencies disagree with Beijing or put a different spin on a story, the Communist Propaganda Department will step in and change the story and re-run it, and the media outlet could be at risk of being shut down.

The advent of the Internet has added a new dynamic to these private media outlets. The Chinese government knows that for its country and citizens to develop, the Internet is a necessity, but to control its people it has had to become the most restrictive in the world in regards to Internet freedoms. A variety of different government agencies regulate the internet and censor what people view and search for, but many of the internet users in China are searching for ways to bypass the "Great Firewall of China" to get on sites such as YouTube and Facebook. While these sites are not international news agencies that give a non-Beijing slant in their analysis, they are still quite dangerous nonetheless. The world witnessed this in March of 2012 when the non-profit organization Invisible Children's "Kony2012" went viral and was seen by millions in just hours via social media sites such as Twitter and Facebook. Situations such as this are what Beijing fears. For example, a video similar to this regarding Chinese "Black Jails" could have disastrous effects on the Communist Party's ability to control its people.

It is very difficult to gauge public opinion from the hundreds of millions of Chinese citizens who are on-line (aka netizens). Websites know that they must first take

it upon themselves to censor their sites from information or comments that are not pro-government in tone. If the websites do so the Party will praise them, if not, they will be disciplined. There is also the Communist Party's Ministry of Public Security, which serves the purpose of being "Internet Police." The ministry will either remove online content or shut pages down that it deems improper or a threat to the stability of the Communist Party. What makes gauging public opinion even more difficult than it already is, is the "50 Cent Party." These netizens are paid by the government to in essence spam chat-rooms, comment sections, and social medias with pro-government rhetoric and opinions. For someone on the outside of China, it would be almost an impossible task to analyze Chinese public opinion with dynamics such as these in the way.

As long as the media is not free, whether in the form of the Internet, television, or newspapers, the idea of "public opinion" is just a fallacy. "Public opinion" should be more truthfully labeled "the result of brainwashing." With the facts that have been given, the Communist Party manufactures public opinion. When these dynamics affect issues such as the South China Sea dispute, China's "public opinion" rhetoric tells us one thing, that China, not any external countries or organizations, will be the master of the South China Sea's destiny. Given that Beijing has manufactured a fear of imperialism in the minds of Chinese citizens, they will be as hawkish and nationalistic towards foreign countries around the South China Sea as they are with Japan and the East China Sea dispute. Because the United States is also becoming a bigger player in the dispute, Beijing will use that to push more anti-imperialist rhetoric in the minds of the Chinese people. The average Chinese citizen will not see the dispute as a situation where China is

disregarding the United Nations Convention on the Law of the Seas and disrespecting the sovereignty and territory of ASEAN countries, they will see it as a dispute because of the fact that an "imperialist" United States of America is meddling in China's backyard. When Secretary of State Hillary Clinton announced that the South China Sea dispute is of "interest" to the US, China replied to Hillary and the government in Hanoi by stating, "China resolutely opposes any country unrelated to the South China Sea issue meddling in disputes, and it opposes the internationalization of the issue."[36] The issue aforementioned very well could mimic the East China Sea dispute with Japan though, where Beijing has created a hawkish public opinion and has opened up the floodgates of extreme nationalism, and afterwards has appealed to it to show its citizens that their government cares about how they feel.

In regards to Japan, the Communist Party plays off of its citizens' belief that they were the victims of imperialism and colonization. While in fact this is true historically, a belief of victimhood in the present should not be felt. Nonetheless, Beijing exploits its people's nationalism when it comes to issues with Japan, which was evident in September of 2010, when Japanese and Chinese fishing vessels collided in the East China Sea. The captain of the Chinese fishing boat was arrested and held in custody in Japan, and when this news was released to the Chinese people there was a massive public uproar and outcry among them. Throughout many Chinese cities massive anti-Japan protests took place, which were fierce and almost dangerous in nature.[37] Beijing suspended the

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[36] Buckley. "China warns outside nations to stay out of sea dispute." *Reuters.* June 15, 2011.

[37] Associated Press. "China allows rowdy anti-Japanese protests." *Fox News.* October 18, 2010. http://www.foxnews.com/world/2010/10/18/china-allows-rowdy-anti-japanese-protests/

export of rare earth materials and took a very hawkish stance towards Japan in support of the captain's release. In many countries around the world, protests such as these would not be so important, but in China this is a very hypocritical action by the government. In a country that makes it illegal for fifty or more people to get together without government consent, these massive countrywide public protests were actually illegal under the government's Law of the People's Republic of China on Assemblies, Processions and Demonstrations.[38] Beijing has shown in the past that it will allow laws to be broken, but only if it strengthens its hold on power. Appealing to nationalism on a case-by-case basis may turn out to be disastrous for Beijing, but it seems that this hypocritical protocol is being applied to similar conflicts the Chinese are dealing with in the South China Sea.

How Nationalism Can Be Inserted into the South China Sea Dispute

In regards to government censorship pertaining to the South China Sea dispute, the same tactics are used. Beijing is also tapping into nationalist tendencies to warm its citizens up to a potential dispute with the Philippines. State-owned and private media outlets in China paint a much different picture of the South China Sea dispute than what is actually taking place. But while government censorship is the easy part of the job, brewing nationalist tensions and anti-Filipino behavior is a little harder and trickier for Beijing to accomplish. Beijing is telling its people that their country is not the aggressor in the South China Sea dispute, and that the Philippines is the one that is not backing down. In a way of igniting nationalist fervor among its people, Beijing is portraying the

[38] The Supreme Court of the People's Republic of China. *Laws and Regulations*. Posted: 2003-06-03 14:26:45. http://en.chinacourt.org/public/detail.php?id=2691

Philippines as a villainous puppet that is having its strings pulled by the grand neocolonial power the United States.

By looking at Chinese and even Taiwanese media sources, one can see that Beijing's goals of public opinion manipulation are evident. A prime example would be the April 2012 Scarborough Shoal dispute between China and the Philippines in which the Philippine Navy tried to arrest the crew of a Chinese fishing vessel that was in their waters. A popular Taiwanese news site Want China Times, which has Chinese ownership, described the event by stating: "China has backed down in a naval standoff with the Philippines in the South China Sea by withdrawing its two surveillance aircraft from the Scarborough Shoal, showing the savoir-faire that characterizes great states and laying the groundwork for a diplomatic resolution to the territorial disputes in the South China Sea." Then it went on to say "Beijing has shown great political wisdom by refraining from aggravating the dispute with Manila, even though it is undergoing an internal power shift and cannot afford to show weakness towards foreign threats." This paints the Philippines as the aggressor to the average Chinese citizen. Then the article states, "The Chinese foreign ministry said afterwards that Beijing didn't stir up the incident and would like to sort it out through negotiations with Manila" and negotiations with Manila are telling Chinese citizens that bilateral diplomacy is the only way to handle multinational disputes. After this the most important point of the article was made when the authorless article stated,

> "Without US encouragement, Manila could not have engaged in a standoff with Beijing. US President Barack Obama and US Secretary of State Hillary Clinton visited Australia and the Philippines one after another

> early this year to show their support for Manila on taking a tough stance on the South China Sea dispute…. Washington is encouraging Manila's military aggression by conducting joint military drills with the Philippines near the controversial sea, even as it publicly calls for restraint."[39]

The purposes of those statements were to pass the buck and take the blame off the central government in Manila, and also to bring back memories of the days when external powers brought unfair treaties to China and created puppet governments in countries such as the Philippines and Vietnam.

Another very popular Chinese media outlet, SINA painted a similar story of the same dispute by stating, "China has declared it is withdrawing its two law enforcement vessels, but the Philippines' attitude remains tough. The Philippine president Benigno Aquino III said his country will continue to send vessels to the waters. The Philippines has also tabled many propositions that are unacceptable to China of late, including solving the dispute through international arbitration and involving the United Nations. Meanwhile, it strongly lambastes China." Again Chinese media is portraying the Philippines as the aggressor and educating its citizens against the idea of multilateralism. Then in a way to blast the United States and paint it as a foreign aggressor and meddler, the article goes onto say, "It is nothing new that Manila's views are being echoed by Western public opinion."

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[39] Want China Times. "Manila should back down in the South China Sea dispute." *Want China Times.* Editorials. April 28, 2012. http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20120428000032&cid=1701

However, these voices do not have real value in international politics. China should not overly care about them. Its domestic public opinion and feelings are more important…. China should be patient and persevere in the South China Sea disputes. It has law enforcement maritime forces, and the most attractive economic opportunities of the world. How should Manila deal with China? It should decide for itself."[40] By stating this, Beijing is making it once again clear that the dispute should be handled internally and bilaterally. Also, by stating that "China should be patient and persevere" it is preparing its people for a long and drawn out dispute.

These two examples are practically the norm for every media outlet in China, and because this type of reporting is flaring nationalist and anti-U.S. feelings in China, the Communist Party knows that it cannot compromise with the Philippines or any other ASEAN country for that matter. Hawkish public opinion creation is giving the Chinese people a sense of intense nationalism that can end up fueling a challenge to United States-led maritime command. The strategy could be costly for the Chinese, who now at the moment and for quite some time have enjoyed the fruits of the U.S. Navy's protection in places such as the Straight of Hormuz and other areas around the world where Chinese ships receive free protection at the expense of the American taxpayer. Beijing must tread carefully on how its media outlets portray news relating to the South China Sea, or risk having to answer to citizens who have too much pride to back down to foreign countries.

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[40] Sina English. "Manila can't dictate dispute progress." *SINA*. April 26, 2012. http://english.sina.com/china/p/2012/0424/461663.html

Will Beijing Pick a Policy?

China's "peaceful rise" strategy may be put to the test soon. After the U.S.'s new strategic pivot to East Asia as a result of the South China Sea dispute, will China have to change its foreign policy? Beijing's foreign policy of Confucius Institutes, African Union projects, and humanitarian aid is very benevolent, but this pacifist policy stops when it comes to energy. China's imperial ambitions in the South China Sea mimic all too well Imperial Japan's goals almost a century ago. Just as the United States came into the region to counterbalance Japan, it is now doing so to counterbalance China. Beijing's "peaceful rise" has been questioned when its navy has had altercations with surveying and fishing vessels from surrounding countries. Such as an incident that occurred in March 2011 when PLA Navy gunboats harassed Filipino Department of Energy vessels that were searching for oil in the Spratly Islands[41]

There is a similar parallel between China's actions and Japan's actions prior to the Second World War. As China's economy and military develops as fast as Japan's did pre-WWII, its thirst for energy and raw materials is just as strong as Japan's was then. Because Japan was developing at such a rapid pace, it chose to extend its empire by enlarging its military and seeking more resources at whatever the cost, and this is the same choice that China now has to face. China's behavior in the South China Sea alarms neighbors that fear China will make the same choice that Japan once did. As a result they are looking for help through solidarity and from external powers, which is why China's benign diplomacy has hardened in the South China Sea. The repercussions of this have

[41] Lee-Brago, Pia. "Phl protests China harassment at sea." *The Philippine Star.* March 5, 2011. http://www.philstar.com/Article.aspx?articleId=663124&publicationSubCategoryId=63

been a distressed group of Southeast Asian countries looking for an answer through solidarity and external powers. Countries such as the Philippines and Vietnam, who once pushed for the exit of American forces from their countries, are now requesting and welcoming the arrival of U.S. military forces.

Over the last few decades, the Communist Party's nationalism and lack of restraint toward its smaller neighbors, has pushed a traditionally loose regional group of nations into a very realpolitik direction. Instead of pushing for joint-production/sharing and mutual-sovereignty agreements by acting with restraint, Beijing has been accused of doing what most governments of strong countries do when surrounded by weaker countries: act belligerently. Beijing's perception of belligerency came to a tipping point in 2010 when China's Foreign Minister Yang Jeichi stated to his Singaporean equivalent, George Yeo, while staring directly at him, "China is a big country and other countries are small countries, and that's just a fact."[42] Until this time, Beijing was intent on solving South China Sea issues bilaterally, but Yang's statement was a wakeup call for the governments of Southeast Asia.

Yang Jeichi's threat bluntly reminded the ASEAN members of the old days of colonization, which is a time that none of the members want to go back to. The threat made them realize that if Beijing wins the dispute by bullying, then they will in essence be tributary states of the People's Republic of China, which is why since then the ASEAN members (even most interestingly Myanmar) have been quite receptive to military, economic, and diplomatic cooperation with the United States and other external

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[42] Pomfret, John. "U.S. takes a tougher tone on China." *Washington Post.* Friday July 30th, 2010. http://www.washingtonpost.com/wp-dyn/content/article/2010/07/29/AR2010072906416.html

powers. One of the other external powers that is the most notable is Japan, which is a former colonizer guilty of much worse than what China has committed. Such a revelation means that the issue warrants more attention then it is already receiving.

After the dust settled from Foreign Minister Yang Jeichi's remarks, it looked as if Beijing's foreign policy directives became calmer regarding the South China Sea. Since 2010, it seems that Beijing has become less aggressive with its territorial claims in the disputed area. And with respect to realist ideology, it looks as if Beijing has taken a page out of Carl von Clausewitz's book On War with respect to enemy alliances. Since Beijing already helped create a "community of interests" with its use of its "big-stick", it now must use small-stick diplomacy in the maritime region to make sure the alliance has no reason to strengthen any more that it already has. In the foreign policy arena, Beijing has no choice but to divide and conquer with bilateral diplomacy, but this can only happen by exercising precise restraint and giving countries a better option then they had before.

Humble-Hard Power

"Humble-hard power" is a novel term that best describes a new type of policy that Beijing is using. The term "humble-hard power," coined herein, is best described as a new form of hard power without the big gun intimidation factor. It is neither threatening militarily nor is it peacefully diplomatic, and exerting this form of power can achieve goals without creating international headlines and/or condemnation. If one were to break down the meaning of the hard power in a maritime sense then it would equate to advanced warships, nuclear submarines, and gunboat diplomacy, but "humble-hard power" marine vessels are "nonmilitary" and accomplish their goals without making the

other side feel too insecure. These nonmilitary vessels can be in the form of coast guard/maritime enforcement, surveyor, fishing, or different government agency surveillance vessels. China has attracted a great deal of attention in recent months with its new aircraft carrier, which is why if Beijing decided to exert its full strength, it would only create more fear and bring about more negative press regionally and internationally.

The Five Dragons: China's "Humble-Hard Power" South China Sea Weapon

When China's maritime capabilities are being mentioned or researched, the majority of it focuses on high-intensity capabilities and offshore blue water vessels such as the previously mentioned aircraft carrier and other things such as nuclear submarines and advanced destroyers. Because of this, Beijing has been able to keep its Five Dragons Coast Guard away from critics and the limelight. Also, China's coast guard is not under the People's Liberation Army. It's direction comes from the Ministry of Public Security and the People's Armed Police, so when analysts and researchers seek to find out how much funding China's maritime operations are receiving, they do not find a clear answer by looking only at the People's Liberation Army Navy (PLA Navy) funding. Because many policy makers and scholars are fixated on China's stealth fighters and destroyers, the Five Dragons as a factor in Chinese maritime capabilities is overlooked.

Beijing understands this very well, and has begun to push for growth more with the Five Dragons Coast Guard than with the PLA Navy. The more ambiguous maritime enforcement agency is recruiting a great deal of personnel to man the numerous amounts of cutters that are being built rapidly in Chinese shipyards. While these vessels are built for coast guard purposes, they are designed to effectively patrol and assert sovereignty as far as the Spratly Islands. It was in fact, one of these vessels, the Haijian 84, which was

in the intense standoff with the Philippines in the April 2012 Scarborough Shoal incident. What is interesting about this is that the Haijian 84 is a vessel under the China Marine Surveillance agency ("coast guard"), which is tasked with protecting China's exclusive economic zones. Beijing saw it fit to dispatch this vessel along with the Haijian 75 to go in between the Philippine's biggest warship and the Chinese fishing vessels that were in Filipino waters. The intense standoff could have been worse if it would have been larger and more superior PLA Navy vessels that would have confronted the Filipino warship. Because it was smaller Haijian vessels that were dispatched, China was not perceived to be as big of an aggressor or bully as it is usually portrayed.

The Scarborough Shoal situation is a perfect example of China's new "humble-hard power" strategy, because the dispatching of anything more aggressive or significantly more powerful would have created an even bigger security complex in the region, which would give the Philippines and other neighbors even more of a reason to strengthen their navies and alliances. As Beijing teeters on the line between hard power and soft power in the region, it stays barely low enough under the radar to cause significant concern among the Philippines, its ASEAN neighbors, and most importantly the United States. Aggressive taunting from PLA Navy destroyers would bring more eyes and ships in the region, and that is what Beijing does not want.

While these ships have guns, they are still considered nonmilitary vessels, and because Beijing is involved in the buildup of these vessels and their deployments to clashes such as the Scarborough Shoal dispute, it gives the Philippines neighbors less of an incentive to stay close together and be anti-China.

What does this new humble-hard power tactic truly say though? Foremost, by Beijing deploying coast guard and "coast-guard-ish" vessels such as the Haijians, it helps to strengthen China's "peaceful rise" approach to foreign policy and disputes. If Beijing were to send in its sophisticated warships, the world would perceive that China is truly engaged in stripping territory away from its weaker neighbors, but by using domestic enforcement vessels such as the coast guard, it is stating that it is simply policing what it believes to be its own sovereign waters. The humble-hard power strategy simply lets China get away with "gunboat" diplomacy, as long as the world does not view it as gunboat diplomacy. Beijing is arguing that its humble-hard power isn't diplomacy at all, that it is just routinely enforcing the law of its own seas. Also, because China is so much stronger and affluent than the ASEAN members, it has to be softer. If it exerts too much power it will be a world villain. Small countries all over the world would demonize China, especially if there were video footage of a PLA Navy destroyer bullying a very inferior Philippine Navy ship. Tensions would grow at an even more exponential rate if there were miscalculations in a lopsided standoff and a Chinese vessel fired on an outmatched and outgunned vessel from the Philippines. A bully-like act of aggression would solidify China as the new Imperial Japan.

A perfect example of this would again be the April 2012 Scarborough Shoal incident. While it was previously mentioned that the Philippines Navy sent out their biggest warship to intercept the Chinese fishing vessels, the description of their biggest and best warship was not given in a factual manner. That warship, which is the pride and joy of the Philippines Navy, is in all actuality an antique United States Coast Guard vessel from the 1960s. Known as the BRP Gregorio del Pilar, this ship is barely a coast

guard vessel, much less a significant weapon for any Navy. So even though the Chinese vessels in the incident were smaller, they could have most likely won in a battle. Also, Chinese "maritime-enforcement" forces are more restrained in smaller ships.

By Beijing using its humble-hard power of "nonmilitary" vessels, it can keep problems local as it did with the April 2012 incident. An incident becoming internationalized is the last thing Beijing wants, because this would give realist policy makers in the United States a perfect opportunity to bring the U.S. Navy even further into the South China Sea. Any unfair violence at the hands of the Chinese would bring nationalism to almost every Filipino, and the ones that were protesting just weeks ago against American military involvement against terror cells residing in their islands would abruptly change their stance and gladly accept the U.S. coming in once again to dispel an Imperial Japan-like nation from their country. Every time there are joint training exercises with the United States in the Philippines, they are met with anti-U.S. protests. Any type of Chinese aggression would ensure that these protests would never take place again, and instead of American flags being burned, it would be Chinese flags.

Because the Chinese are using less flagrant vessels in the South China Sea, not enough attention is being warranted by the ASEAN as a whole to come together and proclaim another convention, declaration, or code of conduct. The ambiguity ensures that Beijing can keep pursuing its bilateral negotiations country by country instead of dealing with an angry and fearful ASEAN as a whole. With smaller vessels, China can constantly patrol the South China Sea without creating too much anxiety. By doing this Beijing is able to push the envelope with the Philippines and see what it can get away with and what it cannot. And while the keys to Beijing's "humble-hard power" policy

are in the form of smaller coast guard vessels, they are as safe as can be, because they are only one radio call away from their protector the PLA Navy. Manila knows that any action against the Five Dragons naval vessels would constitute an action against the PLA Navy, which is a no win situation for its outmatched navy.

Beijing's bureaucrats and technocrats are working very hard to perfect this new type of "humble-hard power" it is deploying in the region. It is the only way that China can stay on track with its "peaceful development." The Communist Party shows no signs of slowing down the activities and growth of its coast guard and maritime-law enforcement agencies[43]. While others in the region and outsiders may perceive it as a new type of maritime diplomacy that learned from Imperial Japan's mistakes, Beijing simply argues that it's only policing its own waters. The central government in Manila must acknowledge Beijing's new strategy and ensure its fellow ASEAN neighbors understand the significance of the covert strategy as well. These civilian ships will be at the epicenter of future South China Sea clashes, and if the world does not wake up to this new "humble-hard power" strategy, China could eventually succeed in breaking up the ASEAN coalition with these unspectacular vessels. What the April 2012 Scarborough Shoal incident showed the world, is that China can still pursue its goals in the South China Sea without deploying its PLA Navy forces.

It is quite safe to say that Beijing has indeed learned from great powers of the past such as the United States and Imperial Japan. Bringing into the equation superior ships that are filled with guns and missiles would counteract everything it is trying to

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[43] Goldstein, Lyle J. "Five Dragons Stirring Up the Sea - Challenge and Opportunity in China's Improving Maritime Enforcement Capabilites." *China Maritime Studies Institute*, U.S. Naval War College. Newport, Rhode Island. 2010

accomplish in the contested waters. Sometimes it is more beneficial to act humbly in great power politics. While this policy seems to be working for the short-term, it is important to ask how this "humble-hard power" policy will play out in the long run. Is China just biding its time? It cannot be, because the United States is focusing more and more on East Asia, and unless the U.S. gets dragged into a conflict with Iran, then China has to deal with American presence for the long run.

The key question to ask, is what is the difference between China's coast guard, maritime-law enforcement agencies and its PLA Navy? In all actuality, the disputed islands of the South China Sea are not within 200 nautical miles of China's coast. Can these Five Dragon vessels be considered by China's rivals as just an extension of its blue-water navy? Will this "humble-hard power" disguise end up causing an international scene anyways? It is common knowledge that coast guards and the five dragons stay under the radar in terms of escalating already tense circumstances, but they can still result in a great deal of damage being done. Policy makers in the Philippines and the ASEAN will need to give this the attention it warrants.

All it takes is one miscalculation, one bullet, and one life to be lost for the next "great war" to begin. While the Philippine's forces are outmatched, outgunned, and outnumbered, there is no for sure winner if the dispute turns into warfare. Throughout world history, we have seen how superior forces are beaten or significantly weakened by unconventional and inferior enemies. In recent years, we have seen how the United States has been bogged down in the sands and mountains of Afghanistan because of a hidden and inferior enemy. The same outcome could happen to China, but in oceans

instead of deserts, and these oceans are far more important to China's well being than the deserts in Afghanistan are to the United States.

The Importance of the Scarborough Shoal Incident

While there have been other skirmishes and even battles in the history of the South China Sea dispute, the April 2012 Scarborough Shoal incident is the most important incident to date. The recent dispute has set the foundation for the future of South China Sea relations among China and the Philippines. With both countries laying claim to the Scarborough Shoal, the area could be a flashpoint for the both of them. Also, as previously mentioned the clash resulted in both sides showing their new strategies. With China's reaction, the theory of "humble-hard power" was created in this thesis, and the strategy of the Philippines will be later discussed. It is essential to understand exactly what started this incident and what took place during the dispute and how tensions escalated then fizzled out.

On Sunday April 8th, 2012 eight Chinese fishing boats were spotted by a Philippine Navy surveillance aircraft as they were anchored inside a lagoon at the Scarborough Shoal. Once the surveillance plane reported this, the Philippine Navy dispatched its largest warship, the aforementioned BRP Gregorio del Pilar. The American hand-me-down warship intercepted the Chinese fishing vessels and for over a day kept the vessels from leaving. On Tuesday April 10th, Filipino sailors boarded the fishing vessels to inspect them. What they found were sharks still alive, giant clams, and considerable amounts of illegally collected coral. In regard to Filipino laws, everything in these ships was illegally taken in the territory of the Philippines' Exclusive Economic Zone (EEZ), as one can see on the map (See figure 1.1 on pg. 2). The next day as

Filipino sailors were attempted to arrest the Chinese fishermen, Beijing dispatched two of its Five Dragons maritime surveillance ships, the Haijian 75 and Haijian 84. When the Chinese vessels arrived in the area they positioned themselves between the fishing boats and the BRP Gregorio del Pilar, which prevented the arrests of the Chinese nationals.[44] During the tense standoff is when the Foreign Ministries and ambassadors began to communicate and negotiate an end to the dispute. By Monday of the following week, Beijing had announced that it had withdrawn its vessels. As previously mentioned, the reaction and strategy from Beijing was one of "humble-hard power," but what does the reaction of the central government in Manila say about the Philippine's new South China Sea strategy and policy?

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[44] Gomez, Jim. "Philippine warship in standoff with China vessels." *The Associated Press*. April 10, 2012.
http://www.google.com/hostednews/ap/article/ALeqM5g6Ms4n4rqMf0g9HjWZVOjE2c9gig?docId=e3c4e86119df45d3a44ebb96d5d96322

CHAPTER V

AN ANALYSIS OF FILIPINO FOREIGN AND MILITARY POLICIES

What the Philippines' Foreign Policy Says About The Dispute

Most importantly, when analyzing the South China Sea dispute from a Filipino perspective the first thing one must is not refer to it as the "South China Sea dispute" but as the West Philippine Sea. The renaming holds especially true when analyzing the Scarborough Shoal incident because it is miles within the Filipino Exclusive Economic Zone. When the dispute was taking place in April, the man at the epicenter of it was Philippine Foreign Secretary Albert Del Rosario. The office of the Foreign Secretary quickly summoned Chinese Ambassador to the Philippines Ma Keqing in an effort to resolve the dispute with diplomacy. So at the very beginning of the standoff, the Philippines exerted a significant amount of hard power being that it did not hesitate to send its strongest warship, while Manila also ensured that all diplomatic lines were open with China and remained fevered in nationalist rhetoric. The stance taken by the Philippines was blunt and easy to understand, it was that the Filipino authorities would ensure that their sovereignty over the Scarborough Shoal would be respected because the Shoal is located in a vital section of Philippine territory.

Stronger rhetoric and action to back it showed the world that the Philippines have become more hawkish in their attitude and policies regarding the West Philippine Sea. While the Chinese believed that the waters around the shoal belong to China, Del Rosario sent a strict message to Beijing that the Philippine Navy would impose the nation's sovereignty there. Manila understands the risks it is taking by confronting China head on, and it couldn't have been more evident during the crisis week when Del Rosario

stated, "We are prepared to secure our sovereignty."[45] The Philippines and its neighbors are very aware of China's capabilities. Vietnam is especially aware because in 1988 it engaged in a bloody battle with China over the Johnson South Reef in the Spratly Islands that resulted in the death of over 70 Vietnamese sailors.

As a result of China's regional military hegemony, both the Philippines and Vietnam have become closer not just in regards to hard power capabilities, but also through soft power means. For instance, hotlines between the two countries' coast guards and navies have been set up for more effective communication, but "football diplomacy" is also being brought into the Spratly Islands. In April of 2012 the Philippine Navy Chief Vice Admiral Alexander Pama announced that the sailors from both countries will be playing football and basketball against each other in what as known as "fun games." What is the most significant about this and sends the biggest message, is that these games will not be played in Vietnam or the Philippines, but on certain Spratly Islands that both countries occupy.[46] A military and diplomatic alliance with Vietnam is not enough to counter China's regional hegemony though, and Manila knows this.

Inviting the World to the Party

It is no secret that China is stronger than the Philippines in every aspect. Economically speaking, in 2011 the GDP of the Philippines was $389.8 billion, which is

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[45] Rappler.com. "Scarborough "puzzle" a work in progress." *Rappler,* Nation. April 12, 2012. http://www.rappler.com/nation/3749-scarborough-puzzle-a-work-in-progress

[46] Associated Press. "Philippines, Vietnam try football diplomacy in Spratlys." *Inquirer Global Nation*. April 10th, 2012. http://globalnation.inquirer.net/32273/philippines-vietnam-try-football-diplomacy-in-spratlys

less than the GDP of many provinces in China.[47] The size of a country's economy greatly affects how much it can spend on defense purposes. While China spent only 2.1 percent of its GDP on its military in 2011, with a GDP in the trillions that still equates to well over $100 billion. Given that the Philippines spent only 1.2 percent of its GDP on defense purposes ($2.4 billion), one would think it has no business confronting China.[48] The idea itself sounds suicidal, but Manila can add over $700 billion in military spending by simply having the backing of one key ally, the United States.

During the Scarborough Shoal standoff when the Philippines asked Beijing to call back its maritime security vessels by the weekend, it seemed like an arrogant demand by a weaker Philippines. But given that Manila's Foreign Secretary was on his way to Washington D.C. that weekend, China took heed to the request and called back its vessels. Just a week later on April 16th, American and Filipino forces took part in joint military exercises at the Filipino military base Fort Magsaysay. These "war games" angered China, but also made a statement that the United States is in the region at the request of the Philippines to balance it. With good reason too, since the 1980s the Philippine military has focused its attention on Muslim insurgent groups in its borders and has forgotten about its navy. Which is why its navy is equipped with 120 antique vessels while China's PLA Navy has approximately 1,000 combative maritime vessels.[49]

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[47] CIA - The World Factbook. "The Philippines." *CIA*. May 1, 2012. https://www.cia.gov/library/publications/the-world-factbook/geos/rp.html

[48] Sipri. "Military spending: how much does the military cost each country," listed.

[49] Jennings, Ralph. "Leaning on US, Philippines boldly pushes back on China in sea dispute." *The Christian Science Monitor*. April 26, 2012. http://news.yahoo.com/leaning-us-philippines-boldly-pushes-back-china-sea-142308662.html

Just a week later after the joint military exercises, Lieutenant General Duane Thiessen, Commander of the US Marines in the Pacific, reaffirmed that the Philippines and United States were bound by their mutual defense treaty. He then stated to reporters, "The United States and the Philippines have a mutual defense treaty which guarantees that we get involved in each other's defense and that is self explanatory,"[50] which sent shockwaves all throughout Beijing. While the General stressed that the prior week's joint military exercises were not directed at China, he did not rule out assisting the Philippines if any events were to result in confrontation. With a new and rejuvenated backing of the United States, Manila's foreign policy strategy seems to mimic that of the U.S.'s Cold War domino theory. For example, if America did not stand up to Communism in Vietnam, then it would spread like wildfire through the region eventually making its way to the home front.

The Return of the Domino Theory to Southeast Asia

The next day on April 22, Philippine President Benigno Aquino stated to journalists, "All, not just the Philippines will be ultimately negatively affected if we do not take a stand."[51] In a policy move to unite the country's neighbors, the President has been pointing to Beijing's disproportional territorial claims that have been inching "closer and closer" to the shores of the Philippines and the other ASEAN members. On an international campaign to legitimize the Manila's actions with the Scarborough Shoal incident, President Aquino has continually stressed that the shoal is located in the

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[50] AFP. "US Commander reaffirms Philippines defense treaty." *AFP*. April 22, 2012. http://news.yahoo.com/us-commander-reaffirms-philippines-defence-treaty-214453094.html

[51] Ibid.

Philippines EEZ, less than 140 miles from the archipelago nation, whereas the closest part of China's mainland to it is more than 745 miles away. The President also denounces China's historical based claims, as does international law.

Just as the People's Republic of China did not want U.S. or European interference in the Vietnam War, it holds this same policy line in regards to the Philippines and the South China Sea. The more that Beijing insists on the U.S. not interfering in the dispute, the closer Manila becomes to Washington, DC. With repeated warnings from Beijing to Manila to not "internationalize" the issue, it seems that these warnings are falling on deaf ears. The more China grows in every facet of power, the leadership in the Philippines believes, the more determined China would be to achieve its goals. And the more determined China is perceived to be, the closer the Philippines will ally itself with the United States and commit to an arms race.

Filipino Hard Power Gets Even Harder

After the Scarborough Shoal dispute, when Foreign Secretary Del Rosario visited Washington D.C., the hard power dynamic of the Philippines changed drastically in just one weekend. There Del Rosario, along with Philippine Defense Secretary Voltaire Gazmin met with their American counterparts Secretary of State Hillary Clinton and Secretary of Defense Leon Panetta in an effort to explain what took place during the Scarborough Shoal dispute. What resulted from the talks was the deployment of 4,500 American military personnel to the archipelago for "war games", and plans to sell Manila a squadron of F-16 fighter aircraft. While it was already mentioned that U.S. military leadership has become more vocal in regards to its mutual defense treaty with the Philippines, it seems that Washington, DC backed up those words with tangible actions.

The most important action to come from this meeting was Washington's promise to double the amount of military aid the Philippines is receiving this year. The increase in defense assistance meant that for 2012 it would rise to $30 million dollars, and while these numbers are not Israel-defense-assistance-like, they are still quite significant. One of the last times the United States "doubled" defense assistance to a country, it found itself covertly financing the Mujahedeen's insurgency against the Soviet Union. Along with this increase in military aid, both militaries will now engage in real-time information sharing with each other, which will bring the two countries closer than they have ever been.[52] With real-time information sharing, the Philippines will be able to see what is happening in its maritime territories, as U.S. satellites, surveillance equipment, and other intelligence resources will be at hand for the Philippine military. On top of this, Del Rosario also gave the U.S. a defense wish-list that included coast guard vessels, surveillance aircraft, coast watch stations, and radar systems. Del Rosario stressed many times that his country's military is poorly equipped and needs assistance with its modernization. If all if these gifts weren't enough, other departments and agencies in the U.S. government such as the State Department are now going to find "creative ways" (i.e. loopholes) to send more defense funding to the Philippines.

These actions are quite different from the previous rhetoric the United States has had of remaining on the sidelines and impartial to the South China Sea dispute. It seems that both the U.S. and the Philippines are starting to act in accordance with the mutual defense treaty that has bound them since 1951. The United States has now pledged to

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[52] Agence France-Presse. "US doubles military aid to Philippines." *Inquirer Global Nation*. April 30, 2012. http://globalnation.inquirer.net/35779/us-doubles-military-aid-to-philippines

come to the aid of the Philippines if it faces military aggression from China. With a strong amount of tenacity to send China a clear message, Del Rosario promise that the military exercises conducted by both countries would grow "in a better way, in more locations, in a more frequent manner." He later said while speaking to reporters, "The US needs a stronger ally in the region who will be able to take on a bigger share of guaranteeing the stability of that region," which alluded to an idea that the Philippines will be tougher in their stance in the region.[53]

The Scarborough Shoal dispute gave Manila the inspiration to mount quite possibly the most hawkish foreign policy campaign to date. President Benigno Aquino's policy comes from the school of realpolitik. He understands there is no way China will back down in this dispute to a group of weak countries with practically insignificant militaries. But does adding the United States into the equation make things in the region better or worse? One would assume that adding U.S. naval supremacy to the equation would result in a situation where China would back down, but it could also result in an even greater security dilemma. It is important to remember what happened to the last few regimes in China that backed down and gave in to Western powers; it didn't bring longevity to their rule. So will Beijing find ways to cool down the nationalism its medias are brewing before it backfires?

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[53] Agence France-Presse (2). "Philippines ask US for radars, patrol boats, and aircraft." *Inquirer Global Nation*. May 1, 2012. http://globalnation.inquirer.net/35635/philippines-asks-us-for-radars-patrol-boats-and-aircraft

Learning from the Mistakes of the Qing and Kuomintang

One of the biggest reasons for the downfall of the last two dynasties that ruled China was the fact that it gave into the pressure of foreign powers. In reality, all of the negative precursors that existed before the fall of the Qing and the Kuomintang exist in present day China as well. In both of these dynasties, corruption among government officials was widespread, as it also is in the PRC now. There was also a large disparity of income and living conditions among the people, just as there still is now. While even though the Communist Party has tried to combat its urban-rural divide, it is still a huge threat to internal stability. Even Beijing's Hukou system, which is in a way an internal passport designed to restrict its population from moving is destined to fail.

Another dynamic that was alive during the Qing and Kuomintang dynasties that still exist today is the impact of rebellions. While the Communist Party has set up a great deal of laws meant to keep people from gathering in significant numbers, there is still an average of 500 protests, riots, and mass demonstrations in China a day. In 2010 alone, there were a recorded 180,000 of these different types of social expressions whether violent or non-violent.[54] With social media technology added to the equation, these protests have the ability to become bigger and more dangerous quicker, no matter how much the government tries to censor the Internet. Just the thought of a Tiananmen Square-like event with dynamics such as Twitter and Facebook would make any party official nervous.

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[54] Fisher, Max. "How China Stays Stable Despite 500 Protests Every Day." *The Atlantic*. January 5, 2012. http://www.theatlantic.com/international/archive/2012/01/how-china-stays-stable-despite-500-protests-every-day/250940/

The Philippines's Plans for the ASEAN - A Southeast Asian NATO?

By reaching out to the United States, the Philippines and other East and Southeast Asian countries show that they do not trust China as a hegemonic power in the region. The rest of the world might ask itself, if China's neighbors do not trust it or want it as a world power then should we? While Manila seeks American assistance, it also understands that it must also look to its neighbors. The Philippines have urged countless times that ASEAN countries take a unified stance against Beijing over the South China Sea, but as long as China keeps a low profile in the Sea and isn't intimidating it will be hard to fire up is neighbors.

On April 2nd, 2012 the two-day 20th ASEAN Summit began in Phnom Penh, Cambodia. It was there that the Philippines spearheaded a campaign with the intention of creating solidarity in the ASEAN with regards to China's actions in the South China Sea. But during this summit, the ASEAN's slogan "One Community, One Destiny" did not portray its foreign policy stance towards China. As always, the leaders of the ASEAN made the symbolic gesture of reaffirming the importance of the Declaration on the Conduct of the Parties that was drafted in 2002. This was followed with the same old rhetoric of words such as understanding, cooperation, and peace.

The Philippine delegation at the summit wanted to take the matter further than just symbolic words; it was for more implementation of the guidelines in the 10-year-old declaration. Manila's foreign policy goals were to draft a new code of conduct specifically designed to prevent small incidents in the South China Sea from turning into large conflicts. There was a problem: Not all of the members bought into the ASEAN's "one community, one destiny" slogan. Shortly before the summit began, Chinese

President Hu Jintao visited Cambodia and urged Phnom Penh's leadership to make sure that any South China Sea negotiations would be disrupted. How could one nation out of ten affect such important negotiations though? It is because Cambodia holds the ASEAN Chair for the year. So when the Philippines, Vietnam and Thailand sought to draft the new code of conduct before presenting it to Beijing, there was disagreement because Cambodia wanted to invite China to participate in the drafting process. The disagreement led to a rift among the members during the summit. Cambodia's Prime Minister Hun Sen was accused to purposely trying to take the South China Sea issue off the summit's agenda, and substantial progress was not made regarding the multinational territorial dispute.[55]

For years many powers have dismissed the ASEAN as nothing more than a "talking shop," and the 2012 summit did not do much to dispel that perception. While Cambodia and Laos took a pro-China stance at the summit, it is important to analyze the other nine members and find out which ones are on which side of the South China Sea rift. Recently, the United States and the Philippines have become closer to Myanmar as democratic elections have been held and sanctions have been lifted. Along with Myanmar, Thailand is closer to the Philippines and U.S. side in the Sea. And even though it may be perceived that every oceanic country that borders the South China Sea would be part of an anti-China alliance, there is not as much incentive for all of them to pick a side. The Philippines and Vietnam feel as if they have an opportunity to gain from

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[55] Agence France-Presse (3). "ASEAN to 'intensify efforts' on China sea disputes." *Inquirer Global Nation.* April 4, 2012. http://globalnation.inquirer.net/31803/asean-to-intensify-efforts-on-china-sea-disputes

the dispute, but Brunei, Singapore, Malaysia, and Indonesia still seem on the fence with their rhetoric. So the Philippine wish for a unified and militarily strong ASEAN that refuses to settle on China's term is only a pipedream at the moment, especially as China continues to softly bully its neighbors.

Learning and Not Learning From the Past

Not learning from the past has been shown evident by the Philippines alredy. In one aspect of the 2012 ASEAN dispute, the Philippines have forgotten one thing about China, and that is if it is not part of the drafting process of a declaration or code of conduct, then it will not recognize it. Since Manila's policy is perceived by Beijing as an arm of imperialist America and part of the West, this especially holds true. As previously stated, the Communist Party does not agree with many aspects of Western international law and hegemony. So it may be reflected back in the future how it was a mistake for Thailand, Vietnam, and the Philippines to keep Beijing out of the code of conduct draft process. In all actuality, with Beijing in the process would have most likely resulted in the same ending with zero agreement among the group.

In learning from the past, Manila has one very strong example it can learn from its history of disputes, which is known internationally as the Mischief Reef incident. In 1994, the reef, which is located 130 miles from the Philippines, was illegally occupied by China. The Chinese occupation of the reef was done strategically during the monsoon season, which meant that Philippine naval vessels and surveillance aircraft would not be patrolling the region. When the Philippines finally found out about the Chinese occupation, Manila demanded the Chinese retreat of the reef that they claimed were

building fishing shelters on. Beijing guaranteed Manila the shelters were for civilian purposes and Manila eventually backed down due to the strength of China's PLA Navy.

To the disdain of many, in 1999 it was found out that China had built multi-story military barracks on the reef. The Philippines reacted in uproar upon hearing this. The new Chinese military base infringed on international laws and the sovereignty of the Philippines because it was within its EEZ. While this appalled Manila, it decided not to tear down the military structure out of a fear of inciting war with China, a war that Manila knew it could not fight or win. Beijing's analysis of the Philippines' reaction, was that as long as it systematically pursued its goals in the South China Sea without a great deal of force, then Manila would always back down eventually. But Beijing's analysis proved to be wrong when it came to the Scarborough Shoal.

The Philippines have very well learned from its history and proved it in dealing with the recent Scarborough Shoal dispute. Manila has shown that it is intent on assuring the Scarborough Shoal does not suffer the same fate as Mischief Reef did. Things have changed since the 1994 incident; not only is the government tougher, but also its people. There is a growing consensus among the people of the archipelago that a country more than 1,000 nautical miles away should not be anywhere in its EEZ. To prove how strong that consensus is becoming, surprisingly the highest ranking Maoist of the Philippines and the founder of its Communist Party, Jose Maria Sison, stood fervently on the side of Manila and denounced China's claim in what could be the best critique to its absurd

claim by stating, "as this would be like Italy claiming … all areas previously occupied by the Roman Empire."[56]

The Philippine's Nationalism Dynamic

Nationalism and public opinion inside the Philippines and internationally has changed drastically since the Mischief Reef incident as well. Inside the Philippines, the shoal dispute has brought different groups of Filipinos together, and not just out of nationalistic ideology, but also out of hunger. Chinese fishing vessels are overfishing and destroying the maritime ecosystem within the territories of the archipelago, thus making it harder for Filipino fishermen to catch fish to eat and sell. These problems of the Filipino fishermen are also compounded by the fear of threats from Chinese security vessels. These threats are causing all Filipinos whether Islamists, Maoists, or Nationalists to adopt a common goal: standing up against China.

Even overseas Filipinos are reacting strongly to the Scarborough Shoal dispute. Tensions may get worse between the two countries as Manila is requesting that its global society of Filipinos to rally in front of consulates and embassies all over the world on May 11th, 2012. Filipino public opinion against China's actions is at an all time high, and Manila seeks to use its overseas population to rouse world public opinion against China as well. On May 11th at noon in a carefully coordinated en masse event, Manila hopes

[56] Rodis, Rodel. "Telltale Signs: Scarborough will not be Mischief Reef Redux." *Asian Week*. April 30, 2012. http://www.asianweek.com/2012/05/04/telltale-signs-scarborough-will-not-be-mischief-reef-redux/

that millions of Filipinos will "Stand Up For Scarborough Shoal" with a red S on their forehead as "a symbol to protest Chinese aggression against the Philippines."[57]

It seems that the Scarborough Shoal after all may not suffer the same fate as Mischief Reef did. It is still too soon to know for sure, especially due to the May 11 protests, but that day could go very well for Manila's foreign policy goals, or it could bring a lot more tension to the bilateral dispute. Either way it will cause the world to focus more on the West Philippine Sea, and this is something that China does not want. In 2010, the Commission on Filipinos Overseas (CFO) estimated that there were roughly over 12.5 million Filipinos living abroad. The top seven countries all had a population of 300,000 or more resident Filipinos. The largest of these seven overseas populations, 3.4 million, is in the United States, and the seventh largest, 333,000 are in Australia.[58] In countries such as Australia, Japan, the United States, and the United Kingdom, the May 11th protests at Chinese embassies and consulates could possibly create the most tension. Also, with over 168,000 Filipinos in Hong Kong, protests there could very well become the next flashpoint of Chinese and Philippines hostilities as Hong Kong has already become stripped of its democratic integrity through the years by Beijing.

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[57] USPGG.org. "May 11 - 12 Noon Show Up Stand up for Scarborough Shoal." *U.S. Pinoys for Good Governance.* 2012. http://www.uspgg.org/

[58] *Commission on Filipinos Overseas.* "Stock Estimate of Overseas Filipinos." December, 2010. http://www.cfo.gov.ph/pdf/statistics/Stock%202010.pdf

CHAPTER VI

POSSIBLE CONCLUSIONS TO THE BILATERAL DISPUTE

Neoclassical Realism is Alive and Well in the Dispute

The actions in the region have followed the theory of John Mearsheimer's essay "The Rise of China Will Not Be Peaceful At All" written in 2005. He argues that China seeks to "maximize the power gap between itself and its neighbors."[59] with the end goal of being so powerful that no state in the region could question or threaten it, just as no state in the Western Hemisphere can question the United States. China must have military superiority over its neighbors, and one of the most important ingredients for military superiority is open access to oil.

On both sides of the dispute, it seems that neoclassical realism is the preferred policy. The dispute has been characterized by self-help and both nations acting in their own interests. Philippine actions are proof; as the country has limited cooperation with China because of the fear it has of its relative gains it could make. Manila in no way wants to be dependent on a hegemonic China, because there is a lack of trust that does not ever seem as if could be overcome by the archipelago. Also, China's new "humble-hard power" Five Dragons Policy is a bullet point out of the school of war's scholar Carl von Clausewitz who believed that war was a continuation of politics by other means. While Clausewitz is not labeled a neorealist, many neoclassical realists adhere to his ideology.

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[59] Mearsheimer, John. *The Rise of China Will Not Be Peaceful at All.* The Australian, November 18, 2005.

In regards to a balance of power in the region, as neoclassical realists believe that a bipolar power structure is the most stable, so does the Philippines, which is why its goal is to bring the United States into the picture. There would also not be an arms race in the region if the countries did not buy into the anarchic struggle of the international system. At the end of the day, neither the Philippines nor China is going to subordinate its interests to each other, so there is a high probability that conflict resides in the future.

War is Less Affordable for China than the Philippines

How is this possible though with the power and numbers of its military? While China's GDP and military spending are exponentially higher than the Philippines, it simply cannot afford to get bogged down in a maritime insurgency. Even though these disputed territories are only over a thousand miles away, the PLA Navy does not have the blue water projection powers to successfully assert sovereignty over its region. The internal problems that China is facing are also far greater than those the Philippines are facing. A destabilized economy would be far more disastrous inside of China than it would in the Philippines. If China were engaged in a war in the South China Sea and the economy suffered greatly because of it, then there is a chance it would be fighting a war on two fronts: in the disputed sea and internally at home. The form of naval warfare the PLA Navy would be fighting in the South China Sea would be very different when compared to the Pacific battles of WWII, and this is what could bleed its economy dry.

The South China Sea - China's Maritime Afghanistan

Throughout world history, superior forces have been beaten or significantly weakened by unconventional and inferior enemies. In recent years, we have seen how the United States has been bogged down in the sands and mountains of Afghanistan

because of an almost hidden inferior enemy. Many world powers have been bled dry this way. The same outcome could happen to China, but in oceans instead of deserts, and this dynamic makes a potential war in the South China Sea a catastrophic thought, because these oceans are far more important to the well being of the region and world, whereas the world is not too much affected by the war in Afghanistan. At the moment, there is no balance of power in the region; the scale is extremely lopsided in China's favor. This, however, does not ensure victory by any means.

If a war started then of course in the beginning with clear superiority China would win decisively, but what is important is what happens after that. If the main islands of the Philippines were attacked then there would be reprisal from the United States. There would also be no sure sign that the Vietnamese or any other ASEAN countries would come to the assistance of the Philippines, but what would most likely happen throughout the rest of the war would be a form of maritime insurgency. While the use of improvised explosive devices (IEDs) wouldn't be possible in the water, this form of naval warfare would be somewhat similar to piracy, asymmetric naval warfare (i.e., swarm tactics), and USS Cole-like kamikaze attacks.

Perfecting asymmetric naval warfare has given a small country such as Iran the ability to capture bigger naval vessels and if need be shut off access to the Strait of Hormuz. The PLA Navy would also suffer from attacks similar to the attack on the U.S. Navy's USS Cole in Yemen, where in 2000 as the American Destroyer entered the Yemeni harbor in Aden, it was attacked by a "Zodiac-type rubber craft" filled with

explosives that placed itself next to the Cole and blew it up.[60] Philippine military forces would also fare well against their superior enemy. The Filipinos have a better understanding of islands and maritime warfare, and while their Chinese counterparts have had some experience in war games and simulations; the Philippine military has had more experience whether through training or by actually combating insurgencies in its country.

Is a Peaceful Outcome Possible?

A peaceful outcome is indeed quite possible, after a war has been fought and the victor rewrites the rules for conduct and peace in the region. For China to continue rising its neighbors must fall. The Philippines will only be pushed back so far before it is forced to assert its sovereignty. The United States, as a world power and an ally of the Philippines, must do a better job in sympathizing with China as a growing power. Just as the United States stood behind its Monroe Doctrine, which stated that no foreign powers should intervene in the affairs of North and South America, so must U.S. policy makers expect and respect the fact that China will adhere to its own Monroe Doctrine.

In a neoclassical realist paradigm, not many other options exist but confrontation in the dispute. As World War II brought solidified borders and rules to an anarchic Europe, it will take a great war in the South China Sea to do the same. A large problem that arises is that it's the ocean and not land where the dispute is taking place. Lines can be drawn and fences can be constructed on land, but not in the ocean. Since China will only settle for nothing less than what it wants, leaders in the Philippines knows that they have two options: either to become a weaker tributary state of China's or to fight.

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[60] McMichael, William H. "10 years after Cole bombing, a different Navy." *Navy Times.* October 11, 2010. http://www.navytimes.com/news/2010/10/navy-cole-10-years-later-101110w/

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