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China's Territorial Disputes in the South China Sea: A Prologue from Past to Present

Abstract

Territorial disputes in the South China Sea are again under the international spotlight. Presence of huge untapped hydrocarbon reserves, conflicting sovereignty claims, rising nationalism, grey areas in the UNCLOS, strategic location and the busiest sea lines of communications in the sea, have made every claimant state to adopt hardening positions against each other. This research tries to find the answer of question that why, despite the increased economic interdependence, the claimant states have failed to resolve their territorial disputes in the region. Theoretically, realist construct of National Interest is being used as a lens in the study. Historical approach of qualitative research methodology is employed to track the record of conflicts, stances and strategies being used by the claimants. This study arrives at the conclusion that the joint mechanism for managing the assets of this sea could only be a viable option to maintain peace in the region.

Key Words: China, South China Sea, Paracel. Spratly, Vietnam, Philippines, UNCLOS

Introduction

A territorial dispute refers to conflicting claims of sovereignty over (1) continental land; (2) island, whether capable of human habitation of its own or not; or (3) rock above water at high tide whereas a maritime dispute refers to overlapping maritime zones; and dispute on the interpretation or application of the UNCLOS, which is the constitution for the oceans and seas of our planet.¹ China in terms of area is the 4th largest country and with the largest population in the world. Geographically in the East, China is bordered by East China Sea, Taiwan Strait, and the Korean bay. While in the South lies the South China Sea (SCS).²

In the SCS, China has its territorial disputes with Vietnam, Philippines, Indonesia, Malaysia, Brunei and Taiwan. The US hydrocarbon surveys have estimated of \$5-8 trillion of hydrocarbon reserves in the SCS while China estimates a value between \$25 and \$60 trillion³. China estimated 344 billion barrels of oil, 190 trillion cubic meters natural gas⁴, rich in fisheries, and around \$ 5.3 trillion of

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world's total trade passes through it, makes it very alluring for China to claim.⁵ It has dispute with Vietnam over Paracel Islands, with Philippines over Spratly and Scarborough islands. Malaysia, Philippines and Vietnam, Indonesia and Brunei claim the SCS because of huge untapped oil and gas reservoirs within their Exclusive Economic Zones (EEZ).⁶ Although the US has no boundary attached to the SCS but its role in the SCS dispute is increasing with every passing day. Its naval fleets in the Pacific reflect the importance of the sea in its priority list.

South China Sea, very rich in fishery stocks, spreads across 648,000 square miles. China's fishery products reached 76.7 million tons in 2015 contributed to 57.4% increase in revenue.⁷ There are almost 1080 oil and gas extraction platforms and more than 1000 are controlled and operationalized by China.⁸ Others are used by Malaysia, Philippines and Vietnam. Malaysia's PETRONAS produces 500,000 barrels with 11% increase in total revenue. Philippines has its 15% revenue from these wells. Petro-Vietnam used to produce 300,000 barrels per day. India and the US have helped Vietnam to double the oil production.⁹ Oil imported by China, Korea, Japan and Taiwan passes through the SCS. Any conflict here could directly hamper the trade and economy of the whole region. The highest share in oil after China is of Vietnam which exports around 53,000 barrels per day, raises Vietnam GDP about 24%.¹⁰ From the Strait of Malacca around 40% of the world's total trade passes.¹¹ About 50,000 merchant ships passes from the strait in a single day.¹² In 2010, China became the world's largest consumer of energy leaving the US behind by using 2.3 billion tons of energy resources.¹³

China's claims in the SCS are based on the Nine Dash Line (NDL) which covers almost 2,000,000 sq. km, equal to 22% of the China's total land.¹⁴ It encloses 85.7% area of the entire South China Sea.¹⁵ The area under the NDL comprises of Paracel, Spratly islands, Macclesfield Bank and some small Reefs. The NDL claims Philippines and Malaysia's 80, Vietnam 50, Brunei 90 and Indonesia's 30 % of their EEZ.¹⁶ The NDL coordinates were issued by China under the Nationalist Kuomintang Government. It was earlier composed of 11 Dashes which included Gulf of Tonkin. When China became the PRC, the new map excluded the Gulf and converted 11 into 9 dashes line.¹⁷ The map published by China in 2013 is completely different from 11 dash position of 1949 and 9 dash position of 2008. In 2013 map, China added a 10th dash on the eastern side of Taiwan and declared it its national boundaries.¹⁸

Paracel Islands: China versus Vietnam

Paracel Islands consist of 130 small coral islands and reefs, encompass over 15,000 sq. km with a land area of approximately 7.75 sq. km.¹⁹ Paracel islands are divided into two groups: Amphitrite Group and Crescent Group. Amphitrite group consists of trees, rocks, west sand, Lincoln and Woody Islands while Crescent group comprises of Triton, Passu, Duncan, Money and Pattle islands. These islands are approximately equal in distance from the coastlines of China and Vietnam, make Vietnam and China its claimant states.²⁰

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Both the parties claimed Paracel islands on historical grounds. Paracel Islands are known Hoang Sa Islands in Vietnam. These islands were once the part of Nguyen Dynasty.²¹ Likewise Spratly Islands were once a part of Philippines when it was under the colonization. During the French Colonization, there was a plan to accurately put Paracel Islands on world map and a light house was also built on these islands in 1838. At the end of the century, it was evident that the Paracels do not belong to anyone but Qing Dynasty claimed over the Paracels in start of 20th century. In 1920, both Japan and England believed that it were a Chinese property. After the 2nd World War, Vietnam became Democratic Republic. There was an agreement between Japan and France over the right of Paracels as the Vietnam was under French control for over a century.²² China took control of the Amphitrite group amid all this scenario. In January 1947, a Chinese military base was established on Woody islands which pushed the resistant forces back to Vietnam.²³ After this incident, France tried to convince China to vacate the Island but China did not agree. After a diplomatic crises, the combined forces of France and Vietnam held the control over Western part of the Crescent group. The US and France helped Vietnam to get control over the Islands. In 1973, a peace treaty was signed between Vietnam and China under the supervision of France and the US but later China took over the remaining half of the islands in next year.

The Sino-Vietnam War was of short period of time. As Vietnam, then, had rival of China i.e. the Soviet Union on its side which put pressure on China. Tensions released with Chinese withdrawal. In 1982, the UNCLOS was established which tried to resolve the disputes. Peace continued for several years but in 1988, China attacked three Vietnamese ships on Johnson Reef of Spratly Islands.²⁴ Johnson South Reef is 7.2 sq. km long with an area of 100,000 sq. meters. There are three other small islands which complete the chain of Itu Aba, Gaven Reef and Fieri Cross Reef.²⁵

China's attack on Vietnamese ships in March 1988 made the dispute a military conflict. China started giving official cover to its supremacy on the islands and the whole of SCS by releasing an official map. In February 1992, China passed a law known as Law on the Territorial Sea and the Contiguous Zone. Through it, China claimed itself the rightful owner of whole SCS since Xia dynasty (21st to 16th BCE). China released an official map containing Pratas, Paracel and Spratly islands. Interesting side of this law is that, China could determine its territories without any concern or approval of the UNCLOS. Since then China holds the official claim over the islands and have sufficient military deployed over there.²⁶ China has established military bases and artificial harbor on the Woody Island. Vietnam had the control over some parts of the Paracel Islands before the US-Vietnam war. Vietnamese claim themselves rightful owner of the whole Paracels; same is being reiterated by China. In fact both of them, have some areas of Paracel islands under their control but neither of them accept existence of the other on the whole island.²⁷

Vietnam and Malaysia filed a case for the extension of costal limits of their islands more than 200 nautical miles.²⁸ China took this extension demand very seriously

and considered it a threat to China's supremacy in the SCS. The risks of any military conflict between Vietnam and China are increasing. Vietnam is working hard militarily and diplomatically to reconcile China to not extend its physical presence in the SCS but increased assertiveness by China might result in any military tension. Vietnam is using ASEAN forum against China but still there seems no considerable development which could suggest that amicable resolution is possible between them in near future.

Spratly islands: China versus Philippines

Spratly islands is a group of more than 100 rocks, reefs, islands etc., having total area of 4 sq. km but spread over the area of 425,000 sq. km. Spratlys are rich in marine sources.²⁹ Scarborough Shoal is one of the largest island in Spratly's chain. A Lagoon of 60 sq. mile surrounds the shoal. Its height is around one meter and has its complete submersion during high tide.³⁰

Spratly islands are 120 nautical miles away from Luzon (northern end of Philippines) and 500 nautical miles from the nearest coast of China. Philippines claim itself a rightful owner under the UNCLOS and rejects NDL.³¹ In 1976, Philippines, near the Coast of Palawan Island, named the oil field as Nido oil field. In 1979, Philippines launched commercial production and got the yield of approximately 8.8 million barrels in the same year. China took it as conflict of interest and tension increased between them. In 1996, both Philippines and China signed an agreement to lower tension in the sea.

In 1990s, despite an agreement between China and Philippines, peace was not restored. In 1996, China's naval fleet came in contact with Philippines' gunboat near Capones Island (western coast of Luzon). This incident renewed the US-Philippines Agreement of 1950s. In 1998, for the mutual corporation of naval forces in the SCS, the US and China signed a Military Maritime Consultative Agreement This agreement helped to remove misunderstandings between China and the US.³²

Philippines claims that Scarborough Shoal was its territory during Spanish colonial administration and even during the US Colonial government. Philippines claims that Commander Alessandro Malaspina from Spain started the Malaspina Expedition in which he discovered Scarborough islands. After a detailed survey,

China rejected all the claims of Philippines over Scarborough Islands by its own reasons. Philippines has not any right of jurisdiction under the articles (298 and 287 and sub clause VII) of the UNCLOS.³³ The NDL is accurate and it has a strong historical background. In 13th century, Yuan Dynasty gave name Huangyan Island which is called now as Scarborough Shoal. After the Mongol invasion, this Island still remained in Chinese's control. In 1983 China officially named it Huangyan as it was inherited from forefathers.³⁴ As the US-Philippines relations were getting stronger, American State Department issued a report in which NDL was considered wrong and said there should be exact coordinates of the lines to ensure save freedom of navigations.³⁵

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During 2002, a pact was signed between China and the ASEAN countries to eradicate the possible threats to peace in future. On 23rd July 2010, Hillary Clinton in Hanoi, expressed the US interests in the region and stressed the peaceful solution for disputes.³⁶ China's foreign minister said that Clinton statements will be considered as an attack on China's sovereignty and that there was no issue of freedom of navigation³⁷. Philippines renamed its western waters from the SCS into West Philippines Sea in 2012.³⁸ In 2016, China refused to accept the decision of the arbitral tribunal. After 2016, under President Rodrigo Duterte, Philippines has quit its confrontational policy with China. Now both countries have decided to convene a Bilateral Consultative Mechanism to resolve their disputes in the SCS.

The US has not a single shore attached to the SCS but its commitments to its allies forced her to stand for their rights. The US believes that since the UNCLOS has no enforcement mechanism, it doesn't mean that any state can extend its EEZ as long as it wants.³⁹ The US as the global power is suffering from supremacy dilemma as well. The United States wanted to remain ahead in this race.⁴⁰ Economists are of the opinion that China will cross America and become the superpower by 2025.⁴¹ The prime purpose of the US is to contain China in the region.

China while criticizing the US Policy on Asia Pacific said the US support to Philippines and Vietnam and its military involvement in the SCS is destabilizing China both economically and politically.⁴² China is spreading its views in public by local media and other sources like newspapers to create a public opinion about China's maritime rights in the SCS.⁴³

Conclusion

Peace lies in the continuous diplomatic processes among the claimant states. Confidence building measures may also help China to rise, and the U.S. to maintain its role in the SCS. The US acceptance of Chinese rise will help to minimize this clash of interests between the two powers. China has to accept the role of the US in these seas. The UNCLOS covers important aspects regarding sea lanes and the territorial sea limits which all claimant states should follow. The changes in the UNCLOS would help in solving the overlapping claims by the claimants. The areas in which it is silent, could be reinterpreted by a neutral party to devise a mechanism to solve the problem.

Endnotes

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