

US is misjudging and humiliating China in South China Sea

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Since President Obama took office in 2008, his administration has made achievements in both domestic and foreign affairs. In terms of politics and diplomacy, he is committed to become a peaceful president through conducting smart power diplomacy, which includes global strategic contraction, promoting his vision of a world free of nuclear weapon; ending the war in Iraq; accelerating withdrawal of forces and the end of military mission in Afghanistan; restraining US's involvement in Libya and Syria; urging the Iran nuclear deal framework and normalizing relations with Cuba.

However, in contrast to his contractive policy trends and preferences, US has conducted strategic expansions in Asia-Pacific, which is evidenced by its deep involvement into regional security topics. Unfortunately, immersed by domestic issues, the White House's attention to regional affairs is limited, coupled with the lack of staffs who have deep understanding of Asia culture, war-hawks and military dominate East Asian affairs in the past few years. As a result, US security policy aimed at de-escalating conflicts and tensions is ineffective and even counteractive, which could be reflected by the case of South China Sea (SCS).

This paper argues US has made two misjudgments in its SCS policy during Obama administration. First, it mistakenly assumes China is seeking to take full control of the water and to expel US's presence in this area. And second, it falsely believed that US is able to force China to clarify its SCS claims and further to give up the nine-dash line through a set of "combined punches" (Zuhequan).

To be frank, "combined punches" is effective to some extent, but whether in the expected way is doubtful. The truth is US has overreacted due to the two misjudgments mentioned above. This approach not only humiliates China, but also forces Beijing to counterattack. What's worse, it further raised tensions and increased Sino-US conflicts. It is worthy to ask what is Obama administration's strategic target in East Asia, is it to threat peace\stability and development?

The Analysis of US's position

In response to a rising China, Obama has initiated G2 at his early presidency in 2009, yet Beijing has not prepared for this role and did not react to this idea at that time. Later, US has adopted "Asian-Pacific Rebalance" strategy due to the changing security situation in Asia-Pacific. It conducted a series of measures to prevent and balance China from north to south West Pacific Ocean. In the north, it strengthened US-Japan-Korea trilateral security and military cooperation by the excuse of DPRK threat; in the middle, it urged China and China Taiwan to make big concession in South China Sea and East China Sea, this approach is particularly outstanding during Tsai administration; while in the south, it consolidated US-Australia alliance and increased military presence in this region; in the

central-south, it strengthened military cooperation with ASEAN by the excuse of SCS disputes, which not only includes its alliance Philippines, or quasi-alliance Singapore, partners Indonesia, Malaysia and Brunei, but also its former rival Vietnam.

Some Chinese researchers hold that US is containing China, at least on security aspect, however, I argue it prevents and balances China rather than containing. Because US has strengthened its cooperation with China in economic, cultural, educational and scientific fields. If Washington chose to contain China in security issue, it means US is financing its rivals, which is neither reasonable nor effective. As an experienced hegemon, it is unlikely for US to adopt such a contradictive strategy. The chance is Washington believes that regional peace and stability relies on the balance of power, and it is US's responsibility and interest to play as a balancer, thus preventing and balancing a rising China and maintaining free of military navigation is a realistic choice.

It is known that US considered China to break the balance of power in Asia-Pacific. China's recent growing assertive in SCS has caused on the one hand ASEAN, particularly ASEAN claimants' concern. They chose to side with US for its security, while on the other hand, US felt threat to its military activities in other countries' EEZ and territorial waters. Once China's expanding naval power gave its capability of anti-access and regional denial, US will have to give up military activities in this water, a situation which even Soviet Union could not achieve during the Cold War. As a result, US increased its military support to ASEAN, especially ASEAN claimants, meanwhile, to urge China restraining and increasing its military transparency in SCS. When Washington found this approach is not effective, it changed to conduct a set of further measures.

SCS dispute has evolved into three-layers, US and China; China and ASEAN as well as China and ASEAN claimants. Regarding sovereignty and territory of these maritime features, five countries and six parties have involved into the dispute; while in terms of maritime delimitation, six countries and seven parties have involved, including Indonesia. From great-power politics perspective, US and China are major players, in contrast, ASEAN and the claimants are less significant and tend to follow US's agenda. In this case, SCS is more of a political and strategic struggle than a legal and economic issue. That is the reason to great-power politics between US and China in SCS.

The new round of tensions started in 2009. From 2009 to 2013, US has manipulated behind the scenes, evidence could be seen from its reaction to Scarborough Shoal incident. Since the HD981 oil rig issue in 2014, US changed its role to become a player. A typical sign is US Defense Secretary Chuck Hagel openly criticized China in Shangri-La Dialogue. Later, US determined to fight with "combined punches" due to China's large scale of land reclamation, which includes taking full advantage of Philippines arbitration case; emphasizing FONOPs at all circumstance; inviting more countries to participate into joint patrols; loudening international organizations', (such as ASEAN, G7, EU) and big powers' (like Japan and India) voice on SCS disputes. These approaches aim to delegitimize nine-dash line and China's historical claims, to make SCS as donut, that is,

narrowing maritime rights within 12 nm or even 500 meters of occupied maritime features. A series of actions created “new reality and new rule”, yet forced China to accept. Otherwise, China has to pay costly in international society, which means shaping China as a “bully” state who undermines peace and stability in SCS”, “deconstructs natural resource and environment”, even “a lonely power who does not abide by the international law”.

Evaluating US’s strategy

As an experienced hegemon, US has distinguished strategic planning capability. The “combined punches” mentioned above are very effective to pressure China in international law, international public opinion; control of the waters; the process of COC; China-ASEAN cooperation, etc. The arbitration verdict also violates China’s international image; efforts for peaceful rise; peripheral diplomacy and the relations with ASEAN, as well as the new type of great power relations with US

However, from China’s perspective, US is undoubtedly the driving force and major manipulator to these negative consequences. What’s worse, US military is challenging the principle of “civilian control of the military”. Senior military officials continuously comment on SCS, the remarks that should be delivered by diplomats. For instances, while not naming China, US Pacific Fleet Commander Admiral Swift said some countries were bucking the international rules and creating chaos after more than 70 year of stability; Commander of Pacific Theater Admiral Harris accused Beijing of the tensions in SCS and hinted US should be ready for go to war. These military’s top commanders in Pacific are lobbying National Security Council for a more confrontational approach to China, like Adm. Harris who proposed to conduct more muscular patrols and to advocate Japan’s engagement. It reminds us of MacArthur.

It is known US has not ratified UNCLOS, alternatively it accepted as a codification of customary international law and generally respected it, However, US navy ship sailed close (2 nm off) to Cuarteron Reef; the USS Curtis destroyer sailed within 12 nm of Triton Island; and the USS Lawrence travelled within 12 nm of Fiery Cross Reef, all these military activities violated not only China’s domestic law, but also the international law. For its passage of Cuarteron reef, US explained by the excuse of “strayed”. Yet for the dangerous activities by USS Curtis, the Pentagon firstly claimed as “innocent passage”, later it renamed as “free of navigation” and even argued this action “consistent with international law and US routine operation”. Pentagon Spokesman Captain Davis aggressively claimed that “this operation challenged attempts by the three Claimants-China, Taiwan and Vietnam-to restrict navigation rights and freedoms”. Defense Department Spokesman Urban said the navigation operation by USS Lawrence was to “challenge excessive maritime claims” ...“in that they purport to restrict the navigation rights that the US and all states are entitled to exercise”.

In this regard, I would mention an episode in 2015. On Nov. 13th, Ms. Pelosi and her congressional delegation had lunch with several Chinese scholars, during which she

noted Chinese naval fleet traveled across Tanaga Pass when Obama was in Alaska. Similarly, now that US is quite concerned about the patrol, then how to explain US sent USS Larson to 12 nm within Subi Reef during the eighth session of the Fifth Plenary. If, according to Ms. Pelosi, China's transit passage is aggressive due to Obama's presence, then USS Larson's operation is much more provocative,

What's more, which article of international law says FONOPs should be apply according to the interpretation of the travelling state? It is known FONOPs within 12 nm could only be conducted by either innocent passage or transit passage. As for innocent passage, bordering state could choose to require "non-notification", "notification in advance" or "approval in advance". China, as bordering state, requires approval in advance. It is reported US warships operated in accordance with China's domestic law within 12 nm of China's coastal line. In this regards, the so called FONOPs by USS Lawrence and Curtis not only misinterpreted international law, but also intentionally violated China's domestic law and deliberately humiliated China.

Mr. Carter visited USS Stennis this April. Comparing with his trip to the waters near Malaysia last year, this trip is more provocative and contemptuous. It seems to say I come back again, what can you do to me? Do you have the capability to patrol in US's water. Afterwards, US's requirement of entry into Hongkong and Taiwan were inevitably refused by Chinese government. It is quite interesting that you expected a treat after humiliating someone.

It is reported US military plan to conduct twice FONOPs in SCS every quarter. Carter's trip is an extra visit. USS Lawrence's patrol on May 10th within 12 nm of Fiery Cross Reef should be counted as the first operation. China responded by "identification checking and warning to expel". It is likely to have another patrol in Scarborough Shoal or Mischief Reef as the second operation in this quarter. Washington's think tank and media hypes China is going to build outpost in Scarborough Shoal, a land reclamation much larger than it has done in the Spratly Islands. Evidence showed US military is preparing for this operation by flying over Scarborough Shoal with provocative actions. From US's perspective, this operation is a kind of warning, yet in China's view, it is a threat and humiliation.

In the eyes of majority countries around the world, FON, introduced in 1979, is a tool for US to expand its maritime interests based on its naval force and a typical example for Washington to legitimize its unreasonable claims. Commander in chief of US army and chairman of National Security Council, Obama is not considered as an aggressive president. He refused part of FONOPs, yet approved few of them lobbied by military. The consequences and effectiveness of this kinds of operation are questionable. The fact is since October 2015 the muscular actions continuously stimulated and humiliated China and forced China to react. The patrol benefits military budget and increases military cost, however, it deeply hurts Sino-US relationship, increases the tensions in SCS and hinders

the realistic solution (like negotiation of COC).

One may wonder, SCS represents China's foreign policy trend. After a series of tough approaches towards China, whether China would respond through further controlling over this area, such as establishing ADIZ; conducting massive military buildings in occupied reefs; claiming 200 nm EZZ of artificial reefs; announcing the nine-dash line as maritime boundary and expelling US's presence in this water. If so, it seems US has to prevent by all necessary means.

It should be admitted these questions are tough, no one can assure it wouldn't happen. Since foreign policy decisions always do not make on the basis of assured information, the following part will answer these questions according to China's foreign policy philosophy.

The Analysis of China's stands

According to my information and analysis, I would argue Xi Jinping's personal experiences and his knowledge of China's historical lessons decide China will develop in the following way: China must continue its peaceful rise. It is impossible for China to develop in a non-peaceful environment. Since the opening up reform, China's rapid growth together with deep involvement into international society make the country a major beneficiary of current system. Nowadays, it will further benefit China. Additionally, in human history a rising power and established power always escalates towards war. Creating an alternative order not only is unable to achieve through peaceful means, but also too unpredictable for China, which would definitely harm China's development. On second thought, even if it established a China-dominated international system, it is extremely difficult for China to maintain the current necessary growth within it. Practically, it is better for China to maintain the existing international order than revising it with great risk and high cost. It is better for China to develop and achieve the "two hundred years" goal within the system. For the long-term beyond our generation, it is better to leave it for the next generation.

Moreover, China still has a large gap with US in many aspects, it is far behind challenging US's dominant role. Although China has a history of being a hegemon for two thousand years, it is a late comer to modern international society. In the future, China might overtake US in GDP and national defense expenditure, yet in terms of comprehensive national power, science, technology, education, international influence, military alliance, currency China is unable to catch up with or to serve as an alternative role to US. Meanwhile, from culture perspective, Chinese is a regional civilization, while Christian is a universal one. And the scope of civilization, to some extent, decide to what extent a hegemon could be accepted.

In short, China is unlikely to replace US's dominant role worldwide. Chinese government has a clear awareness to it. With this judgement in mind, it conducted the following

approaches, domestically it increases the legitimacy of CPC, enhances governance capability, promotes the establishment of service-oriented government in order to maintain social stability; economic restricting, sustainable development and to improve social welfare. Externally, it supports and maintains the existing international system; dedicates to improve it through creating some functional mechanism and enhancing emerging economies' role. Take AIIB as an example, China has operated the bank in cooperation and collaboration with the existing global and regional programme.

If being asked whether China has a secret plan to create a new international order by peaceful or non-peaceful means? Even if I would not assess to military secret, according to China's current military power and technology, it is impossible for China to play an alternative role to US in world security aspect. Serving in the largest think tank in China, I have not found any information, program or plan on China-centered international system. Even one may say only top officials could assess national secret, the question is without participation how could this plan be achieved.

As for the maritime arbitration by a third party, it worthy to note that China is not opposed to international judicial and arbitration, yet it selectively accepts it as all other powers do. US has not launched the disputes of Arctic waterways in North American with Canada to arbitration by a third party, yet it maintains the status quo and deal with the disputes from time to time. Take another example, US has not ratified because Part XI was unfavorable to American interests, and other four permanent Security Council members have all made exceptions declarations. Additionally, Nicaragua has instituted a case against US in ICJ due to its supporting Contras in their rebellion against Nicaraguan government and mining Nicaragua's harbors. Not only the ICJ ruled clearly in favor of Nicaragua, these military actions alsodid not happen in disputed area. Reagan administration refused to participate into the proceedings and argued that the Court did not have jurisdiction. Later, US withdrew from compulsory jurisdiction in 1986 and accept the court's jurisdiction only on a case-by-case basis. This is the way how US shows respect to international law.

A few leading US researchers accused China of rewriting international laws and treaties, yet they chose to forget the fact that US has already set an example. Is the "transit passage" created by US-Soviet Union's secret meeting rewriting international laws? Is Truman unilaterally issued the statement on the continental shelf rewriting international laws? Are these considered as part of "American exceptionalism"? In addition, US warships patrol 12 nm within Chinese occupied reefs without approval is called "FONOPs, while China built military facilities on its occupied reefs are accused of militarization. US defense secretary carried out sea patrols in aircraft carrier is in name of FONOPs, yet China deployed several missile and aircraft in its own reef endangers the navigation of every country. In this case, does the criteria lie in the hands of US military or does it set a double standard?

The analysis of China's activities

On the other side, how to understand China's recent activities in SCS, particularly its large scale of land-reclamation in the Spratly Islands. Theoretically, there are two possible answers, the first one is to take further actions and make further expansions, the second one is to obtain proportional(matched?) presence so that it could negotiate the disputes on a reasonable basis. Researchers and military officials from ASEAN, EU, Japan and US mainly focused on the former one, however, according to the following reasons, I would argue China is unlikely to take further actions.

First, B&R strategy is top-level design introduced by the new government to guide its foreign relationship. It will be a paramount strategy through Xi's administration. And Sino-ASEAN relation is key to the 21st Century Maritime Silk Road.

Secondly, China has always valued its relations with ASEAN. Since 1990s, it considered ASEAN as a multilateral diplomatic platform. And the new government further prioritizes peripheral diplomacy and advocated China-ASEAN community of destiny. The diplomatic emphasis decided China's SCS policy could not undermine the overall agenda. It is said ASEAN countries tend to "rely on China economically, yet national security depends on US". In terms of trade volume, ASEAN countries may have a dependence on China, yet regarding technology and additional value, it could hardly conclude ASEAN countries rely on China. Meanwhile, US has strengthened its economic links with ASEAN through TPP. In this case, if China sought for militarization in SCS, it will definitely violate China-ASEAN relationship and further to push these countries to side with US.

Thirdly, Chinese officials repeated the dual-use of facilities in Spratly Islands and the only few military facilities are deployed for necessary defense. In fact, the deployment essentially has no difference with what ASEAN countries have done for years. Meanwhile, Xi Jinping and Wang Yi have both warned US not to misjudge in SCS. Xi even clearly assured China will not militarize in SCS.

Fourthly, the announcement of nine-dash line as maritime boundary would contradict with the Convention on the High Seas ratified in 1958 and the declaration of territorial baseline in Paracel Islands issued in 1996, which violated the principle of estoppel.

Fifthly, If China announced the nine-dash line as maritime boundary, the navigation of hundred thousands of ships will be impeded, which means China is declaring against the world for very little benefits.

Sixthly, these actions endanger to fight against US in a situation where most of countries are side with Washington.

In short, China's land reclamation in the Spratly Islands are partly because it has capability to achieve and partly because it is necessary for China to conduct. China's capability in SCS is far beyond the current scale, it is able to withdraw all the reefs and islands or to largely increase the number of occupied maritime features, or to conduct

reclamation outside its occupied reefs. With this in mind, comparing its power and the presence, China current activities are very restrained.

Among all the claimants, China is the only state who has not explore any oil and gas in this water and the only country who did not conduct land reclamation until 2013. When the DOC was signed in 2002, ASEAN claimants have never stopped changing the status quo. Instead, they continued to explore new oil and gas filed, to build new facilities, to develop resettlement or to land reclamation. They either responded to China's advocating of "joint development" negatively, or refused China's proposal through denying the disputed areas or set unreasonable conditions, such as China has to cooperate in terms of financial investment. China-Vietnam-Philippines finally agree to conduct trilateral JMSU in a disputed area from 2005 to 2008, but the plan failed to extend due to Philippines' domestic obstacle. The failure cooperation taught Beijing without a strong presence in the Spratly Islands, it is impossible to promote the resolution. It is known there is not any tangible joint development program among ASEAN claimants themselves in the overlapping area in Spratly Islands, nor mutual demarcation finished. Their conflicts and disputes are temporarily covered up with that of China's.

As a result, I would argue China is not very ambitious in SCS, nor to control the whole water through military means. Even some Chinese analysis suggested to take fully control through claiming the nine-dash line as boundary line, the government is unlikely to follow it. This approach is not only incompatible with China's long-term interest, but also harm China's B&R strategy and peripheral diplomacy. China chose to take advantage of the resources in SCS through maintaining peace and stability. The reason to China not to clarify its SCS claims are, first, China is learning to become a great power and is searching to balance its national interests and a resolution accepted by ASEAN claimants.

Second, the disputes are so complicated. A more practical way is to establish consensus, to share benefit in some functional aspect and to narrow differences in this process. Therefore, China advocates to promote tangible cooperation under DOC framework, and would like to provide financial, technical and personnel support. Clearly introducing more and more external states is not able to simplify the problem. Some researches that concentrated on China's tough activities ignore the insights of these actions, nor to recognize China's long-term restraint. For the ASEAN claimants, China long employs its ancient wisdom of "treating small countries with merits", vice versa, ASEAN claimants also learnt from ancient Chinese of "treating big countries with wisdom", yet the Philippines arbitration case is an exception.

The prospect of nine-dash line

Some believed the nine-dash line will only be an empty title under US's combined punches. Even if China will not give up the claim, it will largely hurt China's international reputation. Considering its loss, China might give up this claim. Regarding this predict, I

would argue it does not fully understand Chinese traditions and contemporary political culture. European value honor and dignity, similarly oriental culture emphasize face and harmony, which could reflect by the "ASEAN way". China cherished it even more. Despite SCS is not China's core interest, humiliating a rising power is not what a hegemon would do. Take the Cuban missile crisis as an example, humiliated Soviet Union made efforts to develop nuclear weapons and quickly was able to compete with US quantitatively. China is unlikely to change its policy of "no-first-use of nuclear weapons", but it is possible to abandon the minimum nuclear deterrence strategy. Say China has more than 1000 intercontinental ballistic missiles, what would be the consequence?

Philippines arbitration case has limited damage to China in the long run, yet it caused high diplomatic pressure to China in the short term. After all, it is China's first arbitrational case in decades, which launched by US's manipulation. Apart from external pressure, US also undermines China's claim in SCS through muscular patrols. These activities continuously humiliate China. Chinese navy is stronger than ten ASEAN countries' as a whole, but it never threatened these countries in such way. Recently it is said that US will deploy double-hull aircraft carrier battle group in SCS to strengthen its deterrence to China. Chinese government has already been pushed into a difficult situation. Further aggressive actions only lead China even harder to soften its policy, and force Chinese government to take strong reaction. Evidences could be seen from Wang Yi's diplomatic visits and Fan Changlong's trip to Spratly Islands.

As a diplomatic veteran, US Defense Secretary Carter did not show his professionalism in SCS disputes. Probably he is an old hand of George Kennan's philosophy, but is he familiar with Confucius and Mohism? US's military activities in SCS have harmed China in an unnecessary way and silenced the moderate voice in China, yet stimulated China's nationalism. It creates tremendous internal and external pressure to Beijing, thus forces the country to response aggressively. In this case, it is inevitable for China to deploy military facilities, to conduct military exercise in SCS, otherwise, the government cannot dilute increasing domestic nationalism. As Mr. Ouyang Yujing, Director-General of the Department of Boundary and Ocean Affairs of MOFA, said the relationship between China and US is like spring, the more pressure (from US), the more rebounding (from China).

Even if it is hard to predict China's further actions, the following evidences are worthy for a reference. Since 1949, China has demarcated border with 12 out of 14 neighbor countries. All of the concessions have been given in a friendly bilateral relationship. None of them have been finished under great diplomatic pressures. Chinese traditional culture may explain this diplomatic philosophy, that is, high dignity and low tangibility. In terms of diplomacy, it tends to compromise in a good environment yet responding aggressively under high pressure. Moreover, China has not made any concession when its comprehensive national power is still weaker, it is unlikely to compromise in such an environment. Additionally, Xi Jinping may be the strongest leader after Mao. In sum, in front of US's pressure and humiliation, China would only choose to fight back.

Summary and Suggestion

Probably, misinformed by military and lack of understanding on Chinese philosophy, Obama administration misjudged in SCS. Combined punches are only effective in a certain range. Overreacting and unnecessary pushing will have the opposite effect. As a researcher specialized in SCS, I myself has often been considered as neutral. However, to be frank I would say recently China is too restrained. In response to US's muscular patrol near Triton Island and Fiery Cross Reef, China only responded through "identification checking and warning to expel". In fact, China has many options from exchanging regards to sending UAV, even to warning, shooting and crashing.

China is rebuilding its identity and interests, especially its maritime interests. China-US has common maritime interests. China's maritime strategy mainly lie in cooperating with US, jointly protecting global maritime security and improving current maritime mechanism. There is a Chinese old saying, those who does not learn for panorama could hardly manage a part; those who does not have a consideration to others could hardly benefit himself. This saying reflects the current situation of China-US in SCS, where the dispute is only part of bilateral relations.

It left Obama administration about half-year to make a difference. It is necessary and possible for him to make more efforts in dealing with the disputes, such as instructing senior officials in Pacific Theater to be cautious for their speeches and Pentagon spokesman to do more researches. What's more, as great powers, both China and US have responsibility to communicate and negotiate in a more decent and mild way and to clarify misunderstandings. Only US and China found consensus should the tension in SCS be cool down, Even after Philippines arbitration cases, US and China still are able to coordinate. "benefiting itself and satisfying others" in SCS would become a diplomatic legacy for Obama administration.

p.s. this piece was written two months ago. New development with respect to SCS dispute shows that China and US is trying to cool tension caused by the arbitral case down. We however could not exclude the possibility of next zigzag ahead. This piece may serve as a reminder of Sino-US concert on SCS in the future.----Xue Li.July 28, 2016