



'Short of War': No Peace in the South China Sea

Huong Le Thu

China's ongoing construction efforts have created a situation where (in the words of the Commander of the US Indo-Pacific Command, Admiral Philip Davidson) Beijing is 'capable of controlling the South China Sea in all scenarios short of war with the United States'. The absence of outright war reflects not only China's ability to move the threshold for instigating open conflict, but also the fact that law, justice and security are not being respected, and that some have come to terms with this.

The South China Sea remains one of the tensest hotspots in the Asia-Pacific region, with growing potential to erupt into a conflict with global implications. The severity of the issue has alerted many observers to the possibilities of unplanned encounters, a military conflict, or even a major war that would involve more actors. While such scenarios are not inconceivable, what is missing from the picture is how the South China Sea has evolved in the absence of war and how peace remains unstable, based not on justice and recognition, but on the acceptance of violations.

The turning point occurred in 2016, with the decision by the panel of arbitrators that was convened by the Permanent Court of Arbitration to rule on the Philippines's case against China's claims in the South China Sea, which the former deemed to be in violation of their rights under the UN Convention on the Law of the Sea. More precisely, it was the lukewarm response to the ruling by the international community. China openly ignored the instance of international law and has continued to reclaim and militarise its artificial islands and other features in the disputed waters. After a rather low-profile year in 2017, when both China and the international community contemplated the impact of the ruling, 2018 witnessed much more active efforts in 'pushing the line', including the utilisation of

military facilities on the controversial artificial islands. Many analysts have since rushed to the conclusion that the game is over and that China has gained de facto control over the South China Sea.

Such views play into Beijing's preferred narrative and have perhaps even emboldened China, as in 2018 it expanded the construction of nearly 30 features, and even expanded this activity to the previously untouched remote Bombay Reef in the Paracel Islands. More importantly, it is actively using its militarised features in the South China Sea, landing nuclear strike-capable bombers and deploying anti-ship cruise missile-carrying bombers. As a response, the US government decided to disinvite China to the *Rim of the Pacific* exercises in May 2018.

Indeed, the risk of an incident leading to confrontation continues to rise. On 30 September 2018, a Chinese destroyer risked a collision with a US Navy ship conducting a freedom of navigation operation (FONOP) in the South China Sea, calling to mind the long-predicted nightmare scenario of 'sleepwalking into a war'. The South China Sea has become important because of its potential to trigger a 'wide war' – a conflict drawing in many key players in the international system. The scale of Chinese build-up and active assertion of control in the region has inspired the Commander of the US Indo-Pacific Command, Admiral Philip Davidson, to conclude that 'China is

now capable of controlling the South China Sea in all scenarios short of war with the United States'. Many share the sense of despair that the South China Sea is turning into a 'Chinese lake', and basically accept China's control, as realpolitik has triumphed over 'moralpolitik'.

According to the teachings of Sun Tzu: 'The biggest victory is the one that requires no battle'. Operations in the South China Sea have developed into 'grey zone' warfare, employing a mixture of military coercion, economic inducement, information warfare, and even historical narratives – pushing where the 'red line' is and expanding the range of the grey zone, still under the threshold for war. More importantly, Beijing's South China Sea strategy is targeted not only at competing claimants, but also non-claimant stakeholders with vital interest in the region. Involvement of these third parties provides Beijing with a pretext to continue its militarisation; for instance, Beijing continuously calls-out US-conducted FONOPs as military escalations. Not only has China built military facilities in the South China Sea; it also deploys offensive capabilities, conducts exercises and actively prevents other vessels and aircraft (be they reconnaissance, civilian fishery or commercial resource exploitation) from conducting their activities. The 'new normal' is tense and continuously pushes the 'red line'.

Absence of open violence or conflict does not equate to peace, as

A People's Liberation Army Air Force H-6K bomber conducting a patrol near the Scarborough Shoal/Huangyan Dao, a disputed territory in the South China Sea. *Courtesy of PA Images/Xinhua/Liu Rui.*



the situation in the South China Sea demonstrates. There is a distinction between positive peace and negative peace. Positive peace allows all actors to enjoy the benefits of peace, leading to prosperity, while negative peace describes conditions where an underlying conflict is unresolved and 'tensions still can run high'. While based on the absence of violence, unlike positive peace, negative peace does not entail justice, is unlikely to be stable, and serves as a useful reminder that a lack of open conflict – especially at the cost of undermining principles, norms and rules – has long-term drawbacks. Managing negative peace shifts focus away from the hard work of putting mechanisms in place that can repair fractured relationships, by creating strategic trust (of which there is a severe shortage in the region).

Peace is the first of the Association of Southeast Asian Nations' (ASEAN) three core values: 'Peace, prosperity and stability'. Yet, there was little support

from ASEAN or individual member states to the 2016 ruling in the South China Sea Arbitration. Despite frequent declarations of adhering to the rules-based order and dispute management based on international law, at this critical moment, support for justice was rather thin. As such, Southeast Asia risks accepting a negative peace in the regional dispute – a peace that will be on China's terms – the implications of which might be instructive for ASEAN leaders while working on an ASEAN–China mechanism to address maritime disputes. In the case of the South China Sea, with the questionable value of a weak code of conduct (CoC) in the current context of strained rules and norms, peace is guaranteed by accommodating the stronger party (and potential aggressor) – not by resolving the conflict, but by managing it. The seemingly cooperative spirit of CoC negotiations or joint-development agreements are far from asserting justice or preventing Beijing from

taking coercive action. The ambiguity of terms, including geographical scope, enforcement, legal instances to refer to in cases of disputes, and more, is consistent with Beijing's strategic ambiguity of policy in the South China Sea. The CoC process remains a necessity among the most active Southeast Asian claimants, but it is a far cry from ensuring their rights, including those to use and exploit the natural resources within their legally recognised exclusive economic zones (EEZ). As such, even a concluded CoC is unlikely to provide any protection from the use of force – as irregular and informal forms, such as the use of maritime militia, coercion through military capability, and harassing fishermen – are likely to continue in a situation of negative peace.

Growing disparity within ASEAN suggests that negotiations are unlikely to secure wider regional interests. While Vietnam has worked intensively to 'internationalise' the

dispute, others at the table including China and, increasingly, Malaysia, are advocating for the exclusion of external actors who do not have direct claims. The preference for managing disputes through dialogue between ASEAN and China that has been in place for a number of decades is a way to keep the South China Sea negotiations an ‘internal’ regional issue. But, worryingly, there is a tendency among some stakeholders to silently accept, if not normalise, China’s expansionism. An example of this is deliberate reticence on China’s militarisation of the artificial features it has constructed in the disputed waters. ASEAN joint statements have traditionally avoided the tactic of ‘naming and shaming’, and this is not an exception for Chinese militarisation projects. No ASEAN collective action was registered after China began using its militarised features in the South China Sea. Only Vietnam has officially asked Beijing to [remove them](#), but it received no group backing from fellow ASEAN members.

Responses to only last year’s incidents show further regional disparity as an increasing number of Southeast Asian states claimed that US-conducted FONOPs are escalating tensions, if not adopting Beijing’s language comparing FONOPs to militarisation. Such voices became increasingly apparent after the [USS Decatur incident](#), when the vessel nearly collided with a Chinese Luyang destroyer on 30 September 2018. Since then, Indonesian and Malaysian officials have increasingly expressed concern that the US FONOPs contribute to escalating tensions and reject the claim that the South China Sea is becoming all about the China–US rivalry. Malaysia’s re-elected prime minister, Mahathir Mohamad, explicitly told US Vice President Mike Pence at the ASEAN–US Summit in November 2018 that sending the [Seventh Fleet ships](#) to the region would not be welcomed. However, no such concern was voiced in response to China’s military build-up in the same waters.

Vietnam has been experiencing China’s coercion in the area of resource exploitation. In [June 2017 there were](#)

[two incidents](#) where Vietnamese drilling operations in cooperation with international companies had to be cancelled upon China’s threat to send its ships to the area. Despite the fact that the areas were within Vietnam’s claimed EEZ and had been operated on before, no official complaint or international media campaign was conducted to object to Beijing’s coercion. Vietnam had to pay compensation to the foreign companies for cutting contracts short. China’s coercion is by no means new to Hanoi, but the boldness of this case paired with the muted reaction shows a tendency to accept coercion.

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The severity of Manila’s reluctance to enforce the landmark 2016 ruling, as well as initially weak international support, reflects a rejection of justice and an endorsement of the violation of law. Take joint Philippine–Chinese exploration for oil and gas in the West Philippine Sea in November 2018 as an example. There remain concerns about the conditions of the memorandum of understanding signed between Philippine President Rodrigo Duterte and Chinese President Xi Jinping, including [legal](#) concerns and uncertainty on the basic question of dividing resources fairly. Unfavourable answers to legal questions about the Philippines maintaining sole [control and supervision](#) over natural resource exploration and exploitation may lead to the conclusion that Philippine sovereignty and sovereign rights [will indeed be compromised](#). Manila’s embrace of Beijing under Duterte raises concerns both within the Philippines and the wider region, but Duterte has on multiple occasions explained the necessity of accommodating China, even when it is acting in a coercive manner. Engaging China allows for perceived

benefits in an improved relationship, but a sense of [hopelessness](#) that there is no alternative may also be guiding Duterte’s behaviour.

Washington grows less tolerant to China in many aspects, but the South China Sea situation exemplifies how Beijing is acting as a revisionist state. From official speeches to new policy documents, the administration of US President Donald Trump continues to call China out. Vice President Pence delivered a [speech](#) soon after the Decatur incident, reorganising the cooperative principles of [US–China policy](#) in place since the Nixon–Kissinger era. Responding to China’s ‘reckless harassment’, Pence assured that the US ‘will not be intimidated; ... will not stand down’, and pledged that US forces would continue to sail, fly and operate whenever permitted by international law. In the recently signed [Asia Reassurance Initiative Act](#) (ARIA), the US government names Beijing’s ‘illegal construction and militarization of artificial features in the South China Sea and coercive economic practices’ as one of the core tenets challenging the US-back international system. ARIA emphasises the continuity of freedom of navigation under international law, while the US’s National Defence Strategy and National Security Strategy call China a strategic competitor, leading many to believe that the US and China are on a [collision course](#).

As such, it is far from ‘game over’ in the South China Sea: the region will remain an arena for competition over power, dominance and the right to set the rules for regional as well as international stakeholders. And while the situation is still short of war, and actors will endeavour to avoid the escalation of conflict, one thing is clear – peace, certainly positive peace, has been left far behind.

Huong Le Thu

Huong is a senior analyst at the Australian Strategic Policy Institute in Canberra. She tweets at @le2huong.

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