

What are Beijing's motivations?

The South China Sea dispute

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What are Beijing's motivations in the South China Sea dispute? On what grounds does China claim the area, and why did it refuse to cooperate with the tribunal that took on the case between China and the Philippines?

Court rulings about international disputes are often ambiguous. Unlike disputes between civilians on a national level, national prestige and the reputation of the state come into play. International judges, therefore, are prone to nuanced rulings, taking into account not only the law but also the parties' political interests. There was no such ambiguity in the July 12 ruling of the Permanent Court of Arbitration (PCA) on the South China Sea dispute between China and the Philippines. The five judges find China guilty of acting in violation of the 1982 United Nations Law of the Sea Treaty (UN Convention on the Law of the Sea — UNCLOS). China impeded Philippines' fishing activities within the latter's 200-nautical-mile-wide Exclusive Economic Zone (EEZ), blocked Manila's oil drillings in the same area, and built artificial islands. The court also objects to the irreparable damage to vulnerable coral reefs caused by the construction of artificial islands and the illegal harvesting of rare species like sea turtles and giant clams. Beijing not only tolerates these activities by Chinese fishermen; it even encourages them in order to strengthen China's claims to sovereignty in the South China Sea. The court did not look into the sovereignty claims of the respective parties to the islands situated in the South China Sea — it had no jurisdiction on this matter — but the court did sweep aside the 'indisputable'

historical rights Beijing claims to have to the maritime areas of the South China Sea.

"The Tribunal DECLARES that, as between the Philippines and China, China's claims to historic rights, or other sovereign rights or jurisdiction, with respect to the maritime areas of the South China Sea encompassed by the relevant part of the 'nine-dash line' are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China's maritime entitlements under the Convention; and further DECLARES that the Convention superseded any historic rights, or other sovereign rights or jurisdiction, in excess of the limits imposed therein."

The 'Convention' refers to the Law of the Sea Treaty (1982), to which China is a party. The 'nine-dash line' first came up on the famous (to many, infamous) 1947 map that declared more than 80% of the South China Sea as Chinese territory. Many Chinese people regard this map as evidence that the South China Sea has been part of the "holy motherland" for '2,000-years'. The court was not impressed, because the Law of the Sea Treaty, ratified by Beijing, nullifies such historical rights, if they in fact exist at all.



According to the ruling, China cannot derive any maritime rights from taking control of the Spratly archipelago, simply because none of the entities within the archipelago constitutes an island under the law of the sea.

"The Tribunal declares that none of the high-tide features in the Spratly Islands, in their natural condition, are capable of sustaining human habitation or economic life of their own within the meaning of Article 121(3) of the Convention."

Article 121 clearly states that 'islands' with those attributes do not have the right to exploit the natural resources in and under the surrounding waters: "Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf." The artificial islands built by Beijing in recent years, mentioned by name in the ruling, enjoy even fewer maritime rights than 'rocks': they cannot even claim 12 nautical miles of territorial waters. The judicial part of the dispute leaves no room for doubt: 'game, set, and match' in favor of the Philippines.

Could this embarrassing result have been prevented? That is hard to say. In the run up to the verdict, Beijing employed

its best lawyers to prove the justness of China's claims — for example during the late-June conference 'The South China Sea Arbitration and the International Rule of Law', organized by the Chinese embassy in The Hague. Various Chinese academics explained, with remarkable consensus, the strength of the Chinese position. Several Western participants questioned, therefore, why Beijing did not have the confidence to cooperate with the PCA's procedures. The standard Chinese reply is that this case actually deals with sovereignty, a matter Beijing never submits to international settlement of disputes. A rather unpersuasive response, since participation in the PCA's procedure would have provided enormous gains: critics who view Beijing as a bully of smaller nations would have been silenced. Moreover, China would have obtained the image it so eagerly strives for: a morally superior nation that aims to persuade other countries by drawing on the Confucianist tradition, rather than subjugating them through raw power.

Three reasons for defiance

There are several reasons why Beijing chose a different path. The first one is obvious: China's position is not as strong as its lawyers and politicians pretend it to be.

A U.S. Navy aircraft carrier in the South China Sea. The still dominant presence of the U.S. Navy incites feelings of vulnerability, especially because China does not have any allies or military bases in the area (photo: U.S. Navy/David Mercil)



Indeed, China's position is very weak. The '2000 years' claim rests on an early 20th-century fiction. Arabic and Indian fleets navigated the area long before Chinese merchants arrived on the scene. At a public hearing in 2014, Philippine judge Antonio Carpo showed fifteen ancient Chinese maps (the oldest dating from 1136 AD), which all indicate the island of Hainan as the southern-most part of Chinese territory. He called upon the Chinese authorities to view its claims on the basis of facts. His call was not answered. Furthermore, islands named on Chinese maps (and maybe first discovered by Chinese sailors or explorers) do not constitute proof of sovereignty. Following that kind of logic, the Netherlands could claim Tasmania, discovered by Abel Tasman. As Bill Hayton compellingly demonstrates in his book *The South China Sea, the struggle for power in East Asia*, China's claims on the South China Sea are the result of the rise of Chinese nationalism that manifested itself since the early 20th century. Historical 'facts' have been viewed through

that prism ever since. It is indeed significant that many of the islands that supposedly have been a part of China for 2000 years, have names translated from English. For example, Zhenmu Ansha, near Borneo, is derived from James Shoal. The island, or rather sandbank, simply did not appear on old Chinese maps.

The second reason Beijing did not cooperate with the PCA's procedure has nothing to do with law, but is all about power and security. A third of world trade passes through the South China Sea — including resources crucial to China's gigantic manufacturing industry. The still dominant presence of the U.S. Navy incites feelings of vulnerability, especially because China does not have any allies or military bases in the area. Militarizing the South China Sea, by creating air strips and docks on the artificial islands, is in the Chinese view a logical step that perfectly fits within its 'First Island Chain' strategy: the U.S. military should be denied access to the areas west of the imaginary line that

'First Island Chain': the U.S. military should be denied access to the areas west of the imaginary line that runs from the Ryukyu Archipelago in the north to Borneo in the south

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runs from the Riukiu Archipelago in the north to Borneo in the south (see map).

Finally, the third reason why Beijing refused to cooperate with the PCA is driven by domestic politics and is therefore less known in the West. The governing Communist Party has been in power for almost seventy years, and it is determined to maintain that position — at least until 2049, a hundred years after Mao Zedong founded the Peoples' Republic of China. Does the people of China support this ambition? Is the Party, in other words, the legitimate ruler of China? These crucial questions are of daily concern to the Central Committee and its leader, the Party's General Secretary Xi Jinping. The first, legendary leaders of the People's Republic, Mao Zedong and Deng Xiaoping, did not need to worry about matters of legitimacy. Mao founded the 'New China', and Deng started an unprecedented economic revolution. Their right to rule was never challenged. Their successors, however, cannot rely on that anymore as a matter of course. The economic boom resulted in prosperity, but also created income inequality, blatant corruption and environmental destruction.

'Territorial unity'

On which pillar does the current leaders' legitimacy rest? Xi and his fellow members of the Central Committee do not answer this question by consulting the people through elections, but create their own narrative. In the field of foreign policy, the Party justifies her position by creating the myth that China's 'territorial unity' has not been completed yet. Only the Party can realize this goal which makes it, in the words of propaganda chief Liu Yunshan, a 'historical necessity'.

This narrative is not new, but has become more prominent over the last 25 years. The violently repressed demonstrations on Tiananmen Square in Beijing on June 4, 1989 were an important milestone. The Party concluded that the success of the movement was caused by a lack of patriotism among the young people of China. It therefore started an ambitious 'patriotic education' campaign. History was rewritten by putting emphasis on the era in which imperialistic powers like England and Japan demoted China to a secondary power — an era that was labeled the 'Century of Humiliation' (1839-1949). Thanks to the Party, China could rid itself of these evils, but not entirely, since only the restoration of its 'territorial integrity' could exorcise China's historical traumas and help it recover its true greatness.

When is this mission accomplished? The Party does not address this matter clearly; it rather makes use of 'moving

targets': the more insecure the Party feels about its domestic power, the wider the reach of its territorial claims. The claim on the South China Sea, for instance, dates from the early 20th century, but has gained traction only since 2010, when Beijing proclaimed the area to be of 'core interest', equal in importance to Tibet and Taiwan. Nationalistic voices from the military even speak of the 'six wars' China needs to wage this century to regain the territories that were under Chinese control or influence during the era of the emperors: Taiwan, the South China Sea, the Riukiu Islands, Arunachal Pradesh (in the Himalayas), Mongolia, and finally large swaths of Siberia, that were lost to the Russian czars in the 19th century.

From a sinological perspective, it is interesting (as well as politically disturbing) that Beijing's elastic concepts of sovereignty align with notions about the international order that were dominant during the Imperial age (which ended with the fall of the Qing dynasty in 1911): China, as the center of the known world at that time (i.e. East, Central, and Southeast Asia), had the right to intervene in other states' affairs when they adopted an anti-Chinese stance or did not pay due respect to the emperor by

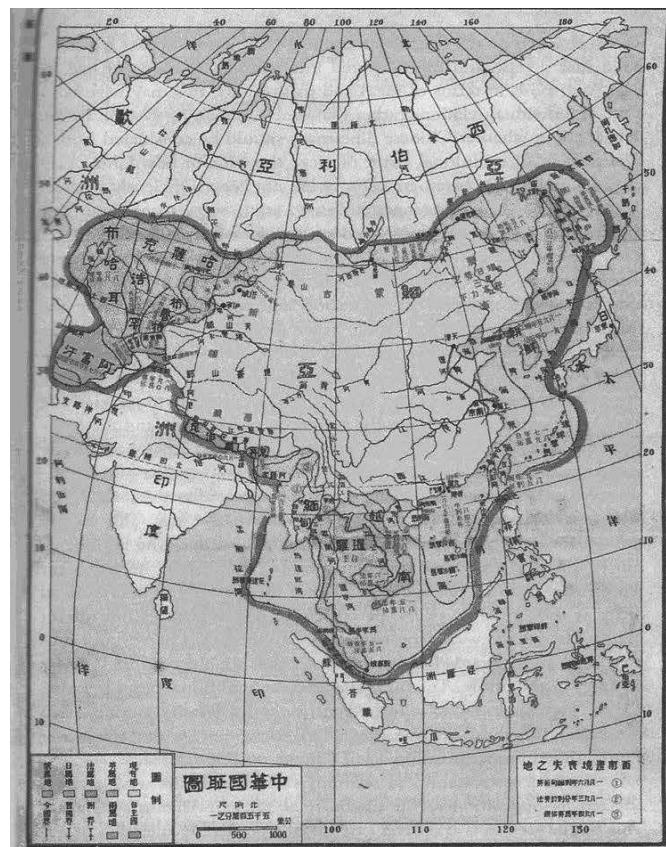


Figure 1 Map of National Shame [Hong Maoxi (洪懋熙), eds., *The New Chinese Map*, authorised by Ministry of Interior for Elementary School (内政部審定小學適用最新中國地圖), Chongqing, Dongfang Yudi Xueshe (東方輿地學社, 1938)].

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failing to deliver tribute. It is no coincidence that 'Maps of National Shame' published by the Republic of China (which ruled the whole country from 1911-49, and is now seated in Taiwan), have been republished — these maps include all of Indochina and the South China Sea (see map).

'Ba' and 'wang'

The key question, especially with regard to international peace and security, is: where will China's assertive policy, driven by historical sentiments, ultimately lead to? As could be expected, Beijing adamantly rejected the PCA's ruling, and dismissively called it 'a piece of paper with no legal value'. On the other hand, domestic demonstrations against the verdict were prohibited: an interesting fact that indicates Beijing wants to give its diplomats some leeway to reach an understanding with the Philippines and other neighboring states in the South China Sea. Whether that will prove successful is debatable. Beijing has stoked nationalist sentiments for years, and once that genie is out of the bottle, it won't be put back in easily — especially because it appeals to a broadly felt sentiment of victimhood. China's sage of foreign policy, former State Councilor Dai Bingguo, stated it this way in a recent speech in Washington:

"China suffered enough from hegemonism, power politics and bullying by Western Powers since modern times. The Versailles peace conference at the end of World War I forced a sold-out of Shandong Province. The Lytton Commission, sent by the League of Nations when Japan invaded China's northeast provinces, only served to justify Japan's invasion. Even the US-led negotiations on San Francisco Peace Treaty excluded China. These episodes are still vivid in our memory. That is why China will grip its own future on issues of territorial sovereignty, and will never accept any solution imposed by a third party."



Fishermen on the Philippines. The Permanent Court of Arbitration ruled against China, in part because China impeded the Philippines' fishing activities within the latter's 200-nautical-mile-wide Exclusive Economic Zone (EEZ) (photo:Wikimedia/Surigaotourist)

Statements like these should not be taken too seriously in the sense that when sovereignty comes into play diverse opinions are not tolerated by the Party. The personal point of view of the speaker or author is hard to gauge, because despite the often displayed feelings of historical injustice, the Chinese are a pragmatic people that focus primarily on economic growth and living a good, materially affluent life. Sacrificing one's life for 'the motherland' is a concept alien to Chinese nature. An interesting opinion poll, carried out by the University of Western Australia in 2014, confirms this: more than 90% of the Chinese citizens polled believed the South China Sea belongs to China, but fewer than half were willing to fight a war over it. The preferred courses of action include diplomacy, international PR campaigns, and, if necessary, embargoes. This attitude neatly fits the Confucianist core value of 'Zhong Yong', the Doctrine of the Mean. 'Zhong Yong' is an attitude to life that is characterized, in the words of cultural philosopher Lin Yutang, by "moderation and self-control, and is hostile to abstract theories and logical extremities."

The Party's course of action in the South China Sea question (and other international disputes) is unclear. President Xi has repeatedly stated that Confucianism represents the soul of the nation, and he teachings of the old philosopher are enjoying a true revival. As to the nature of a state, Confucianism makes a crucial distinction between 'ba' and 'wang'. 'Ba' — hegemony — is practiced by states that subjugate others through a show of force. States that choose 'wang' — the princely way — instead, achieve their goals through moral persuasion and the superiority of their virtuous example. The United States is characterized by Chinese opinion leaders as a typical 'ba' nation, but Beijing's actions in the South China Sea make this seem a case of a pot calling the kettle black. Without a fundamental change of policy on the Chinese side, the prospects for permanent peace and security in East Asia, and indirectly in the rest of the world, look grim.

Henk Schulte Nordholt studied sinology and international law at Leiden University and frequently speaks and writes about modern China. His best-selling book *China & de barbaren – het verzet tegen de westerse wereldorde (China and the barbarians - the resistance against the word order dominated by the West)* will be published in English early 2017.

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