

The South China Sea: A Strategic Flashpoint

A Monograph

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Abstract

The South China Sea: A Strategic Flashpoint, by CDR Jacob J Rosales, USN, 42 pages.

The South China Sea (SCS) is a resource-rich strategic waterway that has steadily grown in global significance. China and its Southeast Asian neighbors have a long, complicated history of overlapping and competing claims of territorial sovereignty in the SCS. The United Nations Convention on Law of the Sea (UNCLOS) delineates maritime boundaries and the rights afforded to nations within those boundaries. Most nations in the region accept UNCLOS as an authoritative standard while China continues to reference its historical claims, creating an enduring tension that has manifested in China's use of military coercion against Vietnam and the Philippines. This regional dispute has garnered world-wide attention due to the SCS's strategic significance and the aggressive means by which China has attempted to assert control in the region.

The US Navy routinely executes freedom of navigation operations to challenge excessive maritime claims based on established UNCLOS standards. China views these operations as provocative, and as an excuse for the United States to involve itself in the regional disputes. China's displeasure with US presence in the SCS has led to numerous incidents between the People's Liberation Army Navy and US Navy warships, including antagonistic maneuvers at dangerously close distances.

This monograph analyzes two scenarios in the SCS that could potentially lead to conflict between the United States and China. First, the enduring disputes between China and its neighbors could escalate to the point where the United States gets drawn into the conflict as a third party on behalf of one or multiple Southeast Asian nations. Secondly, a direct conflict between China and the United States could result from China's discontentment with the United States' execution of freedom of navigation operations in the SCS.

An analysis of US and Chinese writings on escalation theory provides a useful framework for explaining how the ongoing disputes in the SCS could lead to an escalation into conflict. Applying escalation theory supports the argument that the totality of the situation in the SCS is more escalatory than either the United States or China fully appreciates, and that it will continue to intensify over time, carrying with it an ever-increasing risk of military confrontation.

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Acronyms

A2AD	Anti-Access Area Denial
ASEAN	Association of Southeast Asian Nations
EEZ	Exclusive Economic Zone
FON	Freedom of Navigation
FONOPs	Freedom of Navigation Operations
PCA	Permanent Court of Arbitration
PLA	People’s Liberation Army
PLAAF	People’s Liberation Army Air Force
PLAN	People’s Liberation Army Navy
SCS	South China Sea
UNCLOS	United Nations Convention on Law of the Sea
USDOD	United States Department of Defense

Introduction

The South China Sea (SCS) is a resource-rich strategic waterway that has steadily grown in global significance. China and its Southeast Asian neighbors have a long, complicated history of overlapping and competing claims of territorial sovereignty in the SCS. Because it is a confined sea space that contains numerous clusters of islands and reefs and is surrounded by multiple archipelagic nations, the business of trying to clearly delineate maritime boundaries in the SCS is difficult at best. The United Nations Convention on Law of the Sea (UNCLOS), a treaty whose latest version came into effect in 1994, was created to be the international maritime legal framework that delineates such boundaries. China's neighbors try to rely on UNCLOS as the standardized and authoritative means for determining their maritime rights in this sea space. China, although it is a signatory to UNCLOS, never agreed to let UNCLOS replace or supersede its historical claims in the region. China's historical claims considerably infringe upon its neighbors' UNCLOS-prescribed rights, and the aggressive means by which China has attempted to assert control in the region is an enduring source of tension and strife. Due to the SCS's ever-increasing strategic significance, this regional dispute has garnered the attention of many global powers, including the United States and Japan.

This monograph will analyze two scenarios in the SCS that could potentially lead to conflict between the United States and China. First, the enduring disputes between China and its neighbors could escalate to the point where the United States gets drawn into the conflict as a third party on behalf of one or multiple Southeast Asian nations. Secondly, a direct conflict between China and the United States could result from China's discontentment with the United States' execution of freedom of navigation operations (FONOPs) in the SCS.

Local territorial disputes have resulted in numerous confrontations between China, Vietnam, and the Philippines. In many cases, the underlying driver for these clashes was competition for subsea resources in disputed maritime zones. There are frequent occurrences of China using military coercion to impede Vietnamese oil drilling efforts or Philippine fishing

activity in sea spaces where, according to UNCLOS, Vietnam and the Philippines should have sole rights to resource exploitation.

The US Navy routinely executes FONOPs to challenge excessive maritime claims based on established UNCLOS standards, and China views these operations as illegitimate and provocative. China's displeasure with US presence in the SCS has led to several incidents between the People's Liberation Army Navy (PLAN) and US Navy warships, including antagonistic maneuvers at dangerously close distances.

US writings on escalation theory provide a useful framework for explaining how the ongoing disputes in the SCS could lead to an escalation into conflict. Furthermore, looking at how Chinese ideas on escalation and crisis management differ from the US perspective deepens the appreciation for how these differing viewpoints could potentially lead to miscalculations or misunderstandings in a crisis scenario. Ultimately, applying escalation theory supports the argument that the totality of the situation in the SCS is more escalatory than either the United States or China fully appreciates, and that it will continue to intensify over time, carrying with it an ever-increasing risk of military confrontation.

The first section of this monograph will explain the strategic significance of the SCS and the history of the competing claims for territorial sovereignty. It will then describe how UNCLOS came into being and how it has impacted territorial disputes. The monograph's second section will discuss US escalation theory and examine Chinese ideas on escalation and crisis management. Section three will analyze a variety of clashes that have occurred over competition for subsea resources, and because of Chinese displeasure with US FONOPs in the region. Then, it will evaluate the impact of China's construction of military outposts in the SCS. Finally, it will leverage escalation theory to analyze future challenges in the SCS associated with the two sources of potential conflict between the United States and China.

Strategic Sea Space, Territorial Disputes, and UNCLOS

The SCS encompasses an area of approximately 1.4 million square miles and it is semi-enclosed by China, Vietnam, the Philippines, Indonesia, Malaysia, and Brunei. There are four major island groups in the SCS: the Spratlys, Paracels, Pratas, and Scarborough Shoal. These islands consist of hundreds of rocks, reefs, and shoals.¹ The SCS is the site of extremely complicated disputes between China and its neighbors, as well as with the United States and other global powers such as Japan. It is rich in resources such as hydrocarbons and fish, and is also a key passageway for maritime trade. Access to and control of the SCS is fervently disputed by China and the other nations that border it. China's inclination to rely on historical claims and its unwillingness to recognize UNCLOS as a means for governance in the SCS have fanned the flames of the regional disputes and created a substantial source of tension with the United States over the rights of freedom of navigation (FON).

The SCS is a sea space of substantial strategic importance. Sometimes dubbed a “second Persian Gulf,” it is extremely rich in resources. Geologists have recognized the fact that the SCS is “an area rich with source carbon and has the perfect geological conditions necessary for hydrocarbon development, particularly oil.”² The US Energy Information Administration estimates the SCS contains eleven billion barrels of oil and 190 trillion cubic feet of natural gas considered proved or probable reserves. There are also several widely varying estimates of additional resources yet to be discovered in numerous contested areas within the region.³

¹ Jeffrey Bader, Kenneth Lieberthal, and Michael McDevitt, *Keeping the South China Sea in Perspective* (Washington, DC: Brookings, 2014), 4.

² Tim Daiss, “How Oil Drives the South China Sea Conflict,” Oil Price, last modified March 14, 2018, accessed October 20, 2018, <https://oilprice.com/Energy/General/How-Oil-Drives-The-South-China-Sea-Conflict.html>.

³ “Contested Areas of the South China Sea Likely Have Few Conventional Oil and Gas Resources,” US Energy Information Administration, last modified April 3, 2013, accessed October 20, 2018, <https://www.eia.gov/todayinenergy/detail.php?id=10651>.

In addition to hydrocarbons, the SCS is also a robust ecosystem. “It is one of the richest seas in the world in terms of marine flora and fauna, coral reefs, mangroves, seagrass beds, fish and plants.”⁴ The fishing industry has a profound impact on the livelihood of Southeast Asian nations, where seventy percent of the population lives by the sea.⁵ Fish is an extremely important source of food and income in Southeast Asia, and the SCS is one of the world’s top five fishing zones. The SCS produces over eight million metric tons of fish every year, accounting for twelve percent of total global fishing catch and more than twenty-five percent of total Asian catch.⁶

The SCS is also strategically significant because it is one of the most critical passageways for commerce in the world. It is estimated that one third of all global shipping passes through the SCS. “These massive movements link energy rich southwest Asia and northern Africa to economically vibrant northeast Asia. An estimated eighty percent of Taiwanese, sixty-six percent of South Korean, and sixty percent of Japanese energy supplies are imported via the South China Sea.”⁷

Competing Territorial Claims and UNCLOS

The SCS is a vehemently disputed sea space, and its bordering nations all have competing and overlapping territorial claims there. The dispute is further complicated by the fact that China unwaveringly relies on historical claims, while its neighbors have tried to rely on UNCLOS and the maritime boundaries it codified to bring some clarity to the situation. While the United States does not directly weigh in or take sides on the issue of territorial sovereignty

⁴ Tom Ness, *Dangers to the Environment* (Copenhagen, Denmark: Nordic Institute of Asian Studies, 2002), 43.

⁵ *Ibid.*, 2.

⁶ “A Blueprint for Fisheries Management and Environmental Cooperation in the South China Sea,” Asia Maritime Transparency Initiative, last modified September 13, 2017, accessed August 25, 2018, <https://amti.csis.org/coc-blueprint-fisheries-environment/>.

⁷ Clarence J. Bouchat, *Dangerous Ground: The Spratly Islands and US Interests and Approaches* (Carlisle, PA: US Army Strategic Studies Institute, 2013), 16.

disputes, it is heavily involved in the region. The US Navy routinely conducts FONOPs to challenge excessive maritime claims and enforce the freedoms of the sea delineated by UNCLOS. China staunchly objects to the US Navy's presence in the region.

China's historical claims in the SCS date back to the fifth century BCE, when the term "southern sea" first appeared in Chinese poetry books. By the fifth century CE, references to the southern sea had become more frequent in accounts from voyagers, and voyages over the ensuing centuries provided an improved familiarity and understanding of the geography of the SCS. In the early twentieth century, cartographers and the Chinese government began placing increased emphasis on codifying the scope of China's dominion in the region. In 1947, China began developing a map with eleven dashes on it, which encompassed a large swath of the SCS, including the Spratlys, Paracels, Pratas, and Scarborough Shoal. The map was published the following year, and in 1953 two dashes were removed, thus creating the infamous nine-dash line that remains a major source of worldwide consternation to this day.⁸ The nine-dash line is ambiguous because China has never explicitly conveyed what its exact claims are within this line. However, China has unambiguously demonstrated a propensity to assert a level of control within the nine-dash line that infringes upon the rights of its neighbors as prescribed by UNCLOS.

The Philippines, Vietnam, Malaysia, and Brunei all assert claims in the SCS that are in direct conflict with the nine-dash line. Vietnam claims the Spratlys and Paracels, the Philippines claims a large portion of the Spratlys and Scarborough Shoal, and Malaysia and Brunei also claim some of the Spratlys. The claims by the Philippines and Vietnam have been the most contentious and contested by China. China took control of the Paracels in 1974 when it forcefully removed the South Vietnamese military occupants. Vietnam currently occupies twenty-nine of the islands within the Spratlys. In 1949, the Philippines expressed interest in some of the islands within the

⁸ Bert Chapman, *China's Nine-Dashed Map: Maritime Source of Geopolitical Tension* (Purdue: Purdue University, 2014); Zhiguo Gao and Bing Bing Jia, "The Nine-Dash Line in the South China Sea: History, Status, and Implications," *American Journal of International Law* 107, no. 1 (2013): 98–123.

Spratly chain based on the islands' proximity to the Philippines. China issued multiple statements in response, declaring that all the Spratlys were well within Chinese sovereign territory. In 1971, the Philippines declared possession of the Kalayaan Island group, which is located within the Spratlys.⁹ These claims disputes have led to a number of hostile interactions which will be covered later in this monograph.

Prior to UNCLOS, the prevailing western notion regarding sovereignty over the seas was that the majority of the world's oceans should be treated as international waters that cannot be governed or controlled by any one nation. Hugo Grotius, a founder of international law, first solidified this idea in his 1609 book *Mare Liberum* ("The Free Sea").¹⁰ During this period, the sea space that belonged to a nation extended from its coastline out to three nautical miles, in accordance with the "cannon shot" rule established by Dutch jurist Cornelius Van Bynkershoek. All other sea space beyond three miles was considered international waters. This bifurcation continued into the early twentieth century, when various nations began to express their desire to expand their sovereign sea space to establish tighter control over mineral resources and fish stocks. In 1945, President Truman extended control of natural resources out to the continental shelf, and many other nations began to extend control over the surrounding sea space in a similar fashion.¹¹ It was these actions that eventually led to the formalized rules set forth by UNCLOS.

The United Nations began its UNCLOS deliberations in 1956 and iteratively convened over the subsequent decades, culminating in UNCLOS III, which was completed in 1982 and came into force on November 16, 1994. UNCLOS delineates the rights a nation has within various maritime boundaries, and outlines jurisdiction over issues such as navigation, deep seabed

⁹ Gao and Jia, "The Nine-Dash Line in the South China Sea," 105.

¹⁰ Ronald O'Rourke, *China's Actions in South and East China Seas: Implications for U.S. Interests* (Washington, DC: Congressional Research Service, 2018), 4; Hugo Grotius, *Mare Liberum* (Leiden, Netherlands: Brill, 2009).

¹¹ "About the UNCLOS," Institute for Maritime and Ocean Affairs, accessed August 27, 2018, <http://www.imoa.ph/treaties/unclos/unclos-history/>.

mining, marine research, and protection of the marine environment. The following UNCLOS-prescribed maritime zones help provide an understanding of what exactly is being disputed in the SCS:

1. Territorial waters, or territorial seas. The territorial sea extends from a nation's coastline out to twelve nautical miles, and a state is free to set laws, regulate use, and use any resources within the territorial sea as it sees fit. Foreign vessels have a right of innocent passage through territorial seas.
2. Archipelagic waters. If a nation is itself archipelagic, it can draw straight baselines around the archipelago and use these straight lines as the starting point from which to measure out the territorial seas and all other applicable maritime zones.
3. Exclusive economic zone (EEZ). The EEZ extends from the edge of the territorial sea out to 200 nautical miles. A nation has sole exploitation rights for any natural resources within the EEZ. Foreign nations have the right to freedom of navigation and overflight within an EEZ, as well as the right to lay submarine pipes or cables.
4. Island. An island is a formation of land that is above water at high tide. If a formation of land is a rock that cannot sustain human habitation or economic life of its own, it does not warrant a territorial sea or an EEZ. Additionally, artificial islands or installations are not entitled to the status of islands and therefore do not have a territorial sea or EEZ of their own.¹²

China is a signatory to UNCLOS, but it never intended to allow UNCLOS to replace its perceived rights to sovereignty in the SCS based on historical claims. To make this stance known, when China ratified UNCLOS, it also issued a supplemental statement that included multiple stipulations. One noteworthy stipulation is that China reaffirmed its sovereignty over all islands

¹² United Nations Convention on Law of the Sea, November 16, 1994, UNTS 31363. Accessed August 27, 2018. http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

and archipelagos as postulated in article two of the Law of the People's Republic of China on the territorial sea and the contiguous zone, published in February 1992.¹³ This article lists all of the major island chains contained within the nine-dash line as part of Chinese sovereign territory.¹⁴ China also stipulated that the right of innocent passage through territorial seas afforded to vessels shall not hinder China's requirement that foreign warships receive prior permission for such innocent passage.¹⁵ These two stipulations constitute significant departures from the clearly articulated standards of UNCLOS, which calls into question the legitimacy of China's ratification of UNCLOS while also offering these contravening provisions. A large portion of the post-ratification confrontations and disputes in the SCS have been based on these incongruities.

The territorial disputes between China and its neighbors came to a legal head when the Philippines filed a dispute in 2013 under UNCLOS against a number of China's maritime claims in a permanent court of arbitration (PCA) in The Hague. China stated on numerous occasions that it would not accept or participate in the arbitration because it felt the tribunal did not have jurisdiction over the matter, but the tribunal proceeded anyway.¹⁶ The finding of the tribunal was heavily in favor of the Philippines and was a milestone legal ruling against China's claims and actions in the SCS. On a broad scale, the tribunal validated the Philippines' assertion that countries' rights should be based on UNCLOS, as opposed to historical claims such as the nine-dash line. A specific ruling of the tribunal was that no feature in the Spratly Islands is entitled to an EEZ. This is significant because it means that the Kalayaan Island group in the Spratlys is, according to UNCLOS, undisputedly within the Philippines' EEZ with no potential for a Chinese

¹³ Matthew R. Costlow, *Gunboat Diplomacy in the South China Sea* (Colorado Springs: US Air Force Academy Institute for National Security Studies, 2012), 11.

¹⁴ "Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone," People's Republic of China National People's Congress, last modified February 25, 1982, accessed November 15, 2018, http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383846.htm.

¹⁵ Costlow, *Gunboat Diplomacy in the South China Sea*, 11.

¹⁶ O'Rourke, *China's Actions in South and East China Seas: Implications for U.S. Interests*, 69.

claim to any maritime zone around it. Based on this ruling, according to UNLCOS, the Philippines is thus entitled to sole rights of natural resource exploitation in the Kalayaan Islands. Hence, when the Philippines argued that China's prohibition of Philippine fishing in this area was illegal, the tribunal found this claim to be valid as well.¹⁷

The PCA ruling was significant in that it represented the first time UNCLOS arbitration confronted the SCS disputes head-on. Immediately after the release of the PCA ruling, Chinese Vice Foreign Minister Liu Zhenmin called the ruling "nothing more than a piece of waste paper . . . that will not be enforced by anyone."¹⁸ Mr. Liu is at least partially correct regarding the enforceability of the ruling. The tribunal has no ability to enforce its ruling or hold any parties accountable for non-compliance. Furthermore, the tribunal has no jurisdiction over the underlying argument concerning which nation owns the actual land features, since territorial sovereignty is beyond the purview of UNCLOS. The tribunal only ruled on what types of maritime zones the island features can generate.¹⁹ Therefore, while one could consider the ruling a significant legal victory for the Philippines, China's dismissal of the proceedings and the lack of an accountability mechanism are likely to impede any substantive changes from occurring.

While China is a signatory to UNCLOS, the United States did not ratify the treaty due to dissatisfaction within the Reagan administration with language regarding deep seabed mining and technology transfer. However, the Reagan administration was thoroughly satisfied with all the other provisions of UNCLOS and made it clear that the United States would abide by all non-seabed aspects of UNCLOS. Additionally, all of the original objections were subsequently rectified in a supplemental agreement that President Clinton signed in 1994. President Clinton

¹⁷ "The South China Sea Arbitration (The Republic of Philippines vs. the People's Republic of China)," Permanent Court of Arbitration, accessed March 25, 2019, <https://pca-cpa.org/en/cases/7/>.

¹⁸ O'Rourke, *China's Actions in South and East China Seas: Implications for U.S. Interests*, 71.

¹⁹ Robert D. Williams, "Tribunal Issues Landmark Ruling in South China Sea Arbitration," Lawfare, last modified July 12, 2016, accessed August 29, 2018, <https://www.lawfareblog.com/tribunal-issues-landmark-ruling-south-china-sea-arbitration>.

also signed the original 1982 convention and brought both documents before the Senate, which refused to hold hearings on the issue. Despite multiple subsequent attempts by various administrations to push UNCLOS through Congress, it remains unratified by the United States.²⁰

Despite not being a signatory, the United States' maritime policies have always been consistent with UNCLOS since its inception. One such policy to which China has raised myriad objections is FON. The United States' position on FON is an extension of its long-standing views on freedom of the seas which pre-date UNCLOS and echo the basic precepts set forth by Grotius in *Mare Liberum*. In President Woodrow Wilson's fourteen-point speech on January 8, 1918, he told Congress that "absolute freedom of navigation upon the seas" was one of the rights the United States and other nations were fighting for in World War I. President Roosevelt echoed a similar refrain in one of his fireside chats to the American people prior to entering World War II. Since 1979, US presidents have directed the government to execute a FON program to challenge excessive maritime claims of coastal states, utilizing UNCLOS as the basis for determining excessive claims. The US conducts FONOPs against allies and partners, as well as potential opponents or adversaries.²¹

The long and complicated saga of territorial disputes in the SCS between China and its neighbors has created scores of contentious incidents. The US Navy's presence in the SCS and its conduct of FONOPs has also precipitated various aggressive confrontations. This monograph will discuss examples of these incidents, but will first turn to escalation theory to provide a framework for understanding the ways in which various scenarios can escalate into conflict.

²⁰ Scott G. Borgerson, *The National Interest and the Law of the Sea* (New York: Council on Foreign Relations, 2009), 11–12.

²¹ Oceans Policy Advisor, Under Secretary of Defense (Policy), DoD FON Program Fact Sheet, March 2015, accessed March 15, 2019, [https://policy.defense.gov/portals/11/Documents/gsa/cwmd/-DoD%20FON%20Program%20Fact%20Sheet%20\(March%202015\).pdf](https://policy.defense.gov/portals/11/Documents/gsa/cwmd/-DoD%20FON%20Program%20Fact%20Sheet%20(March%202015).pdf)

Escalation Theory

Escalation is fundamentally a form of strategic communication and interaction between two actors. Like deterrence, escalation is an effort to influence an opponent's behavior while understanding that the opponent is trying to do the same in return. Escalation is also the interplay of two actors sending signals to one another, with both sides trying to interpret their meaning. Escalation is a game where both players are raising the stakes and neither player has complete control over when or how the game will stop.²²

US and Chinese ideas about escalation both help illuminate the ways in which a conflict could erupt and escalate in the SCS. US notions about escalation theory are rooted in the work done by Herman Kahn and Thomas Schelling during the Cold War as part of an effort to study the complexities of nuclear deterrence. Much of what is known about China's understanding of the subject comes from People's Liberation Army (PLA) writings from the last decade. These writings highlight the fact that China's perspective on escalation varies widely from the United States' and that it is inexperienced in crisis management, which could potentially cause a low-intensity event to escalate quickly and unexpectedly. Furthermore, if such an escalation were to occur, de-escalation would be even more difficult and precarious.

The Cold War, and more specifically the threat of nuclear war, precipitated a robust effort to comprehend the implications of how nuclear weapons would change the dynamics of warfare. A wide variety of scientists, strategists, and analysts rigorously studied what nuclear war would look like and how it would unfold. They tried to determine if it was controllable, with the ultimate hope of avoiding it altogether. Theories on nuclear deterrence pervaded and influenced political and military strategies throughout the entirety of the Cold War.

One prominent contributor to this field of study was Herman Kahn. A mathematician and physicist, Kahn served as a consultant to numerous entities, including the Atomic Energy

²² See, e.g., Thomas C. Schelling, *Arms and Influence* (New Haven: Yale University Press, 1966).

Commission and the Office of the Secretary of Defense. He also served as the senior physicist at the RAND Corporation from 1948 to 1961. In his 1965 book, *On Escalation: Metaphors and Scenarios*, Kahn discussed some key concepts and definitions relating to escalation, and he also introduced his notion of an “escalation ladder.” The ladder contains forty-four rungs that demarcate the full spectrum of escalation, from “ostensible crisis” at the first rung to “spasm or insensate war” at the forty-fourth rung.²³ The escalation ladder does not suggest that real-world situations would necessarily escalate or de-escalate linearly (as in climbing or descending a ladder one rung at a time). Kahn himself acknowledged that this metaphor has flaws, writing that the ladder “introduces additional simplifications and distortions into its study of a class of situations which . . . inevitably leads to gaps between real situations and the model employed to discuss them.”²⁴ Despite these imperfections, the escalation ladder is a useful tool to help conceptualize how and why scenarios could escalate to varying levels.

After describing the elements of a singular escalation ladder, Kahn further developed this metaphor to convey the complexity of two opponents’ interactions in conflict scenarios. Because opponents would have different escalation ladders, it is reasonable to expect a high amount of ambiguity and confusion in terms of “where each participant believes he and his opponent are on the ladder and each side’s estimates of the other’s estimate.”²⁵

Escalation can occur deliberately, inadvertently, and accidentally. Deliberate escalation, as the name implies, involves intentionally crossing an escalation threshold wherein the “decision includes recognizing that the action under consideration could or will be escalatory and deciding that, in spite of—or because of—this, it is worth doing.”²⁶ Inadvertent escalation occurs “when a

²³ Herman Kahn, *On Escalation: Metaphors and Scenarios* (Santa Barbara, CA: Praeger, 1965), 39.

²⁴ *Ibid.*, 214.

²⁵ *Ibid.*, 217.

²⁶ Forrest E. Morgan et al., *Dangerous Thresholds: Managing Escalation in the 21st Century* (Santa Monica: RAND Corporation, 2008), 20.

combatant's intentional actions are unintentionally escalatory, usually because they cross a threshold of intensity or scope . . . that matters to the adversary but appears insignificant or is invisible to the party taking the action."²⁷ Accidental escalation results from actions that were not intended in the first place. Inadvertent and accidental escalation differ from deliberate escalation in that, unlike deliberate escalation, they are unplanned and consequently cannot be preemptively avoided. They must be managed as opposed to deterred.²⁸

Thomas Schelling, a contemporary of Kahn and another major contributor to nuclear deterrence thinking, used the term "brinkmanship" to describe "setting afoot an activity that may get out of hand, initiating a process that carries some risk of unintended disaster."²⁹ Schelling also called it a "competition in risk taking."³⁰ Kahn used that same term in his escalation theory, stating that "there is likely to be a competition in risk taking, or at least resolve, and a matching of local resources, in some form of limited conflict between two sides."³¹

For two nations to avoid escalation, it is typical to engage in what is known as "systems bargaining," or "preserving precedents (thresholds) that reduce the likelihood of escalation."³² In analyzing the way nations behave in conflict and how that impacts the international order, Kahn discussed scenarios that lead to the transgression of the rules and norms of the international order. He noted that even though opponents in a conflict will not always follow the rules, a paradox exists in which both sides "are likely to recognize that if the customs, laws, and codes are

²⁷ Morgan et al., *Dangerous Thresholds: Managing Escalation in the 21st Century*, 23.

²⁸ *Ibid.*, 27.

²⁹ Schelling, *Arms and Influence*, 91.

³⁰ *Ibid.*

³¹ Kahn, *On Escalation: Metaphors and Scenarios*, 3.

³² *Ibid.*, 8.

transgressed too often, the system will disappear.”³³ In this context, Kahn used the term “systems bargaining” to describe a scenario where, “while all members would be worse off if the rules were generally broken, individual members of the system could gain great individual advantages by breaking them, provided that this were not done by too many other members of the system.”³⁴

Another important escalation concept is escalation dominance, which a 2008 RAND study defined as a condition where “a combatant has the ability to escalate a conflict in ways that will be disadvantageous or costly to the adversary while the adversary cannot do the same in return, either because it has no escalation options or because the available options would not improve the adversary’s situation.”³⁵ Kahn noted that escalation dominance is a complex concept made up of much more than just the military application of force. It also encompasses elements such as “assurance, morale, commitment, resolve, internal discipline, and so on, of both the principals and their allies.”³⁶

The previously mentioned RAND study posited that escalation dominance is predominantly a philosophical concept, and that it is extremely rare to achieve it in practice. However, one method of achieving partial dominance within a certain spectrum of escalation is by creating an “escalation asymmetry,” where the opponent lacks an ability to respond in kind. If an opponent cannot respond symmetrically, “it may create an escalation dilemma for the adversary in the form of a choice between not countering the escalation or crossing other escalation thresholds, with all the risks and costs of doing so.”³⁷

³³ Kahn, *On Escalation: Metaphors and Scenarios*, 18.

³⁴ Ibid., 19. Herman Kahn’s explanation of systems bargaining in this example is analogous to the game theoretic notion of the prisoner’s dilemma. The prisoner’s dilemma explains how rational actors may not cooperate, even though it would be in their best interest to do so, and is used to study behavior in various disciplines including international relations. See Joseph Malkovitch, “Rationality and Game Theory,” American Mathematical Society, accessed January 10, 2019, <https://www.ams.org/home/page/>.

³⁵ Morgan et al., *Dangerous Thresholds: Managing Escalation in the 21st Century*, 15.

³⁶ Kahn, *On Escalation: Metaphors and Scenarios*, 23.

³⁷ Morgan et al., *Dangerous Thresholds: Managing Escalation in the 21st Century*, 16.

Escalation theory recognizes that two opponents would likely have distinct escalation ladders in a conflict scenario. Furthermore, the opponents also would most likely have dissimilar frameworks for thinking about escalation. Therefore, it is important for strategists and decision makers to study how potential adversaries view escalation in crisis scenarios. A 2016 study conducted by the Center for Naval Analyses analyzed over two dozen writings by the PLA pertaining to its views on escalation and crisis management. While PLA assessments on these issues are still evolving and there are still many unknowns, there are some notable differences from the United States' understanding of the subject.³⁸

PLA writings refer to a continuum of crisis and conflict that follows the progression of crisis, military crisis, armed conflict, local war, and total war. As it states, “The most potentially dangerous state on the continuum of conflict is a middle state in which military activities are taking place and the objectives for control are nebulous.”³⁹ In these middle states of war, sometimes referred to by the PLA as “quasi-war,” utilization of military force occurs even though war has not broken out yet. In the realm of quasi-war, there is a high probability for misperceptions or misunderstandings to occur, which could lead to an escalatory situation.⁴⁰

One area that PLA writings emphasize is “seizing the initiative,” which implies that the PLA may prefer some type of offensive action, such as a pre-emptive strike, early on in a crisis. PLA writings do not state how these early offensive actions might be perceived by outside parties, but the fact that there is a “PLA notion that there can be a stage of armed conflict short of war, together with a doctrine that advocates going on the offensive early in a war, has serious escalatory implications.”⁴¹

³⁸ Alison A. Kaufman and Daniel M. Hartnett, *Managing Conflict: Examining Recent PLA Writings on Escalation Control* (Arlington, VA: Center for Naval Analyses, 2016), i.

³⁹ *Ibid.*, iv.

⁴⁰ *Ibid.*, v.

⁴¹ *Ibid.*

Another critical aspect of the PLA's views on crisis management is that it focuses on wars of choice, stating that wars should not be initiated until the country is ready to seize the initiative. This is concerning in that it suggests that the PLA believes that China can decide when it wants to go to war, without acknowledging the possibility of going to war on terms other than those of its own choosing, or considering how China and the PLA might handle that situation.⁴²

An additional concern is that both Chinese political leaders and the PLA lack experience with this state of quasi-war, which the PLA texts also refer to as "crisis management." While many Chinese experts acknowledge the inherent dangers in a crisis scenario, "the problem is that, according to many Chinese military analysts, the PLA is still unprepared in terms of command, operations, and training to engage fully in crisis management missions."⁴³ This lack of preparedness could lead to significant missteps by the PLA in its effort to send signals to another party and ultimately lead to inadvertent or accidental escalation. "Moreover, given the lack of experience among current Chinese leaders in coordinating diplomatic and military actions in crises, some Chinese experts believe that they may overreact to initial military moves by the other side."⁴⁴

Escalation is a complicated matter, but Kahn suggests that de-escalation is an even more perplexing situation in which achieving a desired response from an opponent is challenging. It does not take two to escalate, because only one side needs to act belligerently to create the possibility of a confrontation. Kahn states, however, that de-escalation requires acquiescence from both parties to reach an agreement. "Thus, de-escalation is even more sensitive to accurate

⁴² Kaufman and Harnett, *Managing Conflict: Examining Recent PLA Writings on Escalation Control*, vi.

⁴³ Alastair Lain Johnston, "The Evolution of Interstate Security Crisis-Management Theory and Practice in China," *Naval War College Review* 69, no. 1 (Winter 2016): 3.

⁴⁴ *Ibid.*, 27.

communication and shared understandings than escalation is.”⁴⁵ Furthermore, in a crisis situation, accurate communication may not always be as simple as two nations coming together and agreeing to de-escalate a situation. Instead, the solution could likely be more nuanced and indirect, such as two parties trying to interpret the signals they are receiving from one another accurately. When two countries have different understandings of escalation concepts in theory, and different escalation ladders in practice, the accurate interpretation of signals is a challenging proposition.

De-escalation can also be difficult because “both sides may feel they are settling not only the issue under dispute but setting precedents—that there is more at stake than just the issue itself.”⁴⁶ The resolution of such an issue can form an “ad hoc status quo” that can become more permanent than either party had intended, thus diminishing the chances of “success of future bargaining.”⁴⁷

Another concerning aspect of escalation is the way in which individual actions that were not originally related to one another can unexpectedly “aggregate into a larger pattern, leading to an escalatory outcome that may not have been envisioned or desired by any of the actors when the process began. Thus, escalation is more than the sum of its parts.”⁴⁸ Furthermore, once an escalation has occurred, further escalation is a more likely trend than de-escalation. Inadvertent and accidental escalations can occur in a number of unforeseen and undesired permutations and combinations. De-escalation, however, requires a conscious and concerted effort by both parties, since “accidental de-escalation is essentially unheard of.”⁴⁹

⁴⁵ Kahn, *On Escalation: Metaphors and Scenarios*, 231.

⁴⁶ *Ibid.*, 236.

⁴⁷ *Ibid.*, 237.

⁴⁸ Morgan et al., *Dangerous Thresholds: Managing Escalation in the 21st Century*, 34.

⁴⁹ *Ibid.*

Analysis

This monograph considers two scenarios in the SCS that could lead to conflict between the United States and China. The first scenario is the possibility of a local dispute between China and its neighbors that could draw in the United States. Competition for subsea resources has led to a series of clashes between China, Vietnam, and the Philippines which carried the risk of escalation, and future events of this kind will become even more dangerous. Furthermore, China's aggressive efforts to assert control over the SCS could threaten the free flow of commerce to countries like Japan and South Korea, which also has the potential to result in confrontation. The second scenario involves the United States' execution of its FON program to challenge China's excessive maritime claims, which has led to numerous showdowns between the US Navy, the PLAN, and the People's Liberation Army Air Force (PLAAF). China's militarization of the SCS as part of its effort to assert regional dominance is a major security concern that could exacerbate both scenarios for potential conflict between the United States and China, increasing the likelihood of more dangerous scenarios in the future.

This section will utilize escalation theory to highlight the criticality of strategic communication and interpreting signals to effectively resolve and de-escalate a conflict or crisis. This section will argue that, because strategic communication is so critical and because the United States and China effectively speak different escalation languages, the situation in the SCS is more escalatory than either the United States or China fully appreciates.

Local Clashes Over Resources

Competition for resources has been a natural byproduct of extraordinary economic growth in the Asia Pacific region. Over the past few decades, economic growth has precipitated fierce competition to control resources in the SCS, which has led China to take aggressive actions in the region. This aggressiveness has highlighted the extent to which China's historical claims oppose its neighbors' UNCLOS-derived claims.

A significant amount of this tension has occurred between China and Vietnam, one of the main oil producers in the region. In 1992, Vietnam accused China of drilling in the Gulf of Tonkin and putting troops on Da Luc Reef. In 1994, Chinese vessels blocked a Vietnamese oil rig, denying access to numerous Vietnamese ships that were attempting to bring supplies to it. Afterward, the Chinese Foreign Ministry issued a statement saying that “Vietnam’s drilling activities in this area have gravely encroached on China’s sovereignty and maritime interests. The Chinese government has demanded that the Vietnamese side stop the drilling immediately.”⁵⁰ In May of 2011, two Chinese maritime surveillance vessels cut the cables off a Vietnamese oil exploration ship that was searching for oil in a sea space within Vietnam’s own EEZ. The Vietnamese foreign ministry released videos of the Chinese vessel breaking the cables. A Chinese foreign ministry spokeswoman said that the Chinese vessels had engaged in “completely normal marine enforcement and surveillance activities in China’s jurisdictional area.”⁵¹ In May of 2014, the state-run China National Offshore Oil Corporation deployed its Haiyang Shiyou 981 (HS981) semi-submersible oil rig to the Wananbei-21 exploration block. Wananbei-21 is located in the Paracel Islands and is completely within Vietnam’s EEZ with no overlap into any other country’s EEZ. It also falls within the nine-dash line. Vietnam hastily requested that China remove HS981 from Vietnam’s sovereign sea space. China responded by claiming that “these activities were normal exploration in the undisputed waters under the management of China,” and blamed Vietnam as an “aggressive party.”⁵² Ultimately, Chinese and Vietnamese vessels ended up

⁵⁰ Michael T. Klare, *Resource Wars: The New Landscape of Global Conflict* (New York: Henry Holt and Company, 2013), 124; Sanqiang Jian, “Multinational Oil Companies and the Spratly Dispute,” *Journal of Contemporary China* 6, no. 16 (April 27, 2007): 599.

⁵¹ Leszek Buszynski, “The South China Sea: Oil, Maritime Claims, and US–China Strategic Rivalry,” *The Washington Quarterly* 35, no. 2 (2012): 139–156.

⁵² “Haiyang Shiyou 981 Chess Move and Consequences in the East Sea,” Vietnam Law and Legal Forum, last modified March 7, 2014, accessed October 21, 2018, <http://vietnamlawmagazine.vn/haiyang-shiyou-981-chess-move-and-consequences-in-the-east-sea-3785.html>.

ramming into and firing water cannons at one another, and HS981 ended up leaving the area a couple of weeks earlier than originally scheduled.⁵³

Notably, all of these clashes occurred within Vietnam's EEZ, a sea space where, according to UNCLOS, Vietnam should have sole and undisputed rights to resource exploitation. This trend highlights the degree to which China refuses to accept its neighbors' maritime rights as they are prescribed by UNCLOS, and China's willingness to use bullying and coercive tactics to defend what it perceives as Chinese sovereignty within the nine-dash line.

Another aspect complicating the oil and territorial disputes is the involvement of western oil corporations. One significant motivating factor for bringing in western corporations is that the oil reserves in many portions of the SCS are at great depths and reside in challenging natural conditions. "Only western oil corporations have the capital, technologies and managerial skills for such operations."⁵⁴ All of the regional players have demonstrated an interest in tapping into oil and natural gas reserves to meet the demands associated with their rapid economic growth. Over the past two decades, both Vietnam and the Philippines have engaged in or attempted contracts with oil companies from numerous countries, including the United States. China has routinely voiced opposition to these efforts, and on numerous instances has coerced Vietnam and its foreign partners into ceasing drilling or exploratory operations.⁵⁵ A current project that will appreciably increase US involvement in the SCS is the Blue Whale project, a ten-billion-dollar joint natural gas project between ExxonMobil and PetroVietnam, set to begin operations in 2023. It constitutes the largest and most complicated resource extraction project that Vietnam has ever

⁵³ Erik French, "Is China Drilling for Oil in Vietnamese Waters?," Global Risk Insights, last modified January 27, 2016, accessed October 21, 2018, <https://globalriskinsights.com/2016/01/chinese-oil-rig-returns-to-contested-waters-3-risks-for-investors/>.

⁵⁴ Jian, "Multinational Oil Companies and the Spratly Dispute," 594.

⁵⁵ Buszynski, "The South China Sea."

taken on. The planned drilling location is in the same general location of the 2014 HS981 incident.⁵⁶

China has a similar history of aggressive interactions with the Philippines. One particularly noteworthy dispute between the two nations was the 1995 incident at Mischief Reef, an islet within the Spratlys that is located within the Philippines' EEZ. On February 8, 1995, Manila accused Beijing of erecting a permanent military structure on the island and demanded that China remove their forces from the area. Chinese officials claimed that the structure was a shelter for fishermen and they refused to abandon the outpost. Philippine ships were subsequently dispatched to the area to investigate and were forcibly turned away by Chinese warships. Lacking the military capability to respond adequately, the Philippines sought support from the United States as well as from neighboring nations that are members of the Association of Southeast Asian Nations (ASEAN). Both the United States and ASEAN member nations urged China to seek a peaceful, diplomatic resolution to this dispute. In response, Chinese officials promised to avoid any further use of force. At the same time, China continued to reinforce sovereignty over Mischief Reef by maintaining a presence of personnel and adding the necessary infrastructure to support them.⁵⁷

The 1995 Mischief Reef incident was strategically significant because it was the first time China had used military coercion against any of its neighbors besides Vietnam. Up to that point, it was widely believed that Beijing's military intimidation tactics were limited to its disagreements with Vietnam, and that it would rely on diplomacy to settle disputes with its other neighbors. However, the Mischief Reef incident caused other Southeast Asian nations to reconsider their overall attitude toward China in general, and specifically toward disputes over

⁵⁶ "Blue Whale Project and the Nine Dash Line, What Will Happen?," Mentor IMC Group, last modified July 27, 2018, accessed October 21, 2018, <https://www.mentorimcgroup.com/2018/07/27/blue-whale-project-ca-voi-xanh- Exxonmobil/>.

⁵⁷ Klare, *Resource Wars*, 125–126.

territorial sovereignty. This incident sent a loud and clear message that China views utilizing military force as a viable option for protecting its vital national interests in the SCS.⁵⁸ This willingness to use force would later be unambiguously articulated in the PLA texts on escalation and crisis management mentioned previously in this monograph. The protection of national sovereignty is unequivocally one of China's core national interests, and crises that involve core interests "appear to be especially likely to involve military force."⁵⁹

A series of disputes occurred between China and the Philippines following the Mischief Reef incident, many of which were over fishing rights. One specific area in which there has been much strife is Scarborough Shoal, which is a small triangular-shaped reef covering an area of fifty-eight square miles. Scarborough Shoal is not part of the Spratlys, but is located within the nine-dash line and within the Philippines' EEZ. In 1997, two Philippine Navy ships drove away a group of Chinese fishing boats that were there. Before leaving, Chinese fishermen planted multiple markers and a flag on the shoal. The Philippine Navy promptly removed the markers and the flag and replaced them with their own flag, resulting in protests from the Chinese government. In 1998, a Philippine Navy patrol boat arrested twenty-two Chinese fishermen at the shoal; they were charged with illegally gathering turtles and coral and damaging the marine environment. In 1999, a Chinese fishing vessel sank after being chased by a Philippine Navy ship. The Chinese fishermen claimed that the navy boat rammed them multiple times.

Similar incidents continued to occur at Scarborough Shoal, and in 2012 there was a notable standoff. A Philippine surveillance plane spotted eight Chinese fishing vessels anchored at the lagoon within Scarborough Shoal, and Philippine Navy vessels were dispatched to the area. Philippine sailors boarded the fishing vessels and discovered large amounts of coral, clams, and sharks. A Philippine spokesman accused the fishermen of illegally gathering endangered marine

⁵⁸ Klare, *Resource Wars*, 127.

⁵⁹ Kaufman and Hartnett, *Managing Conflict*, 34.

species. Later, two Chinese maritime surveillance vessels put themselves in a blocking position between the Chinese fishing vessels and Philippine warships to prevent the fishermen's arrest. Ultimately, China took control of Scarborough Shoal and, on numerous occasions since then, Chinese Coast Guard vessels were reported using water cannons on Philippine fishing vessels attempting to approach the shoal.⁶⁰ These clashes at Scarborough Shoal were one of the drivers that ultimately led the Philippines to bring its dispute with China to the United Nations PCA tribunal.

Freedom of Navigation

The SCS's strategic importance as a critical artery for international commerce is another reason the aforementioned 1995 Mischief Reef incident was so significant, and not just to the nations with competing claims in the region. Japan and the United States also noted the incident, realizing that any impact to the flow of merchant travel through these waterways could have significant economic ramifications. Japan's concern over this incident was directly linked to its ability to import goods safely through this sea space. As a result, in 1996 Japan made a major revision to its national security policy to reflect an increased need for improving its forces for maritime defense.⁶¹

The United States did not have such a direct tie to the Mischief Reef incident, as few resources flow to North America via this route. Instead, the United States' concern was based on its relationship with its allies in the region, the free flow of commerce, the general stability of the international order, and the legitimacy of UNCLOS.⁶² The Mischief Reef Incident resulted in the

⁶⁰ "Scraply Islands," *The Economist*, last modified May 22, 1997, accessed October 27, 2018, <https://www.economist.com/asia/1997/05/22/scraply-islands>; "Scarborough Shoal Standoff: A Timeline," *Global Nation*, accessed October 27, 2018, <https://globalnation.inquirer.net/36003/scarborough-shoal-standoff-a-historical-timeline>; "Philippines Accuses China of Turning Water Cannon on Its Fishing Boats," *Reuters*, last modified April 21, 2015, accessed October 27, 2018, <https://www.reuters.com/article/us-southchinesea-philippines-usa-idUSKBN0NC0MN20150421>.

⁶¹ Klare, *Resource Wars*, 131.

⁶² *Ibid.*, 132.

United States weighing in on the territorial disputes in the region for the first time. In May 1995, the State Department issued a policy paper that encouraged the peaceful resolution of disputes and respect for international law. Regarding FON, the policy paper stated that “maintaining freedom of navigation is a fundamental interest of the United States. Unhindered navigation by all ships and aircraft in the South China Sea is essential for the peace and prosperity of the entire Asia Pacific region, including the United States.”⁶³

UNCLOS unambiguously delineates what rights exist within a state’s EEZ and explicitly states that FON and overflight are permitted by all nations in an EEZ, just as they are on the high seas.⁶⁴ The United States carries out its FON program against China to challenge claims that are antithetical to UNCLOS, notwithstanding the fact that China never agreed to many FON-related UNCLOS provisions as articulated by the reservations that China submitted when it became a signatory to the treaty. China claims to agree with the general notion of FON. However, China does not view the US Navy’s execution of these operations within China’s EEZ or in the SCS as a legitimate form of FON. A spokesman for the Chinese Ministry of Defense illustrated this point when he commented that US FONOPs are an excuse for the United States to intervene in the SCS disputes.⁶⁵ China’s opposition to US FONOPs in the SCS has precipitated myriad confrontations that could have erupted into a larger conflict.

In March of 2009, a series of significant incidents occurred that demonstrated China’s displeasure with US FONOPs within its EEZ. On March 4, the USNS *Victorious*, a US Navy ocean surveillance vessel, was harassed by a Chinese Bureau of Fisheries patrol vessel while

⁶³ M. Taylor Fravel, *U.S. Policy Towards the Disputes in the South China Sea Since 1995* (Singapore: Rajaratnam International School of Studies, 2014), 4.

⁶⁴ “United Nations Convention on Law of the Sea,” 43, 57.

⁶⁵ “US ‘Freedom of Navigation’ Operations in South China Sea ‘Very Dangerous,’” *China Daily*, last modified April 28, 2016, accessed November 18, 2018, http://www.chinadaily.com.cn/world/2016-04/28/content_24943702.htm.

operating approximately 125 nautical miles off the Chinese coast. The Chinese vessel repeatedly shined a high intensity spotlight on the *Victorious* and crossed its bow at a distance of fourteen hundred yards in the dark of night. On March 5, a Chinese frigate crossed the bow of USNS *Impeccable*, another US Navy ocean surveillance ship, at a very dangerous distance of one hundred yards. A short time later, a Chinese Y-12 patrol aircraft subsequently conducted numerous low flybys on *Impeccable* at an altitude of six hundred feet, and then the Chinese frigate once again crossed its bow, this time at three hundred yards. On March 7, a Chinese auxiliary general intelligence gathering vessel challenged the USNS *Impeccable* via bridge-to-bridge radio and ordered it to leave or “suffer the consequences.”⁶⁶

On March 8, this string of provocative incidents culminated while the USNS *Impeccable* was operating approximately seventy miles off China’s coast. Five Chinese vessels approached *Impeccable*, and two of the vessels came within fifty feet, waving Chinese flags and ordering it to leave. The *Impeccable*, unsure about the intentions of the vessels, sprayed its fire hoses at one of the vessels as a self-protection measure, and the Chinese vessel closed to within twenty-five feet of *Impeccable*. Using a bridge-to-bridge radio circuit, the *Impeccable* notified the Chinese vessels that it intended to depart the area and requested they make way to enable *Impeccable*’s safe exit. Shortly after the radio calls, two of the Chinese vessels maneuvered directly in front of *Impeccable*, forcing it to make an emergency stop to avoid collision. They also threw large pieces of wood in the water directly in front of *Impeccable*.⁶⁷ In response to these incidents, the US Navy dispatched a guided missile destroyer, the USS *Chung Hoon*, to provide escort to *Impeccable*.⁶⁸

⁶⁶ Jonathan G. Odom, “The True ‘Lies’ Of the Impeccable Incident: What Really Happened, Who Disregarded International Law, and Why Every Nation (Outside of China) Should Be Concerned,” *Michigan State Journal of International Law* 3, no. 18 (2010): 416.

⁶⁷ *Ibid.*, 415.

⁶⁸ Ann Scott Tyson, “Navy Sends Destroyer to Protect Surveillance Ship after Incident in South China Sea,” *The Washington Post*, last modified March 13, 2009, accessed September 4, 2018, <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/12/AR2009031203264.html>.

On March 9, the US Department of Defense (USDoD) released a statement that gave a comprehensive summary of the aforementioned incidents, including all pertinent factual details, and identified the number and type of Chinese vessels involved. Additionally, the US statement delineated which portions of international law applied to these incidents and articulated how the US vessels were operating well within that legal framework. Over the ensuing days, the DoD issued subsequent statements that provided further corroborating evidence to support its position. For its part, China never issued any formal statement on the matter, and only spoke on the issue when officials were pressed for information by reporters at a press conference. Ma Zhaoxu, a Chinese Foreign Ministry spokesman, said the United States' claims were "flatly inaccurate and unacceptable to China."⁶⁹ In regard to the conduct of the Chinese vessels, Ma said that "China handles such issues in accordance with relevant laws and regulations."⁷⁰ Neither the Chinese Foreign Ministry nor the Defense Ministry were willing to comment on any specifics of international law or how they applied to these incidents. When questioned a week later at another press conference regarding the *Impeccable* incident and the general state of affairs in the SCS, a Foreign Ministry spokesman said,

We have reiterated our principled stance on the South China Sea issue, and we hope relevant countries . . . do more things conducive to peace and stability of the region. . . . The US remarks are sheer lies. . . . Now, the pressing task is the US should take concrete measures to prevent a repeat of a similar incident. The resolve of the Chinese government to safeguard territorial integrity and maritime rights and interests is resolute.⁷¹

The displayed lack of disregard for safety by the Chinese sailors in this incident is concerning, not only because it could have resulted in a dangerous accident, but also because it is indicative of larger concerns regarding culture within the PLA. In December 2018, Dai Xu, president of China's Institute of Marine Safety and Cooperation, suggested that PLAN vessels

⁶⁹ Odom, "The True 'Lies' Of the Impeccable Incident: What Really Happened, Who Disregarded International Law, and Why Every Nation (Outside of China) Should Be Concerned," 417.

⁷⁰ Ibid.

⁷¹ Ibid., 417–420.

should ram US Navy warships operating in the SCS.⁷² That a senior leader, whose job title includes the term “Marine Safety,” would make such a suggestion is alarming, and it leads one to wonder how pervasive this mindset is. If a culture exists that enables and tolerates aggressive behavior, it would certainly help explain the multiple examples over numerous decades where Chinese sailors have acted in a dangerous manner in the SCS. The apparent lack of appreciation of the severity of the implications for this type of behavior becomes increasingly concerning as China continues its efforts to militarize the SCS.

Militarization of the South China Sea

Until 2014, the United States had been executing its FONOPs within the UNCLOS-derived boundaries of China’s EEZ. These boundaries were based on mainland China, and they included a sea space that is not part of any sovereignty disputes with China’s neighbors. Thus, the predominant source of contention was China’s general objection to US military presence in China’s EEZ. However, the 2014 discovery of China’s island building and military base construction in the Spratly and Paracel Islands significantly altered the United States’ view of China’s intentions in the region and caused the United States to alter the scope and intent of its FON program in the region.

Reporting began on island-building activity in May of 2014, but it was not until the publication of an article in February 2015 that showed before-and-after satellite imagery of this activity that the full extent of these operations was understood. China has built facilities and infrastructure on all seven of the islands it occupies in the Spratlys. However, the primary focus was on the three major outposts of Fiery Cross Reef, Subi Reef, and Mischief Reef, which all now have long runways, a significant number of buildings, and support facilities for water and fuel storage. China reached the milestone of landing civilian aircraft on all three of these islands

⁷² Alex Lockie, “China Sets the Stage for a ‘Bloody Nose’ Attack on US Aircraft Carriers, but It Would Backfire Horribly,” *Business Insider*, accessed January 15, 2019, <https://www.businessinsider.com/chinas-threats-to-attack-us-aircraft-carriers-would-backfire-horribly-2019-1>.

in 2016. It landed a military transport aircraft on Fiery Cross Reef as well. By late 2016, construction was underway on the three outposts to build twenty-four fighter-sized aircraft hangars and all the requisite infrastructure for operations. Once completed, the PLA will have the ability to station up to three regiments worth of fighter aircraft in the Spratly Islands. As of June 2018, reports indicate that China has placed naval guns, improved communications equipment, electronic jamming equipment, surface-to-air missile systems, and anti-ship missile systems on its outposts in the Spratly Islands. Additionally, numerous military aircraft have landed on the three major posts.⁷³

For China's neighbors with competing claims in the region, the reclamation and placement of military infrastructure on the islands represents another intensification of the ongoing saga over territorial sovereignty. However, these efforts do not change the fundamental disagreement between China and its neighbors exemplified by the 2013 PCA tribunal. Even if one were to accept these artificially constructed islands as Chinese territory, there would be no entitlement to sovereign sea or air space surrounding them. In accordance with UNCLOS, artificial islands do not possess the status of an island and they therefore do not generate territorial seas or an EEZ around them.⁷⁴ However, the debate over sovereignty or what maritime zones these islands are entitled to is the least concerning aspect of this development.

China's militarization of the SCS goes well beyond a local territory dispute. It represents the gravest of security concerns for China's neighbors, the United States, and other global powers. While the United States has remained neutral regarding territorial sovereignty arguments, it has expressed concern over these actions. The military outposts significantly enhance the PLA's ability to project power and to sustain a more robust military presence in the region. They are a significant step toward the ultimate ability to establish effective control over the SCS almost

⁷³ O'Rourke, *China's Actions in South and East China Seas: Implications for U.S. Interests*, 13.

⁷⁴ "United Nations Convention on Law of the Sea," 45.

in its entirety, a true anti-access area denial (A2AD) capability.⁷⁵ China's burgeoning military capacity in the SCS, combined with its demonstrated proclivity to utilize military coercion against its neighbors, is a recipe for a continued increase in the risk of an escalatory chain of events unfolding in the region. Furthermore, if the PLA were to considerably restrict access to the SCS, the impediment to the free flow of commercial shipping would be a critical worldwide concern with economic and security implications.

Because of the wide-ranging ramifications of China's militarization of the SCS to the United States and its allies, the US Navy expanded the scope of its FONOPs in 2015 to encompass the Spratly and Paracel Islands. Between October 2015 and May 2017, the US Navy conducted five FONOPs, all of which were conducted by guided missile destroyers. The first three operations challenged China's stipulation that warships obtain prior permission before sailing inside the twelve nautical mile limit of the territorial sea in a continuous and uninterrupted manner that is commonly referred to as "innocent passage." The fourth operation challenged the straight baseline claims around the Paracel Islands which China codified in a May 1996 declaration.⁷⁶ According to UNCLOS, only archipelagic nations are entitled to make straight baseline claims around their territory, and since China does not qualify as an archipelagic nation, the United States does not recognize its claim. The fifth operation occurred within twelve nautical miles of Mischief Reef, but it was unique in that the operation consisted of extended maneuvers within the area in a manner that is not consistent with innocent passage. The objective was to reinforce the fact that Mischief Reef does not qualify to have territorial seas assigned around it,

⁷⁵ O'Rourke, *China's Actions in South and East China Seas: Implications for U.S. Interests*, 13.

⁷⁶ US Department of State Bureau of Oceans and International Environmental and Scientific Affairs, *Limits in the Seas, Straight Baseline Claims: China* (Washington, DC: US Department of State Bureau of Oceans and International Environmental and Scientific Affairs, 1996).

and thus even when operating within twelve nautical miles, vessels are afforded all the rights of the high seas around the islands.⁷⁷

China's reaction to these operations was in keeping with its typical *modus operandi*. During the first operation, the PLAN sent two warships to tail the US destroyers, but they did not perform any aggressive or provocative maneuvers. After the fact, the United States promised that more FONOPs would follow, and Chinese authorities promised to respond resolutely against any acts of this kind. On the subsequent operations, the PLAN sent out warship escorts and, in some cases, the PLAAF also scrambled fighter jets in response. In a speech to the United Nations, then President Barack Obama reaffirmed that the United States has "an interest in upholding the basic principles of freedom of navigation and the free flow of commerce."⁷⁸ Then, in a subsequent interview, President Xi Jinping stated, "the Chinese people will not allow anyone to infringe on China's sovereignty and related rights in the South China Sea."⁷⁹ A Chinese Ministry of Defense official referred to the operations as "very dangerous," and that these "provocations against China could lead to unexpected incidents."⁸⁰

More recently, in September 2018 a US destroyer conducted another FONOP in the Spratlys to enforce innocent passage. The PLAN predictably sent warships out as escorts and requested that the destroyer leave the area. Chinese officials immediately condemned the

⁷⁷ Eleanor Freund, "Freedom of Navigation in the South China Sea: A Practical Guide," Belfer Center for Science and International Affairs, accessed October 29, 2018, <https://www.belfercenter.org/publication/freedom-navigation-south-china-sea-practical-guide>.

⁷⁸ Timothy Heath, "How Will China Respond to Future U.S. Freedom of Navigation Operations?," Asia Maritime Transparency Initiative, last modified October 29, 2015, accessed October 29, 2018, <https://amti.csis.org/how-will-china-respond-to-future-u-s-freedom-of-navigation-operations/>.

⁷⁹ Julian G. Ku, M. Taylor Fravel, and Malcolm Cook, "Freedom of Navigation Operations in the South China Sea Aren't Enough," Foreign Policy, last modified May 16, 2016, accessed November 14, 2018, <https://foreignpolicy.com/2016/05/16/freedom-of-navigation-operations-in-the-south-china-sea-arent-enough-unclos-fonop-philippines-tribunal/>; Heath, "How Will China Respond to Future U.S. Freedom of Navigation Operations?"

⁸⁰ "US 'Freedom of Navigation' Operations in South China Sea 'Very Dangerous.'"

operation, saying the “US side repeatedly sends military ships without permission into seas close to South China Sea’s islands, seriously threatening China’s sovereignty and security, seriously damaging Sino-US military ties and seriously harming regional peace and stability.” Then, in a separate statement, the Chinese Foreign Ministry “strongly urged the United States to stop such provocative actions” and to “immediately correct its mistakes.”⁸¹

General Analysis

All the incidents discussed in this monograph reinforce the degree to which China’s reliance on historical claims contravenes its neighbors’ maritime rights in accordance with UNCLOS. China’s tendency to accuse its neighbors or the United States of being the responsible parties for these incidents without making any reference to UNCLOS exemplifies how different its frame of reference is. Furthermore, no enforceability mechanism exists to hold China accountable for its actions or to keep its behavior in check. Despite the numerous complaints and criticisms against it, China remains indefatigable in aggressively asserting its dominance within the nine-dash line while simultaneously contending that its intent is to rise peacefully as a responsible member of the international order

In the context of the international order, Kahn articulated the notion of “systems bargaining,” where individual members of the order can gain an advantage by breaking the rules, provided that most other parties do not. While all other nations adhere to the norms of UNCLOS, China continues to gain an advantage vis-à-vis the SCS through its aggressive exertion of dominion within the nine-dash line via the militarization of islands and a robust A2AD strategy. China’s increasing advantage is leading to a heightened escalation asymmetry in that its increased ability to project power in the SCS cannot be matched by either China’s neighbors or the United States. This dynamic is creating the exact escalation dilemma described previously in this

⁸¹ “China Condemns US for South China Sea Freedom of Navigation,” Reuters, last modified October 1, 2018, accessed November 13, 2018, <https://www.reuters.com/article/us-usa-china-military-idUSKCN1MC04F>.

monograph where China's potential opponents cannot respond in kind with any type of symmetrical military action and are thus forced either to not match China's actions or to accept the risk of crossing additional escalation thresholds.

Continued economic growth and the resulting increased demand for precious subsea resources in the SCS will foster fiercer competition in the future to control those resources. Given China's demonstrated proclivity for using military coercion against its neighbors, it is reasonable to expect that these coercive engagements could become more frequent, commensurate with increased demand for resources. Additionally, China's increasing asymmetric advantage will further diminish its neighbors' ability to respond in kind to any provocative Chinese behavior. This dynamic could reach the point where the United States either decides on its own to get involved, or a local nation such as the Philippines or Vietnam requests US support.

The United States and the Philippines share a mutual defense pact that was signed in 1951. Thus far, the only time the Philippines has tried to enact the mutual defense pact was with the 1995 Mischief Reef incident; the United States declined to get involved militarily.⁸² The United States does not have an official defense pact with Vietnam; however, the two countries have enjoyed steadily improving relations. At an ASEAN Regional Forum meeting in Hanoi in 2010, then Secretary of State Hillary Clinton voiced the United States' desire to participate in multilateral negotiations to help peacefully adjudicate territorial disputes in the SCS. Secretary Clinton's remarks were perceived to mean that the United States is a staunch ally of Vietnam in this ongoing dispute.⁸³

In addition to the competition for resources, a local dispute could be caused by an interruption to the free flow of commerce through the SCS. While countries such as Japan and

⁸² Klare, *Resource Wars*, 125; O'Rourke, *China's Actions in South and East China Seas: Implications for U.S. Interests*, 60.

⁸³ Robert D Kaplan, *Asia's Cauldron: The South China Sea and the End of a Stable Pacific* (New York: Random House, 2014), 62.

South Korea are not heavily dependent on resources that come from the SCS, a considerable amount of their energy resources travel through the SCS. China's continued militarization of the SCS raises two specific concerns regarding the flow of commerce to Japan and South Korea. First, China could simply restrict access to the SCS, forcing commercial ships to find an alternate route. Requiring a commercial ship to leave the Strait of Malacca and circumnavigate the SCS *en route* to Japan or South Korea would involve a considerable cost in money and time, which would have extensive economic implications. Worse yet, if the demand for resources were to become critical enough, the possibility exists that the PLAN could interdict commercial ships travelling through the SCS bound for Japan or South Korea. This scenario could lead to a confrontation with the potential for escalation, as the United States maintains bilateral security alliances with both Japan and South Korea.

One concerning aspect of the prospect of US support for one of China's neighbors is that it could embolden a country to act more aggressively toward China than it would without US support. For example, Robert Kaplan notes in *Asia's Cauldron* that there was a prevailing sentiment in Manila within the last decade that "naval brinkmanship on the Philippines' part would force Washington into a more confrontational stance with Beijing to the strategic benefit of Manila."⁸⁴ In 2012, then President Barack Obama strongly discouraged Philippine leadership from this mindset. This type of offensive and aggressive approach is not the purpose of a mutual defense pact, and would only serve to further destabilize an already tenuous situation in the SCS. Nevertheless, there are various legitimate circumstances, such as China initiating a form of open hostility against one of these countries, in which the United States could find itself involved in a conflict with China on another country's behalf.

US FONOPs in the SCS are an extremely complicated quagmire because they are attempting to solve multiple issues that do not complement one another, which obfuscates their

⁸⁴ Kaplan, *Asia's Cauldron: The South China Sea and the End of a Stable Pacific*, 134.

purpose. These operations serve US self-interests by demonstrating displeasure with China's militarization of the SCS. They simultaneously are attempting to achieve the objective of enforcing UNCLOS and upholding the legitimacy of the international order. The difficulty lies in the fact that the former purpose undermines the latter. FONOPs in the SCS have been overwhelmingly a US endeavor, which validates China's narrative that these operations are a US effort to contain China's rise. China views US FONOPs in the SCS generally, and in the Spratly and Paracel Islands specifically, not only as illegitimate, but also as a deliberate escalation by the United States. All the clashes between the US Navy and the PLAN over FONOPs discussed in this monograph were rife with possibilities for inadvertent or accidental escalation. Even the slightest miscalculation or an unprofessional act taken slightly too far could have resulted in a catastrophic outcome. Furthermore, US FONOPs will only become more dangerous as China continues to improve its asymmetric advantage in the SCS.

Knowing that China views US FONOPs as deliberately escalatory, one might ask whether the United States should discontinue its FON program in the SCS. Although the US Navy could cease these operations, the walkaway cost to do so is too high. Walking away from these operations could achieve a near-term de-escalation of sorts, but it would also be setting an ad hoc status quo that would make the success of future negotiations with China more challenging, the exact de-escalation conundrum articulated by Kahn that was mentioned previously in this monograph. In this scenario, ceasing FONOPs would create an unacceptable status quo where China's excessive maritime claims go unchallenged, which could embolden China to take even more aggressive actions in the region and set a precedent that these aggressive actions are acceptable.

The US Navy should continue FONOPs in the SCS, but in order to address this quagmire, these FONOPs need to grow into a robust multinational effort with contributions from a wide array of nations across the globe. Although other nations have occasionally executed FONOPs in the SCS, the number of participating countries and the frequency of operations are nowhere near

the level they need to be in order to constitute a truly multinational effort. While these operations are unlikely to change China's outlook on sovereignty within the nine-dash line, internationalizing the issue via a vigorous upsurge in FONOPs from a variety of countries would help legitimize the operations and shape the narrative that FONOPs are in fact intended to challenge excessive maritime claims and to enforce the UNCLOS norms.

That a significant escalation did not result from the incidents discussed in this monograph does not mean that future incidents will always yield the same result. China's increasing military footprint in the SCS could lead to more frequent provocative incidents that carry a higher likelihood of escalation. An increased density of hostile interactions could increase the possibility that seemingly unrelated events could aggregate in an unforeseen manner and produce highly undesired and unexpected outcomes that neither party ever envisioned.

If a conflict were to erupt between China and the United States, differing views on escalation in theory and dissimilar escalation ladders in practice would be detrimental to the prospect of successful resolution. China's inexperience with crisis management would further reduce the chances of an effectual de-escalation. As Kahn posited, de-escalation would be a challenging proposition as it would require acquiescence from both nations and would require accurate communication and shared understanding.

As mentioned earlier in this monograph, the very essence of escalation (and de-escalation by extension) is strategic communication between two actors. Short of an outright agreement to de-escalate, the United States and China would be reliant on trying to interpret signals from one another accurately, which could quickly turn into a confounding endeavor. The fact that the United States and China do not speak the same escalation language when strategic communication is a crucial variable is ultimately causing the situation in the SCS to be more escalatory than either the United States or China fully appreciates, and this will only get worse with time.

It is possible that neither side fully realizes how escalatory the situation is because they have been lulled into the belief that all-out war is a distant notion. However, Kahn clearly demonstrated that, due to the extremely complicated nature of escalation and the variety of variables that affect it, proximity to all-out war on the escalation ladder is not necessarily directly proportional to the likelihood of conflict. “Thus, there is no objective reason why the apparent closeness to all-out war need be a very good measure of the objective likelihood of eruption.”⁸⁵

Conclusion

The SCS is one of the most contentious and strategic sea spaces in the world. It is rich in resources and is also a critical artery through which a considerable amount of the world’s shipping passes. The combination of complex geography and overlapping and conflicting claims creates a confusing conundrum in regard to determining territorial and maritime sovereignty. The issue of sovereignty is further complicated because most nations that border the SCS rely on UNCLOS as the framework for determining their maritime boundaries and the rights afforded therein. China, however, never accepted the UNCLOS-derived boundaries and instead leverages its historical claims of regional sovereignty demarcated by the nine-dash line.

The disputes in the SCS will have increasingly significant global ramifications. The overall value and strategic significance of the SCS will only increase with time. Maintaining an unimpeded flow of commerce through the SCS is critical to worldwide economic stability. China’s militarization of the SCS could not only threaten the flow of commerce, but more importantly, it could pose a substantial security risk that could increase the potential for conflict. This problem set will therefore continue to garner the close scrutiny of the United States and other global powers.

Two scenarios were analyzed that could potentially result in conflict between the United States and China: local clashes to control resources or the flow of commerce that could escalate to

⁸⁵ Kahn, *On Escalation: Metaphors and Scenarios*, 9.

the point of US involvement, and Chinese displeasure with US military presence in the SCS via FONOPs. This monograph argued that both scenarios for potential conflict will continue to intensify with time as China attains an ever-increasing escalation asymmetry in the SCS via its robust buildup of military infrastructure and presence in the region. This monograph also leveraged escalation theory to contend that the incongruities in the United States' and China's views on escalation in theory and differing escalation ladders in an actual crisis scenario would be major impediments to successful strategic communication and de-escalation, causing the situation to be more escalatory than either the United States or China fully appreciates.

While the globalization of FONOPs would bring legitimacy to the purpose of the FON mission writ large, the United States cannot completely extricate its contribution to the FON mission from its simultaneous mission of challenging China's militarization of the SCS. Whenever a US Navy guided missile destroyer conducts a FONOP, especially near the disputed islands, it will also function as a show of force and be accurately perceived as such by China. Ultimately, the United States is engaged in what Kahn and Schelling would refer to as a "competition in risk taking" with China, and FONOPs are just one aspect of this competition.

In addition to conducting FONOPs, the US military maintains a robust presence in the region. A carrier strike group is permanently stationed in Japan as part of US forward-deployed naval forces. Additionally, the US Navy routinely deploys aircraft carrier strike groups to the SCS. Chinese leadership understands that an aircraft carrier is a formidable symbol of the US military's might, and its presence in the SCS is an unambiguous and substantial show of force. In a December 2018 speech, PLAN Rear Admiral Luo Yuan proposed "sinking an aircraft carrier or two" as a potential solution for the ongoing tension in the SCS.⁸⁶ This type of heated rhetoric and saber rattling, combined with the fact that China continues to develop and deploy newer ballistic

⁸⁶ Lockie, "China Sets the Stage for a 'Bloody Nose' Attack on US Aircraft Carriers, but It Would Backfire Horribly."

missiles that are capable of targeting aircraft carriers, is a stark reminder of the disquieting ramifications and high stakes of this competition in risk taking. Like FONOPs, deploying a carrier strike group to the SCS will become more dangerous with time.

Competition in risk taking between the United States and China will continue to intensify, as will the associated risk of military conflict. The backdrop for this competition is a status quo in the SCS that resembles what PLA crisis management texts refer to as quasi-war, that dangerous state where war has not broken out, but where military activities are occurring with nebulous objectives, which could lead to miscalculations or misunderstandings with dangerous implications. In this state of quasi-war, China enjoys a position of escalation asymmetry in the SCS against any potential opponent, including the United States.

In an April 2018 testimony to the Senate Armed Services Committee, Admiral Philip Davidson astutely conveyed the degree to which China holds a position of escalation asymmetry in the SCS, stating, “China is now capable of controlling the South China Sea in all scenarios short of war with the United States.”⁸⁷ Given this sobering acknowledgment from the then incumbent Commander of US Indo-Pacific Command, US political and military leaders must continue to analyze the ways in which they wield the military instrument of national power diligently, and assess their willingness to accept the risks of crossing escalation thresholds in the SCS. Great power competition is delicate, convoluted, and challenging, and will carry a multitude of risks along the way. While neither the United States nor China has an appetite for war with one another, both countries are taking actions in the SCS that could one day lead to that outcome.

⁸⁷ O’Rourke, *China’s Actions in South and East China Seas: Implications for U.S. Interests*, 25.

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