

Rival Dominance and Conflict of Interest Vs Regional Security and Territorial Integrity in the Context of South China Sea

Mohammad Shahadat Hossain*

Abstract

Multi-dimensional distinctiveness of conflict in the South China Sea (SCS) have engrossed to the regional and international concern regarding Southeast Asian security, sovereignty and territorial integrity. All the coastal countries in the region have squabbled upon the maritime boundaries in the SCS for several decades. This research investigates the key issues of conflict and rivalry between China and the United States (US) in terms of dominancy over natural resources of SCS, freedom of navigation, free trade, and maritime security and of territorial integrity. It also intends to identify the contentions of two big powers and its implication on the sovereignty and security of the region as well as diplomatic relationship of their own. This explores the degree of instability by China and the US military presence in the SCS and postulates the States behavior toward the US intervention in the SCS in order to protect their sovereignty over natural resources and balance of military power in the Asia Pacific Region (APR). It further analyses the scope of the regional cooperative instrument for security and safety of the maritime issues in South and Southeast Asian Nations. The aim of the study is to analyze regional threat caused by two big powers in the APR for the regional policy makers to come together in building a platform to cooperate and resolve maritime threat through peaceful means. The possible findings of the study is that Chinese policies and activities in the SCS to occupy total area and presence of the US are the potential threat to national and regional peace and economic development based on sea resources. This is doctrinal research follows the qualitative method of study. The researcher consults with both primary and secondary sources of data.

Keywords: Maritime Security, South China Sea, Freedom of Navigation, Rivalry, Sovereignty over Natural Resources, Maritime Dispute.

1.1 Introduction

Securing infinite access over seaborne natural resources is one of the key issues of conflict among the coastal states around the world, especially, among the states around South China Sea. On many occasions scarcity overall food source is one of a myriad of issues leading to an eruption of hostilities. The rationale can be sorted as the increasing global sense of exigency toward the equitable distribution of food and natural resources. Therefore, it is evident in the last two hundred years, that the breakdown of international legal and political order that governed the use and distribution of marine resources.¹

*Assistant Professor, Department of Law, Bangladesh Islami University, Dhaka.

¹ Ritterbush, Stephen W. "Marine Resources and the Potential for Conflict in the South China Sea." In *The Fletcher Forum*, vol. 2, no. 1, pp. 64-85. The Fletcher School of Law and Diplomacy, 1978. Available at: <https://www.jstor.org/stable/45331034>. (Accessed October 2, 2023).

The issues around South China Sea (SCS) are not alien to the subject in discussion that contains variety of aspects of maritime security in SCS over the last decades. This area has obtained a dimension of economic, political and geo-strategic significance which far exceeds its size. It is located as the world's fifth largest body of waters containing an area of almost 1.2 million square miles.² The area is endowed with rich oil, fisheries and natural gas resources.³ It is a vital center of global trade and transportation. For instance, about \$1.2 trillion worth of U.S. trade, more than half of Indian trade, two-third of Austrian trade and 60% of Japanese energy transportation pass through this SCS.⁴ This article discusses the issues chronologically. Firstly, it explores the worth of SCS from different perspectives and interest of both China and US in the SCS. Secondly, it analyzes the key issues of rivalry between the China and the US. Thirdly, the aspects of maritime security in the region have been discussed along with the conflicts in the SCS. Fourthly, it investigates the military activities in the SCS by both countries and examines the wide scope of the regional cooperative instrument for peace and security in the region.

1.2 Worth of the South China Sea

The SCS is the fifth world's largest body of waters located in the Pacific Ocean comprising an estimated area of 3500,000 km extending from Malacca to Taiwan.⁵ The SCS also bounded by two major shelf area, one is Mainland Shelf in the coast of Vietnam and the People's Republic of China and second one is Sunda Shelf, which fringes the entire boundary from northern Borneo to the Malay Peninsula, Gulf of Thailand and southern Vietnam. In the SCS more than half of the shelf area is less than 100 fathoms in depth, making it accessible to both modern fisheries and offshore drilling technology.⁶ In addition, it is a highly productive body of water in terms of fishing and marine resources, due to its' large continental Shelves, relatively shallow depth, and the influx of numerous continental rivers. There are nine independent coastal nations located in the surroundings: The republic of China, Vietnam, Cambodia, Thailand, Malaysia, Indonesia, The Philippines, Singapore and Republic of China, one sultanate Brunei, and two colonies, Hong Kong and Macau. More than 25% of the world's population lives in these countries. The large number of growing populations of the region is relying upon the sea fish as a prime source of

² Clive H. Schofield, and Ian Storey, *The South China Sea Dispute: Increasing Stakes, Rising Tensions*, Jamestown Foundation, 2009. Available at: <https://ro.uow.edu.au/lhapapers/461/>. (accessed October 2, 2023).

³ Shicun, Wu, and Ren Huaifeng, "Energy Security of China and Oil and Gas Development in Disputed Area of the South China Sea." *China Oceans L. Rev.* (2005): 314. Available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/cholr2005&div=87&id=&page=> (accessed October 2, 2023).

⁴ Jagannath P. Panda, Code of Conduct needed for South China Sea, September 2020, *The Japan News*, available at <https://isdpr.eu/publication/code-of-conduct-needed-for-south-china-sea/> (Accessed 1 October 2023).

⁵ Rommel C. Banlaoi, *Philippines-China Security Relations: Current Issues and Emerging Concerns*, 1st ed. (Philippines: Yuchengco Center, 2012), Available at: http://maritimesecurity.asia/wp-content/uploads/2012/10/Banlaoi_Philippines-China-Security-Relations.pdf. (accessed October 2, 2023).

⁶ John Alan Gulland, ed., *The Fish Resources of the Ocean (England: Fishing News (Books) Ltd., 1971)*, Available at: <http://www.fao.org/3/a-al937e.pdf>. (Accessed October 2, 2023).

protein and the annual consumption of fish ranges between 24 and 48 kilograms, which is two to four times world's average.⁷ Indonesia and Thailand are heavily relying on the export of fishery products which is a significant part of their national income. It produced 13.7 million tones of fisheries products and considered 7% of the global fisheries catching in 2011.⁸ Since 1990, it has been reported that an average of 7% annual increase of fisheries production in Indonesia. In the global share the production of capture fisheries in Indonesia rose from 3% in 1990 to 6% in 2011 and 94% of capture fisheries production comes from marine fisheries. According to the information of Indonesia's Statistic Agency (BPS), it exports of fishery products stood at USD \$244.6 million in October 2015.⁹ The researcher discusses Chinese fisheries statistic in another subtitle.

Besides fisheries, petroleum is the major fuel of Southeast Asia's economic development and the SCS is the ideal place with these oil and natural gas resources. The US Energy Information Administration (EIA) published a potential report in 2014 that "the SCS is believed to contain 11 billion barrels of oil and 190 trillion cubic feet of natural gas in proved and probable reserves".¹⁰ While the 'Chinese national Offshore Oil Corporation' published a report in 2013 with an account approximately 125 billion barrels of oil and 500 trillion cubic feet of natural gas in the concern area although the report was objected by the US experts.¹¹ Another most optimistic estimate advocates that potential oil resources of the Spratly and Parcel Island could be as high as 105 billion barrels of oil, and the entire SCS could be as high as 213 billion barrels and production has increased gradually over the past few years.¹² In another research work shows that China estimates a total of approximately 293 to 344 billion barrels of oil (BBL) and 30 to 72 trillion cubic meters (TCM) of natural gas reserved in the SCS.¹³

Mineral resources are another potentiality of SCS where 50% of the world's tin, 6% of the chromate, and 4% of the nickel and bauxite produced by the Southeast Asian countries. In

⁷ Stephen w. Rithphen, "Marine Resources and the Potential for Conflict in the South China Sea," *The Fletcher Forum* 2, no. 1 (1978): 68, Available at: <http://heinonline.org/HOL/License>. (accessed October 2, 2023).

⁸ Principal Importers and Exporters, 2013c, International trade in fishery commodities by principal importers and exporters, available at: <ftp://ftp.fao.org/FI/STAT/summary/a3ybc.pdf>. (Accessed October 2, 2023).

⁹ Thomas Darmawan and Susi Pudjiastuti, Growth of Indonesia's Fishery Sector Outpacing Overall Economic Growth, *Indonesia-Investments*, 30 December 2015, Available at: <http://www.indonesia-investments.com/news/todays-headlines/growth-of-indonesia-s-fishery-sector-outpacing-overall-economic-growth/item6324?> (Accessed October 2, 2023).

¹⁰ Annual Energy Outlook 2014 with projections to 2040, U.S. *Energy Information Administration*, May 7, 2014. Available at: <http://www.eia.gov/beta/international/country.cfm?iso=PHL>, (Accessed October 2, 2023).

¹¹ William Lowther, 2013, 'US report touts china sea riches', *Taipei Times*, viewed 13 September 2015, Available at: <http://www.taipeitimes.com/News/front/archives/2013/02/09/2003554582> (Accessed October 2, 2023).

¹² South China Sea Oil and Natural Gas, *Global Security Org.* November 2016. Available at: <http://www.globalsecurity.org/military/world/war/spratly-oil.htm> (Accessed October 2, 2023).

¹³ Anders Corr, China's \$60 Trillion Estimate of Oil and Gas In *The South China Sea: Strategic Implications, Journal of Political Risk*, Vol. 6, No. 1, January 2018, available at: <http://www.jpplrisk.com/chinas-60-trillion-estimate-of-oil-and-gas-in-the-south-china-sea-the-strategic-implications/>.(Accessed October 2, 2023).

Indonesia, tin islands are believed to contain more than 500,000 tons of tin reserves.¹⁴ The other major mineral resources found in SCS are phosphorus used in chemicals and fertilizers. The six principal islands in the group are estimated to have reserves as high as 19 million tons, of which about 30% could be transformed into fertilizer.¹⁵ According to the preliminary investigation and survey on the South China Sea made by competent departments, there exists about 8000 square kilometers of ‘natural gas hydrate’ reserve, with a total volume of nearly 80 billion tons of such resource, which amounts to about 50% of the gross oil reserve in China¹⁶

The SCS is highly significant for international navigation; noticeably the position of shipping route lies in Taiwan Strait from north part toward Malacca Strait in south part of the SCS. It has been evident that the SCS is contributing a crucial connectivity between Asia and other parts of the world in terms of marine trade by the maintaining a biggest shipping route. As we mention in the earlier that a huge number of ships transient throughout the SCS, which is accounted double in number that passing through the Suez Canal, and nearly triple the total of ships crossing the Panama Canal. International market relating to oil and gas business is depending on safe and reliable transport routes.¹⁷ The SCS has great importance in the context of freedom of navigation, promotion of international trade, equitable distribution of food, in the one hand geopolitics, power dominancy, national security, territorial integrity and sovereignty over natural resources on the other. Considering the abovementioned realities, as we discussed above, it is an obligation to all littoral states of the region as well international beneficiaries to move forward for a peaceful solution of the current dispute.

1.3 Interest of the China and the US in the SCS

1.3.1 Chinese Interest over the SCS

China maintains its rapid growth in the global economy since 1979 and represents larger share of world's market. As a result, it is becoming the world economic super power.¹⁸ It made reforms and opening-up of its economy in the last three decades, which has maintained an average annual

¹⁴ “Tin Ore Resources of Asia and Australia,” *Mineral Resources Development Series*, no. 23, available at: (Bangkok, Thailand: ECAFE, E/CN. 11/671) p. 31. (accessed October 2, 2023)

¹⁵ “Mining Developments in Asia and the Far East,” *Mineral Resources Development Series*, no. 35 available at: (Bangkok, Thailand: ECAFE, E/CN 11/949, 1970) p. 93. (Accessed October 2, 2023).

¹⁶ WU Shicun, REN Huaifeng, Energy Security of China and Oil and Gas Development in Disputed Area of the South China Sea, *China Oceans Law Review*, no. 2 (2005): 314, available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/cholr2005&div=87&id=&page=> (accessed October 2, 2023).

¹⁷ Alexander Metelitsa and Jeffrey Kupfer, ‘Oil and gas resources and transit issues in the South China Sea’, *Asia Society Policy Institute*, 2014, pp. 1-6, viewed 11 September 2015, available at: http://asiasociety.org/files/SouthChinaSea_OilGas_brief.pdf (Accessed October 2, 2023).

¹⁸ Thompson, Benjamin S. "Eye of the Tiger: China Will Rise up to the Challenge of Its Rivals." *Cardozo J. Conflict Resol.* 10 (2008): 687, Available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/cardcore10&div=26&id=&page=> (accessed October 2, 2023).

growth rate of 9.6 percent from 1990 to 2010 and will continue up to 8 percent until 2040.¹⁹ In order to continue such economic growth, China must require moving forward toward absolute control over natural resources in the SCS region. The several decades have witnessed that, unprecedented scramble to claim natural resources of both the waters and seabed of the world's Oceans. Furthermore, with the sustainable economic growth of china, energy security has secured a top priority issue in China and inevitably the SCS is endowed with giant stock of oil and gas resources, which is of great significance to its neighboring countries and region too.²⁰ In the context of globalization, energy security is related with variety of issues like national economic enhancement, political stability in the one hand and foreign trade dependency as well as diplomacy with other nations having resources and military influence on the other. The result of exploration of last several decades, that 13 medium and large sedimentary basins exist in the Spratly Island which cover an area of 0.615 million square kilometers, of which 0.417 million square kilometers endowed with oil and gas in the dotted line in China. According to expert estimation, about 23.5 billion tons of oil reserve and 10 trillion cubic meters of natural gas found by China.

As regards fishing and fisheries industry, there are nearly 1.5 billion people living around the SCS and depending upon the sea as a means of livelihood. Out of 19 world's largest fishing area SCS graded as fourth in terms of fishing production. China is the largest fish producer as well as consumer in the world.²¹ At present, China is producing one third of the global fisheries production and reached 62.2 million tons in 2018. It projected in its Five-Year-Plan (2016-2020) to be reached at the high levels of fish production at 96 million tons by 2030.²² Therefore, since 2002 China become the most important exporter of fish related items.²³ It has a great contribution to the global food market in terms of fish products consumption.²⁴

¹⁹ Babones, Salvatore. "The Middling Kingdom: The Hype and the Reality of China's Rise." *Foreign Affairs* 90, no. 5 (2011): 79–88. Available at: <http://www.jstor.org/stable/23041778>. (Accessed October 3, 2023).

²⁰ WU Shicun, REN Huaifeng, Energy Security of China and Oil and Gas Development in Disputed Area of the South China Sea, *China Oceans Law Review*, no. 2 (2005): 314 available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/cholr2005&div=87&id=&page=> (Accessed October 2, 2023).

²¹ Ding, Q., Shan, X., Jin, X. et al, A multidimensional analysis of marine capture fisheries in China's coastal provinces. *Fish Sci* 87, 297–309 (2021). Available at: <https://doi.org/10.1007/s12562-021-01514-9> (Accessed October 3, 2023).

²² FAO (2018) The state of world fisheries and aquaculture 2018—meeting the sustainable development goals. Available at: [Rome.file:///C:/Users/DELL/Downloads/The%20State%20of%20World%20Fisheries%20and%20Aquaculture%202020.%20In%20brief.pdf](file:///C:/Users/DELL/Downloads/The%20State%20of%20World%20Fisheries%20and%20Aquaculture%202020.%20In%20brief.pdf) (Accessed October 3, 2023).

²³ China Fisheries Yearbook 2014 (China Fishery Yearbook Publishing House, 2014), pp. 7-15. Available at: <https://www.purpleculture.net/china-fishery-statistical-yearbook-2014-p-18310/> (Accessed October 3, 2023).

²⁴ Fangzhou Hu, Haitao Zhong, Chang Wu, Shi Wang, Zijian Guo, Min Tao, Chun Zhang, Dingbin Gong, Xin Gao, Chenchen Tang, Zehong Wei, Ming Wen, Shaojun Liu, Development of fisheries in China, Reproduction and Breeding, Volume 1, Issue 1, 2021, Pages 64-79, Available at: <https://doi.org/10.1016/j.repbre.2021.03.003>. (<https://www.sciencedirect.com/science/article/pii/S2667071221000089>) (Accessed October 3, 2023).

The China also has geo-political interest in the region though it has not been openly express by the Chinese government. In order to securing its control over persistent supply of marine resources, China developing its specific development strategy to cope with status quo in line with national sovereignty and energy security. It has further interest in safety of navigation in the SCS, but not ready to tolerate extra-territorial military presence. Moreover, to protect the interest within the “strategy stability belt” in the near seas and oppose the US military surveillance activities in the exclusive economic zone, China increases its naval capability of “anti-access/area denial”. In addition, to protect its growing economic and political interest, Chinese navy is shifting to far-seas operations.²⁵

1.3.2 The US Prospective and Policy to SCS

The United States has a great strategic interest over the South China Sea (SCS), in terms of economic, social, and geo-political aspects. For instance, the SCS is a major international trade and oil supply route accessed by many major U.S. Corporation as well as their competitors like Japan. It considers that establishing rule-based stability in the SCS through conglomeration of diplomacy and advanced military engagement with littoral states to be a significant U.S. interest, in respect of peaceful navigational operation and protecting sovereignty of coastal states in the region.²⁶ The interests of the U.S., in the SCS further include international norms and laws, in relation with important partners and allies, and expectation of peaceful resolution of the disputes. For the United States, South China Sea is significant in two ways firstly; keeping uninterrupted navigation across the shipping route. The rationale behind these two aspects is firstly, it strengthens the economic dynamism in the region, which is depending upon the intensified intra-national and international trade. For instance, more than five trillion dollars business is crossing the SCS route annually specifically with the U.S. more than one trillion. Secondly, the unhindered access sustains America’s capability to project military power for the region and the world at large. Establishing solidarity and territorial integrity in the Southeast Asia is another significant interest of the U.S. The prosperity of the U.S. and East-Asia is intertwined with the open and uninterrupted use of SCS and regional stability. In contrast, conflict and imbalance power politics overthrow the expected Annual GDP and GNP, decreased trade volume by exercising disturbing activities in the route and decrease foreign investment.²⁷

²⁵ Tran Truong Thuy, The South China Sea: Interests, Policies, and Dynamics of Recent Developments, *Diplomatic Academy of Vietnam*, p.2, “Managing Tensions in the South China Sea” conference held by CSIS on June 5-6, 2013. https://csisprod.s3.amazonaws.com/s3fspublic/legacy_files/files/attachments/130606_Thuy_ConferencePaper.pdf (Accessed October 4, 2023).

²⁶ Michael McDevitt, A CNA Occasional Paper the South China Sea: Assessing U.S. Policy and Options for the Future, November 2014, available at https://www.cna.org/cna_files/pdf/IOP-2014-U-009109.pdf (Accessed October 5, 2023).

²⁷ Taylor Farvel, South China Sea: What issues and whose core interest? 6th Berlin Conference on Asian Security (BCAS), the U.S. and China in Regional Security implications for Asia and Europe, June 18-19, 2012, available at: www.Swp-berlin.org. (Accessed October 5, 2023).

The United States is super power in terms of defense power economy the largest economic and military in the world and it declared itself as a 'resident Pacific power'. Recently, it has reinvigorated its strategic influence through pivot and rebalancing strategy towards the Asia-Pacific.²⁸ The focal point of U.S. policy is the compliance of international laws and norms by the contending parties to address the problem and ultimate resolution. The U.S. policy consists of five major issues: firstly, peaceful resolution of disputes, which include an effective Code of Conduct that would promote a rule-based framework for managing and regulating the behavior of relevant countries in the SCS. The United States upholds globally dispute settlement procedures like the methods adopted by United Nations Convention on Law of the Sea. Secondly, peace and stability address that no use of military force or coercion by any of the claimants to resolve problem with territorial sovereignty. Thirdly, freedom of navigation is in terms of peaceful routing of all types of vessels and aircraft through and over the SCS. Fourthly, neutrality in the dispute; it also takes no specific position on behalf of any competing sovereignty claims. It neither chooses a side nor does it favor one country's claim over another's. Finally, respect for international law, which indicates that coastal states must respect international laws and norms.

1.4 Key Issues of Rivalry between China and US

1.4.1 Dominance Over the SCS

The first and foremost reason behind rivalry between the China and the US is the dominance over South China Sea. Chinese wicked claim over the vast water territory in the SCS including the disputed islands to which a counter claims of the concern costal State is the key to cause such dominance. Assertive claim of China over the major portion of waterway is a point of disagreement between the China and the US. China intends to maintain its ownership over the area with no interruption from any State around including the US. It also aims to establish a gateway to govern its rising maritime empire in the Indian Ocean. In contrast, the US refutes and opposes the Chinese claim and objectives in the South and East China Sea.²⁹ In addition, it also intends to control the Asian seaborne trade route by promoting freedom of navigation. The effect of such rivalry is the deterioration of diplomatic relation between the states in the one hand and

²⁸ Ralf Emmers, The US rebalancing strategy: Impact on the South China Sea, National Security, The National Security College is a joint initiative of the Commonwealth Government and The Australian National University College, p. Available at: <http://nsc.anu.edu.au/documents/occasional-5-brief-8.pdf> (Accessed October 5, 2023).

²⁹ Weizhen Tan, China alienates its Washington allies as its relationship with the U.S. worsens, JUL 27, 2020, CNBC. Available at: <https://www.cnbc.com/2020/07/27/us-china-tensions-escalate-amid-rivalry-in-the-south-china-sea.html> (Accessed October 5, 2023).

making more complex in maintaining peace, security and stability over this vast area of water on the other hand.³⁰

1.4.2 Freedom of Navigation and Free Trade

As far as freedom of navigation is concerned, SCS serves as a passageway for the largest global trade row and has drawn extensive international attention in recent years. It has been reported that there are five largest seaports serving across the SCS and about half of the world's Oil transportation follows this significant route. In 2016, more than 30% of global maritime crude oil trade, or about 15 million barrels per day passed through the South China Sea. More than 90% of such transit flow in SCS crossed through Strait of Malacca which is the shortest sea route between suppliers in Africa and the Persian Gulf and markets in Asia. Therefore, SCS become the world's oil transit chokepoints.³¹ Thus, Christopher Joyner observed that the SCS is strategically important as it is the connecting route between Asia and other part of the world in terms of seaborne tread through a major navigational route.³² It has been estimated recently that the number of ships passing through SCS is around 41,000, which is measured as double as the quantity of ships crossed by the Suzie Canal, and almost three times of the Panama Canal.³³

However, coastal states in the region want to establish exclusive jurisdiction over the activities of military warships. Among them China has unrestrictive navigational freedom, which indicates probable clash with extra-territorial presence of the US and small states in the region. The Chinese invade in Mischief Reef attracts the global concern as “it marked the sea-change that is occurring in the geopolitical environment of the SCS”.³⁴ China's operations in the SCS materialize as “provocative” and “offensive” at the sight of small countries in the area. In addition, China Vietnam conflict, installation of variety of facilities in the disputed area has often thrown bilateral relations among the neighboring states into a great danger.

1.4.3 Regional Security

Regional security is another vital aspect of rivalry in terms of sovereignty over natural resources and territorial integrity in the SCS. It has been evident that the there are several key factors

³⁰ Premesha Saha, US-China tensions and its impact on the South China Sea dispute, *Observer Research Foundation (ORF)*, SEP 23 2020, Available at: <https://www.orfonline.org/expert-speak/us-china-tensions-impact-south-china-sea-dispute/> (Accessed October 5, 2023).

³¹ Candace Dunn, Justine Barden, more than 30% of global maritime crude oil trade moves through the South China Sea, August 2018, U.S. Energy Information Administration (eia). *Today in Energy*. Available At: <https://www.eia.gov/todayinenergy/detail.php?id=36952>. (Accessed October 5, 2023).

³² Chris Rahama & Martin Tasmeny, “The Spratly Islands Disputes in the South China Sea: Problems, Policies and Prospects for Diplomatic Accommodation, Investigating Confidence-Building Measures in the Asia-Pacific Region,” 1999, 53–108, (Accessed October 5, 2023).

³³ Ji Guoxing, “Rough Waters in the South China Sea: Navigation Issues and Confidence-Building Measures,” *Asia Pacific Issues* 53 (2001): pp.1-8, Available at: <http://www.eastwestcenter.org/fileadmin/stored/pdfs/api053.pdf>. (Accessed October 5, 2023).

³⁴ Z. Daojiong & M. Valencia Z. Daojiong, “Mischief Reef: Geopolitics and Implications’,” *Journal of Contemporary Asia* 31, no. 1 (2001): 86–103.

causing maritime security dilemma in terms of large amount of transportation, greater international security of ports, protection of resources under absolute national jurisdiction, piracy, terrorism, and upgrading of naval and coastal forces. Littoral and global user states have several conflicting interests in the SCS. According to Chris and Martin, maritime security in the SCS faces a number of challenges, ranging from lower-level nontraditional threats to traditional politico-strategic consideration, including the potential conflict between regional states and major powers.³⁵ In the last decade, coastal states of the region called for a regional code of conduct for ensuring peace, security and stability over offshore geographical features.³⁶ It is inevitable to the big power states like the US and the China, however, on ground of economic superiority, geo-strategic and geo-political dominance, and ensuring effective control over natural resources as well as maintaining safety of world's largest shipping routes, to become rival in terms of military presence in the SCS. Another dangerous prediction which has been developed through past incidents regarding submarine operation in the SCS, particularly around the region raises the detestable reality of safety and territorial integrity.

1.5 Maritime Security and of Territorial Integrity around the SCS

The notion of security problem illustrates a critical circumstance or a frenzied environment in terms of showing naval power in the SCS for dominance over the area will born a potentiality of imbalance war among the contested claimant.³⁷ In addition, question of safety and threat is deliberately arises when neighboring states are boosting their naval power by adding new technology of warfare and entering into an agreement for military cooperation with powerful states like United States of America. Therefore, these types of strategic cooperation obviously contribute a reasonable fear among the small states although these states are trying to express their activities for own defensive purposes.³⁸ Under international system, every state has the right to make competition in term of protecting sovereignty and pursuing national interest. Nevertheless, such competition would be more peaceful without prejudice to the other's interest that led the global and regional existence in an environment with respect, dignity, and harmony. The conflicting area of SCS is twisted with compound, venerable and contending territorial and maritime jurisdictional claims. In the context of South China Sea dispute among the littoral states of the region, uncertainty comes with national security and sovereignty over natural resources as well as regional stability which is under an intimidation by various reasons in the SCS, firstly, the possibility of unexpected warfare between or among the claimant coastal states for territorial

³⁵ Chris Rahama & Martin Tasmeny, "A Strategic Perspective on Security and Naval Issues in the South China Sea," *Ocean Development & International Law* 39, no. 4 (2010): 315–33.

³⁶ Kriangsak Kitticharee, "A Code of Conduct for Human and Regional Security around the South China Sea," *Ocean Development & International Law* 32, no. 2 (2001): 131–47.

³⁷ J. Hertz, 1950, "Idealist internationalism and the security dilemma", *World Politics*, Vol. 2, No. 2, January, pp.157-180, viewed 19 October 2015, Available at: <http://www.jstor.org/stable/2009187> (Accessed October 6, 2023).

³⁸ J. Baylis, Smith, S and Owens, P 2014, *The Globalization of World Politics: An Introduction to International Relations*, Sixth Edition. *Oxford University Press: Oxford*.

sovereignty and maritime rights. For instance, two-time Chinese war with Vietnam in 1974 and 1988. Secondly, growing threat against maintenance of peace is by repeated deploying compulsive measures, e.g., China's threat to U.S. oil companies in 2007 and 2008. Thirdly, the ongoing modernization of the naval force is in the region.

The giant economy and military advancement of China appeared a potential threat for the small coastal countries around SCS. For instance, Chinese occupation of the Mischief Reef was a direct threat to the national security and sovereignty of the Philippines. Persistent modernization and acceleration of military capabilities by deploying latest technology of warfare and revising new strategies for conflicting areas and claimed features in the SCS makes the bordering countries under compulsion to rethink about their security and sovereignty as well as reintroducing strategic military policy with possible cooperation among the regional state powers as well as superpower of the world. To this complex situation safety and security in the SCS, is however, affect the interest of disputants in terms of territorial integrity and sovereignty over the ocean resources in general and the interest of sea-faring states like United States in particular.

Territorial integrity around the South China Sea region also become a subject to intimidation by the arms and military competition of superpowers, reclamation of maritime territory and Island, and small state's engagement with the US in terms of strategic military cooperation. In the current phase, China is deploying more maritime force in the SCS for securing and supplying oil and gas recourses to fulfill their demand. To this end, it is natural that the China claims more and more irrespective of the sovereignty and territory of the other state. Therefore, this attitude will subside and oppress the logical right to exercise sovereign territory in the SCS. Beside the fact, experts have made arguments that US military presence in the SCS is a still a concealed threat to the littoral states, excluding China, because rival relation between China and US is an open fact. To this effect, ASEAN didn't become as mediator of disputes, offered code of conduct which also played nothing. Therefore, it should be realistic and initiate multi-party negotiation for arranging a fruitful agreement to prevent maritime incidents would reduce the likelihood of conflict.³⁹

1.6 State Concerned with Conflict in SCS

Inter-state dispute in the SCS has been developed not only for conflicting claims to the marine resources rather to control over a number of offshore islands in the region and the countries have instigated by oil fever of the late 1960's entered a new perspective in terms of ownership over resources.⁴⁰ The most complicated and overlapping claim makes the SCS world's largest disputed region in terms of sovereignty over Ocean's natural resources in particular and territorial security in general. Almost all the coastal states have laid their claims in whole or in

³⁹ Leszek Buszynski, Chinese Naval Strategy, the United States, ASEAN and the South China Sea, Security Challenges, Vol. 8, No. 2 (Winter 2012), pp. 19-32.

⁴⁰ Stephen w. Rithphen, Marine Resources and the Potential for Conflict in the South China Sea, *The Fhef letcher Forum*, no. 2. (1978):79.

part of the contested islands in the SCS.⁴¹ As Keyuna observed, “its hundreds of small islands mainly consist of uninhabited islets, shoals, reefs, banks, sands, cays and rocks are distributed widely in the region”⁴²

As regards China, it asserted an equivocal and indeterminate historical claim over the entire area of SCS. The most explosive quandary is rotating on the point of contesting territorial claims over the Parcel Islands, which also demanded by Peoples Republic of China (PRC), Taiwan, and Vietnam. On the other hand Spratly Island also declared wholly by PRC, Taiwan, and Vietnam, while Philippines, Brunei, and Malaysia claimed partly in the Spratly Island. The claim of Philippines only limited in the area known as “*Kalayaan*”, and Malaysia, on the other hand, claims a number of geographic features in the southern part of Spratly. Again the China demands the absolute ownership of Pratas Island and Macclesfield Bank while the Philippines lays its territorial claims over the Scarborough Reef, which is believed to be a part of the Macclesfield bank.⁴³ A considerable area of overlapping claims is being contested by Thailand, Vietnam and Cambodia in the Gulf of Thailand. Cambodia claims on *Koh Kut* Island located near the Cambodia’s western frontier are based on a French-Siamese Treaty of 1707, but the Thailand is unwilling to relinquish its counterclaim. Beside this, there are approximately 8,000 square miles of continental shelf in dispute among those states. The Cambodia-Vietnam is contested for sovereignty over *Koh Way* Island located off the southwestern tip of Vietnam. Vietnam offered for a mutual boundary for oil concession, but the Cambodia have refused to negotiate this issue and claiming the *Koh Way* lies entirely within their territorial waters. However, in 2015 Cambodia-Vietnam Joint Border Committee agreed to settle disputed land delineation.⁴⁴

The China-Philippines dispute also been contested for 53 islands of Spratly Island groups. China, Taiwan and Vietnam place claim to most of these islands and persevere their undeniable jurisdiction over all of them. Among the contesting states 12 Islands demanded by Malaysia, the 53 by Philippines, and Brunei claimed only 1 of them and the claimants, except Brunei, all maintain a military airstrip or guard post on at least part of their occupied areas. Furthermore, the EEZ of Indonesia will possibly go beyond those of Malaysia, the Philippines, Vietnam and even Papua New Guinea. These EEZs may, in turn, overlap those of Thailand, Singapore, Brunei, and China.⁴⁵ All the claims of the claimant states are originated from the combination of historic,

⁴¹ Lyn Noquil Semeña, *South China Sea Disputes: How Different Domestic Dynamics Impact on Contemporary Philippine Political and Economic Relations with China*, Master Thesis 2015, *Norwegian University of Life Sciences*, Faculty of Social Sciences, Department of International Environment and Development Studies, Noragric, p.1

⁴² Z. Keyuan, ‘Scarborough Reef: a new flashpoint in sino-philippine relations?’, International Boundaries Research Unit, *International Boundary and Security Bulletin*, Summer 1999, pp. 71-81, Available at: [file:///C:/Users/computer/Downloads/bsb7-2_keyuan%20\(1\).pdf](file:///C:/Users/computer/Downloads/bsb7-2_keyuan%20(1).pdf) (Accessed October 5, 2023).

⁴³ Op. cit.p.19

⁴⁴ Radio Free Asia, Cambodia, and Vietnam agree to complete border demarcation 'very soon', 9 July 2015, available at: <https://www.refworld.org/docid/55b1f839119.html> (accessed 14 October 2023).

⁴⁵ Coquia, Jorge R. "Maritime Boundary Problems in the South China Sea." *U. Brit. Colum. L. Rev.* 24 (1990): 117. (Accessed 14 October 2023).

legal and physical characteristics and everyone is trying to prove their legitimacy of right by something in these Islands. The People's Republic of China claims almost the entire area by the theory of nine-dotted line. All the states concerned are asserting their rights to extract resources from the sea prescribed by UNCLOS, 1982. The Convention suggests that every coastal state should exercise exclusive jurisdiction over 200 nautical miles from the baseline.

1.7 Military Activities in the SCS

1.7.1 Chinese Military Activities in the SCS

China is rebuilding and updating its military and security strength toward the entire maritime areas of SCS in terms of deploying modern technology of warfare in Chinese Navy, intensifying coastline security and monitoring by coast guard forces. Complex territorial interest in the SCS has become a forefront yet again with the reclamation of land done by china, which is of great concern for the U.S. and its allies. Chinese recuperation of land in the SCS influenced them to demonstrate their power over the area beyond internationally recognized maritime zones which is presumed from the recent development of Chinese naval forces. In 2016, Beijing declared its interest to establish an Air Defense Identification Zone (ADIZ) in the SCS in response to the presence of U.S. Military in the SCS which is now completed.⁴⁶ The government of China reorganizes its maritime law agencies under one authority known as State Oceanic Commission (SOC) concerned with maritime operations.⁴⁷ The size of Chinese Coast Guard, responsible for patrolling and monitoring the SCS, has also been escalated, as about 30 big vessels for continuous patrol and 20 patrol combatants have been added in the recent years.⁴⁸

The Chinese naval strategy contains three major missions: firstly, to impose such an embargo on Taiwan from proclaiming their sovereignty and to discourage the US from any sort of cooperation and influence in this regard. Secondly, to ensure safety and security of its shipping lines and uninterrupted energy delivery through Malacca Straits. Finally, to deploy and defend a submarine-based second strike nuclear capability which would be able to target the mainland of United States.⁴⁹ The office of Naval Intelligence of US has released a report on assessment of

⁴⁶ Minnie Chan, Beijing ready to impose air defence identification zone in South China Sea pending US moves, 1 January 2016, *South China Morning Post*, Available at: <https://www.scmp.com/news/china/article/1960954/beijing-ready-impose-air-defence-identification-zone-south-china-sea>. (Accessed 14 October 2023).

⁴⁷ Hong, Nong, "China's Maritime Law Enforcement Reform and Its Implication on the Regional Maritime Disputes." Asia Maritime Transparency Initiative, *Center for Strategic and International Studies*, April 1, 2015. <http://amti.csis.org/chinas-maritime-law-enforcement-reform-and-its-implication-on-the-regional-maritime-disputes/>; (Accessed 14 October 2023).

⁴⁸ Andrew Erickson, "How U.S. Navy Intel Sees China's Maritime Forces" War on the Rocks, April 10, 2015. Available at: <http://warontherocks.com/2015/04/how-u-s-navy-intel-sees-chinas-maritime-forces/> (Accessed 14 October 2023).

⁴⁹ Buszynski, Leszek. "Chinese Naval Strategy, the United States, ASEAN and the South China Sea." *Security Challenges* 8, no. 2 (2012): 19–32. Available at: <http://www.jstor.org/stable/26468950>. (Accessed 14 October 2023).

Chinese Navy in six years, where it is shown that the Navy of China will be capable of global power projection.⁵⁰ A recent report has expressed that “creation of YJ-18 supersonic anti-ship cruise missiles to be deployed on a new class of destroyers and submarines as well as the creation of DF-21D long range anti-ship ballistic missiles that allow the People’s Liberation Army (PLA) to reach further into the Philippine and South China Sea”.⁵¹ Report further claimed that China’s Spratly Island recuperation effort seem to be more encouraged to establish extended conveniences that could finally help both maritime law enforcement agencies and naval operation. The PLA now possesses the largest number of vessels in Asia, with more than 300 surface ships, submarines, amphibious ships, and patrol craft.⁵²

The China gains the ability to dock warship and military planes which allow to china to improve” “cabbage strategy” which is a military tactic of encircling the specific area with leaves for fully neutralized.⁵³ The Chinese coast guard encouraged of coast guard arms race among the claiming state in the region at present, China has more coast guard ships compared with Japan, Vietnam, Indonesia, Malaysia, and the Philippines.⁵⁴ The violent conflict between Chain and Vietnam in 1988, sovereignty claims on disputed island through occupation ranges from installing variety of facilities to the stationing of military troops, landing docks, lighthouses, helicopter landing pads and airstrips capable of handling large military transport planes, and even the provision of clean water supplies and telecommunications networks.⁵⁵ “The Informer” reported in 14 February 2018 that China is building military outposts on a group of disputed islands in the SCS which shows a gradual military enhancement of China in the area.⁵⁶

⁵⁰ "The PLA Navy, New Capabilities and Missions for the 21st Century." *Office of Naval Intelligence*. Available at: http://www.oni.navy.mil/Intelligence_Community/china_media/2015_PLA_NAVY_PUB_Print_pdf (Accessed 14 October 2023).

⁵¹ Jerrey Page, “The Rapid Expansion of China’s Navy in Five Charts”, China Real Time Report, *The Wall Street Journal*, April 10, 2015. Available at: <http://blogs.wsj.com/chinarealtime/2015/04/10/five-charts-that-show-the-rapid-expansion-of-chinas-navy/> (Accessed October 14, 2023).

⁵² The Asia-Pacific Maritime Security Strategy: Achieving U.S. National Security Objectives in a Changing Environment, Available at: https://www.defense.gov/Portals/1/Documents/pubs/NDAA%20A-P_Maritime_Security_Strategy-08142015-1300-FINALFORMAT.PDF, (Accessed October 14, 2023).

⁵³ Howard W. French, “China’s Dangerous Game”, *The Atlantic*, October 13, 2014. Available at: <http://www.theatlantic.com/magazine/archive/2014/11/chinas-dangerous-game/380789/> (Accessed 14 October 2023).

⁵⁴ Andrew Erickson, “How U.S. Navy Intel Sees China’s Maritime Forces” War on the Rocks. April 10, 2015. Available at: <http://warontherocks.com/2015/04/how-u-s-navy-intel-sees-chinas-maritime-forces/> (Accessed October 14, 2023).

⁵⁵ C. Schofield, and I. Storey, The South China Sea dispute: increasing stakes and rising tensions, The Jamestown Foundation, 2009, pp. 1-42, op.cit.

⁵⁶ The Informer, New Photos Suggest Scale of Development on South China Sea’s Contested Islands, The Informer, February 14, 2018, available at: <http://theinformer.life/new-photos-suggest-scale-of-development-on-south-china-seas-contested-islands/>. (Accessed October 13, 2023).

1.7.2 Military Activities of USA in the SCS

In the Asia-Pacific Region (APR), United State has long-term economic and security interest. To that end, it continues its military presence in the (APR) for last 70 years which played a vital role in maintaining regional peace, stability, and security. The durable interest is in maintaining freedom of navigation and global war on terrorism, however, the mission of the U.S. in the South China Sea and with the objective of achieving its military mission thereof. It has sent its heavy warship, including Aircraft carriers from its Pacific fleet and expressed its firm assurance to ensure safety and security of global shipping rights in the SCS.⁵⁷ The legal basis of U.S. presence in the SCS, as Washington argued, is the principle of “freedom of High Sea” provided by UNCLOS, 1982. China, however, strongly disagrees with this scope of the UNCLOS and engaged a mid-air collision with a U.S. Navy surveillance aircraft (EP-3) in 2001 and harassed USNS Impeccable in 2009. In couple of years ago Chinese naval force captured dangerously an US patrol aircraft which deteriorated the diplomatic relationship between US and China. The United States in correspond to latest Chinese “anti access denial” capabilities, including an anti-ballistic missile, U.S. military adopted a latest operational doctrine known as “Air Sea Battle” with the objective of ensuring the U.S. right to use of sea area in war time which simply created arms race and instability in the SCS.⁵⁸ Beside the above reality, it has made a defense agreement with the Philippines, which is applicable in the case when the armed forces, public vessels or aircraft of Philippines attacked by the China in the Pacific.

1.8 Regional Cooperative and Legal Instruments for Safety and Security

As regards the regional instrument for maintaining peace and security in the Asia Pacific Region including SCS, it is high need of the hour to have an effective multinational treaty as well as a platform for promoting and resolving regional maritime dispute under international law and regional context. There are two regional bodies are functioning in this region such as Association of Southeast Asian Nations (ASEAN) for south-East Asian countries and South Asian Association for Regional Cooperation (SAARC) for eight South Asian countries. However, after a long discussion and negotiation with China, ASEAN was able to declare a non-binding instrument known as “Declaration on Conduct of Parties in the South China Sea” shortly familiar with Code of Conduct (COC) which was only acknowledged formally in 2002.⁵⁹ Subsequently, ASEAN was able provide a draft on (COC) in 2018 known as “Single Draft South China Sea Code of Conduct Negotiating Text (SDNT)” which is yet to finalize, although both ASEAN and China agreed in 2022, but it seems doubtful. It is presumed from the assertive activities of China

⁵⁷ David Rosenberg, Christopher Chung, Maritime Security in the South China Sea: Coordinating Coastal and User State Priorities, *Ocean Development & International Law*, 39:51-68, 2008.

⁵⁸ Taylor Farvel, South China Sea: What issues and whose core interest? 6th Berlin Conference on Asian Security (BCAS), the U.S. and China in Regional Security implications for Asia and Europe, June 18-19, 2012, available at: [www. Swp-berlin.org](http://www.Swp-berlin.org), (Accessed October 14, 2023).

⁵⁹ Jagannath P. Panda, Code of Conduct needed for South China Sea, September 2020, *The Japan News*, Available at: <https://isdpr.eu/publication/code-of-conduct-needed-for-south-china-sea/> (Accessed October 14, 2023).

that it increases and modernizes its military technology in the area for standing more strong bargaining party to the (COC) negotiation and trying to offset the other military powers in the SCS. In addition, China is denying the binding of the (COC) provisions. It is to be noted that there are two types of claimants of interest in the SCS such as claimant who are the member States of ASEAN and the China and non-claimant States such as Australia, India, Japan, the United States, South Korea, Russia, and European Union member states. In order to advance (COC) negotiation for keeping peace and security and settling dispute in the SCS, it is inevitable to indentify the ways of influence on China by the ASEAN, non-claimant States and Quadrilateral Security Dialogue (QSD) by adopting adequate and effective promotional and diplomatic arrangements. Furthermore, recently ASEAN moved forward and adopted a policy of the “ASEAN Outlook on the Indo-Pacific (AOIP)” in 2019 at its 34th Summit. This outlook boosting the relationship among the ten member States that would play a vital role to move ahead the (COC) negotiation, although China rejects this indo-Pacific strategy by looking it as restrain it own policy toward SCS.

SARRC is another South-Asian cooperative body comprising eight member states founded in 1985 for economic development and regional integration. Besides eight member States there are other observer States too such as Australia, China, Japan, Myanmar, South Korea, Iran, Maurititous, United States, and European Union. Furthermore, Canada, United Kingdom, Ireland, Russia, Turkey, South Africa, Jordan, Yemen, and Indonesia applied for observer status as well as express their interest to the organization. Thus, it shows that countries around the Asia-Pacific and beyond are the members, observers, and potential members of this association. Therefore, there would be a possibility to cooperate and maintain peace and security jointly with ASEAN in the Asia-Pacific region including Indo-Arabian Sea. It is highly necessary to initiate joint cooperation between ASEAN and SARRC for building regional platform under a multilateral treaty for ensuring peace and security in the one hand and regional body of negotiation and arbitration for peaceful maritime security dilemma as well as dispute related with boundary delimitation in the SCS, especially, the disputed islands in the area. The non-claimant States have their own economic and geo-political interests around the Pacific Ocean. Thus, these States have also an obligation under international law to maintain peace and security over the region including SCS by adopting more convincing approach to continue negotiation with the concerned claimants and finding the scope of application of the UNCLOS 1982 for settling maritime disputes through collaborative regional body.

1.9 Concluding Remarks

South China Sea is a potentially rich with variety of natural resources including oil and gas and exploitation of this natural wealth are being disputed by the state in concerned. All the littoral states, except China, have less capability to exploit offshore resources within the territory of their own declared by UNCLOS. As a giant economic superpower, China has also a prime responsibility to respect the interest of other state in the SCS as well as to the international law. To keep its persistent development, it requires exploiting more and more wealth from the SCS. It

does not mean, however, that China claims everything through deploying military force, disregarding international law, and threatening the small states. Certain action that had been taken by China created a dubious environment in respect of foreign relation among the states. Nevertheless, China shall be responsible for reducing the fear in terms of national security and territorial integrity of their own. The United States, on the other hand, has also a moral obligation to initiate roadmap prudently for sustainable resolution of such critical difficulty around the SCS through bilateral and multilateral exchange of views, negotiation and other peaceful means to come up the conclusion. More deep concern and firm declaration, as the US has done in the name of “policy of rebalance”, is not enough to come up with a peaceful settlement of this complex maritime dispute. In further, China should comply with the remarkable suggestion of *Hu Sheng* that the Chinese hegemony in the region necessitates face to face dialogue and co-operation with concern parties based on principle of equality and mutual benefit, therefore, China itself must take initiative to solve the problem in a peaceful manner. Eventually, it will be more reasonable stand for every littoral state to put aside the nationalism, and political will in respect of sovereignty and territorial claims with a view to pave the way for achieving viable long-term peaceful end of ongoing dispute in the South China Sea.