



RESOLVING THE SOUTH CHINA SEA DISPUTE

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The South China Sea dispute is a complex security dilemma for the region. It tests the problem-solving capacity of the rules-based international system. The international society should focus on improving problem-solving mechanisms of the system than concentrating on the enforcement of the current framework. The improvements will include updating the Law of the Sea to match the modern needs and promoting territory co-ownership to resolve these kinds of territorial disputes. Greater Australian involvement in this dispute will demonstrate global leadership to South East Asian neighbours. Australia must act in a culturally sensitive manner and strategise more independently from other Western countries. Australia will need to be equally capable as China in the up contest for legitimacy and at demonstrating its vision to meet the needs of all non-western states.

INTRODUCTION

Australia should lead a more nuanced solution to the South China Sea (SCS) dispute through: driving changes to the United Nations Convention on the Law of the Sea (UNCLOS) for the guarantee of sea trade; and, introducing the use of [sovereignty condominium](#), to the South China Sea (SCS) dispute. This is to concept of [co-owning of the same piece of territory](#). The enforcement of international rules on the major powers would be through the imposition of strategic costs on non-compliant actors by inflicting damage to their legitimacy in the race for global leadership.

[Australia has a clear interest in the SCS](#) dispute. With over 90 per cent of its energy, 40 per cent of its imports and 60 per cent of its exports passing this through the SCS, a blockade is a serious threat to Australia's national security. As major powers can miscalculate, Australia's short-term interest is in preventing a situation where it has to respond to US requests to confront China militarily. The management of this risk is an opportunity for Australia to be viewed as a problem solver, meeting the needs of international society, under the [guardianship of the rules-based international system](#).

The centre of the world is moving to Asia and China will potentially be the [centre of the global economy](#). Australia will need to reorient itself to undertake a range of new interests in light of

China's potential new global role. We do not need to give up on our security alliances or the foundation of our system. But instead, we must boldly strategise like a non-Western and state.

WHY CHINA WANTS THE SOUTH CHINA SEA SO BADLY?

The most immediate, realistic and internally justifiable zone for China to expand influence in the maritime environment would be the SCS. China has sufficient [historical connections](#) to this area and has historically projected significant cultural and economic influence.

This assertion by China is driven primarily by history. To the Chinese, western colonisations and the war with Japan represented the first time China faced real threats from the sea. As a result, a strong posture in China's maritime environment to protect its major coastal cities [from foreign invasion](#) is strategically necessary for the Chinese.

To the Chinese public, when western countries, especially the US as the current superpower, sails a naval vessel into China's self-proclaimed territorial waters, waving the banner of Freedom of Navigation (FoN), foreign invasion is often their impression.

WHAT IS CHINA'S LONG-TERM AIM?

China's projection of power into the SCS is one of many challenges to test the strategic capacities of the West. Dr Malcolm Davis has stated that China's [ultimate aim](#) is to "challenge and revise

the established rules-based international order, replacing a US-led model with a Chinese-led one”.

As great powers require [great legitimacy](#) to sustain, China is [securing the legitimacy](#) that is required to be a great reformist, for both a domestic and an international audience.

Contrary to conventional Western wisdom, China has devised a legitimization strategy, one that was designed to acquire the support of international society and to undermine the legitimacy of its competitors, particularly the US, through damaging their [international credibility](#).

Professor Yongjin Zhang [has observed](#) that “China’s engagement with the politics of legitimization is central to China’s peaceful rise”. Drawing from their history of over [30 dynastic](#) changes, China understands that its global leadership lies in the hands of the international audience, as legitimacy has to be [socially conferred](#)”.

WHAT ARE THE NEEDS OF THE NON-WESTERN COUNTRIES?

A study of the [map of all the SCS claims](#), even without China’s claim, Vietnam, Philippines and Malaysia together can still threaten FoN and fully deny the passage through the SCS. A guarantee for “[innocent passage](#)” for all non-military vessels in any seawater is becoming increasingly necessary for non-Western states. As FoN only applies to international waters, countries that have a canal running through them, like Egypt or

Panama, are legitimately able to deny passage of any vessel through their territorial waters. The global order requires a true solution that not only assures sea trade through the SCS, but for all major shipping routes around the world.

The West appears to be ignoring China’s desire for the creation of a buffer zone in the SCS. If the same rules were applied globally, Western powers could reasonably be expected to accept Chinese or Russian destroyers navigating legitimately at the edge of their Exclusive Economic Zone (EEZ). UNCLOS’s measurements of a 22km distance for territorial waters and 200km distance for the EEZ are no longer realistic measurements for the modern world. A 22km zone worked adequately as a security measure in the 19th century as it was beyond the reach of cannons. Today, even a short-range [cruise missile](#) can easily reach 300km. A 200km economic zone is also an over-simplistic resource management concept as [fish stocks migrate across zones](#) and technology has allowed effective fishing in rough high seas. The current EEZ will not help future distribution of resources or responsibilities between states. The environmental management in the 21st Century requires an interstate and global solution.

To address the problem of safe minimum distance, the UNCLOS “Innocent passage” will require modifications, particularly to provide a distinction between military vessels and other

types of vessels. Based on modern military capacities, we should consider implementing a safe zone of 1000km from the coastal countries that naval vessels are not to enter without collective permission granted beforehand from the affected nations.

States often fight to seize territories for monopoly control of resources. Thus, sovereignty itself is an outdated concept, and it remains a source of conflict. The historical borders between states represent the beginning of the period of conflict, not the end. The current debate about the ownership of the SCS continues to apply the same tired ideas created by this concept in the first place.

WHAT SHOULD BE AUSTRALIA'S INTERESTS?

Australia needs to be the defender and enforcer of the rule-based international system but also an advocate for process improvement. Australia's unique historic and geographical position is a leadership opportunity and will further develop regional relationships.

Such a stance will almost certainly speak to the hearts of the peoples of the Pacific and link to their cultural perspective. In fact, the [Oceania cultural view](#) matches China's rhetoric of peace and cooperation.

Australia should express its security concerns regarding energy and trade to lead the region.

Being able to connect Australia's proposal to the cultures and history of the Pacific island countries would help building consensus for assuring trade flows through the SCS.

Australia, as a country that is lesser in industrial capacities, has great potential to master legitimacy contests. Being less ideological and shouldering less of a Western cultural burden will help Australia relate in the region and contribute to Australia achieving its strategic goals. Australia should focus on improving the UNCLOS to make it fit modern needs, motivating all claimants to behave as responsible members of RBIS.

As the closest Western state to Asia, Australia has no reason to continue to follow every action of major Western powers. Australia needs to forge a new strategic path that aligns more closely to the principle of liberty. If Australia cannot overcome the fear of being unique and strategically independent, it will never grow its inherent capacity for international leadership. Australia must shake off the stigma of [exceptionalism](#) that comes from being a part of the West. Australia needs international audiences to understand that it has changed. Australia must show that it is now an Asian country ready for the Asian era. To lead the West in Asia, Australia will need to be independent of the West first.

POLICY RECOMMENDATIONS

1. Building a Corridor of the Commons

Australia should propose to all the claimants a sovereignty condominium solution for the SCS reminding them of the wisdom of Deng Xiaoping – "[Set aside dispute and pursue joint development](#)". China is pursuing joint development as evidenced by its planned resource cooperation with the Philippines. To ensure Australia gets the optimal outcome, it needs to use the media to its advantage, by publicly stating its support for Deng's idea and recommending a condominium solution.

To test China's capacity for legitimate leadership of the region, and to see if it is truly seeking joint development, other claimants should ask China publicly to use its existing facilities on their new artificial islands in the Spratly Islands for logistic support. This approach would help the West mould China into the kind of actor the region prefers. Should China reject any of the above and act unilaterally, it will face a strategic cost to its credibility as a legitimate actor for peace and cooperation. This approach would make it costly should China try to use blunt power assertion. China would find it challenging to manage public opinion internationally and domestically. Australia should encourage the flow of trade through the region and introduce condominium as the pathway for resolving other territorial disputes.

2. Credibility Warfare

Future international enforcement of non-compliant major powers should focus on imposing strategic costs collectively and damaging its legitimacy for unilateral actions.

Legitimacy contests are all about a leadership competition where the winner is the one whose logic could more efficiently meet the needs of more actors. Whoever can convince a bigger section of the international audience first with a more comprehensive rationale, will obtain greater influence.

Modern technologies better enable the domestic and international audience to gain greater visibility to the behaviours of the countries. Great powers in particular find that their [domestic and international legitimacy](#) are more interlinked. [As international politics](#) are fundamentally social rather than strictly material, without social recognition from both the domestics and international space, China would remain a "great power without authority. Any damage to a great power's international credibility will impact its leadership credibility domestically.

Competing with China in this domain is to the benefit of Australia and the world. While China is working to make the rules more opaque, Australia should consider making constructive improvements to the RBIS as the better alternative to the West and China's path.

3. Studying the Chinese Strategic Mindset

There is an [urgent need](#) to harness people with skills in Chinese language and culture to provide the required insights for supporting the future strategic directions of Australia in an age where Asia will be the [centre of gravity](#) of the world.

Australia will interact with China more frequently and intensely in the future taking different positions on a range of issues. Not studying Chinese civilisation carefully [will impact our ability to work with China collaboratively and blunt our advantages](#).

The Chinese civilisation carries a wealth of knowledge and experience in many areas, including historical experience with legitimacy contests, a fundamental topic of the [Seven Strategic Classics](#), which includes the Art of War and [the Six Secret Teachings](#). Strategy, statecraft and diplomacy are key areas of interest that have often been overlooked or disregarded by many analysts due to their lack of Chinese knowledge and skills. As long as China has more people with the knowledge and language skills of its competitors, it holds the upper hand in global leadership competitions.