



Will the Contradictions between the Xi Jinping Administration and Pax Americana Be Resolved? —The Decision of the Permanent Court of Arbitration on the South China Sea and China’s Response

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The Permanent Court of Arbitration issued a decision for a case that had been brought by the Republic of Philippines against the People’s Republic of China concerning issues regarding the islands in the South China Sea on July 12, 2016. In the decision, the tribunal basically denied the nine-dash line, on which the People’s Republic of China has based its claim that almost all the islands in the South China Sea are its territories. In addition, in the decision the tribunal judged Taiping Island, whose ground area remains above sea level at high tide and where the Coast Guard Administration of the Republic of China (equivalent to the Japan Coast Guard) has full-time stationed staff and a hospital, to be a rock.

The Permanent Court of Arbitration did not attempt to draw a conclusion regarding the territorial issues. The tribunal only made a judgment regarding claims made by the People’s Republic of China (hereinafter referred to as “China”) and the present situation, including the nine-dash line, in accordance with the United Nations Convention on the Law of the Sea. Like many arbitrations based on the law of nations, the decision has no binding power or legal force unless the countries concerned agree to accept it. China immediately criticized the case brought by the Republic of Philippines (hereinafter referred to as “the Philippines”) and stated the country’s intention not to accept any decision regarding the case. As a matter of course, the Permanent Court of Arbitration and the countries concerned are able to demand that China accept this decision, taking into account the fact that China is a contracting party to the United Nations Convention on the Law of the Sea. However, such a demand represents nothing more than hope.

Without a doubt, the latest ruling issued a heavy blow to the image of China as a nation. Many intellectuals in the country must have taken the decision as a strong message from the world order as well. However, the question remains whether or not this decision will be powerful enough to change the country’s external actions.



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The Nine-Dash Line and a Campaign for Recovering Lost Territories

The nine-dash line asserted by China refers to the demarcation line drawn by the Republic of China

(hereinafter referred to as “Taiwan”) in the South China Sea in 1947. The current nine-dash line consists of nine dashes excluding two that China, in 1949, removed from the original total of eleven dashes out of its consideration for the Democratic Republic of Vietnam (hereinafter referred to as “North Vietnam”), another socialist state. The two dashes that were removed faced North Vietnam. China has been claiming that the country has historically formed exclusive rights in areas that fall within this line. This claim once caused a high-ranking official from the Chinese People’s Liberation Army to provoke criticism by stating at the Shangri-La Dialogue that his country had exercised effective control over the islands in the South China Sea since the ancient period of the Han dynasty.

The nine-dash line is based on a campaign for recovering lost territories, which has been a comprehensive base for China in the period since World War II, so to say. That is to say, China has been saying that the country will recover all the territories native to it that were taken over by other countries. However, this campaign is not sufficient to explain the policies adopted by Beijing. China has taken actions in response to changes in power relations and norms. For example, it increased the number of islands under its effective control when the balance of power shifted due to developments such as the Vietnam War and the US military withdrawal from the Philippines, and established the territorial sea law to coincide with the effectuation of the United Nations Convention on the Law of the Sea. At that time, China occupied islands and built military bases there in the course of its power increase from the era of the Hu Jintao administration to the era of the Xi Jinping Administration. From an external perspective, these actions represent alterations of the status quo. From the viewpoint of China, however, they are part of its campaign for recovering lost territories.

The Viewpoint of Fu Ying

Fu Ying, the chairperson of the Foreign Affairs Committee of the National People’s Congress of China, delivered a lecture titled “China and the Future of International Order” at the Royal Institute of International Affairs (RIIA) in Britain on July 6, 2016. We can view the substance of this lecture as the official position adopted by China, taking the recent issues in the South China Sea into consideration.

In this lecture, Fu Ying observed that the decentralization of power is in progress all over the world, and asked whether or not a power struggle would emerge between the United States, a representative of the existing order, and China, a growing power. According to Fu Ying, China admits that it is part of the world order, but the world order the country talks about is the world order formed by the United Nations and its institutions, which includes the principles of the law of nations. Fu Ying added that this world order may have some overlaps with the US.-led world order, but that the two do not agree with each other entirely. In other words, Fu Ying stated that there are contradictions between the world order that China recognizes and Pax Americana. However, citing President Xi Jinping’s remarks, Fu Ying explained that China’s intention was not to overturn the whole thing or establish another organization. Fu Ying maintained that his country has no intention of establishing a world order that differs from Pax Americana.

China positions itself as a “partial” challenger to the world order. Fu Ying said that an action causes an action and a misjudgment triggers a corresponding reaction. Fu Ying pointed out that the United

States and China must clarify their respective intentions and prevent misjudgments from arising in order to move away from the security issues caused by problems in the South China Sea.

Responses Expected from the Xi Jinping Administration

Taking this point of view, the author believes that we can predict policies that the Xi Jinping Administration will adopt in the future to a certain extent. China does not oppose the world order. It does not object to the law of nations, either. However, it must be viewing the situation as contradictions between the United Nations order and the completely different Pax Americana exposed in the South China Sea.

China appears to have no intention of changing its policies in the South China Sea in spite of the dialogues it continues to hold with the United States. There are sufficient opportunities for China to take actions, including the construction of military facilities in the Scarborough Shoal according to its original plan. Furthermore, China is expected to adopt the policy of estranging Japan and the United States from the Philippines and the Socialist Republic of Vietnam (hereinafter referred to as “Vietnam”) in order to strengthen its external propaganda and divide the countries concerned. Domestic issues are more important for the Xi Jinping Administration, however. The rejection of the nine-dash line, at least in the international community, must be a great shock for the Administration. Showing a weak attitude toward territorial issues will also be difficult for politicians in China ahead of a reshuffle of the standing members of the Political Bureau of the Central Committee of the Communist Party of China (CCP), which is scheduled to take place in 2017. Furthermore, the CPP must offer new attractions to Chinese citizens and rebuild its legitimacy in the environment of the declining economy.

Following the foundation of the People’s Republic of China by Mao Zedong and its development under Deng Xiaoping, Xi Jinping is working to build the country as a great new power that is able to realize the recovery of lost territories, which preceding leaders have failed to achieve. That must be the image of the Xi Jinping Administration. In the author’s view, the Xi Jinping Administration is thinking that the provision of the image of this new China will be the basis for the Administration’s legitimacy.

US Intentions

The United States has dealt with China based on strategies such as the policy of imposing costs (controlling the country’s policies by letting it know the huge cost of a forcible action each time Beijing takes such an action) and the Freedom of Navigation Operation. The United States is sending a message to China in this case, too, with its support for the decision issued by the Permanent Court of Arbitration. At the same time, the United States is continuing to undertake bilateral military exchanges with China.

What can the United States do in the current situation where China is refusing to accept the decision handed down by the Permanent Court of Arbitration? As a matter of course, the United States

can continue the Freedom of Navigation Operation. The United States may take the approach of retrospective announcement over advance announcement to avoid excessive tension. However, cases in which China takes action, such as the construction of a new military facility, in locations such as the Scarborough Shoal, will remain the focus. In such cases, the United States, which adopts the expressed position of staying out of territorial issues, will find steps such as a sea blockade and a diversion against the construction hard to take. Actions like these will be even more difficult for the United States as it enters the lame duck phase.

In those cases, Japan has no choice but to continue what it is doing at present, including issuing demands for China to accept the decision, requests for Vietnam and the Philippines to step up their coastal guarding capabilities, strategic port calls by vessels belonging to the Self-Defense Forces of Japan and military exercises in the South China Sea. In other words, measures for blocking China's efforts to construct a new military base are limited, and they are extremely difficult to take.

Choices for Countries in Southeast Asia

Countries in Southeast Asia and an organization called the Association of Southeast Asian Nations (ASEAN) are also in a difficult position. Southeast Asian countries base their judgments on national interests of their own. The Kingdom of Cambodia and the Lao People's Democratic Republic support China for that reason. The Nation of Brunei, which is afraid of the drying up of oil resources, also relies on China for the same reason. Vietnam, a socialist state, has close party-to-party and military-to-military relations with China. They also have economic ties. These countries cannot remain completely in step with the Philippines.

Furthermore, the organization called ASEAN cannot deal sufficiently with these issues concerning territorial sovereignty and security. The validity of ASEAN's mutual nonintervention policy and its principle of unanimous decision known as the ASEAN way has also been called into question. With its economic power in the background, China is moving its policies in the South China Sea forward in a manner that takes advantage of the gap between the country's bilateral ties with Southeast Asian countries and its relationship with ASEAN. In so doing, China is emphasizing its bilateral relations with the ASEAN nations and insisting on the importance of ASEAN.

Countries in Southeast Asia cannot afford an all-out confrontation with China. They cannot show a weak attitude to their citizens and other countries in the same region, either. They are forced to make tough choices.

The Shock of the Ruling that Taiping Island is a Rock

Finally, the author would like to touch on one more significant aspect of the latest decision. The fact is that the ruling steered clear of the worst scenario for China from its point of view. That is to say, the Permanent Court of Arbitration judged an islet under the effective control of Taiwan, known as Taiping Island, to be a rock, causing Taiwan and China to stand in the same position. The Tsai Ing-wen Administration is responding to the decision with carefully chosen words. The author believes

that China is considering the possibility of forming a united front with Taiwan regarding the status of Taiping Island.

There is one more thing to consider in connection with Taiping Island. The islet is a piece of land that remains above water, even at high tide. It has generally been judged to be an island. In the latest decision, however, the Permanent Court of Arbitration judged Taiping Island to be a rock, citing the absence of inhabitants other than people involved in military service and ordinary economic activities there, and recognized no exclusive economic zone (EEZ) around the island. In other words, the Permanent Court of Arbitration judged that the majority of land territories called islands in the South China Sea are rocks, and that only territorial waters may be recognized around those rocks. The presence of EEZs was denied. The author believes that the Permanent Court of Arbitration may have been attempting to calm down a territorial dispute over the Spratly Islands by handing down these judgments.

What will happen if this way of thinking is extended to other sea areas? There are several islands that remain above sea level at high tide where only military personnel or equivalent individuals are active, or such islands are uninhabited with no actual conditions of ordinary life in the sea areas around Japan. A variety of problems concerning the sea will emerge if no EEZ is recognized for any of them.

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