

Sovereignty and Maritime Conflicts in the South China Sea

An analysis of US-China competition

by Jonathan F. Proksch



ABOUT THE AUTHOR

Jonathan Proksch studied geography, with a focus on climate change and geopolitics at the University of Bonn and Sorbonne Université in Paris. His bachelor thesis, entitled „Sovereignty and Maritime Conflicts in the South China Sea. An analysis of US-China competition“, explores the complex dynamics of geographical conflict, critical geopolitics, and the strategic construction of space. From a geographic perspective, his work critically examines the complex relationship between the United States and China in the context of the South China Sea, exploring both nations' actions and action strategies. His research interests and areas of expertise include climate change, geopolitics, and security studies, with a strong focus on the intersection of these fields. He is currently pursuing a dual master's degree in Environmental Policy and International Relations at Sciences Po Paris and the London School of Economics and Political Science.

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ABSTRACT

Strategic competition between the United States and China has manifested itself in economic tensions, diplomatic disputes, and notably, in the contested maritime space of the South China Sea. The spatial conflicts over sovereignty and maritime rights in the region are examined using the theoretical frameworks of action-oriented geographic conflict studies and critical geopolitics. By analyzing official documents and existing literature, the study deconstructs the goals, action strategies, and the strategic constructions of space of the US and China from 2009 to 2022. Notable findings include the use of so-called “salami-slicing” and large-scale land reclamation by China, while the US focuses on strengthening alliances and maintaining a military advantage. The conflicts are significantly shaped by the rules of the socio-political framework and the actors’ strategic constructions of space, exemplified by the PRC’s nine-dash line and the US’s discursive language of “national interest”.

KEY WORDS

South China Sea, United States, China, Critical Geopolitics, US-China competition

INTRODUCTION

In recent decades, economic, diplomatic, and universal value differences between the United States of America (US) and the People's Republic of China (PRC) have led to strategic competition between the two great powers. This competition is reflected both in deteriorating US-China economic relations due to punitive tariffs on either sides, and in diplomatic tensions over a variety of issues, including technology theft, human rights, and international law. In this context, no geographic region is more affected by US-China competition than the South China Sea (SCS). Characterized as "the most contested maritime space in the world" (Morton 2016, 911) the SCS is a major water body in the Western Pacific Ocean that stretches from the southern provinces of China in the north to Brunei and Malaysia in the south. It is bordered by Indochina to the west, the Philippines to the east and Taiwan to the north-east, respectively [Author's note: Even though officially named the Republic of China, for the purpose of clarity, this paper will refer to the government in Taipei as Taiwan. However, this is by no means intended as a positioning of the author of this thesis regarding its contentious political status]. Within its 3.5 million km² of sea the SCS encompasses hundreds of islands, rocks, and low-tide elevations, which can be divided up into four main island groups – the Paracel, Spratly and Pratas Islands, and Macclesfield Bank. In particular the first two – the Paracels and Spratlys – are highly contested areas and claimed by several countries due to their strategic importance (Roy 2016b).

This strategic significance stems from their geographic position amid major sea lines of communication. These crucial trade lanes make the SCS a central hub for the global economy. For China in particular, which accounts for an unmatched one-third share of international trade, the SCS is a vital artery for the global export of its goods (Peele 1997; UNCTAD 2021, 47). Moreover, the SCS's geo-economic importance can be attributed to its richness in tapped and untapped natural resources, i.e., fish as well as oil and gas. Although the proportions of the latter are difficult to determine, the mere perception of the existence of untapped hydrocarbon resources drives the geostrategic disputes in the region. Fishery, too, is an important activity in the SCS, accounting for one fourth of the protein needs of 500 million people, and constituting both a means and an end for conflicts between neighboring states (Roy 2016b, 22; Storey/Lin 2016). In addition, for strategic reasons, the SCS is critical to security and military interests of the PRC as well as the US and its allies. For decades, several separate, but highly intertwined spatial conflicts have been played out in the SCS. These include sovereignty conflicts over specific features, namely in the Spratly

Island chain, and disputes over maritime rights in the SCS.

In view of a growing US-China competition, a rebalance of US policy towards the Indo-Pacific, and China's more assertive posture in its perceived sphere of influence, the possibility of an aggravation of the existing spatial conflicts in the SCS, which could even lead to military conflict, has increased in recent years. Considering its importance for international trade and the actors involved, the consequences would be immense and of global proportions. Against this background, an analysis of the sovereignty and maritime conflicts in the SCS in the current situation is of undisputed importance.

Scientific research on the SCS and its economic, political, and strategic significance already exists, including both issue-specific and interdisciplinary approaches. However, an accumulation of research can be detected in disciplines regarding international relations, economics, law, and Asian studies (Hayton 2014; Roy 2016b; 2021; Storey/Lin 2016; Turcsányi 2016; Feng/He 2018c; Dahm 2020). In contrast, the geographic perspective of the spatial conflicts in the SCS is still underrepresented in the scientific debate. For this reason, the present paper aims at analyzing the conflicts over sovereignty and maritime rights in the SCS, using the theoretical approaches of action-oriented geographic studies and critical geopolitics – two distinctly geographic concepts. Based on those, three major questions can be identified as the key questions of research in the present thesis:

1. Which are the goals and action strategies applied by the actors in the spatial conflicts?
2. How and to what extent are the spatial conflicts influenced by the interaction of the actors as well as the rules and structures of the socio-political institutions in which they are involved?
3. What is the role and significance of spatial structures and strategic construction of space and how do they influence the actions of actors in the spatial conflicts?

These three research questions are explored through a literature review and the analysis of official documents, focusing on the two most important and powerful actors – China and the US. The detailed analysis focuses on the timeframe from 2009 to 2022, but earlier, historically important, milestones in the conflict biography are also taken into consideration.

The present thesis is structured as follows. First, the theoretical framework of action-oriented geographic conflict studies and critical geopolitics is determined, along with its advantages and

limitations. Subsequently, the methodological approach, i.e., the literature review and the analysis of official documents, is described. Following this, the empirical study starts with a reconstruction of the conflict biography, including its historical, legal, and strategic/economic foundations. Based on this, the actor-specific goals, action strategies, and the use of strategic constructions of space are analyzed through theory-based reinterpretation. Finally, the paper concludes with a summary of the findings and an outlook into the future of the spatial conflicts in the SCS.

THEORETICAL APPROACH

The following chapter is dedicated to the theoretical approach of the present thesis. It starts off with a definition of the terms *conflict* and *sovereignty*. Subsequently, the theory of action-oriented geographic conflict studies (AGCS) is outlined, as it constitutes the theoretical framework of this paper. Selected aspects of other theories, such as the rational and public choice theories and the theory of structuration, are also included. Furthermore, critical geopolitics will be used to complement the theoretical approach in deconstructing the discursive character of geopolitical concepts. The chapter concludes with a glimpse at the advantages and limitations of said theoretical approach.

Conflicts are a constant theme in human interaction and can occur on a personal, local, regional, or even international level. The complexity of conflict resolution varies with the conflict's scale. Personal or local conflicts with only a limited number of actors are resolved much faster and easier than national or international conflicts. Here, the framework conditions can be more challenging, as a myriad of different actors and interest groups involved in the conflict have to be consolidated. A general definition of conflict is the "opposition [or] struggle resulting from incompatible [...] needs, drives, wishes or [...] demands" (Merriam-Webster 2022, 1). More specifically, spatial conflicts can be defined as several actors having different spatial interests regarding the same space (Oßenbrügge 1983; Reuber 1998). Furthermore, Bühl (1976) stresses that in a conflict situation the actors must have possibilities for action. As a result, conflicts, especially spatial conflicts, are processes unfolding dynamically on a spatial and temporal scale.

As defined by Oxford Public International Law, sovereignty – from a legal point of view – is the "supreme authority within a territory" (Besson 2011, 1). This includes internal jurisdiction, territorial integrity, and independence as well as equal international standing (UN Charter, Art. 2). However, given the concept's complexity and ambiguity, the meaning of sovereignty is not as clear from a geographical perspective. As not only nation-

states hold sovereign power over territories, authority and rule are often created and contested in micropolitical spaces and processes on a day-to-day basis. Thus, disproving the premise of sovereignty being universal property of nation-states, the geography of sovereign power rather focuses on so-called sovereignty "gray-zones". Here, the geographer John Agnew and the international relations theorist Stephen Krasner characterize sovereignty "as a narrative or fiction to which diverse actors appeal as they pursue their interests in the uneven landscape of international affairs" (Barkan 2015, 51).

ACTION-ORIENTED GEOGRAPHIC CONFLICT STUDIES

The theory of action-oriented geographic conflict studies (AGCS), a concept primarily marked by the German geographer Paul Reuber, aims at analyzing spatial conflicts by putting an emphasis on conflict-related actions. Its core base constitutes constructivism and socio-geographic theories of action, combining different approaches of economic, geographic, and social science. The constructivist premise that there is no "objective" reality, but reality is subjectively constructed, is equally applied to the understanding of space. Accordingly, space and territory are perceived not objectively but through individual and societal filters and consequently constitute a constructed perception of space. This constructivist basis is all the more important for AGCS, as goals and action strategies of conflict actors are heavily based on their subjective perception of the spatial conflict. Therefore, the theory's aim is to deconstruct these goals and action strategies and point out their influence on spatial structures and the strategic construction of space (Reuber 1998; 2012).

Both individualistic and holistic theories of society are partly applicable for analyzing the objectives and actions of conflict actors. While the former focus on individuals in decision-making-processes, holistic theories of society emphasize the role of the social and institutional frameworks. The resulting "micro-macro problem" illustrates the difficulties arising from the attempt to combine the two poles, which has the advantage of creating a more realistic approach. A compromise widely used in social sciences is the so-called *methodological individualism* which is described by Benno Werlen as follows:

"Only individuals can be actors. But there are no actions that are exclusively individual. For no action can be characterized in an empirically appropriate way as exclusively individual, because actions are always also expressions of the respective social-cultural context" (own translation from: Werlen 1995, 65).

This dichotomy also becomes evident when deconstructing the elements influencing the actor's

actions in a conflict. Apart from the individual conflict biography and socio-political institutions, spatial structures and constructions play an equally important role (see Figure 1). The interactions between those three core elements are decisive for an action-oriented conflict analysis.

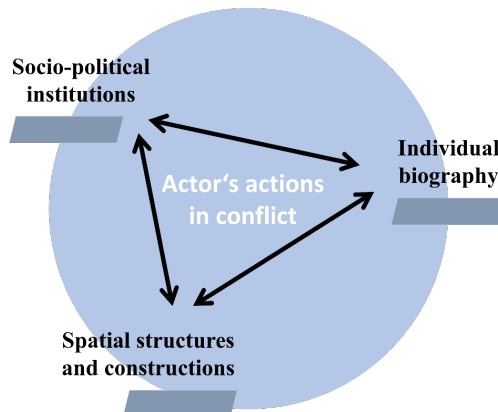


Figure 1: Elements of an action-oriented political geography (adaptation from: Reuber 2020, 736)

From this triad derive the three key research questions of AGCS, mentioned above. The first question looks at the actors' actions from a rather individualistic point of view, analyzing their biography and resulting objectives and capabilities. The second, in turn, focuses on boundaries and possibilities for action set forth by the social and institutional framework. The third and final research interest adds a spatial component, analyzing the role of spatial structures and construction of space in the conflict (Reuber 2012).

In order to effectively interconnect parts of the individualistic and holistic societal theories, Reuber implements several sub-theories into his work. This does also include modern rational and public choice theories and Giddens' theory of structuration, which will be further developed in the following sub-chapters.

RATIONAL CHOICE THEORY

A key element of human life and interaction are choices. Decision-making processes have been studied intensively, accompanied by heated debates on the mentioned dichotomy between individualism and holism. Every day an individual is confronted with innumerable decision-making situations in which they must choose from several alternatives. Even not choosing constitutes a choice in itself, as one chooses the consequences of making no decision. Therefore, the decision-making process is not just limited to one's economic choices, but rather encompasses all of human life including personal and political choices, such as the decision on what to study or whom to vote for (Kirsch 2004). As a result, the underlying reasoning for decision-making is not monetary value, but rather individual

welfare. However, this does "not mean that [...] the individual welfare [of a person] is tied to the neglect of the welfare of others" (Kirsch 2004, 6). It is this premise that forms the basis of James Coleman's modern rational choice theory.

The basic assumption of the rational choice theory can be summarized as "optimization". The actor makes a rational choice to achieve the best outcome. However, the actor is not seen as a *homo oeconomicus*, i.e., having complete information and acting objectively rational to maximize profits. As a result, instead of an *objective rationality* the theory rather describes a *subjective* or *bounded rationality*. Because of incomplete information, social and personal influences, and a constructed individual perception, an objective rationality is impossible. The concept of *bounded rationality*, however, recognizes that the decision-making process of the actor is – at the given level of information and from their point of view – still rational (Coleman/Fararo 1992; Reuber 1998).

This approach to rational choice which adds a stark social and institutional framework and, thus, holistic ideas to methodological individualism, is coined by Lars Udehn as "*structural individualism*" (Udehn 2002, 493; italics added). For the purpose of visualizing the interactions on a micro and macro level, Coleman has drawn the following scheme (see Figure 2).

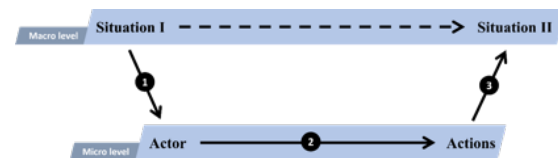


Figure 2: Coleman's micro-macro scheme (adaptation from: Udehn 2002, 494)

Initially, the actor always finds themselves in a situation which is influenced by their social environment. Thus, the starting point of Coleman's theory is on the macro level. From there, the analysis switches to the micro level, depicting the personal situation of the actor (1). On this individual scale, the actor's behavior and actions are analyzed through empirical study (2). Subsequent to this examination, the individual actions are embedded in the larger context of collective actions, thus switching back once more to the macro level (3). All in all, the concept describes the micro-macro interactions that constitute a key element of the rational choice theory (Udehn 2002).

Therefore, the rational choice theory can be regarded as a useful tool to deconstruct the decision-making processes and as a beneficial addition to AGCS. Especially in combination with the public choice theory and the theory of structuration, the rational choice theory allows for an in-depth analysis of the goals and action strategies of conflict actors.

PUBLIC CHOICE AND THE THEORY OF STRUCTURATION

In order to balance out the pursuit of individual benefit, set forth by the rational choice theory, with regard to social and institutional factors, the public choice theory is added to AGCS. Mueller defines public choice as “the economic study of non-market decision making, or simply the application of economics to political science” (Mueller 2003, 1). Public choice recognizes the social and institutional regulation systems, such as societal norms, values, and laws by implementing them as a factor in the decision-making process. The actor – even though striving for the best outcome – does so within the boundaries set forward by society. A short-term loss of benefits for the individual is accepted, because, if the same rules apply to all, a long-term gain of benefits is projected by the individual (Reuber 1998). Particularly in spatial conflicts, such an “institutional rule system” (own translation from: Reuber 1998, 20) turns out to be essential, as it provides restrictions on the actors’ capabilities and strategies of action. However, this effect must not be seen as solely limiting, but rather as “both enabling and constraining” (Giddens 2004, 162), i.e., a framework of rules restricting the actions of one actor could benefit another actor.

On a more general level, Giddens’ theory of structuration develops a concrete framework for public choice approaches. This theory of the constitution of society is relevant to AGCS due to the specific application of time and space to the theoretic model (Reuber 1998). Giddens distinguishes three key elements, namely structure (1), social systems (2), and structuration (3) and defines them as follows:

“Structure [is defined] as recursively organized sets of rules and resources [...]. The social systems in which structure is recursively implicated [...] comprise the situated activities of human agents [...]. Analyzing the structuration of social systems means studying the modes in which such systems, grounded in the knowledgeable activities of situated actors who draw upon rules and resources in the diversity of action contexts, are produced and reproduced in interaction” (Giddens 2004, 25).

The mentioned duality of structures, comprised of rules and resources, is an essential theme of the theory of structuration. According to Giddens, rules are not fixed, even though they may be formalized, and can be classified in four distinct categories. The first set of rules represents habits and routine. While important in everyday social life, rules equivalent to habits are fairly weak, as no sanctions are implied in case of non-obedience. The next two categories are constitution and normative sanctions. The former depicts a constitutive character, such as rules of a game which in many ways constitute the game. The

latter, in turn, govern and specify actions or situations through sanctioning. However, as Giddens demonstrates, those two are closely intertwined. While, for example, rules of football have undoubtedly a constitutive character for the game, an experienced player might see their sanctioning effect as prevailing. The fourth and last category are formula creating a generalizable procedure. An example for this are linguistic rules, which establish methodically applied procedures (Giddens 2004).

The second pillar, resources, is another integral component of power. Giddens defines power as “the capacity to achieve outcomes” (Giddens 2004, 257). Ofßenbrügge (1983) adds that not only individuals, but also collective groups can dispose of power when participating in decision-making processes. The definition of power is conceptualized as follows (see Figure 3).

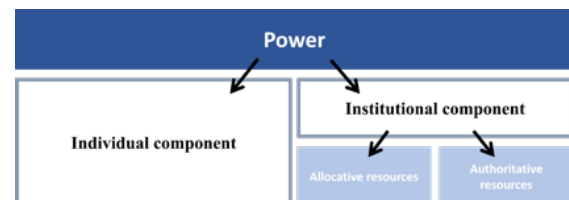


Figure 3: Components of power (adaptation from: Reuber 1998, 26)

Power is generated through two distinct components – the individual and the institutional. The latter, forming the basis of Giddens’ theory of structuration, comprises allocative and authoritative resources. Allocative resources are best described as material resources and goods. This includes raw materials, production, technology, and produced goods, thus representing both common interests as well as capabilities of actors in conflict. Authoritative resources, in turn, are less clear-cut. They constitute transformative power through influencing and coordinating the actions of individuals and actors. In this, the actor’s personal biography and position in the conflict, and their knowledge of formal and informal institutions are essential. In combination, allocative and authoritative resources represent the actor’s possibilities for actions in a spatial conflict (Reuber 1998).

Finally, the individual element of power must also be taken into consideration. Personal characteristics, such as educational upbringing, communication skills, and personal experiences, can clearly influence the actor’s handling of a conflict, although, to what degree, is still subject of debate among scholars. Since these individual characteristics are often closely connected to the social framework, and consequently to the institutional facet of power, it is even debatable, if an individual element of power can be distinguished in the first place (Reuber 2012).

Public choice and the theory of structuration offer a concrete framework for analyzing actions and power within society. In combination with the rational choice theory, they therefore constitute a rich theoretical basis for the analysis of the first two research questions, namely the actors' objectives and action strategies. For the deconstruction of the role of spatial structures as well as strategic constructions of space, however, AGCS are further complemented by Reuber's concept of triple subjectification and the approach of Critical Geopolitics coined by Gearóid Ó Tuathail, which will be further outlined in the following chapters.

TRIPLE SUBJECTIFICATION

The role and importance of space in AGCS is twofold. Seen as a resource, it can be the cause of conflict or an actor's interest, while, at the same time, it can also constitute an instrument of power in the form of strategic constructions of space. As a result, instead of an objectivist, mathematical understanding of space, a subjective one is needed. This constructivist conception of space is actor- and perception-oriented. Therefore, space can be perceived both unconsciously as well as in a conscious and intended manner, the latter depicting the deliberate perceptive distortion of spatial structures to influence other actors.

Reuber (1998) conceptualized this subjective perception and distortion of space and spatial structures in the so-called model of "triple subjectification". He distinguishes three categories, which appear in the course of the conflict: the perception level, the target level, and the action level (see Figure 4). However, due to the dynamic character of conflicts, these three levels are not static, but rather interconnected. They can overlap and change over the course of action.

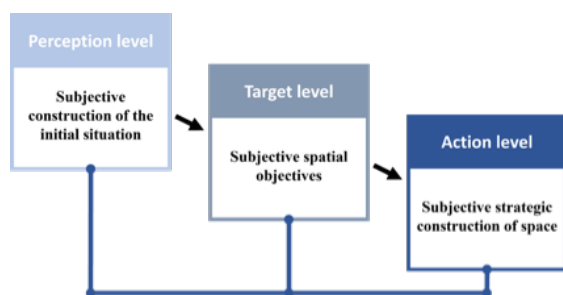


Figure 4: Concept of triple subjectification (adaptation from: Reuber 1998, 32)

The first element of subjectification is located on the perception level. Closely tied to the constructivist theoretical framework of AGCS, it is assumed that the (spatial) perception is highly subjective, selective, and individual. Additionally, symbolic spatial representations contribute to the production of subjective spatial images which result in a subjective construction of space in the initial

situation (Reuber 1998). This principle of subjective perception has already been described in ancient times by the Greek philosopher Plato (Plato/Reeve 2004). As is illustrated by his well-known parable, the *Allegory of the Cave*, each individual constructs their subjective mental representation of reality. This depiction is influenced by both, the individual biographic background of the actor and the predominant system of social norms and rules. Moreover, Reuber claims that "these subjective constructions take place unconsciously and are continuously creating everchanging [...] symbolic representations" (own translation from: Reuber 1998, 33).

The second process of subjectification takes place on the target level which makes it particularly interesting for AGCS. Based on their spatial perception, every actor develops specific objectives and interests. In the process, the different spatial interests are weighted to create a maximum conception of targets. This depicts the actor's idea of what constitutes the outcome best serving their interests, building upon the rational choice theory's core element of optimization. Based on these key objectives, the actor deducts possible action strategies for the conflict. However, as with the subjective constructions of space, these objectives are not fixed and can change dynamically over the course of the conflict (Reuber 2012).

Finally, the third and last subjectification of given (spatial) structures described by Reuber is situated on the action level. Contrary to the unconscious character of the first subjectification, this one is intended and used consciously. Based on the developed objectives, strategic spatial images or constructions are formed to strengthen the actor's underlying argumentation. These unilateral and subjective interpretations and depictions of spatial structures serve to enforce the spatial objectives set forward on the target level. Thus, they can have a major influence on the course and end of the conflict (Reuber 1998).

Strategic constructions of space require data related to the spatial conflict which must be collected first and can then be analyzed and used further. In the next step of the process, the data is distorted and adapted to support and match with the actor's line of argumentation concerning their spatial goals. Reuber distinguishes five instruments of distortion commonly used in spatial conflicts. Data for analysis must first be selected (1) and classified (2) which both prove fertile for strategic adjustments. Particularly the delimitation of categories proves to be an easy and effective tool for changing results in accordance with the actor's objectives. Beyond this, interpretation (3), prognosis (4) and documentation (5) are also strategically applied. When adapted to the subjective targets of the actors, these three

methods will help to distort data to the benefit of the author's ideas and interests.

In addition to active strategic construction, actors also use other methods to strengthen the assertiveness and validity of their own strategic constructions and, simultaneously, deconstruct the ones of their adversaries. To strengthen their own position, they attempt to justify their spatial interpretations through laws, concepts or theories of high reputation, and neutral organizations. Dismantling their adversaries' strategic constructions of space, in turn, they try to accomplish by factual counter-argumentation as well as exposing and debunking the ideas and suggestions of their opponents. Taken together, the components of strategic spatial construction – the collection of data, their distortion and adjustment, the strengthening of one's own constructions and the dismantling of the ones of their adversaries – lead to an argumentative confrontation between the actors in the course of the conflict (Reuber 2012).

Given the interconnectedness between the three categories and their everchanging character, Reuber's concept of triple subjectification should be primarily recognized for its didactic value. It depicts and elaborates on AGCS's core question, not asking what space *is*, but rather how space *is constructed* by different conflict actors (Reuber 1998). This is also the point where AGCS can be linked up with and complemented by the approach of critical geopolitics.

CRITICAL GEOPOLITICS

Critical geopolitics coined, inter alia, by John Agnew, Simon Dalby, Klaus-John Dodds and Gearóid Ó Tuathail emerged in the late 1980s against the background of the Cold War and cutting political and theoretical changes (Dodds/Sidaway 1994; Reuber 2012). The approach – like AGCS – is set within the theoretical framework of constructivism. But it puts a special emphasis on the importance of discourse and, thus, particularly draws upon Foucault's postulate of discourse as power/knowledge. This explicitly ties together the concepts of power and knowledge with geography, as Foucault argues that the former operate in a geopolitical manner (Dodds/Sidaway 1994; Ó Tuathail 1996; Agnew 2013).

Dodds and Sidaway stress that geopolitical discourse is “the result of perpetual ‘geo-graphing’, [meaning] the production and dissemination of strategic texts and maps” (1994, 518). Therefore, geopolitics

“should be critically re-conceptualized as a discursive practice by which intellectuals of statecraft ‘spatialize’ international politics in such a way as to represent a ‘world’ characterized by particular types of places, peoples and dramas. In our

understanding, the study of geopolitics is the study of the spatialization of international politics by core powers and hegemonic states” (Ó Tuathail/Agnew 1992, 192).

This “study of geopolitics” was subsequently further conceptualized, resulting in Ó Tuathail's 1996 *Critical Geopolitics. The Politics of Writing Global Space* which marked a cornerstone in the field of critical geopolitics. Four underlying theses were outlined in this work, intending to re-orientate (classical) geopolitics towards the postmodern approach of critical geopolitics. First, contrary to common believe, geopolitics are widely accessible, and people engage with it on a regular basis. Secondly, formal and practical geopolitics are distinguished with the latter constituting most of the geopolitical production. Finally, the third and fourth theses refer to the importance of the general production of geographical knowledge in society and the study of hegemony (Ó Tuathail 1996).

Critical geopolitics are, thus, deconstructing the geopolitical representations set forth by “intellectuals of statecrafts” (Ó Tuathail 1996, 60) which aim to validate violence and warfare influencing actors as well as the broad public. These representations differentiate and delimit the own from the alien and implement these distinctions to the core geopolitical principles (Reuber 2012). Apart from the previously mentioned differentiation between formal and practical geopolitics, critical geopolitics also identify the discourse of popular geopolitics. While formal geopolitics depict the “formalized” spatializing practices of intellectuals in think tanks and universities as well as e.g. political doctrines, practical geopolitics, in turn, refer to practitioners of geopolitics. This includes political speeches and diplomatic and legal practices. Although maybe not as clear-cut, popular geopolitics, too, represent an essential part of geopolitical discourse. From mass media to books and movies, the public can be influenced by and likewise influence geopolitical representations (Ó Tuathail 2002; Dalby 2010).

In the context of this thesis, critical geopolitics can therefore be used to deconstruct the spatial conflicts largely by discourse, whereas AGCS does so mainly in an actor- and action-oriented way. Although each constitute a separate approach in the field of political geography, a combination of the two – AGCS and critical geopolitics – proves feasible not the least due to their numerous overlaps (Reuber 2000). This applies in particular to Reuber's “third subjectification”, which results in the deconstruction of strategic constructions of space and is best achieved through analysis of discourse as well as action and action strategies.

THEORETICAL ADVANTAGES AND LIMITATIONS

After outlining the different theories, constituting the theoretical approach of this thesis, the advantages and limitations of the presented approach need to be looked upon. The key problem of AGCS lies within the premise that actions as well as space are perceived subjectively by the actor. Empirical studies would, thus, require the ability to read the actor's mind. Yet, when acting unconsciously, even the actor themselves cannot formulate their line of thought. Moreover, the analysis of the actor's goals and reasoning remains difficult even when published, as this could already include strategic calculations. As a result, the subjective perception of the actor's goals and action strategies are difficult, if not impossible, to study on empirical grounds. Therefore, AGCS should rather be seen as providing "a set of categories and processes [...] for subjective reconstruction" (Reuber 2012, 133), than an objective interpretation. In turn, the theoretical framework becomes all the more significant, as it provides a normative guideline and solid blueprint for the reconstruction and reinterpretation (Reuber 2012).

To this adds that the theories used within AGCS in themselves are subject to criticism. The modern approach to rational choice even though theoretically more feasible than the traditional understanding, still receives both content-related and epistemological-methodological critique. The former is twofold – criticizing on the one hand the underrepresentation of emotional influences and, on the other, the stark focus on the individual. However, according to rational choice scholars, a distinction between emotional and rational is not purposeful as rational choice's interest is more concerned with the objectives and action strategies of conflict actors. Responding to the individual character of rational choice, its interconnectedness with public choice and other theories within AGCS is pointed out. The epistemological criticism, in turn, focuses – in line with the general critique of AGCS – on the subjective character of goals and actions and consequently questioning the usefulness of conducting empirical studies (Reuber 1998; Mueller 2003).

Building upon modern rational choice theory, parts of its criticism can equally be transferred to public choice. In addition, public choice's underlying principle of social institutions and welfare can be criticized with regard to what constitutes welfare. Contemporarily, the welfare of a nation-state is usually tied to economic and monetary values such as the gross domestic product (GDP), excluding many social, environmental and health factors. However, this seems to be changing as happiness and environmental concerns become more and more important (Kirsch 2004).

Giddens' theory of structuration, in particular its concept of power, is subject to criticism as well. Tying power to "sense-constituting [...] aspects of action" (own translation from: Giddens/Joas 1997, 23) helps to include reason, but at the same time neglects the connection between power and justification. As a result, Giddens denies the possibility of an absence of domination, but fails to adequately justify such a claim (Giddens/Joas 1997). Yet, given the otherwise substantive state of development of the theory of structuration and its usefulness as a structural framework for rational and public choice theories, Giddens' theory still serves as a beneficial addition to AGCS.

Finally, the approach of critical geopolitics must be scrutinized for possible limitations as well as theoretical advantages. Critique of critical geopolitics overwhelmingly focuses on the conceptual heterogeneity and its consequences. In particular, it is criticized that it combines both "modern and postmodern theoretical approaches" (Müller/Reuber 2008, 462). The former is used for the analysis of the actors, the latter for the deconstruction of spatial representations. As a result, the theoretical bases and basic assumptions are only adopted superficially in order not to contradict one another. This, however, is at the expense of its originally critical character, mitigating more radical approaches for a widespread empirical applicability to be achieved (Redepenning 2007). Secondly, the actor-orientation – as with AGCS – has its advantages and limitations. While it undoubtedly contributed to the popularity of the approach due to its closeness to everyday public perspective, its usage of modern rational choice theory can be criticized. Furthermore, it paints the misleading picture that world politics are orchestrated only by a few powerful individuals (Müller/Reuber 2008). A third point of critique constitutes critical geopolitics' inconsistency concerning its political program. Due to its origins in leftist and critical political ideology, positioning itself and political activism lie at the core of critical geopolitics. At the other spectrum of this conceptual dilemma, however, is the theoretical premise of deconstruction to be impartial and for critical geopolitics not to find any political program (Redepenning 2007; Müller/Reuber 2008; Bachmann/Moisio 2020).

Despite these limitations, critical geopolitics constitute a beneficial complementation to AGCS, and an essential part of the theoretical approach used in this thesis. While the theoretical focus lies on actor- and action-oriented reinterpretation drawn from both AGCS and critical geopolitics, some elements of discursive deconstruction are applied as well. Following this outline of the theoretical approach, the next chapter will now look at the methodology used in the empirical study.

METHODOLOGY

Given the subjective character of AGCS' theoretical framework, i.e. constructivism, qualitative methods are best suited to conduct an empirical study. Qualitative research builds upon hermeneutics – the “art of interpretation” – whose methodological basic assumptions and problems have already been thoroughly discussed among scholars (e.g. see Mayring 2016). Interpretative-understanding analysis in the case of AGCS is subjectively reinterpreting documents relevant to the conflict, as these documents in themselves already constitute a subjective interpretation by the author. The methodical approach therefore aims at deconstructing the conflict through the point of view of two or multiple conflict actors. In order to safeguard the scientific value of qualitative research, plausibility, validity and traceability of results are implemented as criteria of quality (Reuber 1998; Mayring 2015).

The methodological rule of three – meaning the combination of three separate methods to analyze a field of study – is a well-established research method and particularly valuable in qualitative research. In the case of AGCS Reuber proposes to use a media analysis and literature review first, then – as a second method – an analysis of official documents and, finally, interviews with important stakeholders (Reuber 1998). However, given the rather small scope of a bachelor thesis as well as financial and time restrictions, this paper will use a modified mix of methods. It will primarily focus on a review of literature first and an analysis of official documents second.

For the literature review, a semi-systematic approach was combined with qualitative content analysis. The semi-systematic review aims to overview the topic and is well-suited when the topic has been discussed intensively across various disciplines (Snyder 2019). This applies to the issue of sovereignty and maritime conflicts in the SCS, which has been discussed among others in the context of law, economics, international relations and politics, Asian studies, and geology. The pool of literature (see Appendix) used in this thesis has been acquired through research in university libraries as well as the use of common scientific online search engines, such as Web of Science. In the process, relevant terms such as “SCS disputes” and “SCS conflict” were used and additionally combined with country-specific searches for the involvement of the “United States” and “China”. Given the semi-systematic character of the literature review, the results were then scanned and sorted based on criteria such as availability, relevance to the topic and publication date. In this, special attention was given to two concerns. First, allowing for only a few exceptions, articles and books had to be published after 2009, the starting year of

the present analysis. Secondly, the literature had to cover both US and Chinese points of view. This was particularly difficult to achieve due to language barriers, which limited the selection to only English, German, and French publications. In an attempt to still present a balanced view, the authors' nationalities were considered (see Table 1).

Table 1: Distribution of assumed nationalities of the authors included in the literature review (for a more detailed table of the pool of literature see Appendix)

Assumed nationality	Number of authors (n=65)
American	30
Chinese	13
Indo-Pacific nations (except China)	11
Europe & North America (except US)	11

Out of the total of 65 authors included in the literature review, 46.2% were from the US, accounting for the largest number of authors from one country. China followed in second place with 13 authors, i.e., 20% of the authors in the literature pool. The Indo-Pacific region with nations such as Vietnam and Singapore, as well as European countries and Canada, are each represented by 11 authors (16.9%). Considering the aforementioned difficulties caused by language barriers, this distribution of nationalities offers a fairly balanced choice of views. Following the selection process, the literature was analyzed through content analysis (see Mayring 2015). This qualitative method was applied strictly tied to the theoretical framework of AGCS and critical geopolitics to ensure reciprocity and plausibility of the results.

In a second step, official documents were consulted for a dual analysis approach consisting of both content and linguistic analysis, e.g., choice of words, word count. The analyzed documents include official government communication such as statements and speeches, as well as military publications concerning strategy and conducted exercises. Therefore, not only the official statements of the respective governments or departments for foreign affairs but also the militaries' communications were analyzed. In the case of the US, its National Security Strategies (NSS), National Defense Strategies (NDS) and several reports by the US Department of State (DoS) and the US Department of Defense (DoD) concerning China and the Indo-Pacific were included in the analysis. On the Chinese side, the People's Liberation Army's (PLA) defense white papers as well as several statements of the PRC's government and Ministry of Foreign Affairs (MFA) were examined. In addition to official US and Chinese communication, publications from international organizations, e.g., the United Nations (UN), were conferred. It is especially in this analysis of official documents, that the approach of critical geopolitics deconstructing the geopolitical representations and world views presented by the authors adds the necessary context to the conflict reinterpretation.

The present thesis is a subjective deconstruction and not an objective description of the conflict and as

such it does neither claim to present the conflict nor its relevant actors in its completeness. Regarding the literature review, the particular focus was set on the US and the PRC, deliberately putting off other relevant incentive states and stakeholders in the conflict, such as Vietnam, the Philippines, and the Association of Southeast Asian Nations (ASEAN). Yet despite those admitted limitations, the twofold methodical strategy – literature review and analysis of official documents – constitutes a conclusive and consistent approach for a theory-based analysis of the spatial conflict.

EMPIRICAL STUDY

The following chapter is dedicated to the empirical study analyzing sovereignty and maritime conflicts in the SCS. With a surface of 3.5 million km² this semi-enclosed sea of the Western Pacific Ocean stretches from the Strait of Malacca in the Southwest to the Taiwan Strait in the Northeast (see Figure 5).

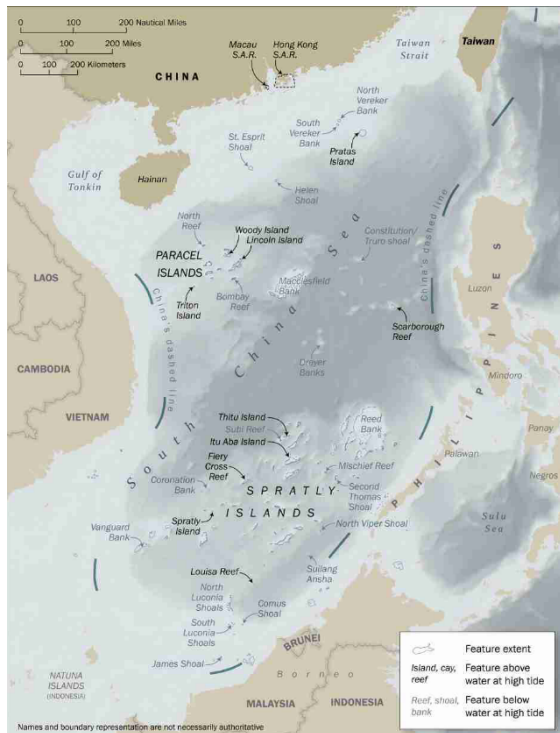


Figure 5: Overview map of the South China Sea (DoS 2022, 4)

Starting from the north the SCS is bounded in a clockwise direction by the PRC, Taiwan, the Philippines, Malaysia, Brunei, Indonesia, Singapore, and Vietnam. Hundreds of islands, rocks, and low-tide elevations are located within the marginal sea that forms the SCS. The two largest island groups, the Paracel and Spratly Islands, are highly contested areas with numerous features occupied by the different claimants. Beyond this, additional maritime territorial disputes exist over the Pratas Islands, Macclesfield Bank and Scarborough Shoal (Roy 2016b; O'Rourke 2022b).

Among the myriad of actors in the SCS, who are directly or indirectly involved in its sovereignty and maritime conflicts, are incentive states, ASEAN, and outside powers such as the US and Japan. The latter, while geographically distant from the SCS, have strong economic and strategic interests and commitments in the region. Even though ASEAN, as a regional forum of cooperation, could act as an important player and stakeholder in resolving conflicts in the SCS, divergence among member states has, so far, thwarted any attempt of a unified and constructive approach (Li/Lee 2021). Apart from China, Vietnam and the Philippines are the bordering states with the most active and influential role in territorial and maritime conflicts in the SCS, not least because of their long coastlines and overlapping claims (see Table 2).

Table 2: Territorial and maritime claims of SCS incentive countries (adaptation from: Roy 2016b, 13)

Country	Territorial / maritime claims	
	Spratlys	Paracels
Brunei	no formal claim	no
China*	all	all
Malaysia	3 islands	no
Philippines	8 islands	no
Taiwan*	all	all
Vietnam	all	all

* Due to their common history, the territorial and maritime claims of the PRC and Taiwan are essentially the same.

In the SCS, two separate, but still closely intertwined, conflicts can be identified. First, conflicts of the littoral states about the sovereignty over specific features in the SCS, such as the Spratly and Paracel Islands. Secondly, the dispute over the rights provided under the United Nations Convention on the Law of the Sea (UNCLOS) regarding the territorial sea and exclusive economic zone (EEZ). The interrelationship between the two conflicts becomes evident when applying the principle of customary international law that “the land dominates the sea” (Jia 2015, 4). According to this principle, maritime rights can only be generated from territorial sovereignty over adjacent land. Thus, the conflict over rights in the territorial sea and EEZ is closely tied to the sovereignty disputes among claimants over specific features in the SCS (O'Rourke 2019).

To narrow down its scope, the present research focuses only on the two most powerful and influential actors in the SCS – the PRC and the US. Furthermore, the geographic focus of this empirical study is put on the Paracel and Spratly Islands, due to their strategic importance and relevance to US-China competition. Although relevant previous events will be mentioned, the in-depth theory-based analysis will primarily cover the conflict developments since 2009, which is considered a “watershed” (Hu 2021, 492) in the evolution of the SCS situation.

The next chapter will outline the historical context by highlighting the conflict biography. This includes a detailed look upon the historical, legal, and

economic origins and dimensions of the spatial conflict(s) in the SCS. Subsequently, these sovereignty and maritime conflicts are reinterpreted based on AGCS and critical geopolitics.

CONFLICT BIOGRAPHY

The SCS was subject to centuries of contested history and claims with numerous actors exercising power in the region. The timeline of the ongoing territorial disputes in the SCS dates back to the end of the Second World War (WW2). Since 1939, the Spratly and Paracel Islands and with them the South China Sea were under control of the Japanese Empire.

At the end of WW2, the defeated Empire of Japan officially renounced all of its claims in the SCS by signing the San Francisco Treaty of Peace with Japan (1952, Art. 2 (f)). However, the treaty did not designate a beneficiary of sovereignty over the Spratly and Paracel archipelagos which resulted in new claims being put forward by incentive countries. Already in 1947, the Republic of China marked its territorial and maritime claims in the SCS by establishing an eleven-dash line. Depending on different delimitations of the SCS, this u-shaped line covers 62% or 80 to 90% of the semi-enclosed sea (Feng/He 2018a, 3; O'Rourke 2019, 88). After the foundation of the People's Republic of China in 1949 the Chinese claims were slightly adopted and simplified to a nine-dash line in 1953 (Gao/Jia 2013). Subsequently, there have been several direct confrontations in the SCS between the PRC and other claimant states over the years, most notably China's occupation of the Paracels in 1974 and Fieri Cross Reef in 1987, and the so-called Mischief Reef Incident in 1996 (Roy 2016b; Scobell 2018b; Xu 7/15/2020). The detailed biography of sovereignty and maritime conflicts concerning China as a claimant state and the US as a directly and indirectly involved non-claimant since 2009 can be divided up into three rounds of active conflict.

First round of conflict (2009-2012)

In May 2009, Vietnam and Malaysia filed a joint submission to the UN Commission on the Limits of the Continental Shelf (CLCS), asking for an extension of their continental shelves beyond 200nm. The PRC regarded this as an active challenge to its claims and immediately issued a note verbale condemning that

“[the Joint Submission] has seriously infringed China's sovereignty, sovereign rights and jurisdiction in the South China Sea. [...] The Chinese government seriously requests the Commission not to consider the Joint Submission by Malaysia and [...] Vietnam” (DOALOS 5/7/2009).

One year later, US Secretary of State Hillary Clinton spoke at the US-ASEAN Ministerial Meeting in Hanoi, Vietnam. While reiterating the US's neutral

stance concerning sovereignty disputes, she also affirmed that the US had “a national interest in freedom of navigation, open access to Asia's maritime commons, and respect for international law in the South China Sea” (DoS 7/23/2010). This was further invigorated and operationalized by the official announcement of the US strategic pivot or rebalance to Asia in 2011, reinforcing the leading role the US wished to play in the Asia-Pacific region (Lieberthal 2011; Xu 7/15/2020).

At the same time, China proceeded with its more assertive stance in the SCS. In 2012, Chinese civilian maritime enforcement ships and the Philippine navy were involved in a standoff over Scarborough Shoal. The feature, located less than 200nm off the coast of the Philippines, and claimed by both the Philippines and the PRC, is surrounded by vital fishing grounds (Roy 2016b). Only through a deal brokered by the US did both sides finally withdraw their forces (Nguyen 2016). However, the Scarborough Shoal remained under effective Chinese control ever since. Following the incident, China implemented a travel warning for the Philippines, a unilateral fishing ban around Scarborough Shoal and sudden restrictions on banana imports from the Philippines. These retaliatory measures and implicit sanctions have seriously undermined the Philippine economy which is relying on Chinese tourists and banana exports (Roy 2016b; Jain 2021; Nguyen 2021).

In September 2012, China launched its first aircraft carrier, the Liaoning, achieving a milestone in its naval modernization program since 1979. Although primarily used for testing purposes and personnel training, the Liaoning marked a cornerstone in the Chinese upgrading of military capabilities (Scobell 2018a; O'Rourke 2022a). Shortly afterwards, a once-in-a-decade leadership transition in China resulted in the election of Xi Jinping to president. Xi's coming to power was accompanied by a rise in nationalism as well as a new focus on maritime issues due to the continued shift towards maritime military power (Xu 7/15/2020).

Second round of conflict (2013-2016)

The first element significant to the second round of conflict was the South China Sea Arbitration, a landmark case of international law between China and the Philippines (discussed in more detail in chapter 4.1.2.). In January 2013, the Philippines filed an arbitration case at the Permanent Court of Arbitration (PCA) against the PRC concerning Chinese claims in the SCS. China harshly criticized the arbitration as unlawful stating it would “neither accept nor participate in the arbitral proceedings” (Wang 2020, 284). After an initial award over the Tribunal's jurisdiction and the admissibility of the Philippine submissions in 2015, the official proceedings commenced. China, while refusing to participate, did issue numerous official and non-

official documents stressing its objection to the SCS Arbitration. In July 2016, the final award was rendered unanimously and overwhelmingly in favor of the Philippines (Wang 2020; PCA 2022).

Months after his consolidation of power, President Xi, in a first major policy adjustment, consolidated bureaucratic power over the various maritime agencies under the State Oceanic Administration. This move directly aimed at strengthening China's capabilities in the SCS and effectively created the unified Chinese Coast Guard (CCG) (Xu 7/15/2020). Furthermore, to counter the US rebalance to Asia which China regarded as a threat, it initiated an extensive land reclamation program in the Spratly Islands. This can be characterized as the second core element of the second conflict round. From September 2013 to late 2015, according to the DoD (2021b, 104) over 3,200 acres of artificial land were created on the seven features occupied by China in the Spratlys. Given the fact, that the sovereignty over each of these features was still disputed among at least two parties, the legality of the Chinese reclamation program was highly questionable. Additionally, Hughes Reef, Johnson South Reef and Mischief Reef which are located in the Philippine EEZ were also subject to the ongoing SCS Arbitration trail, which complicated the attempt of finding a diplomatic or legal resolution to the dispute. On the added land, the construction of infrastructure such as airstrips, harbors, and radar stations was continued into 2016 (Dolven et al. 2015; Specia/Takkunen 2/8/2018).

Apart from these two major elements, the second round of conflict was also characterized by the following events. In 2014, the US and the Philippines signed the ten-year Enhanced Defense Cooperation Agreement, strengthening military cooperation and increasing rotational US troop presence in the Philippines (Xu 7/15/2020). In May 2014, China deployed its oil-drilling platform Haiyang Shiyou 981 off the coast of Vietnam. By deliberately placing the platform in contested waters inside Vietnam's EEZ, China "reinforced the perception of Beijing becoming 'more proactive in promoting periphery diplomacy'" (Kim 2015, 122). In reaction to China's land reclamation efforts, the US Navy (USN) conducted Freedom of Navigation Operations (FON(OP)) in the SCS in 2015 for the first time since 2012. A USN destroyer passed within twelve nautical miles off Subi Reef with the intention of asserting its navigational rights and rejecting China's sovereignty claims (O'Rourke 2019). The following year, US and Taiwanese officials reported the deployment of Chinese missiles to the Paracel Islands. This was seen as the PRC's response to FONOPs in the SCS, with experts and state officials warning of a militarization of the region (Xu 7/15/2020).

Third round of conflict (2020-2021)

The third, and so far last, round of conflict in the SCS can be seen over the period from 2020 to 2022. Amid the Covid-19 pandemic, tensions in the SCS were rising as China "more aggressively assert[ed] its claims in the region" (Xu 7/15/2020, 1). Additionally, the USN conducted several FONOPs and military surveillance operations in 2020, which prompted the PLAN to carry out missile tests near the Paracel Islands in reaction (Lemaître 8/27/2020). As soon as the construction of the new military infrastructure was completed on the Chinese-occupied Fiery Cross and Subi Reefs, China started with the establishment of two new administrative structures both on the Paracel and Spratly Islands respectively. The move was aimed at rendering its administrative and bureaucratic control over the SCS more effective and was firmly criticized by Vietnam and the Philippines (Huong 2020; Xu 7/15/2020).

In a major foreign policy shift, US Secretary of State Michael Pompeo declared in July 2020 the Chinese claims in the SCS to be unlawful. Partially abandoning the US position of neutrality concerning sovereignty issues in the SCS, he stated that

"Beijing's claims to offshore resources across most of the South China Sea are completely unlawful, as is its campaign of bullying to control them. [...] As the United States has previously stated, and as specifically provided in the Convention [referring to UNCLOS], the Arbitral Tribunal's decision is final and legally binding on both parties. Today we are aligning the U.S. position on the PRC's maritime claims in the SCS with the Tribunal's decision" (DoS 7/13/2020).

In February 2021, the new and more assertive Chinese Coast Guard Law (CGL) came into force. While remaining vague on the definition of "China's jurisdictional waters" (CGL Art. 17/18), the law has conferred upon the CCG wide-ranging operational powers including the use of force to enforce its authority (Nguyen 2021). With the Maritime Traffic Safety Law (MTSL) another maritime law relating to the SCS conflicts was introduced a few months later. Under MTSL, foreign vessels require prior notification when entering Chinese territorial waters, a provision which stands in direct contradiction to UNCLOS (Nguyen/Le 2021). China subsequently expanded and developed the People's Armed Forces Maritime Militia (PAFMM) as an unofficial player to enforce its position in the SCS. In March 2021, more than 200 Chinese boats, assumed to be partially PAFMM, assembled at the disputed Whitsun Reef, given cause to major concerns on the part of the Philippines and the US (AFP 4/8/2021).

It remains to be seen in which direction the sovereignty and maritime conflicts in the South China Sea will develop in the coming years. In the following sub-chapters, the analysis continues with

a more detailed look upon the historical, legal, and strategic foundations of the conflict.

HISTORICAL FOUNDATION

Following the detailed description of the relevant conflict developments since 2009, attention shall now be given to the historical grounds of the conflicts in the SCS. Particularly China's argumentation in the sovereignty and maritime conflicts in the SCS is of historical nature. With the PRC invoking historic rights, a look into the history of the SCS becomes essential.

According to historical documents provided by China, references to Nan Hai (the South Sea, i.e., SCS) can be dated back to the Qin (221 – 206 BC) and Han (202 BC – 220 AD) dynasties (Shen 2002). At that time the so-called Silk Road on the Sea, connecting China with India and the Mediterranean, was first established. By virtue of geography trade on this route had to pass through the SCS (Gao/Jia 2013). Shen (2002) presents further evidence, stating that China has been the first country to not only name the SCS and its features, but also to set up naval routes and patrols and to document the knowledge gained on the geographical features in the SCS. The Paracel and Spratly Island chains, in particular, were described in numerous literary works. During the Song dynasty (960 – 1279 AD) the first map of the SCS was produced, including its islands and reefs indicating them as belonging to China. Chinese activities in the SCS were conducted throughout the centuries except during a maritime trade ban from 1474 to 1551 issued by the Ming and Qing emperors. (Gao/Jia 2013; Roy 2016b).

Apart from China, Vietnam also supplies historical evidence for its claim over the Paracel Islands. According to court documents, the Nguyen dynasty (1803 – 1945) already had ties to the island chain which it considered as under Vietnamese sovereignty. In contrast, all other claimant states in the SCS only provide much more recent, if any, historical records. Both Brunei's and the Philippines' historical evidence supporting their respective claims dates back no further than WW2. Malaysia is the only claimant state not offering any historical evidence to support its claims (Roy 2016b).

While the historical documents put forth by China and Vietnam prove a Chinese and – to a lesser extent – Vietnamese presence in the SCS throughout history, their relevance for international law and the territorial and maritime conflicts is disputed. Particularly, China's nine-dash line with its claim to "historic rights waters" (Chung 2016, 40), which will be further discussed in chapter 4.2.3., is under scrutiny. Nevertheless, the outlined historical foundation provides a useful perspective relevant to the analysis and reinterpretation of the SCS conflicts. Yet first, the international law and

multilateral agreements lying at the basis of the conflicts must be taken up.

FOUNDATIONS OF INTERNATIONAL LAW AND MULTILATERAL AGREEMENTS

In order to properly analyze and reinterpret the actors' objectives and actions, the relevant multilateral agreements regarding the conflict and conventions under international law must be covered first. This chapter discusses the three legal documents at the core of spatial conflicts in the SCS. It starts with giving an outline of the United Nations Convention on the Law of the Sea (UNCLOS), which is the international agreement regulating the rights and responsibilities of nation-states regarding the world's oceans. Subsequently, a description and summary of the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC), adopted at an ASEAN-China summit in Cambodia will be given. Finally, the chapter concludes with a brief outline of the 2014 Memorandum of Understanding Regarding the Rules of Behavior for Safety of Air and Maritime Encounters (MoU) between the PRC and the US.

As mentioned before, the spatial conflicts in the SCS are twofold, consisting of disputes over territorial sovereignty as well as conflicts concerning the maritime rights regarding those disputed features. The latter, in particular, are closely connected to UNCLOS, which was first adopted at the Third United Nations Conference on the Law of the Sea (UNCLOS III) in 1982 and entered into force upon its 60th ratification in 1994. The List of Parties today encompasses 167 states and the European Union. All claimant states as well as most of the non-claimant actors in the SCS conflicts have ratified the convention. The US, while no party to UNCLOS, still abide by its provisions regarded as customary international law (Freund 2017; UN 2021).

In UNCLOS, presupposing territorial sovereignty over land which generates maritime rights, four different zones of sea are established. The breadth of these zones is measured from baselines representing the low-tide line along the state's coast. In the case of an archipelagic state or a deeply indented coastline the baselines may be applied in a straight fashion by connecting appropriately selected points. The first zone of sea, which every coastal state has a legitimate claim to, is the territorial sea extending up to 12 nautical miles (nm) into the ocean. The state's sovereignty is expanded to the territorial sea including its air space, sea bed and subsoil (UNCLOS 1982, Art. 2/3). Yet, foreign vessels have the right of innocent passage, i.e., the passing-through without stopping or conducting any other activity. Exceeding the territorial sea for another 12 nm is the so-called contiguous zone. In order to enforce its customs, immigration and other regulation and laws in its territorial sea, the state may exercise control and take appropriate measures within the contiguous

zone (UNCLOS 1982, Art. 33). Thirdly, in Part V of the convention, an exclusive economic zone (EEZ) is determined, stretching up to 200 nm from the coastal nation's baselines into the ocean. Within the EEZ, navigational freedoms and freedom of overflight are upheld for commercial as well as peaceful military purposes. However, the coastal state has sovereign jurisdiction over economic activities, scientific research, the installation of artificial islands as well as duties regarding environmental protection and preservation. When submitting claims to the Commission on the Limits of the Continental Shelf (CLCS), the EEZ may – due to the state's continental shelf extending 200 nm – be enlarged to up to 350 nm measured from the baselines. The last and fourth category is the high seas, i.e., international waters. Every state whether coastal or land-locked has the right to navigate, overfly and, subject to certain provisions laid out in UNCLOS, conduct research or economic activities in the high seas. It is further ruled that sovereignty claims over the high seas are invalid and that “the high seas shall be reserved for peaceful purposes” (UNCLOS 1982, Art. 88).

Apart from the four maritime zones, UNCLOS also defines three different types of maritime features. Islands and rocks are both “naturally formed area[s] of land, surrounded by water, which [are] always above water” (Freund 2017, 2). Only the former, however, can sustain human habitation or economic activity as outlined in Article 121. As a result, islands generate the same maritime rights as the mainland, i.e., territorial sea, contiguous zone and EEZ, whereas rocks are only entitled to a territorial sea and contiguous zone. The third maritime feature represents low-tide elevations which are only above water at low-tide and submerged at high-tide. These features do not generate any maritime rights on their own, yet, when within the territorial sea of a state, they may be used for drawing the baseline (Beckman 2013; Jia 2020).

UNCLOS also includes Part XV, which is dedicated to the settlement of disputes “concerning the interpretation or application of [the] convention by peaceful means” (UNCLOS 1982, Art. 279). If no other means of settlement can be agreed upon, the dispute resolution through UNCLOS, thus an Arbitral Tribunal, is compulsory. In case the jurisdiction of the Arbitral Tribunal over the submissions in question is challenged by one party, the tribunal will first render an award over the admissibility and its own jurisdictional authority. All awards pronounced by the Arbitral Tribunal are legally binding to the parties concerned (Klein 2020; Wang 2020; Zou 2020).

In the specific case of the SCS arbitration, the Philippines presented 15 submissions which were rejected and regarded as beyond the scope of UNCLOS by China, neither accepting nor

participating in the settlement proceedings (DOALOS 5/7/2009). The Philippines' submissions, which can be grouped into four categories, were overwhelmingly ruled in favor of the Philippines in the tribunal's final award. It arrived at the conclusion, that (1) the historic rights and nine-dash line invoked by China are to be overruled by UNCLOS in case of incompatibility with rights granted through the convention. This effectively nullified large areas of Chinese claims which overlapped with neighboring states' EEZs. Furthermore, (2) the maritime features and their resulting maritime rights in the Spratly Islands were determined. According to the ruling, no feature in the Spratlys can be defined as an island, but only as rocks or low-tide elevations. Consequently, only territorial seas and contiguous zones and no EEZs can be generated. Regarding the third set of submissions, the tribunal declared that (3) the PRC “had violated the sovereign rights of the Philippines in its EEZ by interfering with Philippine fishing and petroleum exploration [and] constructing artificial islands” (Wang 2020, 292). Additionally, (4) China was found guilty of causing severe harm to the maritime environment in the SCS (Talmon/Jia 2014; PCA 2022).

Even though from a Chinese perspective the final award was regarded as “null and void” (MFA 7/12/2016), the finality and binding force of the Arbitral Tribunal's decision is clearly established in Article 296 of the convention. The PCA's ruling is of great importance to both the sovereignty and the maritime conflicts in the region, as specific applicational aspects of UNCLOS to the SCS were clarified.

Apart from UNCLOS, two other international agreements concerning the spatial conflicts in the SCS need to be discussed. Following negotiations on an international code of conduct (COC) in the SCS, first endorsed by ASEAN in 1996, a DOC, though legally non-binding, was signed between ASEAN and China in 2002 (Hayton 2021). This multilateral agreement reaffirms the incentive states' commitment to a peaceful resolution of disputes and the intention of adopting a COC. Moreover, the parties commit themselves to “self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability” (ASEAN/PRC 2002, 1) such as occupying new features in the SCS.

The third important international agreement related to the SCS is the 2014 bilateral Memorandum of Understanding (MoU) between the PRC and the US. In a non-binding manner, the MoU establishes rules of behavior to regulate and ensure safety in air and maritime encounters of the respective militaries (DoD/MND 2014).

For the theory-based reinterpretation it is of critical importance to understand the provisions laid down

in international law. Above all UNCLOS, but also the DOC and the MoU are integral parts of the actors' argumentations and inherent in the actors' objectives and action strategies. However, before looking into this, the economic importance of the SCS must be discussed first in the following chapter.

ECONOMIC IMPORTANCE

Two major elements mark the significance of the SCS from an economic perspective. First, the international trade passing through the semi-enclosed sea, and, secondly, its own vast natural resources.

The merit of the former arises from the SCS's geographic position connecting Northeast Asia with India, the Middle East and Europe. Crucial trade lanes, so-called sea lines of communication (SLOCs), connect the oil and gas exporting nations in the Middle East through the Strait of Malacca with consumers in Asia (Peele 1997). These SLOCs enabled an estimated \$3.4 trillion worth of trade to transit the SCS in 2016, accounting for about one fifth of global trade that year (ChinaPower Project 2017). The US Energy Information Administration (EIA 2022) concluded that over the same period of time almost 40% of the global liquified natural gas (LNG) trade had passed through the marginal sea. Additionally, both China, being the world's largest crude oil importer, and other East Asian nations including Japan, South Korea and Taiwan have shipped around 80% of their 2016 oil imports through the SCS (ChinaPower Project 2017; O'Rourke 2022b, 6). With energy consumption in Asia, particularly in China, steadily rising, the strategic and economic importance of the SCS will continue to grow (EIA 2013).

The second factor of strategic-economic importance is the SCS's richness in tapped and untapped natural resources. First and foremost, fishery, accounting for supposedly one tenth of the global catch, constitutes an important economic activity in the SCS (Storey/Lin 2016; Hastey/Romaniuk 2021). Secondly, according to US estimates, the SCS also holds an estimated 11 billion barrels of oil and around 190 trillion cubic feet of natural gas (Dolven et al. 2021). However, given large variations in the outcome of different geological studies, these figures should be considered with caution. Although accurate data on the development and recoverability of most of these hydrocarbon resources is lacking, the mere perception of potential energy resources acts as a powerful conflict driver (Storey/Lin 2016; Roy 2016b).

Thus, control over both international trade routes and natural resources, i.e., fishery, natural gas and oil, are the main economic incentives for actors in the SCS. This aspect concludes the detailed biographical account of the sovereignty and

maritime conflicts in the SCS. Following this, the next chapter – the theory-based reinterpretation – will focus on the actors' goals, action strategies, as well as strategic constructions of space.

THEORY-BASED REINTERPRETATION

For the theory-based reinterpretation it is essential to identify the network of actors concerned with the conflict. Regarding the sovereignty and maritime conflicts in the SCS, more specifically with regard to the PRC and the US, three main pillars of actors can be distinguished in both countries. First and foremost, the respective governments can be identified as important actors, because the specific policies regarding the spatial conflicts are shaped through the nations' political processes. The second pillar of actors is related to the military and defense sector. This includes the US Armed Forces (USAF) and the PLA, but also the countries' respective military-industrial complexes, i.e., stakeholders in the defense industries. Finally, the public in both countries also accounts for influential actors in the spatial conflicts, as policy is shaped and influenced by public opinion. These three main pillars, which form the network of actors relevant to the conflict, will be further discussed in the following.

Since 2009, both the US and the PRC have experienced changes of power in their highest political offices. In China, President Hu Jintao was elected for his second term in 2008 and subsequently replaced by President Xi Jinping in 2013. Both presidents held, and in the case of Xi still hold, the informal position of Paramount Leader, which translates into being General Secretary of the Chinese Communist Party (CCP) and Chairman of the Central Military Commission (CMC). Hu's presidency was marked by consistent economic growth and China's emergence as a major world power, illustrated, for example, by the 2008 Summer Olympics held in Beijing. Xi Jinping, who was already Vice-President during Hu's second term, maintained steady economic growth and accelerated China's rise to power. While further pursuing the overarching goal for China to become a great power, Xi adapted the strategies to fulfil this objective under his administration. These adjustments, which included a shift from the principle of non-interference to more proactive terms, are reflected in the rise of nationalism and the growing importance of military and defense issues (Westphal 2018).

Meanwhile, the US experienced three different presidents over the examined period. President Barack Obama, who was first elected in 2009, was followed by President Donald Trump from 2017 to 2021 and President Joe Biden as the current incumbent. Under the successive administrations, US policy towards China and on the SCS, has changed and evolved. First, President Obama shifted US interests towards the Indo-Pacific, following the US

rebalance to Asia policy which focused predominantly on trade and multilateral agreements. Under Trump's presidency the US position towards the PRC became more aggressive, with communication and actions particularly targeting the Chinese economy. Tariffs were imposed by President Trump on Chinese goods to curb technology theft and unfair trade practices by China. This, initially, resulted in retaliatory Chinese tariffs and, later, escalated into a trade war between the world's two largest economies (Tankersley/Bradsher 9/17/2018). Since taking office in 2021, President Biden has maintained his predecessor's more aggressive stance towards China.

The second pillar in the network of actors relates to the field of military and defense. The military environment of the US can be divided into three interconnected branches. The US Department of Defense (DoD) is the political arm responsible for shaping and implementing policies, which are then executed by the USAF. Responsibility within the USAF for the SCS region rests with the US Indo-Pacific Command. The third important stakeholder in US military circles is the defense industry. The term military-industrial complex describes the close-ties and power that defense contractors have in US politics through lobbying of their interests.

Regarding the PRC, military and defense issues are also dealt with by various institutions. At the heart of political decision-making lies the CMC, which exercises command authority over the PLA. The PRC's Ministry of National Defense (MND), in turn, has merely administrative responsibilities and acts as a liaison body between foreign militaries and the CMC and PLA. The PLA is structured into five theater commands with the Southern Theater Command responsible for China's southern provinces and the SCS region. Of particular importance to the present analysis is the South Sea Fleet (SSF), the PRC's principal naval military force in the SCS. Besides the military, law enforcement agencies, such as the Chinese Coast Guard (CCG), play an important role in China's strategy for the SCS. Moreover, the PAFMM, the PRC's government funded armed fishing fleet, operates in close coordination with the CCG and the PLAN (Poling et al. 2021). Apart from blurring the lines between military and civilian structures, this also serves to incorporate individual activities and the public into China's broader strategy.

Although the specific actions and strategies are decided upon within the respective governments and militaries, the US and the Chinese public do play a role in influencing the overall direction of policy through public opinion. In the Chinese debate on the SCS, three major school of thoughts can be distinguished – the moderates, the pragmatists, and the hardliners. On one side of the spectrum, moderates lobby for cooperation with incentive

states to maintain stability in the region and reasonably protect China's rights, rejecting a military solution in the SCS. Hardliners, in turn, aim to maximize and enforce Chinese sovereignty and power in the SCS even through military means. Pragmatists which can be positioned between the two attempt to balance out the enforcement of Chinese rights and regional stability and conclude that time is playing in China's favor. With Xi coming to power and nationalism on the rise, the PRC's official position shifted slightly from a pragmatic point of view towards the hardliners (Li 2016; Zhang 2018).

In the US, public opinion towards China has steadily worsened over the last decade. According to a 2021 Gallup poll, China is now considered as a "competitor or enemy" (Galston 2021, 1) by 89% of Americans. Specific issues in the SCS, however, are given less attention than the general economic threat posed by China and its human rights violations, e.g., against Uighurs in Xinjiang. In contrast to the perceived US war fatigue over Afghanistan and the Middle East, a majority of Americans in 2021, for the first time, supported the deployment of US troops, if China were to invade Taiwan (Smeltz et al. 2021). While a momentous shift in US public opinion, an active involvement of US troops still seems highly unlikely. The increasingly negative public opinion on China can be attributed, among others, to the Trump administration's more aggressive language and widespread disapproval of China's trade practices and handling of the COVID-19 pandemic (Galston 2021).

Altogether, these three pillars form the network of actors, who influence the spatial conflicts in the SCS. In order to analyze the goals and action strategies of the PRC and the US, and to deconstruct the strategic constructions of space, particularly the first two – government and military – have to be closely examined. Still, the influence of public opinion on the political policy-making and grand military strategy must not be disregarded. The next chapter will proceed with an analysis of the actors' goals regarding the sovereignty and maritime conflicts in the SCS.

GOALS OF SPATIAL ACTION OF THE ACTORS

The objectives, that the actors pursue with their spatial actions in the SCS are manifold, but difficult to clearly define. Here, both self-benefit-oriented interests as well as social and institutional factors are at the center of the respective goal formulation processes. For strategic purposes, however, both parties, the PRC and the US, do not officially and publicly disclose their specific objectives (Feng/He 2018b). As a result of this intentional strategic ambiguity, the following analysis of the goals of spatial action can only be a subjective account and

selection of the actors' respective main objectives. China's two key objectives are both strategic in nature, focusing on defense and sovereignty, as well as strategic competition with the US. The US, while also concerned about US-China strategic competition, further aim to uphold the US-led rules-based international order.

In the PRC's 2019 National Defense White Paper, China's national defense policy is described as defensive and deriving directly from the CCP's top leadership and "[President] Xi Jinping's thinking" (PRC 2019, 9). The overarching national defense objective, elaborated in this document, is to protect China's national security and territorial integrity. A cornerstone to achieve the former is articulated in the modernization of the PLA which includes conducting military training under real combat conditions and safeguarding interests in emerging security areas (PRC 2019). Territorial integrity, while usually associated with the issues of Taiwan and the Special Administrative Region (SAR) Hong Kong, is equally important to the PRC in the SCS, using the nine-dash line (see chapter 4.2.3.) to establish its territorial and maritime claims. However, the specific legal and geographic adaptation of said line remains vague, because of China using legally indeterminate terms, such as "adjacent" and "relevant" waters (DOALOS 5/7/2009), as well as broadly claiming

"(1) sovereignty over Nanhai Zhudao [= the SCS islands], (2) [the right to] internal waters, territorial sea and contiguous zone, based on Nanhai Zhudao, (3) [the right to an] exclusive economic zone and continental shelf, based on Nanhai Zhudao, [and] (4) historic rights in the South China Sea" (Government of the PRC 7/12/2016).

Therefore, the PRC's goal is to protect its perceived territorial and maritime rights in the SCS, which, in addition to the ideological aspect, will help to prevent a coastline invasion and strengthen China's position on the Taiwan issue (Hastey/Romaniuk 2021).

China's second key objective concerns its strategic competition with the US. The 2019 White Paper, while careful in its wording, clearly establishes China as a strategic competitor to the US (Cordesman 7/24/2019). Although this competition manifests itself primarily in economic measures, both parties are also expanding their military capabilities. Here, China is focusing on maritime military capabilities, e.g., through its aircraft carrier construction program, aimed at projecting the PRC's power in the SCS and on the world's oceans by military means. Moreover, by advancing its anti-access/area denial (A2/AD) capabilities, China intends to limit and counter US military power in the SCS region. Chinese A2/AD capabilities include sensor systems, military infrastructure, and newly created outposts, as well as

advanced missile systems, such as the DF-21D Anti-Ship Ballistic Missile (ASBM), capable of hitting moving ships at sea with high accuracy (O'Rourke 2022a). The importance of these advances in military development for the PRC becomes apparent when considering the Chinese leadership's geopolitical worldview that the SCS is China's sphere of influence (Roy 2016a).

This clearly illustrates the interconnectedness of China's key strategic objectives, as Chinese national security and territorial integrity clash with US military capabilities in the SCS (Yang 2021). As a result, limiting and countering US influence in the SCS region serves both Chinese national security interests and strengthens the PRC's position in strategic competition with the US.

For the US, too, the primary objective in the SCS concerns US-China strategic competition. The 2017 US National Security Strategy (NSS) for the first time identifies the PRC as a strategic competitor and revisionist power that "seeks to displace the United States in the Indo-Pacific region" (US President 2017, 25). In particular, China's economic expansion, military modernization and more assertive behavior on the world stage are considered threats to US national security interests (US President 2017; 2021). This assessment is reiterated in the 2018 US National Defense Strategy (NDS), which highlighted defense objectives, including

"detering adversaries [e.g. China] from aggression against [...] vital [US] interests [...], maintaining [a] favorable regional [balance] of power in the Indo-Pacific [and] defending allies from military aggression and bolstering partners against coercion" (DoD 2018, 4).

The significance of strategic competition with China in official US documents cannot only be derived from interpretative and qualitative approaches but is also quantifiable. A rather bland, but nonetheless meaningful, parameter for this is counting how often the US is referring to the PRC in its national security and defense strategies. In all three official US strategic documents examined for this paper, China was mentioned more often than any other country, while Russia ranked second. In the 2017 NSS, the word "China" is referenced 33 times, while "Russia" is mentioned 25 times. The 2018 NDS's word count is more balanced, with 8 to 7 references, and finally the 2021 Interim National Security Strategic Guidance (INSSG) referred to the PRC 14 times, as compared to 5 Russian references.

Of particular concern to the US in terms of strategic competition with China is its diminishing US military superiority in the SCS region. As a result, US government and military entities are concerned about their ability to fulfil security commitments to allies and partners in the Indo-Pacific. Notably, the

strategic partnership with the Philippines built upon the 1951 Mutual Defense Treaty (MDT), as well as the special US relationship with Taiwan, governed by the Taiwan Relations Act of 1979, depend on US military advantage in the SCS. As a result, maintaining US military capabilities and reinforcing deterrence with China in the region is an essential goal for the US (Balleck 2021; O'Rourke 2022b; DoD 2022).

The second key objective of US strategy in the SCS is to uphold the current rules-based international order, including the principles of peaceful settlement of disputes and freedom of the seas. China, while committing to “peace, stability and development” (PRC 2019), actively challenges the first principle by using force and coercion to achieve its objectives and strengthen its position in the SCS. The latter principle, also referred to as freedom of navigation, is defined by the US as “all of the rights, freedoms, and lawful uses of the sea and airspace, including for military ships and aircraft, guaranteed to all nations under international law” (DoD 2015). The internationally widely recognized extent of these rights, however, is rejected by the PRC, which insists on a narrower definition of freedom of navigation. As a result, China demands prior notification upon entering Chinese waters and maintains other limitations regarding military vessels as well as commercial ships (O'Rourke 2019). Maintaining freedom of the seas and thus the US-led international order in the SCS, has been invoked numerous times as a key goal by the US leadership, including Secretaries of State Clinton and Pompeo (DoS 7/23/2010; DoS 7/13/2020).

Although both actors do not publicly disclose their specific objectives in the SCS, a clear sense of their most important objectives can be derived from interpretation. Strategic competition between the US and China is a major concern for both parties regarding their actions in the SCS region. While the PRC primarily seeks to protect its national security and territorial integrity, the US focuses on maintaining its military superiority and the current US-led rules-based international order. The power and action strategies applied by the actors to implement these goals will be discussed in the following chapter.

POWER AND ACTION STRATEGIES OF THE ACTORS

For the analysis of the power potentials and action strategies of the actors, AGCS examines the concrete means used to achieve the set goals and their effectiveness. Both China and the US have employed a variety of action strategies that build on actor- and situation-specific power potentials. The PRC's key action strategy is based on the so-called salami-slicing tactics, which include grey zone operations and the employment of non-conventional security actors. In addition, China was actively conducting

land reclamation in the Spratly Islands. Meanwhile, the US is focusing on reinforcing existing and building new security partnerships and alliances in the region, while stepping up its military presence and conducting FONOPs in the SCS.

The PRC mainly employs the action strategy of so-called salami-slicing or Slow Intensity Conflict (SLIC), i.e., “the slow accumulation of small actions, none of which is a *casus belli*, but which add up over time to a major strategic change” (Haddick 8/3/2012). These incremental activities are conducted by both conventional – PLA and CCG – and nonconventional security actors, such as the PAFMM (Johnson 4/28/2015; Scobell 2018a). The conflict biography has already highlighted several actions that can be classified as part of the PRC's integrated strategic approach, e.g., the Scarborough Shoal and Mischief Reef incidents, the creation of new administrative structures in the SCS, and unilateral fishing bans. Moreover, as seen in the CGL and MTSL

“one distinctive aspect of China's [...] approach [to the SCS] is the vagueness of legal terms. The resulting ambiguity creates ample room for China to interpret the statutes as needed” (Nguyen/Le 2021, 1).

This exploitation and leveraging of legal processes and regimes is part of the Three Warfares, a conceptual framework introduced by the CMC in 2003; the two others being intimidation/psychological warfare and media manipulation (Livermore 3/25/2018). Chinese harassment and intimidation activities, particularly by PAFMM, have increased in scale and frequency under cover of the COVID-19 pandemic (Romaniuk/Burgers 2021). PAFMM consists of both professional and non-professional militia vessels, the latter being commercial fishing vessels recruited through subsidy programs. The militia typically operates in large deployments and in close cooperation with Chinese law enforcement and PLAN, harassing and denying access to foreign vessels. In the spring of 2021, for example, over 200 ships, perceived to be PAFMM, gathered at unoccupied Whitsun Reef, which is also claimed by the Philippines and Vietnam, in order to project Chinese power (Lee/Gutierrez 4/3/2021; Poling et al. 2021). China's gradual, long-term strategic approach for the SCS appears to be working, as the PRC's power is steadily increasing without major setbacks. This, of course, is also due to China's ongoing economic catch-up with the US, with time playing in the PRC's favor.

Another Chinese strategy to achieve its objectives in the SCS was large-scale land reclamation on Chinese-occupied features in the Spratly Islands from 2013 to 2015, which, as outlined earlier in the conflict biography, constituted a core element of the

second round of conflict. The reclamation activities of in total 3,200 acres took place on all of the seven disputed features in the Spratlys occupied by the PRC – Cuarteron, Fiery Cross, Gaven, Hughes, Johnson, Mischief, and Subi Reef (Dolven et al. 2021, 2). As illustrated by Figure 6, these features were in the following equipped with military installations and infrastructure, including harbors, airfields, and A2/AD capabilities, such as radar stations and missile platforms (Fish/Johnson 4/16/2015; Specia/Takkunen 2/8/2018; O'Rourke 2022b). Particularly on the three main Chinese outposts – Fiery Cross, Mischief, and Subi Reef – extensive construction has taken place, reinforcing Chinese capabilities in the Spratlys, e.g., the Chinese surface-to-air missile (SAM) range now covers the entire island chain.

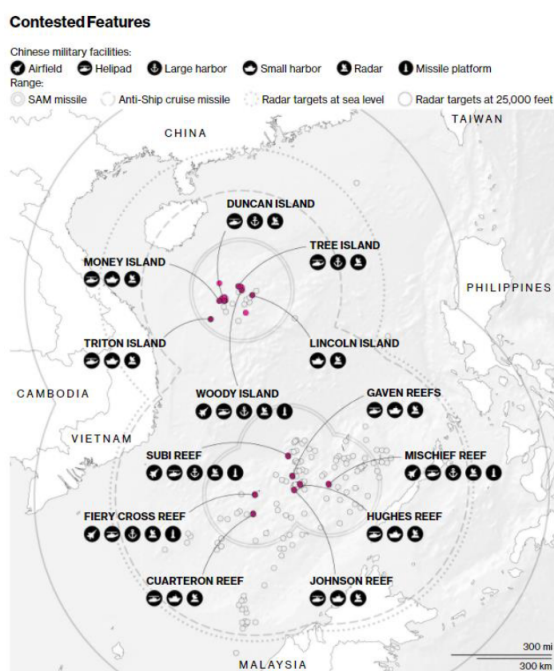


Figure 6: Reported military facilities at the SCS sites occupied by China (Leigh et al. 12/17/2020 with data from the Asia Maritime Transparency Initiative (AMTI) of the Center for Strategic and International Studies (CSIS))

While, from an operational point of view, the Chinese features would be vulnerable to an US attack, “the need to attack these sites [...] would increase the amount of time and effort needed to destroy or roll back China’s A2/AD network and divert [US] assets” (Dolven et al. 2015, 8) in the case of an active military conflict. Moreover, with vessels having to return to mainland China less frequently, the infrastructure built facilitates the day-to-day operations of PLAN, CCG, Chinese maritime militia, and fishing vessels. The official Chinese position towards its land reclamation program was reiterated by Chinese Foreign Minister Wang Yi in 2015:

“China is carrying out necessary construction on its own islands and reefs. The construction does not target or affect anyone. We are not like some countries, who engage in illegal construction in another person’s house. And we do not accept criticism from others when we are merely building facilities in our own yard. We have every right to do things that are lawful and justified.” (Foreign Minister Wang Yi cited after: Dolven et al. 2015, 14)

With this statement, Wang Yi first reproduced the Chinese view that the SCS is essentially the PRC’s “own yard”, while also echoing the Chinese narrative that it is only playing catch-up in the SCS. Although it is true that other countries, such as Vietnam and the Philippines, have reclaimed land and built infrastructure on occupied features in the Spratly Islands, those efforts are dwarfed by the scale of Chinese operations (Dolven et al. 2015). Overall, the Chinese strategy of land reclamation and infrastructure development on occupied islands in the SCS can be judged effective as it contributed to an increase in China’s power while the US and its allies have struggled to respond adequately.

The US rebalance to Asia policy reveals a key US action strategy to achieve its objectives in the SCS – strengthening partnerships and cooperation in the region. The US’s key alliances in the Indo-Pacific are with Japan, South Korea, Australia, the Philippines, and Thailand. Furthermore, strategic and security partner- and relationships have been developed with India, Singapore, Vietnam, and other countries (DoD 2019). While stepping up bilateral defense cooperation and assistance to Southeast Asian nations, such as the Philippines and Vietnam (Callahan 2021; Hu 2021), US strategy also featured the Indo-Pacific Maritime Security Initiative (MSI) aimed at building “a shared maritime domain awareness [MDA] architecture that [helps] countries share information, identify potential threats, and work collaboratively to address common challenges” (The White House 11/17/2015). The MSI provided \$425 million in maritime security assistance to the Philippines, Vietnam, Malaysia, and Indonesia from 2016 to 2021 enhancing their national and shared multinational MDA capabilities as well as aiding them to patrol their EEZs (Nguyen 2016, 408; O’Rourke 2019, 35–36; Dolven et al. 2021). Moreover, revitalizing existing US alliances and partnerships and building new ones is also identified as a key political objective for US Indo-Pacific strategy in the 2017 NSS and the 2021 INSSG (US President 2017; 2021). The evaluation of the US strategy to strengthen its partnerships and alliances in the SCS region shows mixed results. This is because the PRC is leveraging its economic might and dependencies to diminish US influence in the region.

In response to Chinese land reclamation efforts and declining US military advantage, the US has

reassessed “the pace and scope of US naval presence and operations in the [SCS]” (Nguyen 2016, 405) in 2015. US naval and air forces in the region maintain a presence in the SCS region through a variety of activities, such as joint exercises with allies and partners, port calls and rotational deployments, routine military operations, and freedom of navigation operations (FONOPs). The latter serve to uphold and strengthen international law by challenging excessive maritime claims, as internationally recognized rights and freedoms can only be protected against violations through persistent objections (Freund 2017). In the fiscal year 2020, the US military challenged a total of 19 excessive claims worldwide, often multiple times, through its FONOP program. Nearly half of these excessive maritime claims were located in the SCS, including 6 challenges to Chinese claims (DoD 2021a, 4–7). While, from the US perspective, these operations represent an important legal tool of objection, China views them as illegal US military activities and public humiliation (Scobell 2018a). However, conducting FONOPs in the SCS is also controversial in the US. Particularly, due to the “narrow legal purpose intended to challenge a specific legal claim made by a sole coastal state” (Dutton/Kardon 6/10/2017), FONOPs are considered by some experts to be less appropriate for the situation in the SCS. China, for example, did not make any formal legal claims to features in the Spratlys, thus there are no excessive claims that the US can challenge. In lieu of highly politicized FONOPs, routine military presence and operations, i.e., the consistent practice of free navigation, appear to be more effective in the SCS context (Valencia 7/11/2017). According to the Commander of the Pacific Fleet, the US Navy had on average one to two vessels deployed in the SCS every day in 2016 due to military exercises, transits and rotational deployments to US partners and allies (Dutton/Kardon 6/10/2017). In addition, US allies, such as the United Kingdom, France, Japan, and Australia, have also expanded their activities and presence in the SCS.

The subjective representation of the actors’ action strategies and means of achieving their set spatial objectives is followed by the analysis of how space is constructed strategically. The following chapter also outlines the role that spatial structures and constructed spatial argumentation play in the conflict.

ROLE OF SPATIAL STRUCTURES AND STRATEGIC CONSTRUCTION OF SPACE

In order to advance and support their respective goals and action strategies in the sovereignty and maritime conflicts in the SCS, both actors use strategic constructions of space to strengthen their argumentation. Thus, the line of reasoning for specific subjective goals is backed up by seemingly

objective spatial arguments. In the case of China, the most prominent examples hereof are the nine-dash line and its land reclamation on occupied features. The US, in turn, uses the narrative of freedom of the seas to question the legality of China’s actions. Moreover, the designation of the Indo-Pacific region, including the SCS, as an area of US national interest is also a form of strategic construction of space.

The PRC’s nine-dash line, set up shortly after WW2 and first presented in an international context in a 2009 note verbale to the UN, depicts the Chinese territorial and maritime claims in the SCS. In the document submitted to the UN, the PRC elaborates that

“China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof” (DOALOS 5/7/2009).

Yet, the official statement and the attached map remain ambiguous in terms of claiming particular rights such as sovereignty over specific features or maritime areas. A widely used interpretation by Gao Zhiguo and Jia Bing Bing asserts that the nine-dash line includes a claim of sovereignty over all the islands it encloses and their respective maritime rights, as well as an historic rights zone for the remaining maritime space within the u-shaped line, which generates rights similar to an EEZ (Gao/Jia 2013; Schofield 2016). This right to “historic waters” has been rejected in the final award of the SCS Arbitration. Despite, or perhaps because of, this ambiguity, China can effectively use the subjective and internationally not recognized nine-dash line as a spatial construction to support its line of argument. In Chinese pop culture and official communication alike, the nine-dash line is an integral part and requirement of cartographic representations of China. The intended influencing of spatial perception through maps has also made its way into scientific journals. In 2020, a preliminary survey of 260 articles discovered that, while often challenged in political science and legal publications, the nine-dash line has increasingly appeared in natural science publications since 2010, even though unrelated to the content and arguments (Nguyen 2020).

“The insertion of the nine-dash line in scientific prints is not accidental. The majority of articles having the nine-dash line appear to have been authored or co-authored by Chinese scholars. Most of the articles presented the research outcomes of projects funded by Chinese government agencies. [...] When asked, one Chinese author admitted that the insertion of the nine-dash line was a Chinese government requirement” (Nguyen 2020, 2).

This rather specific example illustrates how the Chinese government is using the constructed spatial reality of the nine-dash line to support its argumentation and influence spatial perception. Besides the nine-dash line, the PRC's land reclamation program in the Spratlys is another example of both discursive and, in this case even, actual construction of space. While physically adding 3,200 acres of land has changed the reality on the ground, the construction of Chinese outposts on these artificial islands has also changed the spatial perception by manifesting the PRC's claims in the SCS. Therefore, the reclamation work not only "undermines US credibility [, but simultaneously] strengthens the perception of China's influence" (Bisley 2018, 107). Beyond the direct operational advantages, the increased Chinese presence in the Spratlys sends a clear message to other claimant and non-claimant states in the SCS. Some of the artificial islands have been created on features that were previously submerged at high tide. Yet, due to the complex tidal regimes and difficulties in reconstructing the original status of the features, there remains some intended ambiguity with regard to the respective, newly generated maritime zones (Dolven et al. 2015). As a result, the physical construction of artificial islands supporting the Chinese argumentation creates a new spatial perception and reality.

The US, too, uses the construction of space in a strategic manner, including, e.g., the strategic spatial image of the high seas to portray China's actions in the SCS as unlawful. Because the US neither accepts China's assertion of historic rights within its nine-dash line nor the thesis that features in the Spratlys could generate an EEZ, it considers large swaths of water in the SCS to be high seas. Although UNCLOS regulates military activities in the high seas and EEZs, a number of different interpretations are still being debated. The US and its allies perceive China as breaking with the established ways of international law (Bisley 2018; Rosenberg 2021). By explicitly framing China's actions in the SCS as "unlawful" (DoD 2019, 43; DoS 7/13/2020), the US is diminishing Chinese legitimacy and strengthening its own position through discourse. In contrast, the US's own spatial actions, such as its FONOPs program, are presented as legal and necessary to protect the freedom of the seas. The deliberate use of the term "freedom of the seas", instead of "freedom of navigation", with a possibly narrower meaning, is another example of the US actively using discursive language to influence the conflict perception. By using its own term, the US can effectively shape its definition and dismiss other interpretations. As a result, the strategic spatial and discursive constructions of the high seas and freedom of the seas serve a dual purpose: they support the US's position in the spatial conflict and brand the PRC as an international outlaw.

Another example of how the US is strategically constructing space in the SCS through discursive means is its use of the term national interest. Through the specific wording of "national", the notion of national interests implies a strong geographical and political link between the SCS region and the US, even though it is some 10,000 km away from the US mainland. The term was first officially used in connection with the SCS by Secretary of State Clinton in a 2010 press statement:

"The United States [...] has a national interest in freedom of navigation, open access to Asia's maritime commons, and respect for international law in the South China Sea" (DoS 7/23/2010; italics added).

The PRC reacted harshly to this declaration and the US's subsequent FONOPs in the SCS, labelling them as "a conduct of maritime hegemony in the name of 'freedom of navigation' that is, an outflow of American exceptionalism" (Chinese officials cited after Wirth 2020, 36). The narrative of national interests can indeed be considered a product of US exceptionalism, using the strategic spatial construction of national interest to justify US interference in the SCS region. Since 2010 this narrative has been reproduced in key US strategic documents. Both the 2017 NSS and the 2021 INSSG stated the "US interest in a free and open Indo-Pacific" (US President 2017, 46) and "[the Indo-Pacific] as a vital national interest" (US President 2021, 10) respectively. The DoD's 2019 Indo-Pacific Strategy Report further manifests the discursive narrative of national interest "affirm[ing] the Indo-Pacific as critical for America's continued stability, security, and prosperity" (DoD 2019, 16).

Both conflict actors – the PRC and the US – strategically use constructions of space to justify and strengthen their arguments. Through the conscious subjective and selective representation of space, spatial structures are one-sidedly distorted to influence spatial perception and enforce the actors' spatial objectives. Following the detailed analysis of the actors' goals, action strategies, and strategic spatial constructions through theory-based reinterpretation, the conclusion will summarize the findings of the present thesis and offer an outlook into the future of the spatial conflicts in the SCS together with some concluding remarks.

CONCLUSION

Arguably "the most contested maritime space in the world" (Morton 2016, 911), the SCS is the site of numerous spatial conflicts, primarily arising over the sovereignty over specific features and the generation and scope of maritime rights. The SCS's strategic importance derives from its geographic location, constituting a hub for international trade and competing US and Chinese security interests. In this

paper, the analysis of the spatial conflicts over sovereignty and maritime rights in the SCS was built upon the theoretical concepts of AGCS and critical geopolitics. Based on a literature review and the analysis of official documents, the empirical study examined the actors' goals and strategies for action, determined the influence of the actors' interactions and the socio-political framework on the spatial conflicts, and deconstructed the use of strategic constructions of space. The core findings of this analysis are briefly summarized in the following.

For both parties, US-China strategic competition is a key concern in the SCS, with the PRC aiming to challenge and limit US influence in the Indo-Pacific region, and the US striving to secure its military advantage. Moreover, China is particularly mindful of ensuring its national security and territorial integrity in the SCS. The US's second key objective, in turn, is to uphold the current US-led rules-based international order. In order to achieve these spatial goals different action strategies have been applied by both parties. The PRC mainly employs its strategy of so-called salami-slicing, i.e., continuously expanding its power through small, incremental actions to create a new reality on the ground. Another pillar of China's action strategy for the SCS is its large-scale land reclamation program on occupied features in the Spratlys. Meanwhile, the US focuses on strengthening its strategic partnerships and alliances in the region to counter Chinese influence. Maintaining its military advantage in the SCS region through an increased US presence and military operations such as FONOPs represents the second key strategic objective of the US.

The course of conflicts in the SCS is significantly influenced by the rules and structures of the socio-political framework and the interactions between the US and the PRC. The US justifies its rebalance to Asia and increased military focus on the Indo-Pacific by citing growing Chinese assertiveness in the ECS and SCS, whereas the PRC portrays its actions as merely playing catch-up with the US and its allies. In addition, certain spatial actions are notably directly influenced by the other actor's actions, such as US FONOPs in response to Chinese land reclamation. The influence of socio-political institutions on the spatial conflicts becomes evident, when considering that both parties refer to the rules of international law, particularly UNCLOS, in their respective arguments.

The actors' lines of argumentation are further strengthened by the strategic representation and construction of space. China's main strategic spatial constructions are its nine-dash line illustrating the PRC's perceived sovereign and maritime rights in the SCS and its large-scale land reclamation efforts. The US is primarily using discursive language, including its narrative of national interest and branding

China's actions in the SCS as "unlawful" and "disregarding freedom of the seas".

Based on the theory-driven reinterpretation, answers are provided to the three research questions posed in the introduction. Yet, due to the mentioned theoretical and methodological limitations as well as the rather small scope of the present thesis, further research is needed and highly recommended. The spatial conflicts in the SCS are a rapidly changing field of research with a myriad of actors involved. Of particular interest would be an analysis of the spatial actions of other relevant actors and stakeholders, such as the Philippines, Vietnam, and ASEAN. In addition, qualitative interviews with key actors could provide even more revealing insights into the actors' goals and action strategies.

The sovereignty and maritime conflicts in the SCS, which can be embedded in the larger context of US-China competition, are currently among the most pressing and consequential spatial conflicts in the world. Given the shifting global power structures and the overall trend toward militarization, further accelerated by the Russian invasion of Ukraine, it remains to be seen whether a peaceful resolution of the spatial conflicts will be possible.

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