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The South China Sea and Asian Regionalism

A Critical Realist Perspective

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To my father
Day by day
With great patience,
And loving-kindness
He showed me his way.
Through poetry,
Analogy,
And theory
He made me see with my heart.
As we parted
I heard:
"My small bird
The sky is wide
The world swings and turns,
No end.
Mindfully
Child
You must know
The seeds you sow.
Wear compassion
In your heart
Fill the air that you breathe
With no other feeling than
Compassion.
Remember
My child,

Your name
And this patrimony
Mean the same.
Let them be
Your lantern
When I no longer am."

Thanh-Dam Truong, 22 April 1994

Acknowledgments

The impetus for this book came from a workshop on the South China Sea held at the International Institute of Social Studies on 24–26 October 2011. Sponsored by Erasmus University Rotterdam, the workshop brought together specialists from Asia and Europe to discuss the themes related to the multifaceted character of conflicts in this maritime zone and approaches to their management. The workshop's main goal was to build interdisciplinary cooperation between social scientists in European and Asian institutions to conduct research on conflict management measures with a focus on human security. The workshop brought to the fore the importance of addressing the interfaces between the different research disciplines. We would like to thank all the participants for the valuable conversations held during this workshop, Erasmus University Rotterdam for its financial support, and the organizers for having created an environment conducive to a fruitful exchange.

Our choice of Critical Realism as a guiding framework for this book resulted from a series of bilateral discussions. The authors are both concerned with ongoing processes of social transformation under globalization and their differentiated regional outcomes visible since the turn of the millennium. The following personal aspects have also fostered our collaboration: (1) our common social location as scholars in an institute well known for its track record in Development Studies as a multidisciplinary field; (2) the different places of our social origins (Vietnam and Lebanon), their hybrid cultures, and our life trajectories as members of the diasporas. These aspects have nurtured our travail in cross-cultural communication to recognize the important role of perspectival reality as a phenomenological issue in theory building and practice. Recognizing this issue means attentiveness to the role of historically moulded beliefs and desires, the ways these have given form to intentions, and the manners of translating intentions into action. The aim of our book is to synthesize the extant knowledge on the South China Sea along these lines and to bring a fresh perspective to research on peaceful transformation.

We thank the three anonymous reviewers for their valuable insights, PD Dr. Hans Günter Brauch for his suggestions, a language editor who wishes to remain anonymous, Kathrin Fischer for copy-editing, and Mike Headon (Wales) for a careful final language editing. We have benefitted greatly from all their comments. We remain responsible for the views expressed here.

The Hague, July 2015 Thanh-Dam Truong
Erasmus University Rotterdam Karim Knio

Contents

Abbreviations

ADB	Asian Development Bank
ADIZ	Air Defence Identification Zone
AIIB	Asian Infrastructure Investment Bank
APEC	Asia–Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
CEP	Cultural Emergent Properties
CNOOC	China National Offshore Oil Corporation
CR	Critical Realism
D of CoC	Declaration of the Code of Conduct
DRV	Democratic Republic of Vietnam
EEZ	Exclusive Economic Zone
EIA	Energy Information Administration (of the US)
ESCAP	Economic and Social Commission for Asia and the Pacific
FTA	Free Trade Agreement
FTAA	Free Trade Area in Asia and the Pacific
JMSU	Joint Marine Seismic Undertaking
LNG	Liquid Natural Gas
LOS	Law of the Sea
MA	Morphogenetic Approach
NAM	Non-Aligned Movement
PEP	People's Emergent Properties
PLA	People's Liberation Army
PLAN	People's Liberation Army's Navy
PRC	People's Republic of China
PRG	Provisional Revolutionary Government (of South Vietnam)
ROC	Republic of China
RVN	Republic of Vietnam
SEATO	Southeast Asia Treaty Organization
SEP	Structural Emergent Properties
SEZ	Special Economic Zone
SLOC	Sea Line of Communication

SRVN	Socialist Republic of Vietnam
TAC	Treaty of Amity and Cooperation in Southeast Asia
TMSA	Transformational Model of Social Activity
TPP	Trans-Pacific Partnership
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
WTO	World Trade Organization

Chapter 1
Introduction

Abstract This chapter places the contemporary maritime disputes in the South China Sea in the context of the debate on "Asian Regionalism" and the rise of China. Special attention is given to how the configurations of an entity called "Chinese characteristics" in international relations, and that of a "civilizational state", have given new directions to the concept of "China's Dream" and the "Asian Dream", with consequences for ASEAN as a regional organization and for member states embroiled in maritime disputes. The current tension can only be overcome through an interdisciplinary approach to research and policy that takes on board the social transformation of transborder issues.

Keywords South China Sea · 3-D warfare · Asian regionalism · China · ASEAN · Civilizational state · Legal alchemy · Transborder

The South China Sea—a semi-enclosed stretch of water located between the Indian and Pacific Oceans—has played a major role in facilitating societal interactions in Asian history. During the Second World War it was a major military theatre, and during the Cold War it became an area for surveillance and containment of China by the US. Since the turn of the millennium, in addition to its importance for facilitating intra- and inter-regional trade routes or *Sea Lines of Communication* (SLOCs),[1] this sea has become a field of competition regarding access to, and control over, both marine and mineral resources.

Lack of consensus on the interpretation of specific clauses of the *United Nations Convention on the Law of the Sea* (UNCLOS)—which came into force in 1994 and to which all countries with territorial claims to areas of this sea (China, Vietnam, Philippines, Brunei and Malaysia) are party—plus China's insistence on bilateral

[1]According to Kaplan (2011), roughly two-thirds of South Korea's energy supplies, nearly 60 % of Japan's and Taiwan's, and about 80 % of China's crude oil imports are transported across the South China Sea. Proven oil reserves below the seabed amount to seven billion barrels, and the estimates of natural gas are put at 900 trillion cubic feet. Foreign Policy; at: http://www.foreignpolicy.com/articles/2011/08/15/the_south_china_sea_is_the_future_of_conflict (1 March 2012).

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negotiations are stalling efforts to move towards conflict resolution. Unresolved conflicts have broader implications for the region as a whole. Though hydrocarbons and *liquid natural gas* (LNG) discovered since the 1970s have contributed to economic growth in East and Southeast Asia, maritime tension can put a block on such development. Economic integration and successful patterns of growth during the last decades have much depended on the maintenance of maritime order—ensuring the security of maritime routes that strategically connect the seas of North-East Asia with the Indian Ocean, and the Arabian Sea with the Mediterranean. Competing maritime claims—a legacy of the post-Second World War order—have been kept under control but remain unresolved. With the rise of China as an economic power and as the world's largest oil consumer[2] these competing claims are gaining momentum, bringing deeply-rooted geopolitical tensions to the surface. Failed negotiations and uncontrolled unilateral actions by claimants have metamorphosed into potential geopolitical confrontations, on a scale which could countermine the peaceful coexistence that has supported the trajectory of economic growth in this region.

1.1 The South China Sea Seen from the Perspective of Asian Regionalism

Unlike European regionalism implemented through treaty-based cooperation,[3] for cultural and historical reasons legal and political cooperation among countries of Pacific Asian regions remains weak. What has been called 'Asian Regionalism' so far remains basically a market-driven formation of tightly knit economic cooperation fostered between different actors at intra- and inter-industrial levels both within the region and beyond (Hatch 2010; Grinsburg 2010). This form of regionalism has neither the necessary institutions for resolving intra-regional disputes—especially territorial ones—nor cooperative security arrangements, nor multilateral arrangements to protect the SLOCs.

The *Association of Southeast Asian Nations* (ASEAN) formed in 1967 is the only intergovernmental organization with an explicit commitment to peace and security. Apart from two legally binding instruments—the *Treaty of Amity and*

[2]China's dependence on oil imports is growing due to the finite limits of domestic production combined with an explosion in car ownership. Oilprice; at: http://oilprice.com/Energy/Energy-General/Whose-Oil-Will-Quench-Chinas-Thirst.html (1 March 2012).

[3]Starting with the *European Coal and Steel Community* (ECSC) in 1951, cooperation was furthered by the establishment of a common market—the *European Economic Community* (EEC), which included a *European Atomic Energy Commission* (EURATOM)—set out in the Treaty of Rome in 1957. Political cooperation proceeded with the Single European Act, which supplemented and amended the Treaty of Rome and came into action in 1986. After the fall of the Berlin wall in 1989, a new chapter in the process of European unification led to the Maastricht Treaty in 1992, paving the way for the enlargement of the community as well as a deepening of economic integration and the setting up of a common currency.

Cooperation in Southeast Asia (TAC) in 1976 and the Southeast Asia Nuclear Weapon-Free Zone in 1995—the organization has traditionally relied on informal diplomacy, good will and patience to resolve conflicts between members. Appealing to international law is considered a measure of last resort.[4]

Concerning territorial disputes in the South China Sea, the main achievement had been the informal process of confidence-building known as the "Workshop Process on Managing Potential Conflicts in the South China Sea", initiated by Indonesia in 1990. This process had produced a joint Declaration on the Conduct of Parties in the South China Sea, otherwise known as the *Declaration on the Code of Conduct* (D of CoC) signed in 2002 by the foreign ministers of ASEAN member countries and China, two years after Vietnam and China finalized the demarcation of the Tonkin Gulf, altering the borderline delimited in the 1887 Franco-Chinese Treaty.[5]

In this Declaration the parties committed themselves to work towards a Code of Conduct in line with the 1976 TAC and the 1995 Southeast Asia Nuclear Weapon-Free Zone to which all five claimants (China, Vietnam, Philippines, Malaysia and Brunei) are parties. In the meantime, to maintain peace and stability in the region, the parties also agreed to keep the status quo regarding the control by claimant states of the islands, islets, and atolls. A key premise underlying the D of CoC is the commitment to pursue peaceful means of resolving conflicts in line with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea (UNCLOS III).[6]

A turn of events took place in 2007 when China's State Council approved the proposal initiated by the Hainan Provincial Government to set up a new city to be called Sansha to administer the Paracel Islands (Xisha), the Macclesfield Bank (Zhongsha) and the Spratly Islands (Nansha), all considered to be within China's sovereign territory. Two years later, China submitted a map to the United Nations that depicted a maritime boundary line (a U-shaped line consisting of nine dashes), which encompasses nearly 90 % of the South China Sea as its territory.[7] This move

[4]Following ASEAN's unsuccessful engagement under Indonesia's chairmanship to mediate the conflict between Cambodia and Thailand over a long-disputed area of land near Cambodia's 900-year-old Preah Vihear temple, both countries decided to bring the case to the *International Court of Justice* (ICJ) in 2011. The ICJ upheld the submissions of Cambodia concerning sovereignty over the temple in 2013. International Court of Justice; at: http://www.icj-cij.org/docket/index.php?sum=284&p1=3&p2=3&case=45&p3=5 (2 March 2012).

[5]The absence of public debate in Vietnam on these negotiations remains a major flaw from a political point of view, especially regarding the merit or demerit of bilateral negotiations to settle both land and sea border issues.

[6]The purpose of UNCLOS III is to establish a comprehensive set of rules governing the oceans and to replace previous UN Conventions on the Law of the Sea (UNCLOS I in 1958 and UNCLOS II in 1960), which were considered inadequate. China was excluded from the United Nations at the time of UNCLOS I and II.

[7]Along with these administrative and legal declarations, other signs of the country's assertion of its successful image have included the Beijing Olympics (2008), the National Parade (2009), and the Shanghai Expo (2010). China's incumbent President—Xi Jinping—directed all three events (Callahan 2014).

has raised much anxiety among Southeast Asian claimant states about China's position and intention as conveyed through these actions. A key concern is whether the U-shaped line should be taken as representing China's view on the status quo over the sea area enclosed by it in addition to the occupied islands previously agreed upon as the status quo. Apart from seeking clarification from China through diplomatic channels and civilian protests, some claimant states have used various other means to assert their presence on the islands under their control.[8] These events have, in turn, triggered a new surge of nationalist sentiments and historical memories of conquest and domination—shaped and reshaped by new interpretations of state responses. Ethnicity, culture and political systems are becoming intertwined through the media's construction of social identities.

An issue that has received much attention since the beginning of this decade is the idea of China's nationalism being more than an identity attached to the modern state. As a social construct, China's nationalism is an issue of 'identity' built on the notion of a 'civilizational state'—an ancient civilization in the contemporary body of a modern state. Accordingly, a 'civilizational state' distinguishes itself from others in terms of its ancient history, culture, value system, identity, and mode of thinking, despite the transformation of its territorial boundaries through time. In this view, China as a civilizational state is to be considered as having its own intrinsic logic of evolution and capability of generating its own standards and values in order to make unique contributions to the world (Wei-Wei 2011).

This form of nationalism expresses something deeper and more ambitious than the term 'nation state' attached to 'sovereignty' as a key concept in the repertoire of political science influenced by the Westphalian framework of international relations. The civilizational state defined by Wei-Wei[9] expresses a vision with two time frames, retrospective and prospective. The retrospective frame implicitly builds itself on both the long history of this country and a well-documented overcoming of its pains experienced during the fall of the Qing Empire—a period termed as 'Unequal Treaties' with the West—and its defeat in the 1885 war with imperial Japan. 'Unequal Treaties' became interwoven with a 'Century of Humiliation', a

[8]Some examples are: visits to claimed islands by Philippine politicians in 2011 and the Scarborough Shoal stand-off in 2012; Vietnam's renovation of Buddhist temples abandoned since 1975 and construction of new temples in 2012 on a couple of islands in the Spratly Islands that were under its control; China's construction of Sansha city on Woody Island (13 km^2 of land area) in the Paracel archipelago in 2012 to administer a sea area of more than two million square kilometres or a quarter of that country's total land area; the placement and eventual withdrawal of mega-oil rig HD–891 in May 2014 in Vietnam's Exclusive Economic Zone in July 2014. The most recent initiative by China is the implementation of a large land reclamation project, involving dredgers on at least five features, that aims to turn tiny reefs into islands big enough to handle military hardware, personnel and recreation facilities for workers. On one reef (Fiery Cross), the construction of a runway—long enough to accommodate fighter jets and surveillance aircrafts—is ongoing ("China Building Aircraft Runway in Disputed Spratly Islands"; in: *The New York Times*, *Asia Pacific*, 16 April 2015: A8).

[9]Wei-Wei Zhang is currently Professor of International Relations at Fudan University in Shanghai. In the mid-1980s he served as a senior English interpreter for Deng Xiaoping and other leaders.

sister term which chronologically documents the key events harming China's identity as the Middle Kingdom known for its perseverance and civilization. Stored in the nation's memories and periodically re-enacted in rituals, these events have created China's geo-body (Callahan 2010) and reinforced its fear of being dismembered (Hu 2000: 147).

The prospective frame draws on the rise of China following the successful reforms since 1978 known as the 'Four Modernizations' initiated by Deng Xiaoping. First articulated in 1984, the theory and practice of 'building socialism with Chinese characters' consisted of mixed forms of public and private ownership competing in a market environment under the rule of a single-party state. Subsequent to the successful transformation of its economy and society, explications of China's remarkable achievement became extended to include the causal relationship between the country's strong philosophical roots and beliefs and economic efficiency. Labelled as 'market fundamentalism' and 'democratic fundamentalism', the Western model is considered less able to respond to the expected transformations in the twenty-first century.[10] The contrast is drawn between the current system driven by current international norms and an approach that takes cognizance of, and adapts to, local conditions (Wei-Wei 2012: 85). The concept of a 'civilizational state' boils down to a projection of China as a country capable of producing a new model of 'development', guided by a political discourse based on 'Asian Values', which resists the Westphalian system of international relations as an alien construct externally imposed on its culture.[11]

Brady (2011) provides a new insight from the perspective of communication sciences. She and her team illustrate how China has made an intelligent move to reshape its propaganda system to 'rebrand' itself in a new image aiming to change perceptions of 'China' as an entity, both at home and abroad. After the crisis of Tiananmen and the dissolution of the Soviet Union, China's leadership needed to set up a friendly image to the world while maintaining the ideals of state communism to maintain order. The rebranding is based on two key slogans: harmony and inclusiveness. Both values are intrinsic to Confucianism as a philosophy. Having been rescued from its vilification by the Cultural Revolution, Confucianism now returns to produce two new notions, 'State Confucianism' and 'Chinese-ness', based on which a new discourse on modernity is being constructed. These two notions are woven together with the imperative of maintaining socialist theory to

[10]On close reading, Wei-Wei uses the term Western to refer mainly to the US and tends to conflate a wide range of theorizations on the economic and the political into one frame labelled as 'Western'. His measure of 'civilization' contains a mixture of quantitative and qualitative variables, some of which are doubtful: (1) population size; (2) size of territory; (3) rate of economic growth; (4) enduring traditions; (5) a unique society built on the family and community-based structure; (6) a unique language; and (7) a unique political system that blends Western economics with China's humanist traditions. For a discussion on the downside of Chinese traditional culture for innovation see: Van Someren/Van Someren-Wang (2013).

[11]China especially resists the Western-based norms of democracy, good governance and human rights.

ensure internal compliance and broad support through the language of social redistribution. The goal of the rebranding is to bring the message, both to its own society and to the world, that China is an orderly, market-friendly, scientific, high-tech, non-aggressive country (Brady 2011: 1–10).

Initially aimed at fostering affinity with Taiwan's nationals and overseas Chinese, the discursive shift in identity to Confucianism is gradually finding new forms of expression in China's foreign policy, aiming to make its new ideals more appealing and thereby to dispel fear about its rise as a power (To 2011). One of the key instruments of current cultural diplomacy is the Confucius Institute Project,[12] a form of state-sponsored and university-piloted initiative that strives to create a platform for China's projection of its "soft power", despite tension and paradoxes (Pan 2013). The diffusion of China's millennium-old worldview notion of *Tian Xia* (All Under the same Heaven)[13] aims at providing an alternative moral basis for reconsidering the existing form of international relations. Attempts to embed *Tian Xia* in broader debates on contemporary international relations and world order[14] find their manifestation in the discourse on China's responsibility to the world, which emphasizes not only a country amassing economic and military capabilities, but also one capable of creating new world concepts and new world structures (Callahan 2008). The latest articulation of China's new image was expressed in President Xi Jinping's key concept of the 'China's Dream' during a meeting with US President Barack Obama in June 2013. The term was readjusted to the 'Asian Dream' during the *Asia–Pacific Economic Cooperation* (APEC) meeting in November 2014.

The projection of the notion of a 'civilizational state' on to neighbouring countries has produced mixed reactions. At one level, it can be perceived as a general attempt to extend China's sphere of influence. Along with the unfolding disputes in the South China Sea, the concept of a civilizational state has been

[12]Between November 2004 and August 2011, the People's Republic of China established a total of 353 *Confucius Institutes* and 473 related Confucian classrooms in 104 countries, all of which are "aimed at developing Chinese language and culture teaching resources and making services available worldwide, meeting the demands of overseas Chinese learners [and other learners] to the utmost degree, and contributing to global cultural diversity and harmony" [PRC Ministry of Education 2012, cited by Pan (2013: 2)].

[13]Debating *Tian Xia* as a cosmology and moral discourse merits a separate discussion. Callahan noted the progression of views of the prominent Chinese philosopher Zhao Tingyang, starting with elaborating the meanings of *Tian Xia* in China's ancient thought through to his recommendation that contemporary China should draw on its own cultural resources to build the All Under The Same Heaven system for a unified global government, which will guarantee peace and harmony for China and the world (Zhao 2005, 2009, 2011 in Callahan 2014). For a comparative discussion on Confucian cosmology and the conceptualization of security, see Brauch, Oswald Spring, Mesjasz et al. (2008: 173–310).

[14]Interest in the building of an *international relations* (IR) theory with Chinese characteristics dates back to Mao Tse-tung's call in 1965 when he advocated such a theory under the guiding principle of Marxism. This call was dropped after the start of the Cultural Revolution (Chan 1998: 17–18).

received in some countries as embodying the protection of China's identity and territoriality as well as its perceptions regarding security. Within the Asia–Pacific region sovereign states are also sensitive to China's ancient tributary system—a means of promoting trade and culture that also expresses the legitimacy China's domestic rule and ensures security at the frontiers (Zhang 2009). There are underlying reservations in some neighbouring countries about the implications of the revival of the tributary system under *Tian Xia* in modern-day international relations. The Chinese world view of *Tian Xia* is firmly based on the Confucian concept of the universe, in which there is neither a defined entity with a finite boundary and related concepts such as sovereignty and territorial integrity, nor a notion of legal equality between the constituent units (Qin 2009: 26–50). This world-view places China as the dominant actor responsible for maintaining stability between member polities. The appeal to the wisdom of *Tian Xia* in China's geopolitical strategy to regain its millennium-old status has caused concern among some neighbours regarding the norms imperial China had deployed to restrict the diplomatic autonomy of its tributes, and in some cases also internal governance. Ancient Chinese thinking on foreign relations combines benefits and sanctions provided to the sub-powers for overcoming inter-state conflicts to ensure China's own stability in the regional hierarchical order (Chun 2009). Without a clear assessment of China's contemporary norms in international relations relative to others, the position of China's neighbours as legal equals in negotiations on the resolution of maritime conflicts risks being undermined.

The entity called 'Asia' is actually a heterogeneous region with multiple cultural frameworks that have interacted and built on each other historically, producing many layers of civilization with subtle differences. This makes 'Asian Values' a slippery analytical category in itself (Cauquelin et al. 1998)—apart from how people practise these 'values' in their daily lives, as well as the tensions that ensue from the different interpretations. In that respect, it must be noted that Southeast Asian countries have developed complex structures of relations between their polities. With the exception of Vietnam's being China's vassal state for a millennium, with periodic autonomous rule and a shared notion of sovereignty based on land boundaries defined in terms of mountains and rivers, other polities might have entered China's tributary system on occasion but they did not necessarily see themselves as an actual part of the East Asian hierarchical system of foreign relations. Engagement with any major power was often a means of constructing a favourable regional set-up for themselves rather than submission (Manggala 2013).

Although contemporary China may have in mind the process of constructing one 'Asian' identity, ASEAN countries are actually too heterogeneous to presume a mono-principled and durable mode of regional cooperation based on Chinese characteristics labelled 'Asian'. Despite the clear commitment to the rules of open trade made prior to its entry into the *World Trade Organization* (WTO) in 2001—a commitment which earned the support of the US—China's attempt to restore civilizational glory tends to goes hand in hand with a mixed record with respect to

compliance.[15] Analytical attention to the subjectivism embedded in the category of 'Asian Values' is necessary to explain the merits of the underlying norms that guide policy practices, as compared to other forms of subjectivism such as the Westphalian framework of international relations.[16] On the maritime front, despite its commitment to resolve boundary disputes through international law, China has also promulgated its own maritime laws with excessive claims. In the South China Sea haphazard evidence of its "historical rights" based on its tributary system has been used (Hayton 2014). To date, China's foreign policy guided by the concept of 'civilizational state' appears to have allowed the government to dodge international law while being party to UNCLOS.

The lack of progress in translating the Declaration of the Code of Conduct—a document of intent—into a fully binding Code expresses the character of power imbalance in the region. At one level, there is a notable absence of strength expressed through a style of diplomacy known as the 'ASEAN Way'—a form of bilateral persuasion that avoids confrontation by according due respect to one another's situation and cultural dispositions (Djalal 2001). This exposes ASEAN individual member states to China's political pressure and economic influence. The fact that the US—a hegemon in the post-Second World War order—initiated the laborious work on UNCLOS, and signed the agreement in 1994 but has not yet ratified it, does contribute to the climate of ambivalence. This has not only weakened US political credibility in the region but perhaps also given China, as a rising power, the chance to emulate this behaviour by deploying its norms concerning bilateral negotiation using its national maritime law as a standard, since it cannot backtrack its ratification of UNCLOS.

Nearly two decades ago, the eminent scholar Johnson (1997) prophetically warned that failure to understand China's rise and America's lack of a serious long-term view regarding its relations with the East and Southeast Asian regions could create an environment unlikely to foster a peaceful resolution. He suggested that China's attempt to recover maritime territories, some of which were lost to foreign powers during Qing rule, plus any delay in clarification and substantiation of these claims, would likely exacerbate nationalism, potentially bolstering willingness to employ military means to balance its sovereignty issues with its economic and security interests.

What Johnson did not foresee was a 'three-dimensional warfare' process, distinct from the conventional craft of war, which uses step-by-step strategies in a long-term time frame and aims at keeping the US Navy at bay to create an alternative maritime order favourable to China. The defence concept of '3D warfare' was proposed in 2003 by the *People's Liberation Army* (PLA) and approved by the Chinese Communist Party, its Central Committee and the Central Military Commission. It embodies legal, psychological and persuasive tools built on the belief that war is not

[15]Some major issues are the restrictions on the export of various forms of rare earths, intellectual property rights, and failure to enforce its own law on food safety (Aaronson 2010).

[16]For a debate on non-Western international relations, see Acharya/Barry (2010).

simply "a military struggle, but also a comprehensive engagement in the political, economic, diplomatic and legal dimensions" (Walton 2009: 15). The concept considers nuclear weapons to be of dwindling potency due to problematic outcomes and 'un-won' wars; war has thus to be fought with other means (Halper 2013).

Countries that are parties to the maritime territorial disputes in the South China Sea are generally aware of China's military strategic culture derived from Sun Tzu's *Art of War*—a practice which aims at creating a favourable disposition of forces such that fighting becomes unnecessary or undesirable (Mahnken 2011). Bilateral quiet diplomatic practices based on mutual interest between states without the recognition of legal equality can face their limits when an agreement on a legal framework of conduct cannot be achieved among the parties in dispute. The Philippines became the first claimant who, in November 2013, rejected bilateral negotiation with China and sought international arbitration as the last resort.[17] China immediately responded with a curt announcement of its *Air Defence Identification Zone* (ADIZ) covering disputed territories with Japan and South Korea, and soon afterwards a senior Chinese military officer and researcher at a Military Academy of the *People's Liberation Army's Navy* (PLAN) caused further anxiety by stating that the establishment of an ADIZ over the South China Sea "would be necessary for China's long-term national interest".[18] These announcements raised new concerns about the apparent link between the notion of a 'civilizational state' and the concrete reality of 'resource nationalism' which can have an extended meaning that also covers the SLOCs and overflight.

The articulation of 'national interests' by state actors at different levels of administration has raised new questions about how 'nationalism' may be used as a frame to implement three types of warfare—psychological, media and legal—to achieve the political end of expanding the maritime frontier (Halper 2013). The success of these types of warfare has found its expression in China's recent and massive land reclamation activities in the South China Sea on at least seven disputed reefs and atolls within the Spratly Islands group. When seen from the vantage point of the previous agreement to maintain the status quo, the 2014–2015 construction on Fiery Cross Reef may now be considered as a *fait accompli* of a 'land-grabbing' effort by means of landfilling to realize a 3,000 m-long airstrip—enough to accommodate fighter jets and surveillance aircraft and to ensure sea and air control.[19] To psychologically reassure its neighbours, China links the notion of territorial rights to its international responsibility. Its Ministry of Foreign Affairs explained the main purpose of this ongoing construction work in terms of enablement of its international responsibility "to provide all-round and comprehensive services to meet various civilian demands besides satisfying the need of

[17]Although the Philippines invited other claimants to join the initiative, none had come forward at the time of writing (May 2015).

[18]In: *The Diplomat*; at: http://thediplomat.com/2014/02/pla-officer-china-must-establish-south-china-sea-adiz/ (1 March 2014).

[19]HIS Jane's 360; at: http://edition.cnn.com/2014/11/24/world/asia/china-south-china-sea/index.html (27 December 2015).

necessary military defence in their functions".[20] China's Chief of Naval Operations, Wu Shengli, subsequently clarified to his US counterpart that the United States and other countries would be welcome to use these civilian facilities for search, rescue and weather forecasting "when conditions are right", and that the building work would not affect freedom of navigation or overflight.[21] Carl Thayer, an expert in the Law of the Sea and the South China Sea, has reformulated what had been called "land grabbing" as China's success in legal alchemy, notably the transformation of UNCLOS rules into "international law with Chinese characteristics".[22]

The relationship between China's sovereignty claim in the South China Sea and its definition of this sea as a 'core interest', considered to be on a par with Tibet, needs to be treated as an object of research in its own right, by discerning those extant internal and external relations which have provided the necessary material and ideational conditions for its emergence. As noted by Mahnken (2011: 12), one of the four features of the strategic culture of China is the figurative definition of the 'natural' position of the Middle Kingdom depicted by Emperor Gaozu (566–635) of the Tang Dynasty as follows: "China is to the lesser peoples as the Sun is to the stars." Foreign policy thus consists of "keeping a firm rein on the territory of inner China; neutralizing Mongolia, Tibet, and Turkistan; achieving hegemony over outlying regions, such as Korea and Vietnam; and working out a relationship with the rest of the world". Although the South China Sea did not figure in this 'natural' position, it has now acquired the status of a "core interest" (Yoshihara/Holmes 2011). The emergence of this new 'core interest' should be placed in an appropriate temporal frame to discern (a) the transient or enduring aspect of its character, and (b) the conditions that may shape a new consciousness and motivation in pursuing, or altering, the declared interest along with implications for the conduct of international relations in the future.

1.2 A Critical Realist Approach to Research on the South China Sea

The unfolding events in the South China Sea, particularly since 2007, necessitate a new research approach that can come up with rigorous explanations of the social transformation that has enabled China to adopt a relatively persistent conduct that foils its actual intention. Practices of 'soft power' to disable the resistance of its opponents have enabled new achievements in its maritime frontier south of its land

[20]In: *The Diplomat*; at: http://thediplomat.com/2015/04/beijings-fait-accompli-in-the-south-china-sea/ (15 April 2015).

[21]South China Morning Post; at: http://www.scmp.com/news/china/diplomacy-defence/article/1783156/china-says-us-welcome-use-bases-built-disputed-areas (1 May 2015).

[22]In: *The Diplomat*; at: http://thediplomat.com/2015/06/no-china-is-not-reclaiming-land-in-the-south-china-sea/ (12 June 2015).

border. In China's contemporary parlance, the concepts of 'sovereignty' and 'interests' can be treated neither as given nor as social construct. They must be subject to historical and sociological analysis to reveal their enduring meanings plus the ongoing modes of structural elaboration. Acknowledgement of the social roots of knowledge—its epistemological origins and the role of self-reflection in human cultures—is important in order to discern those aspects with the potential to generate, reduce or transform conflict.

The current tendency in research on the South China Sea is to draw on the Westphalian framework of international relations to frame issues in distinct domains of concern such as: (1) sovereignty, the Law of the Sea and its administration; (2) the regional political economy; (3) security and transboundary issues (under-seabed and marine resources such as hydrocarbons and fishery; safe navigation for commerce); (4) the codification of meanings related to the legitimacy of control and to conflict. Each approach has its own epistemology and its own ways of establishing empirical regularities and explaining causation, thereby generating its own internal conversation about validity without paying sufficient attention to transdisciplinary and trans-cultural challenges.

Built on a unified ontology comprising the real, the actual and the empirical, *Critical Realism* (CR) provides a coherent guiding meta-approach that requires clarification about social ontology before proceeding with methodology and explanation. Forms of knowledge are to be treated as something nested within their distinct 'supra-discourses', ontological and epistemological beliefs. The ways in which a society (or a group of people) understands the nature of the world and how it can be known cannot be taken as given, but must be subject to analysis. This clarification is not only scientifically significant but also politically relevant.

Observable changes in governing the seas and oceans only make manifest a temporal aspect of an enduring reality: a spherical earth with a punctured surface embraced by a body of water, of which the South China Sea is a part. Human activities past and present have generated different frameworks for understanding the seas and will continue to do so. Just as space and time are not absolute concepts, neither are governmental borders and the methods of asserting them. Actual practices of claiming and controlling, based on certain norms (Westphalian, *Tian Xia*'s, or others), are historically and sociologically produced. They have their own timeline, strength, and internal contradictions. Recognizing this invites us to question current thinking about 'maritime space' and the historical practices of demarcating borders, as well as the relations and processes leading to disputes as manifested today. How self-centred perceptions, whether based on individualism, ethnicity, class, nationality, or a given civilization, arose and became linked to particular political agendas constitutes an object of research, especially into how these perceptions have eclipsed the reality of the earth and the body of water embracing it.

Chapter 2 provides an overview of *Critical Realism* (CR) as a philosophy, emphasizing the added value of considering a unified meta-ontological frame. Additional insights contributed by Archer's (1995) morphogenetic approach to historical and social analysis are discussed in the light of social transformation. This

approach may help to deepen comprehension of the current state of affairs in the maritime domain in question. Chapter 3 offers a Foucauldian genealogical analysis of the emergence of the sea situated south of China's land border as an international problem subject to different perspectives and actions at different points in time.[23] Changing patterns of use and identification reflect the underlying continuities and discontinuities of ideational corpuses and power relations operating through the centuries over this body of water.

Chapter 4 draws from the debates on UNCLOS to show China's strategy for claiming sovereignty in the South China Sea as an evolving process with periodic adjustments to the conditions on the mainland. It will show how 'historical facts' were used in combination with a unique way of interpreting UNCLOS to defend China's position in contemporary disputes, and that this calls for more scrutiny about the understanding of 'borders' in the transition from an empire to a republic (Hayton 2014). This is a major question needing careful research and consideration.

Though China's contemporary position regarding the South China Sea might be interpreted as an active revival of cultural and ideational forms of suzerainty characteristic of the tributary system during imperial times, a major temporal difference in the defining of borders is to be noted. Whereas in imperial times China considered itself as the centre of a land-based universe with Hainan Island representing its edge,[24] today the same island is established as a province tasked with the responsibility of administering and overseeing the country's incremental moves to control the South China Sea. Contemporary China's maritime policy towards the South China Sea could be seen as a 'structural elaboration/reproduction' (in Archer's terms) of a deep-seated tendency for self-protection by securing its physical, economic, cultural and emotional borders.

This may nowadays also be seen as a 'technical project', one that seeks to persuade neighbouring countries to welcome a Chinese-led 'Asian' identity—a normative entity to counter the Westphalian system of international relations on which postcolonial societies were built. Meeting the challenge posed by China to the Westphalian concepts of sovereignty and the nation state under international law requires an understanding of the concept of 'interests' as an outcome of complex interactions between material, ideational and emotional elements, and of how the two moral values of 'harmony' and 'inclusiveness', advocated under the term of 'civilizational state', are contingent on, and informed by, practices of an ancient culture. Their validity has to be evaluated to avoid the claims being considered misleading, misunderstood, or perhaps illusionary.

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[23]In ancient times, Chinese scholars called the East China Sea *Donghai* (東海) or the 'Eastern Sea', and the South China Sea *Nan Hai* (南海) or 'Southern Sea'. The contemporary names of the East and South China Seas are used here without any intention to prejudice any party among the claimants.

[24]Hainan was also known as *Tianya Haijiao* (天涯海角) or 'The Edge of the Sky' and 'The End of the Sea'. *Tianya Haijiao* is used today in promotional campaigns by the tourist industry for its remoteness and beauty. Sanyaweb; at: http://www.sanyaweb.com/sight_sanya_the_end_of_earth.html (1 March 2014).

Chapter 5 concludes with a proposal to address seriously the danger of ontological fallacies that may serve as the seeds of violence. Just like any other state system in the evolution of human civilization, both the Westphalian framework of international relations and China's 'civilizational state' have their distinctive timelines and ontological assumptions about 'being human'. Norms derived from these assumptions define the nature of ruling and institutional concerns in inter-state relations. The measure of 'civilization' should not be restricted to material and cultural wealth, but should also be defined in terms of motivation to achieve sociability plus the capability to draw insights from different traditions for co-learning. Reorienting the structural tendency to dominate and control towards practices which benefit humankind writ large requires awareness of the different views of 'humankind' within a particular ontology of state power. Though the 'All-Affected Principle' of cosmopolitan democracy may find its counterpart in the Confucian notion of *Tian Xia*, 'All under the Same Heaven', there is a substantive difference in the notion of the supreme authority: constitutional law in the former and 'Heaven' embodied in an emperor as a wise ruler in the latter. In practice, Confucian wisdom has often partnered itself with the legally sanctioned absolute power of the emperor, a centralised state, a meritocratic government, and unity of form of thought—the basic measures to maintain an enduring community of grand harmony often at the expenses of innovation (Van Someren/Van Someren-Wang 2013).

Chapter 2
Critical Realism and the Morphogenetic Approach

Abstract This chapter argues that that Critical Realism, a philosophy of science, when applied in combination with the morphogenetic approach in historical and social research, can contribute to a deeper understanding of social transformation and help to disentangle the structure–agency relations in the maritime disputes in the South China Sea. The ways in which a society (or a group of people) understands maritime space, adopts practices of demarcating borders, and negotiates disputes, cannot be taken as given. Making them subject to historical and social analysis is both scientifically significant and politically relevant, especially with respect to the role of self-reflexivity in social science research into peaceful transformation.

Keywords Critical Realism · Morphogenetic approach · Social transformation · Structure–agency relations · Self-reflexivity · Maritime disputes

2.1 Clarifying the Meaning of Ontology

Unlike Classical Realism and its tendency to conflate the meanings of ontology and epistemology, Bhaskar (1998a, 2008), the founder of Critical Realism as a school of thought, treats these two entities as distinct. He presents the former as a meta-theoretical argument about what there is in the world to be discovered, and places the latter within the purview of the theory of knowledge when researching how we discover what is out there to be discovered (O'Mahoney/Vincent 2014). With this distinction, a philosophical stand is made, one that recognizes the possibility of engaging in arguments about the existence of social objects without making reference to the way they can be studied.

The stand distinguishes itself from empiricism, a dominant philosophy in contemporary social research approaches that makes a distinction between the observer and the observed, and reduces reality to understanding that which is observable. Observation-based models are used as the basic means for determining the truth or validity of knowledge claims (Kanbur/Shaffer 2007: 185). In the Critical Realism

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approach, making such a distinction is defined as an epistemic fallacy, a conception of reality restricted to that which is observable, thus treating the observed as a thing-in-itself. Because observation-based models do not take into account the cognitive and social mechanisms by which a given body of knowledge is produced, including those from antecedent knowledge, the theories derived from it have no social rooting. Empiricism is likely to produce what should be treated as raw perceptions.

To take into account the social roots of a given theory of knowledge means rejecting the concept of 'a natural experiment' in the social sciences. The role of the scientists as 'causal agents' must be given attention: they produce a pattern of events through experiments and therefore are always co-responsible for the events. It is possible that they produce a multitude of events, of which the majority in effect have no conceivable significance. Bhaskar (1998a: 10) writes,

> What is so special about the patterns they deliberately produce under meticulously controlled conditions in the laboratory is that it enables them to identify the mode of operation of natural structures, mechanisms, or processes which they themselves do not produce.

Following Bhaskar's general epistemological argument, the social sciences can learn from the logics behind experimentation. The purpose of an experiment "was to discover, detect, reveal, or search out something about reality that was not yet known, something that could not be observed without great effort" (Danermark et al. 2002: 20). This particular notion of experimentation presupposes that "the order discovered in nature exists independently of men [sic], i.e. of human activity in general" (Bhaskar 2008: 17).

One of the implications of the findings by the pharmacologist Otto Loewi, a 1939 Nobel Prize winner, is that the operation of chemical mechanisms does exist even if not observed and despite available theories to conceptualize it. Such mechanisms are to be considered as 'intransitive' objects of science; studying them becomes the target of the scientist. Should objects exist independently from scientific activity, an ontological gap exists between these objects and the methodology scientists use to reveal them (Bhaskar 1998a). This gap is referred to as the 'transitive dimension', one compounded by the theoretical artefacts used by scientists to execute their particular activities. Such a dimension is provisional, given that theories derived from such activities remain at best incomplete. Danermark et al. (2002: 23) write: "(S)cience may be wrong at any moment when it makes statements of its object, and so theories in science can only be regarded as the best truth about reality we have for the moment."

If the intransitive domain is taken as what is real, then reality cannot be accessed exclusively by means of observation. Consequently, it becomes necessary to distinguish between the surface appearance of things and their real essence (Harre/Madden 1998). In this line of reasoning, scientific knowledge is 'trans-factual'—meaning to say that the idea behind the possibility of disclosing a particular natural law implies making statements beyond what is derivable from practical experience and experiments (Bhaskar 1998b). The distinction between appearance and presence presupposes a form of explanation that "reflects a real

stratification in the world"—an ontology consisting of specific domains, called the real, the actual and the empirical, and which Bhaskar refers to as a "deep ontology" (Bhaskar 2008: 161).

The study of what is real focuses on the identification of the underlying mechanisms that cause empirical events. The distinction between the empirical and the actual is necessary because the former depends on value/theory-laden observations or perceptions, while the latter refers to events that *do* occur even if a given observer is unaware of them. For example, in Loewi's line of reasoning, common people might be simply unaware of the existence of certain characteristics of the nervous system of the body, including muscular contractions; only people interested in the biology of the human body would potentially be aware of these matters. To put the message differently, most people may be aware of a marine ecology but may not know of the existence of certain characteristics of marine life beyond a certain depth. Only marine biologists with special equipment have potential access to knowledge about marine life in the deep sea—and so far this remains incomplete.

2.2 The Concept of 'Emergence' and the Implications of Living and Knowing in Open Systems

The general notion of an ontology that recognizes the stratified nature of the world of knowledge has important implications for conceptualizing categories such as 'causality' and how researchers may try to discern the constitution of actual events. The differences in the nature of objects that are part of scientific discovery—in both natural and social sciences—imply the need to acknowledge a difference of 'ontological status' between them.

A plausible way to understand this is by introducing the concept of 'emergence'. It is not possible, as has been succinctly put, to "posit the existence of electrons unless they have an effect on material things and that is the way we know them" (Bhaskar/Hartwig 2010: 60). In the case of Loewi's experiment, if he had found a former explanation to the problem of neurotransmission—basically "since one and the same impulse had a different effect on different organs" (Danermark et al. 2002: 19)—the action of a chemical mechanism would have remained undisclosed. Apart from methodological aspects, this implies that actual events can be the result of the action of mechanisms localized in a different stratum from the event in which it is being experienced. In Loewi's case, for instance, his experiment helped him to identify the action of both electric and chemical mechanisms causing muscular contractions and expansions.

The matter of just how and in what ways underlying mechanisms influence the constitution of an actual event remains an issue to be explained. Sayer (2000) suggests that the world is characterized by 'emergence', that is by situations in which the conjunction of two of more features or aspects gives rise to some new phenomena. These features "have properties which are irreducible to those of their constituents, even though the latter are necessary for their existence" (Sayer 2000: 12). Emergence

is, therefore, a relational process in which the interaction between the properties of two elements becomes a component of new elements.

A typical example is the case of water: result of the interaction of oxygen and hydrogen (Willmott 1999; Sayer 2000). The properties of water cannot be narrowed to those of either of its constituents. For example, while water is potable, hydrogen and oxygen remain highly flammable gases down to the temperature at which a biological body does not survive and thus are, by definition, non-potable. Stratification in this case accounts for the fact that both hydrogen and oxygen are located in a different realm from the one of their combination. In this case, water can be considered an event: one in which the process of emergence links the intrinsic and elemental with what becomes actual and empirical through combination. The process of emergence is itself considered reality (Bhaskar 1998a: 111).

Understanding emergence in this way helps to identify differences between the natural and the social world. If we accept the previous arguments about the aim of science and the particular role of experiments, we could argue that the precise purpose of scientific discovery is to disentangle processes of emergence. In the natural sciences, this is quite possible since natural scientists count on methodological tools allowing them to isolate variables and tackle interactions that take place in underlying strata of reality. In Loewi's experiment, the possibility of controlling contextual conditions in a laboratory setting allowed the German scientist to disentangle the process of neurotransmission and capture with some precision the differential action of electric and chemical mechanisms that cause muscular reactions. The latter is arguably unthinkable in a research setting involving human societies: "It is hardly possible to create a social situation where one can systematically manipulate and control the influences from all conceivable social factors" (Danermark et al. 2002: 35).

The recognition of the difference between closed and open systems is important for research. Closed systems resemble the world of natural sciences in which experimentation is plausible. The argument is that, if conditions are kept identical, the interactional processes between certain elements will always lead to identical outcomes. In the case of oxygen and hydrogen, if atmospheric conditions are controlled and replicated, their interactional process will always result in water. This is, however, not the case for the social world, where systems are open and outcomes hardly possible to predict. Social research is mostly concerned with the study of self-reflexive social beings (Lawson 1997, 2003) who are capable of adapting to different circumstances, learning and monitoring their behaviour, but also of affecting their environment as a result of their interaction both with nature and with other self-reflexive beings—as is the case of deforestation or pollution, for example.

The implication for social sciences is twofold. At the conceptual level, the social world should be approached as being constituted by a combination of tendencies and contingencies that will have consequences for the conception of the particular forms of emergence and causality. Regarding the methodological level, should contingency exist, it is difficult to implement social experiments through which to learn about the real. In the social sciences, Critical Realism has to rely on different ways of inferential reasoning, and this has its own methodological problems.

2.3 Linking Critical Realism to the Morphogenetic Approach

When referring to the ontological status of societies, Bhaskar argues that it is possible to extrapolate the general understanding of emergence in physics and other natural sciences by using diachronic explanatory 'reductions', that is "a reconstruction of the historical processes of their formation out of simpler things" (Bhaskar 2011: 89). His own theoretical proposition, the *Transformational Model of Social Activity* (TMSA), uses the notion of history as being the passage of time to theorize about stratified emergence in the social world. Although the theory is incomplete, it can be supplemented with Archer's morphogenetic theory (1995, 1998).

Archer's theory is grounded in Bhaskar's philosophical meta-theory as well as in historical and sociological research. She provides a theoretical basis for the analysis of both continuation and transformation of social structures, built on the following foundational premises: (1) societies are irreducible to people; (2) social forms have an existence before that of people at the time of analysis and, therefore, are an independent object of social inquiry; (3) society's causal powers stand for the realm of the real; and (4) society's causal powers are mediated through human agency. In Archer's morphogenetic approach, causation is presented "as a process which is continuously activity-dependent [and] also one which is uncontrolled, non-teleological, non-homeostatic, non-adaptive and therefore unpredictable" (Archer 1995: 165).

The notion that what has previously existed influences the present does not mean that it determines the course of history. Precisely because the social world is of an open nature, it is characterized by the continuous interaction of self-reflexive individuals with structures of material origin (recourses) and ideational ones (discourses) that precede their existence in the world. Self-reflexive individuals have a certain degree of freedom to either transform structures or reproduce them. One of the important contributions of Archer's account concerns the theorization of the influence of structures on human behaviour (agency) and consequently, the influence of historical legacy on the production of current social events (Knio 2013). Archer recognizes the existence of both tendencies and contingencies in society and acknowledges that the denial of a degree of endurance in social structures would rule out the possibility of social sciences. In her model, tendencies exercised by social actors are to be discerned in vested interests embedded in previously extant social positions. More formally, Archer (1995: 187) notes that, "(A) person occupying a particular role acquires vested interests with it and is both constrained and enabled by its 'dos and don'ts' in conjunction with the penalties and promotions which encourage compliance."

Contingency is thus also derived from the self-reflexivity of individuals who have the potential to modify the configuration of vested interests in a society. To separate a conditioning structure from a self-reflexive agency would lead to conceptual and methodological conflation in three directions, all of which have consequences for interpretation. The first direction (an upward causation) represents the

stand taken by theorists who adopt an extreme version of 'methodological individualism'. This stand accepts society as an aggregation of individuals, but explains human agency primarily in terms of voluntarism and/or perceptivity. The second direction (a downward causation) represents the stand commonly found among theorists of structuralism, according to which individuals do no more than act out the imperatives of social norms—thus reducing reality to structures. The third direction (a central conflation) does provide a more comprehensive account of the relationship between agents and structures but treats them as inseparable, thus limiting the possibility of examining agents and structures in their own terms.

Archer (1995: 187) criticizes Giddens' theory (1984) (labelled 'structuration') for such central methodological conflation. This theory does speak of structure but only of its constraining and/or enabling character, not in terms of motivational aspects. According to her, the central conflation severs human motivation from a prior distribution of interests vested in social positions that antedate their holders. The idea that interests are built into positions by the relationship of that position to others would mean giving structures a status independent of the social practices held to be constitutive of it.

The debate on methodological conflation can be illustrated by providing an example derived from Wilmot's (2002: 11) analysis of a democratic election. He presents voting as an event conditioned by "internal social relations between positions (voter/local government official; local government official/central government official)". One can think of a voter as a social actor (a citizen) who, in a given context (where liberal ideas flourish), has vested interests (avoiding the rise of an authoritarian regime) that direct them to form a preference by which they cast their vote.

An interpretation based on Archer's classification of 'conflation' would lead to the following lines of argument. An 'upward conflation' would conceive these interests as socially constructed (based on individual perceptions) and hence would give little attention to the fact that 'vested interests' act as real tendencies created in a (liberal) regime existing before the one in which a current election is taking place. An interpretation based on 'downward conflation' would simply consider the voting system as a structure that restricts or enforces voting in particular ways. With this approach, it would be enough to study incentives swamped by the operation of structures made to anticipate voting behaviour. Finally, an interpretation based on a 'central conflation', despite its recognition of both electoral-associated structures and potential voters as independent entities, would nevertheless be inclined towards a position that sees the existence of structures in Giddens's terms (1984: 17). His position considers structures as 'instantiation', that is, as something only to be found in instances in which rules and resources are actually being employed—relying on memories orienting the conduct of knowledgeable human agents. This notion of a structure is problematic because it simplifies human agency and denies durability or the stability of social practices, ideas and systems.

2.3.1 The Morphogenetic Approach in Succinct Terms

The morphogenetic approach maintains that an understanding of time and space is needed to explain the interactions between human agency and social structures. This places emphasis on historical and situated understanding of social processes that takes cognisance of the transformation of structure in a larger time frame. In other words, social structure changes episodically as a result of activities and choices made by actors within their situated environment.

In her analytical model, Archer decouples the category of 'society' into two components—material and ideational—which she calls '*Structural Emergent Properties*' (SEP, material) and '*Cultural Emergent Properties*' (CEP, ideational). In relation to people, Archer advocates a more fully-layered view of human beings which resists the bundling of 'individuals', 'agents' and 'actors' into a single entity. Accordingly, she highlights the temporal metamorphosis of these categories under the rubric of what she calls '*People's Emergent Properties*' (PEP).

Agents, Archer suggests, are collectivities that share the same life chances; and she uses 'agency' to denote relationships between these collectivities plus the processes of their grouping and regrouping. Relationships and regrouping inform their positioning vis-à-vis the distribution of resources and the division of labour that circumscribe and shapes everyday practices. 'Actors' is the term she uses for the individuals whose social identities, values, interests, and characters are 'forged' from agential collectivities in relation to an array of organizational roles available in society at the specific point in time. Both agents and actors, however, remain anchored in persons, for neither are constructs or heuristic devices; they concern real people even though they only deal with certain ways of being in society, and not with all the ways of being human in the world (Archer 1995: 280).

Taking into account these considerations, Archer maintains that social forms (structure and culture or SEP and CEP respectively) exist prior to social action (agency), and hence are located in different temporal domains. Structures and cultures shape and condition social action, yet agents and actors are not mere puppets or social automatons in this respect. They are conscious, self-reflexive, and may attempt to transform their own surroundings. Whether they are able to transform or reproduce a particular existing order depends on the detailed intersection between structure, culture and agency over time.

Archer identifies three analytical moments that should be seen as a cycle consisting of a 'feedback loop', which is embedded in a particular temporality: structural conditioning → social interaction → structural elaboration/reproduction. The conditioning phase corresponds to the domain of the 'real' in Critical Realism. It refers to the relations within a structure (SEP) necessary for binding structures and cultures to people. These internal relations in this stage are material par excellence (whether they are physical or human), implying the prevalence of 'practice' as an activity linking people with particular objectives (Archer 1995: 176–177).

Bureaucracy is a helpful example as an object of investigation. The necessary internal relations in this case are not the constituent factors of a bureaucracy per se (financial, organizational, technological and human resource structures), but the relations allowing these factors to exist in the first place; the anterior generative mechanisms that have made them as they are. In this regard, the major guiding questions that can reveal the conditioning moment of a bureaucracy could be: what allows a bureaucracy to generate particular funds and what makes it adopt a particular hierarchy (Sayer 2000: 10–17)?

Internal relations underlying the Cultural Emergent Properties (CEP) refer to the realm of ideas, their properties and meanings (Archer 1995: 181). Taking the example of bureaucracy again, CEP assumes 'bureaucracy' to be a concept in its own right, independent from interpretations potentially given to it—whether or not bureaucracies are modern structures, conducive to capitalism, efficient/obstructionist, progressive/conservative, inclusive/exclusive, and so on. Both structural and cultural conditionings imply that the category of 'persons' (in a bureaucracy) is to be analytically embedded in a whole range of different collectivities.

Social interaction, the second moment, may be conceptualized as the relationship between two of the three specified emergent properties (Structural, Cultural and People's) at a given analytical moment. Archer suggests four situational logics that underlie structural, cultural, and, more importantly, structural–cultural interactions as illustrated in Fig. 2.1.

This figure shows four situational logics of structural–cultural interaction. Interactions can be complementary or incompatible, depending on 'necessity' and 'contingency'. For example, the logic of protection can apply when there is necessity and complementarity, or a harmony between the material and ideational components. Continuity, not change, is to be expected from this particular context. The logic of compromise applies to the incompatibility of necessary structural–cultural interactions where the initial will to defect is not strong enough to materialize. In cultural terms, this takes the form of syncretism between various theories, beliefs and values, indicating furthermore the containment of different vested interests in structural domains.

The logic of opportunism refers to situations in which material diversification (for example, the diversification of production) or cultural specialization (for example, the rise of particular schools of thought) allows certain groups to benefit from this context and yet to seriously challenge the existing order. The logic of elimination (or competition) signifies the readiness of certain groups to nullify the opposition and completely change the system. The material rise of industrial capital

	Necessary	**Contingent**
Complementary	Logic of Protection	Logic of Opportunism
Incompatible	Logic of Compromise	Logic of Elimination

Fig. 2.1 Structural–cultural interactions. *Source* Knio (2013)

with the concomitant ideational challenge it posited towards the aristocracy is a clear example of the latter situational logic.

Both types of structural–cultural interactions are to be treated as being mediated agency. The relation of given *People's Emergent Properties* (PEP) to others, and to both Structural Emergent Properties and Cultural Emergent Properties is referred to as the second order emergence of PEP: the concept of "double morphogenesis of agency". This concept captures a reality where

> (C)ollectivities of human beings are grouped and regrouped as they contribute to the process of reproducing or changing the structure or culture of society. In this way they also maintain or change their collective identities as part and parcel of maintaining or transforming the socio-cultural structures which they inherit at birth (Archer 1995: 225).

Two analytical moments follow from this process. First, the double morphogenesis of agency defines the initial formation of vested interests in society. These interests are essentially shaped and nurtured through previous rounds of conditioning, and reshaped by virtue of complex structural, cultural and agential interactions. Second, and building on the previous point, Archer distinguishes at this stage between two different types of emerging collectivities: primary agents and corporate agents. The latter have a clear articulation and organization of their interests (interest groups, lobby groups, defensive associations); the former do not visibly express their intentions nor organize strategic pursuit of them (Archer 1995: 258–259). While these two types are not necessarily fixed in time—a primary agent in one time can be a corporate one in another—the changes in their positioning indicate whether agents are likely either to reproduce or to transform an existing order.

A third analytical moment which relates structure, culture and people over time aims to discern the conditions under which social actors representing agents contribute towards the reproduction (morphostasis) or the transformation (morphogenesis) of the existing system. Archer (1995: 308–324) accordingly sets out another quartet of propositions for logical possibility:

1. Conjunction between structural and cultural morphostasis.
2. Conjunction between structural and cultural morphogenesis.
3. Disjunction between structural morphostasis and cultural morphogenesis.
4. Disjunction between structural morphogenesis and cultural morphostasis.

Structural–cultural morphostasis conjunction refers to the prevalence of necessary internal relations (complementary or incompatible) under given contingent considerations. It gives primacy to the logics of protection and compromise. In contrast, structural–cultural morphogenesis conjunction refers to the prevalence of contingent relations (complementary or incompatible) over the necessary internal relations, thus giving primacy to the logics of opportunism or elimination (Archer 1995: 302–308).

The first two propositions seem straightforward. The first proposition leads towards a visible continuity of the system as no change is possible; the second one leads to a complete change. The third and fourth propositions are more complex and

require detailed analysis of the situational logics surrounding them. For example, the third proposition implies the beginning of an ideational shift which potentially stimulates a slow-paced process of social regrouping; the fourth proposition suggests the rise of a multitude of material interest groups—each becoming more ideationally articulate (Archer 1995: 315–317).

The key variables in explaining morphostasis and morphogenesis in conjunction with the situational logics embedded in them are the quantitative and qualitative nature of corporate as opposed to primary agents' interventions. Without collapsing structures into cultures and peoples, Archer links the genesis of vested interests in society to the mechanics of power and exchange among agents in a non-deterministic way. It then should be noted that the results of each analytical moment envisaged—morphostasis or morphogenesis—feed into the conditioning stage of the next temporal cycle, in an ongoing process of studying transformation (Archer 1995: 337).

2.3.2 *The Concept of 'Interests' in the Morphogenetic Approach*

Building on what has been presented so far, the concept of 'interests' in *Critical Realism* (CR), and consequently in the *morphogenetic approach* (MA) differs greatly from the usages and meanings deployed in liberal, realist and social constructivist theories. 'Interests' in CR/MA are neither given prior to any research nor purely imagined. In other words, they can neither be simply read off from certain material/geostrategic and structural positions, nor they can represent a complete subjectivist exercise based on individuals' perceptions and feelings. Instead, in CR/MA, they are dialectical and configurative in the sense that they are regarded as compositional as well as imagined, independent yet dependent on the mind, subjective as well as objective, relative as well as relational. More precisely, interests in this tradition are treated as having diachronic emergent properties—relating to historical time.

Therefore, the act of analytically placing individuals within a multitude of institutions and collectivities implies the recognition of the contingent juxtaposition of various structural and cultural contexts, and the necessary mechanisms that tie these structural and cultural contexts together. In other words, an interest may be treated as being formed by the juxtaposition of structural and cultural conditions, yet it is also contingent on the researcher's subjective readings of their environment. Nonetheless, viewing the conditioning of these structural and cultural contexts as always necessary and not contingent on something else means to treat them analytically as 'objective'.[1]

[1]In Critical Realism, the word 'objective' refers to the intransitive dimension of knowledge. It does not mean 'true' or 'independent of' (Sayer 1992).

Human beings are always part of an open complex system. To grasp the meaning of a particular 'interest', it is necessary to envisage different cycles. In cycle 2 of the morphogenetic approach, interest is regarded as something that always interacts with many elements derived from different sources—ideas, cultures, and structure. Therefore, its formation bears contingent or necessary elements, compatible or contradictory relations. In cycle 3, people as actors reflect upon the passage from the conditioning of interests towards the interaction with other structures, cultures, roles and positions through mechanisms of either reproduction or elaboration. These mechanisms of meaning-making may be referred to in terms of the diachronic and transient nature of interests.

Applying the morphogenetic approach to the contemporary context of the sea south of China's land border, the elements of time and space require further analysis and elaboration in order to explain how interactions between human agency and social structures have produced situated understandings of this sea's belonging to a wider geological reality. Firstly, the historical function and use of this maritime area, as well as the regulation of use and movement, had been transformed within a large time frame prior to its identification as the 'South China Sea'. Secondly, activities and choices made by users of this sea area have been guided by minds that are historically and contextually embedded. They have promoted episodic changes regarding self-identification in relation to it. Thirdly, the current body of regulation (UNCLOS) is nested in a Westphalian mindset of the nation state as a unit in the 'international community'—a flat vision that does not accord sufficient attention to the deeper layers of formation and composition of interests which existed prior to the arrival of these notions. Contemporary conflicts may thus be analytically treated as products of the transformation of both social relations and the technologies of 'knowing' and 'claiming' a given geographical space as a nation's geo-body. Such geo-bodies reproduce themselves to subsume people under their regime by requiring allegiance (Winichakul 1994).

In this respect, to use CR/MA's concept of interest for the analysis of contemporary disputes, three key concepts that underpin UNCLOS's principles of defining maritime boundaries—namely equity, proportionality, historical use—need to be examined as being contingent on the prevalent structure of power, bearing in mind the implications this has on the construction of the meanings of cooperation. The concept of 'interest', expressed by China as a 'core interest', needs to be placed in the appropriate temporal frame to discern which aspects are enduring or transient, as well as the conditions that shape a form of self-reflexivity when expressing an interest in altering norms and rules. A critical assessment of the 'interests' behind contemporary practices upon the South China Sea that lead to maritime conflicts is important not only for academic purposes but also for reflection on the different scenarios for the transformation of conflict and their viability.

Chapter 3
A Critical Genealogy of the Emergence of the South China Sea as a 'Complex' in International Relations

Abstract This chapter uses a simplified version of Foucault's genealogical method to trace the emergence of the South China Sea as a 'complex' in international relations. It demonstrates how different knowledge systems and the ways of using and claiming this maritime area are interlinked and transformed through time. The mechanisms of power that have transmogrified a 'common' into something that holds the characteristics of a 'territory', with multiple sovereignty claims and conflicts, call for reflection on the value of independent institutions in bilateral diplomacy.

Keywords Genealogical method · Complex in international relations · Transmogrification · Common · Territory · Multiple sovereignty claims

Reference to the semi-enclosed sea located south of China's land border as the 'South China Sea' is so well established in cultural and intellectual routine that it is hard for students of international relations to realize that the maritime area was given this identity only at the end of the eighteenth century by European cartographers. Conceived in terms of cartography—a European science that serviced the territorial mapping of nation states, exploration of the world beyond its cognitive realm, and eventual imperial expansion—the name 'South China Sea' eclipsed both local and regional cultural knowledge, practice and the routine management and maintenance of maritime order. The essential feature of contemporary disputes in this sea is the claim by China—the People's Republic of China as well as Taiwan (Republic of China)—of some 90 % of its being 'indisputable' sovereign territory based on what both countries consider to be their historical rights.

This chapter uses a simplified version of Foucault's genealogical method (2003) to trace the social construction of the maritime area located south of China's land border as an entity, and the mechanisms of power that have transformed it from 'a common' into what holds the characteristics of a 'territory' with multiple claims to sovereignty. The method veers away from a trend in social thinking that holds the claim to timeless conditions about this maritime area and it examines its constitution through its various histories, bringing out the diversity of thought forms. Application of the genealogical technique helps bring to the fore the broad contours

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of different knowledge systems, as well as varied practices in the ways of using this sea, together with how the specific interactions between them have created its contemporary identity. A full application of the genealogical method to an analysis of identity construction in this maritime environment would require further in-depth investigation of cultural norms, knowledge and practice through the centuries. The aim here is only to show the merit of considering notions such as 'indisputable' and 'historical rights' as products of historical interactions with power relations and their techniques, rather than as timeless categories. Ways of conceptualizing and relating to this sea have never been constant; they are the result of historical turns, contingent on the history of marine sciences along with cartography, geology and other trans-border disciplines. The 'South China Sea' as an identity is to be apprehended as a 'complex of power', gradually shaped by the long-term structural, cultural and agential interactions in international relations.

3.1 The South China Sea as Hybrid Subject and Object

Situated south of China's land border, east of the Indochina peninsula, north of the Malay–Indonesia archipelago, and west of the Philippine archipelago, the South China Sea has played an important historical role in facilitating many types of interactions, both within the region and between other subregions of the Eurasian landmass. It facilitates diverse flows of resources (people, merchandise, ideas and values) and contributes to the economic and cultural development of littoral societies and beyond (Coedès 1944; Gungwu 1958). Gipouloux (2011) compares this sea with the Mediterranean, depicting it as a unifying factor in the formation of cohesion between people in the region, strengthening maritime trade as well as cultural networks. However, he also makes the point that, under China's tributary system, trade was forced into a protocol aptly described as "a tight-laced corset of bureaucracy" (Gipouloux 2011: 74). Behind this official diplomatic framework, piracy and non-official trade by predatory means occurred in the shadows. In Gipouloux' view, the absence of independent institutions and private commercial law in Asia might explain the different paths of development in the Mediterranean Sea and the sea located east and south of China's land border.

A Sinocentric perspective lays stress on the importance and role of the South China Sea as a springboard for long-distance trade and integration in a world system of exchange since the Tang Dynasty (628–690) (Schottenhammer 2012). By contrast, a perspective which emphasizes the role of indigenous peoples in the area shows that trading networks across this sea existed well over two millennia ago, long before the arrival of Indian and Chinese religious, economic and political influences (Bellwood et al. 2006). Manguin (1993) uses the evidence of twentieth-century archaeological discoveries of a dispersion of Dong-Son bronze drums and axes—developed during the Bronze Age—to illustrate the regional stretch of this civilization along the valley and south of what is internationally now known as the Red River as far as Sumatra and Guinea. Levathes (1997: 28) infers

that around 4000 BCE the Yi people living in what is now southern China[1] had been forced from their land, consequently turning to the sea for their livelihood. Some of them used boats to cross the narrow waters between islands and settled in new lands; others travelled as far as New Guinea and Australia, and further afield to South America. Bellwood (1997) points to archaeologists' best evidence for ancient sea crossings in this area not just by Neolithic peoples but also Palaeolithic peoples. The spice traders in this area were contemporaneous with the Roman Empire. Some controversies apart, the evidence is pushing back the dates of human 'colonization' of this region and can help deepen our knowledge of early island networks, including some of the longest prehistoric open-sea voyages of colonization on record—from Southeast Asia to Polynesian islands such as Hawaii and Easter Island, and perhaps also from Indonesia to Madagascar—during the first millennium CE (Bellwood 1997). Stargardt's (2004: 573–586) archaeological work shows that maritime trade networks in Southeast Asia could be dated to the first millennium CE, and notes that they throve from the beginning of the second century CE, spanning the South China Sea to the Pacific Ocean, and linking also with communities in India and Sri Lanka, and in southern China.

In recent years, since the earthquake which struck Aceh in Sumatra, Indonesia, in 2004 causing a tsunami across the Indian Ocean, a group of maritime hunters and gatherers popularly known as 'sea nomads'—the Moken—has become a subject of research due to their intimate knowledge of the sea, which helps them cope with and survive natural disasters such as tsunami (Arunotai 2006; see also Goodnough 2005[2]). New genome research on the Moken suggests that they originated along the coasts of the mainland of Southeast Asia and thereafter dispersed among the islands of Southeast Asia, eventually reaching the Mergui Archipelago on the Burmese coast (Dancause et al. 2009). Maritime hunter-gatherers known as the Badjaos are also found in the Sulu archipelago (the coastal areas of Mindanao and northern Borneo).

Although the origins of these maritime nomadic communities remain speculative in social science research, Chou (2006) notes that they are accounted for in Chinese, Arab and Persian sources after 1500, which depict them as "cruel pirates" dreaded by the sailors due to their seafaring lifestyle and activities. Today they are widely regarded by other inhabitants of the area as the *orang asli* of the region; this term has been translated variously as "indigenous peoples" or as 'true', 'genuine', and "real inhabitants" (Sather 2006). Chou (2006) notes the deep emotional and personal meaning they attach to the sea space—a space charted by the extent of their seafaring skills and postulated as a network of places connected by interrelated kinship ties to form what they call *tempat/tanah saya* (my place or my territory), which cuts across contemporary maritime borders.

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[1]The Yi people are indigenous inhabitants of territories now known as autonomous provinces of China (Yunnan, Guizhou, and Guangxi) and of the current north-eastern provinces of Vietnam (Hà Giang, Cao Bằng, Lào Cai) (Harrell 2001).

[2]In: *The New York Times*, 25 January 2005; at: http://www.nytimes.com/2005/01/23/world/worldspecial4/survivors-of-tsunami-live-on-close-terms-with-sea.html (13 June 2015).

These new findings confirm that human migratory movements and trade across the sea south of China's land border have, as elsewhere, a complex history resulting in diverse social experiences and interactions. Acknowledging the presence of these maritime hunter-gatherer communities means that the question of discovery and historical rights needs to be cautiously treated. It is manifest that during millennia of social intercourse many actors and their practices have given varied meanings to this sea, drawing and altering boundaries around it as their spheres of influence. Different cultural perspectives have inspired the coding, decoding and recoding of its boundaries and political representation. Reckoning with the heterogeneity of identities attached to this sea area helps to avoid the eclipsing of all the diverse and polycentric configurations of power formed by the exchange of relations, cultural flows and conquests. Such an eclipse would deny how these relations have gradually impacted indigenous communities of maritime hunter-gatherers and their knowledge to the point of their marginal existence,[3] if not extinction.

Though China is known for its ancient seafaring technology and journeys, Lo (2013: 84–111) notes that only in the eighth century did China's imperial government begin the systematic collection of information about foreign lands, maritime as well as continental. Between 960 and 1279 under the Song dynasty, China made remarkable innovations in maritime technology—the invention of the magnetic compass for navigation, naval architecture, and propulsion—which enabled the construction of ocean-going vessels with varying capacity and functions. This enabled a gradual shift in the domestic economy from land to sea. According to Hall (2011), during the fifteenth century, major social and economic developments that were fundamental to the flourishing of societies took place both on mainland Southeast Asia (Burma, Thailand, Cambodia, and Champa and Funan, now southern Vietnam) and throughout the island world (Indonesia, Malaysia, Philippines), leading to growing external contacts and internal adaptations of nearby cultures. Local civilizations became major participants in the international trade networks of the period. Intra-regional trade links between Southeast Asian countries and Imperial China are referred to in Chinese literature as the 'Nan Hai Trade', translated as the *Southern Sea* [emphasis added] Trade (Gungwu 1958).

Under the Ming dynasty China had used ocean-going vessels far larger than those of its European successors (Columbus sailing west from south-west Europe in 1492, or Vasco de Gama, who discovered the Cape of Good Hope from where he proceeded east in 1498). The seven voyages between 1405 and 1433 of Admiral Zheng He (see Fig. 3.1)—a Ming Court eunuch from Yunnan of Muslim origin under Emperor Yong Le—have been considered as having multiple objectives. These include: (1) exploration, as well as finding Yong Le's predecessor to eliminate him; (2) expression of the new Emperor's political ideology, that is, the

[3]Hoogervorst's study (2012) of the interactions between 'sea peoples' and land-based communities in Sumatra and Borneo demonstrates the complex and dynamic character of their identities and livelihoods through history. With the emergence of large-scale harbour polities, 'sea peoples' have today appropriated the roles of protégés, outlaws and victims in a multilayered and multifaceted interplay of seaborne navigation, commerce and warfare.

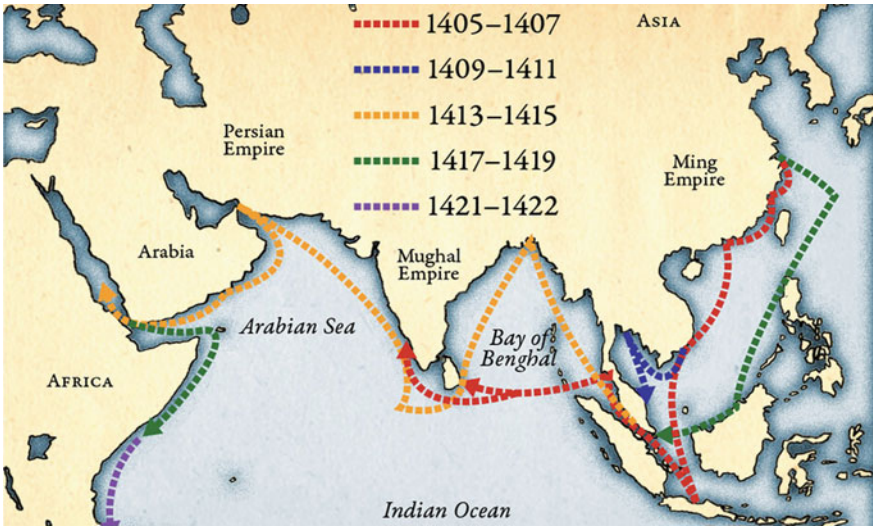

Fig. 3.1 Zheng He, 1405–1433, China's imperial expeditions. *Source* University of Rochester; at: http://www.rochester.edu/newscenter/journeys-into-the-unknown-91212/ (20 July 2015)

creation of a China-centred tributary system of peaceful coexistence and co-prosperity under the concept of *Tian Xia* (All Under The Same Heaven); (3) building up prestige as the single most dominant power in Asia (Bosworth 2000; Hoon 2012: 62). For Đại Việt, a nation located in the northern part of contemporary Vietnam and formed after a millennium of conquests and domination by Imperial China, the Ming voyages were in effect about recapturing Đại Việt and reimposing Han rule and culture.[4]

The financial extravagance of the Ming voyages eventually led to internal struggles between the neo-Confucian scholars who supported the protection of moral purity on the one side, and the eunuchs whom the emperor sponsored to gain maritime knowledge and thus prestige on the other (Bosworth 2000). These internal struggles were compounded by the challenges along the northern border posed by the Mongols, on the southern border by the rebellion of the people of Đại Việt, and by extra-territorial political instability along the 'Maritime Silk Road' (Lape 2000: 49). China's diversion of investment from sea to land power (including army and land defences) became a necessity. This led to an internal division between an anti-maritime faction (neo-Confucian scholars) and a pro-trade faction.[5] By 1500, the anti-maritime faction had made it a capital offence for any Ming subject to go to

[4]Đại Việt Sử Ký Toàn Thư (which are the complete annals of Đại Việt) by Ngô Sĩ Liên, completed in 1479, translated into modern Vietnamese and published by Nhà xuất bản Khoa Học Xã Hội, Hà Nội (1993).

[5]The neo-Confucian faction criticized the Eunuchs, who were favoured by the Ming Emperor Yong Le, for their lavish lifestyle and corruption (Tsai 1996).

sea in a ship with more than two masts without permission. This became known as the Ming ban, which continued through most of the following Qing era. Twenty-five years after the ban came into force, officials were authorized to destroy the larger classes of ships (Bosworth 2000). The price of protecting moral purity was enclosure, as well as the displacement of seafaring knowledge and expertise.

Trade within the maritime world continued through private merchants. Various methods were practised to circumvent the Ming ban. Some merchants migrated to Okinawa—the largest island of the Ryukyu chain, extending almost 400 miles from south of Japan to north of Taiwan—and traded back to Fukien. Having succeeded there, they repeated the exercise of circumvention with other commercially strategic areas and towns in the Southeast Asian region (Beeson 2012: 51). Ho (2011) explains how the maritime prohibitions militarized the Chinese coast, and inadvertently encouraged an oligopoly—a confederation of smuggler-pirates of different ethnic groups but considered as Japanese '*Wako*' (pirates) by the Chinese authority. A monopoly developed with the rise of what became known as sea lords. The threat of piracy led to a brutal depopulation of the Chinese coast in the 1660s. Under Qing rule, a maritime frontier on land was created, subsequently destroying those who had come to wield autonomous power along the coast.

Under the Ming ban, sea trade and commerce among China's tributary states in Southeast and East Asia throve. Citing Ricklefs (1981), Gipouloux (2011) notes that from the sixteenth century onwards, Malacca and the Javanese ports dominated the trading networks throughout the Southeast Asian region. Through the Malacca strait, these networks were connected with a multitude of others, westward to India, East Africa, Syria, Persia and the Mediterranean, and eastward to Lombok, Timor, Sunda, Sumba and the Moluccas. Malacca also initiated relationships with Siam and Pegu in mainland Southeast Asia, as well as China and Japan. Shiro (1999) and Whitmore (2006) have both shown how the rise of coastal trade significantly contributed to the strengthening of Đại Việt, even though it remained within China's tributary system.

While the evidence endorses the view that China was an important maritime power prior to the arrival of the Europeans, there is a danger in homogenizing the maritime experiences of people belonging to civilizations of the littoral kingdoms and chieftains of the sea to the south of China's land border. This body of water was known as Biển Đông (which means 'Eastern Sea' in Vietnamese), Dagat Luzon ('Sea of Luzon' in Tagalog) and the Chăm Sea. The latter is named after the Indianized maritime kingdom of Chămpa which flourished from the seventh century CE through to the fifteenth, when it was annexed and absorbed by Đại Việt.[6] With the exception of the Chăm and the Tagalog peoples who associate themselves and their homeland with the name of the sea, it would seem that the compass influenced the naming of this sea in both Chinese and Vietnamese ways of thinking.

[6]Vickery (2005) establishes that the Austronesian ancestors of Chăm people were among the navigators of prehistoric Southeast Asia, crossing from Borneo to present-day Vietnam. Chămpa was first recorded as a kingdom in the third century CE, when the Chinese speak of a political entity named 'Linyi' without making any allusion to its ethnic identity or language.

It is important to note that Southeast Asian maritime kingdoms wove together governance norms from both Chinese and Indian civilizations with those of their indigenous cultures. In these kingdoms, the influences of Hinduism and Buddhism had produced patterns of governance based on diffuse political power or a multi-centred political system. A polity was defined by its centre rather than by its boundaries and could be composed of numerous tributary polities with no specific process of administrative integration. The sense of statehood was fluid and contingent since spheres of influence could shift from one centre to another (Wolters 1999; O'Reilly 2007). Indian notions of divinity, cosmology, administrative law and kingship blended with and enriched local civilizations in the mainland and archipelagic states of Southeast Asia (Coedès 1960). By contrast, the influence of China's model of governance, which was based on the notion of unified political power over a territory achieved through the command of the state as a centralized and bureaucratized entity reinforced by Confucian principles, was felt basically in northern Vietnam, Japan and Korea.

The arrival of European civilizations brought new perspectives. Amongst them were cartography as a science, Christianity as a religion, and the nation state as a unit of governance in international relations. Wood's (2010) analysis of the power of maps calls attention to the importance of differentiating between the meanings of maps. Generally, the act of mapping as an expression of spatial intelligence—a characteristic of all species—is for orientation and navigation of movement within an area. In contrast, mapping as a representation of social histories and specific relations in, and between, human societies has cultural and political goals. Despite the abundance of maps, those that perform as an instrument of polity and rule (raising taxes, waging war, controlling human mobility, treaty negotiation) are to be recognized distinctively as representing the terrains administered by a state, along with the concept of sovereignty. These maps give concrete form to the elusive idea of the state; they are to be considered as a form of representation of rulers' political intention, and not necessarily seen as such by those people who inhabit the area covered by the representation (Wood 2010).

Early European cartography of Southeast Asia reflected the map-makers' thinking about a maritime world they were exploring, and was tied to colonial exploration and conquest. Yet despite distortions a difference may be noted when comparing the notion of the world as spherical (derived from the principles of longitude, latitude and map projection) with the ancient Chinese way of map-making which used a mensuration grid and visual arts (Yee 1994: 54). Chinese maps were produced not only to represent areas under administration, but also to demonstrate power and aesthetics.

Administrative maps drawn under three dominant dynasties, the Song, Ming and Qing, depict the Middle Kingdom without the sea south of its land border. The *Yu Ji Tu* (Map of the Tracks of Yu the Great), a map carved into stone in the year 1137 during the Song Dynasty, was located in the Stele Forest of modern-day Xian, China. The map-makers had used a square grid system as an aid for plotting distance and direction (Yee 1994: 171) (Fig. 3.2).

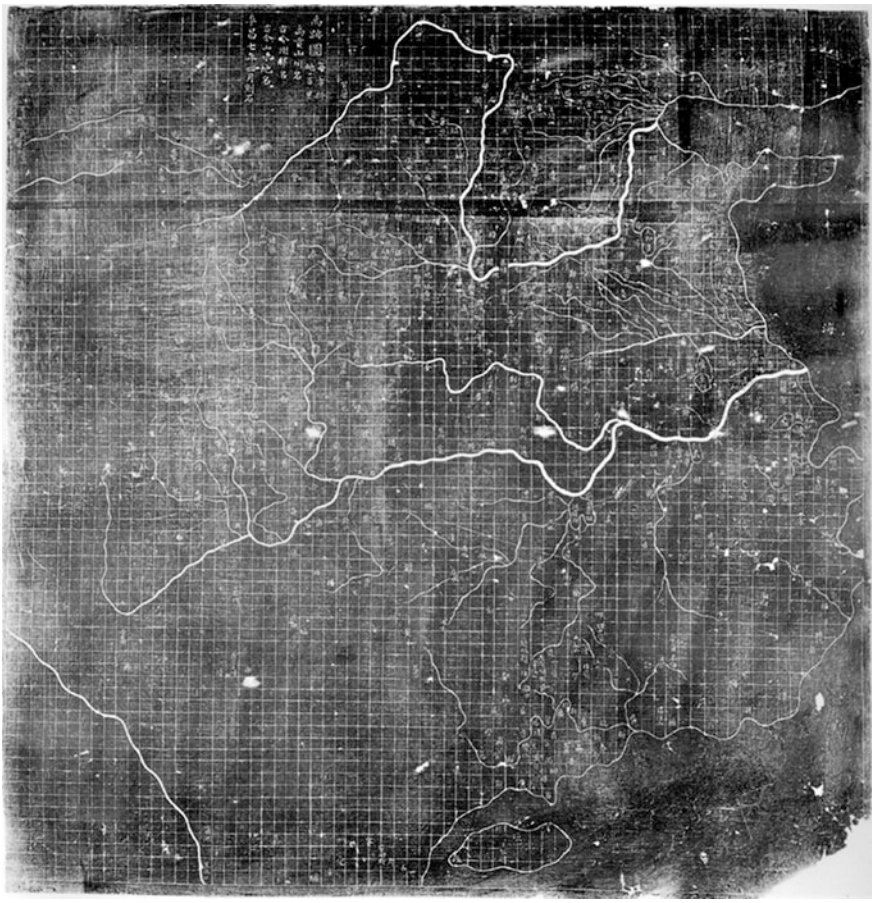

Fig. 3.2 Yu Ji Tu (Map of the Tracks of Yu the Great). *Source* Wikimedia Commons; at: http://commons.wikimedia.org/wiki/File:Song_Dynasty_Map.JPG (15 June 2015). This map is in the public domain

According to Fontana (2011: 27), it was Matteo Ricci, the Jesuit in the Ming court, who introduced the notion of a spherical earth to China. Prior to the time of his mission, Chinese maps were Sinocentric, with China shown as occupying practically all the known land area. Some maps included the countries of Southwest Asia and the places visited by Zheng He. Yee (1994: 52–53) refers to a navigation chart contemporaneous with Zheng He's voyages being preserved in the *Wubei Zhi* (Treatise on Military Operations), compiled *c*.1620 by Ma Yuanyi (1594–*c*.1641). In this chart, sea routes are depicted with broken lines and sailing instructions are given in notes on the chart. Yee remarks that the instructions are accurate for the most part with regard to distance and direction; thus, the chart can be taken as

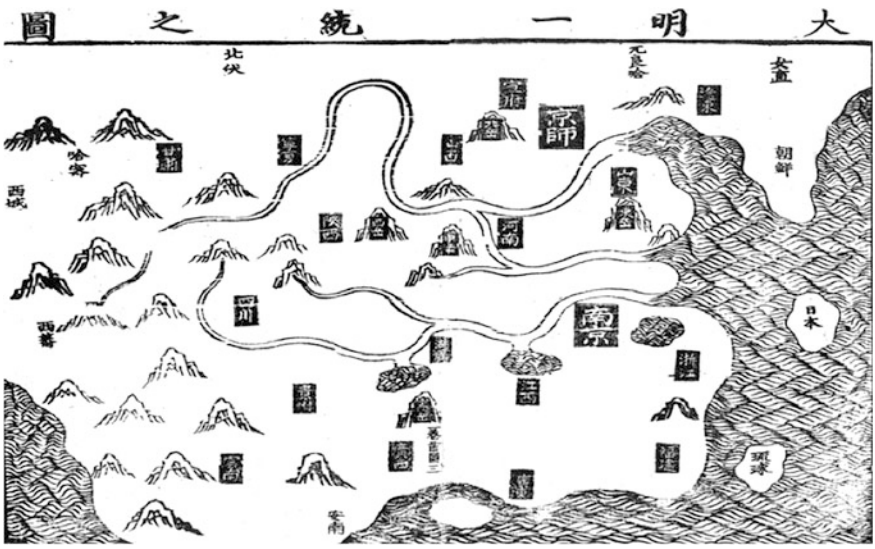

Fig. 3.3 Da Ming Yitong Zhi (Gazetteer of the Unified Great Ming). *Source* Li Xian is the author of the map, which was published in 1461. This map is in the public domain. © for the website: The President and Fellows of Harvard College, Harvard University; at: http://isites.harvard.edu/icb/icb.do?keyword=k7402&pageid=icb.page28571 and http://www.isites.harvard.edu/fs/docs/icb.topic58621.files/maptest/AssignedMaps/DMYTZ.html (21 July 2015)

evidence of sophisticated navigational techniques based on astronomical observations and the use of the magnetic compass (Fig. 3.3).[7]

Yee (1994: 57–58) notes that the *Da Ming Yitong Zhi* was drawn under imperial orders using geographic sources of information as a basis. These included maps and documents compiled by prefectures and towns. The gazetteer was based on more than thirty years of information-gathering from which a singular piece of work—a comprehensive map of the empire and contiguous lands—was produced. The *Da Ming Hun Yi Tu*, painted on silk in 1389 CE, is the oldest surviving Chinese world map.[8] The map shows how political interests dominate the exercise of representation, with the Korean peninsula depicted as being larger than India. Neither maps of the Ming Dynasty—the Great Ming Dynasty's Amalgamated Map (an aesthetic expression) and that of the Gazetteer of the Unified Great Ming (a utilitarian

[7]In view of the concern about the contemporary meaning of the dots and dashes in China's U-shaped line in the South China Sea and the haphazard numbers of dashes used (11, 10 and 9), it is important to remember this Chinese tradition that uses broken lines in cartography as symbols for navigation. The contemporary application of dots and dashes in defining China's maritime boundary in the South China Sea raises the question of their technical meaning and origin, which is thus far not clarified. It is quite possible that the utilitarian meaning of navigation has been conflated through time with that of the administration of a sovereign area.

[8]Manchu language captions were superimposed on paper slips several centuries later.

Fig. 3.4 The Da Ming Hun Yi Tu (Great Ming Dynasty Amalgamated Map). *Source* Wikimedia Commons; at: http://commons.wikimedia.org/wiki/File:Da-ming-hun-yi-tu.jpg (20 November 2014). This figure is in the public domain and no permission is required

expression)—included the two clusters of islands in the sea south of its land border now named Xisha and the Nansha (Fig. 3.4).

The exclusion of these two clusters of islands in the sea south of its land border suggests that the concept of maritime sovereignty was then unknown. This aspect is consistent with an administrative map drawn up under the Observatory of Qing Dynasty's multi-ethnic empire (1644–1912).[9] Produced by a team of Chinese astronomers and mathematicians, plus some European clergymen and cartographers, this detailed administrative map depicts Hai Nam Island as the southernmost point of China's border. The map was created between 1708 and 1904, under the

[9]In the nineteenth century, Chinese scholars assimilated the European science of cartography, which meant seeing the earth as spherical, plus the use of a coordinate system for locating points on its surface (Yee 1994).

Kangxi Emperor (1661–1722) and the Guangxu Emperor (1875–1908).[10] The same depiction is true for other documents, including the Postal Atlas of China, a product of the postal mapping set up by the Qing Dynasty in 1906, published in Nanjing in 1933 (Fig. 3.5).[11]

The names given by European traders and explorers to the maritime area south of China's land border varied; the map-makers' perspectives and the date of composition were intrinsic to the naming. Most Western maps in the sixteenth, seventeenth and eighteenth centuries labelled what is now known as Southeast Asia as "India Orientalis" (Jodocus Hondius 1606).[12] The Indochina peninsula was generally referred to as "the Indian Peninsula east of the Ganges River". Manguin (1972) has shown that among the names used in those times were "Mer des Indes Orientales" and "Mer du Champa". The term "Mer de la Chine" (i.e. 'Sea of China') appeared later on a map published in 1825 drawn by French cartographer Aristide Michel Perrot and engraved by Pierre Tardieu.[13]

The sea area—blessed since 1825 with the name of "South China Sea"—was accessible to all, except for the small belt of water along the coasts that was considered territorial. Two ancient sailing routes were documented. One went along the coast of China, past Taiwan and Hai Nan Island down the Indochina peninsula, then across the Gulf of Thailand to the Strait of Malacca. The other route went from one island to another: Taiwan, west of Luzon and Palawan archipelago (Tønnesson 2006: 573).

Manguin (1972: 171–177) noted that most of the nautical maps made by Western navigators from the sixteenth to the eighteenth centuries depicted the Paracel and Spratly Islands as a single archipelago and named it 'Pracel', 'Parcel' or 'Paracels'. They also followed the view of the Chăm sailors who demarcated the area as being too dangerous to navigate due to the many low-lying islands, sunken reefs and atolls. Some islands were used by shipping vessels as shelters during storms but were essentially the temporary bases of nomadic fishing folk from the coastal regions of littoral states. These nomadic fishing folk were known—as mentioned earlier—as 'pirates' or maritime hunters and gatherers indigenous to this area.

[10]In an interview on 23 July 2012, Dr. Mai Hong, who works for the Vietnamese newspaper Tuoi Tre and is former head of the Library of the Institute for the Study of Chinese and Demotic Scripts and Cultures, stated that the names of European contributors written on the map are Matteo Bicci from Italy, Johannes Adam Schall Von Bell from Germany, and Ferdinandus Verbiest from Belgium. Vietnam Language Centre in Singapore; at: https://vietnameselanguage.wordpress.com/2012/07/ (25 May 2015).

[11]vnexpress; at: http://vnexpress.net/tin-tuc/thoi-su/hanh-trinh-tim-kiem-bon-sach-atlas-hoang-sa-noi-troi-tay-2869552.html (14 June 2015).

[12]Barry Lawrence Ruderman Antique Maps Inc.; at: https://www.raremaps.com/gallery/detail/25974?view=print (1 March 2014).

[13]Wikimedia Commons; at: http://commons.wikimedia.org/wiki/File:1850_Perrot_Map_of_Indo-Chine_-_Geographicus_-_Indochine-perrot-1825.jpg (1 March 2014).

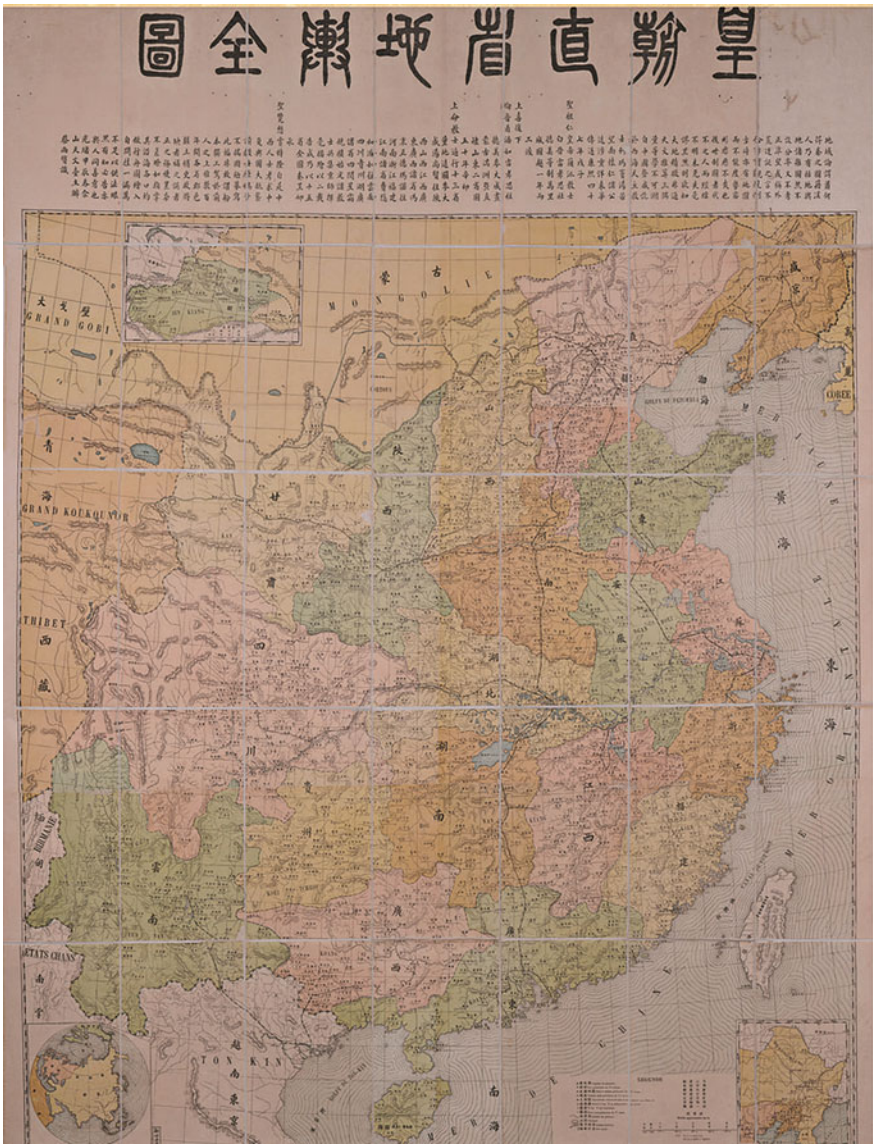

Fig. 3.5 Hoàng Triều Trực Tỉnh Địa Dư Toàn Đồ (Qing Dynasty Administrative Map 1904). *Source* This map is stored at the National Museum of Vietnamese History and is in the public domain. The main author of the map is Stanislas Chevalier, S.J. (1852–1930); see Wikipedia; at: https://vi.wikipedia.org/wiki/T%E1%BA%ADp_tin:Bando-1.jpg (Accessed 29 December 2015); a copy with enhanced resolution can be found at: http://defence.pk/threads/asean-economy-science-human-developments-and-news.214677/page-2 (Accessed 21 July 2015)

Given that practices of freedom of navigation and trade had prevailed for millennia in ancient trade routes connecting Persia, the Arab world, India, Southeast Asian kingdoms and China via the sea south of China's land border, they had provided the impetus and an example to Grotius in his formulation of the doctrine of *Mare Liberum* in 1604. As this doctrine came to be accepted by the latter half of the nineteenth century during the rise of European sea power, it became cast in the mould of European needs and interests (Anand 1983: 161).

In retrospect, natural geography and the compass seem to have played an important historical role in naming this maritime space before the arrival of the Western system of marking territorial boundaries. Under this system, the term 'South China Sea' found its way into the language of cartography and became normalized in government debates and international nomenclature. The term eclipses much of its history and the various contributions of the peoples of Southeast Asia to trade, technology, and cultural and scientific development, as well as the influence of cultures other than that of the Han—such as Indigenous, Hindu, Buddhist, Arabic, and Christian. The impropriety of a Sinocentric binary and hierarchical construct of the Self and Others lies in the denial of others' identities and of their maritime presence and knowledge.

To recapitulate, the sea south of China's land border has been subject to various ways of naming and framing, a result of changing activities upon the sea combined with scientific advances in cartography and maritime technology plus state control. Changing perceptions and knowledge of the maritime and marine environment has also increased competition regarding access to this sea. Acknowledging the heterogeneity of identities attached to this body of water avoids ignoring both the diversity and polycentric configurations of power and their institutions formed by trade relations and cultural flows, and the diverse ways in which these relations have impacted maritime societies at large.

3.2 The South China Sea as Colonial Subject and Object

The intermesh of different modes of using and ruling the sea in this part of the world during and after the colonial era, together with the violent processes of decolonization, made the exercise of claiming sovereignty inseparable from the deeper geopolitical dynamics emanating from the multilayered experiences of colonization—of which European colonial governance is but one important layer. Countries such as China and Thailand were not administratively colonized by the European powers in a formal sense; therefore, they had the right to sign treaties and act on their own behalf. All countries had to learn to operationalize 'sovereignty' through the application of European norms and techniques of mapping land borders—demarcating and delineating territorial waters, planting flags, and erecting stone markers on islands (Tønnesson 2006: 573–576). Of the claims made, the boundary dispute between China and Vietnam is perhaps the most difficult to disentangle due to the latter's geopolitical position as well as its history of domination and colonial subjection.

Between 1842 and 1941, the governance framework in the South China Sea may be understood according to what Tønnesson (2006) terms "a colonial condominium". The Spanish, Dutch, British and French charted their spheres of influence while strengthening their holds on islands under their control. Technological advances made in the fields of navigation and cartography led to the recognition of two distinct clusters of islands. The southern of these was named Spratly after the British captain who sighted and occupied one island in the group in 1843. From 1843 to 1933, the British Crown claimed both this and Amboyna Cay island.

From Vietnam's perspective, prior to the arrival of the French, the concept of 'sovereignty' (or the limits of a 'sovereign' territory) was defined mainly by natural geography and relationships of allegiance given by villages and towns peripheral to the centre of the kingdom. This was made known to the populace through oral poetry, perhaps owing to low levels of literacy.[14] Whitmore (1994) notes that pre-modern Vietnamese traditions of mapping have covered half a millennium, but no synthesis has as yet been made of this history. Administrative mapping as an expression of sovereignty took place following independence from Ming rule in the first quarter of the fifteenth century. Vietnam's Lê Dynasty (1428–1788) undertook a comprehensive mapping of land for purposes of administration and management as well as defence. This mapping produced the first cadastral system of the country, established by the longest-lasting dynasty. Administrative maps were made for all thirteen provinces: their administrative boundaries, prefectures, sub-prefectures, districts, sub-districts, urban and suburban zones, villages and sub-villages (communities within villages), estates, highland and river communities, and camps. These were bound together in the Hồng Đức Atlas, which also included a series of maps, drawn up by a scholar named Đỗ Ba, of a cluster of islands called 'Cát Vàng' in Vietnamese (or 'Yellow Sand'), later renamed in Sinicized Vietnamese as 'Hoàng Sa' (with the same meaning), and now known as the Paracel Islands (Ministry of Foreign Affairs, RVN 1975).[15] Together with the Hồng Đức Atlas, the Hồng Đức Legal Code was also promulgated. Four articles of this Code show that the Lê Dynasty also attempted to bring loose maritime commerce under state control, and the articles make specific reference to maritime inspectors and the rules

[14]See Trương (1967) and Vuving (2000). The major texts on independence and sovereignty include: (1) King Lý Thường Kiệt's eleventh-century short poem entitled "Nam Quốc Sơn Hà Nam Đế Cư" (The Southern country's mountain and river the Southern Emperor inhabits, The separation is natural and allotted in Heaven's Book, If the bandits come to trespass it, You shall, in doing that, see yourselves handled with failure and shame!); (2) Nguyễn Trai's 126 verses celebrating independence from Chinese rule in 1428 entitled "Bình Ngô Đại Cáo" (Proclamation of the Pacification of the Marauding Ngô). The term Ngô refers to people from the Northern Empire who during the different Chinese dynasties (Han, Tang, Song, Yuan, and Ming) had invaded the country. The first two verses declared a territorial division from the former colonizer and included a pledge to rule with compassion and righteousness to bring peace, and to dispatch troops to protect the population and suppress tyranny.

[15]Cát Vàng are words in Quốc âm, the spoken language of the Việt people; and Hoàng Sa is Nôm, the formal Sinicised writing language used by the cultured elite.

for foreign merchant vessels.[16] In other words, the traditional methods of defining maritime sovereignty were (a) location and naming of islands known to be used by the population, and (b) introduction of measures to control maritime trade.

By the beginning of the sixteenth century, the Lê Dynasty was weakened by a struggle for power within the court and the country came under the actual rule of two lords and their families—the Trịnh in the north and the Nguyễn in the south—who constricted the power of the king to court rituals. By the seventeenth century, a new system of maritime commerce had emerged and flourished along the central coast of the country, controlled by the Nguyễn lord (Dutton et al. 2013). The latter annually dispatched inspectors to the Paracel Islands to collect data about the essential economic activities and social practices of this era, which were recorded in the three-volume work entitled Phủ Biên Tạp Lục (1774), written by Lê Quý Đôn, a provincial governor.[17]

After a brief rule by the Tây Sơn Kings (1778–1802), who defeated the invading Qing, the Nguyễn Dynasty (1802–1945) took power and unified the country. In his 'Note on the Geography of Cochin-China', the French bishop Jean Louis Taberd noted the determination of the first Nguyễn King, Gia Long, in claiming sovereignty in 1816 by solemnly planting a flag of Vietnam on one of the Paracel Islands.[18] Gia Long and his successor Minh Mạng issued specific royal edicts and ordinances to administer them. Duties of maintenance included taking continual responsibility for public works, tree planting, the erection of wooden posts marking places visited for reconnaissance, and the collection of goods from shipwrecks, as well as the provision of assistance to ships in dangerous grounds (Chemillier-Gendreau 2000). With

[16]Other official documents from the seventeenth century that show presence and administration are: (1) Đại Nam thực lục tiền biên (1600–1775) (大南實錄前編, The Early Chapter of the Chronicles of *Đại Nam* [an ancient name of Vietnam]); (2) Toản tập Thiên Nam tứ chí lộ đồ thư (1630–1653) (纂集天南四至路図書, The Collection of the South's Road Map); (3) Phủ biên tạp lục (1776) (撫邊雜錄, Miscellany on the Pacification at the Frontier); (4) Đại Nam thực lục chính biên (1848) (大南實錄正編, The Main Chapter of the Chronicles of *Đại Nam*); (5) Đại Nam nhất thống chí (1865–1882) (大南一統誌, The Record of the Unified *Đại Nam*); (6) Hoàng Việt dư địa chí (1833) (皇越輿地誌, Geography of the Viet Empire); (7) Việt sử thông giám cương mục khảo lược (1876) (越史通鑑綱目考略, Outline of The Chronicles of the Viet History) (Nguyễn/Dương 2012).

[17]Sach Viet; at: http://sachviet.edu.vn/threads/le-quy-don-toan-tap-tap-1-phu-bien-tap-luc-nxb-khoa-hoc-xa-hoi-1977-vien-su-hoc-345-trang.11166/ (4 September 2014).

[18]"The Pracel or Parocels, is a labyrinth of small islands, rocks and sand-banks, which appears to extend up to the 11th degree of north latitude, in the 107th parallel of longitude from Paris. Some navigators have traversed part of these shoals with a boldness more fortunate than prudent, but others have suffered in the attempt. The Cochin-Chinese called them Cón uáng [French articulation of Cát Vàng]. Although this kind of archipelago presents nothing but rocks and great depth which promises more inconveniences than advantages, the king GIA LONG thought he had increased his dominions by this sorry addition. In 1816, he went with solemnity to plant his flag and take formal possession of these rocks, which it is not likely any body will dispute with him." The journal of the Asiatic Society of Bengal, Vol. I Part II, July to December, 1837, page 745, Biodiversity Heritage Library; at: http://www.biodiversitylibrary.org/item/123871#page/7/mode/1up (3 September 2014).

the demise of the Nguyễn dynasty in 1884, the French colonial authority consolidated sovereignty over the Paracel archipelago by laying down new administrative decrees as well as by granting licences to private companies for economic exploitation of the islands.

As for China, Chiu (1975: 32) makes note of the fact that the section of the Qing Code concerning control of maritime trade and punishment of crimes committed at sea made a distinction between *nei-yang* ('inner ocean') and *wai-yang* ('outer ocean'). There was no awareness of a territorial sea regime in international law until 1864, when Wheaton's *Elements of International Law* was translated into Chinese. In the 1864 treaty between China and Prussia, the Chinese term for 'inner ocean' was used to refer to the Bohai bay (the largest north-west inlet of the 'Yellow Sea' in the west of Korea) with a specification of a boundary of "ten or more Li off the coast, which cannot be reached by guns and batteries" and which was considered to be "the public area of all the countries and can be sailed and occupied as one wishes" (Chiu 1975: 35). One Li is roughly one-third of a mile, thus the offshore 'territory' would extend less than three and a half miles.

The scope of the territorial sea beyond the 'inner ocean' claimed by the Qing remained ambiguous. In 1877—more than three decades after the British had claimed two southern islands of what is now known as the Spratly archipelago—the Qing Dynasty made a diplomatic protest against the British Crown; in 1883, they protested to Germany in reaction to a German vessel which was found to be surveying the area (Greenfield 1979: 31–34; Buszynski/Sazlan 2007: 144).

The conduct of the Qing towards the French authority in Annam nearly a decade later also reflects the lack of clarity of the term of 'outer ocean'. Subsequent to locating two shipwrecks in the Paracel Islands area in 1898—the German ship 'Bellona' and the Japanese ship 'Huneji Maru'—looting by Chinese fishermen prompted a protest by the Minister of Great Britain in Peking, which was met by the following response from the Viceroy of Canton:

> The Paracels are abandoned islands, which belong no more to China than to Vietnam, they are not administratively attached to any district of Hainan and no special authority is responsible for policing them.[19]

Two years before the Dynasty succumbed to the Chinese revolution in 1911, the Qing eventually sent a mission to the Paracel Islands to claim sovereignty (Tønnesson 2006: 574–576). In short, the defining of the 'inner sea' and 'outer sea' in relation to sovereignty under the Qing dynasty may be seen as the result of consciousness evolved through interactions between China and the foreign 'marauders' along its coastline.

The formation of the *Republic of China* (ROC) in 1912 brought a new turn to the ongoing competing claims between France (as the Protector of Annam) and China, with the subsequent involvement of other neighbours. Callahan (2009) uses

[19]These facts were quoted in a letter from the Governor General of French Indochina, Hanoi to the Minister for the Colonies, Paris (Letter No. 704–A–Ex, dated 20 March 1930) (Chemillier-Gendreau 2000).

Winichakul's (1994) concept of maps as expressions of the national 'geo-body'[20] to provide an insightful analysis of China's national humiliation expressed by way of cartographic representation, which shows the complexities of China's engagement with the modern world. The term 'geo-body' expresses not just the idea of space or territory but also implies that something is part of the life of a nation. Maps thus perform as a symbolic discourse that can mobilize the masses and their function may be understood as part of the bio-politics of national identity practices.

Map-making at the time of the formation of China's geo-body was closely linked with campaigns about its 'Century of Humiliation', expressing the impact of the tumultuous interactions between this country and the European powers throughout the nineteenth century. China's national humiliation maps depict the territories lost to foreign powers at the fall of the Qing Empire. They were produced haphazardly between 1916 and 1930, and actually show an expansion of territorial claims (Callahan 2009) (See Fig. 3.6). The maps show a series of concentric circles of normative convergence, placing neighbouring countries as 'vassal states' within China's perimeter of cultural influence. The origin of China's territorial claims in the South China Sea may be viewed as a by-product of this campaign.

In the following period, the French colonial authority in Vietnam encountered continuous events that expressed the Republic of China's intentional as well as actual competing claims. In addition, fearing Japan's influence because of guano extraction being carried out by a Japanese company on the Paracel Islands, even though the activities were authorized, the French colonial administration asserted maritime and customs supervision over the islands from 1920 onwards (Chemillier-Gendreau 2000, annexes 19–43).[21] In response, the civilian governor of Kwangtung announced on 30 March 1921 that the controlling military of south China had decided to incorporate the Paracel Islands into the sub-prefecture of Yai Hien (Hainan Island). France did not protest, since it took into consideration that the Kwangtung Government was recognized neither by the central government of China nor by the colonial powers. In 1932, mounting local pressure in Vietnam led the Governor General of Indochina to incorporate the Paracel Islands into the administration of the coastal province of Thuan Hoa (Gregor 1989: 90).

According to Zou (2012: 19), the first version of the U-shaped line in the South China Sea was compiled by Hu Jinjie, a Chinese cartographer, and appeared on a map published in December 1914. He named the map 'Chinese territorial map

[20]According to Winichakul (1994: 17), the 'geo-body' of a nation refers not only to its territory but more importantly to its image as being clearly recognizable to its citizens through exposure to maps with their borders; the image becomes an inspirational source of emotions (pride, loyalty, love, passion, bias, hatred, reason and unreason). A geo-body of a nation stands alone without reference to what is beyond its border. This is different from the pre-modern mapping techniques used in Thailand which connected areas of what is today Thailand with the Buddha's birthplace in what is today India.

[21]Japanese companies were exploiting guano (bird dung used as fertilizer and phosphate to make soap) from the reefs of these islands, but Japan made no territorial claims on them (Tønnesson 2006: 575).

Fig. 3.6 This map of China's National Humiliation (1927) is in the public domain. See: "Public Culture"; at: http://publicculture.org/images/262 (Accessed 20 July 2015). Chinese University of Hong Kong. *Source* Callahan (2009)

before the Qianglong-Jiaqing period (1736–1820)'. The map includes a line surrounding the Prata and the Paracel Islands (Dongsha and Xisha Islands). The year 1933 was a decisive year for the status as well as the enlargement of China's U-shaped line. In that year, the French government of Indochina occupied nine islands in what is known as the Spratly archipelago, including the largest and only island with its own source of potable water (Itu Aba), where a centre for services to other islands was located.[22] These were incorporated into French Cochin-China. In the same year, the Paracel and Spratly Islands were declared to be part of the territory of French Indochina, and in 1936, France declared an offshore fishing zone of eleven nautical miles (Buchholz 1987: 47).

Zou (2013: 49) correlates these events with the alteration of China's map of the South China Sea as follows. In 1933, the new Republic's Land and Water Maps

[22]Until 1973, a marker stood on Itu Aba with the following inscription: "France—Île Itu Aba et Dépendances 10 Août 1933" (MFARVN 1975).

Inspection Committee was formed. Its members were representatives delegated from the relevant government institutions and departments. A Chinese teacher, named Bai Meichu, drew his own version of the "Chinese National Humiliation Map" which includes a U-shaped line that went around the South China Sea. The map was published in 1936 in the 'New China Construction Atlas' edited by Bai Meichu. The map depicts China's southernmost boundary reaching the latitude of 4° N—thus including not only the Pratas Islands, the Paracel Islands, the Macclesfield Bank and the Spratly Islands, but also the James Shoal at about latitude 4° N and longitude 112° E. The Republic's Land and Water Maps Inspection Committee co-opted this private creation and published it as the *Zhongguo nanhai daoyu tu* ("Map of Chinese Islands in the South China Sea"), declaring that the maritime borderline was specifically composed of eleven sections referred to as 'dashes', each of which was to be treated as a median between China and the adjacent states (Li/Li 2003: 289) (See Fig. 3.7).[23] Hayton (2014) points out that, technically, it is impossible to survey the sea and produce an accurate map of all the islands within only two years; he suggests that the maps are copies of existing British maps, translating or transliterating the existing British names.

On 30 March 1939, Japan placed the Spratly Islands under the jurisdiction of the governor of Taiwan. Although both France and Great Britain had claimed title to the Spratly Islands, the latter withdrew in favour of the former, with Great Britain insisting that France strongly defend its title against the Japanese for geopolitical reasons.[24] Given that its naval force was tied up in Djibouti (East Africa), France offered to arbitrate the case but Japan refused, expressing the intention of annexation on the basis of prior occupation by Japanese fishermen (Foreign Relations of the United States, Diplomatic Papers—The Far East 1939: 111–112).[25] In 1940, Japan invaded Indochina. On the mainland, there was cohabitation between the two powers: France admitted Japanese troops in the north (Tonkin)[26] and in the south (Cochin-China) in 1941. Japanese policy was to respect France's sovereignty in Indochina, although some Japanese pursued quasi-clandestine relations with indigenous nationalist groups in order to solicit support for Japan's notion for a Greater East Asia Co-Prosperity Sphere (Shiraishi 1990: 4–7).

Towards the end of the Second World War, worried about betrayal by the French, the Japanese administration organized an anti-French action by preparing for a new government in Indochina under Bảo Đại, the French-protected Emperor of Annam. Bảo Đại had fruitlessly tried to negotiate reforms with the French, under

[23]In 1949, the *People's Republic of China* (PRC) adopted this same map but in 1953, Premier Zhou En Lai agreed without an explanation to the deletion of two dashes lying within the Gulf of Tonkin (Li/Li 2003: 290). The formalized line since then carries nine dashes.

[24]The British emphasized the strategic importance of these islands as an observation post for naval and aerial movements from Singapore.

[25]University of Wisconsin Digital Collections; at http://digital.library.wisc.edu/1711.dl/FRUS.FRUS1939v03 (18 November 2014).

[26]Mainly to control the supply lines between this part of the country and the Chiang Kai-shek forces.

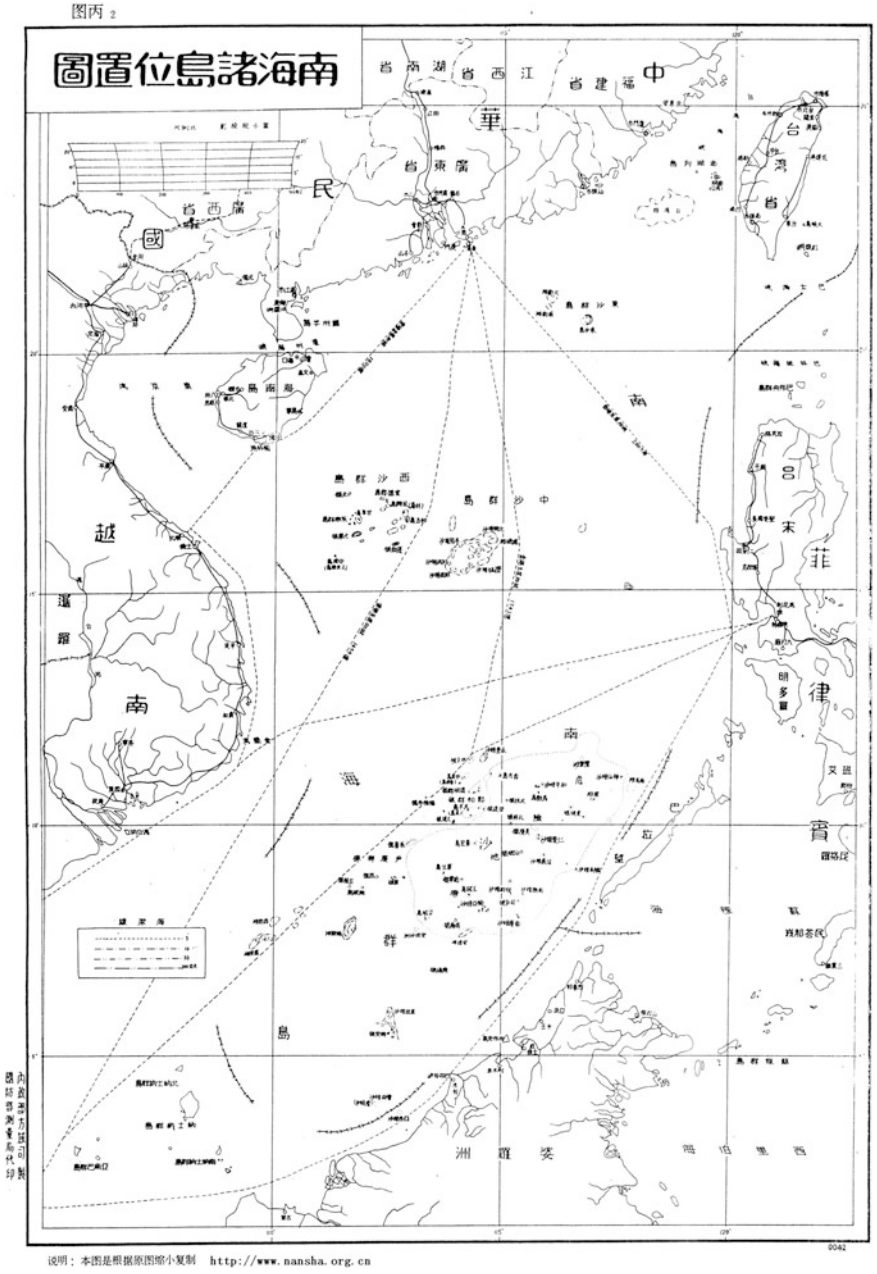

Fig. 3.7 Nanhai Zhudao Map, 1947 (Map of Chinese Islands in the South China Sea). Wikimedia Commons; at: http://commons.wikimedia.org/wiki/File:1947_Nanhai_Zhudao.png (16 April 2015). This map is in the public domain

the 1884 Patenôtre Treaty, that would have put Vietnam and France on a more equal footing. He then turned to the Japanese offer and with the support of his council of ministers declared independence on 11 March 1945, thereby abrogating the Patenôtre Treaty with France and joining Japan's Greater East Asia Co-Prosperity Sphere along with Laos and Cambodia (Neville 2008: 42–58).

In the text of this declaration, Bảo Đại introduced the term 'Empire of Vietnam' (consisting of Tonkin, Annam, and Cochin-China), claiming unity under a single royal flag and one governing principle—Mencius' principle of Dân Vi Quý.[27] The Bảo Đại royal government lasted only half a year, being unable to deal with either the famine that had begun in Tonkin, or the activities of the Việt-Nam Đồng Minh Hội ('League for National Independence', also known as the Việt-Minh). Despite many scholars' criticism of Bảo Đại as being a Japanese puppet with a French education, he actually declared unification of the country and gave it a national symbol and a message about wise rule taken from Mencius, who himself was a pupil of Confucius. Although members of the Việt-Minh were showing clear anti-royalist and pro-republic tendencies, the royal government did manage to persuade Japan to relinquish territorial jurisdiction over Cochin-China and three important cities, namely Hanoi, Hai Phong and Tourane ('Da Nang' in Vietnamese) (Maar 1997: 8); however, just a week before the formal Japanese surrender, Bảo Đại abdicated. According to Maar (1997: 439), Bảo Đại's advisors made him aware that his government lacked both strength and popular support compared to the Việt-Minh. His abdication statement had called for national unity in a new republic.[28] Hồ Chí Minh proclaimed the Democratic Republic of Vietnam with himself as its president on the auspicious 2 September 1945.

Using Archer's feedback loop that is embedded in a specific temporality (structural conditioning → social interaction → structural elaboration), it can be inferred that China had gained ground in the South China Sea thanks to its production of a 'geo-body'. As part of China's 'geo-body' (an ideational corpus), the South China Sea gained more legitimacy when the administration of the newly-formed state took on the task of defining China's boundaries, albeit by haphazard and hasty methods. By contrast, for Vietnam, a modern national identity had to be built at a historical juncture that was characterized by the declining legacy of French colonial rule, a brief occupation by Japan, and a struggle for independence torn between the legitimacy of a fractured revolutionary movement and the

[27]Going beyond the Confucian notion of benevolent government, the principle of Dân Vi Quý is derived from Mencius' idea that human nature is inherently good, and that it is the responsibility of government to ensure: (1) the moral cultivation of the people; and (2) the respectability of the government and the ruling elite (or the quality of leadership). The people's experience and perceptions of their leader's rule can lead to veneration and compliance or contestation and rebellion.

[28]Bảo Đại's statement upon his abdication requested the new government to treat all parties and groups—which all had contributed to the country's independence—in the spirit of fraternity, reminding people that the new regime should be built on the absolute union of the entire population. "Henceforth, we shall be happy to be a free citizen in an independent country" (Hoàng 2008: 251–252).

authority of a weakened emperor (Maar 1987). The mobilization to protect the Paracel Islands which had been under Vietnam's control during the seventeenth and eighteenth centuries had to be mediated through France as a colonial power. Under these circumstances, when compared to the case of China, there was no collective organization in Vietnam capable of constructing the 'geo-body' of the modern nation.[29]

3.3 The South China Sea as Postcolonial Subject and Object

The agreement of the 1943 Cairo Conference stipulated that the United States, the Republic of China and Great Britain would eject the Japanese forces from all the territories Japan had conquered. Roosevelt advocated that Indochina be placed under trusteeship rather than returned to France after the expected defeat of Japan. To secure this future, he sought a commitment from Chiang Kai-shek that China would not try to expand its territory or control nations in the process of decolonization; in return, he guaranteed that the territories that had been forcefully taken from China by Japan—including Manchuria, the island of Taiwan and the Pescadores Islands—would be returned to Chinese sovereignty.[30] No mention was made of the Paracel and Spratly groups of islands, islets and reefs.

At the 1945 Potsdam Conference, the agreement reached was to divide Vietnam at the 16th parallel for operative purposes. Accordingly, Chiang Kai-shek's forces were responsible for disarming the Japanese forces in Vietnam north of this parallel, and the British forces for doing so south of it. Neville (2007: 66–67) points out that the Chiang Kai-shek force led by General Lu Han, a warlord, moved into North Vietnam with an estimated 50,000 men, but ultimately about 200,000 Chinese spread "across Tonkin like a plague of locusts". They removed everything of use that could be carried from households, and put French as well as Vietnamese women in danger of physical harm. Lawrence (2005: 118) reports that Chinese

[29]Shiro's (2010) survey of extant Đại-Việt's geomantic texts shows a concept of the nation built on a network of veins and focal points rather than a clearly bounded surface. These texts and the accompanying diagram suggest that geomantic power came from outside the kingdom, the knowledge being externally controlled from the time of the Tang Dynasty, when a geomancy expert was sent to Annam to suppress powerful geomantic nodes which could lead to the emergence of another 'Son of Heaven'. Although the geomantic diagram (the An Nam Phong Thủy) has been used in modern education, it does not express the same meanings as the 'geo-body' of a modern nation. The Nam quốc địa dư (the Geography of the Southern Nation) was produced in 1908 by the Đông Kinh Nghĩa Thục (a short-lived indigenous cultural movement), using Hán Nôm or the Sinicized Vietnamese script exclusive to cultural elites, to describe the country in the terms of modern geography. The story of Vietnam's 'geo-body' contemporaneous to China's, if it exists, is still to be written.

[30]US Department of State Archive; at: http://2001-2009.state.gov/r/pa/ho/time/wwii/107184.htm (21 August 2014).

troops were also tearing down fortifications along the Yunnan–Tonkin border, thus raising fears among the French that the Chinese army had gone beyond its mandate. The same source suggests that General Lu Han was actually reluctant to permit the economic integration of the northern part of the country with the southern, thus preventing south–north shipment of rice and prolonging the famine in Tonkin.

The French, supported by the British, were able to reoccupy the southern part of Annam in 1945. But when attempting to regain control north of the 16th parallel, they met fierce resistance from ROC forces whose leadership wanted to establish a China-friendly regime in Vietnam (Tønnesson 2010: 23).[31] In an accord signed on 6 March 1946 between the French government and the government of the new *Democratic Republic of Vietnam* (DRV), French troops were to return to the territory controlled by the DRV to relieve the Chinese troops, in exchange for its recognition of the new republic.[32] This resulted in the Treaty of Chong Qing signed later in 1946 between France and the ROC, according to which the latter agreed to withdraw its forces from the northern part of Vietnam; however, they maintained their presence on the Amphitrite group in northern Paracel. The French stationed troops on Pattle Island in the Crescent group (Shaeffer 2011: 13).

In 1947, the Chiang Kai-shek government rejected France's suggestion of taking the matter to arbitration. Instead, it proceeded to set up sovereign markers on Itu Aba in the Spratly Islands (Nong Hong 2012: 10; Hayton 2014: 63), and subsequently signed a decree giving both clusters of islands (Paracel and Spratly) Chinese names (Shaeffer 2011: 13). After its 1950 defeat in China's civil war, the ROC government withdrew from both the Paracel and the Spratly groups. Following the San Francisco Peace Conference held in 1951, the ROC moved its seat of government to Taiwan and reoccupied Itu Aba ('Taiping Island' in Chinese) in 1956, stationing a garrison force of 600 soldiers there. An ROC presence has remained to date (Shaeffer 2011; Wang 2013: 60).

The politically unstable environment and mutual suspicion on all sides during the early days of the Democratic Republic of Vietnam were such that historians are still baffled about the reasons underlying Hồ Chí Minh's intentions. Though he initially agreed to the return of French forces in 1946 to remove the Chinese troops, within a few months he turned against the French in a series of actions that eventually led to the First Indochina War.[33] Being suspicious of Hồ's intention, France tried to discount him as the 'guardian' of the nation by reaching an agreement with Bảo Đại for an independent Vietnam within the French Union—which replaced the French colonial system—in 1949. Bảo Đại thus returned to

[31]This seems consistent with the millennium-old tradition in Vietnam's foreign relations with China: the grace of the emperor of the Middle Kingdom in granting a Viet monarch the authority to rule must be acknowledged. The struggle against European powers for national sovereignty in the twentieth century does not seem to alter the old framework of understanding 'sovereignty'.

[32]For the full text of this agreement, see Chap. 1 of the 'Pentagon Papers'. US National Archive; at: http://www.archives.gov/research/pentagon-papers/ (14 March 2015).

[33]H-Diplo Roundtable Review; at: https://networks.h-net.org/h-diplo, volume XI, no. 19 (2010) (2 April 2010).

power not as Emperor but as the citizen Nguyễn Phúc Vĩnh Thụy (his birth name) and head of the State of Vietnam. He managed to secure with France the principle of unity along with independence for his country (Anderson 2013: 10–13). The government of the State of Vietnam participated in the San Francisco Conference for the Treaty of Peace with Japan. Article 2 of this treaty states that Japan renounces all right, title and claim to the territories it had occupied; item (f) of this article refers to the Spratly Islands and Paracel Islands but does not mention a final beneficiary.[34]

Trần Văn Hữu, the incumbent prime minister, represented the State of Vietnam and reaffirmed its rights over both the Paracel and Spratly Islands by signature and without any objection. Neither the *People's Republic of China* (PRC) nor the Republic of China was invited, owing to the unsettling question of national representation. The PRC had sent a letter of protest a week prior to the conference. Andrei A. Gromyko, Head of the Soviet Union's delegation, put forward a proposal on behalf of the PRC which contained the request for recognition of the latter's sovereignty over the Paracel and Spratly Islands (Samuels 1982). The Conference rejected the Soviet Delegation's proposal with 46 votes against, 3 votes in favour and 2 abstentions.[35] The Republic of China negotiated a separate, bilateral peace treaty with Japan, signed in 1952 (Hsiung 1981: 392).

Although France did secure sovereignty of the Paracel and Spratly archipelago for the State of Vietnam, it lost the battle of Điện Biên Phủ in 1954 to Hồ's forces supported by the PRC. The Chinese historian Qiang Zhai's (2000: 43–49) findings on the massive support of the PRC for the Vietnamese national liberation movements suggests that Mao had wanted, and thus engineered, a victory at the battle of Điện Biên Phủ in order to strengthen the communist position at the negotiating table in the 1954 Geneva Conference which had been proposed by the Soviet Union.

An internal memo dated 2 March 1954, prepared by Zhou En Lai, the broker of the Geneva Conference, notes the following:

> …because the US, France and Britain are not united in their opinions, therefore the Chinese Communist Party must hold fast to their positions on the peaceful unification of Korea, and of peace in Indochina …. where we [China] must try our best to make sure that the Geneva Conference will not end without any result; and even if no agreement can be reached, China still should create a situation characterized by "*negotiating while fighting*" [emphasis added] thus increasing the difficulties inside France and the contradictions between France and America … an on-site ceasefire is not as good as a division along a demarcation line between the south and north, such as the 16th parallel.[36]

[34]United Nations; at: http://www.taiwandocuments.org/sanfrancisco01.htm (14 June 2015).

[35]Summary of World Broadcasts: Far East, Part 3, Monitoring Service of the British Broadcasting Corporation, 1974—East Asia.

[36]Wilson Center Digital Archive; at: http://digitalarchive.wilsoncenter.org/document/111963 (19 May 2015).

A telegram from Zhou En Lai to Hồ Chí Minh on 11 March 1954 and prior to the start of the Geneva Peace Conference in April states that

> If a ceasefire is to be achieved it is better to have a relatively fixed line so that a relatively intact region can be maintained … the line for ceasefire today is possible to become the demarcation line in the future … This should be considered from two aspects: on the one hand it should be favourable to Vietnam; on the other, it should be acceptable to the enemy side. The more toward the south the line can the drawn, the better … the 16th parallel could be considered as one of the options… On the specific questions related to restoring peace in Indochina, an *on-site ceasefire* (emphasis added) is not as good as a division along a demarcation line between the south and north…[37]

The division of Vietnam at the 17th parallel had thus been an option engineered by the PRC. Initially, the Allied forces drew up a division of the country at the 16th parallel for operational purposes during the exercise of disarming the Japanese troops. This line became a political instrument for manoeuvring the PRC's desired outcomes in Vietnam: a consolidated territory free of the presence of the French army; prevention of the escalation of war and/or the potentiality of future intervention by the United States; and the removal of French forces from Laos and Cambodia (Christensen 2011: 131). Prior to the Geneva Conference, Zhou reassured his DRV's reluctant counterpart, Phạm Văn Đồng, that once the French had withdrawn their troops, "all of Vietnam will be yours" (Olsen 2007: 43).

The Geneva Accords called for the cessation of hostilities and proposed a temporary division of the country along the 17th parallel. The demarcation line was not to be interpreted as a political or territorial boundary.[38] An election was to be held in 1956 throughout the territory with the expectation of bringing about reunification of the country. The representatives of the State of Vietnam refused to sign the agreement as this would go against the principle of unity already achieved with the French in 1949. They also rejected communist internationalism, and in a referendum of 1955, the State of Vietnam pronounced the future form of government to be a republic, an option supported by the US. The State of Vietnam received over one million refugees from the DRV during 1954 and 1955—victims of religious persecution as well as of the land reform programme inspired by Mao's ideology. After its own election in 1956, through which Ngô Đình Diệm became the first president, the government was re-formed into the *Republic of Vietnam* (RVN).

In early June 1956, the new Ngô Đình Diệm government issued Decree no. 143–NV, which was signed on 22 October and claimed 'sovereignty' over the Paracel[39] and Spratly groups, based on evidence of traditional occupation and administration

[37]Wilson Center Digital Archive; at: http://digitalarchive.wilsoncenter.org/document/121142 (20 May 2015).

[38]Wilson Center Digital Archive; at: http://digitalarchive.wilsoncenter.org/document/121142 (20 May 2015).

[39]In 1961, this government integrated the Paracel archipelago into the administration of Quang Nam Province, which had previously been part of Thua Thien province during the French administration.

(Ministry of Foreign Affairs, RVN, 1975, chapter III).[40] The same year, a retired Filipino admiral-turned-businessman, Tomas Cloma, declared the Spratlys as *terra nullius* or *non regnis*, and claimed possession on his own behalf of more than four-fifths of the area which he named 'Kalayaan'. Two years later, with the eruption of the Taiwan crisis on 14 September 1958, the People's Republic of China made a declaration regarding its territorial seas regime according to which the breadth of it was established at twelve nautical miles offshore, applicable to all territories considered as belonging to the PRC, its coastal islands and other islands thus considered (Zou 2005; 2012).[41]

According to Swan et al. (1997: 213), this declaration by the PRC was a measure to warn other nations not to send warships to aid 'nationalist' Taiwan (Republic of China). These authors also emphasize that the demarcation at twelve nautical miles deviated from the decision at The Hague Codification Conference in 1930, when China was in favour of limiting the territorial sea to three nautical miles from the low water mark along the coast, and adopted the first legislative act on the territorial sea in 1931 which provided a limit of three nautical miles for the territorial sea, and twelve nautical miles for the limit of an anti-smuggling zone.

Ten days after China's declaration on its maritime demarcation, the prime minister of the Democratic Republic of Vietnam confirmed the recognition of this declaration in a letter to his counterpart Zhou En Lai, although the letter did not mention the names of any island(s) within this boundary.[42] In 1958, both the Paracel and the Spratly Island groups were de facto under the jurisdiction of the Republic of Vietnam. With no legal authority, the DRV prime minister's endorsement had no validity. He subsequently discounted this pledge in 1997, stating that "that was the war period and I had to say that" (Smith 1980: 13).

This particular style of leadership—overstepping the bounds of what was appropriate to a prime minister and later discounting his own words—reflects some important aspects that might have become an enduring tendency in state conduct in the DRV: (1) an alignment with the broader goals of the socialist movement and the desire to become a productive member of the socialist bloc (Asselin 2014); (2) the expectation of Chinese support for armed struggle to achieve national unification under the communist rule; (3) the cognitive limitation concerning, or disregard of, the legal meanings of the terms 'democracy', 'republic' and 'sovereignty'; and (4) a diplomatic culture characterized by 'negotiating while fighting' inspired by Zhou En Lai's art of war.

In a new scenario resulting from the thawing of Cold War tension between the United States and the Soviet Union, the détente within Europe, and the control of the spread of nuclear weapons, the Sino-Soviet split became apparent. The PRC

[40]Nguyen Thai Hoc Foundation; at: http://www.nguyenthaihocfoundation.org/lichsuVN/hsts1.htm (25 August 2014).

[41]Mao has reportedly declared the following: "the Pacific today is not pacific at all. When it is under our control we shall be able to say that it is pacific indeed" (Gahrana 1984:7).

[42]See: *Peking Review*, September 1958, N. 34: 26.

returned to the idea of promoting an independent Asian balance of power at the Bandung Conference in 1965. Against this background, the purpose of China's support for DRV's taking over South Vietnam (RVN) became transparent in Mao's statement to the Chinese Communist Party Politburo in August 1965:

> We must without fail get hold of Southeast Asia, including South Vietnam, Thailand, Burma, Malaysia, (and) Singapore. Southeast Asia is a very rich region; it abounds in minerals. In the future, it will be very useful for the development of Chinese industry. After we get hold of Southeast Asia, the wind from the East will prevail over the wind from the West (Gahrana 1984: 7, citing Henry 1979: 8).

This statement was translated into armed and non-armed massive support for the DRV and the *Provisional Revolutionary Government* (PRG) of South Vietnam, also colloquially known as the Việt Cộng. On 16 February 1965, a 100-ton DRV trawler unloading Soviet- and Chinese-made munitions[43] was discovered on a beach in Vũng Rô Bay in Phú Yên Province (north of Khánh Hòa Province) in central Vietnam. Subsequent investigation led to the discovery of significant coastal infiltration from 1963 onwards along what is called the 'Hồ Chi Minh Maritime Trails'—operating simultaneously with the better-known trail that runs through the highlands in central Vietnam, diverting over the border into Laos and Cambodia. These maritime trails followed overseas and coastal routes well known for centuries (Gosha 2005). Farrell (1988: 54) cites North Vietnamese Colonel Duy Đức's article—published in the Vietnam Courier in 1985 on the thirtieth anniversary of the founding of the Vietnamese People's Navy—which states that, between the beginning of the 1960s and the mid-1970s, the DRV had opened four sea routes and transported 152,870 tons of weapons and other war equipment together with 80,000 cadres and combatants to the South (See Fig. 3.8).

Following the Vũng Rô Bay incident, on 15 March 1965 the US declared a 'Maritime Combat Zone' covering a large section of the South China Sea (See Fig. 3.9). The US Pacific Command became heavily involved in a systematic campaign, bombing DRV lines of communication, military installations and logistical facilities south of the 20th parallel. On 8 April 1965, the same day that the DRV issued its four-point peace formula in response to US President Johnson's declared readiness for 'unconditional discussions', a discussion between the PRC incumbent President Liu Shaoqi and the DRV incumbent General Secretary of Vietnam's Communist party, Lê Duẩn, took place. Liu stated the following[44]:

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[43]On 24 January 1966, in a report to the Soviet Vice Foreign Minister V.V. Kuznetsov, the Polish official Jerzy Michalowski discussed his visit to DRV and remarked that a great part of the armaments of the PRG at the time were Chinese-produced, since Soviet armaments remained in the DRV. This seems appropriate to the character of the 'people's war' against the RVN. Wilson Center Digital Archive; at: http://digitalarchive.wilsoncenter.org/document/117722 (19 May 2015).

[44]Discussion between Liu Shaoqi and Le Duan, 8 April 1965; at: http://digitalarchive.wilsoncenter.org/document/113058 (19 May 2015).

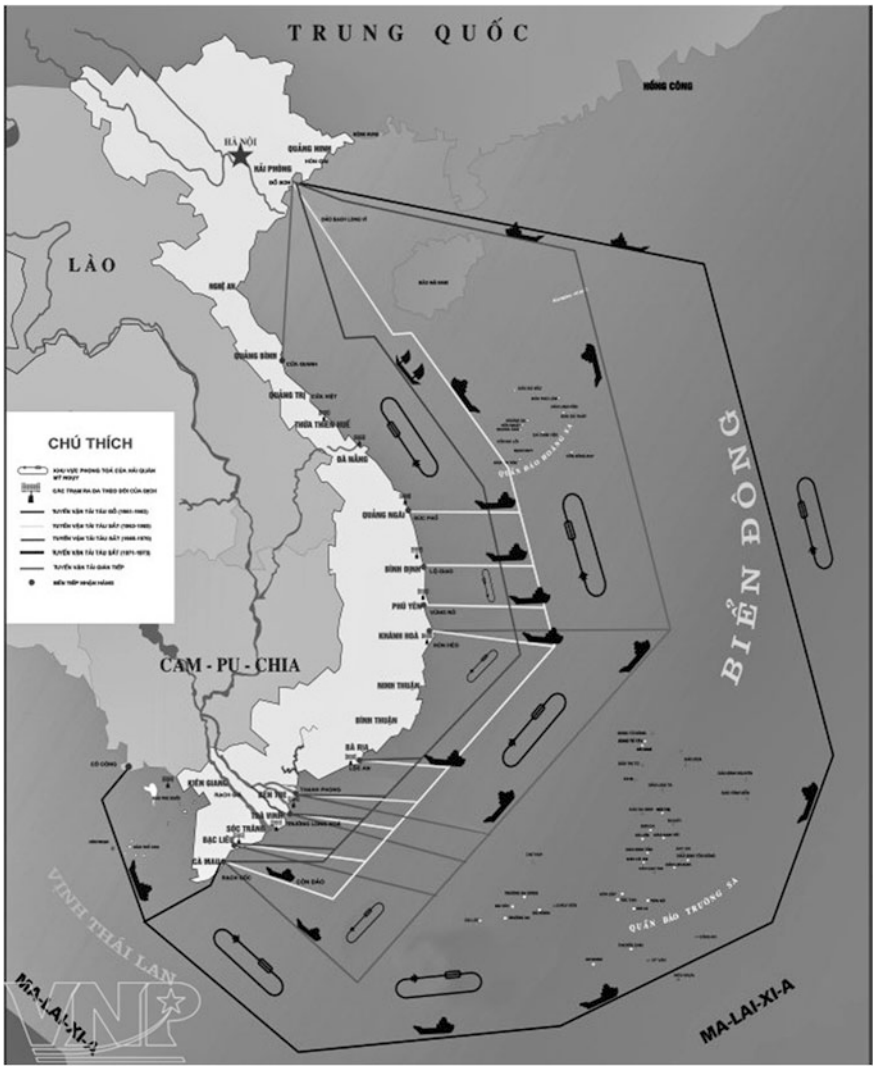

Fig. 3.8 Map of the Hồ Chí Minh Maritime Trails. *Source* "Far East Tour"; at: http://www.mekongtourisme.com/attraction/detail/La_piste_Ho_Chi_Minh_maritime_transport_d_armes_pendant_la_guerre_vietnamienne_25.html (Accessed 21 July 2015). This map is in the public domain

> It is our policy that we will do our best to support you. We will offer whatever you are in need of and we are in a position to offer… If you do not invite us, we will not come; and if you invite one unit of our troops, we will send that unit to you. The initiative will be completely yours.
>
> Lê Duẩn replied:
>
> We want the Chinese volunteer pilots to play a role in four respects: (1) to restrict American bombing to areas south of the 20th or 19th parallels; (2) to defend the safety of Hanoi; (3) to defend several main transportation lines; and (4) to raise the morale of the Vietnamese people.

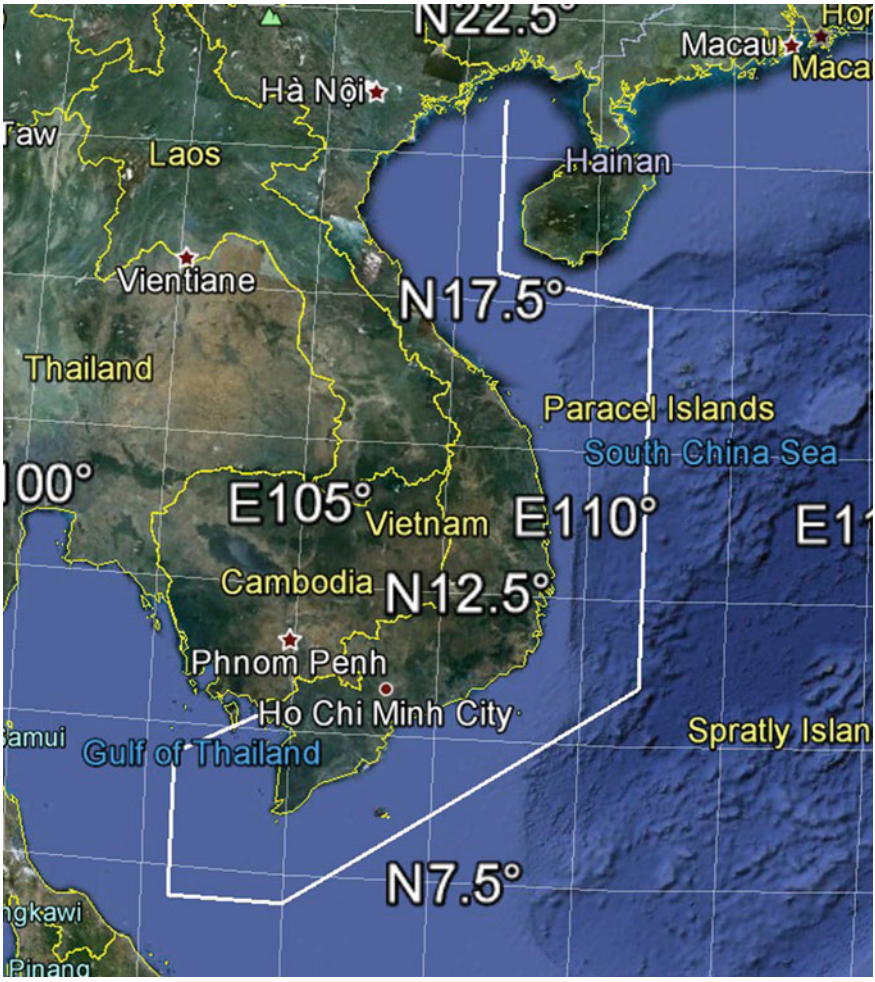

Fig. 3.9 US combat zone declared in 1965. *Source* Blue Water Navy; at: http://bluewaternavy.org/VN%20Combat.%20Zone.jpg (18 April 2015)

The DRV's tactic of 'negotiating while fighting' with the Western powers characteristic since the Geneva Conference—dragged the US into what became violent land, sea and air warfare. Support from the Allies eventually declined, owing to a shift made by the US from a multilateral approach to a unilateral one (Gosha/Vaïsse 2003).

In 1972, the US government and the Government of the People's Republic of China signed an agreement commonly known as the Shanghai Communiqué, to usher in a new era. Among other issues, this Communiqué stated the following:

> There are essential differences between China and the United States in their social systems and foreign policies. However, the two sides agreed that countries, regardless of their social systems, should conduct their relations on the principles of respect for the sovereignty and territorial integrity of all states, nonaggression against other states, non-interference in the internal affairs of other states, equality and mutual benefit, and peaceful coexistence. International disputes should be settled on this basis, without resorting to the use or threat of force.[45]

Following this agreement, the US withdrew its forces from Indochina in return for the development of a 'people-to-people relationship' with China, which in practice meant the opening up of the Chinese economy and society for foreign investment and cultural exchange. This agreement paved the way for the Paris Peace Accords on Vietnam signed in 1973 and provided for a ceasefire and an end to US combat in Vietnam. A year later, the PRC used military means to occupy the Crescent group of islands in the Paracel archipelago. There was short-lived and bloody resistance by the RVN navy, but the battle was lost. The Chinese operation in January 1974 to seize Pattle Island and the Crescent Group was planned months in advance and was not the accidental result of a battle between fishermen, as often claimed (Hayton 2014).

The RVN government filed a number of protests to the *Southeast Asia Treaty Organization* (SEATO) as well as to the United Nations but was met with silence.[46] Luru (1996) recorded that during the second session of the Third UN Conference on the Law of the Sea in Caracas in June 1974, the representative of the RVN denounced occupation of the Paracel Islands by the People's Republic of China. The RVN representative also reaffirmed the sovereignty of Vietnam at the Conference of the UN *Economic and Social Commission for Asia and the Pacific* (ESCAP) in Colombo in the same year. At the Consultative Conference in La Celle-Saint-Cloud, the proposal by the RVN's delegation to that of the *Provisional Revolutionary Government* (PRG) of South Vietnam was to issue a joint declaration condemning Beijing's aggressive act. The PRG declined the suggestion in favour of a separate declaration, as follows:

> Sovereignty and territorial integrity are sacred problems for every people. With regard to the problem of frontiers and territories, there exist between neighbouring countries differences left behind by history. These differences, sometimes very complex, call for minute examination. The countries concerned should examine this problem in a spirit of equality, mutual respect and as good neighbours, and should resolve it through negotiations (Luru 1996: 63).

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[45]US Department of State, Office of the Historian; at: https://history.state.gov/historicaldocuments/frus1969-76v17/d203 (21 August 2014).

[46]In a conversation between the US secretary of state, Dr. Henri Kissinger, and two Chinese diplomats, Dr. Kissinger stated that the US held its distance from these protests and was only concerned with the prisoners and their release as an American was included in that group. This release would defuse the situation as far as the United States is concerned. US Department of State, Office of the Historian; at: http://history.state.gov/historicaldocuments/frus1969-76v18/d66 (22 August 2013).

Given that this position has been consistently maintained until today, one may infer that the DRV and PRG, formally representing two governments, were factually one political unit. In an interview with the BBC on 24 March 2009, Balazs Szalontai, a Hungarian scholar in the former Soviet Bloc, suggested that, when seen from the perspective of border negotiation practices between PRC and Mongolia, and contrary to the common view that the DRV essentially accepted the PRC's right over the islands, it actually opposed it. But due to the prospect of the unification of Vietnam under DRV's rule being no longer unlikely, the DRV leadership were obliged to hold off any protest until the military situation in the south should be assured.[47] Should this inference be correct, it does show a significant deviation from a common understanding of a republic, according to which an elected government runs on the foundation of accountability and transparency with national interest first and foremost, especially in matters of foreign invasion and territorial acquisition. The DRV accepted the division of the country at the 17th parallel engineered by PRC and fostered the formation of a provisional government (PRG) in the part of the country south of this parallel, also supported by the PRC. Yet neither the DRV nor the PRG openly reacted to the PRC invasion of the Paracel islands. Seen from Archer's morphogenesis perspective it appears that both the DRV and PRG have signed up to a particular ideational corpus about the nation and its sovereignty, and therefore had become embroiled in a corresponding situational logic of action.

The tactic of 'negotiating while fighting'—effective in the war against Western powers and RVN—had been showing its limitations when it came to relations with the PRC. While the PRC had been absolutely clear about its maritime sovereignty, the DRV could only utter ambiguous statements, either behind the scenes or in public. In a move that violated the 1973 Paris Peace Accords, the DRV launched a successful attack against the RVN in 1975, and declared the country to be unified. Subsequently the new government marginalized the PRG of South Vietnam and renamed the entire territory as the *Socialist Republic of Viet-Nam* (SRVN). Although the newly formed SRVN did declare sovereignty over the Paracel and Spratly Islands in 1979 (Farrell 1998: 3–4) as the successor of RVN, its government initially did not continue to participate in the development of the Law of the Sea within the international community as its predecessor had done. Its policy of victimization of all members of the administration and army of the former RVN was such that the reunified country lost almost all the legal and technical expertise in maritime matters developed under the RVN.

The isolation of the SRVN following its occupation of Cambodia had provided the conditions for the naval forces of the PRC to launch a violent amphibious

[47]BBC Vietnam; at: http://www.bbc.co.uk/vietnamese/vietnam/2009/03/090324_paracels_hanoi_reassessment.shtml (17 April 2015).

military assault against eleven islands of the Spratly archipelago in 1988. From a political perspective, this attack could have been seen as retribution for Vietnam's engagement with the Soviet Navy's maritime manoeuvres in Tonkin bay earlier that year. Nevertheless, in view of the fact that the PRC then had no actual control over any island in the Spratly archipelago, these actions—plus the seizure of the Mischief Reef in 1995, also claimed by the Philippines—have been seen as a change to the status quo as it was then (Sharma 1997: 78). The SRVN's official narratives—depicting maritime territorial sovereignty as being an "extremely sacred issue" and stating that "extremely complex" historical disputes must be resolved through negotiation—continued after the PRC's invasion of the Spratly Islands in 1988 (Farrell 1998: 254), and even to this day. This should be analytically considered as an enduring tendency derived from affinity with a particular ideational corpus about 'sovereignty' arising from particular structural conditions and vested interests.

The seizure of seven of the Spratly Islands in 1988 by the PRC from a group of unarmed Vietnamese soldiers marked a significant turn in the relationship based on the 'brother/comrade' belief and the discourses characteristic of Sino-Vietnamese relations, interrupted by a border war between 1976–1977 followed by Vietnam's invasion of Cambodia in 1978 to oust the Khmer Rouge. With the fall of the Berlin Wall and after the Tiananmen massacre in 1989, SRVN's approach to international relations and foreign policy had shifted towards China, realigning its interests to normalize bilateral relations at a summit *secretly* held in Chengdu, Sichuan, in September 1990.

According to the former Vietnamese deputy foreign minister, Trần Quang Cơ (2003: 36–63), after the fall of the Berlin Wall in 1989 and its repercussions into the early 1990s, the main interest of the Vietnamese leaders was in joining China in protecting socialism against Western imperialism. The Chinese leaders, however, refused to play the solidarity game and instead framed the Sino-Vietnamese bilateral relationships in terms of peaceful coexistence between neighbouring states. Vietnam was obliged to make concessions on border issues with China. In addition, the Vietnamese Politburo had to accept the marginalization of its foreign ministry by having the Chinese ambassador located in Hanoi as the main nexus of bilateral communication, rather than the Vietnamese embassy in Beijing. This bureaucratic measure was an attempt to control the behaviour of Vietnam's Foreign Ministry, which was known to have been more inclined towards the building of a foreign policy with 'multidirectional orientation', that is, searching for ways to integrate the country into the regional and world economy (Vuving 2006) rather than remain in China's orbit of influence. Vietnam's acceptance of this new 'bureaucratic corset'[48] was a condition for the normalization of Sino-Vietnamese diplomatic relations, which subsequently paved the way for Vietnam's application to become a member of ASEAN, and subsequently to become enmeshed in a much larger regional

[48]Schottenhammer (2012) uses this term in reference to Gipouloux's (2011) notion of "a tight-laced corset of bureaucracy".

network of interlocking economic and political interests. Vietnam's search for a balance between the constraints imposed by China and the freedom to shape its own future remains constricted. Regarding sovereignty issues, Sino-Vietnamese normalization entailed a re-demarcation of the northern land border and the maritime border in the Gulf of Tonkin, negotiated during the 1990s. The results deviated from the Brevi line drawn under the Franco-Chinese Treaty of 1887 and were completely in favour of China (Thayer/Amer 1999). Any agreement reached on a maritime border in the South China Sea remains so far undisclosed.

In recapitulation, three major points may be noted. First, given its geopolitical position, layers of colonization and internal division, Vietnam's claims for maritime sovereignty during the early years of independence were in disarray due to the internal power struggles between and within political movements, which also had repercussions for legitimate representation in international relations for negotiating independently.

Second, China's consistent refusal to resolve disputes through arbitration—a tendency persisting from 1947 onwards—has enabled its manoeuvring to sustain its claims and continue to make gains by using a dual strategy of diplomacy, politically well planned for the long term, together with a timely use of force to achieve its goals. The partition of Vietnam proposed by China and endorsed by only one (DRV) of the two parties at the 1954 Geneva Conference led the country into the politics of the Cold War and a protracted armed conflict with drastic destruction and huge human sacrifice. The understanding of terms such as 'independence', 'nation', 'people', and 'struggle' has been baulked by the clash of communist internationalism versus nationalism. Today, it would seem that state-led communist internationalism under Mao Tse-tung's definition of the 'Three Worlds' has been a skilfully crafted disguise of its incremental expansion with a view to regaining China's traditional sphere of influence.

Third, the legal and political conundrum in Vietnam had created different understandings of, and means of, claiming maritime sovereignty. Whereas RVN followed the Western rules of sovereignty, the DRV pursued a patchwork of unruly practices that violated RVN's maritime sovereignty in order to win the war. In the early years of its unification, the SRVN leaned towards the Soviet Union to counterbalance China, only to witness the collapse of a world power; it had to return to China for support at the expense of major territorial concessions. These are becoming subject to China's own interpretation within its long-term strategy to protect its enduring interests. Actions and reactions in the post-Second World War period have transformed the ancient role of the South China Sea from one which supported economic, social and cultural fusion within Southeast and East Asia to one characterized by a power struggle that has reified states and national security interests in newly configured geopolitical situations together with new rules for inclusion and exclusion in the making.

Chapter 4
The United Nations Convention on the Law of the Sea (UNCLOS III) and China's Assertion of the U-shaped Line

Abstract China's strategy for claiming sovereignty in the South China Sea, based on UNCLOS which it has signed and ratified, is to be seen as an evolving process of interaction. Periodic adjustments to various situational logics are apparent: the material conditions on the mainland; the tenor of international relations shaped by China's rise; China's relationship with ASEAN as a regional organization and with its individual members. China's understanding of 'maritime borders' tends to conflate the notion of a 'nation' with that of a Confucian 'family'. The application of this to foreign diplomacy is baulked by a form of nationalism derived from a neo-Confucian interpretation of culture and identity. The framing of territorial sovereignty in terms of a lineage to support its claim to exclusive rights and authority over this maritime area faces the litmus test of successful institutional building with "Chinese characteristics" over a culturally hybrid sea space in order to achieve peaceful coexistence.

Keywords UNCLOS · ASEAN Way · Cultural hybridity · Nation/family conflation · Chinese characteristics · Peaceful coexistence

Honoured by being referred to as the 'Constitution of the Oceans', UNCLOS III is premised on three main moral principles guiding maritime delimitation: (1) equity regarding fairness for coastal states and user states; (2) proportionality (in the limits to be determined) for ensuring equitable access (to resources and sea space); and (3) historical (the historicity of) claims. Regarding marine resources, UNCLOS emphasizes cooperation as a requirement for the optimal use of resources and their adequate protection, especially with respect to enclosed and semi-enclosed seas.[1] Within ASEAN as a regional community, a consensus has been reached among claimant states on cooperation and resolution of overlapping claims in accordance with both UNCLOS and the Treaty of Amity and Cooperation in Southeast Asia.

The maritime claims made by the People's Republic of China (PRC) in the South China Sea, based on the U-shaped line first introduced in 1947 and the

[1]UN; at: http://www.un.org/depts/los/convention_agreements/texts/unclos/part9.htm (6 September 2014).

T.-D. Truong and K. Knio, *The South China Sea and Asian Regionalism*,
Peace and Security Studies, DOI 10.1007/978-3-319-13551-9_4

evidence used to justify the claims, have raised anxiety among competing claimant states in Southeast Asia as well as among other states within and outside the region. The underlying concerns are related to issues of proportionality, modes of cooperation and the meaning(s) of the word 'historical' as variously used in statements of claim. In the twenty-first century, the South China Sea has gained strategic significance for the economies of the East and Southeast Asian regions, and has been aptly described as the 'throat' of the western Pacific Ocean and the Indian Ocean—a channel of passage made of connective economic tissues where global sea routes coalesce (Kaplan 2014). The normal and earnest expectation of China's neighbours is cooperation through both bilateral and multilateral channels to resolve overlapping claims in line with UNCLOS's norms and rules. The principle of peaceful coexistence underlying the Treaty of Amity and Cooperation—to which China is also a party—is an additional point for consideration.

The process of resolving differences with reference to UNCLOS in this region has revealed characteristics that correspond to what Lo (2012) has observed as cycles of maritime activities in China's history. Maritime trade and expansion, initiated by coastal provinces, peaked when China was unified and declined when the country became absorbed either in internal affairs or the defence of the northern and western frontiers. These cycles may be considered as a structural tendency, although in contemporary times the pattern of securing political legitimacy at the maritime frontier has become more complicated. Today, nation states in dispute are, in principle, equal actors under international law. At the same time, some tend to position themselves as members of a 'family' (in figurative terms) as regards China. Understanding China as a land-based empire, whose divergence into the position of anti-imperialism and pragmatism were merely moments of retreat and adjustment, is helpful for grasping its emerging features as a modern state, and its manner of self-projection as a maritime power. Shaped by a Sinocentric perspective on 'sovereignty' since the campaign concerning a "Century of Humiliation", the will to project 'Chinese characteristics' on to the maritime world to counter the dominance of Western values remains a dormant force which may awaken when favourable conditions permit.

4.1 The U-shaped Line in China's Maritime Claims and UNCLOS

One of China's leading experts on the Law of the Sea confirms that, being a land-based empire, China's awareness of the significance of maritime borders and the need for strong measures to protect them only arose with the formation of the modern state (Gao 2009: 267). A key concern for its neighbours is the form of modern state that China is constructing along with the values that underpin it. Although China's posture on the U-shaped line remains consistent, it has gone through different principal conceptual lines of reasoning: (1) Mao Tse-tung's anti-imperialism and ideas of world revolution, which were eventually watered

down to the principles of the *Non-Aligned Movement* (NAM) in support of nations and factions emerging from the process of decolonization, including the Democratic Republic of Vietnam and the Provisional Revolutionary Government of South Vietnam; (2) Deng Xiaoping's pragmatism both towards internal affairs (building 'socialism with Chinese characteristics') and foreign relations ('hide our capacities and bide our time … never claim leadership');[2] and (3) Xi Jinping's 'China's Dream'—discursively extended to the 'Asian Dream'—which pledges to continue along the same lines but adds a new layer of Chinese characteristics to socialism plus the notion of leadership. This means the rejuvenation of Chinese ancient civilization and cultural values as its international mission to promote a more benevolent form of international relations than the Westphalian system. The latter is considered inferior owing to its mercantilism, colonization and development built into a global system of capitalism. Each line of reasoning carries a distinct approach to the maritime frontier.

Although the PRC did not participate in the Geneva Convention on the High Seas in 1958, which was dominated by the Atlantic maritime powers, it praised and supported the Latin American demand for an *Exclusive Economic Zone* (EEZ) based on fishery rights. In joining the opposition against the US position on freedom of the high seas, China, as previously mentioned, declared the boundary of its territorial waters at twelve nautical miles, as delimited by the Chiang Kai-shek government in 1947 (Gao 2009). In the national liberation context following the Second World War, the complexity of state-building in Southeast Asia was such that the Sinocentric tendency to spread its cultural revolution and support for insurgency in the region eventually created the reverse effect: anxiety and ambivalence, if not straightforward hostility, towards communist China (Jie 1994; Acharya 2009). Deng Xiaoping thawed relations in the 1990s by proposing to shelve maritime disputes and focus on joint development, thus switching the position from confrontation to what was referred to as 'joint cooperation' and 'peaceful rise'. Economic opportunism came at a moment of convergence between different events. First, East Asian (Japan, South Korea, Hong Kong, Taiwan) export-oriented industrialization policy since the 1970s—having specific features regarding the role of the state combined with a culture of management—had yielded what came to be known as a 'miraculous transformation' (Amsden 1989). Second, cooperation within ASEAN has turned Southeast Asian economies into the second generation of this type of model, although some major weaknesses in governing markets had begun to reveal themselves by the late 1990s (Wade 2003). China's rapprochement with ASEAN became decisive when China stepped in to alleviate the plight of some Southeast Asian countries that had been badly hit by the 1998 financial crisis (Storey 2013: 57). Subsequent to the recovery of these economies, China became a party to the TAC in 2003.

[2]The full motto is: "Observe calmly; secure our position; cope with affairs calmly; hide our capacities and bide our time; be good at maintaining a low profile; never claim leadership."

From a geopolitical perspective, the significance today of China's eastern seaboard of roughly 1,200 miles—stretching northward from the three southern provinces (Guang Dong, Fujian and Hainan) which were initially opened for the establishment of *Special Economic Zones* (SEZs), to fourteen coastal cities in eight other provinces—is owed to Deng's four modernizations. The liberalization of international trade, including various investment flows into the seaboard area for more than two decades, has transformed the whole coastal area and accentuated its driving role. This has brought the significant relationship between China's maritime border and its economic growth to the fore (Brandt/Rawski 2008: 624–626), and also corresponds with the specific pattern of China's historical maritime projection driven by the coastal provinces (Lo 2012).

Regarding the *Law of the Sea* (LOS), Gao (2009: 275–278) points out two key features of China's position during the deliberations at UNCLOS III between 1973 and 1982. First, China's proposals very often boiled down to broad policy outlines or general principles rather than specific regulations; in other words, China's position was one of 'wait and see'. Second, China insisted on its maritime territorial claims and maintained reservations concerning a number of articles in the UNCLOS: innocent passage; definition of continental shelf; the delimitation of an EEZ and continental shelf; the international seabed regime. These were considered "imperfect", even "having serious drawbacks for China".

To redress these imperfect features, the PRC promulgated 'The Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone', which was adopted in 1992. In the South China Sea, this law is consistent with the country's 1958 Declaration on the Territorial Sea, which maintained a boundary at twelve nautical miles. In 1996, the law was supplemented by the 'Declaration on the Baselines of the Territorial Sea' and the 1998 'Exclusive Economic Zone and Continental Shelf Act'. The principles articulated in these pieces of legislation indicate a problem of 'excess' regarding the notions of equity, proportionality and historical usage.

In its 1996 Declaration, China specifies twenty-eight base points and connects them to enclose the Paracel group of islands, a dozen small islands and reefs scattered over an area approximately 120 miles by 100 miles. The largest islands are Woody Island (a little over half a square mile) and Pattle Island (one-fifth of a square mile), which were seized from Vietnam in 1974. The rest are even smaller islets, rocks and reefs. This enabled China to declare sovereignty over the surrounding waters, as well as their bed and subsoil plus the resources contained in these. The use of 'straight baselines'[3] is, in principle, applicable to an 'archipelagic state' (meaning an independent political entity composed of archipelagos) and does not apply to archipelagos belonging to a continental state.[4] Article 8 of its 1998

[3]Straight baselines may only be drawn in localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity (Article 5, UNCLOS).

[4]Two Chinese professors, Zhao Lihai and Yuan Gujie, strongly opposed the application of the concept of the 'archipelagic state' to the clusters of islands in the South China Sea because this would not be in line with UNCLOS (Hong et al. 2013: 221).

Exclusive Economic Zone and Continental Shelf Act declares the PRC's exclusive rights to establish, authorize, and regulate the establishment, operation and use of artificial islands, installations and structures. Article 14 declares that the "provision of this Act shall not affect the historical rights of the People's Republic of China" (Gao 2009).

Application of the norms pertaining to an archipelagic state to a group of islands such as the Paracel Islands does make possible the use of 'straight baselines' to define the sea surrounding these islands as territorial water, and subsequently the limits of China's contiguous zone, exclusive economic zone and continental shelf in this area. Claim to sovereignty over the airspace above has recently been threatened.[5] If internationally acknowledged, this would give China the right to treat the area enclosed within the U-shaped line as an integral whole (Schaeffer 2011). Furthermore, it would allow China, as per Article 52, part IV of UNCLOS, to "suspend temporarily in specified areas of its archipelagic waters the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published". So far, China has made no public announcement in this regard (except by individual officials). Incidences of confrontation since 2001 involving US marine research and military vessels as well as the US Air Force in China's EEZs is an indication that China is using this UNCLOS article to undermine or block US naval power in the area.

Despite the protests of its neighbours, China is proceeding with a recently initiated construction on the semi-submerged Johnson Reef (in the Spratly Islands)—defined as "[land] reclamation"—to be used as a base for military (plus fishing, fish farming and tourism) purposes,[6] and more recently on Fiery Reef Cross. This is in addition to the Chinese-built airport on Woody Island in the Paracel group, where a military garrison was stationed in 2012.[7] China seems determined to physically alter these features to establish grounded facts in order to fulfil the normative conditions of continuous occupation, economic exploitation and effective administration as evidence of its 'historical rights'. The term 'historical rights' which features in the 1998 Exclusive Economic Zone and Continental Shelf Act is clearly intended to strengthen claim to the water surrounding these two groups of islands as being not just China's 'internal waters' but also its 'historical waters'. If acknowledged, this would give China the right to claim all water area(s) inside the U-shaped line as her inland waters.

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[5]In February 2014, Senior Colonel Li Jie—a researcher-cum-PLA officer—made a statement purporting to extend sovereignty over the air space above the claimed water. The Diplomat; at: http://thediplomat.com/2014/02/pla-officer-china-must-establish-south-china-sea-adiz/ (30 March 2014).

[6]China Daily Mail; at: http://chinadailymail.com/2014/08/30/china-speeds-up-building-artificial-island-on-johnson-south-reef-in-defiance-of-philippines-protests/ (19 September 2014).

[7]This airport built in 1990 has been considerably revamped. Its runway has been extended to 8,200 ft and can handle landings by any of the third-generation combat fighters currently in service in the People's Liberation Army air force, including the Sukhoi Su-30MKK (Mastro 2012).

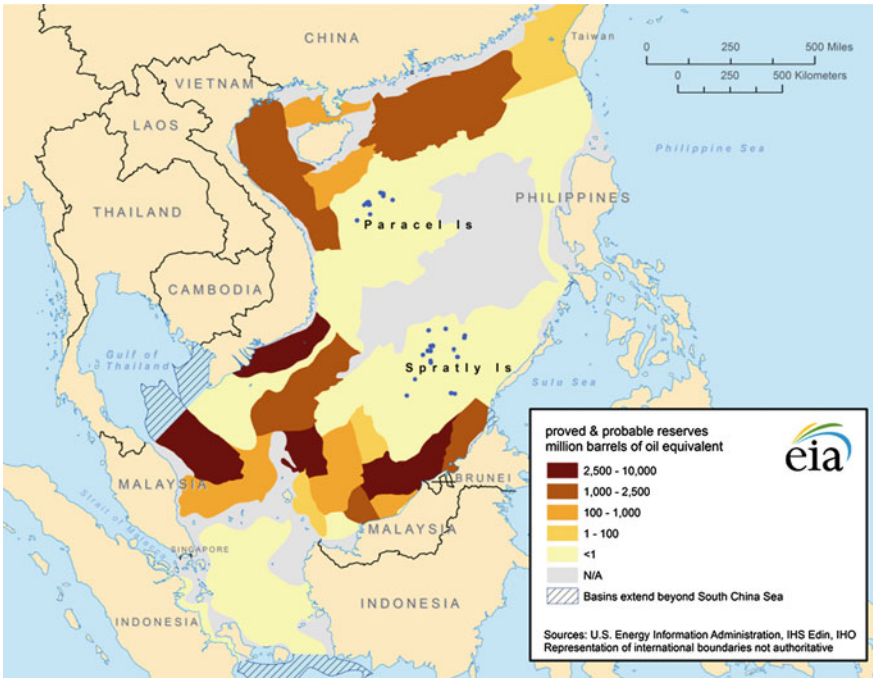

Fig. 4.1 South China Sea oil and natural gas proved and probable reserves. *Source* EIA; at: http://www.eia.gov/todayinenergy/detail.cfm?id=10651 (19 November 2014). This figure is in the public domain

These pieces of legislation may be considered as major institutional mechanisms in China's legal warfare to advance its maritime claims in order to balance its objective of sovereignty with economic interest and security. All these legal moves, which seemingly adhere to the norms and regulations of UNCLOS, are worded in ways that ensure the protection of the meaning of China's 'sovereignty' in the South China Sea. The term 'historical rights' adds three aspects of meaning to its maritime territorial claims in the South China Sea: an heirloom; a 'historical sea' (a definition deriving from the term of 'historical bay' used in UNCLOS); and a defining of limits (the U-shaped line) drawn up well before UNCLOS came into being (Schaeffer 2011).

Article 8 of the 1998 Exclusive Economic Zone and Continental Shelf Act, which allows use of artificial islands, installations and structures, has raised anxiety about the 'words and deeds' of China's peaceful rise, given that new constructions on islands in areas with overlapping claims may be an administrative strategy to show de facto human habitation and economic life and thus support the claim to an exclusive economic zone in addition to the continental shelf below and between

Fig. 4.2 Disputed claims in the South China Sea. *Source* This map was created by Goran Tek-En and is in the public domain; at: https://en.wikipedia.org/wiki/File:South_China_Sea_vector.svg (9 August 2015) the graphic version by Lindsey Burrows can be found at: http://www.maritimeprofessional.com/news/doesnt-chinas-pitch-south-china-270509

islands and rocks previously uninhabited.[8] A subsequent rush among other claimants to react similarly has prompted nationalist sentiments from all sides, creating a climate of 'diplomatic discomfort' and suspicion that is undermining the belief in Deng's pledge of 'joint development' as a manifestation of China's peaceful rise.

Joint development in areas with overlapping claims is generally unattractive to international companies, leaving competing claimants a sole choice of Chinese companies. According to the US *Energy Information Administration* (EIA), a reserve of oil and natural gas deposits is close to land in Vietnam's case. The largest proven deposits are located at the southern tip of the U-shaped line—an area involving multiple claimants (See Figs. 4.1 and 4.2).

[8]A BBC report by Rupert Wingfield-Hayes dated 10 September 2014 shows that China is busy constructing new habitable structures on five different atolls. The spokesperson for China's Ministry of Foreign Affairs answered a query on the legitimacy of this act as follows: "China asserts indisputable sovereignty over the Nansha Islands and the adjacent waters, and China's activities on relevant islands and reefs of the Nansha Islands fall entirely within China's sovereignty and are totally justifiable". BBC; at: http://www.bbc.com/news/world-asia-china-29139125 (11 September 2014).

The struggle of sovereignty in the endeavours of joint development often boils down to the principle of 'equity' when addressing overlapping claims to EEZs or the choice of partner(s) in resource extraction and development. Given the years of unsatisfactory negotiation with China, claimant countries continue to invite non-Chinese international companies for joint ventures in offshore exploration and development in their EEZs.

4.2 Testing China's Legal Claims: Resilience or Subordination

Among the South China Sea claimants, Vietnam is probably in the most difficult and tense position, given its geopolitical position and complex historical–cultural relationship with China. On the politico-cultural front, the relationship between the two communist states is such that the notion of bilateral relationship is one that defies common understanding in modern international relations. Vietnam's continued cooperation with non-Chinese companies in oil exploration ventures has led to a gradual and multilayered response by China through which the specific character of 'bilateralism' between the two countries has become apparent.

In 2011, two Chinese fishing boats cut the cables of a Vietnamese seismic oil exploration vessel while it was working within Vietnam's internationally recognized EEZ. Chinese officials denied any wrongdoing in the incident, and instead accused Vietnam of "seriously infringing" China's sovereignty and maritime interests.[9]

Subsequent to this incident, Vietnam promulgated its Law of the Sea on 21 June 2012. A few days later, *China National Offshore Oil Corporation* (CNOOC) responded by releasing a map declaring nine offshore areas in the South China Sea available for exploration through cooperation with foreign companies. The declared area is within Vietnam's EEZ (Figs. 4.3 and 4.4).

The Chinese Foreign Ministry spokesperson asserted that announcing the areas to be up for public bidding "is a normal business activity in line with relevant Chinese laws and international practices", and advised his Vietnamese counterpart to remember the bilateral agreement made with China and not to make any move which would complicate matters.[10] The bilateral agreement that the spokesperson mentioned was not specified either by date, time, venue, substance, or key officials involved. In May 2014, the *China National Offshore Oil Company* (CNOOC) moved drilling rig HD–981 into a sea area near the Paracel Islands, and well within

[9]See more at: *The Wall Street Journal*; at: http://online.wsj.com/news/articles/SB10001424127887323717004578157033857113510 (11 September 2014).

[10]In: *The Diplomat*; at: http://thediplomat.com/2014/05/vietnam-mulling-new-strategies-to-deter-china/ (15 June 2014).

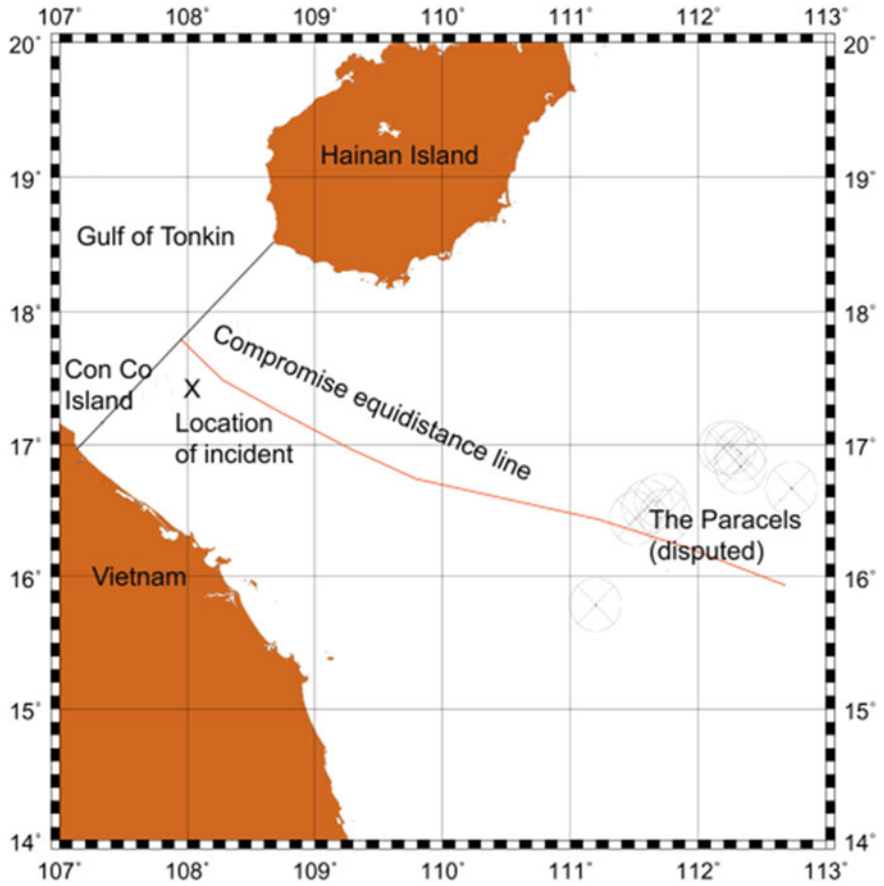

Fig. 4.3 Location of the cable of Petro Vietnam's ship cut by Chinese fishermen while conducting a seismic survey within the country's EEZ. The author of this map, Duong Danh Huy, has given permission for reprint. *Source* Center for Strategic and International Studies, Asia Program; at: http://cogitasia.com/trouble-outside-the-gulf-of-tonkin/ (21 July 2015)

Vietnam's EEZ. The rig was transported in a large convoy of ships of the People's Liberation Army's Navy and China's Maritime Surveillance (Fig. 4.5).[11]

The placement of this special deep-water drilling rig triggered an exceptional level of protest throughout Vietnam. Some officials among the Vietnamese leadership stressed the need to seek resolution through international arbitration; others were in favour of a bilateral diplomatic solution. Although many diplomatic overtures towards China were made during the following months in an attempt to ease tension—including party-to-party talks and a proposed visit to China by the

[11]In: *The Diplomat*; at: http://thediplomat.com/2014/05/why-did-china-set-up-an-oil-rig-within-vietnamese-waters/ (15 June 2014).

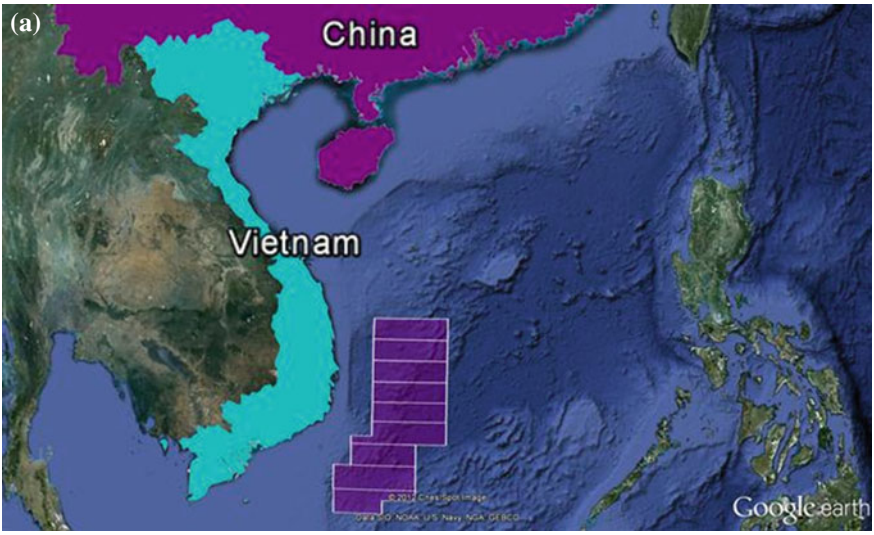

Fig. 4.4 The location of the nine blocks of oil and gas fields in disputed areas announced in June 2012 by *China National Offshore Oil Corporation* (CNOOC). **a** http://csis.org/publication/cnooc-pulls-back-curtain (December 16, 2015), **b** http://www.china.org.cn/business/2012-07/18/content_25942312.htm (December 16, 2015)

secretary general of Vietnam's ruling Communist Party—China instead sent its State Councillor, Yang Jiechi, to Hanoi to bring the bilateral relationship back on track. Yang Jiechi warned Vietnam that China would take all necessary measures to protect national sovereignty and maritime rights, as well as to ensure the safe and smooth running of its oil exploration activities. The two sides should avoid amplifying, complicating and 'internationalizing' the current maritime issue. He urged Vietnam to stop disturbing the Chinese operations at sea, inflating differences, and creating new disputes, stressing that Vietnam's leaders should properly handle the aftermath of the serious violence, vandalism and arson in mid-May 2014 (referring to riots which targeted Chinese-owned businesses) and accord appropriate compensation.[12]

Four basic points came through during this meeting: (1) Do not underestimate China's determination and power; (2) Do not take the case to the International Court of Justice; (3) Do not draw world powers into a 'bilateral' conflict; and (4) Do not put the relationship between China and Vietnam at risk. Alongside this, Chinese media portrayed Yang's visit as a gift from China, offering Vietnam yet another

[12]In: *The Diplomat*; at: http://thediplomat.com/2014/06/yangs-visit-underlines-china-vietnam-standoff/ (19 June 2014).

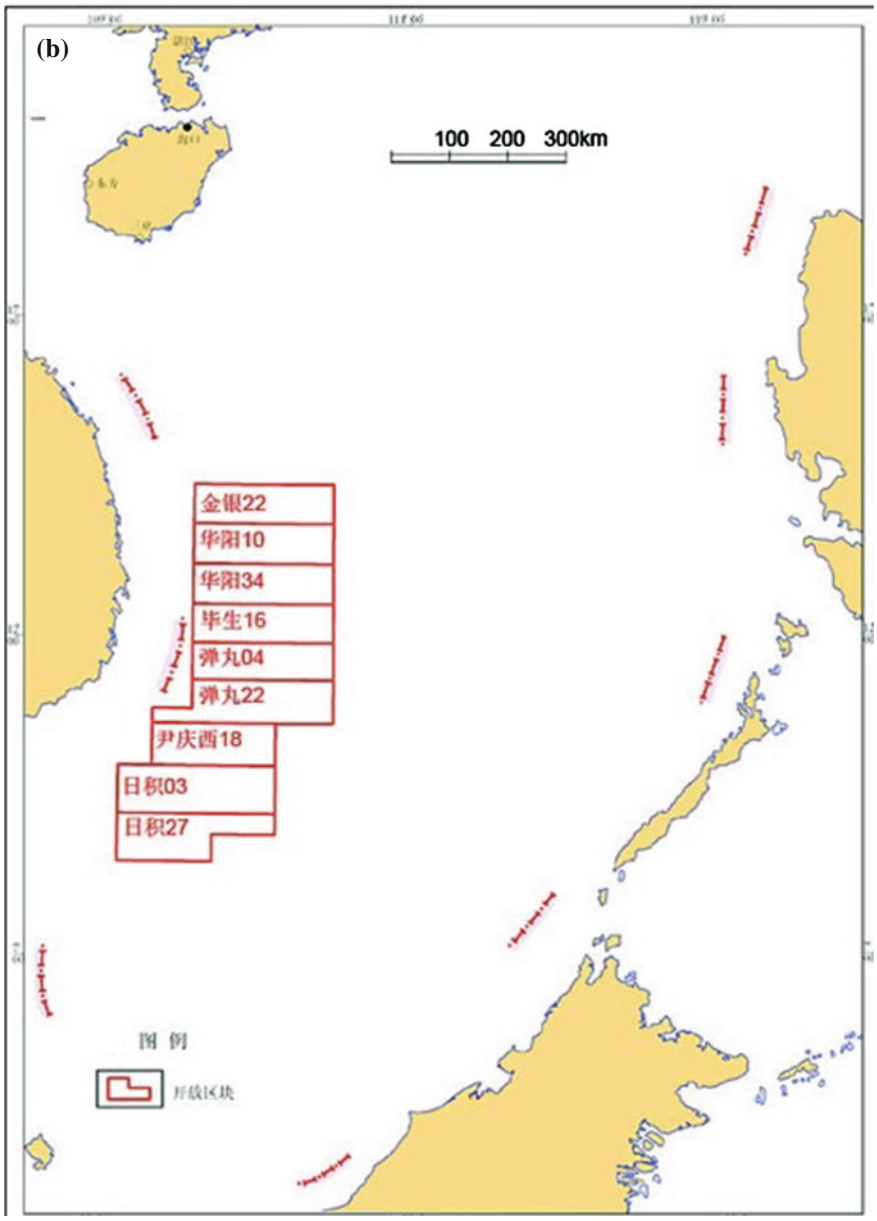

Fig. 4.4 (continued)

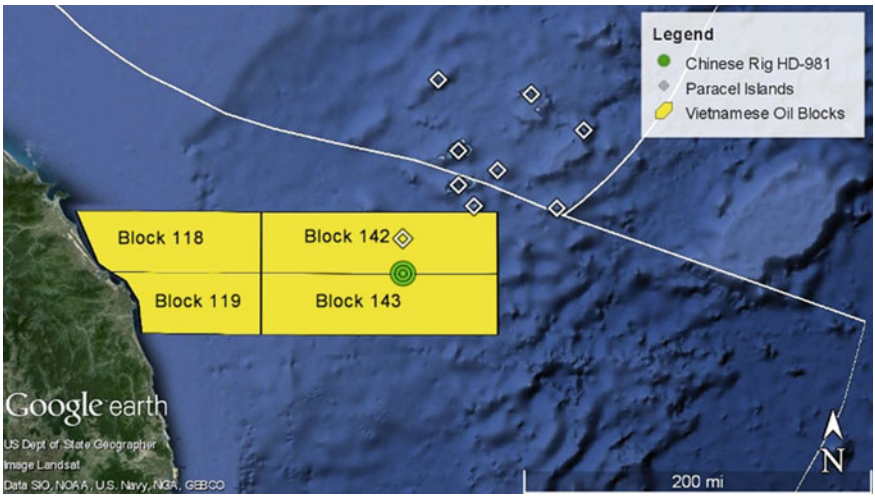

Fig. 4.5 The Position of China's oilrig HD-981 in Vietnam's EEZ in May, 2014. The author of this map, Greg Poling, has given permission for reprint. *Source* Center for Strategic and International Studies, Asia Program; at: http://cogitasia.com/haiyang-981-from-water-cannons-to-court/ (21 July 2014)

chance to "rein itself in before it's too late", and suggested that China "is urging the "prodigal son" to return home".[13]

Any attempt to deconstruct the meanings of 'bilateralism' behind this public discourse is riddled with difficulty simply because of the secrecy of the 'agreement', which remains so far publicly unspecified. A cloud of suspicion hung over the subtlety of the content of the 1990 secret meeting to normalize relations between the two countries after the land border war in 1979. Some sources claim that, at the 1990 meeting, the Chinese leader of the delegation presented a poem to his Vietnamese counterpart. Allegedly, two versions exist; a less-known version conveys a profound meaning on the nature of neighbourhood, as follows:[14] "Our mountains and rivers are linked, as we share the same ideology and culture, our destiny is also shared." The public version diffused by Vietnam's propaganda machine conveys a similar message but is couched in terms of principles of cooperation between the two countries in the new millennium: "Long-term security, future orientation, friendly neighbour relations, comprehensive cooperation."

The statement made by General Phùng Quang Thanh, Vietnam's minister of national defence, at the Shangri-La Dialogue in May 2014 during the Third Plenary

[13]In: *The Diplomat*; at: http://thediplomat.com/2014/06/chinese-media-in-vietnam-yang-calls-prodigal-son-to-return-home/ (11 September 2014). In: *Foreign Affairs*; at: http://www.foreignaffairs.com/articles/141970/david-brown/vietnams-pivot (11 September 2014).

[14]Gócnhìn Alan; at: http://www.gocnhinalan.com/blog-cua-alan-va-bca/dinh-menh-da-an-bai.html (18 September 2014).

Session described the HD–981 oil rig incident in terms of "contradictions and differences" at intra-family level.[15] This was unexpected by many observers. Yet it may also indicate the possible existence of a bilateral agreement between the two countries thus far unannounced publicly. The framing of an event that could be legally defended by Vietnam as a violation of a nation's sovereignty in terms of intra-family differences expresses the role of cultural and ideological proximity between the two countries in handling conflict. The ideational corpus on sovereignty also contains elements of emotional ties within a figurative family.

The use of family-related terms in a figurative language conveys the Confucian message of sanctioning social hierarchy within what is taken to be an 'organic' unity. This naturalizes acts of symbolic and even physical violence as part of the socializing process, bringing subordinates (surrogate children and siblings) into compliance. As for deeper levels in current diplomatic relations between Vietnam and China, the HD–981 drilling rig incident did reveal the 'self/other' relationship in a hierarchical arrangement, and its endurance and reproduction. Identity formation with Confucian characteristics in combination with the social construct of a modern nation state appears to have conflated many different meanings under the term of 'nation': a sovereign territory; a sense of belonging to that territory; a state apparatus; a political party as an authority embodying all these elements. China's tendency in territorial claiming throughout the history of China–Vietnam relations over two thousand years seems to have also been apparent. Anderson/Whitmore (2012) note that the historical manoeuvre consists of actions initiated first by local and state agents in southern China to shift a border. Subsequently this territory became reshaped and claimed as Chinese. Previously applied on land, the manoeuvre now seems to be moving on to the sea frontier.

4.3 The 'ASEAN Way': Between Self-reflexive Understanding and Multilateral Diplomacy with Chinese Characteristics

In modern time, bilateralism between China and individual states has to contend not just with the normative framework of rights and responsibility between nation states as equals, but also with ASEAN as a community and its diplomatic modality. The unfolding disputes in the South China Sea are revealing a historically-based discord regarding maritime order and security. Three templates of international relations seem to be in play: (1) the Sinocentric hierarchical vision of the regional order's drawing on its past to project its future; (2) the Hindu-inspired image of the mandala which allows order to be conceived of in terms of flexible circles of influence, interests and ambitions as practised in the 'ASEAN Way'; and (3) the Westphalian

[15]China withdrew the oil rig in July 2014. In: *The Diplomat*; at: http://thediplomat.com/2014/08/vietnam-china-and-the-oil-rig-crisis-who-blinked/ (14 June 2015).

framework of sovereignty which treats the nation state as a unit in international relations, and associations of states as 'blocs' of common interests and values. Formed by contextual practices and different legacies of domination and colonization, these templates are now becoming conjoined. Careful reflection on the processes that have shaped, and are shaping, this community helps bring to the fore aspects not only of cooperation but also of potential fracture.

The founding members of ASEAN (Indonesia, Malaysia, Philippines, Singapore, and Thailand) viewed the 'ASEAN Way' as a cultural and institutional mechanism of diplomacy—a characteristic of the community. The actual origin of the 'ASEAN Way' continues to be debated. Some attribute its initiation to President Suharto of Indonesia, after the 1963–1966 '*Konfrontasi* policy' (the confrontation with Malaysia) was ended, and subsequently ASEAN was created as a community in 1967. Its philosophy of non-alignment and neutrality aimed at a gradual phasing out of foreign bases and non-acceptance of any defence pact with outside powers. This led eventually to the disestablishment of the collective defence treaty—the *Southeast Asia Treaty Organisation* (SEATO)—in 1977. Others consider the 'ASEAN Way' as representing the continuity of an indigenous concept of state, sovereignty, statecraft and inter-state order, which takes into consideration that Westphalian legal-political concepts such as sovereign equality, non-interference and non-use of force are relatively new to postcolonial Southeast Asia. Practices of informal persuasion among and between leaders of states are seen as an important way of ensuring a common position. Yet diplomatic skills gained from the 'ASEAN Way', despite being recognized as valuable in some dimensions, were not necessarily translated into effective action as regards the integration of a regional community.[16]

Regardless of the authenticity of its origins, the 'ASEAN Way' came to be known as a cultural approach that helped members engage in dialogue and build mutual confidence in order to find a peaceful resolution to conflict, thereby building unity within a community. To bring about the desired results, this modality of negotiation is driven less by treaty norms than by practice in diplomatic conduct. For example, the 1972 Treaty of Amity and Cooperation had no 'road map', but the ASEAN Regional Forum created in 1994 was expressly intended for constructive dialogue and consultation on political and security issues of common interest and concern, in order to build confidence from which effective 'preventive diplomacy' could address particular types of tension in the Asia–Pacific region. Despite the lack of institutional mechanisms within this region—mechanisms that are able to serve as a normative fulcrum in balancing the interests of regional stakeholders—ASEAN remains an important institutional hub to date (Acharya/Layug 2013).

The practices of the 'ASEAN Way' may be seen as being derived from the Indian or Javanese political philosophy of circles of governance. In precolonial times, each circle contained several loosely-knit, tributary-like polities; some could repudiate their tributary status when the opportunity arose, and then try to build

[16]For a comprehensive discussion, see Haacke (2013).

alternative networks in order to safeguard the security of the ruler's own realm (Wolters 1999: 28). Although this form of governance no longer corresponds to present-day sovereign states, the mandala as an instrument for contemplation is still relevant for reflection on the distinctive experiences of conducting international relations in parts of this region where the influence of the Confucian hierarchical tributary relationships was not so influential.

Lund (2003) uses the mandala as a tool to gauge the effectiveness of the contemporary circles of influence built by ASEAN in response to four events that posed a particular challenge: (1) the 1997 Asian financial crisis; (2) the 1997–1998 Indonesian smoke/haze environmental problem; (3) the admission of new members; and (4) globalization (in terms of the surge of information technology). These events caused member states to reflect on their own positions and that of neighbouring countries in order to respond effectively to these issues. Two further events may be added to the sequence of major issues of diplomacy that have affected the relationship between ASEAN and China: the 1988 seizure by China of six Spratly islands then under the control of Vietnam (not an ASEAN member at that time); and the violent repression of the 1989 Tiananmen Square protests. Although ASEAN members were silent about these two events, the normalization of relations between China and Indonesia, Brunei and Singapore during 1990–1991 may be seen as the initial bilateral steps that set the stage for ASEAN to engage with China. The normalization constituted a shift in the amity/enmity relations: from China's being perceived as a threat to its being a possible co-participant in the ASEAN market economies, which would open the way for subsequent cooperation between China and ASEAN.

The 1997–1998 Asian financial crisis originating in Thailand revealed aspects of market- and society-induced regionalization within which there was no institutional mechanism for cooperation at intergovernmental level. Such problems went beyond the existing precepts of 'regional identity' and required responses that could spread mutual confidence among affected countries. The financial crisis first erupted as a localized Thai currency crisis (the Baht) but as it unfolded and spread to Malaysia, Indonesia, the Philippines, and later to South Korea, it revealed the weakness of the regional financial architecture. Although international institutions such as the World Bank, the International Monetary Fund and the United Nations Development Programme have stepped in to support individual countries, ASEAN turned to Malaysia's Prime Minister Mahathir—known for his 'Look East' approach—and inaugurated the 'ASEAN+3' Summit in 1997. Convened annually, this Summit brings together the finance ministers of the ten members of ASEAN plus those of China, South Korea and Japan to discuss problems, find means of cooperation, and put together arrangements that may help protect their currencies from banking crises caused by attacks from financial speculation (Sharma 2003: 351). The protection arrangement(s) thus went beyond ASEAN as a community without the intervention of UN-related institutions. This was considered a success in the bid for trans-border financial security. Since then, ASEAN+3 activities have been broadened and deepened to cover other trans-border social issues.

A parallel event, the smoke haze that originated in Indonesia in 1997 and was caused by localized practices of land use, revealed another trans-border problem. The seriousness of the haze showed how air pollution extends through the atmosphere across all abstract borders of sovereignty, and led to ASEAN environmental officials' raising questions about Indonesia's forestry and land use policies—issues which would normally be considered only within the purview of a nation's sovereignty.[17] ASEAN has increasingly become open to proceedings with international institutions, and even to non-governmental organizations, regarding environmental concerns and their implications for regional security in Southeast Asia. The emergence of a civil society has brought about recognition of the importance of society-driven associations based on common interests. Regarding trans-border issues affecting citizens' daily lives and their social protection (such as migration, pollution and transnational crime) more voice in policy forums becomes a necessity for effective cross-border cooperation.

The admission of ASEAN's four newest members—Vietnam in 1995, Laos and Myanmar in 1997, Cambodia in 1999—can be seen in effect as an enlargement of the circle of influence over countries considered to be 'outliers' in matters of market economies and political ideology. It reflects a regional ambition to make geographical proximity more compatible with cultural proximity and a shared 'community identity'. This aspiration is now challenged by the territorial disputes in the South China Sea, with implications for trans-border activity such as fisheries, SLOCs, and the marine environment.

As a dialogue partner, China is 'the elephant in the room' with its power, its vested interests in trade, marine and seabed resources, and its ambiguous position on "innocent passage". The last has further implications for the Sea Lines of Communication—a concern also shared by non-claimants within and beyond the region. The protection of vessels from the growing problem of maritime piracy (attacks, theft or demands for ransom) requires multilateral cooperation to coordinate logistics and share burdens. Given that responsibility for maritime surveillance has remained with the US Navy by others' default since the end of the Cold War, the US cannot be kept out of the South China Sea as matters now stand. These are big issues that cannot be addressed by quiet diplomacy; they require full public debates on the political and economic costs and benefits among the range of available options.

Concerning the South China Sea, the 'ASEAN Way' has been operating with a 'dual track' approach to cooperation, launched in 1990 on the initiative of Indonesia with the support of Canada. 'Track I' is a channel for intergovernmental negotiation and 'Track II' is an informal channel for both non-governmental experts and officials in their personal capacity. By bringing these together to discuss the regional

[17]The 2004 tsunami in the Eastern Indian Ocean that struck the littoral countries made apparent not only the lack of preparedness among the populations but also the absence of a shared early warning system in the region.

dimensions of competing claims, this track aims at a rapprochement of diverging views to benefit formal diplomacy.

In the 'ASEAN Way', Track I has long been practised as a set of procedures for decision-making in conflict management and resolution. Rather than pursuing a purely legalistic approach to problem-solving, the 'ASEAN Way' rests on a diplomatic 'etiquette' followed by government leaders, that stresses consensus as a goal and harmony in conduct in reaching it. It is assumed that through frequent though informal meetings, leaders can become familiar with each other's outlook and thereby build ties which help reconcile differences in perception. This can help shape the position and posture of each party so as to reach a common position for the group (Dajal 2001). Negotiations along such lines have brought together the ASEAN states with overlapping claims in the Spratly group—Vietnam, Malaysia, Brunei, and the Philippines—to agree on reconciling their different views and to bring their claims in line with UNCLOS rules.

Through Track II, the Workshop Process on Managing Potential Conflicts in the South China Sea[18] has encouraged mutual confidence for cooperation in addressing trans-border issues. The emphasis is on practices of implementing the cooperative agreements reached, and based on this mutual confidence is expected to develop (Dajal 2001). Although some cooperation has resulted from this workshop process (such as cooperation on marine pollution control) there has been no progress on matters concerning under-seabed resources, except a *Joint Marine Seismic Undertaking* (JMSU) between China, the Philippines and Vietnam lasting from 2005 to 2008.[19]

The signing of the ASEAN Charter in November 2007,[20] which came into force in 2009, marked a turn in ASEAN history, notably the formalization of its status as a regional community with three pillars referred to as 'communities': the economic community, the politico-security community and the sociocultural community. A separate council governs each 'community'. The goal is to create a form of regional integration inspired by the model of the European Union (without a common currency) by 2015.[21] This expresses a move towards the formal practices of rule-based regional integration.

[18]This process was supported by Canada for more than ten years, and is now fully under the leadership of Indonesia.

[19]This initiative—involving a tripartite exploration within the 200-mile Exclusive Economic Zone boundaries of the Philippines around Palawan—was "allowed to expire" due to questions raised in the Philippines about its constitutionality (Baviera 2012).

[20]It is important to note that, in November 2007, China declared Sansha city on Hainan Island to be the administrative centre of the maritime space it had laid claim to in the South China Sea.

[21]The ASEAN Summit comprising the heads of state is the supreme decision-making body, the power of which is balanced by the strengthened power of the ASEAN Secretary General in monitoring member states' compliance with ASEAN decisions (ASEAN Charter 2008: 25). The ASEAN Charter for ASEAN Peoples (concerning roughly 570 million people) is symbolically represented by a new flag, which depicts a bundle of ten rice stalks—symbol of strength and unity—and the motto "One Vision, One Identity, One Community".

Although the South China Sea has been on the agenda of the annual ASEAN Summits since 2007, only at the 2015 Summit—chaired by Malaysia—did its leaders managed to find sufficient unity to issue a joint statement. The statement criticized land reclamation activities as having the potential to "undermine peace, security, and stability in the South China Sea", reaffirmed the "importance of maintaining peace, stability, security and freedom of navigation in, and overflight over the South China Sea", and urged "the speedy conclusion of a Code of Conduct".[22]

One special aspect to be noted is the fact that ASEAN as a regional organization neither has a mutual defence agreement with external powers, nor engages in any collective engagement other than with the United Nations. Individual member states have adopted their own security policies, resulting in a diversity of security alliances. Members of ASEAN are unlikely to go to war against one another but they have a great need for self-defence against forces from outside the region, especially since the 1991 withdrawal of the US from Subic Bay to the west of Manila Bay in the Bataan peninsula (Acharya 2013). During the Cold War, Indonesia was one of the leaders of the Non-Aligned Movement. The Philippines, Singapore and Thailand separately drew up bilateral defence agreements with the US during the 1950s and 1960s. The so-called Five Powers Defence Arrangement of 1971 formalized the collective defence links between Malaysia, Singapore, Australia, New Zealand and the United Kingdom. Bilateral security ties also exist between Brunei and the UK (Emmers 2010). None of the new members—Vietnam, Myanmar, Laos, and Cambodia—have any similar security ties.

Despite this fragmentation, ASEAN as a multilateral regional institution subscribed to the principle of 'comprehensive security' in its Roadmap for 2009–2015. Beyond the requirements of traditional security, this principle takes into account non-traditional security aspects that are now vital to regional and national resilience—including the economic, sociocultural and environmental dimensions of development, which also cover the maritime domain. In international relations literature, this arrangement is called a "regional security complex" (Buzan/Waever 2003), a term which acknowledges the notion of 'security' to be historically, politically and socially produced and therefore subject to regional dynamics rather than purely driven by international norms.

Although overlapping claims of maritime boundaries originally concerned only four and now five (with Indonesia) of the ten ASEAN members, all members benefit from the safety of SLOCs. Matters of maritime transport of goods and services through the South China Sea extend beyond ASEAN; they require norm-based functional institutions and multilateral forms of cooperation. A broader view of the sea space to include users, both in the region and beyond, would seem more appropriate but has been slow in coming forward.

[22]In: *The Diplomat*; at: http://thediplomat.com/2015/04/china-gravely-concerned-by-asean-statment-on-south-china-sea/ (30 April 2015).

As a claimant state, China's position has remained unchanged. Despite being a dialogue partner in the annual ASEAN Regional Forum, China has consistently maintained its position on the two issues: (1) resolution of overlapping territorial claims through bilateral channels; and (2) use of a restrictive interpretation of UNCLOS on freedom of navigation in order to keep controls on US deployment of aircraft and naval vessels in China's EEZ, including areas with competing territorial claims. The deployment has so far been kept within the bounds of Hainan Island, but if the U-shaped line is accepted, this could mean that the presence of the US Navy will be unwelcome in the entire zone enclosed by this line.[23] Commercial aircraft's right to overflight is potentially implicated. Maritime interconnectivity and safe navigation to ensure secure and efficient supply chain management are vital to global value chains built on the Japanese lean mode of production known as 'Just-in-Time' or JIT. They have been essential to the success of economic integration in Southeast and East Asia, although matters of social redistribution of benefits and marine pollution remain key concerns. Amity/enmity perceptions have led to various expressions of maritime nationalism by social groups within the littoral states of the South China Sea. Yet a militarized approach to protection of the claimed maritime borders could well result in trade and industrial investment being diverted elsewhere.

Security in the maritime domain is a strategic issue for most ASEAN member states but particularly for those with a significant role in regional and global supply chains. Contemporary arrangements for the security of Asian SLOCs are still under the control of the US Navy; ad hoc multilateral arrangements operate in the Indian Ocean but are less effective. Obstacles to a multinational approach to maritime security include differing interests within the region; differences of perception regarding the 'threat'; concerns over state sovereignty; negative attitudes toward externally-led initiatives; and differing levels of capability to make an effective contribution (Henry et al. 2012). Although China does not have the means as yet to ensure the safe transport either of its own oil supply or exported goods, it does not want to compromise its grand naval strategy in which the South China Sea is enclosed by a line of maritime defence referred to by the People's Liberation Army as the "First Island Chain of China's maritime defensive perimeter" (see Fig. 4.6).

China's involvement in multilateralism is consequently highly selective, as it looks to strengthen its status as a regional and world power, and to enlarge the space of its own influence rather than build its role as a responsible stakeholder (Buszynski 2010). Wu and Lansdowne referred to this phenomenon as the difference between international multilateralism and multilateralism with Chinese characteristics—the latter being designed to shape a "China-led de-Americanization of regional affairs" (2008: 8). In the East and Southeast Asian region, this means reshaping relations in the region to expand its influence and limit the hegemony of

[23]In: *The Diplomat*; at: http://thediplomat.com/2015/05/china-issues-8-warnings-to-us-surveillance-plane-in-south-china-sea/ (7 July 2015).

Fig. 4.6 China's maritime defence perimeter. *Source* University of Texas; at: http://www.lib.utexas.edu/maps/middle_east_and_asia/china_first_and_second_island_chains_2009.jpg (7 September 2014). This figure is in the public domain

the US. In terms of the protection of SLOCs, China reluctantly adapted to the regionalization of maritime security issues in the South China Sea as being inevitable, but stated a preference for preserving the autonomy of its forces from foreign command structures, and opposed an integrated command in a multilateral team. In other words, China seeks to ensure that its sovereignty will not be jeopardized in the process of multilateral negotiations under the terms of the ASEAN Regional Forum (Wu/Lansdowne 2008). ASEAN declined any direct involvement of China's military but proposed an approach similar to that which it had adopted with Japan as a user state—consisting basically of financial and technical support given to littoral states. Although some ASEAN countries have proceeded to set up limited cooperation with China on a number of maritime issues, ASEAN as an entity has not reached any consensus on such cooperation (Wu/Lansdowne 2008: 137).

The changing dynamics in North Africa and the Middle East affecting supply lines of energy have clearly added impetus to China's strategy in respect to the South China Sea, where it is now openly adopting a much more assertive posture. Its attempts to secure access to energy resources in different parts of the world are a result of its rapid and sustained industrialization over the last three decades, which have caused rising demands structurally linked to the transformation of its

economy; these are expected to translate into a massive need for hydrocarbon resources.[24] The impact of a convergence of the structural tendency within China's domestic economy and the dynamics of inter-regional politics has influenced the nature of its interactions with other stakeholders.

Without a vision for future policy coordination, the 'ASEAN Way' seems unprepared to engage with China as a rising power. Apart from the carefully-planned development of its navy (Cole 2010), China's maritime rise in the last two decades has also been fostered by its expanding place in world fisheries and trade in aquatic products; it is now the world's largest producer, consumer and exporter of seafood, with an annual catch far exceeding that of Japan, the United States and other major Pacific maritime powers (Hanson et al. 2011).

For effective negotiation of different interests, the meanings of ASEAN's three pillars (economic, political, sociocultural) would need to be complemented with a crosscutting understanding of the maritime space built on people's experience at multiple levels, thus making visible the diversity of local and trans-border relations of power, how they operate, and their impact on maritime social groups, aspects so far neglected by macro-studies centred on states. Specifically, within the ASEAN sociocultural pillar, a recently initiated 'Track III' is intended to nurture dialogue between civil society organizations, but has not yet taken up issues on the South China Sea.

At this juncture, ASEAN is facing the hard choice between (a) continuation of the 'ASEAN Way', and (b) the development of governance frameworks based on international maritime rules which put a limit on a nation's (increasing) assertiveness and/or willingness to use force in maintaining its claims. The 'ASEAN Way' might have been effective in some specific forms of building confidence, but existing asymmetrical relations are such that the need for a firm normative base of (renovated) legal and extra-legal instruments now appears imperative for ensuring fair resolution of disputes and promoting appropriate measures for peaceful co-development. Understanding the features that are specific to the formation of security arrangements in this region may benefit from analytical attention to possible tension between a 'culture' of security based on submission to a higher authority, compared with one that is based on a broad alliance allowing a certain degree of autonomy—the formation and (re-)arrangement of which depends to a great extent on the tenor of international relations at the particular time.

A perspective on a regional security complex in Southeast Asia must pay attention to the historical continuity of two different modes of international relations: (1) the Sinocentric model of *Tian Xia*, and (2) the Hindu-inspired mandala circles of influence in the formation of polities in Southeast Asia, where different polities could be held together without necessarily undergoing a process of

[24]China's oil consumption increased by 100 % between 1990 and 2001—a period during which the country had attracted huge foreign investment. In 2010, China became the third largest consumer of oil after the US and the European Union, substantially ahead of Japan and India; 30 % of its oil comes from the national supply, and the rest is imported. Understanding China's Energy Landscape; at: http://www.understandchinaenergy.org/oil-and-gas/ (2 October 2014).

administrative integration. Both these models have interacted with the Westphalian model of liberal democracy only since the end of the Second World War. The human rights framework is relatively new, and must therefore build on people's experiences with lack of rights to find means to actualize them.

Most research endeavours into maritime governance in the South China Sea are rooted in the Classical Realist paradigm, addressing 'interests' as a key category in natural resources, sovereignty and national security. What is lacking is knowledge about the long-term transformation in the structure–agency relationships that foster 'interests' in the maritime domain and stimulate the emergence of new patterns of conflict and cooperation. China's maritime claims follow this paradigm along with a discursive strategy used to re-interpret UNCLOS norms to China's own advantage where necessary, showing a skilful way of actualizing its interests. The attempt to attach its national outlook as closely as possible to a legal characterization of its Exclusive Economic Zone by using UNCLOS terminology is clearly related to the imperative it feels to balance its sovereignty with economic and security interests. In so doing, China's national law seems to have remoulded the three key principles of UNCLOS (equity, proportionality, and historical usage).

The choice of relying on bilateral negotiations rather than translating the Declaration of the Code of Conduct into binding rules has turned the process of norm setting into a constant political haggling between actors at many levels. The transaction costs remain so far unaccounted for, especially regarding the trust and confidence all the ASEAN claimant states placed in the Declaration of the Code of Conduct more than a decade ago. Trust and confidence-building is now facing a new challenge regarding the Chinese way of exercising power in diplomatic relations through the language of the 'family'. Previously applied to Vietnam's case, this exercise is now being taken to another level. In a self-defence move that responds to international criticism over its ongoing land reclamation activities—especially the transmogrification of islets in the Spratly group in 2015 with damaging consequences for the marine environment—China's foreign minister Wang Yi placed his country in the position of the 'victim' and appealed to a sense of shame that conflates the notions of a 'nation' and a 'family' in two ways: (a) a change of China's position on its claims over the South China Sea would shame its ancestors; (b) not facing up to gradual "infringements" on Chinese sovereignty and encroachment of its interests here would shame its children.[25] By stressing its unique Confucian culture and identity built around the notion of the 'family' and placing this in the country's foreign policy,[26] Wang Yi has turned the 'ASEAN Way' upside down. Whereas the 'ASEAN Way' conveys the message of respect for each disputant's culture and identity as a means of confidence-building and facilitating diplomatic negotiations in conflict resolution, the Chinese Way uses the

[25]Reuters; at: http://www.reuters.com/article/2015/06/27/us-southchinasea-china-idUSKBN0P708U20150627 (28 June, 2015).

[26]The Diplomat; at: http://thediplomat.com/2015/07/who-owns-what-in-the-south-china-sea/ (8 July 2015).

figurative language of the family derived from its Confucian culture and identity to assert its will to defend its recently declared "core interest" as a matter of justice as fairness for its ancestors and descendants.

A new analytical approach is needed, capable of integrating all these concerns, in order to explain variations in the process of the diffusion of UNCLOS norms, the role of ideational corpora and contentions between agents, and the likely consequence of the absence of a compromise.

Chapter 5
Conclusion

Abstract Critical Realism demonstrates a scientific and political value in future research on the sea South of China's land border as an entity in and of itself without specific preset cultural boundaries. The ontological fallacy of conflating a sea as an existing reality with a given ideational corpus attached to it is closely linked to the structural elaboration of China's ancient position in the maritime domain in contemporary terms, overwriting the hybrid cosmologies and epistemological frameworks that have shaped beliefs and actions in the charting of this maritime area. The management of conflicts emanating from this structural elaboration for future peaceful coexistence depends on an understanding of different situational logics that are crucial to reaching a compromise on the role and value of independent institutions, as well as the acknowledgement that cognitional processes have to be reoriented as a crucial part of transforming destructive tendencies.

Keywords Critical realism · Ontological fallacy · Ideational corpora · Structural elaboration · Conflict management · Cognitional processes · Transformation

This book evinces the importance of placing research on the South China Sea in a Critical Realist framework. Archer's morphogenetic methods of historical and sociological analysis can play an important role in the study of the geopolitical transformations that have shaped contemporary conflicts in this maritime area. As a vast country with an enduring civilization, China's maritime interests in the South China Sea have been articulated in terms of both contraction and expansion at different historical junctures. Its contemporary claims and sustained actions suggest the aim of reproducing Asian maritime relations on the ancient model when it once, and periodically, ruled this open sea as an imperial power. This periodic rule is now considered to have been a continuous presence, and new maritime territorial claims are being made on the basis of this.

Critical Realism helps to situate the ontological fallacy of conflating a sea as an existing reality with a given ideational corpus attached to it. Archer's morphogenetic approach helps explain how a conflation of an identity, a territory, a culture and a ruling system can lend support to a structural elaboration of China's ancient

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Peace and Security Studies, DOI 10.1007/978-3-319-13551-9_5

position in the maritime domain in contemporary terms. Analytically, treating the maritime area located south of China's land border as an entity in-and-of-itself without specific preset cultural boundaries makes it possible to trace the moments of change in naming and framing this integral component of the body of water that covers the earth. By revealing the hybrid cosmologies and epistemological frameworks which shaped beliefs and actions in the charting of it through the centuries, it is possible to discern both the intended and unintended consequences of particular actions that have influenced the transformation of measures and criteria used to establish boundaries, and the power relations affected. Understanding contemporary actions and interactions in the process of claiming and negotiating territorial sovereignty in terms of the specific situational logic faced by particular actors can help us grasp the potential directions for the transformation of relations with respect to this shared maritime space. Finding ways to 'manage' them for future peaceful coexistence hinges on our understanding the logic of different situations in order to reach a compromise on the role and value of independent institutions.

The genealogical analysis of the identity formation of this maritime space provided in the third chapter highlights the hybrid practices adopted by different users to claim, name and use this sea according to their evolving consciousness and knowledge about its social significance. Western cartography as a science, intricately linked with the rise of the identity of the nation state, became a 'game changer'. The names that explorers gave this sea were diverse and dependent on their geographical location, as well as on the particular cardinal point used at the time, and the name of the coastal polity they interacted with. The term 'South China Sea' was a product of European explorers and cartographers' facilitating European expansion through commerce, cultural diffusion and eventually colonization. Western legal notions such as *terra nullius* had encouraged the acquisition of proofs of use and temporal occupation by coastal states to protect sovereignty, at times obliterating antecedent users/occupants whose identities had become marginalized. The modern concept of the Chinese nation built on a 'geo-body' based on maps drawn with European cartographic knowledge was used by Chinese nationalists to incorporate their country's previous sphere of influence as its territory, including the bordering maritime areas considered as territory lost to Western powers. These cartographic representations then played an important role in shaping interactions between emotions linked to China's past and interests at the point of entry into the new world order as a nation state. An irredentist mission was the logical outcome of this representation.

The fourth chapter unravels the emergence of the U-shaped line, tracing China's engagement with UNCLOS and detecting its Janus-faced set of tactics for achieving its goals. Ambiguity in respect of international law is to be noted by the initial protection of its claims through domestic maritime laws, followed by insistence on bilateral negotiation with the parties in dispute—leaving out ASEAN as non-party. Despite its 2002 agreement with ASEAN to build a legal code of conduct for the South China Sea, only a declaration of intent exists to date. The tendency is to hold back action and wait for favourable opportunities presented by technological

innovations (e.g. mobile drilling rigs and improvement of the naval forces), as well as for the reconfiguration of regional and global economic alliances.

China's refusal of international arbitration has been its constant stand since the formation of the Republic. Branding itself as an old civilization with unique ways of conducting foreign relations to achieve harmony and stability in the regional order, the country is dealing selectively with UNCLOS. Persuasion through economic incentives, plus threat and psychological harassment in bilateral diplomacy, aims to bring the disputing parties into compliance. Affirmation of the validity of its Maritime Law restrictions has raised concerns among those who are not party to the disputes but are users of the SLOCs; clarification is necessary for them.

As a former tributary and a contemporary 'comrade', the response of the Socialist Republic of Vietnam to China's bilateral pressure calls attention to what Archer has called the 'logic of protection'. The structural–cultural relations between a former tribute and an empire, combined with the contemporary ties as socialist 'comrades', have produced a relative harmony between material and ideational interests shared by the power-holders of the two countries, in spite of dissenting voices. For Vietnam, in this particular context, the continuity of the logic of protection (face-saving and the vested interests of the communist party) is contingent on the possible resistance among members of Vietnam's leadership and their will to defect to form a force strong enough to bring about the logic of compromise to seize a new opportunity for power-sharing in order to disentangle the 'bureaucratic corset' tailored by China.

Apart from this structural–cultural relation with China, Vietnam is also a member of ASEAN, a regional organization characterized by a form of syncretism between various theories, beliefs and values. As a member of ASEAN, Vietnam is also engaging in a state-promoted model of treaty-based regional integration and international relations built on the Westphalian ontology of nation states, combined with indigenous ways of conducting diplomacy. The workings of ASEAN and its stand on the value of Perpetual Peace and neutrality may enable some forms of containment of the vested interests held by outside powers. China's insistence on treating this region as its historical sphere of influence could be tempered by a web of intra-ASEAN ties. The process of rule-based formation as a 'regional community' can be an opportunity to form such a web.

This straddling of positions between different cultural and social worlds of regional diplomacy invites us to think about conducting future research into 'Asian Regionalism' using an approach that can situate diverse constructs of the 'Asian' category in specific geo-historical tendencies, so as to focus on the causal mechanisms that enable particular forms of regionalism in Pacific Asia to emerge. A region needs to be examined as a 'social entity' in a time frame seen alongside the conditions for emergence, enlargement, dissolution or transformation. This would provide new insights about the conditions for transformation and the corresponding place accorded to maritime interests.

A simple classification of 'Asian Regionalism' since the struggle against European colonization and processes of nation-building at the turn of the nineteenth century shows two tendencies in operation: a homogenizing process in the case of

East Asia, and a process of creating unity in diversity in Southeast Asia. These reflect the specific experiences of social interactions, and of colonization, by the people in the countries in question. Their cultural beliefs and standing shape both the politics of a regional consciousness and peoples' sense of belonging within a larger political, social and economic environment. Geopolitical locations and legacies of regional history and colonialism have also patterned the exigencies of managing the post-independence nation states and the subsequent choice of forms of government.

In East Asia, the formulation of 'Asian Unity' found expression in the promotion of the Greater East Asia Co-Prosperity Sphere, based on Japan's supremacy in science and technology. Sun Yat Sen's concept of 'Greater Asianism' provided a synthesis between the merits of the Occidental sciences, the Enlightenment and the Confucian virtues of benevolence, justice and morality. These Confucian virtues were considered superior to those expressed by Western powers who used arms to extend their rule of might and colonization. Japan's Greater East Asia Co-Prosperity Sphere was formally abandoned after its defeat in the Second World War. The country adopted a peaceful constitution with a self-defence force in a bilateral security agreement with the US. Now being challenged by China's rise and its maritime claims over the Senkaku islands (which the Chinese call the 'Diaoyu islands'), Japan is moving closer to the formation of a new security alliance with the US, one which goes beyond mere bilateral focus on Japan's self-defence to being one with a global focus and fuller security concerns.[1]

In the PRC, Sun Yat Sen's version of 'Asianism' was suspended and replaced by Mao Tse-tung's ideological scripts and practices, which were modified several times according to changing internal and international contexts. Under Mao's vision of the Three Worlds (1955–1978) and the role of the Non-Aligned Movement, China's pledge of solidarity with the non-communist developing world was declared to be in line with the Five Principles of Peaceful Coexistence,[2] while simultaneously supporting insurgency movements, especially in Southeast Asia. This was followed by Deng Xiaoping's turn to internal reforms, known as the four modernizations described in twenty-four characters,[3] that were carried out between about 1980 and the mid-1990s. These successful reforms enhanced China's international profile, especially after its entry into the WTO. During this process, Mao's original idea of non-alignment took a back seat and was replaced by a heightened form of nationalism embedded in the values, attitudes and manners of a big country with an enduring civilization that sought to build regional alliances to cordon off threats from the West.

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[1]In: *The Diplomat*; at: http://thediplomat.com/2015/05/u-s-japan-a-pacific-alliance-transformed/ (5 May 2015).

[2]Mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence.

[3]"Observe calmly; secure our position; cope with affairs calmly; hide our capacities and bide our time; be good at maintaining a low profile; and never claim leadership." Global Security; at: http://www.globalsecurity.org/military/world/china/24-character.htm (5 May 2015).

Sukarno's idea of 'Pan-Southeast Asianism' was built on the concept of 'Pancasila' which combines 'Panca' (which means 'five' in Sanskrit) and 'Sila' (which means 'moral principles' in Pali). His intent was to promote the peaceful cohabitation of people with different religious traditions in the region (Hinduism, Buddhism, Islam, and Christianity) and create a shared ideology within the nation to maintain 'unity in diversity'. 'Pancasila' was used in his failed attempt to create a federation named 'Maphilindo'—Malaysia, Philippines and Indonesia. The legacy of the idea of 'unity in diversity' remains influential in shaping ASEAN today, but is facing a revised version of the hierarchical model of Confucian rule.

Compared with the debate on 'regionalism' which provides a complex understanding of a region and its purpose (Hettne/Söderbaum 2008), the notion of 'Asian regionalism' which emerged after the financial crisis in 1997 rests solely upon two concepts: interdependency and security. Interdependency has been defined in terms of the integration of production networks and the need for improvements of the facilitating infrastructure. There is expectation that the ongoing negotiations over bilateral and multilateral Free Trade Agreements (FTAs)—as and when consolidated with regional interconnectivity (transport and communications)—would turn Pacific Asia into an economic region of subregions (ADB 2008). China's creation of the Asian Infrastructure Investment Bank (AIIB) in 2015 is in competition with the Asian Development Bank (ADB), which has been dominated by Japan and the US since its creation in the 1960s.

In this market-led definition, a region is conceived as being made up of a hierarchy of production clusters in different countries that are linked together by complex commodity chains and financial relations. Such a definition mainly reflects the interests of corporate finance and industrialists. The security aspects in the relations of interdependence between states in the region remain ill-defined, leaving them vulnerable to the anarchical fluctuation of security dynamics. For future analysis, four interrelated dimensions of reality (D1–D4) in China's interests are considered capable of generating their own causal mechanisms of change in inter-state behaviour. These are:

D1: the security of China's energy resources as an actual reality;
D2: the establishment of a perimeter of maritime defence materialized through the ongoing construction of anthropomorphic and transmogrified structures on small islands, atolls and reefs, which embody an actual multifunctional capability. The first function of these constructions is to materialize China's cartographic vision of itself, the second function is to enhance the validity of its legal claims through physical presence, the third function is to serve as surveillance post for both civilian and strategic military purposes;
D3: the demarcation of its southern maritime frontier as one of China's core interests—potentially on a par with Tibet, a perspectival reality (a real object seen from a particular perspective) about its 'geo-body' that justifies D1 and D2;

D4: the programming of vested interests into a maritime infrastructural project, blessed with the name of 'The Maritime Silk Road', and representing an integrated maritime economy supporting the *Free Trade Area in Asia and the Pacific* (FTAA).

For the US, the presence of its Pacific Command is likely to remain an empirical reality within a certain time frame contingent on its security commitments with Japan, South Korea, Taiwan and the Philippines since the Cold War. The development of the US 'Pivot to Asia' strategy through the *Trans-Pacific Partnership* (TPP) is perceived as a containment of China, or as a US ploy to re-enter the Asian market, though US domestic dynamics could thwart the intention. Discussions on the TPP had not been a key concern for China until the US joined the negotiations. Beijing's strategy is to persuade Asian countries that "integrating with China will yield benefits"—benefits that the region would not get from allying itself with an economically weak US (Song/Wen 2012: 113). Perceptions of strength and weakness become embodied in discourses that mediate the contentions between dominant corporate agents. The pragmatic discursive shift from 'China's Dream' to the 'Asian Dream' is to be seen as part of a complex mix of material and ideational interactions at a deeper level—interactions that have implications for theory and practice in contemporary international relations. Neither the TPP, nor the FTAA in the Pacific, can be expected to materialize without a peaceful South China Sea linking East Asia to the South Pacific and the Indian Ocean. The litmus test for China is whether the projection of its Confucian model of international relations can withstand the challenge posed by the hybridity of ASEAN as a region and the fluidity of its concerns.

Following the four moments of transformation presented by Archer's approach, the following hypotheses for future research on Asian regionalism and the South China Sea are proposed, with the major premise being the recognition of the importance of context, embodied actors, social relations and mechanisms, and transformative possibilities.

(1) China's version of Asian regionalism in today's context is built on an economic system that evolved from state-led communism to one described as 'socialism with Chinese characteristics'—a mixture of specific features favouring authoritarian rule, according special privileges to state-owned enterprises, and ruled by Confucian meritocratic principles. Its success when being measured in economic terms may be considered as a moment of 'structural–cultural conditioning' to achieve social recognition for its 'geo-body', fostered since the cartography of humiliation. Confirmation of this geo-body as an identity actively draws on different kinds of mental qualities (patience and resilience) to bolster its ideational nationalist posture, legitimized by merit and performance.
(2) Through ideational and material interactions with other parties in the South China Sea—claimants as well as users—China's resistance to the Westphalian norms is articulated through its own version of Asian regionalism, which

expresses a hierarchy of relationships between large and small polities in relative geo-cultural proximity. It has been able to neutralize opposition and separate those who favour its interests from those who oppose them, thereby enabling postponement (so far) of a code of conduct as a legal commitment. ASEAN as a community with a shared identity, but without a collective security arrangement, remains loosely connected. The prospect of treaty-based integration is contingent on the configuration of regionalism adopted by those Asian states that are parties to the Treaty of Amity and Cooperation. The possibility of a social compact model to protect sovereignty may well become an option in the near future, but it is contingent on a degree of self-reflexivity among primary and corporate agents that would enable them to reach a compromise on coexistence.

(3) Transformative possibilities hinge on the mechanisms that can help generate alterations of the existing structure and cultural elements generated by two opposing perspectival realities: encirclement (China) and eviction (the US). A major cultural tension exists between: (a) the US-led normative ethico-political framework of neo-liberal global governance, plus the doctrine of freedom of enterprise, trade and finance, and (b) the doctrine of socialism and international relations with 'Chinese characteristics'. The US-led framework is straightforward, fairly well documented, evaluated, and criticized for the absence of a balance between individual rights and the common good in internal affairs, and for the assertion of neo-liberal hegemony in external affairs. The tendency to combine trade and security in foreign policy may deepen the potential of militarizing international trade. In contrast, despite its impressive economic performance China's doctrine of socialism in international relations is under construction, adjusting to the ebb and flow of its economy and becoming increasingly enmeshed in the global capitalist order. The practical meanings of 'Chinese characteristics' have been debated in terms of historical origins and usage as guiding norms for policy. In the field of international diplomacy, the apparent haphazard progression of the meanings attached to these characteristics[4] has produced mixed responses in Asia and elsewhere. In ASEAN a mixture of postures may be observed: kowtow, avoidance, defiance, and neutralization through cautious cooperation and engagement. This may generate new and diverse mechanisms among ASEAN countries to respond to geographical and economic proximity, while dodging the cultural impact of economic enmeshment.

(4) Whether the South China Sea region will remain peaceful or erupt in conflict hinges on the collective ability to develop and share a perspective that avoids the mistaken notion that 'nature' exists independent of, or prior to, culture(s). Such a view helps to neutralize the meanings of 'discovery', 'historical

[4]From China's 'peaceful development' and 'peaceful rise', the Chinese Dream recently extended to the Asia–Pacific Dream, described as a "big country and global diplomacy with Chinese characteristics". Bloomberg; at: http://www.bloomberg.com/news/articles/2014-12-01/xi-says-china-will-keep-pushing-to-alter-asia-security-landscape (12 July 2015).

heritage' and 'conquest', enabling negotiation on territorial claims to be oriented towards the long-term management of a shared sea space—the wealth of which can be negatively affected by pursuits based purely on economic and political ends. Taking seriously the specific features of human groups, their societal conditions and embodied cognition, helps in discerning different ways of the actual use and practice of sharing this sea space from which to draw lessons for future harmonious coexistence. Studies of the relationship between climate change and civilization change can open the way for linking peace (conceptualized as harmonious coexistence) between human civilizations and their shared natural environment. Driven by a complex intermesh of emotions (fear, anger, pride, greed, humiliation) human behaviour can be modified through a transformation of embodied perceptions so as to enable peaceful emotions such as humbleness, gratefulness, compassion, and trust to emerge (Truong 1998). Various ways of reorienting cognitional processes to manage destructive tendencies have long existed, and can be learned from, to transmute power and freedom for the benefits of humankind (Giri 2009).

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About this Book

This book evinces the importance of placing research on the South China Sea in a Critical Realist framework, as well as using Archer's morphogenetic methods of historical and sociological analysis to study the geopolitical transformations that have shaped contemporary conflicts in this maritime area. It demonstrates the necessity of carefully analysing the process of China's contemporary maritime claims and sustained actions as the structural elaboration/reproduction of Asian maritime relations when China once, and periodically, ruled this open sea from the position of an imperial power. The book highlights the danger of ontological fallacy as expressed through various ideational corpora and interactions on maritime sovereignty, and discerns the areas of tension that can erupt into a full-scale conflict.

Future research on the sea area could benefit from a disentanglement of structure–agency interactions and the specific situational logics of the primary and corporate agents involved. The discourses on neo-liberalism and socialism with Chinese characteristics are to be considered as the mediator of a deeply-seated contention for a hegemonic position. Neither of them seems self-reflexive enough to modify the dominant understandings of power and freedom for the sake of peaceful coexistence. ASEAN's syncretic approach to upholding itself as a regional community built on the principle of 'unity in diversity' falls short of both a common position on security as defence and a common approach to transborder maritime security. A peaceful South China Sea requires careful consideration of the conditions that would produce a balance between different types of security—national or collective defence, maritime order for commerce and cooperation, and security of the marine ecology, together with their impact on human security as lived. Building forms of institutional cooperation with a peaceful motivation requires moving beyond the logic of trade-offs. More on this book is at: http://www.afes-press-books.de/html/SpringerBriefs_ESDP_24.htm.

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