

The Paracels: Does China have 'undisputed sovereignty'?

Written by vuquangtiep

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China should admit that sovereignty over the Paracels is disputed and withdraw its oil rig from its current location because any drilling that causes permanent change to the seabed in the disputed water is not allowed under international law.



The month-long "oil rig" crisis in the South China Sea has had the world seized by daily footage of clashes and confrontation between Chinese and Vietnamese vessels. The crisis began when China sent its biggest oil rig into water near the Paracels where Vietnam has claimed as its exclusive economic zone and continental shelf.

Many countries have expressed concern over what they see as China's unilateral attempt to change the status quo in the South China Sea. US President Barrack Obama, in his speech to the West Point's Graduation Ceremony, even referred to the incident as an act of aggression in the South China Sea. The ASEAN Foreign Ministers, in their meeting prior to the ASEAN Summit in Nay Pi Daw last month saw the new development as a cause of serious concern to regional peace and stability. China, however, dismisses these criticisms and insists it is conducting regular operations in China's sovereign water.

One of the key problems is the sovereignty dispute over the Paracels. China argues that it has indisputable sovereignty over the Paracels, a claim which Vietnam sternly dismisses. Vietnam insists it has established title to the Paracels since the 16-17th century when no country owned the islands. Since then Vietnam has continually and effectively exercised its sovereignty over the islands until China illegally took them by force in 1974. Vietnam dismisses China's claim of sovereignty over the Paracels because it considers the activities of private Chinese individuals, who China claims to have discovered the islands or who might have been aware of the islands for a long time, were insufficient to establish China's ownership over the islands under international law. Unlike the Vietnamese State which has shown interests and continuous efforts in establishing jurisdiction over the islands since the 16th century, the Chinese State showed no evidence of wanting to take the islands into possession throughout its long history. No official Chinese historical book or map recorded the Paracels or the Spratlys as Chinese territory up

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until the mid 20th century. In all Chinese official documents and maps, the southern most point of China's territory never exceeded Hainan Island.

The reason for China's lack of interests in acquiring territories at sea might have been deeply embedded in China's history and culture. China had long been a massive land power that did not look at the sea favorably and did not see any need for tiny territories at sea. For thousands of years, China always viewed the sea as a source of piracy and insecurity. Hence, many dynasties in China, as late as the Ming and the Qing, continued to ban maritime activities. The well known Haijin policy prohibited maritime shipping and encouraged people to be inward looking. A radical Haijin law during the Ming dynasty even required every coastal citizen to move 40 miles inland, emptying the coast line. Those who ventured out to the sea were charged with treason against the state and the Emperor.

China often points to a statement made by the late Prime Minister of Vietnam, Pham Van Dong, in 1958 as proof of Vietnam's acquiescence to China's sovereignty over the Paracels. However, Vietnam has rejected the allegation pointing to the fact that the statement made no reference to the Paracels and Spratlys. It was merely an executive branch document ensuring the Chinese government that the Democratic Republic of Vietnam's (DRV) government agencies would respect the 12 nautical miles breadth of China's territorial sea, and that the statement did not deal with sovereignty issue.

It should be noted that China, as an active contributor to the 1954 Geneva Accord, was well aware at that time that the Paracels were under the administration of the Republic of Vietnam according to the signed Accord, not the Democratic Republic of Vietnam represented by Pham Van Dong. In its historical context, the statement made by Pham Van Dong was an act of support of the DRV to the attempt of its ally to extend its security parameters from 3 miles to 12 miles in face of eminent threats from the 7th Pacific fleet of the United States encroaching upon China's coastline in defense of Taiwan.

Neither did Vietnam agree with the claim that China's sovereignty over the Paracels received international recognition. At the San Francisco Conference of 1951, in response to the Soviet Union delegation's request to revise the text of the Treaty to recognise the islands group of Paracels and Spratlys as the People's Republic of China's territories, 48 out of 51 delegations voted decisively against the idea. Until today, there has been no official record of public recognition of China's sovereignty over the Paracels by any country.

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On the contrary, Vietnam sees that many countries have directly or indirectly reminded China that the Paracels do not belong to China.

Most recently, on 16 May 2014 the US State Department said that sovereignty over the Paracels is disputed. The statement by the ASEAN Foreign Ministers expressing serious concerns over the on-going China's oil rig incident issued on 10 May 2014 showed that ASEAN did not view this incident as a regular activity within China's undisputed sovereign waters as China would like to think.

China, therefore, should admit that sovereignty over the Paracels is disputed and withdraw its oil rig from its current location because any drilling that causes permanent change to the seabed in the disputed water is not allowed under international law.

Dr. Nguyen Hung Son is a researcher at the Diplomatic Academy of Vietnam. *This article was originally published on [EurasiaReview](#)*