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THE COAST GUARD LAW: CHINA'S READINESS FOR A MARITIME MILITARY-CIVIL FUSION STRATEGY

Chisako T. Masuo

- The core problem in the Chinese Coast Guard Law is that it shows the Chinese authorities' readiness to use it as a domestic foundation for implementing a maritime military-civil fusion (MCF) strategy aimed at establishing Chinese control inside the first island chain in East Asia. China has improved its surveillance capabilities over the ocean dramatically in last years.
- Intentionally adopting an ambiguous strategy mingling security and economic affairs altogether, China is trying to expand its maritime sphere of influence and even make incursions into others' waters, using private fishermen as well as civilian officials and military personnel as the situation demands.
- Countries that share concerns with China should strengthen international technical cooperation in strategic domains and build seamless surveillance systems to keep an eye on various Chinese actors' external activities.

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On February 1, 2021, People's Republic of China (PRC) enacted its first-ever Coast Guard Law, which garnered attention in Japan on two points in particular: (1) there are provisions in the law that do not seem to conform to international law [e.g., Article 21], and (2) its standards for the use of weapons are particularly loose [e.g., Article 22]. However, the author believes that the biggest problem is that the Chinese authorities appear ready to use the law as a domestic foundation for implementing a maritime military-civil fusion (MCF) strategy aimed at establishing Chinese control inside the first island chain in East Asia. For the purpose of maintaining peace and stability in the Asian region, the international community must work together to prevent China from changing the status quo forcefully and unilaterally.

There are many ambiguities in the Coast Guard Law, which applies to “coast guard organizations [the entire China Coast Guard (CCG) forces distributed throughout Chinese coast] carrying out maritime rights enforcement activities in and above the sea areas under the jurisdiction of the People's Republic of China” [Article 3]. Oddly, it does not prescribe what constitutes “the sea areas under the jurisdiction” of China. In fact, the definition was removed in the course of passing the law. In a draft released on November 4, 2020 for public comment, these sea areas were described as “the PRC's internal waters, territorial sea, contiguous zone, exclusive economic zone (EEZ), continental shelf and other sea areas under the jurisdiction of the PRC”.

Despite China not having disclosed any maps that show its claims, it is widely known among neighboring countries that China claims almost all the waters in the East and South China Seas circled by the first island chain. According to Chinese experts, “the sea areas under the jurisdiction of the PRC” cover 3 million square kilometers, of which 50% (about the size of Mongolia) is disputed with other claimants¹. Nonetheless, the law urges the CCG to “control and defend the maritime borders” [Article 12, Clause 1].

¹ Qi Lianming, Zhang Xiangguo and Li Xiaodong, 2013, *A Comparative Studies of Island Protection and Development Policies in China and Other Countries* (国内外海岛保护与利用政策比较研究), Oceanic Publishers (海洋出版社), p. 107.

Similarly, the law avoided clarifying the nature of the CCG. The draft explained that “the CCG is an important maritime armed force and a national administrative law-enforcement force”. Based on this, others could regard CCG personnel as qualified combatants but this statement, too, was deleted from the final version. The law does not define what constitutes “maritime rights protection activities” either. Since it stipulates “the protection of national sovereignty, security and maritime rights” as the CCG’s first responsibilities [Article 1], the scope of Chinese “maritime rights protection activities” seems to be more extensive than general law-enforcement. Yet, the line between defense and law-enforcement is totally obscure. The law also does not explain what China considers to be its “maritime rights,” as it mingles various waters with different legal statuses, such as territorial waters and EEZ, under the same appellation “sea areas under the jurisdiction of the PRC”.

On the other hand, the CCG was given a wide variety of roles by the law. Clause 5 of Article 12 provided it the power to supervise and inspect almost all administrative areas with respect to maritime affairs, responsibilities that originally belonged to the State Council. This includes controlling the development and use of inhabited islands, maritime resource development, and oceanic research and surveys. Clause 7 clarified the CCG’s duties in supervising and inspecting Chinese fishing operations outside the trawl fishing ban lines, set about 30-70 kilometers off the Chinese continental coast.² Article 54 authorized the CCG to expropriate transportation and communication tools as well as spaces belonging to organizations and individuals in the event of an emergency. The CCG was also given a role in promoting people-friendly services by upgrading information technologies in maritime law-enforcement [Article 57]. Article 58 obliged it to establish information sharing and work coordination mechanisms together with other authorities, including the People’s Liberation Army (PLA). In short, the CCG was given a central role as a hub among the PLA, various governmental organizations, and private citizens such as fishermen to

² The lines were set in the Bo, Yellow and East China seas in 1955 and in the South China Sea in 1980 respectively. For maps, please refer to Xia Zhangying and Yan Yunrong, eds., 2008, *Fishery Management* (漁業管理), Oceanic Publisher (海洋出版社), pp. 90-91.

strengthen Chinese control over the “sea areas under the jurisdiction of the PRC”.

Passage of the law indicates that China is almost ready to carry out its MCF strategy in the maritime domain. In March 2015, the MCF was upgraded to a national strategy by Xi Jinping. In July of the next year, central government officials released “Opinions on the Integrated Development of Economic and National Defense Construction” that provided the following directions regarding sea areas: “Coordinate maritime development and maritime rights protection altogether and promote and implement the strategy of strong maritime power... Strengthen operational capabilities and safeguard infrastructure construction, and accelerate formation of a new situation in which the party, government, military, police and people work together to secure the border.”³

Within a year or so, China streamlined its chain-of-command on security issues from central party organs to provincial governments; upgraded its Vessel Monitoring System (VMS) that works on *BeiDou* satellite technology to enable two-way communications between authorities and fishing vessels at any time; initiated fundamental fishery governance reform; started smart fishing port construction to monitor vessels’ activities; developed a maritime surveillance network by connecting remote-sensing satellites and fixed/floating observation equipment at sea through satellite communications; and began to formulate a comprehensive Territorial and Spatial Program (国土空间规划) that included development measures to be taken “in and above the sea areas under the jurisdiction of the PRC”. The Coast Guard Law reflected only partial achievements of those efforts.

Chinese surveillance and control capabilities over the ocean have improved dramatically. Recently, the CCG has begun chasing Japanese fishing boats in the territorial waters and contiguous zones surrounding the Senkaku Islands for the purpose of overturning Japan’s effective control. Those fishermen

³ “CCP Central, State Council, CMC release Opinions for the Integrated Development of Economic and National Defense Construction (中共中央 国务院 中央军委印发《关于经济建设和国防建设融合发展的意见》),” *Xinhua*, July 21, 2016 (http://www.gov.cn/zhengce/2016-07/21/content_5093488.htm).

have attested that CCG vessels are always ahead of them on their course, as if the CCG were watching them from the sky.

Furthermore, the CCG already seems to have started mobilizing private citizens in their daily operations. Besides the recent case in Whitsun Reef found by the Filipino government, thousands of Chinese fishing boats flooded into the Sea of Japan in 2020 for illegal squid fishing in waters where China did not hold any rights. Because almost no North Korean vessels showed up as they usually did (Japan and the two Koreas have not yet demarcated their EEZs there), it was rumored that China had purchased fishing rights from North Korea despite no country being allowed to do so due to UN sanctions on North Korea. Oddly enough, the Chinese government declared that it had established firm control over the activities of Chinese offshore fishing vessels owing to the advanced technology of its VMS in its first *White Paper on China's Offshore Fisheries Compliance* (中国远洋渔业履约白皮书) published in November 2020.

If that is the case, one can only assume that the CCG is intentionally sending fishing boats into the Sea of Japan for its own purposes. As a matter of fact, when so many foreign fishing boats illegally enter Japan's EEZ, the Japan Coast Guard, which is confronting the CCG vessels around the Senkaku Islands, has no choice but to redeploy some of its vessels and personnel to the Sea of Japan. Likewise, in 2020, Chinese scientific research vessels conducted research operations several times in the EEZ Japan claims surrounding Oki-no-Tori Island, where China had shown interest in developing seabed rare-earth mines.

Xi Jinping takes pride in China's political system in which all individuals and assets can be integrated at the Communist Party's will. With the new law, China has set up a domestic mechanism to implement its MCF strategy at sea, leveraging the political advantage Xi believes he has. Intentionally adopting an ambiguous strategy, China is trying to expand its maritime sphere of influence and even make incursions into others' waters, using private citizens as well as civilian officials and military personnel as the situation demands. This strategy of expansion exploits various gaps in the existing international order, which makes

clear distinctions between civilian and military personnel as well as maritime law-enforcement and defense activities.

What should others do to meet China's challenge? Its maritime neighbors, including Japan, should speed up their capacity building. However, we need to keep in mind here that China is trying not only to change the regional status quo but also to rewrite the operational rules of the international order. Currently, China is keen on gaining dominance in key technologies that will form the next generation of social infrastructure. To collect big data on human activities and earth science, it is trying to encourage more countries to use its advanced technologies, including those for communication and surveillance, thereby perpetuating its international status as a superpower. In the end these Chinese efforts are likely to lead more countries sympathetic to Beijing to go back to or strengthen their authoritarian regimes in a similar fashion. In that case, the liberal international order will be difficult to maintain.

To avoid such consequences, concerned countries should exploit China's weaknesses. Unfortunately, China has no close friends except those it has bought with money. Countries that share concerns about China should strengthen international technical cooperation in strategic domains and build seamless surveillance systems to keep an eye on various Chinese actors' external activities. They should also show China the power of coalition in the form of joint exercises and operations. It is essential to make China understand its unilateral desire to consolidate its security will not succeed because it will only prompt the formation of new partnerships in the international community. 

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