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EDITORS

Ming-Shih Shen (Editor-in-Chief)

Tsung-Han Wu (Associate Editor)

OFFICE

Institute for National Defense and Security Research

No.172, Bo-Ai Road, Zhongzheng Dist., Taipei City, Taiwan (R.O.C.)

Tel: 886-2-2331-2360 Ext.705 | Fax: 886-2-2331-2361

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WOMEN IN THE UKRAINIAN MILITARY: PROBLEMS AND SOLUTIONS

Yurii Poita

INTRODUCTION

After the start of the full-scale Russian invasion in Ukraine, the role of women in the Ukrainian army increased significantly. Not only did more women begin to join the force, but they also started to more frequently occupy positions that were traditionally considered male. This was the result of long-term work of the Ukrainian government and the public to improve the position and protect the rights of women in the armed forces, fight against gender discrimination. At the same time, a number of problems still exist, such as the difficulty of being assigned to combat positions, career growth limitations, sometimes stereotypical attitudes and harassment from men, etc.

The purpose of this article is to analyze Ukraine's efforts to improve the position of women in the armed forces, problematic aspects and achievements.

THE POSITION OF WOMEN IN THE ARMED FORCES OF UKRAINE

According to the MoD of Ukraine, as of 2023, the number of women in the military has increased by 40% compared to 2021 and reaches to the number of 43,000.¹ About 19,000 more are civilian employees. More than 16,000 women serve in the Army, more than 7,000 in the Air Force, about 2,000 in the Naval Forces, about 1,000 in the Airborne Assault Forces, and more than 3,000 in the Territorial Defense Forces. Since the beginning of the full-scale invasion up to 11,000 women

1. "Чисельність військовослужбовиць ЗСУ збільшилась на 40 відсотків порівняно з 2021 роком [The number of female servicemen of the Armed Forces increased by 40 percent compared to 2021]," MoD of Ukraine, October 16, 2023, https://t.me/ministry_of_defense_ua/8164.

have been conscripted of their own volition.²

According to the commander of the United Forces, Lieutenant General Serhiy Nayeв, currently “women can be assigned to the most dangerous specialties - grenade launchers, machine gunners, shooters and snipers, sometimes with the desire to become tank gunners, to be part of the maintenance of cannons and mortars.”³ At the same time, this was not always the case, and Ukraine has been reforming its legislation on gender equality in the military for a long time.

REFORMS ON GENDER EQUALITY

Reforms related to the position of women in the military began in 2016. The order of the MoD of Ukraine increased the number of positions for private, sergeant and senior staff for women.⁴

In September 2018, the Verkhovna Rada of Ukraine adopted a number of amendments to laws on ensuring equal rights and opportunities for women and men during military service in the Armed Forces of Ukraine and other military formations, which, for example, allowed women to hold general positions in the Armed Forces and Security Service of Ukraine.⁵ In 2018, the head of the Military Medical Department of the Security Service of Ukraine Lyudmila Shugalei became the first woman to receive the rank of major general; in 2020 Volodymyr Zelenskyy awarded the rank of major general to SBU employee Yulia Laputina; and the first woman to head one of the commands of the Armed Forces of Ukraine - the medical forces, Tetyana Ostashchenko became a member of the Armed Forces in 2021, who later received the rank of brigadier general.⁶

There was a rise in the number of women in officer ranks. If in 2014 a little

2. “Найбільше — у Сухопутних військах та Повітряних Силах: Сергій Наєв розповів, скільки жінок служить у ЗСУ [The largest number is in the Ground Forces and the Air Force: Serhiy Naev told how many women serve in the Armed Forces],” *Army Inform*, <https://armyinform.com.ua/2023/06/22/najbilshe-u-suhoputnyh-vijskah-ta-povitryanyh-sylah-sergij-nayev-rozpoviv-skilky-zhinok-sluzhyt-u-zsu/>.

3. “Командування Об’єднаних Сил ЗС України [Command of the United Forces of the Armed Forces of Ukraine],” facebook, June 22, 2022, https://www.facebook.com/100064381853653/posts/pfbid02fNDcFz64tFRxkFrwmJaxLPUvKV3W33QgBpsHv8KzK853jY4auzZxj4XDRLUWjuZNI/?paipv=0&eav=AfbpENLJi-1ZiYw1ACzUpZtcnDg7hgfBPPECKf9QWTypNII0xNO8glYVVk29HYuZU6g&_rdr.

4. “Order of the Minister of Defense of Ukraine No. 337 dated 27.05.2014 (with changes in 2016),” *Verkhovna Rada of Ukraine*, 2016, <https://zakon.rada.gov.ua/laws/show/z0600-14#Text>.

5. “Law of Ukraine 'On Amendments to Certain Laws of Ukraine Regarding Ensuring Equal Rights and Opportunities for Women and Men During Military Service in the Armed Forces of Ukraine and Other Military Formations',” *Verkhovna Rada of Ukraine*, 2018, <https://zakon.rada.gov.ua/laws/show/2523-19#Text>.

6. “У ЗСУ призначено першу жінку-командувача [The first female commander was appointed in the Armed Forces],” *DW*, July 30, 2021, <https://www.dw.com/uk/u-zsu-pryznacheno-pershu-zhinku-komanduvacha/a-58707811>.

more than 1,600 female officers served in the Armed Forces, then in 2023 - more than 5,000,⁷ which was probably the result of both the increase in the number of the Armed Forces and the opening of more opportunities for women to obtain an officer's education.

In January 2019, the Deputy Prime Minister for European and Euro-Atlantic Integration, Ivanna Klympush-Tsintsadze, said that the number of women in the Ukrainian Armed Forces equaled that of the NATO armies: "Currently, 10.6% of our Armed Forces are women. This is very close to the average of NATO armies, which is 10.9%." However, it is wrong to measure purely by quantitative indicators. NATO promotes the strengthening of the role of women in the organizational structure. Women in the countries of the Alliance hold responsible positions - from the heads of the general staff to the ministers of the country's defense.

In 2023, large-scale measures were taken to ensure the equality of men and women.⁸ First, the MoD canceled all restrictions on the access of female military personnel to all positions. While earlier women serve mainly in positions of medical specialties, communications workers, accountants, clerks and cooks, now a woman in military can be a grenade launcher, deputy commander of a reconnaissance group, commander of BMP, repairman, machine gunner, sniper, etc. Secondly, the maximum age for entering into a contract has been increased from 40 to 60 (as for men). Thirdly, women were given the opportunity to receive military education at all levels. Fourthly, work was organized to increase the level of competence of the staff to ensure equal rights and opportunities for women and men. This applies to trainings, seminars, educational programs, round tables, etc. Fifth, additional living quarters and toilets were equipped, military uniforms were developed for women. Last but not least, the MoD signed an order approving the Ministry's Concept of Military Personnel Policy until 2028, that includes issues of gender equality in the Armed Forces.⁹

7. "Жінки в ЗСУ: "Бажання служити сприймають за примху" [Women in the Armed Forces: "The desire to serve is perceived as a whim"]," *DW*, October 9, 2023, <https://www.dw.com/uk/zinki-v-zsu-bazanna-sluziti-sprijmaut-za-primhu/a-66995226>.

8. "Чисельність військовослужбовиць ЗСУ збільшилась на 40 відсотків порівняно з 2021 роком, [The number of female servicemen of the Armed Forces increased by 40 percent compared to 2021]," *MoD of Ukraine*, October 16, 2023, https://t.me/ministry_of_defense_ua/8164.

9. "Рекрутинг замість призову: Умеров затвердив Концепцію військової кадрової політики МОУ, [Recruiting instead of conscription: Umyerov approved the Concept of military personnel policy of the IOU]," *UNIAN*, November 5, 2023, <https://www.unian.ua/war/rekruting-zamist-prizovu-umyerov-zatverdiv-konceptiyu-viyskovoji-kadrovoji-politiki-mou-12446817.html>.

THE ROLE OF PUBLIC ORGANIZATIONS

This progress was also the result of pressure from society, which tried to change the entrenched patriarchal and conservative traditions in the armed forces. One of the main ones is “Invisible Battalion,” a public human rights project that aims to provide assistance to women in the Ukrainian military, fight against sexual violence and discrimination. The project conducted several researches; released the documentary film “Invisible Battalion” about the participation of women in hostilities in the east of Ukraine; and also held a number of other events: an exhibition of photos of Ukrainian military women at the Ministry of Defense of Ukraine, the Verkhovna Rada of Ukraine and at the Representation of the UN-Women in Ukraine. It was the “Invisible Battalion” that initiated the repeal of legislation that prevented women from holding combat positions. Several human rights organizations provide free assistance to servicewomen who have experienced sexual harassment. According to the information of the “Invisible Battalion,” such cases are supported by the association of women lawyers “YurFem,” public organizations “La Strada” and “Legal Hundred.”

PROBLEMATIC ASPECTS

Over the years, public organizations, including “Invisible Battalion,” have recorded a number of problems in the Ukrainian armed forces. First, as noted above, not all positions were open to women. Secondly, the disparity between men and women in leadership and command positions existed and still remains. Thirdly, there was a lack of specialized medical care for women, appropriate sizes of uniforms and shoes, and unsatisfactory living conditions. Fourthly, women were limited in receiving military education, especially when it came to training for the rank of officer. Fifth, in the army environment there were and still are gender stereotypes that women perform secondary tasks. Sixth, sexual harassment occurred and continues to occur.¹⁰ Seventh, female military servicemen were practically not mentioned in the media. In October 2021, the Institute of Mass Information conducted a study and found that men were mentioned in almost every

10. Hanna Hrytsenko, Anna Kvit, Tamara Marceniuk, ““Невидимий батальйон”: участь жінок у військових діях в АТО, [“Invisible Battalion”: women's participation in military operations in the ATO],” *NaUKMA*, 2016, <https://ekmair.ukma.edu.ua/server/api/core/bitstreams/c116ba78-18f1-4fd0-823b-b7dbdd49cc3f/content>.

material about the army or war, while women were mentioned in only 5%.¹¹

THE SITUATION AFTER THE START OF A FULL-SCALE WAR

After the start of a full-scale war, some problems remained unresolved. For example, the reluctance of male commanders to take a woman into their unit was observed. According to the “Invisible Battalion,” formally all combat positions are available to women, but in practice the problem remains and is currently being solved individually.¹² For example, 51-year-old Lesya Ganja tried to transfer to another brigade for the position of UAV aerial reconnaissance, but was refused for this reason. She said that the problem of women's uniform and hygiene is not critical, but a woman is physically weaker, so it is easier for her to find a position where physical advantages are not dominant. She learned aerial reconnaissance, control of attack drones, and found a unit that needed a fighter with such skills.

There are also problems with promotion. Air reconnaissance platoon commander Yuliya Mykynetko has been a senior lieutenant for three years, although her classmates are already battalion commanders. “The only possible option for women to get a higher military rank is to take a staff position. And I don’t really like serving in the headquarters. I am currently in intelligence, and here I will definitely not be appointed company commander.”

The third problem is the so-called “soft” discrimination. For example, when the commander was recruiting soldiers for the task in the Kyiv region, Lesya Ganzha and two other military women were bypassed. “When I asked why we can’t go, he said: ‘Do you also want?’ That is, men are not asked if they want. What is this, a trip on an excursion? You just have to always try to get something like this the same attitude as to other fighters.”

At the same time, there are positive changes compared to what happened before. “Now I have a lot of subordinate guys who are very motivated. When I came, they didn’t have any questions about my gender,” – said Yulia Mykytenko.

11. “На згадки про жінок-військовослужбовиць в медіа припадає лише 5%, [Mentions of female military servicemen in the media account for only 5%],” *Institute of Mass Information*, 2021, <https://imi.org.ua/monitorings/na-zgadky-pro-zhinok-vijskovosluzhbovyts-v-media-prypadaye-lyshe-5-doslidzhennya-imi-i41836>.

12. “Жінки в ЗСУ: “Бажання служити сприймають за примху” [Women in the Armed Forces: “The desire to serve is perceived as a whim],” *DW*, October 9, 2023, <https://www.dw.com/uk/zinki-v-zsu-bazanna-sluziti-sprijmaut-za-primhu/a-66995226>.

Also, the situation regarding the coverage of the role of women in the media has improved significantly. The number of materials about women fighting at the front together with men has increased a lot. The media emphasize the importance and visibility of women in the Armed Forces. It is important that these materials do not contain, as a rule, everyday sexism with the widespread stereotype “war is no place for a woman.”

Currently, in his daily evening speeches, President Volodymyr Zelensky addresses “males and females defenders at the front.” Images of female military personnel are now regularly used by the MoD on social media.

A WAY FORWARD

In order to improve the position of military women, the OSCE has developed a number of broad measures at the level of the MoD, which are defined in the Guide on Gender Integration in the Armed Forces of Ukraine. The document contains the concept of gender; a description of gender threats in armed conflict; legislative principles of gender policy; NATO’s approaches to these issues; recommendations for gender integration. Despite the fact that the Guide was developed in 2020, many issues are still relevant today. According to the document, a number of measures should be implemented to achieve gender equality.¹³

First, the legal framework in the field of ensuring equal rights and opportunities for women and men should be improved. This refers to the adoption of relevant laws; inclusion of issues of gender equality in the priority areas of reforming the Armed Forces; development and improvement of the network of advisers on gender issues;¹⁴ creation of a separate coordinating unit on gender issues in the MoD and General Staff; inclusion of a gender component in all instructions/functional responsibilities of managers and commanders at all levels, etc.

Secondly, a comprehensive gender approach should be applied in the budget policy of the MoD and General Staff.

Thirdly, it is necessary to train the staff of the MoD and the Armed Forces of Ukraine on issues of gender competence. This may include: creation of a gender

13. Путівник гендерної інтеграції у Збройних силах України [Guide on Gender Integration in the Armed Forces of Ukraine] (OSCE: 2022), pp. 113-138, https://www.osce.org/files/f/documents/4/8/479044_0.pdf.

14. In 2022, an advisor for gender advisors was developed with the support of the Government Commissioner for Gender Policy with the participation of the Network of Advisors on Gender Issues and with the financial support of the OSCE, “Порадник для гендерних радників і радниць [Advisor for gender advisors],” MoD of Ukraine, 2022, https://www.mil.gov.ua/content/poradnik_radnikam_z_gendernih_pitan.pdf.

education center at the MoD; conducting separate trainings on gender equality and also as separate issues during other trainings on professional development; production of educational and informational materials on these issues.

Fourth, a system for preventing and responding to cases of gender discrimination and sexual harassment should be established. This includes: implementing an effective mechanism for submitting information, considering and responding to complaints of gender discrimination and sexual harassment; improving reporting on gender discrimination; conducting a gender analysis of the code of ethical conduct; creation and operation of hotlines, etc.

Fifth, it is necessary to introduce a gender approach in personnel policy. This may include using a gender approach in hiring, promotion, and career development; implementation of mentoring and mutual support programs for military women; unification of requirements regarding the physical fitness of candidates for service, etc.

Sixth, working conditions for women and men should be improved. This includes providing separate safe accommodation and sanitary facilities (separate changing rooms, shower rooms, toilets, etc.); provision of women's uniforms, etc.

Seventh, it is necessary to introduce a system of monitoring, evaluation and reporting on the impact of gender integration on the effectiveness of activities. This includes the development of a system of indicators for the MoD gender integration plan; carrying out periodic monitoring of the state of gender policy implementation, etc.

Last but not least, society should be informed about gender issues. This may include the introduction of a section on websites dedicated to gender integration, which contains news, social videos, and photo materials, distance learning courses on these issues; participation of military women in conferences, seminars, interviews; preparation and publication of the White Paper on Gender Integration etc.

It should be noted that many of the listed measures are currently implemented in the Ukrainian Armed Forces. The question remains in the quality and scope of their implementation.

CONCLUSION

Ukraine has adopted a number of measures to ensure gender equality and eliminate discrimination against women in the military. We have seen an increase in the number of women in the army, the number of positions they hold, the proportion of female officers and in command positions, provision of women uniform etc. At

the same time, there are still problems related to reluctance to appoint women to command positions, promotion, “soft” discrimination and harassment. Meanwhile, Ukrainian society demonstrates an improvement in the attitude towards women in uniform. For example, the percentage of Ukrainians who agree that female in the army should have equal opportunities with men increased sharply from 53% in 2018 to 80% in 2022.¹⁵ In March 2023, polls conducted by the Independent Anti-Corruption Commission showed that 85% of Ukrainians have a positive attitude towards women in the armed forces, while 81% believe that a woman can command a combat unit, just like a man.¹⁶ Responding to this, the Ukrainian government should further improve the system of ensuring gender equality in the military.

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Mr. Yurii Poita is Head of the Asia-Pacific Section at the Center for Army, Conversion and Disarmament Studies (CACDS) in Kyiv and Asia Section at the New Geopolitics Research Network (NGRN), European China Policy Fellow at Mercator Institute for China Studies (MERICS, Germany). Since October 2022, he has been working as a Visiting Research Fellow at the Institute for National Defense and Security Research. Yurii Poita specializes in China's influence in the post-Soviet space, Ukrainian-Chinese relations, China's factor in Russian-Ukrainian war, hybrid and conventional warfare.

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15. Jennifer Mathers and Anna Kvit, “Ukraine War: Attitudes Changing to Eomen Soldiers,” *Social Europe*, February 1, 2023, <https://www.socialeurope.eu/ukraine-war-attitudes-changing-to-women-soldiers>.

16. “Питання дискримінації різних соціальних груп у ЗСУ, [The issue of discrimination of various social groups in the Armed Forces],” *Ukrainian Veterans Fund*, March 2023, pp.19-27, https://veteranfund.com.ua/wp-content/uploads/2023/04/RG_032023_CATI_NAKO.pdf.

CHINESE AND RUSSIAN LAW-FARE AND THE IMPLICATIONS FOR LEGAL RESILIENCE

Jyun-Yi Lee

INTRODUCTION

Since Russia's invasion of Ukraine on 24 February 2022, concerns over possible military action by China against Taiwan have been raised by security experts, commentators, and decision makers in the democratic world. The debates center around whether and how the Russia-Ukraine war may have changed China's calculations, Taiwan's military capability and readiness, and the credibility of US security commitments to the island. Less noticed, however, is that in addition to their military build-up and tactics, both Russia and China are also attempting to advance a version of international (legal) order that favours them. Currently the two countries' aims are reflected in their Joint Statement on International Relations Entering a New Era and Global Sustainable Development (hereafter, the Joint Statement) released on 4 February and Xi Jinping's Global Security Initiative (GSI) put forth on 21 April 2022.¹ The latter, in particular, has been eagerly promoted by the Chinese government in the past year. China issued "The Global Security Initiative Concept Paper" on 21 February 2023 and, on the 24th, "China's Position on the Political Settlement of the Ukraine Crisis." The former streamlines Xi's original speech on GSI, while the latter echoes several ideas or principles in GSI, such as respecting

1. President of Russia, "Joint Statement of the Russian Federation and the People's Republic of China on the International Relations Entering a New Era and the Global Sustainable Development," February 4, 2022, <http://en.kremlin.ru/supplement/5770>; "Full Text: President Xi Jinping's Keynote Speech at the Opening Ceremony of BFA Annual Conference 2022," *Xinhua*, April 21, 2022, http://english.www.gov.cn/news/topnews/202204/21/content_WS62616c3bc6d02e5335329c22.html.

state sovereignty, abandoning the Cold War mentality, prioritizing dialogue and negotiation to resolve an international issue, and emphasizing the role of the United Nations.² In early March 2023, China brokered a resumption of diplomatic relations between Saudi Arabia and Iran, which was hailed by both the Chinese government and media as a successful implementation of GSI.³ These show that GSI has become a strategic paper that guides China's external behaviour in some important areas.

Currently the Joint Statement and GSI have been taken by many as mere rhetoric. This paper contends that if left unchecked, there is a risk that the meaning of *jus ad bellum*, which considers the grounds on which states may resort to war or to the use of force,⁴ may be changed to the advantage of the revisionist powers. It is for this reason the two texts should be investigated in greater detail.

LAWFARE: THE WEAPONIZATION OF INTERNATIONAL LAW

The concept of "lawfare" originates from the acknowledgement that international law is an integral part of international politics. Even if it is accepted that international politics is "power politics" by nature, for an international order to be said to exist, there must be certain rules, institutions, laws and norms, which provide the international community with a sense of regularity, continuity and predictability, and without which international politics would not be possible. Consequently, states tend to preserve or alter that order according to their interests and are likely to instrumentalize international law for strategic purposes. As a commentator suggests, "law is but a continuation of politics by other means."⁵

The concept of lawfare is then a logical extension of the instrumental use of

2. "The Global Security Initiative Concept Paper," *Ministry of Foreign Affairs of the PRC*, February 21, 2023, https://www.fmprc.gov.cn/mfa_eng/wjbxw/202302/t20230221_11028348.html; "China's Position on the Political Settlement of the Ukraine Crisis," *Ministry of Foreign Affairs of the PRC*, February 24, 2023, https://www.fmprc.gov.cn/eng/zxxx_662805/202302/t20230224_11030713.html.

3. "Wang Yi: The Saudi-Iranian Dialogue in Beijing is A Victory for Peace," *Ministry of Foreign Affairs of the PRC*, March 10, 2023, https://www.fmprc.gov.cn/zyxw/202303/t20230310_11039102.shtml; Cheng Xin and Wang Huihui, "Middle East Issue Experts: Facilitating the Resumption of Diplomatic Relations between Saudi Arabia and Iran Demonstrates China's Ability as A Responsible Great Power," *People's Daily Overseas Edition*, March 14, 2023, http://paper.people.com.cn/rmrbhwb/html/2023-03/14/content_25970291.htm.

4. Carsten Stahn, "'Jus ad bellum', 'jus in bello' . . . 'jus post bellum'?—Rethinking the Conception of the Law of Armed Force," *European Journal of International Law*, Vol. 17, no. 5 (Nov. 2006), pp. 921-943.

5. Aurel Sari, "Legal Resilience in an Era of Grey Zone Conflicts and Hybrid Threats," *Exeter Centre for International Law Working Paper Series 2019/1*, p. 15.

international law. The term is believed to have been first coined by former US Major General Charles Dunlap, Jr., in 2001. Throughout his work on the theme several slightly different definitions are offered, and now the most common usage of the term defines lawfare as “the strategy of using—or misusing—law as a substitute for traditional military means to achieve a warfighting objective.”⁶

The definition carries a value-neutral connotation, suggesting that both the status quo and revisionist powers may engage in lawfare. In practice, however, it is the revisionist powers’ lawfare that catches more attention. The discussion following suggests that both the Russia-China Joint Statement and China’s GSI are instances of lawfare, as international law is used in a peculiar way that advances Russia’s and China’s interests.

RUSSIA-CHINA JOINT STATEMENT: A CONTEST OF UNIVERSALISM

While Putin’s television address on 24 February aimed at justifying Russia’s invasion of Ukraine, the Russia-China Joint Statement and Xi Jinping’s Global Security Initiative further showed the two revisionist powers’ ambition to re-shape the current international (legal) order.

The central tenet of the Russia-China Joint Statement is “the democratization of international relations,” and the arguments are as follows. First, both Russia and China affirm that democracy is a universal value and claim that both “have long-standing traditions of democracy.” This is so, because here democracy is redefined as “a means of citizens’ participation in the government of their country with the view to improving the well-being of population and implementing the principle of popular government.” This definition says nothing about checks and balances, the rule of law, procedural justice, among others. Consequently, any government that asserts that it represents a population can claim to be a democracy, even if that state is in fact an authoritarian or autocratic system. The Joint Statement in appearance adheres to the value of democracy, but effectively empties democracy of any substance.

Second, by establishing a democratic identity for Russia and China, the two powers can advocate for democratizing international relations. Here the

6. Charles J. Dunlap, Jr., “Lawfare Today...and Tomorrow,” in *International Law and the Changing Character of War*, eds., Raul A. “Pete” Pedrozo and Daria P. Wollschlaeger (New Port, RI: US Naval War College, 2011), p. 315.

implementation of democratic principles at the global level does not refer to a system of equal representation, e.g., each and every state has an equal say in international organizations or international affairs more generally,⁷ but a relativist notion that each state has its own culture, civilization and path to development. Therefore, both insist that no standards can be imposed unilaterally by some states on others. The Joint Statement acknowledges that “the Charter of the United Nations and the Universal Declaration of Human Rights set noble goals...which all the States must comply with and observe in deeds,” but simultaneously claims that the “universal nature of human rights should be seen through the prism of the real situation in every particular country, and human rights should be protected in accordance with the specific situation in each country and the needs of its population.” This strategy of accepting the universality of the principles enshrined in the UN Charter but insisting that they can be implemented differently creates a situation where Russia and China will never violate UN values and principles. On this moral ground, the two states vow to “defend the authority of the United Nations and justice in international relations,” while denouncing those states that criticize their performance in democracy and human rights as “attempts at hegemony” that “undermine the stability of the world order.”

Third, following the same pattern, the Joint Statement seeks to present their individual or particularistic security interests in a universalist fashion. The universalist aspect is reflected in the notion of “universal, comprehensive, indivisible and lasting security,” especially the view that “no state can or should ensure its own security separately from the security of the rest of the world and at the expense of the security of other states.” The individual or particularistic aspect lies in the two states’ mutual support for “the protection of their core interests” and “state sovereignty and territorial integrity,” as well as their opposition to “interference by external forces in their internal affairs” and “attempts by external forces to undermine security and stability in their common adjacent regions.” It is worth pointing out that while territorial integrity, political independence and non-intervention are principles of the UN Charter, the ideas of “core interests” and “common adjacent regions” are terminologies not used in the Charter. There is a possibility that by linking these notions together, Russia and China are expanding the scope in which they can claim legitimate threat or use of force.

A further problem is that the Joint Statement’s universalist vision of international

7. Malcolm Jorgensen, “The Weaponization of International Law in Ukraine,” *Völkerrechtsblog*, March 15, 2022, <https://voelkerrechtsblog.org/the-weaponisation-of-international-law-in-ukraine/>.

security may contradict the two states' particularistic security interests. One may ask, for instance, whether a state can use force against another in the name of protecting its "core interests" or safeguarding "territorial integrity" in a situation where the right to self-defense is not applicable. To maintain the logical order of the Joint Statement, the answer must be no, or the offender is seeking its own security at the expense of others. In reality, however, China's behaviour in both the South China Sea and along the Sino-Indian border, its constant military threats against Taiwan, and Russia's invasion of Ukraine all suggest that "comprehensive, indivisible and lasting security" is subordinate to the two powers' own interests.

XI JINPING'S GLOBAL SECURITY INITIATIVE: EXPANDING JUS AD BELLUM?

On 21 April 2022, Chinese President Xi Jinping proposed a Global Security Initiative (hereafter, the GSI) in his opening speech at the 2022 Boao Forum.⁸ The GSI consists of six "commitments":

1. The vision of common, comprehensive, cooperative and sustainable security, and working together to maintain world peace and security.
2. Respecting the sovereignty and territorial integrity of all countries, upholding non-interference in internal affairs, and respecting the independent choices of development paths and social systems made by people in different countries.
3. Abiding by the purposes and principles of the UN Charter, rejecting the Cold War mentality, opposing unilateralism, and saying no to group politics and bloc confrontation.
4. Taking the legitimate security concerns of all countries seriously, upholding the principle of indivisible security, building a balanced, effective and sustainable security architecture, and opposing the pursuit of one's own security at the cost of others' security.
5. Peacefully resolving differences and disputes between countries through dialogue and consultation, supporting all efforts conducive to the peaceful settlement of crises, rejecting double standards, and opposing the wanton use of unilateral sanctions and long-arm jurisdiction.
6. Maintaining security in both traditional and non-traditional domains, and

8. "Full Text: President Xi Jinping's Keynote Speech at the Opening Ceremony of BFA Annual Conference 2022"; the Global Security Initiative Was Further Elaborated by Chinese Foreign Minister Wang Yi. See Wang Yi, "Acting on the Global Security Initiative to Safeguard World Peace and Tranquility," *Ministry of Foreign Affairs of the PRC*, April 24, 2022, https://www.fmprc.gov.cn/mfa_eng/topics_665678/kjgzbdffyq/202205/t20220505_10681820.html.

working together on regional disputes and global challenges such as terrorism, climate change, cybersecurity and biosecurity.

In essence, GSI argues that peace and security is a common good for all states (no.1 and 6), and to achieve this, mutual respect is key (no. 2 & 4), which is enshrined in the UN Charter (no. 3) and supported by international norms (no. 5). Any state practice deviating from this ideal world order is due to “Cold War mentality” and an instance of group politics and bloc confrontation (no. 3), unilateralism, or long-arm jurisdiction (no. 5).⁹

There are several problems with GSI’s discourse. First, like the Joint Statement, GSI attempts to link principles and values generally accepted in international law with China’s own assertions. For instance, state sovereignty and territorial integrity as well as non-intervention are principles of the UN Charter, but a state’s choice of development paths and social systems is not (no. 2). By linking these together, China seeks to present the latter in a universalist fashion. One political effect of this move is that China seeks to shield itself from external criticism of its human right records in Xinjiang, Tibet, and Hong Kong, and of its domestic misconduct more generally. In addition, following the purposes and principles of the UN Charter does not necessarily lead to the conclusion that unilateralism, alliance formation, and grouping of the states are either prohibited or morally wrong. GSI however seems to make that conflation. Consequently, this linkage strategy renders it difficult to reject China’s arguments in entirety. As a commentator notes, “if countries don’t agree wholeheartedly, at least they can’t fully oppose it. Then, bit by bit, they use the framework to chip away at the U.S.”¹⁰

Second, GSI instrumentalizes the UN. GSI opposes unilateralism, group politics and bloc confrontation (no. 5), referring implicitly to the US-led security architects such as the NATO, QUAD, AUKUS, and other bilateral security treaties. What is left for dealing with international security issues is the UN. As a permanent member in the UN Security Council and with its influence in the third world countries, however, China can effectively block unfavourable moves within the UN. GSI therefore is a strategy that defends the principles and values of the UN Charter in appearance but weakens the UN’s functions and, in effect, speaks for revisionist powers.

9. See also Jyun-yi Lee, “Lawfare in China’s Hybrid Warfare Against Taiwan,” in Rajeswari Pillai Rajagopalan (ed.), *Future Warfare and Technology: Issues and Strategies* (New Delhi: Observer Research Foundation, 2022), p. 158.

10. Katsuji Nakazawa, “Analysis: Xi Floats ‘Global Security Initiative’ with Eye on Pacific,” *Nikkei Asia*, April 28, 2022, <https://asia.nikkei.com/Editor-s-Picks/China-up-close/Analysis-Xi-floats-global-security-initiative-with-eye-on-Pacific>.

Third, GSI may seek to expand China's stance on jus ad bellum. This can be illustrated by China's stance on the Russia-Ukraine war and the territorial disputes with its neighbouring countries. On the Russia-Ukraine war, China has been confronting a paradox in that it has been sympathetic with Russia's concern over NATO's expansion on the one hand, but supporting Russia amounts to violating Ukraine's sovereign and territorial integration, which contradicts China's policies on Taiwan, the Diaoyutai (Senkaku) islands or the South China Sea, on the other hand.¹¹ China addresses this paradox by adopting a "pro-Russian neutrality" stance, calling for taking Russia's "legitimate security concern." seriously¹² In so doing, China seems to accept, at least implicitly, that self-defined "legitimate security concerns" constitute jus ad bellum.

On the territorial disputes between China and its neighbouring countries, there are instances where threat or use of force has taken place. The China-India border clash in May 2020, the People's Liberation Army's presence in the East Sea and South China Sea, and China's constant military threats against Taiwan all suggest that China is willing to use force in the name of "sovereignty and territorial integrity." These instances show that China is pursuing its own security and interest at the expense of others, and lead to a critique that GSI is blatant hypocrisy.¹³ It may also be argued that for China to maintain consistency between words and actions, it indeed sees "sovereignty and territorial integrity" as a just cause of jus ad bellum.

LEGAL RESILIENCE: MAINTAINING INTERNATIONAL (LEGAL) ORDER BY ACTIVE ENGAGEMENT

The Russia-China Joint Statement and Xi Jinping's GSI are instances of lawfare. Russia and China advocate a version of international (legal) order centered around the UN, creating a Self/Other relationship in which both are represented as safeguarding the UN principles, while others—in particular the US and its allies and partners—are described as living with an outdated and confrontational "Cold War mentality." One consequence of this construct is an ontological assertion that

11. Alexander Korolev, "Why China Won't Condemn Putin's Ukraine War," *East Asia Forum*, April 20, 2022, <https://www.easiaforum.org/2022/04/20/why-china-wont-condemn-putins-ukraine-war/>.

12. Josep Borrell, "On China's choices and responsibilities," *The European External Action Service (EEAS)*, April 6, 2022, https://www.eeas.europa.eu/eeas/china-s-choices-and-responsibilities_en.

13. Rajeswari Pillai Rajagopalan, "China's Xi Proposes Global Security Initiative," *The Diplomat*, May 7, 2022, <https://thediplomat.com/2022/05/chinas-xi-proposes-global-security-initiative/>.

14. Cf. Susan Buck-Morss, *Thinking Past Terror: Islamism and Critical Theory on the Left* (London: Verso, 2003), pp. 64-66.

“because Russia and China are democratic states and respect the UN principles, they don’t violate international law.”¹⁴ It follows that those who criticize or oppose the two states are to be condemned for undermining the international (legal) order. If such a discourse is left unchecked and garners sufficient support, there is a risk that no clear criteria will be available to judge a state’s behaviour, as the revisionist powers’ provocative or aggressive actions can be justified as legal.

Legal resilience, the ability of a legal system to resist change and its capacity to adapt in response to disturbances, is called for.¹⁵ Three steps are proposed here. First, knowing the tricks. The strategy of the Russia-China Joint Statement and GSI may be understood as one of the compliance-leverage disparity, by which one state gains “advantage from the greater influence that law and its process exert over [other states].” A typical example is the use of human shields by the Taliban to force NATO forces to refrain from opening fire and conducting airstrikes.¹⁶ As discussed above, the Joint Statement and GSI link their particularistic claims with principles of the UN Charter, so as to create an impression that these claims have become international norms that should be followed. The idea of the “United Nations-based international order,” which has been particularly propagated by Chinese officials, is then used to compete against, and ultimately seeks to replace, the “rules-based international order” promoted by the US and its allies and partners.¹⁷ In so doing, Russia and China instrumentalize the UN to shield themselves from external criticism, while legitimizing their current and future aggressions.

Second, learning from examples. In the two documents analyzed in this essay Russia and China seem to promote a view that a state’s “core interests,” “legitimate security concerns,” or “sovereignty and territorial integrity” constitute *jus ad bellum*. Indeed, as international politics is characterized as power politics where “might makes right,” it seems natural for great powers to find justification for their action. For instance, even the US resorted to self-defined “legitimate security concerns” to make Turkey’s military operations against the Kurds reasonable.¹⁸ State practices like

15. Sari, “Legal Resilience in an Era of Gray Zone Conflicts and Hybrid Threats,” p. 18.

16. Orde F. Kittrie, *Lawfare: Law as a Weapon for War* (New York: Oxford University Press, 2016), pp. 18-19, 172-183.

17. Nakazawa, “Analysis: Xi Floats ‘Global Security Initiative’ with Eye on Pacific.”

18. “Syria Offensive: US Seeks to Address Turkey’s ‘Legitimate’ Security Concerns,” *BBC News*, January 22, 2018, <https://www.bbc.com/news/world-middle-east-42782017>; Humeyra Pamuk, “U.S. Raises Concern over Turkey’s Plans for New Offensive along Syria Border,” *Reuters*, May 25, 2022, <https://www.reuters.com/world/middle-east/new-offensive-northern-syria-would-further-undermine-regional-stability-us-state-2022-05-24/>.

this shake the international (legal) order and should not be taken for granted from a legal resilience perspective. To address this problem, one may find convincing and touching a speech delivered at the UN Security Council by Kenya's Permanent Representative to the United Nations Ambassador Martin Kimani before Russia's invasion of Ukraine. Kimani stated that the modern border of "almost every African country was birthed by the ending of empire... Had we chosen to pursue states on the basis of ethnic, racial or religious homogeneity, we would still be waging bloody wars these many decades later."¹⁹ The speech as well as the experiences of many post-colonial countries show what a genuine commitment to seeking peace and security looks like, and how arbitrary the use of force on the basis of "core interests" or "legitimate security concerns" is.

Third, contesting universalism. Russia and China are now presenting themselves in a universalist fashion. Both subscribe to democracy, international peace and security, and an international order centered around the UN. This suggests that even though they distort the meaning of democracy and attempt to craft an international (legal) order in their favour, these ideas and values still exert a certain degree of influence on the two powers that leaves both needing to articulate a discourse to express their worldview and justify their course of action. As some commentators note, Russia invaded Ukraine alongside a lawfare, even though its arguments can be easily rejected.²⁰ The same also applies in China external behaviour.

This indicates the resilience of the current international (legal) order. The revisionist powers attempt to rework its meaning from within, rather than overthrow it. Consequently, it is imperative for others—the US and its allies and partners in particular—to engage in the meaning and function of the international (legal) order. This may not be able to deter the revisionists from aggression, but may deprive their malign behaviour of legitimacy, thereby negating their excessive *jus ad bellum* arguments and maintaining the integrity of the international (legal) order. It is reported that Russian Foreign Minister Sergey Lavrov has frequently criticized "the trend of our Western partners to make fewer references to international law or even remove it from the international lexicon altogether."²¹ Lavrov's words suggest that Russia (and China) are seizing legal and moral ground which the democratic world

19. Martin Kimani, "Kenya's Ambassador to UN Alludes to African Borders in Condemning Russia's Declaration on Ukraine," (speech, UN Security Council, May 22, 2022), *YouTube*, <https://www.youtube.com/watch?v=Tf0gb0sQl40>.

20. James A. Green, Christian Henderson and Tom Ruys, "Russia's Attack on Ukraine and the *Jus Ad Bellum*," *Journal on the Use of Force and International Law*, Vol. 9, no. 1 (Mar. 2022), pp. 4-30.

21. Jorgensen, "The Weaponization of International Law in Ukraine."

once dominated and needs to recover now.

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Dr. Jyun-Yi Lee is Associate Research Fellow at Division of National Security Research, INDSR. His research interests include Identity Politics, Hybrid Threats, Grey Zone Conflicts, and European Foreign and Security Policy.

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CHINA'S AGGRESSIVE DIPLOMACY IN THE XI ERA: WILL THE WOLVES BE TAMED?

Christina Chen

INTRODUCTION

China has become increasingly aggressive. The country continues to devote a significant budget to military development, pressuring its neighbors into an arms race. China's moves in areas such as the South China Sea, most notably the construction of artificial islands and subsequent military bases on these islands, are seen by the United States (US) and its allies as threats to the security of the Asia-Pacific region. However, China is not only aggressive in its behavior. In fact, observers are equally concerned about the country's diplomacy. Ever since the outbreak of the Covid-19 pandemic, observers have been noting Chinese diplomats' use of harsh, provocative language when responding to inquiries and criticisms of Chinese foreign policy. Widely known as "wolf warriors," the diplomats' official speeches and personal Twitter accounts were infused with offensive rhetoric, defying what would be expected of professional diplomats and thus drawing criticism from all over the world.

Perhaps sensing that aggressive diplomacy did little to help China improve its foreign relations, in May 31, 2021, President Xi Jinping remarked in a Politburo meeting that Chinese official should create a "trustworthy, lovable and respectable" national image, and China needed to "be open and confident, but also modest and humble,"¹ thereby suggesting a policy U-turn with regard to aggressive diplomacy.

1. "Xi Seeks 'Lovable' Image for China in Sign of Diplomatic Rethink," *Bloomberg News*, June 1, 2021, <https://www.bloomberg.com/news/articles/2021-06-01/xi-seeks-lovable-image-for-china-in-sign-of-diplomatic-rethink#xj4y7vzkg>.

Despite Xi's call, these wolf warrior diplomats continue to "snarl" at foreign comments. During the early stage of war between Ukraine and Russia this year, some Chinese diplomats used provocative language to frame the US government as ineffective and the American people as bumbling, and also responded to a report indicating Xi's knowledge of Russia's plan to invade Ukraine by calling it "disinformation."² In his speech at George Washington University in Washington on May 28, 2022, US Secretary of State Anthony Blinken openly stated, "Beijing is engaging in increasingly provocative rhetoric and activity [against Taiwan]."³ Therefore, the attempt by the Chinese Communist Party (CCP) leadership to tone down "wolf warrior diplomacy" did not succeed. What explains China's continuation of aggressive diplomacy, despite the negative reactions it generated overseas, and the top leadership's attempt to tame it?

EXPLAINING THE PERSISTENCE OF AGGRESSIVE DIPLOMACY

Political developments since Xi—bureaucratic resource constraint, conflicting policy direction and the rise of state nationalism—explain the continuation of aggressive diplomacy.

RESOURCE CONSTRAINTS ALTERED BUREAUCRAT STRATEGIES

As the bureaucracy responsible for foreign policy implementation, China's Ministry of Foreign Affairs has faced serious resource constraints in recent years. In 2020, the country's total diplomatic spending was 51.41 billion yuan, a significant 16.47% reduction on the year before. Similarly, the Belt and Road Initiative, the signature foreign policy undertaking and the country's most serious attempt to pursue major country diplomacy has also seen funding cut—investment in the initiative was at its lowest point ever.⁴ The dramatic cut in the resources available to the ministry reflects weakened economic conditions and the CCP's turn away from big projects. With their resources limited, China's diplomats had to modify their

2. Jessica Brandt, "China's 'Wolf Warriors' Are Having a Field Day with the Russia-Ukraine Crisis," *Foreign Policy*, January 28, 2022, <https://foreignpolicy.com/2022/01/28/russia-ukraine-crisis-china-diplomacy-social-media-twitter/>.

3. Anthony J. Blinken, "The Administration's Approach to the People's Republic of China," (Speech, Washington, DC, May 26, *US Department of State*, <https://www.state.gov/the-administrations-approach-to-the-peoples-republic-of-china/>).

4. Liam Gibson, "China Cuts Spending on Diplomacy as US Splurges," *Taiwan News*, December 13, 2021, <https://www.taiwannews.com.tw/en/news/4374249>.

strategies to achieve the goal of Chinese national rejuvenation. While aggressive diplomacy existed before 2020, it became more attractive because it was “cheaper” to execute and could attract attention very quickly. China’s diplomatic spending in 2022 increased by 2.4% to 50.27 billion yuan, still lower than earlier years.⁵ Thus, it is expected that aggressive diplomacy will continue.

XI’S CONFLICTING POLICIES ALLOWED AGGRESSIVE DIPLOMACY TO CONTINUE

Politics under Xi has transformed from collective to personalistic rule. Fiscal intergovernmental reform, along with the creation of several leading groups such as the National Security Commission and the Leading Small Group for Comprehensive Deepening of Reform, have strengthened central government’s authority over party-state officials at the ministerial and subnational levels. Second, Xi has made himself the head of the small leading groups, the center of the “cult of personality” campaign, and the leader who has surpassed term limits after such a requirement was removed from the PRC Constitution in 2018. Third, Xi launched a widespread anti-corruption campaign, which resulted in the downfall of high-ranked officials such as Bo Xilai and Zhou Yongkang as well as nearly 1.5 million party and government officials, thereby leading to subsequent curtailing of the discretionary power of government officials (for fear of being the targets of corruption charges). For China’s foreign-policy making, these political developments greatly consolidated Xi’s power at the expense of the foreign-policy apparatus, which in turn altered the incentives of Chinese diplomats.

For China’s government officials, career survival after Xi rose to power has been dependent on a strict adherence to Xi’s diplomatic agenda. On numerous occasions, Xi has instructed party-state officials to have a “fighting spirit,” thereby indicating the leader’s preference for assertive policy behavior.⁶ Even though the remark made by Xi in May suggested a U-turn in aggressive diplomacy, subsequent statements indicated otherwise. In July 2, 2021, at the 100th anniversary celebration of the founding of the CCP, Xi delivered a very hawkish speech, saying that Beijing

5. “China’s Diplomacy Budget Grows While Trade Deal Outlook Narrows,” *South China Morning Post*, March 6 2022, <https://finance.yahoo.com/news/chinas-diplomacy-budget-grows-while-093000813.html>.

6. Guo Ben-shen and Wong Zi-hui, “Knowledge Point: ‘Xi Talks about Governance and Rule,’ Part III, Why Emphasizing Struggle? (zhi shi dian xi jinping tan zhiguo lizhen disanjuan weihe pinpin qiang diao douzheng)” *Xinhua News*, September 4, 2020, http://www.xinhuanet.com/politics/xxjxs/2020-09/04/c_1126451268.htm.

will not tolerate “sanctimonious preaching,” will never allow anyone to “bully, oppress or subjugate China,” and vow that anyone who tries will “have their heads bashed bloody against the Great Wall of Steel forged by over 1.4 billion Chinese people.” This speech was seen by many observers as targeting the US and the West since they have criticized China’s human rights abuses and crackdown in Hong Kong.⁷ On May 10, 2022, at the meeting celebrating the 100th anniversary of the Communist Youth League of China, Xi urged members to have firm belief, and have fighting spirit in the face of struggle.⁸ With those remarks, Xi was sending conflicting messages to his subordinate officials. For diplomats, such conflicting messages may have even given them the impression that Xi’s call to be “lovable” and “humble” did not apply to them. In fact, after Xi’s Politburo statement, China’s envoy to France, Lu Shaye, attempted to legitimize aggressive diplomacy in an interview on June 17, 2022. Since China has grown in strength and influence, and the West is “bent on suppressing China’s growth”, it is necessary to respond with “justified defense,” “to protect our rights and interests,” Lu remarked.⁹

It follows that Chinese diplomats would have a greater incentive to follow the leader’s preference for bold, and aggressive if needed, advocacy and defense of China’s national interests; and there are indications that such adherence pays off. Zhao Lijian, who pioneered the combative style of diplomatic exchanges while serving as deputy chief of mission in Pakistan, was promoted to the post of deputy director general of the Ministry’s information department in 2019.¹⁰ Hua Chunying, another prominent wolf warrior, opened her Twitter account in early 2020, and has been actively using the platform to engage in aggressive diplomacy since then. She was promoted to the post of China’s assistant foreign minister in October 2021.¹¹ While not every Chinese diplomat engages in aggressive diplomacy, those that do so were rewarded with political promotion. This further increased Chinese diplomats’

7. “CCP 100: Xi Warns China Will Not be ‘Oppressed’ in Anniversary Speech,” *BBC News*, July 1, 2021, <https://www.bbc.com/news/world-asia-china-57648236>.

8. “Xi Urges Youth League Members to Have Fighting Spirit,” *CGTN*, May 10, 2022, <https://news.cgtn.com/news/2022-05-10/Xi-urges-youth-league-members-to-have-fighting-spirit-19UVwta0uxa/index.html>.

9. Yew Lun Tian, “China’ ‘Wolf Warrior’ Diplomacy is Justified Defence’, Says Envoy,” *Reuters*, June 17, 2021, <https://www.reuters.com/world/china/chinas-wolf-warrior-diplomacy-is-justified-defence-envoy-says-2021-06-17/>.

10. Alex W. Palmer, “The Man Behind China’s Aggressive New Voice,” *New York Times Magazine*, July 7, 2021, <https://www.nytimes.com/2021/07/07/magazine/china-diplomacy-twitter-zhao-lijian.html>.

11. Chen Qingqing and Du Qionfang, “FM Spokesperson Hua promoted to Assistant Foreign Minister in ‘Recognition of Her Work’ in Conveying China’s Voice,” *Global Times*, October 24, 2021, <https://www.globaltimes.cn/page/202110/1237176.shtml>.

incentives to continue aggressive diplomacy.

RISING NATIONALISM NURTURES AGGRESSIVE DIPLOMACY

Even though the Chinese people lack the power to select the CCP leadership, they still exert an influence on how the party responds. Developments in the 1990s and 2000s induced the party to enhance its ruling legitimacy through nationalism. First, China's rapid economic growth gave rise to the middle class, which seemed less interested in, if not supportive, of party positions. Moreover, the party sensed the erosion of Communist ideology as a source of regime legitimacy and the rising demand of Chinese people for more political rights (as manifested in the Tiananmen protest). Due to these developments, the party began to tout a form of state-led nationalist narrative that focused on criticisms of the US and Japan.¹²

This "state nationalism" was heightened and expanded after Xi came to power. In 2012, Xi made reference to the "Chinese dream of national rejuvenation," a loose concept that speaks to the Chinese people, with the ultimate goal of making China the dominant global power. In 2017, the party amended the Party Constitution to include Xi's concept of "the China Dream," signifying the formal inclusion of nationalism into Chinese communist ideology. Such a vision of China was "assertive"—for it called on China to abandon the "keep a low profile (tao guang yang hui)" attitude and instead to actively project and fulfill its ambitions. Thus, it was not surprising that nationalism was heightened during this period, as such sentiment could help the CCP rally the Chinese people.

In recent years, the mounting socio-economic problems in China have generated internal pressures, which may have increased the party leadership's incentive to rely on nationalism to maintain support of the regime. China's economic growth has been slowing from 2010: the rate of GDP growth went from 10.6% in 2010 to 8.1% in 2021, compared to the rate of 8.49% in 2000 to 10.6% in 2010.¹³ The party leadership also confronted rising social problems: the gini coefficient has been rising steadily, ranging from 46.2 in 2015 to 46.8 in 2020. While the unemployment rate went down slightly from 4.6% in 2015 to 4.4% in 2017, it

12. Jean-Pierre Cabestan, "The Many Facets of Chinese Nationalism," *China Perspectives* 59 (2005), <https://journals.openedition.org/chinaperspectives/2793>.

13. "China GDP Growth Rate 1961-2022," Macrotrends, <https://www.macrotrends.net/countries/CHN/china/unemployment-rate>.

14. "China GDP Growth Rate 1961-2022," Macrotrends, <https://www.macrotrends.net/countries/CHN/china/unemployment-rate>; "Unemployment, Total (% of total labor force) (modeled ILO estimate)-China," *World Bank*, <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=CN>.

rebounded afterward, going from 4.3% in 2018 to 5.1% in 2021.¹⁴ These trends show that the party leadership has yet to resolve these issues, and the continuation of the Covid-19 pandemic and Russo-Ukrainian war could further impede growth and development in the country. From the party leaderships' perspective, nationalism has become an even more convenient tool to secure domestic support. This context provides a fertile ground for propagation of aggressive diplomacy.

CONCLUSION

The CCP is facing a challenging year. Although China is not playing a direct role in the Russo-Ukrainian war, which began in February, its conflicting attitude—particularly its refusal to impose sanctions on Russia—resulted in widespread criticism and thus further distrust from the West. In Shanghai, the municipal authorities announced a surprise rotating lockdown in March 27, and then suddenly a city-wide lockdown on April 1, resulting in inadequate food provision, strained medical resources, and even family separation. Both crises occurred in the year of the 20th party congress, with power transition about to take place. This is also a year full of domestic problems—the economic outlook is bleak, as the GDP performance is expected to be lower than the announced target of 5.5%; unemployment remains high, especially for college graduates. Externally, China's relations with the US have evolved into an all-out diplomatic, technological and even military rivalry, while relations with the EU have soured as well. Given the challenges the party faces, it is best if China adopts a more friendly attitude with the outside world to avoid conflict.

On May 26, 2022, Chinese Foreign Minister Wang Yi led a delegation on a 10-day tour of the South Pacific, in an attempt to sign a security deal with 10 Pacific nations. Wang showed friendly and positive attitude during the trip, leading some observers to argue that aggressive diplomacy is coming to an end. However, it seems unlikely that the party will rein in its wolf warrior diplomats in the near term, given the ambiguity of Xi's direction, the association of career promotion with aggressive posture, and rising nationalist sentiment at home. The continuation of aggressive diplomacy will have a negative impact on the rule of the CCP. As many analysts have already pointed out, China's wolf warrior diplomacy engendered mostly negative responses outside the country. Before Xi came to power, the US and other countries remained mostly cooperative with China, so China's aggressive rhetoric and behaviors were mostly overlooked by these countries. In recent years, however, the nature of the relationship has become much more competitive. In the new context, China's aggression will be read by the already distrustful US and its allies as realistic challenges. Thus, China's aggressive diplomacy, which has been

mostly for the domestic audience and leadership, will inadvertently generate a stronger backlash from target countries, which will in turn increase domestic strife and pressure on the CCP. This is a vicious cycle that the party leadership probably does not foresee.

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Dr. Christina Chen currently is an Assistant Research Fellow at the INDSR, and an Adjunct Assistant Professor at Tunghai University. Dr Chen received her Ph.D. in Political Science from the University of California, San Diego. Her research interests include Chinese politics, political economy, state and society, and central-local relations.

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A COMMON GOAL: THE MARITIME SECURITY OF TAIWAN, THE UNITED STATES AND JAPAN

Shao-Cheng Sun

INTRODUCTION

The People's Republic of China (PRC) has intensified its aggressive maritime activities in the East China Sea, the South China Sea, and the Taiwan Strait, posing a grave threat to the region's security and stability.¹ In the East China Sea, Chinese naval warships routinely patrol waters around Japan, projecting its naval presence into the Pacific Ocean. Since 2012, PRC Coast Guard vessels have operated almost daily near the Tiaoyutai Islands to claim sovereignty. In the South China Sea, China has advanced its territorial claims in the contested waters through various hostile activities, including building artificial islands, increasing maritime patrols, and deploying weaponry. Their fishing and coast guard vessels have constantly operated in the exclusive economic zone (EEZ) of Taiwan, Vietnam, Malaysia, the Philippines, Brunei, and Indonesia. In the Taiwan Strait, Chinese warships frequently conduct military exercises near Taiwan, to intimidate Taiwan's leaders. They also practice "anti-access, area denial" tactics to prevent United States (U.S.) forces from coming to Taiwan's defense.²

In the face of China's maritime expansion, leaders from Taiwan, the U.S., and Japan believe in enhancing maritime security cooperation. In January 2021, China

1. "U.S.-Japan: Reinforcing Taiwan's Security?" *Asia's Next Page*, June 21, 2021, <https://japan-forward.com/asias-next-page-u-s-japan-reinforcing-taiwans-security/>.

2. Bonnie S. Glaser, "Bonnie Glaser's Testimony: Chinese Maritime Coercion in East Asia: What Tools Can be Used to Respond?" *The German Marshall Fund of the United States*, May 13, 2021, <https://www.gmfus.org/news/bonnie-glasers-testimony-chinese-maritime-coercion-east-asia-what-tools-can-be-used-respond>.

passed a law that authorized its Coast Guard to use weapons against foreign ships, if they illegally enter “China’s waters.” In response, Taiwan and the U.S. established a Coast Guard Working Group on March 25.³ In November 2022, U.S., Japanese, Australian, and Canadian warships conducted joint exercises, countering Chinese assertiveness in the region.⁴ On January 11, 2023, US Secretary of State Antony Blinken, Secretary of Defense Lloyd Austin and Japan’s Minister for Foreign Affairs Yoshimasa Hayashi and Minister of Defense Yasukazu Hamada convened the U.S.-Japan Security Consultative Committee. They condemned China’s military activities around Japan, including missile launches in August 2022, during which several missiles landed in waters near Japan’s Sakishima Islands.⁵ On January 13, 2023, President Joe Biden and Prime Minister Kishida Fumio met in Washington, D.C., encouraging the peaceful resolution of Taiwan issues. They reiterated the importance of maintaining peace and stability across the Taiwan Strait.⁶ In April, the U.S. sent 200 military personnel to train Taiwan troops. Defense contractors also visited Taiwan in early May, discussing the joint production of drones and ammunition.⁷

The author proposes options for enhancing Taiwan-U.S.-Japan maritime security cooperation by reviewing current cooperation and challenges and suggesting policy recommendations to help counter China’s maritime threat.⁸

TAIWAN-U.S.-JAPAN MARITIME SECURITY

Since Ukraine turned the tide of the war and regained Kharkov and Kherson

3. Ben Blanchard, “Taiwan, U.S. to Strengthen Maritime Coordination after China Law,” *Reuters*, March 25, 2021, <https://www.reuters.com/article/us-taiwan-usa/taiwan-u-s-to-strengthen-maritime-coordination-after-china-law-idUSKBN2BI00X>.

4. “US, Japan, others Hold Joint naval Drills Amid China Concerns,” *The Associated Press*, November 16, 2022, <https://www.navytimes.com/news/2022/11/16/us-japan-others-hold-joint-naval-drills-amid-china-concerns/>.

5. “Joint Statement of the 2023 U.S.–Japan Security Consultative Committee (“2+2”),” *US Department of Defense*, January 11, 2023, <https://www.defense.gov/News/Releases/Release/Article/3265559/joint-statement-of-the-2023-us-japan-security-consultative-committee-22/>.

6. “Joint Statement of the United States and Japan,” *The White House*, January 13, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/13/joint-statement-of-the-united-states-and-japan/>.

7. “China Opposes Taiwan-US Defense and Military Exchanges,” *AP News*, April 26, 2023, <https://apnews.com/article/taiwan-china-us-defense-c3c8ffc60ba1587b119fc6f72f5659af>.

8. Bonnie S. Glaser, *ibid.*

from September to November 2022, its unwillingness to negotiate with Russia has only hardened. However, the war situation reached a stalemate thereafter, and Ukraine continues to seek increased military aid from the West, particularly heavy military equipment, to facilitate the recovery of territory.

Taiwan is located at the center of the First Island Chain. Based on its geo-strategic advantage, Taiwan is an asset for the U.S. and Japan to confront China's maritime ambitions. U.S., Taiwanese, and Japanese coast guards (USCG, TCG, and JCG) are committed to the rule of law in encounters at sea. The threats presented by Chinese vessels are one of the main concerns. Several threats are identified: First, various Chinese vessels are active in the region, including fishing vessels, the Chinese Coast Guard (CCG), and the People's Liberation Army Navy (PLAN). It is difficult to discern their intentions. Second, the expanding authority of the CCG in early 2021, including the potential use of force and a broader area of operations, have increased concerns. Third, China uses its vessels to conduct gray-zone activities, ranging from regular incursions into Japan and Taiwan's waters. With the deterioration of Cross-Strait relations, these gray-zone activities are dangerous.⁹ With China's maritime activities increasing, coordination between Taiwan, the U.S., and Japan on maritime issues has become more important.

TAIWAN-U.S. MARITIME SECURITY

Taiwan and the U.S. have increased their cooperation to counter China's incremental poaching in Taiwan's territorial waters. For example, China has sent hundreds of sand dredgers to offshore islands under Taiwan's control. Taiwan's coast guard vessels have seized many dredgers, but their numbers are overwhelming.¹⁰ As a result, Taiwan and the U.S. signed a memorandum of understanding (MOU) to establish a Coast Guard Working Group.¹¹ Their objectives are preserving maritime resources, reducing illegal fishing, and participating in joint maritime search and rescue.¹² This group focuses on improving communications, building cooperation,

9. Pamela Kennedy and Yuki Tatsumi, "US-Taiwan-Japan Maritime Safety Working Group Report," *Stimson*, November 14, 2022, <https://www.stimson.org/2022/us-taiwan-japan-maritime-safety-working-group-report/>.

10. Chris Horton and Cindy Wang, "U.S., Taiwan Sign Coast Guard Deal to Counter China Pressure," *Bloomberg*, March 26, 2021, <https://www.bloomberg.com/news/articles/2021-03-26/u-s-taiwan-sign-coast-guard-deal-to-counter-chinese-pressure>.

11. Stacy Hsu and Ko Lin, "Taiwan, U.S. Sign MOU to Strengthen Maritime Cooperation," *Focus Taiwan*, March 26, 2021, <https://focustaiwan.tw/politics/202103260008>.

12. Chia-nan Lin, "Taiwan, US Sign Coast Guard MOU," *Taipei Times*, Mar 27, 2021, <https://www.taipeitimes.com/News/front/archives/2021/03/27/2003754573>.

and sharing information between Taipei Economic and Cultural Representative Office (TECRO) and American Institute in Taiwan (AIT). This is accomplished through their designated representatives, the USCG and TCG.¹³ This working group symbolizes the U.S.-Taiwan effort to counter China's use of its coast guard and civilian fishing militia to assert its territorial claims.¹⁴ This mechanism will enhance future naval cooperation in confronting China's naval expansion in the Pacific Ocean. For example, TECRO stated that the coast guards of both countries would forge a stronger partnership and contribute even more to a Free and Open Indo-Pacific region. AIT echoed that the U.S. supports Taiwan's contributions to issues of global concern, including maritime security and law enforcement.¹⁵

In an effort to support Taiwan, a U.S. Navy destroyer and Coast Guard Cutter Munro staged a series of routine exercises in the East China Sea. They conducted routine Taiwan Strait transit on August 27, 2021. Before transiting the Taiwan Strait, the Cutter Munro participated in a deployment with the Japan Coast Guard vessel Aso for the drill, including communication, search and rescue, and confronting threats. They emphasized that their vessels followed international law but sent a clear message to China.¹⁶ Looking forward, the Taiwan Coast Guard and the Navy vessels could also conduct joint and cooperative maritime drills, maritime law enforcement training, and exercises with the U.S. Coast Guard and the Navy vessels.

Taiwan has received strong bipartisan support in the U.S. Congress to boost bilateral relations, bolster Taiwan's defenses, and encourage its participation in international organizations. In August 2022, then-House Speaker Nancy Pelosi visited Taipei and met with President Tsai. Beijing retaliated with military exercises that surrounded Taiwan. During a March 2023 visit to California, President Tsai met with new House Speaker Kevin McCarthy, the highest-ranking U.S. official to meet a Taiwanese president on U.S. soil. China responded with a new wave of military exercises. China has sent military planes and ships toward Taiwan almost daily. It also held large-scale drills modeling a blockade and simulating strikes on important

13. Stacy Hsu and Ko Lin, *ibid.*

14. Chris Horton and Cindy Wang, *ibid.*

15. Stacy Hsu and Ko Lin, *ibid.*

16. "US Navy and Coast Guard Operate in East China Sea to Show the Flag," *The Maritime Executive*, August 27, 2021, <https://maritime-executive.com/article/us-navy-and-coast-guard-operate-in-east-china-sea-to-show-the-flag>.

17. Lindsay Maizland, "Why China-Taiwan Relations Are So Tense," *Council on Foreign Relations*, April 18, 2023, <https://www.cfr.org/backgrounders/china-taiwan-relations-tension-us-policy-biden>.

targets in Taiwan.¹⁷ In response, the U.S. and Taiwan strengthened their security relations. For example, U.S. lawmakers have called on the Biden administration to follow through on the nearly \$19 billion in arms sales to Taiwan. In May 2023, a delegation of U.S. defense contractors, led by retired Marine Corps Lt. Gen. Steven Rudder, visited Taiwan. Gen. Rudder pledged the beginning of deeper cooperation with Taiwan. The U.S. wants to be part of Taiwan's defense capabilities and improve Taiwan's supply chain resilience.¹⁸

TAIWAN-JAPAN MARITIME SECURITY

Despite being unable to agree on the sovereignty of the Tiaoyutai Islands, the governments of Taiwan and Japan concluded almost three decades of negotiations on a fishery agreement in April 2013. Under this agreement, they agreed to resolve fisheries issues stemming from overlapping EEZs. Both countries also exempted their fishing boats from each other's law enforcement agencies.¹⁹ Further, the first Taiwan-Japan Maritime Affairs Cooperation Dialogue, held in October 2016, covered bilateral cooperation on various issues such as fisheries, and marine technology. The Taiwan Coast Guard Administration and its Japanese counterpart can work together regarding rescue at sea.²⁰

In 2018, Taiwan and Japan signed two memoranda of understanding (MOU) to enhance maritime cooperation in fighting illegal immigration.²¹ On August 26, 2021, Sato Masahisa, head of the Liberal Democratic Party (LDP) committee on Taiwan relations, tweeted that "one day, Japan, U.S., and Taiwan coast guards will train together." On August 28, the ruling parties, Taiwan's Democratic Progressive Party (DPP) and Japan's LDP, held a virtual meeting on coast guard cooperation. The two parties discussed improving deterrence and security capabilities, such as information

18. Huizhong Wu and Johnson Lai, "US Defense Contractors Want Deeper Cooperation with Taiwan," *Defense News*, May 3, 2023, <https://www.defensenews.com/industry/2023/05/03/us-defense-contractors-want-deeper-cooperation-with-taiwan/>.

19. Jeffrey Hornung, "Strong but Constrained Japan-Taiwan Ties," *Brookings*, March 13, 2018, <https://www.brookings.edu/opinions/strong-but-constrained-japan-taiwan-ties/>.

20. Tinghui Lin, "The Strategic Significance of the Taiwan-Japan Maritime Affairs Dialogues," CSIS, December 21, 2016, <https://amti.csis.org/taiwan-japan-maritime-affairs-dialogue/>.

21. "Taiwan, Japan Sign Two MOUs at Annual Maritime Affairs Dialogue," *Focus Taiwan*, December 27, 2018, <https://focustaiwan.tw/politics/201812270018>.

22. Kelvin Chen, "Taiwan, Japan Reach Consensus on Coast Guard Cooperation," *Taiwan News*, August 8, 2021, <https://www.taiwannews.com.tw/en/news/4278716>.

exchanges and bilateral cooperation.²² These developments reflect a growing consensus in Tokyo that China's rising threat against Taiwan also seriously impacts Japan's security.²³ On January 13, 2023, Taiwan and Japan held the 5th Maritime Affairs Cooperation Dialogue. During this conference, the Taiwan Ocean Affairs Council and its Japanese counterpart exchanged views on marine environment cooperation, maritime security cooperation, marine science cooperation, and fisheries cooperation. Both countries will continue to exchange information under this framework.²⁴

CHALLENGES FOR COOPERATION

The Biden administration has fulfilled its commitments outlined in the Taiwan Relations Act (TRA) by providing arms sales and carrying out freedom of navigation exercises in the Taiwan Strait.²⁵ In recent years, tensions have increased between Japan and China over the disputed Tiaoyutai Islands. While Japan and China have a territorial dispute, Taiwan also has sovereign claims over the Islands.²⁶ Thus, there are challenges for any future maritime cooperation. The first challenge is political consensus within U.S. and Japan domestically. Despite President Biden agreeing to send U.S. forces to defend Taiwan, U.S. officials attempted to backpedal such statements by reiterating that there was no change in the official "One China policy." In addition, the Japanese government remains concerned about China's reactions to deepening Japan-Taiwan security ties, and the political establishment in Japan has not reached a consensus on its approach towards Taiwan. Though some officials within Japan's ruling LDP have been strong proponents of closer cooperation, other voices in the LDP and other parties are more reluctant to forge more robust security ties with Taiwan.²⁷ The second challenge is the institutional constraint between the JCG and the Maritime Self-Defense Force (MSDF). For coast guard cooperation, the

23. Pamela Kennedy, "Parsing Japan's Support for Taiwan," *The Diplomat*, September 11, 2021, <https://thediplomat.com/2021/09/parsing-japans-support-for-taiwan/>.

24. "The 5th Taiwan-Japan Maritime Affairs Cooperation Dialogue," *Ocean Affairs Council*, January 13, 2023, Department of International Development, https://www.oac.gov.tw/en/home.jsp?id=10&parentpath=0&mcustomize=milestone_view.jsp&dataserno=202304100008.

25. Bonnie Glaser, "Biden to Adopt Policy of Doing no Harm to Taiwan: Bonnie Glaser," *Focus Taiwan*, January 22, 2021, <https://focustaiwan.tw/politics/202101220009>.

26. "The Senkakus (Diaoyu/Diaoyutai) Dispute: U.S. Treaty Obligations," *Congressional Research Service*, March 1, 2021, <chrome-extension://efaidnbnmnibpcjpcglclefindmkaj/https://sgp.fas.org/crs/row/R42761.pdf>.

27. Pamela Kennedy and Yuki Tatsumi, *ibid.*

differing authorities of each coast guard present obstacles. The USCG and the TCG can cooperate with their respective navies, but the JCG has little cooperation with the Maritime Self-Defense Force (MSDF). The JCG is prohibited from conducting military activity.²⁸ Third, trilateral cooperation remains limited due to the absence of alliances or diplomatic relationships with Taiwan. The lack of in-depth and real-time intelligence sharing impedes effective defense cooperation.²⁹

RECOMMENDATIONS FOR ENHANCING MARITIME SECURITY COOPERATION

The U.S., Taiwan, and Japan are interested in preventing armed conflict over Taiwan and thwarting China's attempts to force unilateral changes to the status quo. A Taiwan Straits conflict has a considerable risk of spillover into Japan's waters and airspace and could escalate to a great power conflict between the U.S. and China.³⁰ If China took over Taiwan, Beijing would dominate East Asia. This would pose a serious threat to the U.S.-Japan security alliance framework. If the U.S. decided to defend Taiwan, it would seek support from Japan and would rely on U.S. forces posted in Japan.³¹ Here are several suggestions for policymakers in formulating maritime security policies in dealing with a potential crisis:

Explore New Approaches of Cooperation

The U.S., Taiwan, and Japan should explore cooperation and communication between their coast guards. Cooperation should focus on less politically sensitive and humanitarian issues. Law enforcement activities may be an area for cooperation. Communication should prioritize information sharing. This can start with tri-coast guard liaison.³² The U.S. and Japan could improve military-to-military communication with Taiwan at the senior and middle levels. Formal contacts could include joint training exercises with the Coast Guard regarding humanitarian assistance or disaster relief. Informal channels could send active-duty personnel to serve as visiting fellows at research institutions and observers to the same Track 2

28. Ibid.

29. Jacques deLisle, "U.S.-Japan-Taiwan Dialogue: Deterrence, Defense, and Trilateral Cooperation," December 2022, Asian Program, fpri.org/article/2022/12/u-s-japan-taiwan-dialogue-deterrence-defense-and-trilateral-cooperation/.

30. Ibid.

31. Adam Liff, "Has Japan's Policy Toward the Taiwan Strait Changed?" *Brookings*, August 23, 2021, <https://www.brookings.edu/blog/order-from-chaos/2021/08/23/has-japans-policy-toward-the-taiwan-strait-changed/>.

32. Pamela Kennedy and Yuki Tatsumi, *ibid.*

33. Jacques deLisle, *ibid.*

or Track 1.5 dialogues.³³

Encourage U.S. Allies to Support Taiwan

To deter China's military aggression, the U.S. and its allies could warn Beijing that their intervention is likely in the event of a Chinese military attack on Taiwan. The U.S. could also encourage its allies to support Taiwan, joining the regional security framework. For example, the U.S. Pacific Deterrence Initiative (PDI) aims to bolster the capabilities of regional allies and partners to resist Chinese coercion. The PDI also highlights investments to improve the capabilities of allies and their partners, and to develop innovative concepts to counter threats through advanced technologies. Under the PDI framework, the U.S. could encourage East Asian countries to enhance their security cooperation with Taiwan.³⁴ For Taiwan, rising concerns over China's aggressive military maneuvers have prompted Taiwan's leaders to extend the mandatory military service period from four months to a year. However, compared to the militaries of other democratic countries (South Korea 18-21 months, Singapore 24 months, and Israel 24-30 months,) Taiwan's conscription period is the shortest. Facing China's immediate threat, Taiwan's military needs to prolong its mandatory service. Additionally, many former conscripts stated that their training was "outdated, boring, and impractical," lacking instruction in urban warfare or modern weapons like drones.³⁵ Ukraine's experience in fighting against the Russian invasion is an important lesson for Taiwan.

Establish Taiwan-Japan Maritime Security Cooperation

Since Taiwan and Japan have territorial claims over the Tiaoyutai Islands, the two countries have discussed maritime-related issues to resolve potential friction flashpoints, since the inaugural maritime dialogue in 2016.³⁶ On Aug. 26, 2021, Sato Masahisa, head of the LDP's committee on Taiwan relations, tweeted that "one day, Japan, U.S., and Taiwan coast guards will train together." On Aug. 28, the ruling parties of Taiwan and Japan held a virtual meeting on coast guard cooperation. The two parties discussed improving deterrence and security capabilities, such as

34. Bonnie S. Glaser, *ibid.*

35. Eric Cheung, "If War Breaks out ... I Will just Become Cannon Fodder: In Taiwan, Ex-conscripts Feel Unprepared for Potential China Conflict," *CNN*, January 20, 2023, <https://www.cnn.com/2023/01/20/asia/taiwan-mandatory-military-service-conscription-intl-hnk-dst/index.html>.

36. Jeffrey Hornung, *ibid.*

37. Bonnie Glaser, *ibid.*

information exchanges and bilateral cooperation. These dialogues may serve as a format for future communication between the two governments.³⁷ Since the U.S. and Taiwan have established a Coast Guard working group and U.S.-Japan Coast Guard cooperation has become solid, the U.S. government could facilitate the establishing of a similar working group by Taiwan and Japan.

Support Japan's Taiwan Relations Act

There is a need for the U.S., Taiwan, and Japan to work closer to counter China's military aggression. At a private fundraising event on July 5, 2021, Japan's Deputy Prime Minister Taro Aso stated that if a major problem occurred in Taiwan, Japan and the U.S. would have to work together to defend Taiwan.³⁸ On July 29, lawmakers from the U.S., Taiwan and Japan participated in a strategic, virtual dialogue to deepen cooperation between the three parties.³⁹ In August, virtual talks between the ruling parties of Japan and Taiwan took a big step forward. The discussions were labeled the party-to-party equivalent of U.S.-Japan "two plus two" security talks. During the talks, they discussed deeper military cooperation, particularly bilateral coast guard cooperation and trilateral cooperation with the U.S.⁴⁰ These messages show that China's threat against Taiwan has caused great concern in Japan. However, Japan is a law-abiding country. Without a legal framework, the improvement of Taiwan-Japan security relations will be restricted. After the U.S. shifted its diplomatic relations from Taiwan to China, the U.S. Congress enacted the TRA to define their unofficial relations. Thus, the idea of a Japan Taiwan Relations Act (JTRA) has attracted interest from leaders and lawmakers in Taiwan's DPP and Japan's LDP.⁴¹ Washington and Taipei can encourage Tokyo to stipulate the institutionalize of a Japan-Taiwan security mechanism in Japan's Taiwan Relations

38. Richard Parry and Didi Tang, "Japan Pledges to Defend Taiwan If China Attacks, Says Deputy Prime Minister Taro Aso," *The Times*, July 7, 2021, <https://www.thetimes.co.uk/article/japan-would-defend-taiwan-if-china-invaded-says-deputy-pm-l7dnhdn0>.

39. "Taiwan, US, Japan Lawmakers Participate in First Trilateral Strategy Forum," *Taiwan Today*, July 30, 2021, <https://taiwantoday.tw/news.php?unit=2&post=205300>.

40. Shannon Tiezzi, "Japan, Taiwan Lawmakers Discuss China Threat," *The Diplomat*, August 28, 2021, <https://thediplomat.com/2021/08/japan-taiwan-lawmakers-discuss-china-threat/>.

41. Adam Liff, *ibid.*

Act.

CONCLUSION

Peace and stability across the Taiwan Strait are critical interests of the U.S. and Japan. Given the growing Chinese assertiveness in the region, security planners must explore creative approaches to pursue greater security cooperation.⁴² After Taiwan and the U.S. established a Coast Guard Working Group, a similar mechanism between Taiwan and Japan became indispensable. Foundational to U.S. strategic deterrence in the Indo-Pacific region is its network of allies and partners. This is an advantage that China doesn't have.⁴³ The U.S. is strengthening its alliances with South Korea and the Philippines. The AUKUS security pact of Australia, the United Kingdom, and the U.S. exemplifies collaboration with allies to expand combined capacity in the region. The U.S. is also making significant investments in defense ties with India.⁴⁴ Among the U.S. allies, Japan plays the most crucial role. Japan's involvement could mitigate the geographic vulnerabilities of the U.S. and deny China's ability to take Taiwan by force.⁴⁵

Several suggestions have been proposed. First, Taipei and Washington need to advance bilateral maritime security cooperation. The coast guards and navies could conduct joint maritime exercises. Second, the U.S. and its allies could warn Beijing that they will respond to China's invasion of Taiwan. The U.S. should push its allies to establish security cooperation with Taiwan. Third, to institutionalize a Taiwan-Japan security mechanism, Japan and Taiwan can establish a regular pattern of "legislator-level 2+2" talks. Washington and Taipei should encourage Tokyo to formulate a JTRA. Lastly, since Taiwan and the U.S. have set up a Coast Guard working group, the U.S. government could help Japan establish a similar working group with Taiwan.

Facing China's maritime expansion, there is an urgent need for strategic

42. Yuki Tatsumi, "Prospects and Challenges for Japan-Taiwan Security Cooperation," *The Diplomat*, May 21, 2021, <https://thediplomat.com/2021/05/prospects-and-challenges-for-japan-taiwan-security-cooperation/>.

43. David Vergun, "Leaders Detail U.S. Advantage in Indo-Pacific," *DOD News*, April 18, 2023, <https://www.defense.gov/News/News-Stories/Article/Article/3366693/leaders-detail-us-advantage-in-indo-pacific/>.

44. *Ibid.*

45. Oriana Skylar Mastro, "Japan Must Do More, and Faster, to Avert War Over Taiwan," *The Freeman Spogli Institute for International Studies*, February 3, 2023, <https://fsi.stanford.edu/news/japan-must-do-more-and-faster-avert-war-over-taiwan>.

planners to formulate more practical and creative options to develop a solid trilateral maritime security cooperation to counter China's rising threat. The U.S. should also increase crisis communication with China, even though China has a history of ignoring hotlines during crises.⁴⁶

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Dr. Shao-Cheng Sun served in the Taiwanese army and retired as a colonel. He joined the Citadel faculty as an Assistant Professor of Political Science in the fall of 2018. He previously was a Visiting Scholar at the University of Wisconsin-Milwaukee and an adjunct assistant professor at Taiwan's National Defense University. Dr. Sun is the author of *China's Cultural Soft Power in the United States* and *The Decision-Making Process of the United States Government During the 1958 Taiwan Strait Crisis*. East Asian security and politics, US-China relations, and US security policy in Asia are among his research interests. He teaches East Asian studies as well as international politics.

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SOUTH KOREA'S STRATEGIC DILEMMAS IN THE CONTEXT OF SINO-U.S. RIVALRY: IS HEDGING POSSIBLE?

Men-Fung Yeung

INTRODUCTION

In response to North Korea's provocations and the Sino-U.S. rivalry, President Park Geun-hye tried to hedge risks in Northeast Asia by adopting "Trustpolitik." Park's policy amplified South Korea's relations with the U.S. and China to deter any North Korean provocations. In the meantime, the Park administration promoted economic cooperation with North Korea to persuade Pyongyang to suspend its nuclear and missile development.¹

However, Pyongyang conducted two nuclear tests in 2016 that made the Park administration terminate economic cooperation with North Korea. Meanwhile, the administration agreed with Washington to deploy the Terminal High Altitude Area Defense system (the THAAD system) in South Korea to prevent North Korea's possible military provocations. However, due to the fact that the deployment of the THAAD radar system in South Korea can possibly deter China's military deployment, Beijing believes the missile system undermines its security. Beijing expressed its opposition to Park's arrangement by launching economic retaliations against South Korea; the dispute damaged trust between Beijing and Seoul.

After President Moon Jae-in replaced President Park, he tried to alter her

1. Park Geun-hye, "A New Kind of Korea: Building Trust Between Seoul and Pyongyang," *Foreign Affairs*, Vol. 90, no. 5 (September/October 2011), pp. 13-18; Yun Byung-se, "Park Geun-hye's Trustpolitik: A New Framework for South Korea's Foreign Policy," *Global Asia*, Vol. 8, no. 3 (September 2013), pp. 8-13.

foreign policy. To maintain a space for South Korea to hedge risks, President Moon tried to settle the THAAD dispute with China, promoted economic cooperation with North Korea, and tried to keep a distance from the U.S. even though he maintained the alliance with the U.S.. However, support in South Korea for Seoul's alignment with the United States made it more difficult to maintain equidistant diplomacy vis-à-vis China and the United States. Under such a circumstance, Seoul has tried to amplify the security cooperation with Washington and Tokyo since Yoon Suk Yeol came to office. In fact, the simultaneous pressure from North Korea, Sino-U.S. competition, and public opinion in South Korea reduces the possibility for policymakers in Seoul to adopt a hedging strategy.

SOUTH KOREA'S STRATEGIC DILEMMAS

Facing North Korea's threat and the power competition between China and the U.S., South Korea adopted a hedging strategy similar to as Southeast Asian states. However, since the Moon Jae-in administration, it has become more difficult for Seoul to offset risks in Northeast Asia as there are four dilemmas that make hedging a less feasible policy option for Seoul.

First, South Korea faces a dilemma with regard to North Korea. President Moon believed an engagement-oriented policy helped moderate North Korea's aggression. During Moon's presidency, Seoul tried to promote confidence building measures with North Korea. For instance, President Moon tried to promote economic cooperation with North Korea and reduce the military presence along the 38th parallel.² Furthermore, to accelerate the peace-building process on the Korean Peninsula, Seoul tried to serve as a bridge for bilateral negotiations between Washington and Pyongyang. Although it is true that President Moon tried to promote peace on the Korean Peninsula, his policy did little to achieve his goal. In fact, North Korea aimed to seek bilateral negotiations with the U.S. that neglected a role for South Korea.³ In addition, North Korea provoked South Korea when it did not fulfill Pyongyang's demands. In June 2020, North Korea cut off communication with South Korea and demolished the Inter-Korean Liaison Office due to North Korean defectors in Seoul

2. Jangho Choi and Jae-Young Lee, "Making Transformative Peace: The Bold Vision for A Peace-Driven Economy," *Global Asia*, Vol. 14, no. 2 (June 2019), pp. 40-43.

3. Inhan Kim, "No More Sunshine: The Limits of Engagement with North Korea," *The Washington Quarterly*, Vol. 40, no. 4 (October 2017), pp.165-181.

using balloons to spread anti-North Korean regime leaflets. Hence, Seoul will be the victim if North Korea commits provocations.

Second, South Korea needs to overcome the negative consequences caused by the discrepancies of interests with Beijing over North Korea's missile and nuclear threat. On the one hand, South Korea's engagement policy with China attempted to utilize Beijing's influence to constrain North Korea's provocations. On the other hand, China's engagement with South Korea aimed to weaken the U.S.-ROK alliance.⁴ North Korea's two nuclear tests in 2016 exposed that their interests on this issue are incompatible. South Korea agreed to deploy the THAAD system to deter North Korea's possible provocations. However, the Chinese government believed Seoul's decision aimed to constrain China collectively with Washington;⁵ Beijing launched an array of economic sanctions to pressure Seoul to withdraw the decision. Although President Moon tried to reconcile with China by his "Three No's" commitments after he had replaced President Park,⁶ Seoul's conciliatory approach to China failed to receive credit from the Chinese government as Beijing believed South Korea has taken the U.S. side against China.

Other than the conflict of interests between China and South Korea over North Korea's threat, there is a possibility that Seoul will be entrapped by Sino-U.S. competition. Since the Xi Jinping Era began, the Chinese government has attempted to enhance its influence internationally. In the meantime, Beijing has tried to reshape the existing order in its favor; Beijing's approaches undermine the U.S. leadership position in the Asia-Pacific region. For instance, the government of China has increased the frequency of enforcing economic sanctions against foreign countries when their policies undermine China's national interests, promotes its ideology and values abroad that challenge liberal values, and China's maritime activities undermine security in the South China Sea.⁷

4. Suk Hee Han, "Resetting the South Korea–China Relationship: The THAAD Controversies and Their Aftermath," *The Korean Journal of Defense Analysis*, Vol. 31, no. 4 (January 2019), pp. 539–557.

5. Tiancong Lau, "ROK Factor for the Deployment of THAAD," *Contemporary International Relations* 27, no. 3 (2017), pp. 26–32.

6. Three No's commitment including: (1) no deployment of additional THAAD system; (2) no participation in the U.S.-led missile defense network and; (3) no participate in a trilateral alliance with the U.S. and Japan.

7. Elizabeth C. Economy, *The Third Revolution: Xi Jinping and the New Chinese State* (New York, NY: Oxford University Press, 2018); Jennifer Lind, "Life in China's Asia: What Regional Hegemony Would Look like Essays," *Foreign Affairs* 97, no. 2 (March 2018): 71–82; Oriana Skylar Mastro, "Why Chinese Assertiveness Is Here to Stay," *The Washington Quarterly*, Vol. 37, no. 4 (October 2014), pp. 151–170.

8. Er-Win Tan, Jae Jeok Park, and Tomohiko Satake, "Security Hedging Strategies of U.S. Allies and Partners in the Era of Trump," *The Korean Journal of Defense Analysis*, Vol. 32, no. 2 (January 2020), pp. 163–184.

In response to China's influence, the Trump administration launched the "Indo-Pacific" strategy to counter the rise of China.⁸ With the "Indo-Pacific" strategy, the Trump administration tried to mobilize U.S. Asian allies to counterbalance China collectively. At the same time, the Trump administration attempted to constrain China economically and geo-politically. Furthermore, after the U.S. leadership shift from Trump to Biden, Washington has continued to amplify quadrilateral cooperation with Japan, India, and Australia; it has also tried to include South Korea in the U.S.-led "Indo-Pacific" Strategy. However, the Moon administration managed to keep a distance from the U.S.-led "Indo-Pacific" strategy primarily because the administration wanted to avoid taking a side vis-à-vis the U.S. and China.⁹ In other words, the Moon administration hoped to maintain its economic interests with China and security ties with the U.S. simultaneously.

Finally, it has become more difficult for officials in South Korea to respond to public opinion regarding South Korea's foreign policies. Although the Moon Administration tried to maintain a stable relationship with China after the THAAD dispute, anti-China sentiment grew during the period in South Korean society. According to a survey conducted by Pew Research Center in 2021, 77% of South Korean respondents claimed that they had an unfavorable view of China.¹⁰ Moreover, anti-China sentiment has overtaken anti-Japan sentiment. A joint survey conducted by Hankook Research and the Korean news magazine Sisain reveals that the percentage of respondents who favored China was lower than Japan; the former accounted for 26.4%, whereas the latter was 28.8%.¹¹ In fact, the growth of anti-China sentiment in South Korea is primarily due to China's attitude to North Korea's nuclear tests and THAAD deployment. South Koreans were disappointed by China's passive response to North Korea's nuclear tests in 2016 and its overreaction

9. "Victor Cha Says South Korea Refused to Join the Quad," *The DONG-A ILBO*, January. 28, 2022, <https://www.donga.com/en/article/all/20220128/3173224/1>.

10. Laura Silver, Kat Devlin, and Christine Huang, "Large Majorities Say China Does Not Respect the Personal Freedoms of Its People," *Pew Research Center's Global Attitudes Project*, June 30, 2021, <https://www.pewresearch.org/global/2021/06/30/large-majorities-say-china-does-not-respect-the-personal-freedoms-of-its-people/>.

11. 이오성, "중국의 모든 것을 싫어하는 핵심 집단, 누굴까," *사사 In*, 2021년 06월 17일, https://www.sisain.co.kr/news/articleView.html?idxno=44821&utm_source=pocket_mylist.

12. According to the survey conduct by The Asan Forum, the percentage of respondents believed the U.S. was a reliable ally increased from 59.6% in 2014 to 67.3% in 2017. Also, regarding the arrangement of the THAAD deployment, the percentage of approval of the deployment decreased from 73.9% in February 2016 to 55% in June 2017. Nonetheless, the majority still claimed that they approved this arrangement. See: Jiyeon Kim, "South Korean Public Opinion," *The Asan Forum*, February 27, 2018, <https://theasanforum.org/south-korean-public-opinion/>.

to South Korea's deployment of a purely defensive missile system.¹² Since the THAAD dispute, they believe that Seoul should keep a distance from China in order to ensure South Korea's national security and dignity. In this regard, the South Korean government has found fulfilling the demands of public opinion and handling risks from Sino-U.S. rivalry onerous.

THE 2022 PRESIDENTIAL ELECTION AND SOUTH KOREA'S FOREIGN POLICY

Facing strategic dilemmas and the voice of keeping a distance from China, the 2022 presidential election was a turning point in South Korea's foreign policy development. During the election campaign, the debate between the progressive and conservative candidates on their diplomatic approaches offered an opportunity for the public to consider which measures were suitable to withstand pressure from North Korea and Sino-U.S. rivalry.

Admittedly, the foreign policy positions from progressive and conservative candidates attempted to overcome Seoul's strategic dilemmas. Nonetheless, their approaches to safeguarding South Korea's national interests were different. Lee Jae-Myung, a progressive candidate, tried to maintain Moon's approach. He proposed to maintain an engagement-oriented policy for North Korea. To encourage North Korea to uphold its commitment of promoting denuclearization, he suggested promoting sanctions removal and providing humanitarian aid to North Korea to address COVID-19. In addition, in response to Sino-U.S. rivalry, Lee proposed to maintain an equidistant diplomacy vis-à-vis China and the U.S. More specifically, Seoul should maintain its economic ties with China. Meanwhile, he suggested South Korea should maintain a distance from the US-led "Indo-Pacific" campaign even though he recognized the importance of maintaining the alliance with the US. With this approach, Lee hoped South Korea could avoid offending China and the US, thereby maximizing South Korea's interests.¹³

On the other hand, a conservative candidate, Yoon Suk Yeol, proposed to adopt a hardline approach to North Korea and a pro-U.S. policy. Yoon suggested promoting economic cooperation, humanitarian aid, and sanctions removal on North Korea only if Pyongyang showed its sincerity with regard to achieving "complete denuclearization." Meanwhile, to ensure South Korea's security, Yoon suggested

13. Lee Jae-Myung, "A Practical Vision for South Korea," *Foreign Affairs*, February 24, 2022, <https://www.foreignaffairs.com/articles/east-asia/2022-02-23/practical-vision-south-korea>.

deploying the THAAD system to deter North Korea's possible missile tests; he opposed Moon's attitude to China regarding THAAD as it undermined South Korea's sovereignty and security.¹⁴ Furthermore, regarding his policy line toward ROK-China relations, Yoon suggested maintaining cooperation with China with regard trade and North Korea issues. Nevertheless, he argued that equidistant diplomacy vis-à-vis China and the U.S. is unfeasible due to the discrepancies in political values and security interests between China and South Korea. Instead, he proposed South Korea should amplify its relations with Japan and participate in the U.S.-led "Indo-Pacific" campaign to ensure South Korea's security and sovereignty.¹⁵

After Yoon was elected, the administration enhanced Seoul's security cooperation with Tokyo and Washington. For a start, the Yoon administration adopted a conciliatory policy towards Japan to promote security cooperation. Before Yoon's inauguration, he sent a delegation to Japan in April to improve the ROK's bilateral relations with Japan. He proposed to adopt a "future-oriented" approach to maintain South Korea's relations with Japan. Unlike his predecessor's focus on the historical and territorial dispute between South Korea and Japan, Yoon amplifies security cooperation with Tokyo; he believes this approach helps address the security challenges in Northeast Asia.¹⁶

Moreover, the Yoon administration has strengthened Seoul's security cooperation with Washington. Unlike the Moon Jae-in administration which maintained an ambiguous attitude, the Yoon administration has shown an active willingness to participate in the U.S.-led "Indo-Pacific" campaign. Not only has President Yoon expresses his willingness to participate in the "Quad" Dialogue,¹⁷ he also agreed that Seoul should participate in the U.S.-led "Indo-Pacific" economic

14. Yoon Suk Yeol, "South Korea Needs to Step Up," *Foreign Affairs*, February 17, 2022, <https://www.foreignaffairs.com/articles/south-korea/2022-02-08/south-korea-needs-step>.

15. "A Rundown of Leading Candidates' Positions on Defense, Foreign Relations and the Economy," *The Korea Herald*, February 16, 2022, <https://m.koreaherald.com/view.php?ud=20220216000621>.

16. "(3rd LD) Yoon's Delegation Arrives in Japan with Letter Outlining Will for 'New Relations,'" *Yonhap News Agency*, April 24, 2022, <https://en.yna.co.kr/view/AEN20220424000553315>; Da-gyum Ji, "[Shangri-La Dialogue] S.Korea Intends to 'Normalize' Security Cooperation with Japan against N.Korean Threats," *The Korea Herald*, June 12, 2022, http://m.koreaherald.com/view.php?ud=20220612000135&ACE_SEARCH=1.

17. Yonhap, "Yoon Says Will 'Positively Review Joining' Quad If Invited: Report," *The Korea Herald*, April 26, 2022, <http://m.koreaherald.com/view.php?ud=20220426000151>.

18. He-rim Jo, "S. Korea Aligns with US Indo-Pacific Strategy," *The Korea Herald*, May 22, 2022, <http://m.koreaherald.com/view.php?ud=20220522000216>; Remarks by President Biden and President Yoon Suk Yeol of the Republic of Korea in Joint Press Conference," *The White House*, May 21, 2022, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/05/21/remarks-by-president-biden-and-president-yoon-suk-yeol-of-the-republic-of-korea-in-joint-press-conference/>.

framework during their bilateral summit after Biden's visit to Seoul.¹⁸ Furthermore, President Biden and Yoon made the Washington Declaration in April 2023. Both sides agreed to enhance the deterrence of the alliance against North Korea's threat; Seoul even agreed that a U.S. nuclear ballistic missile submarine could visit South Korea.¹⁹

CONCLUSION: SOME POLICY RECOMMENDATIONS TO SOUTH KOREA'S FOREIGN POLICY

Facing North Korea's threat and competition between China and the U.S., it is difficult for Seoul to adopt equidistant diplomacy with Beijing and Washington. In other words, a hedging strategy is gradually becoming a less feasible choice for South Korea to overcome security challenges in Northeast Asia.

Since President Yoon took office, South Korea's foreign policy has shifted from a nationalistic approach to a security-oriented approach. President Yoon has adopted an appropriate approach in response to challenges in the "Indo-Pacific" region. The Yoon administration has adopted a conciliatory policy with Japan over historical issues and seeks security cooperation with Tokyo to overcome North Korea's threat collectively. At the same time, Seoul has strengthened the deterrent capability of the U.S.-ROK alliance to deter North Korea's possible provocations. With these approaches, South Korea does not need to counter threats alone and thus can deter adversaries collectively.

Admittedly, amplifying South Korea's relations with Japan and the U.S. does not mean that South Korea needs to counter China directly. Nonetheless, the Yoon administration needs to reduce the negative consequences of overly relying on China, especially security and economic aspects. The THAAD dispute between China and South Korea revealed that Beijing has limited leverage to constrain North Korea's aggression largely because of its geo-political concerns; common interests between Seoul and Beijing are limited on this issue. At the same time, economic retaliation from China following the missile system's deployment demonstrate that South Korea is vulnerable when its trade overly relies on a specific market.²⁰ Under these circumstances, policymakers in South Korea may reconsider the possibility

19. "Washington Declaration," *The White House*, April 26, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/26/washington-declaration-2/>.

20. China is the biggest trade partner of South Korea and 40% of South Korea's trade comes from China. Reference: James Park, "South Korea's Enduring Restraint Toward China," *The Diplomat*, February 18, 2023, <https://thediplomat.com/2023/02/south-koreas-enduring-restraint-toward-china/>.

of seeking security cooperation with China in addressing North Korea's threat. To defend South Korea, Seoul may consider enhancing its defense capability against the North. In the economic realm, it is necessary for Seoul to put more effort into expanding overseas markets in order to reduce the over-dependence on a specific market. Although it has become difficult for Seoul to maintain strategic ambiguity vis-à-vis China and the U.S., Seoul has space to expand its trade network to reduce its economic vulnerability.

The new government has tried to alter the foreign policy made by the previous government. Nonetheless, the administration should preserve some measures from the previous government that help expand South Korea's trade network to reduce possible economic losses in the future. For instance, Moon Jae-in's "New Southern Policy" and "New Northern Policy" have tried to expand South Korea's economic network with India, ASEAN, and Central Asian states. These policies help expand Seoul's trading network and reduce overdependence on a specific trade partner, thereby preventing economic risks that undermine South Korea's sovereignty and security.

Overall, space for South Korea to adopt a hedging strategy has been reduced gradually due to the change in the strategic environment in Northeast Asia. In response to these changes, the Yoon administration has tried to solidify Seoul's relations with democratic countries within the U.S.-led "Indo-Pacific" campaign to promote deeper security cooperation. In the economic realm, South Korea should continue to expand its trade network instead of depending on a specific market to reduce South Korea's economic vulnerability. With these approaches, South Korea will have more capability to withstand pressure from the strategic dilemmas.

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Man Fung Yeung is a Ph.D. Candidate at the Graduate Institute of International Affairs and Strategic Studies at Tamkang University. His research interests focus on alliance politics, economic sanctions, U.S. Asia-Pacific policy, and Northeast Asian Security.

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