Irregular Conflict, Irregular Harms: Analyzing Patterns of Civilian Harm in the South China Sea

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_How do China’s irregular warfare tactics affect the security of civilians in the South China Sea? This paper introduces a conceptual framework for understanding two interrelated patterns of civilian harm that occur as a result of Chinese irregular warfare activities: (1) harassment and violence against civilian fishers and (2) the stifling of civilian livelihoods. This analysis herein describes the components of the framework and provides evidence in support of the framework, including local reporting on civilians’ perspectives, literature on China’s strategy, and evidence of China’s presence in the region. The paper concludes by offering recommendations for reducing civilian harm in the South China Sea._

**Introduction**

The South China Sea (SCS) has long been the site of competing territorial claims, with the first claims being staked in the early nineteenth century by Spanish colonizers at Scarborough Shoal.¹ Throughout the succeeding two centuries, regional powers would spend much blood and treasure to control the waters and maritime features of the Sea. Sporadic conflict was not uncommon, even after the passage of the UN Convention on the Law of the Sea (UNCLOS), an international legal regime meant to bring order to global waters.² However, while conflict is not new to this region, the recent escalation of a new conflict dynamic—China’s use of irregular warfare tactics—has changed the strategic picture of the theater.³

Over the last two decades, China has conducted its SCS operations in the “gray zone”—the competitive space between the conventional binary of war and peace. China has increasingly leveraged irregular methods of coercion and destabilization to expand its control while staying below the threshold of armed conflict. Facing China’s irregular methods, counter-claimant states’ conventional forces struggle to generate proportionate and effective responses to China’s forceful, yet elusive applications of power.⁴ Many have studied these evolving strategic dynamics and their implications for regional and global security.⁵ However, few have studied the effects on those who experience China’s irregular tactics day-to-day: the community of fishers local to the SCS.

This paper explores how China’s irregular warfare tactics have affected civilian security and livelihoods in the SCS. I situate my analysis in the nascent literature that explores how patterns of civilian harm differ in irregular versus conventional conflicts.⁶ This paper adds new insights to the literature by proposing a conceptual framework for understanding how China’s irregular warfare tactics in the South China Sea harm civilians. I argue that Chinese irregular warfare tactics have caused two categories of civilian harm: (1) harassment and violence against civilian fishers and (2) the stifling of civilian livelihoods. The patterns of harm in the SCS differ from those typically associated with conventional conflicts.

This paper proceeds by describing the framework and presenting evidence in support of it, including local reporting on civilians’ perspectives, literature on China’s strategy, and evidence of China’s presence in the region. I rely primarily on evidence from the Philippines, while providing some
additional evidence from Vietnam and Indonesia to illustrate that the patterns described herein are likely broadly applicable to the experience of other claimant states. I also discuss the policy implications of this framework. Finally, I recommend policies for minimizing harm to fishers and the civilian populations that rely on them, in addition to establishing more robust accountability mechanisms for the responsible parties.
Identifying Patterns of Harm

How do China’s irregular warfare tactics in the South China Sea affect civilians in the region? This question engenders a multitude of answers—each civilian has experienced China’s irregular warfare tactics differently at various points in time. While it is impossible to capture every civilian experience, several consistent patterns of harm can be observed in the literature and local reporting that capture, broadly, some of the conflict’s most pervasive effects on civilians.

I propose a conceptual framework to explain the process by which two patterns of harm transpire from China’s irregular warfare tactics in the SCS. The two interrelated patterns of harm explained by this framework are (1) violence and harassment against civilian fishers and (2) the stifling of civilian livelihoods. Figure 1 presents a stylized depiction of the framework, showing how the second pattern of harm (stifled livelihoods) emerges as a result of the first (violence and harassment). The two succeeding sections discuss the two interlocking patterns of harm in greater detail.

When considering the deterioration of livelihoods, it is important to acknowledge the counterfactual wherein China does not use irregular warfare tactics in the SCS. Even in such circumstances, illegal fishing and overfishing would likely still plague these waters. Indeed, overfishing and illegal fishing are global phenomena, including in regions where there is no reported Chinese presence. In addition to exploitative fishing, climate change also contributes to the degradation of the health and abundance of fish stocks. Thus, this framework does not suggest that China’s irregular warfare tactics are the sole cause of civilian harm associated with fish stock scarcity in the SCS. Instead, this framework suggests that China’s gray zone activities compound fish scarcity by placing civilians in the middle of the conflict against armed maritime militia vessels. A Filipino fisher describes his on-the-ground experience facing the overwhelming force of China’s maritime militia by asking: “What can small fishermen like us do?... We can complain all we want, but the enemy is powerful, so we try to survive another day and just fish.”

This power asymmetry gives civilian fishers less bargaining power to enforce their rights (i.e., their fishing rights as defined in UNCLOS and national legislation along with their human rights) and provide...
vital resources for their communities in an already scarce environment. There have been attempts by regional governments to better regulate fishing in their own waters, but fishers and enforcement officials have little power in upholding these regulations in the face of China’s maritime militia. Thus, this framework suggests that China accelerates the scarcity problem—and thus exacerbates the degradation of livelihoods—by leveraging asymmetric irregular warfare tactics in the SCS.

Pattern One: Violence and Harassment

The process described by the framework begins with an ambiguous assertion of territorial control by the People’s Republic of China (PRC) (Step 1). The PRC expresses these assertions either at a strategic level through policy changes or at a tactical level in-theater. One example of this stage of the framework is the PRC’s announcement of its nine-dash line in 2009. That the PRC drew dashes instead of contiguous border points to its intentionally ambiguous strategy. It is not clear whether the “line” conveys China’s conceptualization of its sovereign maritime rights to fishing and other natural resources, or if it depicts absolute Chinese sovereignty and domestic jurisdiction over the maritime area. Some Chinese legal scholars have argued that the nine-dash line reflects Chinese sovereignty, but the PRC has never stated so explicitly. In response to a 2016 Arbitral Tribunal case at The Hague that disputed China’s claims to “historic rights” in the SCS, the PRC rejected the Tribunal’s jurisdiction over the case without addressing its substance. Even after the Tribunal’s ruling officially rejected China’s claims, the PRC denounced the ruling without providing a precise definition of its claims to counter the verdict. By leaving territorial claims open to further interpretation, the PRC gave itself latitude to adjust its claims as needed.

The PRC’s maritime militia fleets serve as another example of the PRC’s equivocal territorial assertions. The PRC has built a large portion of its militia by providing subsidies for commercial fishing vessels to fish in “specially designated waters,” in support of political objectives. The commercial nature of the militia allows the PRC to expand the PRC’s physical presence without officially involving its armed forces. China first deployed its fishing militias in support of the 1974 operation to seize the western Paracel Islands in the SCS from Vietnam. China also urged vessels to maintain a presence around the Spratly Islands beginning in the 1980s, with Chinese fishing activities around Scarborough Shoal increasing substantially in the late 1990s. Since the early 2000s, the PRC has deployed the fishing militia to support a variety of operations such as harassing oil and gas operations in other claimants’ waters, helping “protect” Chinese oil rigs in disputed waters, congregating around Chinese land reclamation projects, and seizing maritime features (most notably, Scarborough Shoal from the Philippines in 2012). That these vessels are neither entirely civilian nor military in character underscores the ambiguity of their legal status and purpose as the vessels approach contested areas.

Once the PRC has made an ambiguous claim to new territory, a set of vague and untested rules emerges (Step 2). In contrast to a conventional military victory, there are no clear winners nor losers when the Chinese maritime militia patrols new regions of the Sea—nor is there a formal, public declaration of control. Similarly, given its equivocal borders, the

** For an example of management attempts, see the Government of the Philippines’ Fisheries Management Areas administered by the Bureau of Fisheries and Aquatic Resources
nine-dash line does not send clear signals on where fishers can expect to face confrontation from PRC-supported vessels. At this stage of the framework, fishers continue to traverse the seas.† Faced with new, but loosely defined rules, some vessels cross into territory the PRC views as its own (Step 3). Once fishers begin testing these new rules, the first pattern of harm emerges: Chinese vessels increase violence and harassment against counter-claimant vessels (Step 4). A June 2019 ship-ramming incident illustrates this stage of the framework. At Reed Bank in the Spratlys, a Chinese fishing boat struck a Philippine fishing boat and promptly sailed away with its signal lights off as the Philippine ship sank and its crew struggled to stay afloat. This occurred shortly after China had built up a presence of over two hundred suspected militia vessels around nearby Thitu Island.16

In addition to ship ramming, the Chinese maritime militia has used tactics such as swarming, water cannon attacks, and dangerous maneuvering to repel counter-claimants’ vessels in the Spratly Islands. In 2014, for example, Filipino fishers described being attacked with water cannons as they tried to approach Scarborough Shoal.17 In 2021, hundreds of militia vessels swarmed around Whitsun Reef and Thitu Island (again) with the alleged purpose of intimidating Filipino and Vietnamese fishers.18 In 2022, the militia pushed deep into the Philippines’ EEZ as vessels swarmed Sabina Shoal and the allegedly oil-rich Iroquois Reef.19

The militia has also used irregular tactics to assert the PRC’s control in the SCS’s Paracel Islands. In 2014, Chinese militia vessels supported operations to place an oil rig south of the Paracels. The militia encircled the rig and would attack Vietnamese ships with water cannons and ship ramming when they approached.20 More recently, in March 2019, a Chinese vessel rammed and capsized a Vietnamese fishing boat near Discovery Reef.21

There have been many other documented cases wherein the maritime militia or the Chinese coast guard harass counter-claimant vessels traversing areas of the Sea that the PRC views as its own.22 However, it is important to consider that many “warning shot” harassment cases may go unreported if they do not escalate to or involve physical violence. These cases are nonetheless meaningful when measuring civilian harm given (1) the potential psychological effects of intimidation and (2) these cases’ effects on civilian livelihoods, as I discuss in the succeeding section.

Additionally, some cases may go unreported given the incentives that government officials in counter-claimant states might have to appease the PRC by suppressing media coverage of Chinese harassment. Philippine President Rodrigo Duterte—a leader known for warming ties with China—downplayed China’s role in the Reed Bank incident, dismissing it as “a little maritime accident.”23 Given the Duterte administration’s broader reputation for being hostile to journalists who went against the government’s message, it is likely that many journalists refrained from reporting on other incidents during his tenure.24 Additionally, Vietnamese fishing vessels and the government in Hanoi have reportedly kept the media from reporting on cases of Chinese harassment and ship ramming in the interest of smoothing bilateral ties with

† In some cases, counter-claimant states’ coast guard vessels test the PRC’s new rules instead of civilian vessels. While coast guard vessels may similarly face harassment by Chinese vessels, given the scope of this paper, we focus on incidents involving civilian vessels. However, it should be noted that even when other coast guard vessels face harassment or violence from Chinese coast guard or militia vessels, the “new rules” may similarly harden, which can have the same long-term result for civilians: the stifling of their livelihoods.
China. Many Indonesian officials have also been wary of reporting incursions of Chinese vessels in their waters, recognizing the need to appease their largest trading partner. Given China’s leverage over counter-claimant states, the effect of harassment and violence against civilians is unlikely to be captured in full by public information sources. These political dynamics ultimately further China’s irregular tactics by obscuring information about the causes and outcomes of harassment. Without reporting, information about these “below the threshold” incidents that happen far out at sea may not reach the general population.

**Pattern Two: Stifled Livelihoods**

After one or several such incidents unfold in a particular region in the SCS, the PRC’s new rules for the area are clarified (Step 5). With a better understanding of the rules and consequences of crossing into PRC-controlled territory, commercial fishers from the counter-claimant states avoid traversing the area. The framework now considers rules “hardened” and fishers begin adapting to the new status quo. This period is associated with a reduction in violence and harassment given that commercial fishers adjust their patterns of life to avoid confrontation with the Chinese coast guard (Step 6).

The PRC’s recent imposition of a recurring fishing ban during the summer season in a large portion of the SCS and the reaction from local fishers illustrates this stage of the framework. This ban was ambiguous given that under international law, China lacked the authority to impose it—the territory in question fell inside the Philippines’ exclusive economic zone (EEZ). The government of the Philippines advised its fishers to disregard the PRC’s ban, but fishers have reported that they have no choice but to obey due to the heavy presence of Chinese vessels in the region. Fishers reported diverting to other areas that lacked a presence of Chinese vessels but also lacked abundant fish. Fishers also report being fearful of fishing in Scarborough Shoal after the Philippine government similarly stated that China’s fishing ban there should be disregarded.

Indonesian fishers have also reported diverting from the Natuna Islands, which fall within Indonesia’s EEZ in the southernmost portion of the South China Sea due to the illegal presence of Chinese fishing vessels closely followed by Chinese coast guard vessels. Vietnamese fishers have similarly been “chased away” by Chinese fishing vessels several times larger than their small wooden boats and flanked by Chinese coast guard vessels.

Adaptation by fishers to the new rules gives rise to the second pattern of harm identified by this framework: the stifling of civilian livelihoods (Step 7). Under the new rules, fishers no longer access the fish stocks that they used to, including some within their country’s EEZ. Especially where the new rules prohibit access within an EEZ, a country’s finite resource pool has categorically shrunk, thereby limiting the available catch and stifling fishers’ income.

The loss of income can be observed across counter-claimant states. Philippine fishers from towns nearby Scarborough Shoal report having lost approximately 70% of their income due to China’s burgeoning

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1 The fishing ban is imposed in the SCS waters north of the 12 degrees north latitude line; see “Vietnam Protests as China Declares Annual South China Sea Fishing Ban.”
2 For example, Scarborough Shoal was seized by China in 2012, in spite of the fact that the shoal falls within 200 nautical miles of the Philippine Island Luzon, meaning it falls within The Philippines’ EEZ under international law.
In many coastal communities in Western Luzon, fishing has long been the dominant industry and there are few alternative employment opportunities for displaced fishers. As such, the impact of Scarborough Shoal’s closure has had devastating impacts on Filipino families; some fishers’ spouses and children have been forced to adapt by seeking employment overseas as domestic laborers. In Vietnam, some provincial governments provided loans for fishers to build steel-hulled ships for offshore fishing given the depletion of coastal fish stocks. However, many have struggled to pay back their loans given the inability to make a profit further out at sea due to harassment and overfishing by Chinese vessels. In Quang Ngai province, 80 percent of steel-hulled ships built through the loan program went bankrupt as of 2022. Anecdotal evidence also suggests that Indonesian fishers in the Natunas have experienced staggering drops in their catch as a result of the growing Chinese presence there. In sum, China’s irregular warfare tactics effectively function as an exogenous negative supply shock to the market, which limits the supply of fish available for fishers to catch and sell. The shock seems to have a devastating economic effect on fishers and their families. However, it is important to recognize the full extent of damage is unknown because of the dearth of data collection in remote coastal regions.

The denial of access to fish stocks compounds an already competitive fishing market in the region; as early as 2012, the majority of stocks in SCS-adjacent countries had been overfished. While all claimants bear some responsibility for declining fish stocks, China has the largest commercial fishing fleet in the world by far and Chinese vessels account for the preponderance of illegal, unreported, and unregulated fishing in the region. Ground-level accounts confirm the pervasiveness of Chinese overfishing; Philippine fishers along the Luzon coast report that overfishing by Chinese boats in their waters has led to a steep drop in their catch. Furthermore, demand for fish stocks in the region has been proven to rise as supply falls and thus the denial of access to fish stocks by Chinese militia and coast guard fleets exacerbates overfishing by all players in the region—not just China. This exogenous shock to overfishing further stifles livelihoods in the long term given its effects on future income. The shock compounds overfishing trends that pre-dated China’s use of irregular warfare tactics and thus requires an upward modification of existing projections for the loss of future income resulting from overfishing.

Independent of supply issues and lost future income, the denial of access to fish stocks by Chinese vessels can also drive up the price of fish due to higher input costs for fishing. If the new rules require fishers to travel further or along less direct paths to access fish stocks, the marginal cost of each fish increases. This is because fishers spend more time, labor, and fuel accessing the harder-to-reach stocks. Additionally, if stocks have been overfished by an overwhelming presence of fishing militia vessels, the stocks will be less dense and fishers must therefore exert more effort to find and catch each fish. Eventually, the higher cost of doing business may be passed onto consumers, thereby raising consumer prices for a staple protein for many regional

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See Gutierrez, who writes, “A survey by Pamalakaya, a group that fights for fishermen’s rights, estimates that fishermen from Masinloc and nearby towns have lost about 70 percent of their income because they no longer have access to Scarborough Shoal.”
The scarcity and higher costs of fish contribute to a burgeoning food insecurity problem that already affects many of the poorest and most vulnerable communities of the region.\(^{43}\)

Exacerbating the direct effects on fishers’ livelihoods and the elevated price of protein, the negative supply shock (and corresponding increase in fishing competition) triggers additional cascading effects on civilian security. In particular, some fishing enterprises in the region have turned to child labor and coercive labor practices to cut input costs and adjust to the higher marginal cost of production in the fishing market. For example, Vietnam’s fishing industry has relied on child labor as fishers’ catch has dropped as a result of heightened competition for fish.\(^{44}\)

Additionally, some Vietnamese fishers are now paid according to the quantity of their catch, which has amounted to unlivable wages due to the depletion of fish stocks. Given these circumstances, vessel owners have begun lending fishers money to support their families, thereby entrapping fishers into debt bondage,\(^{45}\) which is a known indicator of forced labor.\(^{46}\)

Additionally, China’s irregular tactics force small-scale fishers to traverse dangerous waters due to restricted access to fish stocks. When fishers cannot access their stocks due to Chinese militia vessels denying access or fishing exploitatively, they may adapt by pursuing harder-to-reach stocks. Although specific cases in the South China Sea are difficult to confirm given data limitations associated with small-scale fishing, fishers have reported traveling further out as their access to fish declines closer to coastlines.\(^{47}\) A well-documented case in the waters between North Korea, South Korea, Japan, and Russia illustrates the types of harm that may also occur in the SCS as a result of heightened economic competition and restricted access to fish stocks.\(^{48}\) A fleet of fishing vessels owned and operated by Chinese interests has expanded its presence in North Korean waters to exploit squid stocks. Evidence from satellite data and qualitative local knowledge confirms that, as a result of displacement by the Chinese vessels, small-scale wooden North Korean vessels began fishing illegally in Russian waters. These artisanal North Korean boats are severely underequipped for the long journey to Russian waters; between 2014 and 2018, 505 North Korean boats washed ashore on Japanese coasts.\(^{49}\) Local Japanese media reports confirm that these incidents frequently caused starvation and deaths. As a result, many fishing villages on the eastern coast of North Korea are now deemed widows’ villages. The dangers of long-distance travel for small-scale fishers have been well-documented on a global scale.\(^{50}\) As fishers from counter-claimant states adapt to the PRC’s irregular tactics, they may similarly suffer lethal consequences.

### Implications of the Framework

This framework captures two patterns of civilian harm by tracing the arch through which the PRC’s irregular warfare tactics influence fishers’ patterns of life. While this framework does not explain all

\(^{44}\) Some may argue that in such scenarios, government subsidies are an easy fix for maintaining a low consumer price. While government subsidies may temporarily stabilize fish prices, many kinds of fishing subsidies have been proven to reduce overall economic welfare (see Sakai, Yagi, and Sumaila, “Fishery Subsidies.” pp. 444-445)

On the centrality of fish to the local diet, see, for example, see p. 58 in Department of Science and Technology – Food and Nutrition Research Institute, “Philippine Nutrition Facts and Figures,” which finds that of 2019, seafood accounts for 42.2% of total animal protein intake in the Philippines. This statistic has declined over time as consumers have had to adapt to scarcer catches
incidents of civilian harm caused by the PRC in the SCS—and while some of the PRC’s irregular warfare tactics may not directly harm civilians—this framework can help clarify how civilian harm in irregular conflict tends to differ from that of conventional conflict. By acknowledging these unique patterns of harm, policymakers can better understand how civilians experience the conflict and thus better address their grievances and prevent future harm.

The number of casualties caused by China’s irregular warfare tactics in the SCS is far fewer than what we would expect to see if China used conventional force to clear the Sea of non-Chinese vessels. Instead, per the framework, Chinese gray zone operations cause a limited number of violence and harassment incidents in a particular region, followed by a reduction in violence due to China’s asymmetric power over counter-claimants’ commercial fishers.

Unlike brute force—which would cause immediate and tangible harm to civilians—the PRC’s irregular warfare tactics degrade civilians’ security and livelihoods through more elusive and gradual means. The erosion of civilian livelihoods occurs over the course of many years. The effects on civilians are difficult to measure; they cannot be fully captured through conventional methods such as counting civilian casualties or assessing damage to civilian infrastructure.

Furthermore, there are significant limitations to data sources that could, in theory, help trace the causal impact of the PRC’s irregular warfare tactics on civilian livelihoods and security. First, catch statistics are severely underreported throughout the region, making it hard to identify the relative gains and losses of different populations. Additionally, there are limitations to remote sensing technology that could be used to measure changes in the behavior of civilian vessels in response to China’s maritime militia presence. Given the subtle nature of civilian harm and the limitations of the available data, it is difficult to know the full extent of damage suffered by civilians in this irregular conflict.

The subtle nature of harm endured by civilians also makes it difficult to empirically prove the attribution of civilian harm to the PRC. While qualitative analysis of China’s strategy and intent make clear that its irregular warfare tactics dramatically alter civilian fishers’ and consumers’ patterns of life, it is hard to isolate the effects on civilians caused specifically by China. China is not the only country that exploits fisheries in the region, and thus not all of the scarcity issues and related security

‡‡ See Sumaila and W.L. Cheung pp. 3-4, which explains, “Incorporating estimated unreported catches would increase total catches to 16.6 million t in 2010; overall, estimated unreported catches from the SCS averaged about 8.1 million annually from 2000-2010.” In other words, “unreported catches would increase total catches statistics by nearly 70%”

§§ For an analysis of how China’s irregular warfare tactics are part of a larger strategy to guarantee China’s exclusive access to resources in the SCS, see Martinson, “Catching Sovereignty Fish.” Also see Chubb, who claims that as of 2007, the PRC adopted, “new domestic legal-administrative structures, organizational systems, and maritime law enforcement capabilities designed to extend wide-ranging state administrative authority over the maritime spaces around China’s periphery.” Also see Grossman and Ma, “A Short History of China’s Fishing Militia,” which explains how the maritime militia establishes a de facto Chinese operating presence in disputed areas, effectively changing the facts to challenge counter-claimants’ ability to maintain control over disputed features. They argue China’s strategy is to, “‘win without fighting’ by overwhelming the adversary with swarms of fishing vessels usually bolstered from the rear together with the China Coast Guard (CCG), and possibly PLAN ships, depending on the contingency, in escalatory concentric rings.”
Opposing forces may therefore struggle to build a case against China for its specific impact on civilian livelihoods and security. Although all signs point to the PRC’s irregular warfare tactics as a leading cause of overfishing and damage to civilian livelihoods, China has strategically deployed these tactics in an equivocal manner to evade accountability.

**Recommendations**

The framework herein describes patterns of civilian harm that are new and unfamiliar to policymakers and implementers accustomed to working within the construct of conventional conflicts. Typical methods for civilian harm prevention, attribution, and accountability are unlikely to be effective in this context. This section, therefore, describes policy recommendations that will help facilitate two important outcomes: prevention and mitigation of civilian harm and stronger accountability for the relevant parties.

*Establish and Exercise Coast Guard SOPs for Testing New Rules*

To prevent more confrontations that could harm civilians, the counter-claimant states should establish standard operating procedures (SOPs) for coast guard vessels to test “new rules” after new ambiguous assertions of territory by China. These SOPs should establish processes for coast guards to respond to civilian reports of suspicious PRC activity. These SOPs should be designed such that coast guard operations are merely testing the waters, not provoking conflict with militia vessels. These procedures can help pass the burden of the “test” from civilian vessels to coast guard vessels that are better equipped to defend themselves in the face of harassment or violence.

In areas where counter-claimants’ EEZs overlap, the relevant parties should write joint SOPs for testing China’s new claims. Concerned international partners such as the United States can facilitate workshops to help counter-claimant states write these SOPs intending to foster greater collaboration among them. The counter-claimant states should also jointly exercise this capability to ensure a smooth and collaborative response to reports of new territorial assertions by China. These exercises will improve counter-claimant states’ coordination capacity in addition to presenting a united front to China.

There are two major implementation barriers to consider with regard to this recommendation: (1) the will of claimant states to participate and (2) China’s reaction to the exercises and eventual operations. It is possible that China will perceive the exercises as escalatory and as such, counter-claimant states may be shy to participate. Given these dynamics, counter-claimants should be mindful of the public messaging they use when drafting, exercising, and implementing the SOPs. Counter-claimants should emphasize the humanitarian nature of the activity and ensure the exercises are not co-opted by other interests.

*Establish Independent Claims Commission for Victims of Harassment and Violence at Sea*

To fully capture the extent of harassment and violence experienced by fishers in the SCS, it is critical to establish better monitoring and documentation of civilian harm. Local NGOs and fishers’ advocacy organizations should therefore

*** While illegal, unreported, and unregulated (IUU) fishing is difficult to track, there is evidence that other claimants’ fleets have engaged in IUU fishing. For a case of IUU concealment by Malaysia, for example, see Sumaila p. 9
collaborate to establish an independent commission to which fishers can report incidents of harassment and violence at sea. This commission must maintain independence from the regional governments so that fishers do not fear retributive action for reporting incidents that may strain their country’s relations with China.

This commission should share anonymized data on the incidents with the public. This information will help policymakers, scholars, and fishers better understand the threat China poses. This data can provide further insights into where China’s maritime militia has the strongest effect. These insights can be merged with remote sensing data and economic data to corroborate the impact of militia presence on variables such as fish prices and nutrition in nearby regions. The synthesis of this information can also be used to help predict the most dangerous and likely scenarios for fishers, thus providing an opportunity for policymakers and fishers to develop better security and self-protection measures.

The establishment of the commission also provides an opportunity for involvement by countries interested in facilitating greater transparency in the SCS. NGOs should solicit funding for the commission from governments concerned with security in the region. The United States and other nations may wish to fund this effort as a means of promoting a rules-based order in the SCS without directly involving themselves in an escalatory manner.

Increase Awareness Among Fishers of Their Rights

Fishers are among the poorest and most vulnerable populations in many counter-claimant states. With limited access to education, many fishers may not understand their rights at sea. Further, local governments’ suppression of reporting about violence against fishers may further convolute fishers’ understanding of their rights.

It is critical that fishers have a clear understanding of their rights so they can better advocate for their own needs. If fishers understand their rights, they will be more capable of reporting suspicious activity at sea to the relevant authorities in their government. Greater awareness is also necessary for a claims commission to succeed as a data-gathering mechanism. If fishers are unaware of their rights, they will be unable to report violations.

NGOs and local advocacy organizations should work directly with fishing communities to increase awareness. This awareness campaign should include training on how to spot early signs of illegal territorial assertions and illegal fishing. Training should also provide fishers with information on how to report territorial violations to government authorities and information on reporting harassment and violence to the claims commission.

Similar to the previous recommendations, this awareness campaign should be supported by international partners with interests in maintaining security and a rules-based order in the SCS. This provides another opportunity for the United States and other concerned governments to advance their interests and support local voices in the region without directly confronting China.

Conclusion

The conflict in the SCS serves as one case among a growing body of cases that illustrate new patterns of civilian harm present in irregular and gray zone conflict. For policymakers to be effective in protecting civilians in these environments, it is critical that they understand how patterns
of harm manifest uniquely in each irregular conflict. Addressing civilian harm in the SCS can be a unifying issue for counter-claimant states, as it can help illuminate the common struggle they share. Additionally, by establishing more robust mechanisms to monitor and address civilian harm, counter-claimant states will have more evidence that can be used to hold the PRC to account. Finally, many efforts to improve monitoring and responses to civilian harm provide opportunities for global support. Global involvement in this issue can help give greater attention and resources to the protection of civilians, while simultaneously imposing reputational costs on the PRC.

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4. The term, “counter-claimant states” refers to the governments of Brunei, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam.
13. 台山政府网 [Taishan Government Network], “台山市海洋与渔业局召开广海镇特定水域渔船管理工作会议 [Taishan Ocean and Fisheries Bureau Holds Meeting on the Management of Guanghai Town Special-Waters Fishing Vessels].”
15. Ibid, pp. 3-11


24 RAPPLER, “China Chases Indonesia’s Fishing Fleets, Staking Claim to Sea’s Riches.”


26 Ibid.


29 ibid.


31 Beech and Suhartono, “China Chases Indonesia’s Fishing Fleets, Staking Claim to Sea’s Riches.”

32 Whaley, “A Leviathan Turns Philippine Fishermen Into Desperate Darters.”


38 Gutierrez, “Overwhelmed by Chinese Fleets, Filipino Fishermen ‘Protest and Adapt.’”

39 Sumaila and W. L. Cheung, “Boom or Bust: The Future of Fish in the South China Sea,” p. 9

40 For current projections, see ibid, p. 7


42 Ibid


45 Ibid pp. 24-25


47 Basu, “In Deep Water.” p.6


49 Ibid (see “Supplementary Materials”)
