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The Risks of Playing a Maritime Game of Chicken

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SYNOPSIS

Beyond rules and codes, it is vital that nations with stakes in contested seas keep channels of communications open.

COMMENTARY

The South and East China Seas are potentially perilous places to be. On top of the "normal" threats in the form of navigational accidents and a whole raft of criminal activities ranging from piracy to drugs and people smuggling, this part of the Western Pacific is an arena for rising competition between great states, and between lesser ones too.

The raised level of competition and confrontation makes it much more difficult for the world's maritime community to respond effectively to all these "normal" threats; this in turn has an adverse impact on not just safety and security at sea but also the smooth flow of seaborne trade, with damaging spill over economic effects.

Nearly every day, there is the chance that some planned or unplanned encounter will result in an incident that will escalate into a conflict that no one wants but which damages everyone.

These disputes, especially amongst the great powers, operate at two levels.

The first level comprises the specific points at issue. In the South China Sea and East China Sea these are largely to do with questions of jurisdiction. Who owns what, in terms of sea features and areas, and what does that ownership entitle them to?

China's claim to much of the South China Sea is contested by other states in Southeast Asia. What that claim entitles them to do by way, for example, of regulating

the passage of foreign warships is challenged by the United States, and other maritime states, with their much-publicised freedom of navigation exercises. Most of this applies to the East China Sea, as well.

The second level of maritime contestation, however, is even more serious. It is especially evident in tense relations between China, the United States and other countries over the present and future status of Taiwan. Here the issue is not so much over jurisdiction since this is generally recognised as an acutely sensitive matter that should be left to Beijing and Taipei to sort out.

What is at stake, though, is how that issue is managed and perhaps one day resolved. Here the possible resort to military force is the major issue. In itself, the willingness to attack people and their armed forces in order to change 'the facts on the ground' threatens the basic fabric and integrity of the international community on which the world's peace and prosperity ultimately depend. It violates the cooperative principles on which a free and open Indo-Pacific is based.

Both in the South and East China Seas, and in the Taiwan Strait too, there is much more at stake than who owns what islands or areas of ocean, important though that is. The future of the whole world order, even its survival, may be shaped by the way such disputes are handled.

For this reason and partly because the course, risks and costs of the resort to lethal force are so hard to predict, as the Ukraine war has shown, the contestants are rightly wary of outright conflict. But all the same, they feel they cannot abandon what they think are their vital interests and so increasingly are willing to resort to the coercive, often intimidatory use of force that falls short of killing people and blowing up things. Because human beings are fallible and things can go wrong, this will frequently become a hazardous competition in risk-taking.

Is there a way to prevent this international game of chicken from ending in conflict?

One common device is for the contestants to observe constraints on modes of maritime behaviour when in proximity. This can be explicit, such as observing the constraints of maritime law, or sticking to internationally agreed safety regulations from the International Maritime Organisation, or the Code for Unplanned Encounters at Sea (CUES) agreed by the Western Pacific Maritime Symposium in 2014.

It can also be tacit, like the unwritten understanding observed until recently that neither side would engage in confrontational encounters on the other side of the median line between Taiwan and the mainland. Another safety net is to set up and maintain some kind of hot-line between the contestants so that a lid can be kept on incidents as they occur.

It's when one side or the other – or both – feels sufficiently strongly about the issue that divides them and those agreements are broken, deliberately or inadvertently, that things get really dangerous. For that reason, North Korea's suspension of routine daily telephone exchanges with Seoul in some ways is more worrying than its missile launches.

Maintaining communication between the contestants is vital because it offers the hope of more controlled behaviour. You can only respond effectively to someone else's point of view if you know what it is and, on that basis find some kind of limited accommodation. Even the Russians and the Ukrainians in the midst of a vicious war have found it possible to arrange pragmatic prisoner exchanges, beneficial to both.

Developing a holistic approach to maritime security and getting away from the 'siloed' decision-making that still bedevils so much of the effort to enforce it, is critical, not least because it reinforces the basic point that the contestants are likely to have interests in common as well as ones that divide them.

That makes the exchange of points of view about modes of behaviour, best practice and comparisons of experience between the heads of navies, coastguards, industry representatives and government agencies at gatherings such as the International Maritime Security Conference so valuable. Shakespeare once said "our fortunes are all at sea"; so, we should all wish the gathering the maximum success.

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