

China's Aggressive Advance into the Sea

China is currently proceeding with active maritime expansion backed by its economic and military power. The Chinese government is attempting to strengthen effective control while repeating low intensity threats that do not lead to military escalation. These Chinese actions are called "the salami-slicing strategy" and "creeping expansion", etc., causing friction with neighboring countries.

In this China maritime policy, what is heightening its presence is the Chinese maritime militia. Xi Jinping in April 2013, immediately after assuming the highest position in the party, state and military, visited the maritime militia in Tanmen, Hainan province. Three months later, in July, a new maritime militia organization was formed in Sansha City, which has jurisdiction over the South China Sea, and in recent years many conflicts have occurred in the disputed waters of the South China Sea in which maritime militia organizations were allegedly involved. While the presence of maritime militia is increasing, the structure and operation of the organization still remains enigmatic.

In this paper, I will try to examine what roles maritime militia organizations play in China's maritime policy, what problems might arise, and what political measure is required through an analysis of the relationship between maritime militia organizational structure, law enforcement agencies and military institutions.

A Complexly Structured Maritime Militia

What kind of organization is the marine militia? The first thing which should be confirmed is a chain of command system. To the extent that it is an organization, not merely a fishermen's get-together, there should be a chain of command system.

According to China's "Regulations on Militia Work", it is stipulated that "The militia is a mass

armed organization that is not divorced from production under the leadership of the Chinese Communist Party, an integral part of the armed forces of the People's Republic of China, and an assistant and reserve force of the Chinese People's Liberation Army." (Article 2). In addition, Article 5 states "Under the leadership of the State Council and the Central Military Commission, militia work is supervised by the General Staff Department of the Chinese People's Liberation Army (Note: the Defense Mobilization Department since military reform)", "the Provincial military district, the military district, and the provincial people's armed department (A government agency in charge of the mobilization of militias placed at the sub-provincial base-level of government) are military command institutions in each area and are responsible for militia operations in that area. "Militia" reminds us of a wide range of armed groups such as guerrillas, partisans, volunteers, private soldiers, and military cliques, but as seen in the above provisions, the Chinese militia is an official armed organization that receives command orders from both the government and the military as a subsidiary agency of the People's Liberation Army.

In addition, a party organization has been established inside the maritime militia, to relay the wishes of the Chinese Communist Party. For example, in Wenzhou Yueqing City, a senior official of the city's health department, who is a member of the Chinese Communist Party, is also concurrently serving as a leader of a small group in the maritime militia emergency relief division of the area, and four CCP members belong to the party small group. This is probably because the Communist Party and government officials, by taking the leadership of the maritime militia, are tasked with the transfer of the orders from the party, military, coast guard and other law enforcement agencies to the rank and file of the fishermen through the party organization. That is to say, the maritime militia is institution with party organization which not only receives commands

and orders from both the military and the government but also communicate them internally.

Furthermore, in order to systematically provide guidance to each fishing boat, there are multiple command systems by function. The maritime militia has function-specific divisions such as a reconnaissance division, an emergency relief division, a maritime support division, etc., and respective roles are allocated to them. Also, some military officials propose to establish multi-layered units in each organization such as Division (营) → Company (连) → Platoon (排) → Squad (班) (An upper echelon unit consists of 3 to 5 lower echelon units. A squad is one ship).

In addition, many Chinese fishermen who participate in the maritime militia are employed by fishery related corporations (including fishing, food processing, ship building and port construction). Therefore, it is likely that these corporations manage fishermen by recruiting, mobilizing and providing fishing boat equipment and compensation. Because of this kind of complex organizational structure, the maritime militia organization is not just a gathering of fishermen, but is made up of human resources of various backgrounds including fishery food processors, shipbuilders, port construction workers, and even more medical personnel, local government and the CCP officials.

Given this situation, it can be said that the maritime militia usually engages in fishery related industries, but also, as needed, is a paramilitary organization involved in various activities safeguarding Chinese maritime interests while systematically receiving orders from the military and the government.

Maritime Militia Tasked with Various Roles

Then, what roles is the maritime militia tasked with? In recent years, People's Liberation Army officials have made various proposals concerning the organization of the maritime militia. It is hard to believe that the maritime militia is operated just as they proposed, but at least we can infer roles that the organization may play.

Certain military officials propose the following three major roles regarding the activities of the maritime militia

(1) Support for the People's Liberation Army:
(a) Participation in intelligence operations including diversionary operation, (b) Transportation of military supplies, (c) Medical and equipment support for the military, (d) Cooperation with defense operations

(2) Cooperation with law enforcement agencies:
(e) Maritime interest protection activities through fishing operation in disputed waters, (f) Sabotage

and information gathering on foreign science research ships, reconnaissance ships and fishing boats of other countries

(3) Own maritime interest protection activities:
(g) Daily fishing activities, surveillance activities and information gathering on suspicious ships in disputed waters, (h) Maritime interest protection duty in wartime

As a feature of the above, what we can point out first is that diversified cooperative duties with both the government and the military can be assumed. However, in actual operations, the chain of command and cooperation become much more complex because varied agencies join the activities. For example, another military official proposes how the maritime militia should cooperate with the other agencies in respective activities as follows.

When the maritime militia:

(1) independently carries out maritime information investigation and reconnaissance alerts, a provincial military district is in charge.

(2) joins emergency relief efforts, a maritime search organization (this seems to be the China Coast Guard) or a local government leads and a provincial military district system also takes part.

(3) carries out maritime interest protection activities, a provincial military district system systematically is in charge in cooperation with local relevant departments under the guidance of a local party committee and government.

(4) cooperates with maritime law enforcement, the Coast Guard department is in charge and the provincial military district cooperates under the unified guidance of a local party committee and government,

(5) assists naval activities, it is under the unified command of the navy with the cooperation of the provincial military district system.

Of course, maritime militia is still in the process of institutionalization. Therefore, the organizational structures and cooperation systems are likely to have various forms by each region, and we should not expect that they will assume roles exactly as expected. On the other hand, it is necessary to remark on the fact that local government and military agencies actively carry out various capability assistance in order for maritime militia to take responsibility for such duties and its ability is steadily increasing. The Chinese Government has already provided more than 40,000 Chinese fishing vessels with Beidou Satellite Positioning System and also Hainan province and Sansha city have set up maritime militia military outposts on the islands in South China Sea, which are examples of enhancing

information sharing system between the maritime militia, law enhancement agencies such as the Coast Guard and the Navy.

Furthermore, local governments attempt to expand their presence in the open sea by compensating maritime militia for the expenses of vessel repair, fuel and even moving to remote islands. For example, according to the Hong Kong newspaper, “The Hong Kong Economic Journal”, Sansha city, Hainan province decided to invest 280 million yuan to support fishermen to live in an island and do business, where people who live in the Paracel islands for no less than 180 days are paid 35 – 45 yuan/ day for a “residence allowance”, and people who live in the Spratly islands are paid 80 yuan/ day after completing 150 days or more. Considering that the average wage per day of a person engaging in agriculture, forestry, stock farming or fishery who works in urban private enterprises is about 80 yuan in 2015 (calculated based on estimates by the China National Bureau of Statistics), this kind of residence allowance would be a certain incentive as extra income for a fisherman.

As for relations with the Navy, various drills and exercises such as rescue, reconnaissance, logistical support including live-ammunition exercises regularly take place to enhance the command order system for the maritime militia mainly in the off season for fishing.

Problems Related to the Operation of the Maritime Militia

The presence of the maritime militia seems to continue to increase with the above mentioned human resource, equipment, funds and training provided by the government and the military. However, it is necessary to pay attention to issues accompanying the operation of maritime militia.

First is the degree of the command order system and organization of the maritime militia. It is apparent that the Chinese government is attempting to enhance its effective control by supporting fishing boat operations in disputed waters and strengthening systematic management. Actually, the China Coast Guard or Chinese naval vessels reportedly often on standby behind Chinese fishing boats operating on the waters in the vicinity of the Scarborough Reef where China has a dispute with Philippine and the Natuna Islands in Indonesia. The problem here is that, because the agency from which the maritime militia receives orders varies according to situation, a miscalculation in its response may result in unintentional tension. It can be pointed out as a trend that a primary role in peacetime is to cooperate with the Coast Guard or local governments but the greater the intensity of a crisis, the stronger the command from the Navy will be.

On the other hand, we have to point out the issue of the systematization of the maritime militia. According to the investigation publicized in 2015, 46% of the maritime militia members were only after a political position that come with the status of militia, but neither understood their duties and missions as maritime militia, nor fulfilled them. That is to say, with regard to the behavior of the maritime militia, it is not fair to understand that they are all performed under orders from the government or the military. In this way, it can be said that the degree of command and organization is loose while they have a flexible command order system enhancing cooperation with law enhancement agencies in peacetime and with the military agencies in wartime.

The second issue is the legal status of the maritime militia. When Xi Jinping paid a visit to the maritime militia in Tanmen, Hainan province, it was reported that he described them as “people and also soldiers”. Utilizing such a special status and overwhelming equipment, the maritime militia can intimidate fishermen of other counties and shrink their fishing operation. In this sense, a fishing vessel which belongs to the maritime militia cannot be treated the same as a general fishing boat. However, a problem is how they should be differentiated. Under international law, when someone performs as a militia, it is required to distinguish the militia from civilians. That would be the equivalent of the Chinese militia carrying out its duty wearing a military uniform with a mark “MB” which shows “militia soldier (MinBing)”. But what do “activities as maritime militia” refer to? (For instance, are fishing operations in disputed waters regarded as a duty of the militia?). In addition, when the maritime militia hides among general fishing boats, how should they be distinguished instantly from outside? In this way, many issues remain ambiguous in the legal status of maritime militia.

Third is the military escalation issue which the maritime militia gives rise to. The maritime militia will take responsibility for Chinese maritime interest protection activity in active areas where it is difficult for law enforcement agencies and military to coordinate with each other, namely the “gray zone” corresponding to the space between peacetime and wartime. What is a problem in this case is that China may control the crisis escalation. Though the Chinese government basically does not want a military conflict, it is highly likely that they believe they can control the escalation of crisis through mobilizing the maritime militia, constrain opponents, avoid a military conflict and expand the effective control by China. For example, in the “Impeccable Case” in 2009 and the “Freedom of Navigation Operation” in 2015, it was reported that the operations of the U.S. Navy

were interfered with not by the Chinese Navy but Chinese fishing boats nearby. This can be understood as a case in which China mobilized the maritime militia to avoid a military conflict while interfering and containing the U.S. Navy's movement. In addition, if, hypothetically, a small nation rather than the U.S. is the opponent, China will make extreme provocations and lure the opponent's military to military escalation to justify their military actions, which will result in heightening military tension under China's hegemony. Indeed, in the case of so called "Battle of the Paracel Islands" when China took and occupied the Paracel Islands from Vietnam in January, 1974 which had been effectively controlled by Vietnam until then, it is said that before hostilities, in addition to repeated provocative actions in the waters nearby, Chinese fishing vessels suspected of being maritime militia had important duties in wartime such as participation in early warning, intelligence operations and support of landing operation by the army. The maritime militia can therefore burden the countermeasure decisions of other nations and delay prompt response through such activities as zigzagging through the gaps between these peace times and emergencies.

Required Political Measures

With the above issues in mind, what political measures are possible against the activities of the maritime militia? Taking into consideration that these issues result from the opacity and the legal ambiguity of the maritime militia, it will be necessary to force China to get rid of this opacity and establish an environment where the maritime militia's activities are difficult.

First, through communication with the international society including China, the legal status of the maritime militia should be clarified to control arbitrary operation. The legal ambiguity of the maritime militia is caused by a mismatch between international law and Chinese law in some cases. For example, Article 29 of the United Nations Convention on the Law of the Sea states "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline." However, from the perspective of command and crewmembers,

whether the ships of the maritime militia should be regarded as "warships" remains unclear. This legal ambiguity gives room for arbitrary operation of maritime militia on the Chinese side. To cope with this, demands should be made to require the maritime militia's transparency and contain arbitrary operation through the confirmation of the legal status of the maritime militia (about the duty of the maritime militia, separation from general fishing boats, crewmembers and command order system, whether a maritime militia vessel is a warship or not) on working-level talks on crisis management mechanism between Japan and China as well as calling out international attention to the activities of the maritime militia through talks with the South-East Asian countries and the U.S., etc.

Second is the capability enhancement of law enforcement agencies in order to plug the gray zone gap where the maritime militia is active. As noted above, the Chinese side has the potential to dominate military escalation through the operation of the maritime militia. To deal with this, the idea of escalation control is required. Though the maritime militia receive command orders from the Navy, it is unthinkable for them to play a high level military mission. Therefore, the Self Defense Force (SDF) should not be dispatched, which might cause military escalation, but the Japan Coast Guard (JCG) should exercise police authority to cope with the maritime militia. However, the maritime militia have a wide range of activities and equipment to overwhelm general fishing boats. Because of this, what should be actively studied are measures to improve police authority including further reinforcement of patrol equipment capability and the expansion of the legal right to use arms, etc. Additionally, the enhancement of information sharing and communication systems between the Japan Maritime SDF (JMSDF) and the JCG may also be considered in order for the JCG to take prompt measures even if there is a provocation from a fishing vessel that appears to be maritime militia toward a JMSDF vessel. From the same point of view, in the South China Sea where the maritime militia are active, it would be effective to provide the South-East Asian countries with patrol ships and capacity building support through joint exercises.

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プロフィール

profile

Masaaki Yatsuzuka

Research Fellow,
Regional Studies Department

Area of Expertise

China Studies, International
Relations in East Asia, International
Security Studies

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Please contact us at the following regarding any questions, comments or requests you may have.

Planning and Coordination Office,
The National Institute for Defense Studies

Telephone: 03-3713-5912 Fax: 03-3713-6149
Website: <http://www.nids.go.jp>