

## A Tale of Two Disputes: China's Irrationality and India's Stakes

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### **Summary**

'Sovereignty' and 'history' have a universal context in international politics. But in Beijing's strategic foreign policy setting, the logic of 'sovereignty' and 'history' are employed or applied selectively. This is clear in the context of its reservation on India's oil exploration in the South China Sea (SCS) and its own plans to implement the China-Pakistan Economic Corridor (CPEC) through Pakistan-Occupied Kashmir (POK) despite India's reservations. The strategic implications of these matters are huge for India. India needs to understand the complexity behind both matters and discuss them prudently with China. A clearly articulated perspective must be enunciated by India about the questionable 'legality' of CPEC. India not only needs to ask China to desist from CPEC projects in POK but also to clearly state that any Chinese activities in that region affects India's 'sovereignty'. Besides, New Delhi must review its current approach towards POK and start asserting its claim more intently than earlier.

Disputes in Asia, be they in the maritime or territorial spheres, are usually complex. Their nature or connotation may vary from issue to issue and from one sub-region to another and may have different sets of implications. Also, they tend to expand beyond their original context and become somewhat byzantine when they are connected with 'national interests', which involves both the quest for resource exploration and national pride. An assessment of China's continued reservation on India's oil and energy exploration in the South China Sea (SCS) and India's concerns over China's infrastructural development in Pakistan-Occupied Kashmir (POK) under the China-Pakistan Economic Corridor (CPEC) project – which is a vital part of Beijing's 'One Belt, One Road' initiative – underline these complexities. Both oil exploration in the SCS and infrastructure development in the POK may be two different issues involving different sub-regions; but the Chinese and Indian approaches and reactions and their pursuit of 'national interests' in these matters compels the drawing of a parallel.

This Policy Brief analyses the complexity introduced into India-China relations by these two issues as well as the resultant fallout. The assessment here indicates the irrationality of the Chinese approach to which India must respond cogently. All the more so when China has released the document, *Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road*, in March 2015,<sup>1</sup> and Beijing desires India to join and support its 'One Belt, One Road' initiative.

## II. Issues of Sovereignty and the 'Historical' Context

China opposes India's oil exploration in the SCS (which has been undertaken at Vietnam's request) by calling the area of exploration a 'disputed' area and asserting 'Chinese sovereignty' over the SCS in the 'historical' context. It has been continuously expressing its reservation in this regard in the last few years, and sometimes quite belligerently at that. India has taken note of the Chinese reservation and has carefully gone ahead in signing a few agreements with Vietnam for oil exploration in the SCS. These exploration fields are very much within the maritime space under the actual control of Vietnam.

But at the same time, China casually shrugs off the issue of India's 'sovereignty' over POK in the 'historical' context. China is currently engaged on a variety of investment projects

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<sup>1</sup> Issued by the National Development and Reform Commission, Ministry of Foreign Affairs, and Ministry of Commerce of the People's Republic of China, with State Council authorization, March 2015, Beijing, available at [http://news.xinhuanet.com/english/china/2015-03/28/c\\_134105858.htm](http://news.xinhuanet.com/english/china/2015-03/28/c_134105858.htm) (accessed on 16 June 2015).

and infrastructural building activities in Gilgit-Baltistan, and these will be expanded under the CPEC project. Answering the query “To what extent is Chinese investment in POK – which India considers its territory – under CPEC legitimate, whereas China objects to India’s oil exploration in SCS calling it a ‘disputed’ area?”, Huang Xilian, Deputy Director General of Asian Affairs of the Foreign Ministry of the People’s Republic of China (PRC) replied, “China will oppose India’s drive for oil exploration in the SCS as the SCS is a disputed area but from China’s standpoint, investments in POK are valid since it is a “livelihood project”.”<sup>2</sup> China further explains that the Sino-Pak understanding to implement CPEC through POK is based on a range of bilateral agreements and understandings, including their 1963 Border Agreement.<sup>3</sup> The CPEC will run through Gilgit-Baltistan, which is an integral part of Indian territory by virtue of having been part of the princely state of Jammu and Kashmir (J&K) that acceded to the Indian Union in October 1947.

India has raised the matter at the highest political level, including when Prime Minister Narendra Modi met President Xi Jinping. Before Modi’s visit to China, India had officially conveyed its reservations on the CPEC to the Chinese Ambassador in New Delhi. External Affairs Minister Sushma Swaraj also clarified the issue in Parliament by stating that “Government has conveyed its concern to China about their activities in Pakistan Occupied Kashmir, and asked them to cease such activities.”<sup>4</sup>

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<sup>2</sup> One of the authors, Dr. Jagannath Panda, met Huang Xilian in Beijing on 3 June 2015 during the Think-Tanks forum meeting organized by the Public Diplomacy Division of the Chinese Ministry of Foreign Affairs (MoFA). The details of this meeting have been reported in mainstream Indian media. See, for instance, “China defends projects in POK, opposes India’s oil exploration in South China Sea,” *Indian Express*, 4 June 2015, available at <http://indianexpress.com/article/world/asia/china-justifies-projects-in-pok-objects-to-indias-oil-exploration-in-south-china-sea/99/> (accessed on 18 June 2015); K.J.M. Varma, “China defends projects in Gilgit-Baltistan region, justifies its objections in SCS,” *Live Mint*, 4 June 2015, available at <http://www.livemint.com/Politics/pXSgtK0xZOMaWiCfeSIUIN/China-defends-projects-in-GilgitBaltistan-region-justifies.html> (accessed on 18 June 2015).

<sup>3</sup> Impression gathered from Dr. Jagannath Panda’s interaction with Huang Xilian in Beijing on 3 June 2015 as well as from his discussions with Chinese experts and scholars. Even though a direct public statement has not been made by Chinese officials that China’s current activities and investment in POK under the CPEC are based on the 1963 Agreement, Chinese officials and scholars often refer in their discussion to the 1963 agreement as one of the benchmarks of Chinese involvement and construction in POK. Besides, the Pakistani side always refers openly to the 1963 Agreement as the basis of China’s involvement in POK.

<sup>4</sup> “Q. NO. 260: Projects of China and Pakistan in Neighboring Countries”, *Lok Sabha*, Starred Question No. 260 To Be Answered On 10 December 2014, Ministry of External Affairs: Government of India, available at <http://www.mea.gov.in/lok-sabha.htm?dtl/24458/QNO260PROJECTS+OF+CHINA+AND+PAKISTAN+IN+NEIGHBOURING+COUNTRIES> (accessed on June 20, 2015).

The Indian position on the Sino-Pakistan understanding on Chinese activities in PoK has been consistent. There are often debates in India – mostly episodic and lacking vigour – about Sino-Pakistan relations. India must engage in detailed deliberations on the matter, as the scope and direction of CPEC projects are futuristic and will have strategic implications for India. Its occasional protests and expressions of concern have hardly had any effect on China. For China, CPEC is an important strategic initiative. But since it impinges on Indian sovereignty, it is no less important for India. SCS is flagged by China as one of the areas of ‘core’ national interest whereas the CPEC is described as critical to China’s Silk Road diplomacy under Xi. Both these matters have important strategic bearings on India.

### III. ‘Sovereignty’ and ‘History’ in SCS

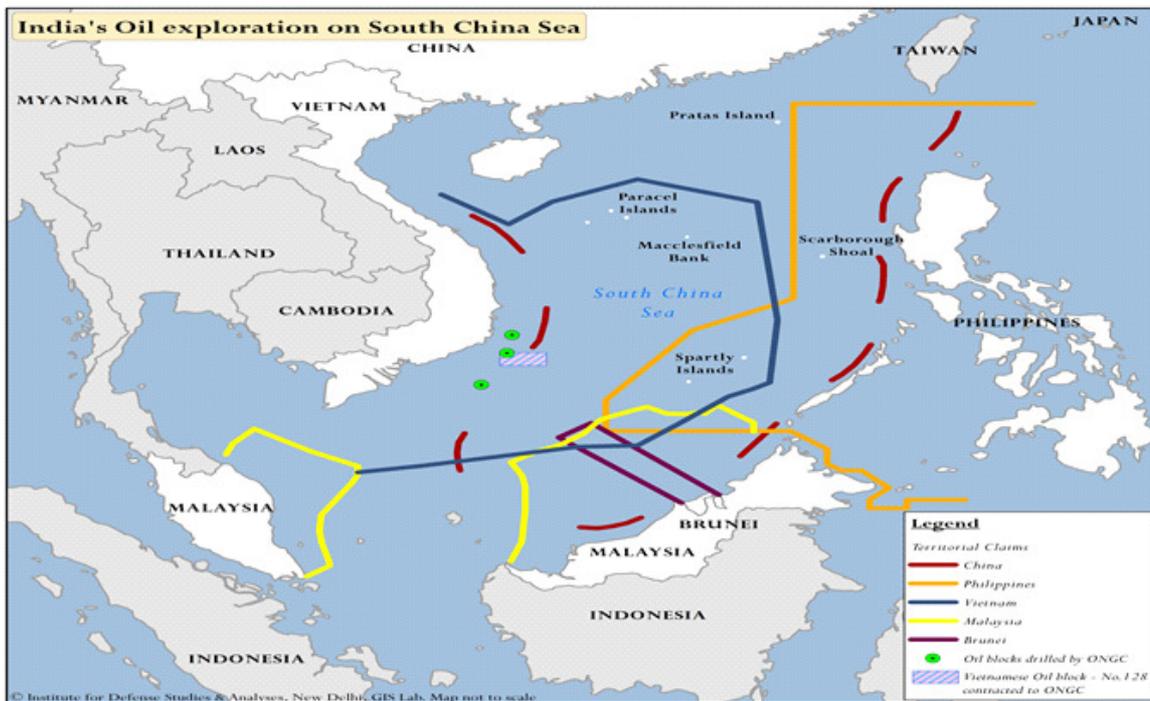
SCS is a multi-party maritime dispute involving China, Vietnam, Philippines, Malaysia, Brunei and Taiwan. Of the 3.5 million sq. km. area of the SCS, almost 70 per cent is disputed. At the core of these disputes lie five sets of islands made up of atolls, cays, shoals, reefs and sandbars. These five sets of islands are the Spratlys, Paracels, Scarborough Shoal, Pratas and Maccelsfield Bank. There are many aspects to these Chinese and Southeast Asian claims to these islands (see *Map 1 for reference to the claims*). It is still being debated within the Chinese strategic community whether China must exert its claim over the entire SCS or only on its main islands.<sup>5</sup> There are conflicting reports about China’s claims to 80 per cent of the entire SCS.<sup>6</sup> But, in principle, China claims the whole of SCS based on the ‘nine-dash line’, which, in turn, is based on ‘historical’ claims that the Republic of China (ROC) and subsequently the People’s Republic of China (PRC) unilaterally demarcated on maps.

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<sup>5</sup> For instance, see Li Mingjian, “Chinese Debates of South China Sea Policy: Implications for Future Developments,” *RSIS Working Paper*, No. 239, 17 May 2012.

<sup>6</sup> Chinese reports indicate that the ‘nine-dash line’ covers almost 80 per cent of the SCS on Chinese maps. In the Chinese estimation, the entire SCS zone is a total of 3.5 million sq km. China states that this ‘nine-dash line’ boundary was first published in an official map in 1948. Since then, China has officially based its claim on this map, and all the official maps released subsequently by the Chinese government carry this ‘nine-dash line’. See “China dismisses Vietnam’s sovereignty claim for South China Sea islands,” *Xinhua*, 12 December 2012, available at [http://news.xinhuanet.com/english/china/2014-12/12/c\\_133848818.htm](http://news.xinhuanet.com/english/china/2014-12/12/c_133848818.htm) (accessed on 20 June 2015).

Map 1: India's Oil Exploration in SCS



Source: GIS Lab, IDSA

Based on the nine-dash line, the Chinese have taken military, administrative and jurisdictional initiatives in recent years to maximise their claims over these islands. The aim is to have better claims over important islands like Paracels (*Xisha*), Spratlys (*Nansha*) and Macclesfield Bank (*Zhongsha*), which are supposed to be resource rich. These Chinese claims and recent initiatives are contested by other South East Asian nations who are parties to the dispute. Outside powers like the USA have also taken an interest, opposing Chinese claims and insisting on freedom of navigation in the SCS. The Chinese have reacted aggressively to American intervention. India is neither a 'claimant' nor a party to the maritime dispute in the SCS. Still, the Chinese reservation on India's commercial project for oil exploration in the SCS has intensified gradually. Two questions need to be asked here: *Why did China object to India's oil exploration in SCS? Is China's objection to India rational?* An appraisal of the Chinese reaction points to an unjustifiable Chinese stance that is neither logical nor consistent.

The Chinese reservation has been framed more in the context of regional rather than bilateral relations. Unlike China's provocative and direct reactions towards Vietnam which is a party to the SCS dispute, and towards the United States which is an outside but resident power in the region, Chinese reactions to Indian oil companies' activities in SCS have been comparatively less antagonistic, and are mostly linked with Vietnamese claims. For instance, reacting to a question on "how India and Vietnam's joint oil and gas exploration in South China Sea infringed on China's sovereignty and territorial integrity?", the Chinese Foreign Ministry

Spokesperson Hong Lei stated on 22 September 2011 that China has “indisputable sovereignty over the ‘Nansha Islands’ and their adjacent waters.”<sup>7</sup> Explaining Beijing’s claim over this area in ‘historical’ and ‘jurisdictional’ context, he stated: “Any foreign company’s oil and gas exploration activity in the waters under China’s jurisdiction without China’s permission is illegal and invalid.”<sup>8</sup> In effect, in the view of Chinese authorities, the “relevant foreign company” must stay away from oil and gas exploration in the SCS.

China reacted to the three-year agreement between ONGC Videsh Limited (OVL) and Petro Vietnam on oil exploration in certain SCS areas in a similar vein. Stating that “China enjoys indisputable sovereignty” over SCS, Foreign Ministry spokesperson Jiang Yu added that China’s stand is based on “historical facts” and “international law” and “we hope that the relevant countries refrain from taking unilateral action to complicate and expand the issue.”<sup>9</sup> Dismissing the relevance of the UN Convention on the Law of the Sea (UNCLOS), the statement noted that UNCLOS “does not entitle any country to extend its exclusive economic zone or continental shelf to the territory of another country, and it does not restrain or deny a country’s right which is formed in history and abidingly upheld.”<sup>10</sup>

Nonetheless, there are subsequent statements made by Chinese authorities which are a little more nuanced. For example, commenting on a question about the Vietnamese Prime Minister’s invitation to India to jointly explore oilfields in SCS, Hong Lei responded thus: after asserting China’s “indisputable sovereignty over the ‘Nansha Islands’ and the adjacent waters,” he said that “China doesn’t have any problem with oilfield exploration by relevant countries in uncontested waters if such cooperation is legitimate and lawful”;<sup>11</sup> but “if such cooperation undermines China’s sovereignty and interests, we are firmly opposed to that”.<sup>12</sup>

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<sup>7</sup> “Foreign Ministry Spokesperson Hong Lei’s Regular Press Conference on September 22, 2011,” Embassy of the People’s Republic of China in the United States of America, 23 September 2011, available at <http://www.china-embassy.org/eng/fyrth/t861644.htm> (accessed on 17 June 2015).

<sup>8</sup> Ibid.

<sup>9</sup> “Foreign Ministry Spokesperson Jiang Yu’s Regular Press Conference on September 15, 2011,” Embassy of the People’s Republic of China in The Republic of Kenya, 16 September 2011, at <http://ke.chineseembassy.org/eng/fyrth/t860126.htm> (accessed on 20 June 2015).

<sup>10</sup> Ibid.

<sup>11</sup> “Foreign Ministry Spokesperson Hong Lei’s Regular Press Conference on October 28, 2014,” Permanent Mission of the People’s Republic of China to the UN, 28 October 2014, available at [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/t1204813.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1204813.shtml) (accessed on 17 June 2015).

<sup>12</sup> Ibid.

At first glance, China's reaction to India's oil exploration in SCS does not appear to be direct. It is connected with a number of regional factors. *First*, among the six claimants in the SCS dispute, China has direct hostility with Vietnam. *Second* is the US factor. Chinese experts and strategic communities feel that the USA is engaged in destabilising the SCS situation by offering support to Vietnam and other South East Asian countries and encouraging other outside powers to pursue the matter of freedom of navigation in SCS. *Third*, Beijing has openly stated that SCS is a matter of China's 'core' interest along with the East China Sea and is linked to China's 'sovereignty'.<sup>13</sup> So, China aims emphatically to "enhance enforcement to match its national strength".<sup>14</sup>

The Indian official position with regard to oil exploration in SCS has been quite consistent and moderate. S.M. Krishna, the then External Affairs Minister, had stated in 2012 that "India supports freedom of navigation and access to resources in accordance with principles of international law."<sup>15</sup> In fact, India has consistently clarified its position on the SCS dispute on *four* counts: *first*, where it is a 'sovereignty' issue, India is not a party and it must be resolved by countries that are parties to it; *second*, freedom of navigation and right of passage in South China Sea must be maintained; *third*, India's interest in the region are purely commercial, aimed at energy exploration; and *fourth*, maritime security and safety of SLOCs must be maintained as per maritime laws and international law.<sup>16</sup>

Being categorical on India's interest, for instance, on the OVL-Petro Vietnam joint oil exploration deal, New Delhi has stated: "The Chinese had concerns, but we are going by what the Vietnamese authorities have told us and have conveyed this to the Chinese."<sup>17</sup>

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<sup>13</sup> "China dismisses recent tension in South China Sea as "old tricks" ," *Xinhuanet*, 26 May 2015, available at [http://news.xinhuanet.com/english/2015-05/26/c\\_134271366.htm](http://news.xinhuanet.com/english/2015-05/26/c_134271366.htm) (accessed on 20 June 2015); "Core interests at heart of new US ties," *Xinhuanet*, 20 May 2013, available at [http://news.xinhuanet.com/english/china/2013-03/20/c\\_132247867.htm](http://news.xinhuanet.com/english/china/2013-03/20/c_132247867.htm) (accessed on 20 June 2015).

<sup>14</sup> Wang Qian and Zhang Yunbi, "Xi vows to protect maritime interests," *China Daily*, 1 August 2013, available at [http://usa.chinadaily.com.cn/china/2013-08/01/content\\_16859216.htm](http://usa.chinadaily.com.cn/china/2013-08/01/content_16859216.htm) (accessed on 18 June 2015).

<sup>15</sup> "Transcript of the Joint Media Interaction of External Affairs Minister of India and Foreign Minister of Indonesia," Ministry of External Affairs: Government of India, 27 July 2012, available at <http://mea.gov.in/bilateral-documents.htm?dtl/5341/Joint+Statement+on+the+occasion+of+the+visit+of+the+President+of+Vietnam> (accessed on 25 June 2015).

<sup>16</sup> Ibid. Also see, "India-China competition be in agreed strategic framework: SM Krishna," *The Economic Times*, 10 February 2012, available at [http://articles.economictimes.indiatimes.com/2012-02-10/news/31046156\\_1\\_china-and-india-largest-trade-partner-core-interests](http://articles.economictimes.indiatimes.com/2012-02-10/news/31046156_1_china-and-india-largest-trade-partner-core-interests) (accessed on 25 June 2015).

<sup>17</sup> Anupama Airy and Jayanth Jacob, "China objects to oil hunt, India says back off," *Hindustan Times*, 15 September 2011, available at <http://www.hindustantimes.com/newdelhi/china-objects-to-oil-hunt-india-says-back-off/article1-745854.aspx> (accessed on 20 June 2015).

Further, India's interest in SCS is 'purely commercial' and as per freedom of navigation and maritime international law, and that it is not a party to the SCS dispute. In December 2012, the then External Affairs Minister Salman Khurshid said that "there are fundamental issues there which do not require India's intervention"<sup>18</sup> and that India's reach to SCS was purely 'commercial' in nature and primarily aimed at exploration for oil and energy resources in the region.<sup>19</sup> More recently, Minister of State of External Affairs VK Singh stated: "India supports freedom of navigation in international waters while maintaining that sovereignty issues must be resolved peacefully by the countries which are parties to the dispute in accordance with accepted principles of international law, including UNCLOS 1982."<sup>20</sup>

#### IV. 'Sovereignty' and 'History' in CPEC

'Sovereignty' and 'history' become secondary, somewhat extraneous, to China's jurisprudence in the context of CPEC projects in POK. The primary Chinese standpoint in this regard is based on the same 'commercial' reasons that India puts forward in the context of SCS. Chinese officials call their investment and activities in POK as 'livelihood project'; not being 'political', they are just 'commercial' in nature. To what extent Beijing has appreciated the Indian concern over what some countries consider the disputed POK which is linked to 'history' and 'sovereignty' is not yet clear. CPEC, a part of China's Silk Road Economic Belt (SREB), which ultimately supports Beijing's 'One Belt, One Road' initiative, runs through a territory that is historically Indian territory though considered disputed by some states (*See Map 2*). India has always maintained that Gilgit-Baltistan is part of the princely state of J&K, which had acceded to India.

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<sup>18</sup> "Transcript of media Interaction of External Affairs Minister following the conclusion of the plenary session of the ASEAN-India Commemorative Summit 2012," Media Centre, Ministry of External Affairs: Government of India, 20 December 2012, available at <http://www.mea.gov.in/Speeches-Statements.htm?dtl/20984/Transcript+of+media+Interaction+of+External+Affairs+Minister+following+the+conclusion+of+the+plenary+session+of+the+ASEANIndia+Commemorative+Summit+2012> (accessed on 17 June 2015).

<sup>19</sup> "Dispute over islands in South China Sea," Lok Sabha Unstarred Question No. 563, To Be Answered on 26 November 2014, Parliament Q & A, Ministry of External Affairs, Government of India, available at <http://www.mea.gov.in/lok-sabha.htm?dtl/24339/Q+NO+563+DISPUTE+OVER+ISLANDS+IN+SOUTH+CHINA+SEA> (accessed on 17 June 2015).

<sup>20</sup> Ibid.

Map 2: CPEC and POK



Source: GIS Lab, IDSA

Beijing does acknowledge the ‘historical’ nature of the POK dispute and that it is a dispute basically between India and Pakistan. Hua Chunying, the Spokesperson of the Chinese Foreign Ministry, recently clarified that CPEC is an important corridor for ‘common development’ between China and Pakistan which will boost regional connectivity.<sup>21</sup> He stated that “Kashmir issue is primarily an issue left over by history between India and Pakistan” and that cooperation between China and Pakistan in the relevant region is for the “sole purpose of boosting local economic and social development.”<sup>22</sup> In April 2015, on the side-lines of Xi Jinping’s visit to Pakistan, spokesperson of the Chinese Foreign Ministry,

<sup>21</sup> “Foreign Ministry Spokesperson Hua Chunying’s Regular Press Conference on June 1, 2015,” Ministry of Foreign Affairs of the People’s Republic of China, 1 June 2015, available at [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2535\\_665405/t1269123.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2535_665405/t1269123.shtml) (accessed on 19 June 2015).

<sup>22</sup> Ibid.

Hong Lei, stated that CPEC will be connected with the Gwadar port in four key areas, namely, port, energy, infrastructure and industrial cooperation, and aims to boost the development of Pakistani people.<sup>23</sup> Answering a pointed question “*whether the CPEC deal covers relevant project in the Kashmir region over which India and Pakistan have disputes,*” he said that “... friendly cooperation between China and Pakistan will have no India-Pakistan disputes involved.”<sup>24</sup> The point that India also does not take a stand regarding sovereignty over the SCS is not acknowledged by China.

Three narratives can be extracted from this overall Chinese standpoint. *First*, even though Beijing acknowledges that Kashmir is a ‘historical’ dispute between India and Pakistan, there is little acknowledgement of India’s historical claim to POK. *Second*, China defends CPEC, calling it a ‘commercial’ or ‘livelihood’ project. How is India’s ‘commercial’ activity for oil and energy exploration in the SCS different from that of China’s ‘commercial’ projects with Pakistan in the disputed POK region? *Third*, Chinese explanation for the CPEC project puts the vital matter of ‘sovereignty’ into doubt, as far as India is concerned. This also obscures the wider India-China-Pakistan dynamics on J&K.

By signing the Border Agreement with Pakistan in 1963, China indirectly became a third party to the J&K dispute. The Chinese explanation with regard to CPEC raises the prospect that it may, in future, emerge as a more directly involved ‘third party’ with major stakes in the dispute even though it publicly maintains the position that the ‘Kashmir’ dispute is a bilateral one between India and Pakistan. This is a stratagem that points to a “Three Warfares” strategy where psychological superiority, public opinion and legal application are integral parts of China’s strategy.<sup>25</sup> Through the CPEC investments in POK, China is seemingly attempting to gain a ‘psychological’ edge over India, influence public opinion in Pakistan and China in its favour and build a jurisdictional aspect that will be convenient for its involvement in the Kashmir dispute at a future date. Until now, China has maintained a ‘neutral’ position on the Kashmir dispute in recent times, particularly after the Kargil conflict, terming it as a ‘bilateral historical dispute’ between India and Pakistan. But the Chinese pursuit of CPEC might well encourage Beijing to revisit its position on Kashmir. China’s proposed investments and financial capital to be employed under CEPC are massive,

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<sup>23</sup> “Foreign Ministry Spokesperson Hong Lei’s Regular Press Conference on April 20, 2015,” Ministry of Foreign Affairs of the People’s Republic of China, 20 April 2015, available at [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/t1256093.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1256093.shtml) (accessed on 19 June 2015).

<sup>24</sup> Ibid.

<sup>25</sup> Sangkuk Lee, “China’s ‘Three Warfares’: Origins, Applications, and Organizations,” *The Journal of Strategic Studies*, vol. 37, no. 2, 2014, pp. 198-221.

a fact that Beijing would find it hard to ignore completely. CPEC is estimated to involve an initial \$46 billion investment in infrastructure development programme.<sup>26</sup> China announced earlier that a corpus of \$40 billion Silk Road Fund (SRF) will be generated initially to support the 'One Belt, One Road' projects.<sup>27</sup> Reports indicate that China will now run the Karot Hydropower project, which is roughly estimated to cost \$1.65 billion, for the next 30 years before handing it over to Pakistan.<sup>28</sup> This project is likely to be operationalized by 2020. From the Indian viewpoint, creating a form of jurisdiction over land through financial investments, construction and economic dealings do exist in Chinese foreign relations strategy. This is especially noticed in China's recent attempt at land reclamation in the SCS to reinforce its claim of sovereignty.<sup>29</sup> Reports suggest that China will soon complete the land reclamation process in some islands and reefs in what China calls 'Nansha Island'. Beijing defends this construction activity by stating that they "fall within the scope of China's sovereignty, which are lawful, reasonable and justified."<sup>30</sup>

## V. Charting a Course of Action

Undeniably, these matters highlight an emerging complex chapter in India-China relations. The present is an especially critical time when China is still at the primary stage of implementing its Strategic Road Economic Belt (SREB) and 21st Century Maritime Silk Road (MSR). Given India's strategic location in Asia, China factors India as an important country in its 'Silk Road' diplomacy. In fact, it has continually advocated that India is an important country for the execution of the 'Silk Road' projects. Without India's support, China may find it difficult to execute these projects. *Can India make capital out of these two matters? What must be India's response?* On these difficult questions, New Delhi must have an objective assessment.

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<sup>26</sup> Guo Renjie, "Silk Road Fund makes initial \$1.65b investment," *China Military Online*, April 20, 2015, available at [http://eng.chinamil.com.cn/news-channels/2015-04/20/content\\_6451533.htm](http://eng.chinamil.com.cn/news-channels/2015-04/20/content_6451533.htm) (accessed on 22 June 2015).

<sup>27</sup> Ibid.

<sup>28</sup> Ibid; Also see, "China makes multibillion-dollar down-payment on Silk Road Plans," *CHINAREALTIME*, 21 April 2015, available at <http://blogs.wsj.com/chinarealtime/2015/04/21/china-makes-multibillion-dollar-down-payment-on-silk-road-plans/> (accessed on 19 June 2015).

<sup>29</sup> Ben Dolven, Jennifer K. Elsea, Susan V. Lawrence, Ronald O'Rourke and Ian E. Rinehart, "Chinese Land Reclamation in the South China Sea: Implications and Policy Options," Congressional Research Service Report, 16 June 2015.

<sup>30</sup> "China to complete land reclamation of construction on some Nansha Islands soon," *Xinhuanet*, 16 June 2015, available at [http://news.xinhuanet.com/english/2015-06/16/c\\_134330406.htm](http://news.xinhuanet.com/english/2015-06/16/c_134330406.htm) (accessed on 19 June 2015).

*First*, the aspect of the legality of these matters must be stressed and India must ask China to have an open and publicly clarified position, mainly on J&K. India must intently urge China to reconsider the execution of CPEC-related projects. The entire Chinese rationale for carrying out the construction activities in POK is based on the 1963 *Boundary Agreement between China and Pakistan* and other bilateral dealings. It must be underlined to China that India has never acknowledged the legitimacy of the so-called 1963 Agreement.<sup>31</sup>

*Articles One, Two and Six* of the so-called 1963 Agreement acknowledge that the area covered by the agreement is disputed. *Article Six* of the agreement spells out that "... after the settlement of the Kashmir dispute between Pakistan and India, the sovereign authority concerned will reopen negotiations with the Government of the People's Republic of China on the boundary."<sup>32</sup> As per this article, no matter what happens to the Kashmir issue, either Pakistan or India will have to deal with China at a later date. This clearly indicates the fact that China is a silent 'third party' to the Kashmir dispute. India must therefore raise the legality of CPEC.

*Second*, the Indian viewpoint on POK must be reviewed and New Delhi must cogently articulate its claims over POK, a matter that is closely linked to India's sovereignty. Sporadic and disjointed views over POK will not serve India's interests, especially in the context of China's investment and infrastructural construction activities under CPEC. Besides, India needs to raise the matter with China at the bilateral level in terms of Beijing restraining itself from making any investment or construction activities in POK which 'historically' belongs to India and affects India's sovereignty.

*Article One* of the so-called 1963 Agreement states, "In view of the fact that the boundary between China's Sinkiang and the Contiguous areas, the defence of which is under the actual control of Pakistan, has never been formally delimited, the two Parties agree to delimit it on the basis of the traditional customary boundary."<sup>33</sup> Going by this article, China concedes the fact that the India-Pakistan boundary in this area is not 'delimited' or 'defined'. By this, China concedes the fact that the area is not entirely under the 'sovereign' control of Pakistan; merely that *the defence of this area is presently under Pakistan's control*. India must thus underline to China the fact that the historical context of this Agreement is linked

<sup>31</sup> "China-Pak 'Boundary Agreement' Illegal: India", *Outlook*, 15 July 2009, available at <http://www.outlookindia.com/news/article/chinapak-boundary-agreement-illegal-india/662745> (accessed on 22 June 2015); "Chinese Activities on Border," *Press Information Bureau: Ministry of Defense, Government of India*, 3 September 2012, available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=87201> (accessed on 22 June 2015).

<sup>32</sup> "Boundary Agreement between China and Pakistan, 2 March, 1963," *Pakistan Horizon*, Pakistan Institute of International Affairs, vol.16, No. 2, second quarter, 1963, pp. 177-182.

<sup>33</sup> *Ibid.*

to India's 'sovereignty'. Beijing must therefore undertake a careful reading of this Agreement in the current context of its CPEC project implementation. This has relevance also with regard to India's oil exploration in the SCS. Even though India's oil exploration project in the SCS is confined to areas that are under the 'actual control of Vietnam', it neither intends to interfere in the very nature of the dispute nor wishes to question the 'sovereignty' claims of various countries who are parties to the dispute and whose claims overlap. Even though India can further enter into similar agreements within the areas which are under the control of Vietnam, Philippines and other Southeast Asian nations, it has so far restrained itself by not signing any agreements that will affect the course of the SCS dispute. The strategic implication of this matter for China will be huge, since SCS is a regional dispute. Besides, debate on 'freedom of navigation' needs more pondering from China's perspective. China's interest in the Indian Ocean is based on 'freedom of navigation'; it cannot employ the dialogue of freedom of navigation selectively.

*Third*, India must discuss both these matters from a broader viewpoint, especially from the 'One Belt, One Road' viewpoint. A nuanced understanding between India and China on both the above mentioned issues may create a win-win situation for India-China engagement at the regional level, where India may offer support to China for its 'silk road' diplomacy. After all, India was one of the first countries to support the Chinese-led Asian Investment Infrastructure Bank (AIIB). Beijing must understand that its irrational and contradictory approach towards India on SCS and CPEC may affect and limit the scope for regional cooperation. From a bilateral perspective, this is in juxtaposition to the spirit of the new official pronouncement of an 'Asian Century' with India and China in the lead. The new *Joint Statement* (15 May 2015) between two countries, released during Modi's visit to China, does recognize the emergence of India and China as 'two major powers' in regional as well as world politics, which indicates that their cooperative relations will be key to the realisation of an 'Asian Century'.<sup>34</sup>

In brief, a rational approach is required on China's part on both these disputes, mainly on the subject matter of 'sovereignty' and 'history'. For China, the strategic consequence of these matters will be huge from the SCS perspective. More exploration agreements between India and Vietnam, or between India and the other Southeast Asian countries with stakes in SCS, will complicate matters further for Beijing. Therefore, China must review its current approach towards POK under the CPEC. For India, these matters require serious political,

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<sup>34</sup> "Joint Statement between the India and China during Prime Minister's visit to China," Press Information Bureau: Government of India: Prime Minister's Office, 15 May 2015, available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=121755> (accessed on 22 June 015).

diplomatic and academic deliberations. New Delhi knows that China's physical presence in POK is problematic for India and Beijing's terming of CPEC as a "livelihood project" is an ingenious attempt to justify the unjustifiable. To compel China to reconsider its approach towards India on these two matters, New Delhi must raise the matter with full vigour, not occasionally or disjointedly.