



# BENGOSHI 弁護士

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### CO's Corner

*The Bengoshi was created as a means to educate and inform fleet leaders, collateral duty legal officers, and others in the Indo Pacific area of operations who might have an interest in the complex legal issues that uniquely impact those who serve here.*

This edition of the Bengoshi draws heavily from our area "Battle JAGs" — those with experience advising our warfighters at the tip of the spear. Over the course of the past year, our legal professionals have supported exercises and augmented staffs in India, Thailand, Korea, Malaysia, Indonesia, Vietnam, Cambodia, the Philippines, Australia, Singapore, Hawaii, and all across Japan. We currently have officers on longer-term augments supporting Amphibious Squadron 11 embarked in USS WASP; U.S. Forces Korea; and, embarked in USNS MERCY in support of Pacific Partnership 2018. We aggressively seek out these opportunities with the expectation that you, our clients and customers, receive return on investment. I hope you are informed by their experiences and scholarship and encourage you to consider whether to augment your team with one of our legal professionals.

CAPT Dom Flatt, JAGC, USN  
Commanding Officer  
RLSO Japan

## WHERE WORLD WAR II NEVER ENDED: ISLANDS DISPUTED BY JAPAN AND RUSSIA

LCDR Jessica Pyle, JAGC, USN; LT Ashley Belyea, JAGC, USN

Japan and Russia both claim four islands north of Hokkaido: Etorofu/Iturup, Kunashiri/Kunashir, Shikotan, and the Habomai group (several small islets). In Japan, the islands are known as the Northern Territories. In Russia, they are called the Southern Kuril Islands.

### Historical Claims

The countries' claims are, at their core, about the geographical definition of the Kuril Island chain. Russia considers the disputed islands to be part of the Kuril chain, significant because at the end of WWII, Japan ceded "all right, title and claim to the Kuril Islands" in the 1951 San Francisco Peace Treaty. Japan asserts that the islands are not part of the Kuril Island chain and so were not affected by the Treaty. Further, as the Soviet Union never signed the treaty – meaning there is no formal peace between the two countries concluding WWII – Japan asserts that the Soviet Union's successor state, Russia, cannot benefit from the treaty's terms.

Claims to the islands date back to at least 1855, when the Empire of Japan and the Russian Empire officially opened economic relations. The Treaty of Shimoda drew the border between the two countries just north of Etorofu/Iturup, the northernmost of the contested islands. In other words, it identified the four now-disputed islands

as part of Japan. In WWII, Soviet forces seized the four islands three days after Japan surrendered to Allied forces. The Soviet Union and now Russia have maintained a presence on the islands since, including forcibly deporting Japanese residents off the islands.

The conflict has simmered for more than 70 years, with Russia administering the islands from the Sakhalin District over protest from the Japanese government. To avoid granting legitimacy to the Russian claim, Japan requests no Japanese or foreign nationals travel to these islands under the auspices of Russian customs and immigration.

### Why These Islands Matter Now

*Military power.* The Sea of Okhotsk, to the north and east of the disputed islands is a major operational zone for the Russian Navy. If Russia established undisputed sovereignty over these islands, it could more effectively monitor and control maritime traffic, such as by claiming a territorial sea of less than twelve nautical miles in an attempt to force traffic through a narrow channel in innocent passage. Under the UN Convention on the Law of the Sea (UNCLOS), innocent passage requires foreign militaries' submarines to travel on the surface, which would be a significant benefit to the Russian submarine fleet.



Photo from CIA World Factbook electronic entry for Japan

## WHERE WORLD WAR II NEVER ENDED: ISLANDS DISPUTED BY JAPAN AND RUSSIA

LCDR Jessica Pyle, JAGC, USN; LT Ashley Belyea, JAGC, USN

*Economic opportunities.* Both countries stand to benefit from economic activity on the islands themselves, including tourism, greenhouse agriculture, and rare earth mineral extraction. Both are also interested in the 200 nautical mile exclusive economic zone extending from the islands granted under UNCLOS, which includes the right to control the rich fisheries and promising sea-bed drilling.

*Domestic Politics and Geopolitical Stakes.* Both Japanese Prime Minister Shinzo Abe and Russian President Vladimir Putin are vulnerable to nationalist forces within their own countries that vocally oppose any compromise on these islands. Both have much to gain, however, if bilateral relations can be improved. Prime Minister Abe has expressed a desire to improve economic relations with Russia, especially regarding natural resources in Eastern Russia currently traded with China. President Putin would benefit from a diversified set of relationships in Asia and, some analysts speculate, is attempting to weaken Japan-U.S. military and economic ties through improved relations with Japan.

### **Big Talk, Creative Proposals, Little Movement (So Far)**

In recent years, the two countries have expressed a desire to resolve the dispute, but neither has offered to drop its claim. Officials and media in both countries frame recent negotiations as the other side acquiescing.

In 2004, President Putin reiterated a 1956 Soviet proposal to release her claim on the two southernmost islands to resolve the dispute. Japan declined. Russian military authorities say the government intends to build a military base on one of the four islands. At present, it appears the Russian government has not pursued the plan.

In 2016, the Japanese news outlet Nikkei Asian Review reported that Japanese officials would consider joint administration of the islands. The Japanese government denied the report and no such arrangement was reached. However, in June 2017, Sakhalin's governor proposed a special zone for joint economic activity on the islands, governed by "common international law," but did not define that framework.

With so much at stake for both countries, it is possible that the push for creative governance solutions will yield a legal regime that paves the way for compromises in other sovereignty disputes. For now, the status quo persists and WWII peace treaties remain unsigned.

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Their views are their own and do not reflect official views of the U.S. Navy or Department of Defense.

## INVESTING IN THE REPUBLIC OF PALAU AND THE ISLAND CHAIN DEFENSE STRATEGY

LT Allen Tolleth, JAGC, USN

The Republic of Palau is a country comprised of approximately 340 islands in the Pacific Ocean, best known for its tropical scenery and fantastic scuba diving. Just below the surface however, lies something more substantial than tourism. Palau plays a significant role in asserting United States (U.S.) interests in the Indo-Asia Pacific Region, primarily by protecting lines of communication and offering locations for U.S. forces deployment. In this role, Palau serves as an integral piece of an “Island Chain Strategy,” capable of advancing our larger strategic goals of a free and open Indo-Pacific Region that provides prosperity and security for all. [1]

The Strategy originated as part of amphibious island hopping tactics during the 1920s but did not become refined and deliberate until the fear of encroaching Communism in the 1950s. [2] However, it remains a source of tension in the region, with both the U.S. and the People’s Republic of China (PRC) using island chains to promote their respective positions. For the U.S., island chains represent enduring strongholds of influence. For some PRC military strategists, island chains are not immovable barriers but instead markers of PRC naval success as maritime operations and capabilities push further into adjacent areas. [3] As noted in our 2018 National Defense Strategy, “[f]or decades the United States has enjoyed uncontested or dominant supe-

riority in every operating domain . . . Today, every domain is contested.” Growing PRC investment and internal conflicts between island chain nations and the U.S. threaten to degrade the effectiveness of the Strategy from within.

Palau and other island chain nations manage their relations with the U.S. through respective

Compacts of Free Association (COFAs). These agreements typically provide exclusive access for U.S. military and defense services in exchange for appropriations, healthcare access, and limited immigration benefits. However, U.S. funding shortfalls and growing barriers to

public healthcare have been a point of conten-

tion for island chain nations. [3] There is a concern that these shortfalls will eventually weaken U.S. relations with island chain countries, thereby enabling the PRC to replace U.S. interests and military infrastructure. [4] The U.S. is taking steps to bolster relations and avoid tipping the scales in favor of PRC inroads, including two sections of the Fiscal Year 2018 National Defense Authorization Act (NDAA FY 18).

At a glance, section 1259C of the NDAA FY 18 approves a 2010 supplemental agreement guaranteeing appropriations to Palau until 2024. Prior to approving this supplemental agreement, less than certain continuing resolutions served as the vehicle to fund Palau via the Department of Interior.



Photo from <http://nationalsecuritypolicy.blogspot.jp>

## INVESTING IN THE REPUBLIC OF PALAU AND THE ISLAND CHAIN DEFENSE STRATEGY

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The 2010 supplemental agreement however, provides Palau with greater certainty and fidelity of funding efforts. Section 1259D on the other hand, commissions a study on “United States security and foreign policy interests in the Freely Associated States of the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.” Elements of the study include U.S. defense posture and plans, economic practices of the PRC, and the implications of both on U.S. defense and foreign policy. In other words, the study will provide decision-makers with much-needed feedback on existing relations with island chain nations and the viability of the Island Chain Strategy as a continuing defense structure in the region.

U.S. relations with island chain nations are often-overlooked as an aspect of maritime security in the larger Indo-Asia Pacific Region. However, efforts should be directed towards repairing domestic fissures between U.S. and island chain nations. Improved relations would remove opportunities for the PRC to replace existing U.S. support mechanisms, and ensure continued support for U.S. interests in the region.

[1] U.S. National Defense Strategy, 2018

[2] See Andrew S. Erickson, Joel Wuthnow, <http://nationalinterest.org/feature/why-islands-still-matter-asia-15121>.

[3] See Eli Huang, <http://nationalinterest.org/blog/the-buzz/chinas-master-plan-how-beijing-wants-break-free-the-island-20746> (“In January 2013, political commissar of the Liaoning, Mei Wen, stated that ‘the so-called first island chain and second island chain should not be chains to bind up development of the Chinese Navy, but navigation marks for the Chinese Navy to sail into the vast oceans.’”)

[4] See Elke Larsen, <https://www.csis.org/analysis/prioritizing-palau-why-compact-budget-matters>; Dean Cheng, <https://www.heritage.org/asia/report/countering-chinese-inroads-micronesia>; Thomas R. Matelski, <https://thediplomat.com/2016/02/americas-micronesia-problem/>.

[5] See Thomas R. Matelski, <https://thediplomat.com/2016/02/americas-micronesia-problem/>.



Photo from the 2012 People's Liberation Army-Navy Report

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## EXPERTISE AND FRIENDSHIP: THE TOOLS FOR SUCCESS ON THE KOREAN PENINSULA

LT Philip Stevens, JAGC, USN

For more than 60 years, the United States (U.S.) and the Republic of Korea (ROK) have cemented a special relationship best reflected in the shared Hangul motto "*kachi kapshida*," or "we all go together." The ROK and U.S. (ROKUS) military legal team is an integral part of this relationship. ROK and U.S. attorneys work hand-in-hand to solve problems across all legal practice areas. This piece provides a brief overview of common operational law issues confronting the ROKUS legal team and explores how the principles of friendship and cooperation, exemplified in *kachi kapshida* are necessary for bilateral military success on the Korean Peninsula.



South Korean Marine K1 tanks during a ROKUS military exercise (<https://editorials.voa.gov/a/us-will-defend-against-north-korean-threat/3672237.html>)

### Legal Landscape

To facilitate cooperation, the ROK and U.S. must first agree on which authorities to follow. First, the 1953 Armistice Agreement set into motion longstanding legal precedent between the U.S., ROK, and the Democratic People's Republic of Korea (DPRK). It put into force a ceasefire and regulates the 160-mile long demilitarized zone (DMZ). This document is also the cornerstone of the common understanding between the U.S. and the ROK and is the lynchpin of cooperation between the two nations.

Another authority is the ROK Constitution, which sets forth principles and systems of governance. The ROK Constitution claims sovereignty over the entire Korean Peninsula, including the DPRK. The DPRK also claims sovereignty over the entire peninsula. This tricky scenario is just one contributor to the long-standing tension between the ROK and DPRK. In practice, however,

both states recognize one another and are represented in the United Nations (UN) general assembly. From the U.S. perspective, this teaches the importance of peace and stability within the entire peninsula, not just

peace south of the DMZ.

Finally, common sources of international law round out the basics of the Korean Peninsula legal landscape. Noteworthy texts include Geneva Convention Common Article 2, which applies to international armed conflicts, and various UN Security Council Resolutions concerning the DPRK and the proliferation of nuclear materials. From this third category of authority, the bounds of military operations are derived, including rules of engagement, operations and mission planning, and internal targeting procedures. Ground level ROKUS legal work is not spent peeling back layers of the greater geopolitical questions, but instead tailoring and

**EXPERTISE AND FRIENDSHIP: THE TOOLS FOR SUCCESS ON THE KOREAN PENINSULA**

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calibrating the means, methods, and authority to use force by both U.S. and ROK militaries.

**Everyday Battles**

Ensuring future military success requires constant practice and evaluation. To that end, the ROK and U.S. conduct exercises to increase interoperability and cooperation between their forces in defense of the ROK. Numerous legal principles are at issue and application of legal expertise from both sides of the ROKUS friendship is necessary. For a valid case of defense, international law recognizes there must be a triggering hostile act or hostile intent. Further, action taken in self-defense must be the last resort and it must be proportional in intensity and duration to deter the perceived threat. These guiding principles of international law work to prevent confusion between nations and to ensure a common operating policy between the U.S. and the ROK. Success on the Korean peninsula means developing individual exercise plans and Rules Of Engagement (ROE). It is crucial to understand when to escalate from one pre-made exercise plan to the next based on pre-determined criteria or which ROE applies. This constant training results in a better outcome for both nations.

Constant peacetime policing operations in the DMZ require interpreting and enforcing the word and intent of the original Armistice Agreement. The Armistice Agreement restricts the number of police and civil administration personnel allowed at the DMZ. Ensuring a balance between security of the DMZ and adherence to the strict limits of the Armistice requires constant evaluation. In practice, this means adding new personnel beyond the limit set by the Armistice, or increasing armament outside the scope of security and enforcement of the Agreement, may not pass muster.

Finally, development of combined-joint fire exercises epitomizes the ROKUS friendship and expertise. In this context, international law dictates what principles apply during wartime scenarios. This requires that the commander distinguish between military and civilian targets, target legitimate military objectives, and balance the military advantage gained against the civilian cost. This requires constant training, correction, and implementation of refined plans and strategies. This process builds bilateral relationships between planners and attorneys, leads to properly validated targets, and ultimately ensures trusted advice to the commander at targeting boards.

**Moving Forward**

Working for the combined command in the ROK presents unique challenges: developing legal practices with bilateral partners, bridging language gaps, and melding military culture to find common solutions. Seemingly simple questions of authority to use force require in-depth consultation since the U.S. and ROK attorneys serve different nations with different laws that do not always agree. The ROKUS partnership is not limited to the military, but works for better bilateral rules and plans on a grand scale as well. The combined legal friendship and cooperation between attorneys from both nations contribute to this goal.

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## FREEDOM OF THE SEAS IN THE WAR OF 1812 AND ITS ECHOES TODAY

LT Michael Seeley, JAGC, USN

On 22 June 1807, HMS *Leopard* hove to alongside USS *Chesapeake* with its guns primed and ready, despite being at peace. The British captain demanded he be let aboard the U.S. ship to examine the crew for British deserters. When the Americans refused, the British unleashed their broadsides, forcing the *Chesapeake* to surrender. British Marines paraded aboard the U.S. ship and hauled away four U.S. citizens to be tried for desertion from British service.

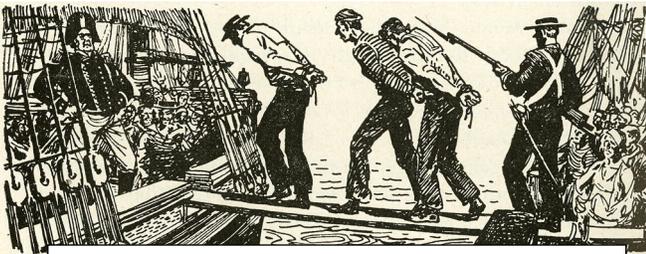


Photo from U.S. Mariner's Museum

They were each sentenced to receive 500 lashes, a de facto death sentence. [1] Of his treatment of the *Chesapeake*, the British captain wrote that he did "most sincerely deplore that any lives should have been lost in the execution of a service, which might have been adjusted more amicably." [2] The bloodshed was regrettable but necessary to safeguard British rights.

Two hundred years later, in April 2017, in the international waters off Union Banks of the Spratly Islands, a Filipino fisherman cast his nets in the traditional fishing grounds to which he returned every year. However, Orlan Dumat noticed a grey-hulled naval ship approaching him. When it dispatched a speedboat, he became concerned, and when that speedboat began machine-gunning the outriggers and waters about his craft, he cut his anchor line and abandoned his nets to run as fast as his little ship would allow. Dumat later identified the vessels and uniforms of the aggressors as members of the Chinese Navy. [3]

While our forefathers rallied under the cries of "Free trade and Sailors' rights," maritime tensions today focus on "Spratly rights" and the sovereignty of the rest of the South China Sea. By studying the similarities between Great Britain in the lead up to the War of 1812 and China today, the United States may gain insight into maintaining naval dominance. And, in considering how to respond to China's claims of Spratly rights, the U.S. Navy would do well to remember its fledgling ancestor's role in the war for "Free Trade and Sailors' Rights."

As with Great Britain's fervor for impressment as both a necessity and right, modern-day China relies on national security and sovereignty to lay claim to the South China Sea. China's Foreign Ministry department recently declared that "China has indisputable sovereignty over Nanhai Zhudao (South China Sea) and the adjacent waters. China firmly safeguards its territorial sovereignty and maritime rights and interests." [4]

The Chinese claims are based on historical precedent, and to better understand the legal implications of their argument, it is helpful to briefly analyze the state of international maritime law today, namely the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS establishes a 12-nautical-mile (nm) territorial sea from the shores of sovereign territory, meaning that with few exceptions, the coastal state has exclusive power over those waters. It also creates a 200 nm exclusive economic zone (EEZ) from the shores of sovereign territory in which only the coastal state is allowed economic exploitation. Finally, a country may lay claim to a territorial sea beyond 12 nm if the area is "historic" waters. This includes the waters in an archipelago or large bay, such as Canada's Hudson Bay. China claims the entirety of the South China Sea as its historic waters. [5]

## FREEDOM OF THE SEAS IN THE WAR OF 1812 AND ITS ECHOES TODAY

LT Michael Seeley, JAGC, USN

China argues that its fishermen and merchantmen have traveled to the Spratlys and Paracels as far back as the second century BCE. Maps indicating these archipelagos as part of Chinese territory date to the tenth century CE. During the Ming dynasty in the early 15th century, official armadas were dispatched into the South China Sea to “[make] known the proclamations of the Son of Heaven, and spread aboard the knowledge of his majesty and virtue.” [6] These voyages established trade and tribute systems throughout the South China Sea and to Southeast Asia. For centuries following, Chinese ships plied these trade routes and often landed in the Paracels and Spratlys, as China considered them sovereign territory. Historian Marwyn Samuels wrote on the results of this long history: “Though hardly the exclusive preserve of Chinese shipping, it became a veritable Chinese lake. And, along the way, the islands of the [South China Sea] became important traffic-divides to delineate the southeastern water margin of China’s maritimesphere.” [7]

Into the modern era, China has widely published their views on the sovereignty of the South China Sea, most notably through the declaration of the Nine Dash Line. In 1947, China released a map which laid claim to the territory within a U-shaped series of lines enveloping the South China Sea, including the Spratly and Paracel islands. Eventually, the two westernmost lines covering the Gulf of Tonkin were removed, and the official stance became the Nine Dash Line of sovereignty over the

South China Sea. [8]

China also rests on necessity to secure its national security in these waters. Vast amounts of Chinese raw material imports and trade exports flow through here. Likewise, control over these seas provides a military buffer for China’s most densely populated south. Without control of the South China Sea, China risks both its economic wellbeing and safety of its mainland. Indeed, Beijing has declared the South China Sea “blue national soil,” and like Great Britain’s relentless impressment, China has supported these claims by limiting the Freedom of the Seas, violating others’ maritime rights as a means of preserving its own.[9]

In 1974, China landed troops on the Paracel Islands and beat off a Vietnamese naval squadron to seize control of the island chain. This was followed by a battle for Johnson South Reef in 1988. More recently, in December 2016, a Chinese warship confronted USNS *Bowditch* (T-AGS-62), an oceanographic research ship, and seized an unmanned drone out of the water, claiming it was conducting illegal surveillance. In March 2016, the Indonesian government seized a Chinese-flagged fishing ship for fishing within their EEZ; before it could be impounded, a Chinese Coast Guard vessel rammed the fishing boat free within Indonesian territorial seas. On several occasions, China has escorted oil rigs into the Vietnamese EEZ and drilled. Against Vietnamese, Filipino, Indonesian, and other foreign vessels, the Chinese have employed water cannons and machine guns, threats, ramming, and sinking. [10]

To China, holding the South China Sea is just as vital as the Royal Navy’s impressment crisis.



Image from U.S. State Dept Report 143

## FREEDOM OF THE SEAS IN THE WAR OF 1812 AND ITS ECHOES TODAY

LT Michael Seeley, JAGC, USN

As it prepared to defend its maritime rights, the fledgling U.S. Navy drew upon innovative technologies the Royal Navy lacked. First was the composition of its ships. The United States had only recently founded its Navy with the construction of six frigates, and U.S. shipwrights had used live oak to strength their hulls. Incredibly dense, live oak has a usable life span six times that of white oak and other timbers used to complete contemporary British ships. The wood was miserable to extract and shape, but the effort would prove to be well-spent. [11]

To add to this were the new U.S. frigates' design and armament. Their keel was longer and their beam (width) shorter than other frigates. The change allowed heavier and more cannons to be mounted without losing speed. Joshua Humphreys, their designer, declared that "they are superior to any European frigate," and controversially combined the extra cannons of a battleship with the maneuverability of a regular frigate. [12] Under the banners of "Free Trade and Sailors' Rights" and armed with its new technology, the U.S. Navy nevertheless astounded the nation with its successes. Although the Treaty of Ghent, which ended the war in late 1814, merely returned the parties to the *status quo ante bellum*, the vigorous U.S. defense of its maritime rights proved long lasting. Great Britain ceased its impressment of U.S. sailors, and the economic ties of free trade grew between the two states. That the United States had defended its rights at sea signaled to Great Britain that the United States was to be treated as a rising power and not merely a rebellious backwater.

Today, to protect China's "Spratly rights," China is engaging in increasing militarization throughout the region. The Chinese have expanded the usable land on their claimed islands in the

South China Sea by dredging sand from the ocean floor. On these enlarged islands, they have in-



Johnson Reef—Imagery courtesy CSIS

stalled airfields and anti-air missiles to defend them. Advanced radar facilities, underground bunkers, and reinforced hangars are appearing as well. China has shifted the focus of its naval forces, diverting its main submarine fleet to Hainan Island for faster, more regular sorties into the South China Sea, and its coast guard and paramilitary maritime militias have become mainstays throughout the South China Sea. [13]

What's more, its antiship technology is increasing rapidly and poses a major threat to the U.S. Navy. Of particular note is the Dong Feng-21 antiship ballistic missile. "The DF-21 strikes a target at hypersonic speed from a nearly vertical angle. It can also conduct defensive maneuvers that make the missile incredibly difficult to intercept." [14] Meanwhile, China's new YJ-12 missile, another deadly antiship weapon, may be mounted onboard an aircraft. Together, these missiles pose a threat that comparable U.S. technology struggles to counter in the region. [15] Like the live-oak and added weaponry of the early U.S. Navy's superfrigates, China's new ship-killing missiles and expanding fleet add a dangerous variable to the tension in the South China Sea. [16] In response to FONOPs, economic pressure, and the arbitration ruling, China is prepared to safeguard its claims against all contenders.

## FREEDOM OF THE SEAS IN THE WAR OF 1812 AND ITS ECHOES TODAY

LT Michael Seeley, JAGC, USN

Others have written extensively on what the United States' response in the South China Sea should be, but however the country responds, first it must heed the past to inform its decision. China's dealings in the South China Sea today bear a striking resemblance to the leadup to the War of 1812: a rising state with new military technology feels its fundamental sovereignty and rights are being violated by the world's leading naval power.

The comparison is further complicated, as China today is analogous to both sides of the War of 1812. With an expanding fleet, increased military technology, and growing connections and power in the international community, China resembles the early United States. On the other hand, armed with an unshakeable conviction that its actions are supported by tradition and are necessary to protect its sovereignty, it is engaging in clear abuses of the maritime rights of others, resembling Great Britain's impressment and economic harassment.

The similarities should give all pause, as the prior tensions resulted in war. Whether the United States chooses to accede to China's claims, maintain its protests and FONOPs, or even to escalate its involvement to safeguard Freedom of the Seas, it should weigh all responses within this historical framework. This is neither a call for or against war, nor a prediction that one is sure to happen. Rather, the comparison should serve as a warning that should China, like Great Britain before it, continue to run roughshod over others in the South China Sea, the United States' maritime superiority and the Freedom of the Seas must be weakened. The War of 1812 was a global, full-scale war to resolve the issue of "Free trade and sailors' rights." In today's tense climate, the United States must balance its interests and international maritime rights against the prospect of another war, this one over China's "Spratly rights."

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- [16] Jeremy Bender, "The US is Worried it Can't Keep up With China and Russia's Submarine Fleets," *Business Insider*, February 25, 2016.

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## NON-COMBATANT EVACUATION OPERATIONS: WHAT YOU AND YOUR FAMILY NEED TO KNOW

LT Leah Fontenot, JAGC, USN

When disaster strikes, preparation is everything. Located on the Pacific “Ring of Fire,” Japan is susceptible to a number of natural and non-natural disasters. Earthquakes, tsunamis, volcanic eruptions, typhoons, flooding and snowfall may all create emergency situations in Japan that could require a Non-Combatant Evacuation (NEO)/ Emergency Evacuation Procedures (EEP). Geopolitical volatility in the region may also lead to an evacuation. In the event that an evacuation is ordered, the service member will be required to stay behind, but civilian employees and military dependents may be ordered to leave. This means that your family may be required to leave without you. Preparation is the key to minimizing hardship during such a situation.

U.S. Forces Japan (USFJ) will be releasing new guidance for emergency evacuation procedures. This guidance will be standardized across all service components and will replace each service component’s individual emergency evacuation checklists. Once the USFJ guidance is released, personnel stationed in Japan will have 180 days to update their

NEO/EEP checklist to the USFJ checklist. However, do not wait until then to review your emergency evacuation plan.

### What Families Should Prepare

#### *Emergency Bag / At Home Kit*

- Prepare an emergency bag to sustain you and your family for 72 hours during an emergency or evacuation.
  - Examples: emergency food and water, can opener, tissues, clothing, flashlights and batteries, necessary medications, and cash.
  - Include contact information for NEO/ EEP Warden. They are your primary point of contact during an evacuation.
  - Include a copy of US Passport w/ SOFA Stamp.
  - You should also have your CAC or dependent ID card on your person. Do not make a copy.
  - *DD Form 2585: Repatriation Processing Form* – fill in as much as you can now. The form will be completed after boarding your evacuation vessel.

#### *If You Have Pets*

- Prepare two copies, in a waterproof pouch, of *DD Form 2208: Rabies Vaccination Certificate*.

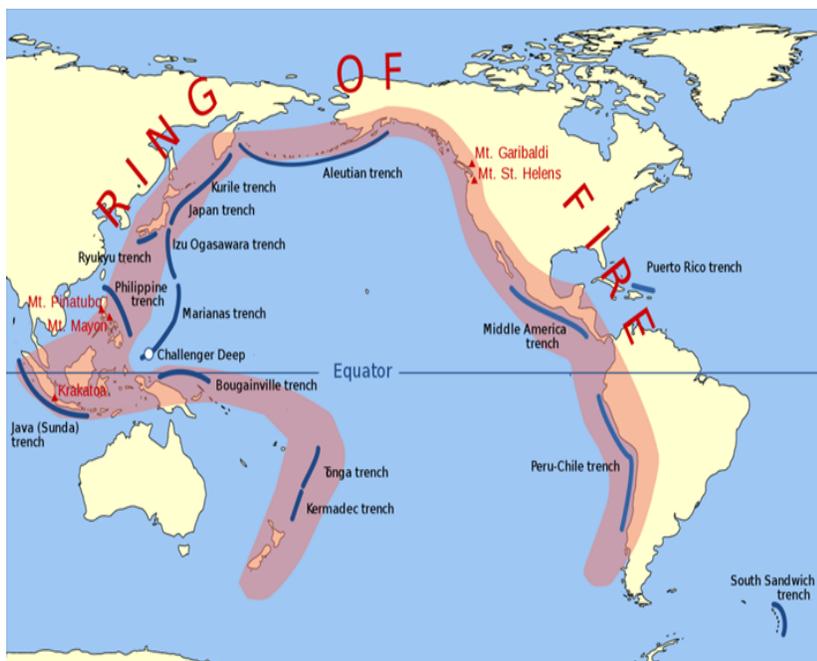


Photo from USGS electronic entry for Ring of Fire

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- Prepare two copies, in a waterproof pouch, of DD Form 2209: Pet Health Certificate.
- Prepare two copies of your pet's NEO Card and attach 1 copy to your airline approved pet-carrier.
- Pet food.

### *Required Documentation for EEP Packet*

- NEO/EEP Packet Checklist. This document (forthcoming from USFJ) will standardize NEO/EEP packets.
- Orders or Letters of Employment for sponsor / family
- Map from residence to rally point / Evacuation Control Center
- Inventory of Household Goods
- Residence Key Envelope
- Vehicle Key Envelope
- Copy of Vehicle Registration / Certificate of Title
- Family Care Plan (as needed)

For more information on emergency preparedness, please check out CFAY's *Disaster Preparedness Handbook*, available at: [https://www.cnic.navy.mil/content/dam/cnic/cnrj/cfa\\_yokosuka/pdfs/CFAY%20Disaster%20Preparedness%20handbookENG\\_JN.pdf](https://www.cnic.navy.mil/content/dam/cnic/cnrj/cfa_yokosuka/pdfs/CFAY%20Disaster%20Preparedness%20handbookENG_JN.pdf)

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LT Fontenot is an attorney at RLSO Japan. She previously served as a surface warfare officer, completing deployments to the C5F and C6F AOR. She holds a Bachelor's degree in Political Science from University of Illinois at Urbana-Champaign, and a Juris Doctor from The George Washington University.

## New Special Power-of-Attorney Website

Need a special power-of-attorney (SPOA) but don't have the time to wait in line at the Legal Office? You can now draft a special power-of-attorney yourself! The new special power-of-attorney (SPOA) puts the power-of-attorney forms you need at your fingertips. All personnel eligible for legal assistance can now fill out special power of attorney forms online, print them, and take the un-signed forms to an authorized notary public for signature and execution. Your Special Power of Attorney (SPOA) may be completed in 4 easy steps.

1. Logon to [http://www.jag.navy.mil/legal\\_services/SPOA.htm](http://www.jag.navy.mil/legal_services/SPOA.htm)
2. Choose the SPOA that fits your needs and fill in the information.
3. Produce the SPOA by clicking "Generate SPOA".
4. Print and bring it to your command Legal Officer *or* the RLSO Japan Legal Assistance Office for notarization.

For any POA not listed on the website, please come to the Legal Assistance office at RLSO Japan. Remember, the POA will not be valid unless it is signed by you, in person, in front of the notary. Please have two forms of Government photo ID ready.

## RESULTS OF TRIAL



### **October 2017:**

At a General Court-Martial in Yokosuka, Japan, an E-5, USN was tried for numerous offenses. On 19 October 2017, the panel of members returned a verdict of guilty to abusive sexual contact. The panel of members sentenced him to reduction in rank to paygrade E-1, to be discharged with a Bad Conduct Discharge, and to confinement for 90 days.

At a General Court-Martial in Yokosuka, Japan, an E-3, USN was tried for numerous offenses. On 27 October 2017, the panel of members returned a verdict of guilty to false official statement, abusive sexual contact, and sexual assault. The panel of members sentenced him to reduction in rank to paygrade E-1, to be discharged with a Dishonorable Discharge, to forfeitures of all pay and allowances for a period of 36 months, and to confinement for 3 years.

### **November 2017:**

At a General Court-Martial in Yokosuka, Japan, an E-5, USN was tried for numerous offenses. On 17 November 2017, the panel of members returned a verdict of guilty to false official statement. The panel of members sentenced her to reduction in rank to paygrade E-4, to confinement for 30 days, to be restricted for 30 days, and to forfeit \$1275.00 for a period of one month.

At a General Court-Martial in Yokosuka, Japan, an E-5, USN plead guilty pursuant to a pretrial agreement to false official statement and assault consummated by a battery. On 29 November 2017, the military judge sentenced him to reduction in rank to paygrade E-3, to forfeitures of \$750.00 for a period of three months, and to confinement for 90 days.

### **December 2017:**

At a General Court-Martial in Yokosuka, Japan, an E-7, USN (ret.) plead guilty pursuant to a pretrial agreement to attempted sexual abuse of a child and attempted sexual assault of a child. On 1 December 2017, the military judge sentenced him to be discharged with a Dishonorable Discharge and to confinement for 18 months.

## RESULTS OF TRIAL



### **December 2017 (continued):**

At a General Court-Martial in Yokosuka, Japan, an E-5, USN plead guilty pursuant to a pretrial agreement to assault consummated by a battery. On 1 December 2017, the military judge sentenced him to reduction in rank to paygrade E-4, to forfeitures of \$750.00 for a period of two months, and to confinement for 60 days.

At a General Court-Martial in Yokosuka, Japan, an E-7, USN (ret.) plead guilty pursuant to a pretrial agreement to attempted sexual abuse of a child and attempted sexual assault of a child. On 1 December 2017, the military judge sentenced him to be discharged with a Dishonorable Discharge and to confinement for 18 months.

At a General Court-Martial in Yokosuka, Japan, an E-5, USN plead guilty pursuant to a pretrial agreement to assault consummated by a battery. On 1 December 2017, the military judge sentenced him to reduction in rank to paygrade E-4, to forfeitures of \$750.00 for a period of two months, and to confinement for 60 days.

At a General Court-Martial in Yokosuka, Japan, an E-3, USN was tried for sexual assault. On 6 December 2017, the panel of members returned a verdict of not guilty.

At a Special Court-Martial in Yokosuka, Japan, an E-5, USN plead guilty pursuant to a pretrial agreement to indecent exposure. On 15 December 2017, the military judge sentenced him to be discharged with a Bad Conduct Discharge and to confinement for 90 days.

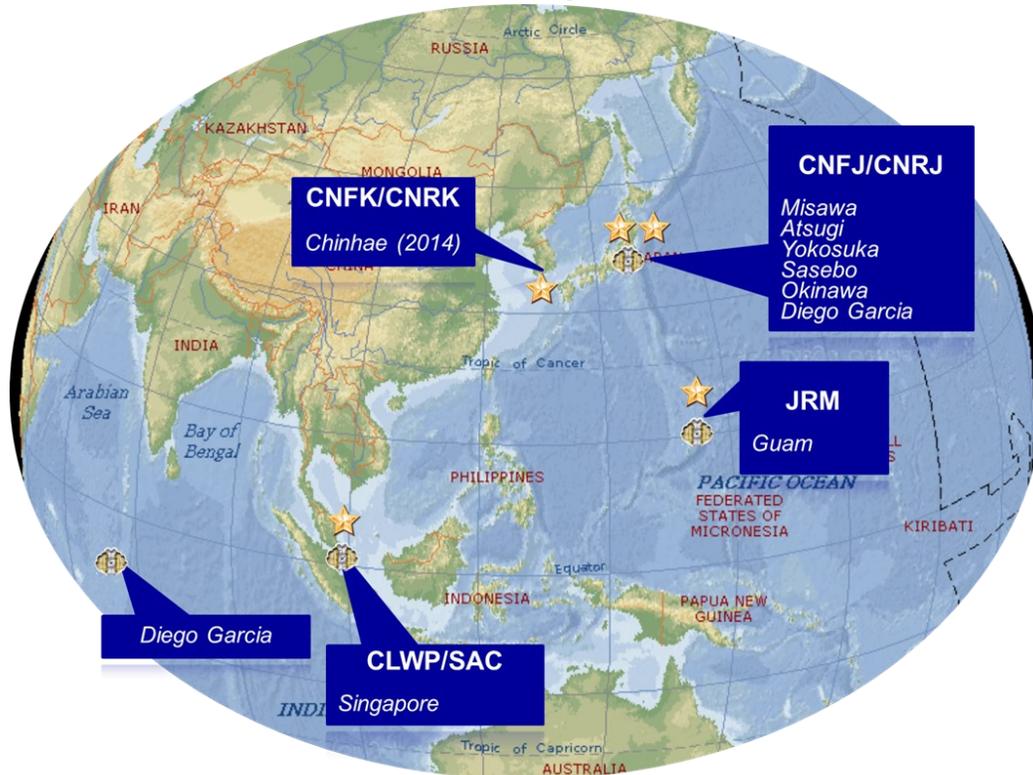
### **January 2018:**

At a General Court-Martial in Yokosuka, Japan, an E-6, USN was tried for numerous offenses. On 12 January 2018, the panel of members returned a verdict of guilty to assault consummated by a battery. The panel of members sentenced him to restriction for 60 days, to hard labor for three months, and to forfeitures of \$1972.00 for a period of six months.

At a Special Court-Martial in Yokosuka, Japan, an E-6, USN was tried for dereliction in the performance of duties, false official statement, and larceny. On 31 January 2018, the panel of members returned a verdict of not guilty.

## CONTACT INFORMATION

### Your Nearest Legal Advisors



Yokosuka Command Services: 315-243-9437

Yokosuka Legal Assistance: 315-243-8901

CFAY Legal: 315-243-7335

CNFJ/CNRJ: 315-243-3149

Atsugi: 315-264-4585

Sasebo SJA: 315-252-3387

Sasebo Legal Assistance: 315-252-2119

Misawa: 315-226-4022

Diego Garcia: 315-370-2922

Okinawa: 315-632-3974

Guam Legal Assistance: 315-333-2061

Joint Region Marianas: 315-349-4134

Singapore: 315-421-2305

CNFK: 315-763-8010

C7F: 315-241-9104

CTF70: 315-243-7113

CTF72: 315-264-2860

CTF76: 315-622-1620

USS RONALD REAGAN: 315-243-6656