Editor's Comments

Dear *JTMS* Readers,

At this point in the COVID19 pandemic and its waves upon waves it might seem imprudent to be optimistic. Vaccinations have been rolled out with impressive efficiency in many of the wealthy economies of the world while the developing world still faces a stark reality of the pandemic without the necessary doses of vaccines to bridge the gap. Vaccine nationalism and vaccine diplomacy have figured into the international relations of the pandemic world. Therefore, any optimism needs to be tempered with a degree of mindfulness that the issues that have always plagued state to state relations persist. The money spent to make the vaccines represents both the potential of collaboration to address a serious international issue while highlighting the way inequalities between have and have not states pose a serious obstacle to forming consensus and achieving parity. These challenges will survive COVID19 and complicate the agenda for climate change policy, international legal enforcement, territorial issues, and security concerns. Needless to say, we all need hope, but we also need pragmatism and even-headed analysis of these issues. As always, the team at *JTMS* has done its best to curate the best articles available to us to provide some analysis of these issues so that we may look upon the future with guarded and informed optimism.

In this issue's first article, Emilia Justyna Powell and Sara McLaughlin Mitchell analyze how countries' domestic legal traditions influence their selection of dispute settlement procedures under Article 287 (ITLOS, ICJ, Annex VII/VIII arbitration) of the 1982 UNCLOS treaty. The theory suggests that common law countries are supportive of UNCLOS generally and amenable to multiple forums of Article 287 dispute settlement. Civil law countries prefer the ICJ as a dispute settlement forum, while Islamic law states prefer arbitration approaches under Article 287. Using descriptive statistics and logit models to analyze decisions by all 194 countries to (1) sign (92%) or ratify (84.5%) UNCLOS and (2) make an optional Article 287 declaration (29% of States Parties), the authors find that states' domestic legal traditions have a strong influence on states' preferred dispute resolution forum(s) in the UNCLOS regime. Common law countries are supportive of UNCLOS generally and many of the dispute resolution forums available in Article 287. Civil law countries choose the ICJ most often under Article 287, while Islamic law states prefer Annex VII/VIII arbitration.

In the second article of the issue, José Manuel Martín Osante specifies what maritime transport is covered by Spanish regional regulations, in order to specify the scope of Spanish Maritime Navigation Act 14/2014 of July 24. Likewise, the relationship between the Maritime Navigation Law and international Conventions ratified and in force in Spain, regulating issues related to maritime navigation, is studied in order to understand their respective scopes of application. Osante finds that Spanish autonomous communities cannot regulate

legal-private aspects of maritime transport carried out for commercial purposes, but they will be able to regulate maritime transport that is within autonomous competence (between ports or points of the same autonomous community), carried out for non-commercial purposes (recreational, sports…). The option of the Spanish Maritime Navigation Act 14/2014 regulating some maritime institutions (internal cases) by referrals to the international Conventions (not applicable to internal cases), determines that the regulation of internal cases, is the planned in the Convention.

The third offering of the issue, by Joshua Tallis, argues that the latest U.S. tri-service maritime strategy (*Advantage at Sea*) requires the sea services (Navy, Marine Corps, Coast Guard) to assess the strategic role of seapower in countering violent non-state actors, balanced against a larger agenda of great power competition, offering a theoretical structure for assessing seapower's strategic effects against non-state actors. First, Tallis traces intellectual histories through U.S. strategic texts, developing a foundation for how, why, and when maritime strategies account for non-state actors. Second, he builds on Thomas Schelling's division of how forces are operationalized in order to trace the strategic effects of seapower vis-à-vis the concepts of deterrence, assurance, and compellence. Tallis finds, in most cases, seapower appears to play a non-strategic role in deterring, assuring, or compelling non-state threats—that is to say, naval power has operational use, but seapower is rarely strategically decisive. The nearest exception is in seapower's role assuring some allies and partners facing imminent threats from non-state groups. Meanwhile, seapower remains, in aggregate, important for preserving the international order, resulting in a paradox: even as the effects from day-to-day competition at sea build to the strategic benefit of sea services (in this case, those of the U.S.), the incremental actions of sea services are often non-strategic in nature and thus risks systemic underinvestment and undervaluing.

In our fourth article, Su Wai Mon argues that boundary disputes, whether terrestrial or maritime, involve the issue of State sovereignty or territorial integrity, the core interest of the nation. There is a range of consequences if the disputed parties are unable to reach an agreement to settle the claims such as denial of nations' access to disputed areas, depriving nations' interests over marine resources as well as creating tensions between them and limitations in performing law enforcement activities. The author argues that the existing unsettled maritime boundary disputes are a threat to sustainable maritime security in Malaysia. She finds that sustaining a nation's maritime security by means of effective law enforcement against various threats is essential. Unsettled maritime boundary disputes create grey areas in claiming jurisdiction and eventually lead to the ineffective maritime law enforcement. Realizing practical and existing challenges stemming from the unsettled boundary disputes is essential to stimulate motivation of the countries to beef up negotiation efforts aiming for the peaceful settlements with counter-claimants.

Last but not least, Edcel John A. Ibarra explores the roles of the Association of Southeast Asian Nations (ASEAN) in cooperation on conflict resolution in the South China Sea. Employing the issues approach to international relations, Ibarra introduces an original framework that breaks down the South China Sea disputes into their component issues and identifies the types of conflict resolution and modes of cooperation implied in each. He finds that ASEAN-led cooperation on conflict resolution in the South China Sea has concentrated on concluding a code of conduct with China as an attempt at conflict prevention, management, and transformation. Progress has been slow, but efforts can be complemented

by engaging in cooperation of other types (e.g., conflict settlement), in other modes (e.g., "minilateralism"), and on other issues (e.g., maritime rights, maritime power projection, and marine economic development).

I would like to thank our editorial board and staff for their dedication in spite of the continued challenges of the pandemic. I would also like to thank our authors and readers for their continued faith in *JTMS*. May you and yours enjoy good health and happiness in 2022.

Jongyun Bae
Editor