

Analyzing the Causes and Effects of the South China Sea Dispute

Author(s): Christine Elizabeth Macaraig and Adam James Fenton

Source: *The Journal of Territorial and Maritime Studies*, SUMMER/FALL 2021, Vol. 8, No. 2 (SUMMER/FALL 2021), pp. 42-58

Published by: McFarland & Company

Stable URL: <https://www.jstor.org/stable/10.2307/48617340>

## REFERENCES

Linked references are available on JSTOR for this article:

[https://www.jstor.org/stable/10.2307/48617340?seq=1&cid=pdf-reference#references\\_tab\\_contents](https://www.jstor.org/stable/10.2307/48617340?seq=1&cid=pdf-reference#references_tab_contents)

You may need to log in to JSTOR to access the linked references.

---

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



McFarland & Company is collaborating with JSTOR to digitize, preserve and extend access to *The Journal of Territorial and Maritime Studies*

JSTOR

# Analyzing the Causes and Effects of the South China Sea Dispute: Natural Resources and Freedom of Navigation

*Christine Elizabeth Macaraig and Adam James Fenton*

## Structured Abstract

Article Type: General Review

*Purpose*—The South China Sea dispute illustrates the confluence of competing interests on an international scale. The first half of the article examines the role of natural resources in driving the dispute. The second half of the article presents a legal analysis of the dispute using the United Nations Convention on the Law of the Sea as a benchmark against which to examine China's academic maneuvering.

*Design/Methodology/Approach*—The paper presents an original analysis and assessment of the driving factors and legal ramifications of the dispute using secondary data.

*Findings*—While natural resources are an important driver, equally important are the military, geo-strategic aspects of the near total military dominance of China in the South China Sea, despite reports that the country would refrain from activities that would aggravate the dispute.

*Practical Implications*—Both access to natural resources and the strategic gains of controlling access through the South China Sea are driving the Chinese Communist Party to continue to pursue its claims in the South China Sea.

*Originality/Value*—The paper considers both the exclusive access to natural resources as a driving factor as well as the efforts of the Chinese Communist Party to challenge established concepts of international law in order to legitimize the claim to large swathes of territory in the SCS.

**Keywords:** freedom of navigation, natural resources, South China Sea

*Institut Komunikasi dan Business LSPR, Sudirman Park Campus, Jl. KH Mas Mansyur Kav.35, Jakarta 10220; email: 19210310075@lspr.edu*

*Institut Komunikasi dan Business LSPR, Sudirman Park Campus, Jl. KH Mas Mansyur Kav.35, Jakarta 10220; email: adam.jf@lspr.edu*



---

**Journal of Territorial and Maritime Studies** / Volume 8, Number 2 / Summer/Fall 2021 / pp. 42–58 /  
ISSN 2288-6834 (Print) / DOI: 10.2307/JTMS.8.2.42 / © 2021

---

## I. Introduction

The South China Sea (SCS) continues to gain media traction due to the steady increase in tensions in recent years.<sup>1</sup> The overlapping claims of the countries involved, including Brunei, China, Indonesia, Malaysia, the Philippines, Taiwan, and Vietnam, are said to have led to a stalemate, and it is feared that the absence of a resolution will only lead to increased tensions in the area.<sup>2</sup>

The SCS is already considered a dangerous maritime flashpoint.<sup>3</sup> In the ongoing narrative of the conflict, China has been depicted in some media reports as the primary antagonist, as it seeks to claim large territories of the SCS and continues to increase military activities in the area.<sup>4</sup>

In the face of these growing threats, it becomes imperative to examine the causes and effects of the SCS dispute, which can be attributed to two prominent factors: the presence of natural resources in the SCS, and the concept of freedom of navigation.

## II. Natural Resources

The future of the world is dependent on access to and availability of natural resources. Asia in particular, as the world's most resource-poor continent, considering its size and population, has an insatiable appetite for natural resources.<sup>5</sup> Whether this will lead to long-term regional conflict or cooperation over natural resources in the region remains to be seen.

The relationship between natural resources and disputes has been a matter of great interest to scholars.<sup>6</sup> Is having an abundance of resources an invitation for dispute? Do diminishing resources in one country intensify the incentives for dispute? These are questions that scholars have sought to explore in their research linking natural resources with dispute. Historically, it is said that access to resources has been a critical factor in war and peace.<sup>7</sup> In the case of the SCS, is it valid to say that natural resources are the main driver of the ongoing dispute? Or are other geopolitical, military, nationalistic and strategic concerns the main driver of the dispute? Or is it indeed a combination of all of these?

The Organization for Economic Cooperation and Development defines natural resources as naturally occurring raw materials that can be used for economic production or consumption.<sup>8</sup> Natural resources are typically categorized into mineral and energy resources, soil resources, water resources, and biological resources. That natural resources are subject to depletion through continued human use magnifies their importance and creates the rationale for competition and conflict among individuals and societies.

When it comes to natural resources, the SCS encompasses rich fishing grounds which would be beneficial to both national and local economies.<sup>9</sup> With estimated numbers of 11 billion barrels of oil, 190 trillion cubic feet of natural gas, 16.6 million tons of fish for a yearly catch, and 3,365 known species of fish, the SCS is of critical economic, military, and environmental significance.<sup>10</sup> The SCS dispute is complicated by the assumption that the claimant would be entitled to the natural resources from the SCS.<sup>11</sup> However, is this competition enough to drive the ongoing dispute?

To address this question, the first part of the paper provides a background on the

competing claims made by the countries involved and the attempts made to secure natural resources in the SCS. The second part explores another compelling factor driving the maritime dispute, which is the significance of the SCS as a trade route. The third section discusses the international legal regime as set down by the United Nations Convention on the Law of the Sea (UNCLOS), to assess the legality of China's claims in the SCS. This is especially important in light of certain foundational principles of UNCLOS such as the right of "innocent passage." The fourth section will draw attention to China's attempts to expand the meaning of another key concept in the UNCLOS, that of the Exclusive Economic Zone (EEZ), and its relevance to the discussion of the SCS dispute. Finally, the conclusion will seek to evaluate the role of natural resources and freedom of navigation in this long-standing international dispute.

### III. Competing Claims Over Natural Resources

Most of the countries involved in the maritime dispute assert their claims on the basis of the UNCLOS, which provides a common legal framework for maritime holdings and jurisdictions.<sup>12</sup> The UNCLOS states that a country's EEZ shall not extend more than 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.<sup>13</sup> However, it is in these very zones of extension where the claims overlap. Some of these conflicting claims are described by Buszynski as follows:

Chinese and Vietnamese claims loop around the Spratly and the Paracel Islands and overlap with the specific claims raised by the Philippines, Malaysia and Brunei. These countries have specific claims to areas contiguous to their own territory which also overlap. The Philippine claim to Kalayaan (Freedomland) as an extension of the island of Palawan overlaps with the Malaysian claim which extends from Sarawak/Sabah; Brunei's claim which extends from its own territory overlaps with that of both Malaysia and the Philippines.<sup>14</sup>

Beyond the EEZ jurisdictions set forth by UNCLOS, China, the Philippines, Taiwan, and Vietnam are all said to have made historical claims in the conflicting boundaries, although the latter three have shifted from arguing about historical claims to aligning with the UNCLOS jurisdiction.<sup>15</sup> But despite what UNCLOS states, China has continuously pushed for the recognition of its historical nine-dash-line claim, which is thought to originate from a cartographic document from Chiang Kai-shek's nationalist government.<sup>16</sup> However, if this line of argument is to be followed, then the historical claims of China can be considered just as valid as those of other kingdoms and empires in Southeast and South Asia.<sup>17</sup>

Brunei has been described as a silent claimant in the dispute,<sup>18</sup> and this might be attributed to the notion that the oil-rich country does not need to compete against others for natural resources. However, Brunei was hit hard by the drop in global oil prices in 2015 and had to turn to outside investors, notably China, for economic sustainability.<sup>19</sup> Since then it has been reported that Brunei and China are planning a joint exploration of oil and natural gas in the SCS.<sup>20</sup> Brunei is said to be not actively staking its claim as it would rather focus on cooperation, rather than conflict, with China instead.

China itself recognizes the importance of the SCS in terms of its natural resources, as stated by Jawli:



The South China Sea is dubbed by China as the “second Persian Sea” for its oil reserves. It has 1,367,000 barrels of oil production a day. The Chinese have calculated that the South China Sea will ultimately yield 130 billion barrels of oil. If these calculations are correct then it contains more oil than any area of the globe except Saudi Arabia.<sup>21</sup>

It seems that China is desperate to find new energy resources, as “Chinese oil reserves account for only 1.1 percent of the world total, while it consumes over 10 percent of world oil production and over 20 percent of all the energy consumed on the planet.”<sup>22</sup> The Chinese National Offshore Oil Corporation has invested \$20 billion in the region with the belief that there are vast reserves of oil in the area, in addition to abundant fishing opportunities.<sup>23</sup> In addition, China continued to extend its claims in the spring of 2020 by creating new administrative districts in the islands, naming additional reefs, sponsoring illegal fishing operations, and intimidating foreign vessels.<sup>24</sup>

Maritime territorial dispute in the region is not necessarily limited to the SCS itself but also extends to its adjacent territories. For instance, Indonesia is particularly intent on securing the Natuna Islands, located at the southern part of the SCS, from Chinese vessels and fishing boats encroaching in the territory.<sup>25</sup> As part of its efforts in this regard, in 2017 Indonesia renamed the water around the Natuna Islands, calling it the North Natuna Sea. The declaration, which only affects the relatively small part of Indonesia’s EEZ that overlaps with the nine-dash line, was met with disapproval by China and is not yet recognized in the International Hydrographic Organization (IHO) publication on the Limits of Oceans and Seas (3rd edition of S-23). A submission developed during the 1980s shows the Natuna Sea as separate from SCS. It was submitted to IHO Member States in 1986 but never received their approval. In addition to being the source of livelihood for Indonesian fishermen, the islands are critical to the future of energy of Indonesia, as they are home to the country’s largest untapped natural gas field, with some 46 trillion cubic feet of recoverable gas resources.<sup>26</sup> Indonesia has admitted to lacking fishing vessels to operate in the islands, as well as facilities on land to process catches.<sup>27</sup> However, the Indonesian government still believes that despite these limitations, it is their right to utilize the resources in their EEZ.<sup>28</sup>

Malaysia asserts that the entire Spratly Islands area of the SCS is within the continental shelf limits of the country.<sup>29</sup> The country derives a significant part of its oil and gas resources from the SCS.<sup>30</sup> However, several of its fields and platforms that are used to exploit hydrocarbons are within China’s nine-dash line.<sup>31</sup> Hence, it should not come as a surprise that Malaysia sought to formalize its claim with the United Nations Secretary General, even though it may go against China, which has massive ongoing investments with the country.<sup>32</sup>

Meanwhile, the Philippines is turning to the SCS for natural gas in order to phase out its coal-fired power plants.<sup>33</sup> Unfortunately, the country is undergoing security risks on offshore blocks as these come within China’s self-proclaimed nine-dash line in the SCS.<sup>34</sup> Such lost economic opportunity may be one of the reasons why the Philippines maintains its claim to the SCS. The Philippines is described as not fully realizing its maritime potential, as it only accounts for 2.62 percent of the total gross domestic product.<sup>35</sup>

For Taiwan, the Spratly Islands not only serve as traditional fishing grounds for its small vessels but are recognized as potentially rich in oil and gas deposits.<sup>36</sup> Taiwan has quietly retreated from being an active claimant, which has something to do with Taiwan’s complicated relationship with China.<sup>37</sup> At present the country is advocating its East China Sea

Peace Initiative, which calls on parties to shelve disputes and promote joint exploration and development.<sup>38</sup>

Vietnam is an active claimant in the maritime dispute, and its objectives include being able to exclusively control natural resources on and under Vietnam's continental shelf and to secure fish stocks for future generations.<sup>39</sup> The country has already made attempts to extract natural resources in the disputed areas, in the form of hydrocarbon drilling and seabed exploration, although these were largely contested by China.<sup>40</sup>

These reports so far indicate how the claimants involved in the SCS dispute possess vested interests in the natural resources to be extracted from the maritime territory. The next part of the paper features another equally compelling factor that is also known to drive to the maritime dispute.

## IV. Vital Trade Route

Trade routes are areas of passage by land or sea for economic purposes. Whether these routes involve small or vast regions, they are vital to the economic progress of countries. A number of reports cite that it is the trade routes within the SCS *per se*, and not the natural resources alone, that make it of critical significance to its claimants.<sup>41</sup>

As a matter of fact, almost a third of the world's shipping—an estimated \$11.3 billion worth of trade—annually passes through the SCS.<sup>42</sup> Spreading over more than three million square kilometers, the SCS is also a major trade route for crude oil, and more than 30 percent of global maritime crude oil trade (or about 15 million barrels per day) passes through the SCS.<sup>43</sup> As one of the busiest shipping routes in the world, the SCS route carries more than half of the world's annual merchant fleet traffic, making the traffic three times greater than that passing through the Suez Canal and fifteen times more than the Panama Canal.<sup>44</sup>

According to the China Power Project of the Center for Strategic and International Studies, the SCS trading route is particularly important to China, Taiwan, and South Korea, as these countries are dependent on the Strait of Malacca, which connects to the SCS.<sup>45</sup> China specifically had over 60 percent of its trade travelling by sea in 2016, to the extent that the SCS trading route has been dubbed China's Maritime Silk Road. Also passing through the SCS are around two-thirds of the energy supplies of South Korea, 60 percent of the energy supplies of Taiwan, and 80 percent of China's crude oil imports.<sup>46</sup>

Indonesia and Vietnam are also very much dependent on the SCS trade route, as more than 80 percent of trade to and from these countries passes through the sea.<sup>47</sup> Other countries that move their exports through the SCS with considerable economic impact are Singapore, Thailand, Vietnam, Hong Kong, and Malaysia.<sup>48</sup>

Furthermore, nearly 42 percent of Japan's maritime trade passes through the SCS, including all of the vital energy resources that Japan imports from the Middle East.<sup>49</sup> While Japan is not one of the SCS claimants, the country considers the route extremely important to its national security and has sought to support efforts that oppose the establishment of Chinese hegemony in the maritime area.<sup>50</sup> Another non-claimant that benefits greatly from the SCS is the global superpower United States, with \$1.2 trillion of its trade transiting through the SCS annually.<sup>51</sup>

The given examples show the significance of the SCS trade route for both claimants as

well as non-claimants of the maritime territory. It might be interesting to explore how the SCS trade route can potentially unite these countries into resolving the dispute, with multinational organizations such as the Asia-Pacific Economic Cooperation (APEC) leading the way.

## V. Legality, UNCLOS and the Arbitral Tribunal's Decision

Guilfoyle notes, “While the effectiveness of international law in the South China Sea dispute may be contested, its relevance cannot.”<sup>52</sup> The legitimacy conferred on a state's actions by “legality” is important for consolidating political gains. Scott argues that international law is best understood as an ideology which is embedded into international relations, and that compliance with it confirms membership in the group of international states.<sup>53</sup> The question of whether China's actions in the SCS are legal is therefore extremely important. And further, if China's claim to large swathes of the SCS were to be internationally recognized, what would be the legal and real consequences of that for the international community? Would it, for example, mean that China could unilaterally restrict or control all sea-borne trade moving through that region (recalling that a third of the global sea-borne trade passes through the SCS)? Answering these questions requires careful consideration of specific articles of the UNCLOS, “a comprehensive treaty designed to ‘settle all issues relating to the law of the sea,’ commonly called the ‘constitution of the oceans.’”<sup>54</sup> It also requires careful consideration of the foundations of China's claims that pre-date UNCLOS.

Legal legitimization is clearly of importance to China, and in particular the Chinese Communist Party (CCP). The CCP has invested a great deal of effort in researching and presenting the legal and historical foundations of its SCS claims to the world. This process of leveraging existing legal regimes to constrain enemies, confuse legal precedent and maximize claims has been dubbed legal warfare or “lawfare.”<sup>55</sup> The furthest extent of China's claims in the SCS is represented by the “nine-dash line.”

A simple Google search for “maps of China's nine-dash line claim” or similar search terms will reveal countless diagrammatic representations of the claim. The extraordinary breadth of China's claim is immediately apparent, encompassing the disputed island groups, its overlap with the claims of other states (made under the ordinary rules of UNCLOS), and the proximity to the coastlines of other states; in particular the Philippines, Brunei and Eastern Malaysia.

It may be stated at the outset that China's nine-dash line claim has no legal basis in the articles of UNCLOS. The Permanent Court of Arbitration—after a thorough consideration of all aspects of the competing claims between the Philippines and China, set out in a 500-page decision—clearly stated, “There is no legal basis for any Chinese historic rights, or sovereign rights and jurisdiction beyond those provided for in the Convention, in the waters of the South China Sea encompassed by the ‘nine-dash line.’”<sup>56</sup>

UNCLOS, which codified customary international law, clearly sets out at Articles 3 and 57 that the breadth of the territorial sea and the EEZ “shall not extend beyond” 12 NM and 200 NM respectively, measured from the coastline of the state in question (“the baseline”). The combination of the SCS arbitration decision and the clarity of the articles of UNCLOS suggest that the matter should be settled; however, this is far from being the case.

It would be seductively easy to dismiss China's nine-dash line as an unreasonable, baseless ambit claim by a belligerent, rising superpower consolidating its position in the Asia Pacific. However, the reality of China's position is far more nuanced and considered. China's position is that the nine-dash line is not contrary to international law; "rather, by virtue of the wider scope of the rules of customary international law, the line supplements what is provided for under UNCLOS." It must be noted that questions regarding the historical sovereign title over land or islands are outside the jurisdiction of UNCLOS. The core of China's legal argument, therefore, has been that UNCLOS cannot determine the sovereign title over island groups situated within the nine-dash line. It was on this basis that China refused to participate directly in the SCS arbitration and refused to recognize the tribunal's decision.

In a "Critical Study," a group of Chinese academics acting under the direction of the CCP presented the argument that Nansha Qundao (the Spratly Islands) and, indeed, each of the other island groups comprise "outlying archipelagos."<sup>57</sup> Employing the archipelago doctrine which applies to island nations such as Indonesia and the Philippines would allow straight lines to be drawn around the groups. In turn, this would allow large sections of the SCS to be claimed as archipelagic waters and, additionally, 200-NM EEZs extending from those straight lines. This claim has some semblance of normality under UNCLOS (unlike the nine-dash line claim); however, it fails for two important reasons. One is that UNCLOS is clear that "archipelago states" are states that are "constituted wholly by one or more archipelagos" (Article 46). A state may not be an archipelago state in part. Secondly, the "island groups" commonly referred to as such by the media, governments and academia alike, are not, in law, islands; they are "rocks," as discussed further below. This is a crucial and often overlooked fact that was enunciated by the tribunal in the SCS arbitration.

Given China's reliance on history for the nine-dash-line claim, giving some historical context to the UNCLOS negotiations is warranted. First, China proposed the concept of outlying archipelagos in the negotiations, but later abandoned it. Second, during the UNCLOS III negotiations, China was firmly on the side of "developing" nations and opposed to the "hegemonic" superpowers, which it saw as manipulating global structures and institutions to their economic advantage. Third, China actively participated in the drafting of UNCLOS, voted for it, and agreed to be bound by its conditions, including the dispute resolution mechanisms. Fourth, upon ratification of UNCLOS, any "historical" claims are extinguished to the extent that they are incompatible with it. All of these points, in combination with the decision of the arbitral tribunal, indicate that China is on very shaky ground with regard to the legality of its claims. It also displays an ethical inconsistency to criticize "hegemonic" powers yet pursue an ambitious claim which limits the economic prosperity of its developing neighbors. However, this legal and ethical ambiguity has not, and will not, deter the CCP from pursuing the claims which it sees as essential in a three-pronged strategy of legal, psychological and public relations war to build and consolidate its position as a major maritime power.<sup>58</sup>

One strategy which has been developed in the wake of the arbitral tribunal's decision is to revive the previously abandoned concept of "outlying archipelagos," claiming that "Continental States' outlying archipelagos fall within 'matters not regulated by this Convention' and 'continue to be governed by the rules and principles of general international law,' as stated in paragraph 8 of the preamble to the Convention."<sup>59</sup>

The CCP position, therefore, is that negotiations surrounding the status of continental

states' claims to outlying archipelagos were not concluded and that UNCLOS is silent on this point, and it should be governed by general international law. Further, they point to other outlying archipelagos, such as the Faroe and Galapagos island groups, which use straight baselines. However, those island groups are significantly larger, with significant human inhabitation, and are clearly capable of sustaining life and economic activity. The very small features in the SCS—even Itu Aba, the largest of the Spratlys—are at best “rocks which cannot sustain human habitation or economic life of their own.”<sup>60</sup>

If the so-called islands of the SCS are in fact no more than rocks, then the question of whether they generate an EEZ should be considered settled, in the negative. However, China has embarked on an ambitious program of reclamation and development of the islands into military bases, airstrips and harbors. Now that some of these features are capable of supporting human activity, are they to be considered islands, with EEZs? Under UNCLOS's Part VIII Regime of Islands, an island is defined as “a naturally formed area of land, surrounded by water, which is above water at high tide,” and further, “rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.”

A simple Google search for China's land reclamation in the South China Sea, or similar search terms, will reveal numerous images from multiple sources illustrating how China has reclaimed reefs and submerged rocks and created artificial islands complete with landing strips and harbors. Crucially, none of the “island groups” within the SCS qualify as islands under this article of UNCLOS. Many of the contested features are not permanently above water, and those that are, are not capable of sustaining human habitation or economic life of their own. Those that *are* now capable of supporting human habitation are the result of China's land reclamation activities; however, these are not “naturally formed” and cannot therefore be considered *islands* under UNCLOS.

China refused to participate in the tribunal proceedings on the basis that they concerned a question which is outside the jurisdiction of UNCLOS—that is, of sovereignty over land territory. As the Convention for the Law of the Seas, UNCLOS is silent on land-based political matters and takes as a starting point the “sovereignty of all states”:

There are no provisions in UNCLOS on how to determine which State has the better claim to sovereignty over a disputed territory. UNCLOS only sets out what maritime zones can be claimed from land territory (including islands), as well as the rights and jurisdiction of States in such maritime zones.... UNCLOS assumes that it is known who has sovereignty over land territory, including offshore islands.<sup>61</sup>

China's rejection of the tribunal's decision is based on the argument that it makes a *de facto* determination of sovereignty over land territory, and that this goes beyond the intended scope of UNCLOS. China also pointed out in its position paper that it had filed a declaration in 2006 under Article 298(1), which it claimed exempts it from compulsory arbitration (Article 287[3]).<sup>62</sup> When the tribunal ruling was given in favor of the Philippines, China publicly stated its position that it would refuse to acknowledge or abide by the decision.<sup>63</sup> The Philippines in fact framed its claim clearly as one which determined only the *status* of the features—that is, as rocks, not islands—not the issue of their sovereign ownership. Implicit in this position is that, if the Philippines conceded ownership of the rocks (some of which have now been developed into bases), China would gain the military and



geopolitical advantage from these features, but not the economic advantages of an EEZ. In that case, as Gau points out, having “unlawfully claimed maritime entitlements beyond 12 nautical miles (NM) from these features, China should refrain from preventing Philippine vessels from exploiting the living resources in waters adjacent to Scarborough Shoal and Johnson Reef.”<sup>64</sup>

Whether China’s rejection of the tribunal’s decision is legitimate is a serious point of debate. A fundamental principle of international law is that a dispute may not be brought to an international court without the consent of both parties to the dispute.<sup>65</sup> When a state becomes a party to UNCLOS, it consents to the dispute-settlement procedure contained in UNCLOS Part XV. In particular, Article 286 allows a state to unilaterally bring a dispute to an international court and be awarded a binding decision.

The Philippines’ claim against China was initiated in an arbitral tribunal under Annex VII in accordance with the provisions of UNCLOS. Thus, the tribunal is able to make a decision which is in theory binding on both parties. However, as pointed out above, China consistently denied that the tribunal had jurisdiction over the dispute and refused to participate in the proceedings on that basis.

## **VI. Freedom of Navigation, *Mare Liberum* and China’s Attempts to “Stretch” the Definition of EEZ**

The legal regime set out in UNCLOS—with territorial seas, exclusive economic zones and right of innocent passage—balances two broadly opposing concepts: *mare liberum* and *mare clausum*. First, *mare liberum*: that the oceans cannot be possessed by any nation; that they should remain open and free to facilitate international trade between all nations. And second, *mare clausum*: that seas *can* be demarcated, owned and reserved for the exclusive use and exploitation by states. UNCLOS balanced those two competing ideas by overlaying a mix of exclusive possession (12 NM of territorial sea and 200 NM of EEZ) with the ideas of innocent passage and freedom of navigation, respectively—that is, the right for foreign ships, both military and commercial, to traverse those exclusive zones. While the concepts of innocent passage and freedom of navigation are expressions of *mare liberum*, they have different bases in UNCLOS and different outcomes in some circumstances. Innocent passage applies to waters subject to the sovereignty of the coastal state, primarily the territorial sea (UNCLOS Article 17) but also internal waters (UNCLOS Article 8) and archipelagic waters (UNCLOS Article 52) in some cases. Importantly, a ship which traverses sovereign waters using innocent passage acknowledges the sovereignty of the coastal state over those waters. Freedom of navigation, on the other hand, only occurs in international waters, particularly the EEZ (UNCLOS Article 58). And states may conduct Freedom of Navigation Operations (FONOPS), by overflight or by sea, to directly challenge the claims over those waters by another state, as the U.S. has done in the SCS since 2013 and continues to do.<sup>66</sup>

The Preamble to UNCLOS outlines the important motives for creating “a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans.”<sup>67</sup> The sentiments expressed here echo those of

*mare liberum* as enunciated by Hugo Grotius in the 17th century, that the oceans should be free and open to be used by all states, to promote international trade and prosperity.<sup>68</sup> Grotius argued from one unimpeachable axiom that “every nation is free to travel to every other nation, and to trade with it.”<sup>69</sup> To that end he argued for a *right* of innocent passage over the seas for all states; and that the seas are the common property of all and *cannot* be possessed by any state.

When UNCLOS codified customary international law in the mid-20th century, it set out the exact limits that states may claim for their exclusive jurisdiction, but in balancing these rights it also included Section 3 on the Right of Innocent Passage. UNCLOS strikes a balance between the desire of states to possess the oceans and all the resources within them, and the opposing Grotian ideal of the freedom of the seas.

To fully understand the implications of China’s actions, both physical and academic, in the SCS, we must first understand the rationale of UNCLOS in creating the territorial sea and the EEZ. The territorial sea is, in a legal sense, an extension of the land of the sovereign state. If you commit a crime on a vessel at sea within 12 NM of the coast of a state, the laws of that state will apply to you in the same way as if you had committed the crime on land. In contrast, the EEZ was created purely to give economic benefit from the oceans to the adjacent state. The resources of this zone may be exploited solely by the adjacent state; however, there is no further special status granted to the coastal state. A crime committed in this zone will be governed by the laws of the flag state of the vessel.

States have no right to restrict the flight over or navigation through their EEZs by military or any other types of vessel or aircraft, unless they are infringing on the resource rights of the coastal state (illegal fishing vessels for example can be apprehended in the EEZ if they are conducting illegal fishing activities). Under this understanding of the international law, therefore, China’s possession of the various rocks in the SCS may generate a 12-NM territorial sea around each of the rocks, but it does not create an archipelago with straight baselines; it does not create an EEZ with a 200-NM zone from each “island” as discussed above. But this interpretation of the law does not fulfil China’s objectives; therefore, it is seeking to change the perception and application of the law to match its interests. What China is seeking to do, as discussed throughout this paper, is to revive the concept of outlying archipelagos, which would generate EEZs from straight baselines which would then lay claim to large parts of the SCS—albeit not as extensively as would be possible under the nine-dash line claim (this claim has not been abandoned, but it is much more difficult to establish and defend under any reasonable construction of international law). Re-establishing the concept of outlying archipelagos at least has some basis, albeit abandoned, in the negotiations of UNCLOS III. If it can do this, and if it can extend the meaning of EEZ to something more like that of territorial seas, China will be able to achieve, by other means, a near equivalent of the nine-dash-line claim.

A key plank in this strategy is therefore for China to extend or stretch the notion of the EEZ beyond one which is merely focused on resource exploitation, to something more akin to territorial seas. It should be noted here that during the UNCLOS III negotiations, China opposed the right to innocent passage for warships through the territorial sea.<sup>70</sup> However, this was abandoned, along with the argument for outlying archipelagos.

Kraska noted that China has led the charge of a number of states that seek to stretch the conventional understanding of EEZ from areas of resource rights into something more like



territorial seas, which would potentially restrict foreign military operations in more than one-third of the world's ocean area through assertions of sovereignty.<sup>71</sup> Beijing has been the “most powerful and vociferous advocate for changing traditional notions of freedom of navigation and overflight to deny access to coastal zones by foreign warships and aircraft.”<sup>72</sup>

If it were successful in this strategy, such near-total dominance of the SCS would be a major boost for China's national pride and ambitions to rise as a major maritime nation and would form a major component of its ability to conduct asymmetric warfare in this maritime space.

Through a carefully coordinated program of academic articles and seminars, the CCP seeks to evolve the opinions of academics and governments away from interpretations of the law of the sea that favor Grotian ideals of freedom of the oceans toward something much more restrictive, transforming the EEZ into something closer to a quasi-sovereign space where transit and overflight could be limited at the direction of the CCP; particularly with regard to foreign military assets, which would be required to obtain governmental approval prior to entering the space.

If China were to be successful in this strategy, it would achieve near-total military dominance of the SCS. The “right” of innocent passage, unlike transit passage, can be suspended by states. The CCP would therefore have the option to restrict foreign military activities over large portions of the SCS covered by the EEZs of its outlying archipelagos. However, this would not be as expansive as the nine-dash line claim and would leave space for ships to transit through the gaps, although it would involve significant inconvenience and convoluted passages for ships navigating through the SCS. In the event of outright conflict between the U.S. and China, and their respective allies, China could also seek to restrict access for commercial shipping through the SCS, to its strategic advantage. This move would be considerably aided by its establishment of bases and harbors in the disputed islands and rocks.

One potential ray of light in this protracted dispute has been discussions about a Code of Conduct (COC) between China and the Association of Southeast Asian Nations (ASEAN). In August 2020, “foreign ministers from the 10 members of ASEAN once again called for an expedited negotiation of the Code of Conduct for the South China Sea”<sup>73</sup> China has indicated that it seeks to finalize the COC as part of efforts to calm its ASEAN neighbors. While the COC ostensibly seeks laudable outcomes, such as a duty to cooperate and dispute resolution mechanisms, it is a long way away from being finalized. The parties are deadlocked on several key aspects of the code, such as its geographical scope, whether it will be legally binding, and what dispute resolution mechanisms it will apply.<sup>74</sup> According to Hoang, “fundamentally, the situation is simple: ASEAN countries want to curb China's behavior, but China does not want its actions to be constrained.”<sup>75</sup> China is seeking significant constraints on the actions of third parties in the SCS, such as military movements and resource exploitation, without the consent of the parties to the Code. This is something that will clearly be opposed by some ASEAN members such as Singapore, which has always supported U.S. presence as a stabilizing influence in the region.<sup>76</sup>

It is essential that the U.S. and its allies continue to curtail China's campaign to seek dominance over the SCS in the realms of law and realpolitik. China has declared it would refrain from activities that would escalate or complicate the dispute; however, it is clearly playing the long game, seeking to drive a wedge between the U.S. and its regional allies, while strengthening its own strategic position. This strategy would give China as much

military and geopolitical advantage as the economic benefits that would come from claiming the lion's share of the SCS.

## VII. Conclusion

This paper has sought to evaluate whether natural resources are the main driver of the ongoing SCS dispute. There is much evidence that the countries are motivated primarily by natural resources, and as reflected by the statement that “tensions surrounding the SCS have always been largely about oil and natural gas.”<sup>77</sup> In the discussion on competing claims, aside from oil and natural gas, the other natural resources mentioned include hydrocarbons as well as fish stocks. Both the national and local economies of the countries concerned stand to gain immensely from being able to exclusively exploit these resources.

The significance of the SCS as a strategic trade route should also be recognized. The SCS claimants, and even non-claimants such as the United States, Japan, and South Korea, all depend on the trade route for the passage of energy supplies, crude oil imports, and raw materials.

China in particular seems to be the country with the most to gain from the natural resources of the SCS because of its meager oil reserves, partnered with massive consumption needs because of its immense population. While it seems insistent on asserting its historical claim in the territory, this reason by itself pales in comparison with what China stands to attain when it can have exclusive control of the natural resources in the disputed territory. That China always figures into the discussion of other claimant countries' attempts to secure natural resources in the SCS shows China's wide-scale attempt to make its intentions known, whether through cooperation like in the case of Brunei, or through activities that seem to stir up conflict, as with the rest of the claimants.

A consequence of the maritime dispute over the natural resources and the trade route would be the rising tensions in the SCS which have led to a massive increase in defense spending and power projection.<sup>78</sup> China in particular is reported to have doubled its defense budget in the last ten years and is expected to hit US\$233 billion by 2020.<sup>79</sup> The Foreign Ministry of China claims that its military procurements are not meant for the militarization of its SCS outposts per se, but for maritime safety and natural disaster support.<sup>80</sup> Other countries involved, except for Brunei, have placed troops or military installations, although it is said that the objective is not particularly to achieve military superiority but to make potential aggressors think twice.<sup>81</sup> The intense power projection of China, with its aspirations to be a global superpower, is also believed to be a form of challenge to the influence of the United States military in East Asia.

It can be said that to a large extent, natural resources are a significant driver of the SCS dispute, and this is reinforced by the significance of the SCS trade route to the economies of both claimant and non-claimant states in the transport of energy resources, oil imports, and raw materials. China's power projection has also shaped how the other claimants are projecting their own intentions to claim their territories, even though these are of varying levels of intensity. The claims made through UNCLOS signify the willingness of most states involved to follow the jurisdiction of a legal framework, but the non-willingness of China has challenged the legitimacy of UNCLOS to fulfil its primary objective of serving as a legal

framework. It is quite unfortunate that the lack of resolution has actually led to continued illegal, unreported, and unregulated or IUU fishing, marine environment degradation, and reef destruction.<sup>82</sup> Whereas natural resources are posited to have led to the dispute, now it can also be asserted that the same dispute is harming and endangering the natural resources that are being contested in the first place.

In the race for natural resources, there will come a time when exploring new terrains and depths, such as the SCS, will no longer be an option. This reality highlights the need for Asian countries to practice sustainable management of natural resources within and beyond their zones of jurisdiction, as well as to implement a cooperative framework to protect the natural resources in question.

The COVID-19 pandemic makes multilateral cooperation to address the SCS dispute all the more necessary. A prolonged pandemic would result in the restriction of regional and global value chains on national borders, as well as greater protectionism and isolationism, most notably with respect to migration flows.<sup>83</sup> Furthermore, the COVID-19 crisis has brought up surface discussions on the socio-economic impact and resilience of ports as essential to national and regional communities.<sup>84</sup>

Considering these implications, an evolved international relations system is needed, one which takes into account the risks and uncertainties that continue to emerge from the crisis. Policy makers at the regional level have an urgent task of “forming an inter-regional circuit arrangement which in turn forms a new international relations system.”<sup>85</sup> China in particular must play a prominent role in such a system. Having earned international ignominy for being the source of the pandemic, and at the same time showing continued belligerence in the SCS dispute,<sup>86</sup> China’s next moves will continue to be on the radar of governments, media, and academicians, among many other interest groups.

## Notes

1. Gilang Kembara, “No End to South China Sea Disputes Without Code of Conduct,” *Jakarta Post*, July 25, 2020, <https://www.thejakartapost.com/academia/2020/07/25/no-end-to-south-china-sea-disputes-without-code-of-conduct.html>, accessed May 14, 2021.
2. Leszek Buszynski, “Rising Tensions in the South China Sea: Prospects for a Resolution of the Issue,” *Security Challenges* 6(2) (2010), pp. 85–104, [www.jstor.org/stable/26459939](http://www.jstor.org/stable/26459939).
3. Dipanjan Roy Chaudhury, “South China Sea Emerging as a Dangerous Flashpoint,” *The Economic Times*, August 1, 2018, <https://economictimes.indiatimes.com/news/defence/south-china-sea-emerging-as-a-dangerous-flashpoint/articleshow/65218028.cms>, accessed May 13, 2021.
4. Willard Cheng, “Del Rosario: PH Should Take South China Sea Row to UN,” *ABS-CBN News*, August 2, 2019, <https://news.abs-cbn.com/news/08/02/19/del-rosario-ph-should-take-south-china-sea-row-to-un>, accessed May 13, 2021.
5. Steve Mollman, “The U.S. Says China Is Blocking \$2.5 Trillion in South China Sea Oil and Gas,” *Quartz*, August 25, 2019, <https://qz.com/1694322/south-china-seas-oil-and-natural-gas-pretty-important-after-all/>, accessed May 13, 2021.
6. Axel Dreher and Merle Kreibbaum, “Weapons of Choice: The Effect of Natural Resources on Terror and Insurgencies,” *Journal of Peace Research* 53(4) (2016), pp. 539–553, [www.jstor.org/stable/43920608](http://www.jstor.org/stable/43920608), <https://doi.org/10.1177/0022343316634418>.
7. Steve Mollman, “The U.S. Says China Is Blocking \$2.5 Trillion in South China Sea Oil and Gas,” *Quartz*, August 25, 2019, <https://qz.com/1694322/south-china-seas-oil-and-natural-gas-pretty-important-after-all/>, accessed May 13, 2021.
8. “Natural Resources,” *Organisation for Economic Cooperation and Development*, December 2, 2005, <https://stats.oecd.org/glossary/detail.asp?ID=1740>, accessed May 13, 2021.
9. Alice Ba, “Staking Claims and Making Waves in the South China Sea: How Troubled Are the

- Waters?" *Contemporary Southeast Asia*, 33(3) (2011), pp. 269–291, [www.jstor.org/stable/41446231](http://www.jstor.org/stable/41446231), <https://doi.org/10.1355/cs33-3a>.
10. Rachael Bale, "One of the World's Biggest Fisheries Is on the Verge of Collapse," *National Geographic*, August 29, 2016, <https://www.nationalgeographic.com/news/2016/08/wildlife-south-china-sea-overfishing-threatens-collapse/>, accessed May 13, 2021.
  11. Choon-ho Park, "The South China Sea Disputes: Who Owns the Islands and the Natural Resources?" *Ocean Development and International Law*, 5(1) (1978), pp. 27–59, <https://www.tandfonline.com/doi/abs/10.1080/00908327809545606>, <https://doi.org/10.1080/00908327809545606>.
  12. Ba 2011, pp. 269–291.
  13. Florin Hilbay, "The Constitution and the West Philippine Sea," *Philippine Daily Inquirer*, October 26, 2016, <https://opinion.inquirer.net/98712/constitution-west-philippine-sea>, accessed May 13, 2021.
  14. Buszynski 2010, pp. 85–104.
  15. Ivan Watson, Brad Lendon and Ben Westcott, "The Battle for the South China Sea," *Cable News Network*, August 2018, <https://edition.cnn.com/interactive/2018/08/asia/south-china-sea/>, accessed May 13, 2021.
  16. Max Fisher, "The South China Sea: Explaining the Dispute," *New York Times*, July 14, 2016, <https://www.nytimes.com/2016/07/15/world/asia/south-china-sea-dispute-arbitration-explained.html>, accessed May 13, 2021.
  17. Mohan Malik, "Historical Fiction: China's South China Sea Claims," *World Affairs* 176(1) (2013), pp. 83–90, [www.jstor.org/stable/43554768](http://www.jstor.org/stable/43554768).
  18. Luke Hunt, "Has China Bought Brunei's South China Sea Silence?" *The Diplomat*, February 14, 2018, <https://thediplomat.com/2018/02/has-china-bought-bruneis-south-china-sea-silence/>, accessed May 13, 2021.
  19. Praveen Menon, "As Western Banks Leave, China Adds Brunei to New Silk Road," *Reuters*, March 5, 2018, <https://www.reuters.com/article/us-china-brunei/as-western-banks-leave-china-adds-brunei-to-new-silk-road-idUSKBN1GH0D8>, accessed May 13, 2021.
  20. Liu Zhen, "China and Brunei to Step Up Oil and Gas Development in Disputed South China Sea," *South China Morning Post*, November 19, 2018, <https://www.scmp.com/news/china/diplomacy/article/2173959/china-and-brunei-step-oil-and-gas-development-disputed-south>, accessed May 13, 2021.
  21. Nandini Jawli, "South China Sea and India's Geopolitical Interests," *Indian Journal of Asian Affairs*, 29(1/2) (2016), pp. 85–100, [www.jstor.org/stable/44123130](http://www.jstor.org/stable/44123130).
  22. Robert Kaplan, *Asia's Cauldron: The South China Sea and the End of a Stable Pacific* (New York: Random House, 2014), <https://books.google.co.id/books?id=gIcpAgAAQBAJ&pg=PT28&lpq=>.
  23. Jawli 2016, pp. 85–100.
  24. Daniel Runde, Conor Savoy and Janina Staguhn, "Post-pandemic Natural Resource Management in the Indo-Pacific Adapting USAID's Strategy in the Face of Covid-19," *Center for Strategic and International Studies*, October 9, 2020, <https://www.csis.org/analysis/post-pandemic-natural-resource-management-indo-pacific>, accessed May 13, 2021.
  25. Felix Chang, "The Next Front: China and Indonesia in the South China Sea," *Foreign Policy Research Institute*, January 27, 2020, <https://www.fpri.org/article/2020/01/the-next-front-china-and-indonesia-in-the-south-china-sea/>, accessed May 13, 2021.
  26. *Ibid.*
  27. Basten Gokkon, "To Deter Chinese Sea Claims, Indonesia Puts Its Fishers on the Front Line," *Mongabay*, January 14, 2020, <https://news.mongabay.com/2020/01/natuna-indonesia-china-fisheries-illegal-fishing/>, accessed May 13, 2021.
  28. *Ibid.*
  29. Panos Mourdoukoutas, "South China Sea: Malaysia, Indonesia and Vietnam Beat China at Its Own Game," *Forbes*, January 10, 2020, <https://www.forbes.com/sites/panosmourdoukoutas/2020/01/10/south-china-sea-malaysia-indonesia-and-vietnam-beat-china-at-its-own-game/#5ebda8b441ef>, accessed May 13, 2021.
  30. Parameswaran, Prashanth, "Playing It Safe: Malaysia's Approach to the South China Sea and Implications for the United States," *Center for a New American Security* (2015), [www.jstor.org/stable/resrep06196](http://www.jstor.org/stable/resrep06196).
  31. *Ibid.*
  32. Nguyen Hong Thao, "Malaysia's New Game in the South China Sea," *The Diplomat*, December 21, 2019, <https://thediplomat.com/2019/12/malysias-new-game-in-the-south-china-sea/>.
  33. Felix Chang, "Running Out of Gas: Philippine Energy Security and the South China

- Sea,” *Foreign Policy Research Institute*, September 6, 2019, <https://www.fpri.org/article/2019/09/running-out-of-gas-philippine-energy-security-and-the-south-china-sea/>.
34. *Ibid.*
35. Ronald Mendoza and Sheena Valenzuela, “Growing the Philippine Blue Economy: Policy Challenges and Opportunities,” *Ateneo School of Government Working Paper Series* 17(8) (2017), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3040436](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3040436).
36. Cheng-yi Lin, “Taiwan’s South China Sea Policy,” *Asian Survey* 37(4) (1997), pp. 323–339, <https://doi.org/10.2307/2645651>.
37. Fu-Kuo Liu, “Reexamining Taiwan’s South China Sea Policy Dilemma,” *China International Strategy Review* 1 (2019), pp. 169–180, <https://doi.org/10.1007/s42533-019-00015-w>.
38. Lynn Kuok, “Taiwan and the South China Sea: More Steps in the Right Direction,” *Brookings*, August 24, 2015, <https://www.brookings.edu/opinions/taiwan-and-the-south-china-sea-more-steps-in-the-right-direction/>, accessed May 13, 2021.
39. Stein Tonnesson, “Vietnam’s Objective in the South China Sea: National or Regional Security?” *Contemporary Southeast Asia* 22(1) (2000), pp. 199–220, [www.jstor.org/stable/25798484](http://www.jstor.org/stable/25798484), <https://doi.org/10.1355/CS22-1H>.
40. Derek Grossman, “Why Vanguard Bank and Why Now? Explaining Chinese Behavior in the South China Sea,” *Maritime Issues*, August 16, 2019, [http://www.maritimeissues.com/uploaded/Derek%20Grossman\\_Why%20Vanguard%20Bank%20and%20Why%20Now\\_%20Explaining%20Chinese%20Behavior%20in%20the%20South%20China%20Sea.pdf](http://www.maritimeissues.com/uploaded/Derek%20Grossman_Why%20Vanguard%20Bank%20and%20Why%20Now_%20Explaining%20Chinese%20Behavior%20in%20the%20South%20China%20Sea.pdf), accessed May 13, 2021.
41. Dipanjan Roy Chaudhury, “South China Sea Emerging as a Dangerous Flashpoint,” *The Economic Times*, August 1, 2018, <https://economictimes.indiatimes.com/news/defence/south-china-sea-emerging-as-a-dangerous-flashpoint/articleshow/65218028.cms>, accessed May 13, 2021.
42. Faruk Zorlu and Sorwar Alam, “Dispute in South China Sea,” *Anadolu Agency*, August 28, 2018, <https://www.aa.com.tr/en/asia-pacific/dispute-in-south-china-sea-/1566897>, accessed May 13, 2021.
43. Candace Dunn and Justin Barden, “More Than 30% of Global Maritime Crude Oil Trade Moves Through the South China Sea,” *U.S. Energy Information Administration*, August 27, 2018, <https://www.eia.gov/todayinenergy/detail.php?id=36952>, accessed May 13, 2021.
44. Jawli 2016, pp. 85–100.
45. China Power Team, “How Much Trade Transits the South China Sea?” *Center for Strategic and International Studies*, August 2, 2017, <https://chinapower.csis.org/much-trade-transits-south-china-sea/>, accessed May 13, 2021.
46. Jawli 2016, pp. 85–100.
47. Roncervt Ganan Almond, “Trade, War, and the South China Sea,” *The Diplomat*, September 1, 2018, <https://thediplomat.com/2018/09/trade-war-and-the-south-china-sea/>, accessed May 13, 2021.
48. Dipanjan Roy Chaudhury, “South China Sea Emerging as a Dangerous Flashpoint,” *The Economic Times*, August 1, 2018, <https://economictimes.indiatimes.com/news/defence/south-china-sea-emerging-as-a-dangerous-flashpoint/articleshow/65218028.cms>, accessed May 13, 2021.
49. Gabriel Domínguez and Srinivas Mazumdar, “Are South China Sea Tensions Triggering an Arms Race?” *DW Akademie*, December 18, 2015, <https://www.dw.com/en/are-south-china-sea-tensions-triggering-an-arms-race/a-18927467>, accessed May 13, 2021.
50. Jihyun Kim, “Territorial Disputes in the South China Sea: Implications for Security in Asia and Beyond,” *Strategic Studies Quarterly* 9(2) (2015), pp. 107–141, [www.jstor.org/stable/26271078](http://www.jstor.org/stable/26271078).
51. China Power Team, “How Much Trade Transits the South China Sea?” *Center for Strategic and International Studies*, August 2, 2017, <https://chinapower.csis.org/much-trade-transits-south-china-sea/>, accessed May 13, 2021.
52. Guilfoyle, “The Rule of Law and Maritime Security: Understanding Lawfare in the South China Sea,” *International Affairs* 95(5) (2019), pp. 999–1017, <https://doi.org/10.1093/ia/iiz141>.
53. Shirley V. Scott, “International Law as Ideology: Theorizing the Relationship Between International Law and International Politics,” *European Journal of International Law* 5(3) (1994), pp. 313–25, <https://doi.org/10.1093/oxfordjournals.ejil.a035873>.
54. Guilfoyle 2019, pp. 999–1017.
55. Doug Livermore, “China’s ‘Three Warfares’ in Theory and Practice in the South China Sea,” *Georgetown Security Studies Review*, March 25, 2018, <https://georgetownsecuritystudiesreview.org/2018/03/25/chinas-three-warfares-in-theory-and-practice-in-the-south-china-sea/>, accessed May 13, 2021.
56. Permanent Court of Arbitration, *The South China Sea Arbitration* (the Republic of Philippines



- v. the People's Republic of China), award on the merits, para. 181, July 12, 2016, <https://pca-cpa.org/en/cases/7/> ("The South China Sea Arbitration"), accessed May 13, 2021.
57. Chinese Society of International Law, "The South China Sea Arbitration Awards: Critical Study," *Chinese Journal of International Law* 17(2) (2018), pp. 207–748, <https://doi.org/10.1093/chinesejil/jmy012>.
58. Livermore, 2018.
59. Chinese Society of International Law, "The South China Sea Arbitration Awards: Critical Study," p. 482.
60. Guilfoyle 2019, pp. 999–1017.
61. Robert Beckman, "The 'Philippines V. China' Case and the South China Sea Disputes," in *Territorial Disputes in the South China Sea: Navigating Rough Waters*, ed. Jing Huang and Andrew Billo (Hampshire, UK: Palgrave Macmillan, 2015), pp. 54–55, [https://doi.org/10.1057/9781137463685\\_4](https://doi.org/10.1057/9781137463685_4).
62. Foreign Ministry of People's Republic of China, "Position Paper of the Government of the People's Republic of China on the Matter of Jurisdiction in the South China Sea Arbitration Initiated by the Republic of the Philippines," *The South China Sea Issue*, December 7, 2014, [https://www.fmprc.gov.cn/nanhai/eng/shnhwtlcwj\\_1/t1368895.htm](https://www.fmprc.gov.cn/nanhai/eng/shnhwtlcwj_1/t1368895.htm), accessed May 13, 2021.
63. Adam Harvey, "Philippines Celebrates Victory in South China Sea Case, Despite China's Refusal to Accept Result," *ABC News*, November 28, 2016, <https://www.abc.net.au/news/2016-07-13/philippines-celebrates-victory-in-south-china-sea-case/7623440?nw=0>, accessed May 13, 2021.
64. Michael Sheng-ti Gau, "Case Study on the Application of Part XV of UNCLOS to the Annex VII Arbitration Case Concerning the South China Sea Disputes Between China and the Philippines," in *UN Convention on the Law of the Sea and the South China Sea*, ed. S. Wu, N. Hong, and M.J. Valencia (Farnham, Surrey, England; Burlington, VT: Ashgate), p. 82.
65. Beckman 2015, pp. 54–55.
66. BBC News, "Australia Conducting 'Freedom of Navigation' Flights in South China Sea," *BBC News*, December 15, 2015, <https://www.bbc.com/news/world-australia-35099445>, accessed May 13, 2021.
67. UN General Assembly, "Convention on the Law of the Sea," *Refworld*, December 10, 1982, <https://www.refworld.org/docid/3dd8fd1b4.html>, accessed May 13, 2021.
68. Hugo Grotius, *The Freedom of the Seas* (Netherlands: Elsevier B.V., 1609).
69. *Ibid.*
70. Guilfoyle 2019, pp. 999–1017.
71. James Kraska, "Sovereignty at Sea," *Survival* 51(3) (2009), pp. 13–18, <https://doi.org/10.1080/00396330903011412>.
72. *Ibid.*
73. Viet Hoang, "The Code of Conduct for the South China Sea: A Long and Bumpy Road," *The Diplomat*, September 28, 2020, <https://thediplomat.com/2020/09/the-code-of-conduct-for-the-south-china-sea-a-long-and-bumpy-road/>, accessed May 13, 2021.
74. *Ibid.*
75. *Ibid.*
76. Lee Hsien Loong, "The Endangered Asian Century America, China, and the Perils of Confrontation," *Foreign Affairs*, July/August 2020, [https://www.foreignaffairs.com/articles/asia/2020-06-04/lee-hsien-loong-endangered-asian-century?utm\\_medium=promo\\_email&utm\\_source=lo\\_flows&utm\\_campaign=registered\\_user\\_welcome&utm\\_term=email\\_1&utm\\_content=20210430](https://www.foreignaffairs.com/articles/asia/2020-06-04/lee-hsien-loong-endangered-asian-century?utm_medium=promo_email&utm_source=lo_flows&utm_campaign=registered_user_welcome&utm_term=email_1&utm_content=20210430), accessed May 13, 2021.
77. Steve Mollman, "The U.S. Says China Is Blocking \$2.5 Trillion in South China Sea Oil and Gas," *Quartz*, August 25, 2019, <https://qz.com/1694322/south-china-seas-oil-and-natural-gas-pretty-important-after-all/>, accessed May 13, 2021.
78. Peter Pham, "The Arms Race in the South China Sea," *Forbes*, December 20, 2017, <https://www.forbes.com/sites/peterpham/2017/12/20/the-arms-race-in-the-south-china-sea/#21d17cad4b1a>, accessed May 13, 2021.
79. *Ibid.*
80. *Ibid.*
81. Gabriel Domínguez and Srinivas Mazumdar, "Are South China Sea Tensions Triggering an Arms Race?" *DW Akademie*, December 18, 2015, <https://www.dw.com/en/are-south-china-sea-tensions-triggering-an-arms-race/a-18927467>, accessed May 13, 2021.
82. Rachel Bale, "One of the World's Biggest Fisheries Is on the Verge of Collapse," *National Geographic*, August 29, 2016, <https://www.nationalgeographic.com/news/2016/08/wildlife-south-china-sea-overfishing-threatens-collapse/>, accessed May 13, 2021.

83. Yaroslav Lissovolik, "On Distance and Synchronicity in the 'New World': FPCI–Valdai Club Joint Publication on the Post-Covid-19 Evolving World Order," *Foreign Policy Community of Indonesia*, October 29, 2020, <https://www.fpcindonesia.org/2020/10/29/on-distance-and-synchronicity-in-the-new-world-by-dr-yaroslav-lissovolik/>, accessed November 28, 2020, [https://doi.org/10.1016/S0262-1762\(20\)30295-9](https://doi.org/10.1016/S0262-1762(20)30295-9).

84. Theo E. Notteboom and Hercules E. Haralambides, "Port Management and Governance in a Post-COVID-19 Era: Quo Vadis?" *Maritime Economics and Logistics* 22 (1) (2020), pp. 329–352, <https://doi.org/10.1057/s41278-020-00162-7>.

85. Nadjib Riphath Kesoema, "Envisioning a Brighter Post-Pandemic Global Relations: FPCI–Valdai Club Joint Publication on the Post-Covid-19 Evolving World Order," *Foreign Policy Community of Indonesia*, October 29, 2020, <https://www.fpcindonesia.org/2020/10/29/envisioning-a-brighter-post-pandemic-global-relations-opinion-by-h-e-nadjib-riphat-kesoema/>, accessed November 28, 2020

86. Somen Banerjee, "Will the Security Architecture of the Western Pacific Change Post-COVID 19?" *Maritime Affairs: Journal of the National Maritime Foundation of India* 16(1) (2020), pp. 68–81, DOI: 10.1080/09733159.2020.1776011.

## Biographical Statements

Christine Elizabeth Macaraig is a graduate student at the Institut Komunikasi dan Business LSPR Jakarta, Indonesia, where she completed the course "Challenges to Maritime Sustainable Development." The course is taught in collaboration with Coventry University. Macaraig earned her undergraduate degree from the University of the Philippines. Her research interests include international communication and regional studies.

Adam James Fenton is a program director, full-time lecturer and researcher at Institut Komunikasi dan Business LSPR, Jakarta, Indonesia. In the institute's postgraduate program he has developed, in collaboration with Coventry University's Center for Trust, Peace and Social Relations, a unit on maritime security titled "Challenges to Maritime Sustainable Development." He has numerous previous publications in the field of security studies, terrorism, extremism and maritime security.