

The Conflict in the South China Sea: A Legal Perspective on the Territorial Dispute

Tatheer Zahra Sherazi¹, Ashfaq U. Rehman^{*2} & Muhammad Tayyeb Khan³

Abstract:

The South China Sea dispute has significant legal implications that extend beyond the region, impacting global trade and security. This area has long been a vital maritime route, linking China with Southeast Asia, South Asia, the Middle East, Africa, and Europe. Tensions involving China, Vietnam, the Philippines, Brunei, Malaysia, and Indonesia have intensified since 2009, revolving around contested territories such as the Spratly Islands, Paracel Islands, Scarborough Shoal, and several others. Each of these countries has presented its claims to the United Nations, trying to assert its rights based on international law, specifically the UN Convention on the Law of the Sea (UNCLOS). However, many of China's assertions in the region appear to deviate from these international legal standards. As a result, the disputes remain unresolved, posing a persistent threat not only to regional stability but also to global peace. The potential for conflicts to escalate is real, which underscores the need for a cooperative approach among the involved nations. Navigating these complex legal and diplomatic waters is crucial for ensuring that trade routes remain open and that tensions do not spill over into larger confrontations that could have far-reaching consequences. Ultimately, finding common ground is essential for maintaining stability in this strategically important part of the world.

Keywords: South China Sea, Southeast Asia, Spratly, Paracel, Trade Transmission, Merchant Fleets, UNCLOS

INTRODUCTION

The South China Sea (SCS), situated in the southern part of China, is bordered by several countries, including Taiwan, Singapore, Vietnam, Malaysia, Brunei, and the Philippines. This maritime region is of great significance due to its shared coastline, which means that these neighboring nations all have important interests in the sea's resources and navigational routes, particularly regarding trade, fishing, and territorial ownership. Each country has laid claims to specific maritime zones and various islands and features within this sea. However, the situation is further complicated by overlapping claims that create a web of disputes, resulting in rising tensions among nations like Vietnam, the Philippines, Malaysia, Taiwan, and Brunei. The Spratly Islands and the Paracel Islands are two hotspots in these territorial conflicts, as they are not only rich in natural resources, including oil and natural gas, but also play a critical role in international shipping activities.

¹ Assistant Professor, Department of International Relations, International Islamic University, Islamabad, Pakistan. Email: tatheer.zahra@numl.edu.pk

² Associate Professor, Department of Political Science, Women University, Swabi, KP, Pakistan.
^{*}Correspondence Email: ashfaq@wus.edu.pk

³ Islamabad based Independent Researcher and Strategic Analyst. Email: tayyebkhan@hotmail.com

The likelihood of conflict increases with the ongoing militarization of the region and the naval exercises carried out by these nations. The implications of these disputes extend beyond regional effects, drawing the interest of major global powers, including the US, Japan, and India. These countries view the SCS as strategically crucial for ensuring freedom of navigation and maintaining regional stability. Experts emphasize that the SCS serves as a vital maritime corridor, with nearly one-third of global shipping traffic passing through its waters. Robert Kaplan, a noted geo-strategist, has asserted that this ongoing conflict represents “the 21st century’s defining battleground” and refers to the area as “the throat of global sea routes” (Kaplan, 2011). This characterization highlights the urgent need for diplomatic engagement and effective conflict resolution strategies to address the competing interests of various nations and to promote peace in this unpredictable region. As tensions continue to escalate, the power dynamics surrounding the SCS remain a focal point of international relations and security discussions. It is crucial to find solutions that not only resolve territorial disputes but also promote cooperation and understanding among the nations involved, ultimately aiming for a stable and peaceful maritime environment.

The Nansha (Spratly) Islands, Kalyan, Shisha (Paracel) Islands, Scarborough Shoal, Chungsha (Macclesfield) Islands, Tungsha (Paracel) Islands, seabed, subsoil, and surrounding waters are disputed areas among neighboring countries. The Spratly and Paracel islands are the primary sources of tension in the region (Cronin, 2013; Sherazi et al., 2020; Zhang, 2022). The Republic of China claims the most significant portion of the sea, having built artificial islands and claimed these islands, along with the surrounding waters, seabed, and subsoil, within nine dotted lines that stretch south of Hainan Province, China, reaching Indonesia, Malaysia, and Singapore. China's extensive claims have led to competition with other countries, particularly the Philippines and Vietnam, which also claim parts of the SCS in the southeast and southwest. These countries reject each other's sovereignty and ownership claims, considering the territory an integral part of their own. For example, China claims sovereignty based on political history, geographic location, and international law, and rejects other countries' claims on the same grounds (Asad et al., 2024; Manzoor et al., 2023; Position Paper on ROC SCS Policy, 2016). Maintaining sovereignty over this disputed territory remains a core aspect of China's foreign policy.

The Republic of China, along with many other states in the region, considers the SCS crucial due to its significant trade and strategic importance. Strategic, economic, and political insecurities complicated the dispute, escalating it to a point where a possible war could occur. Due to the significant war risks associated with the issue, it is essential to understand the disputes and claims made by all surrounding states, taking into account their political history, geographical location, and other relevant factors. However, the primary need is to understand the claims from a legal standpoint. Since the conflicting obstacles from land possession claims and political ownership do not meet the legal standards, UNCLOS provides an essential legal foundation for resolving ongoing maritime disputes. UNCLOS outlines several principles to verify the validity of claims and facilitate the subsequent resolution of the issue.

The primary research inquiries of this study are as follows: (a) What is the current geopolitical status and security landscape of the SCS, particularly regarding China's recent expansions in military and economic activities within this region? This includes examining specific measures such as the construction of artificial islands, increased naval operations, and strategic partnerships with neighboring countries. (b) What underlying factors contribute to China's escalating concerns regarding security dynamics in the SCS, such as regional rivalries, historical claims, and the influence of external powers like the US? (c) What is the status of the SCS in the context of the UNCLOS, including the claims made by China and other nations regarding territorial waters and exclusive economic zones? This study aims to explore the legal aspects surrounding the territorial disputes in the SCS, focusing on the various claims made by countries like China, Vietnam, and the

Philippines. The main questions we want to answer include how these claims align with international law, especially UNCLOS. Moreover, we will look into how these ongoing disputes affect the stability of the region and international peace. This includes examining the risks of potential conflicts and considering the role of diplomacy in resolving the competing interests over territory. In simpler terms, this research is trying to unpack the complicated legal arguments that different countries are using to support their claims in the SCS. We are also interested in understanding how these disputes could lead to bigger problems in the region and what can be done to address these tensions peacefully.

The SCS is a significant area of contention, characterized by territorial disputes among several nations, including China, Vietnam, the Philippines, Brunei, Malaysia, and Indonesia. Each of these countries asserts its rights over various sections of this strategically important region. These ongoing conflicts pose considerable challenges not only to the involved nations but also to the framework of international law and global stability as a whole. China's extensive territorial claims and its growing military presence in the SCS have raised alarms concerning the safety of this vital maritime corridor. The region is crucial for international shipping and trade, and any escalation in tension threatens to disrupt these essential flows. The situation prompts critical inquiries about whether the nations involved are adhering to the UNCLOS and other relevant international legal standards. With these disputes remaining unresolved, there is an increasing risk that rising tensions could result in armed conflict. Such developments could have repercussions extending beyond the region, potentially affecting global trade routes and international relations at large. This study aims to explore the legal aspects of disputes in the SCS, assess the validity of each nation's claims under international law, and examine the broader implications for peace and security, both regionally and globally.

This research aims to address an important gap in the current discussions about the SCS by clearly outlining the territorial dispute, highlighting its complexities, and detailing the claims made by the countries involved. It will also include a thorough legal examination of these claims based on the principles set out by UNCLOS, which governs the rights and responsibilities related to maritime areas. The existing research has not provided much insight from the UNCLOS viewpoint regarding the intricate issues surrounding the SCS dispute. This detailed study, therefore, is likely to significantly deepen our understanding of these matters and contribute valuable insights to conversations about international maritime law and regional security. In simpler terms, this research is looking to clarify the complicated situation in the SCS, where different countries are making claims to various parts of the sea. It will examine these claims through the lens of international law, specifically the rules set by UNCLOS. This area has not been explored enough in previous studies, so this research should provide a clearer picture and add valuable information to discussions about maritime laws and security in that region.

This study explores the complex territorial disputes in the SCS, examining critical factors such as legal, geopolitical, and economic dimensions that contribute to the intricacy of this conflict. It emphasizes not only the ramifications these disputes have on regional stability but also their broader implications for global order. By analyzing the claims made by various countries in relation to the UNCLOS, the research clarifies the legal footing of these assertions. It underscores the necessity of adhering to international law to address and resolve these disagreements. The SCS has emerged as a significant flashpoint for tensions, particularly as nations bolster their military presence and engage in naval operations. This escalation raises concerns about the potential for conflicts that could pose a threat not only to regional peace but also to global stability. The waters of the SCS are vital for international trade, with approximately one-third of the world's shipping routes passing through this area. Consequently, the economic stakes involved are immense for all parties concerned. Moreover, the region is abundant in natural resources, including substantial

reserves of oil and gas, which further heightens competition among nations eager to control these lucrative assets. Thus, the interplay of legal claims, military posturing, and economic interests creates a complex landscape that necessitates careful navigation to prevent escalation and foster cooperative solutions.

The engagement of major global powers such as the US, Japan, and India adds significant complexity to the situation in the SCS, as these nations regard this area as crucial for maintaining freedom of navigation and ensuring regional security. This research is instrumental in enhancing our comprehension of the multifaceted dynamics at play in the SCS. It underscores the importance of fostering open discussions and collaboration among nations to address the ongoing tensions. By promoting dialogue and cooperation, the goal is to encourage stability and effective management of the region's resources, which are hotly contested. Furthermore, this study not only enriches our understanding of the SCS conflict but also emphasizes the critical need for diplomatic initiatives and conflict resolution strategies. These efforts are crucial for maintaining peace and security in a region of significant strategic importance on the global stage. Overall, the insights gained from this research can serve as a foundation for constructive engagement that seeks to resolve disputes and promote a harmonious coexistence among the nations involved.

This research project is divided into three main sections, each tackling important aspects of the complicated geopolitical situation in the SCS. In the first part, we provide a thorough introduction to the topic, explaining why it matters. We look closely at the ongoing maritime disputes, focusing on the competing claims made by countries like China, Vietnam, the Philippines, Malaysia, and Brunei. We also explore the legal backdrop set by the UN's Third Convention on the Law of the Sea (UNCLOS), which lays out guidelines for how nations should use the oceans and their resources. Key points covered include the main question this study seeks to answer, the methods used to gather information—such as analyzing international treaties, historical records, and interviewing experts—and the frameworks applied to make sense of our findings. Overall, this first section sets the stage for understanding the complexities of the SCS disputes and our approach to studying them.

The second part of the research examines the UNCLOS and its effectiveness in addressing maritime disputes. It closely examines the importance of UNCLOS in the context of the ongoing conflict in the SCS. This section explores the complicated dynamics between China's maritime claims and the legal framework provided by UNCLOS. Moreover, it investigates how different countries interpret UNCLOS in ways that influence their own claims over maritime territories, and what this means for regional security and international relations as a whole. The final part of the research discusses the ongoing tensions and disputes in the region, providing a detailed analysis of how these conflicts connect back to UNCLOS. It highlights the challenges the international community faces in upholding maritime laws and fostering mutually beneficial agreements to resolve conflicts peacefully. Furthermore, it takes into account the larger geopolitical landscape, including the influence of major countries and regional alliances. Ultimately, this concluding section aims to offer a well-rounded perspective on how international law interacts with the interests of individual states in this highly contested maritime area.

LITERATURE REVIEW

There is a significant amount of research available on the SCS, focusing on the political conflicts in that region, attempts to resolve these disagreements, and related subjects. Tønnesson (2015) examined the disputes that have arisen among neighboring countries since 2009, particularly regarding issues such as overfishing, oil drilling, and military exercises. In simpler terms, people have been studying SCS for quite a while. They are particularly interested in the tensions between countries in that region, the measures being taken to address these issues, and other related

matters. One researcher, Tønnesson, has explored how disputes have escalated since 2009, particularly focusing on conflicts over fishing rights, oil exploration, and military activities in the area. Tønnesson argued that China has sometimes shown aggression in the SCS over these issues. However, it will likely remain peaceful and prefer negotiation over conflict, as it prioritizes China's development. The escalation of conflict in the SCS could significantly hinder China's economic growth. Moreover, the author claimed that the nature of the dispute makes it less likely to lead China into a brutal war with other countries in the region. In his research, the author overlooked other economic and political factors related to the dispute that considerably hinder its resolution.

Song and Zou (2015) and Hong (2012) discussed the major maritime disputes and aggressions, including those over the SCS, particularly the disputes surrounding the Parcel and Spratly Islands. This article examines the legal positions of the relevant states. More importantly, it explores the opinions of experts—including security specialists, military officers, researchers, academics, and lawyers—regarding the Martin time dispute and possible solutions for the SCS conflicts in detail. The author regards UNCLOS as the main framework for conflict resolution. Jayakumar et al. (2014) sought to provide impartial opinions on maritime issues, offering possible alternatives and solutions. They extensively discuss the history, origin, and development of the prevailing and specific maritime laws. This book provides valuable insights into maritime laws. The authors explore different elements of the UNCLOS and how they could help address the challenges in the SCS. They focus on important topics such as resource access, drilling rights, and the freedom of navigation in these waters. In simpler terms, the book breaks down complex legal issues. It discusses how international laws could potentially resolve some of the conflicts and disputes over resources and movement in the SCS.

Wu et al. (2016) provided a comprehensive overview of the SCS's history, encompassing its laws, traditions, ownership disputes, shared heritage, and scientific research. Their study explores different scholars' views on various issues related to maritime disputes, especially the tensions surrounding the SCS. The insights provided by the author serve as an important resource for understanding the complexities of these disputes and the maritime challenges faced by ASEAN countries, as well as suggesting possible solutions. On the other hand, Beckman et al. (2013) focused on the natural resources found in oceans and seas. They emphasized the need for effective dispute resolution to ensure that these valuable resources are appropriately managed. In simpler terms, Wu's work helps us understand the historical and legal context of the SCS conflicts. At the same time, Beckman emphasizes the importance of managing ocean resources through clear communication and effective conflict resolution. Both studies contribute significantly to our understanding of maritime issues in Southeast Asia. The authors have also written about the historical development of maritime laws, UNCLOS, and other currently prevailing laws, as well as their national and international effects on the creation and resolution of disputes.

Buszynski (2014) explains the disputes in the SCS. The author has written that the conflicts are six decades old; however, instead of resolving the disputes, they have become more assertive and aggressive over time. Previously, only the disputes were the concern of regional states around the SCS. However, the interests of Japan, South Korea, North Korea, and the USA are now also at odds. Due to the involvement of other countries, the disputes have become challenging to resolve. The author mentioned the potential fault lines in the SCS that could lead to a possible war in the region. Thuy (2015) has also provided numerous suggestions for conflict resolution, based on the interests of world powers, regional states, and international laws. The author strongly favors the peaceful resolution of states' conflicting regional and global interests.

Wu and Zou (2016) conducted a significant study on the laws of the seas, providing an excellent source of information and insight into maritime issues. Specifically, the author analyzes the decision and proceedings of the International Court of Arbitration in a case brought by the Philippines

against China, under the UNCLOS. Besides discussing and resolving the issue, this decision includes relevant facts, figures, laws, and opinions from legal experts in America, Asia, and Europe. The court's ruling is divided into five main sections. The first section traces the origins and development of the SCS disputes. The second part looks at the authority of the court and how the relevant laws apply to the situation. The third part examines international agreements and resolutions that are connected to the case. The fourth part focuses on the legal questions that have come up, such as the legitimacy of the U-shaped line, the status of certain islands, and low-tide elevations. Finally, the last section discusses the Philippines' legal case against China and its potential implications on an international level. In simpler terms, the document breaks down the court's power and the laws relevant to the case, reviews relevant global agreements, addresses legal issues concerning boundaries and territories, and examines the implications of the Philippines' lawsuit against China on a broader international stage.

A deeper investigation into the SCS maritime disputes is essential, as the existing legal literature offers limited insights. This research has examined China's current political, economic, and military situation, as well as its interests both globally and regionally, including those of the US, and its relationships with East Asian and Northeast Asian countries. One of the main contributions of this work is advocating for a legal viewpoint on the complex issues surrounding the SCS. There is a notable gap in research focusing on maritime disputes in this area, which is complicated and multifaceted. One major issue is the lack of in-depth legal analysis in current studies, which often emphasize political, military, and economic aspects but overlook relevant international laws, like the UNCLOS. This is an important oversight, as understanding how legal frameworks interact with national interests is crucial for fully grasping these disputes. Moreover, many studies tend to operate within narrow academic disciplines, which restricts the potential insights that could come from blending legal perspectives with political, economic, and military viewpoints. A more integrated approach could lead to a richer understanding of the complex interactions at work. Additionally, given the rapidly evolving geopolitical situation in the SCS, marked by changing relationships among China, the US, and East Asian countries, it is vital that research keeps pace with these developments and examines their consequences for international maritime law.

Many existing studies tend to focus heavily on viewpoints from Western countries, often neglecting the valuable insights and interpretations of those directly involved in the disputes, particularly from Southeast Asian nations. Including these regional voices can significantly enrich our understanding of the situation. Additionally, there are emerging challenges and technologies related to environmental issues, navigation rights, and resource use that have not been thoroughly examined within the framework of maritime law. As these new challenges emerge, it is essential to explore how international law can be adapted to address them effectively. The goal of this research is to fill these gaps by presenting a more comprehensive legal perspective. This perspective will look not only at the current geopolitical situation but also at the foundational legal principles and their effects on ongoing maritime disputes in the SCS. By doing so, we aim to identify clearer pathways for resolving conflicts and promoting cooperation in this complex region. Ultimately, incorporating a broader range of viewpoints can help policymakers and stakeholders navigate the complex and challenging waters of the SCS more effectively.

RESEARCH METHODOLOGY

This research employs a qualitative approach, focusing on the intricate details and complexities associated with Chinese government policies and their effects. Qualitative research is beneficial for delving into the rich contexts and meanings behind people's behaviors, social events, and the actions of institutions. This method differs from quantitative approaches, which mainly rely on numerical data and statistical methods. By using qualitative techniques, this study aims to provide a deeper understanding of the reasons behind, interpretations of, and effects of the policies put in place by the People's Republic of China. A crucial part of this research involves gathering both primary and secondary data. For the primary data, the study focuses on unclassified official documents from the Chinese government, such as white papers, official statements, and specific policy papers. These documents are vital for grasping the government's official position and give direct insights into its strategic goals. By examining these materials, researchers can uncover the government's priorities, reasoning, and intended messages, which are essential for fully understanding the official narrative surrounding China's policies.

Collecting primary data requires careful thought and analysis. Researchers often use techniques like document analysis, where they examine texts to find important themes, patterns, and inconsistencies. This process helps highlight key information about the government's viewpoints and policy direction. Since these documents are transparent, they lend credibility to the findings, reflecting the government's stated positions that can be linked to its actions on the international stage. In addition to primary data, secondary data is crucial for providing context to the research. Various scholarly articles, books, and academic reports offer theoretical perspectives and critical evaluations that help explain the historical, social, and political landscapes surrounding these policies. By integrating secondary data, researchers can situate Chinese policies within the broader global context, examining how these policies align with or challenge established international norms. Moreover, news reports provide a constantly updated source of information, capturing real-time insights and the opinions of a wide range of stakeholders, including the public, scholars, and international commentators. This combination of primary and secondary data, along with current news coverage, helps create a comprehensive understanding of the topic at hand.

To ensure a thorough and insightful analysis, the research uses several approaches. Thematic analysis is one of the key methods, which involves organizing and examining qualitative data to identify main themes. This enables the researcher to identify patterns and connections that may not be immediately apparent. Additionally, critical discourse analysis is employed to understand how language in official documents influences people's perceptions of issues and shapes opinions both within and outside a country. The study also highlights the importance of triangulation in qualitative research, which means looking at different types of data from various sources. This not only strengthens the research's credibility but also reveals both consistent findings and any inconsistencies that may need further investigation. Overall, combining qualitative methods with a wide range of primary and secondary data creates a solid foundation for analyzing China's policies. This approach not only identifies trends but also sheds light on areas that have not been thoroughly explored, encouraging further research into how these policies affect the world. By carefully evaluating the data sources and analytical methods, the research aims to provide valuable insights that can enhance academic discussions and public understanding of China's strategies on the global stage.

MARITIME ISSUES IN THE LEGAL FRAMEWORK

A country's control over an island can be officially acknowledged if it has been occupied and managed by that country for many years without any significant opposition from local people. The Permanent Court of Arbitration highlighted this idea in the *Palmas Case* on April 14, 1928. In

simpler terms, if a country claims an island and has been actively governing it for a long time, while the local population has not expressed strong objections, then that claim can be considered valid under international law. The Palmas Case serves as an important reference for this principle. Spain initially discovered this island, but it was later occupied by the Netherlands, where its administration remained continuous for a considerable period, and the island remained largely peaceful. The US's claim to this Island as a successor state of Spain in the Philippines was declared insufficient by arbitrator Max Huber, as it failed to qualify for political sovereignty due to the absence of a peaceful and consistent administration (UN Reports of International Arbitral Awards, 2006). This decision of the Permanent Court of Arbitration (PCA) proved a precedent for resolving disputes of the exact nature in the future. The PCA applied the same principles in deciding the El Salvador/Honduras dispute in 1992 (Shaw, 1993). The Eritrea and Yemen case in 1998 and the dispute over an Island between Indonesia and Malaysia in 2002. In 1982, the UN established a principle in Article 76 (Part VI) of its Convention on the Law of the Sea that recognized approximately 200 nautical miles (nm) of Exclusive Economic Zone (EEZ) for each state (Part VI UNCLOS 1982, 1994). According to this principle, the UN does not recognize any state's sovereignty claim beyond 200nm. In the SCS, China's specific claims extend beyond its EEZ and, in some cases, overlap with the EEZs of other Southeast Asian claimant states (Buszynski, 2012).

China's claim is rooted in the historical connection of the area to the Chinese nation. However, it remains controversial because the UNCLOS (1982) recognizes the historical association but does not acknowledge the historic bays under Article 10(6) of the UNCLOS 1982, 1994). According to UNCLOS, claims based on historic association must satisfy the criteria of (a) demonstrated authority, (b) acknowledgment of authority by other states, and (c) ongoing exercise of that authority. UNCLOS accommodated the demands of developing states, which suggested that the 10-nm limit from the baseline of coastal areas be extended to 80 nm, as later agreed upon in a conference via informal consultation on the laws of the sea. Currently, the nm from the baseline is extended up to 125nm. Similarly, another demand from the developing states during the informal conference consultation was that the state's right, recognized under Article 18 of the UNCLOS, should be used for lighthouse purposes to mark the boundary points of an archipelago (Diplomatic conferences, 1958). The UN Laws of the Sea have accepted the passage facility of foreign ships in section 3 of the UNCLOS, which includes anchoring overseas ships and the right to stop. Under UNCLOS, the innocent passage of ships and passengers is permitted unless it poses a threat to the host state's maritime security. For security purposes, the host state has the right to inspect and regulate traffic and passengers to ensure safety and freedom of navigation. For the same reasons, halting navigation in the Malacca Strait would be considered illegal, whereas in the case of the Spratly Islands, it would be legal (Diplomatic conferences, 1958).

The legal and conceptual framework surrounding state sovereignty and maritime claims is anchored in principles established by the Permanent Court of Arbitration (PCA) and the UNCLOS. The PCA's Palmas Case highlighted that a country can claim sovereignty over an island if it has occupied and managed that island for a long time, provided there has been no resistance from local inhabitants. This idea has been supported in later disputes, such as the El Salvador/Honduras case. The UNCLOS, established in 1982, lays out rules for maritime boundaries. It gives each country an EEZ that extends up to 200nm from its coastal baseline, where they have rights to exploit marine resources. However, UNCLOS does not support claims of sovereignty beyond this 200-mile limit. This is seen in the controversies surrounding China's claims in the SCS, which overlap with the EEZs of neighboring countries. While UNCLOS acknowledges historical ties to certain areas, it requires that any claims based on such history also demonstrate a consistent presence and be recognized by other nations. Additionally, UNCLOS has made it possible for developing countries to expand their claims to maritime areas, allowing them greater rights to the resources there. It also recognizes the right of innocent passage for foreign vessels, allowing them to anchor and stop, unless they pose a

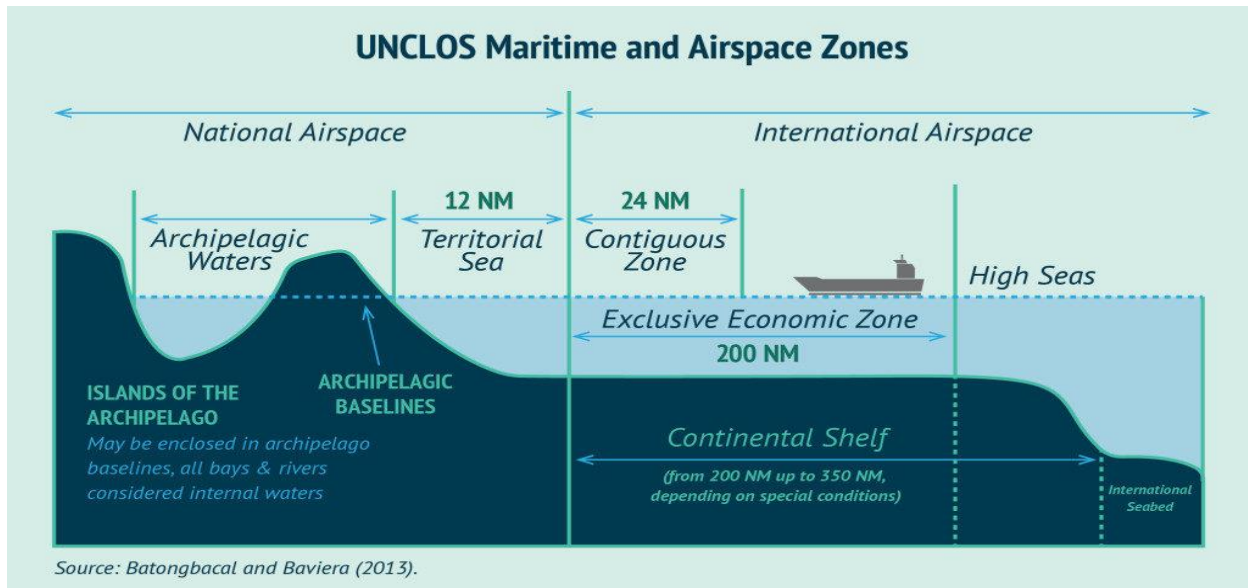
threat to maritime security. Thus, the framework integrates historical, legal, and navigational principles to govern disputes over land and maritime territories, striking a balance between state sovereignty and the rights of other nations, while ensuring maritime safety and freedom of navigation.

CHINA AND THE LAW OF THE SEA

The states extensively recognize UNCLOS provisions regarding the maritime areas. However, specific provisions of UNCLOS, such as particulars on straits and 200 nm EEZ, are questioned by states such as Brazil, Peru, Ecuador, and China. Contrary to the provisions of UNCLOS, China has extended its claim to 200nm and has supporters of its claim, such as Peru, Brazil, and Ecuador. The shift in China's claim is recent. Earlier, the claim was up to 12nm, as mentioned in a letter to the Japan-China Fishery Council in 1963, to establish the limits of the Chinese government's jurisdiction at sea. The UNCLOS, with its specific focus on straits and a 200 nm EEZ, was widely accepted by developing countries, except for a few like Brazil, Peru, and Ecuador, which supported China in opposing it. It did not expand its territorial sea to 200 nm during China's period. Earlier, China sent a letter to the Delegation of the Japan-China Fishery Council in 1963, which mentioned China's 12 nm territorial limit. The letter discussed only two security Zones beyond the territorial limits of China, where the state of China has the sovereignty and authority to ban or allow navigation (Chiu, 1963). In addition to these zones, the Chinese government has established another zone, known as the South Zone, 27 Degrees east of the mainland, to prevent Japan's fishing boats from entering military operation areas.

Under UNCLOS, the sovereign state has full legal authority to halt, permit, and prohibit any innocent passage across its territorial waters. Similar provisions apply to straits; the state has sovereignty and ownership over the strait, allowing it to control the traffic passing through. They can allow, halt, and permit the innocent passage across the strait. This provision regarding the strait was adopted as a law during the third Law of the Sea Conference in 1973. Suppose the Chinese government adopts a 200-nautical-mile territorial sea instead of 12.5nm. In that case, it will create conflicting conditions among the states surrounding the SCS, as East Asian states support the UNCLOS provisions of 12nm. This conflicting situation has led to a discussion of whether China should adopt a 200nm territorial sea instead of a 125nm EEZ (Katchen, 1977). Although the concept of a modern sovereign state dates back to the seventeenth-century Treaty of Westphalia, laws concerning maritime sovereignty are a relatively recent development, especially after World War II, when the US asserted sovereignty over its territorial waters. To settle the issues arising from claims to the sovereignty of seawater, the UN has developed conventions, laws, and agreements governing maritime sovereignty. Under these UN conventions, claims of sovereignty over seawater based on historical associations did not receive formal recognition. The issue is that China historically claims almost 80% of the Sea, which has no support in UNCLOS.

In ancient times, the invasion and occupation of weak nations and territories were considered standard practice. The same thing happened in China as well. China saw a rise during the rule of the Qin, Han, Tang, Song, and Ming dynasties (Malik, 2013). During this time, the political sovereignty of the empire expanded beyond its national borders, incorporating Tibet, Xinjiang, and certain areas in southern China into the Chinese Empire. According to this ancient Chinese rule, China asserts maritime sovereignty over approximately 80% of the SCS. The opposing states claim that in ancient times, occupation was the norm, and boundaries used to go back and forth; therefore, sovereignty on a historical basis is illegitimate. The Chinese base of claim seems insufficient, as the Malay people can use the same logic to claim political sovereignty over Taiwan. The nature and basis of China's claim in the SCS share similarities with those of the Persian claim in the Persian Gulf, the Mexican claims in the Gulf of Mexico, and India's claim in the Indian Ocean (Malik, 2013).

Figure 1: UNCLOS: Specific Articles and their Application on the South China Sea

Source: (Mirasola, 2015)

The jurisdiction of states over maritime areas varies due to the distinct criteria established under the UNCLOS, which are used to determine each state's jurisdiction based on physical conditions. Three fundamental aspects of UNCLOS are crucial in delineating the jurisdiction and claims over seawater. An island constitutes a landmass encircled by water and permanently situated above sea level. For a legitimate assertion of rights over the territorial sea, contiguous zone, continental shelf, and EEZ, the island must be habitable and capable of supporting human life. According to UNCLOS Part VIII, Article 121, sovereignty over the respective maritime areas encompasses islands that possess these characteristics (UNCLOS, 1982, 1994). Reefs constitute a distinct form of landmass that permanently exists above sea level yet cannot support or sustain human life. According to UN conventions, sovereignty is recognized over the territorial sea and the adjacent contiguous zone in the case of reefs; however, rights to the continental shelf and the EEZ are not acknowledged, as reefs are incapable of supporting human life. Consequently, the relevant states hold no claims to an EEZ or the continental shelf.

In the event of a low tide, the state is not entitled to assert sovereignty over the sea, continental shelf, or EEZ if the island solely becomes visible during the low tide period (UNCLOS 1982, 1994). Several provisions of UNCLOS address maritime issues. According to Article 121, an island is defined as a landmass surrounded by water on all sides and maintaining its existence and visibility during high tides. Such an island is entitled to all rights associated with land territory, including the territorial sea, the contiguous zone, EEZ, and rights over the continental shelf. Conversely, under Article 2, a rock surrounded by water that cannot sustain human life and retains self-visibility during high tide is not entitled to rights such as the territorial sea, EEZ, contiguous zone, or continental shelf. Article 3 of UNCLOS delineates the extent of the territorial sea, affirming a nation's right to establish this extent from the baseline up to a maximum of 12nm. Article 6 of UNCLOS, which pertains to reefs on atolls, states that the baseline for determining the territorial sea should be the seaward low-water line of the reef, as indicated by the officially recognized charts and symbols of the coastal state. Furthermore, Article 13 of UNCLOS defines low-tide elevation as the land area surrounded by water, which remains above water during low tide but is submerged at high tide. Suppose a low tide elevation is located entirely or partially within a distance not exceeding the breadth of the territorial sea from the mainland or an island. In that case, the low-

water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

When it comes to areas of low tide elevation, which are located outside the limits of the territorial sea, the UNCLOS clarifies that these areas cannot claim their own territorial waters. Specifically, Article 33 of the Convention addresses the Contiguous Zone. This is an area of the sea that lies adjacent to the territorial sea, where a coastal state has certain rights. In the Contiguous Zone, the coastal state can assert its authority to enforce various regulations. This includes the ability to implement customs duties, manage fiscal policies, enforce sanitary laws, and regulate immigration. Essentially, this means that the state can take necessary actions to control and monitor activities that may affect its territory or territorial waters. Additionally, the law grants the state the power to penalize individuals who breach its regulations within its territorial waters. However, it's important to note that the Contiguous Zone cannot extend more than 24nm from the baseline used to measure the width of the territorial sea. This limitation ensures that while coastal states can enforce laws in a designated zone, they are still confined within a specific distance from their territorial waters.

Article 76 of the UNCLOS describes the concept of the Continental Shelf. This refers to the submerged areas, as well as the seabed and subsoil that extend beyond a country's territorial sea. The continental shelf follows the natural continuation of the land territory and can reach either the outer boundary of the continental margin or extend up to 200nm from the baselines that measure the territorial sea—whichever is closer. If the outer edge of the continental margin does not reach that distance, the limit is defined by the 200 nautical mile mark. On the other hand, Article 55 discusses EEZ. This zone is located adjacent to and extending beyond a nation's territorial sea and grants the coastal state special rights concerning the exploration and use of marine resources. Within this area, the coastal state has jurisdiction, but it is important to note that other countries retain the right to navigate through the EEZ freely. Article 56 further outlines the specific rights, responsibilities, and authorities that a coastal state possesses within its EEZ, highlighting its role in managing natural resources and ensuring sustainable practices while balancing the interests of other maritime nations.

The SCS is surrounded by several countries, including Taiwan, Singapore, Vietnam, Malaysia, Brunei, and the Philippines, making it a crucial area for trade, fishing, and territorial claims. Each of these nations has laid disputes over various regions, creating a complex scenario where interests often clash. Specifically, the Spratly and Paracel Islands have become focal points of contention due to their rich natural resources like oil and gas, as well as their strategic location along significant shipping routes. Since around 2009, tensions have escalated, particularly with China asserting extensive claims and building artificial islands, which raises concerns about compliance with international laws, notably the UNCLOS. This has drawn the attention of other countries in the region, such as Vietnam and the Philippines, which are also trying to defend their own claims. The situation creates risks not just for those countries directly involved, but also for global trade and safety, as nearly a third of the world's shipping traffic passes through these waters. Major global powers, including the US, Japan, and India, view the SCS as essential for maintaining free navigation, further complicating the dynamics at play. Analysts have labeled this conflict a significant battleground of our time, highlighting the urgent need for diplomatic efforts to resolve disputes peacefully. As military activities in the region intensify, the involved nations must find common ground to prevent tensions from escalating into serious confrontations, which could have far-reaching consequences for both the region and the world.

The authority a country has over its coastal waters is a complicated legal topic. There are two main points to consider: first, what defines a country's sovereignty over these waters; and second, what criteria a country must meet to be recognized as a coastal state. In simpler terms, it is about

understanding how a nation claims control over the waters near its shores and what makes it officially acknowledged as one that borders the sea. According to UNCLOS, the baseline for determining a coastal state's sovereignty is defined as the low-water line along the coast, referred to as the baseline (PART V: EEZ, 1982). The low-tide line is also known as dry shoals or dry rocks, which are not classified as islands. Conversely, elevations at high tide are regarded as islands and are considered naturally formed landforms. Within the EEZ and territorial sea, a coastal state is entitled to construct artificial islands for security purposes; however, under international law, such structures are not classified as islands and do not possess the rights attributed to natural islands (PART V: EEZ, 1982). Furthermore, within these zones, the coastal state holds exclusive rights to develop infrastructure, installations, and artificial islands, among other activities. Foreign entities must obtain permission from the coastal state before engaging in any activities within its jurisdiction. Upon obtaining such permission, foreign officials, passengers, and ships may proceed; otherwise, they are obliged to respect the jurisdiction of the coastal state. Additionally, within the EEZ, the coastal state possesses the right to establish safety zones around artificial islands and installations, provided these zones do not exceed a radius of 500 meters.

Table 1: Status of Various Islands and Reefs

S. No.	Name of Feature	Country	Status
1	Johnson South Reef	China	Rock installed radar and guns
2	Subi Reef	China	LTE, runway, and telecom facilities
3	Mischief Reef	China	LTE, runway, and telecom facilities
4	Fiery Cross Reef	China	Rock built a 3000m runway and a port
5	Cuarteron Reef	China	Rock Built operates a lighthouse
6	Gaven Reef	China	LTE built a heliport
7	Hughes Reef	China	LTE installed radar and other facilities
8	Thitu Island	Philippines	Inhabited by civilian and military personnel
9	Spratly Island	Vietnam	Upgraded electricity supply
10	Itu Aba Island	Taiwan	Dock for large warships
11	Swallow Reef	Malaysia	Runway and resort

Source: (Manoj, 2016)

Under UNCLOS, coastal states possess a territorial sea of up to 12nm and a contiguous zone extending an additional 12nm. According to legal provisions, a state's EEZ can extend up to 200nm. This EEZ may be extended to 350nm if the continental shelf extends beneath the land of the coastal state. Regarding islands, the coastal state is entitled to both the territorial sea and EEZ. In the case of rocks, claiming the territorial sea is permitted; however, claiming an EEZ is deemed illegitimate (PART V: EEZ, 1982). Regarding UNCLOS, China contended that upon the ratification of UNCLOS in June 1996, the UN, having engaged with neighboring nations, had already delineated maritime boundaries, thereby reaffirming its territorial claims. Furthermore, in February 1992, Article 2 of the Law on the Territorial Sea and Contiguous Zones explicitly acknowledged China's sovereignty over all its islands and archipelagos, including all contentious islands within the jurisdictions of Taiwan, the Philippines, Japan, and Vietnam. Extensive deliberations and negotiations subsequently enabled China to resolve disputes with Vietnam concerning the Gulf of Tonkin. The current dispute emerged after the UN Commission on the Limits of the Continental Shelf (CLCS) established a deadline for states to submit claims beyond 200nm of their EEZs. In response, numerous nations

submitted assertive claims based on uninhabited maritime features to bolster their positions (PART V: EEZ, 1982).

In 2009, Vietnam and Malaysia jointly submitted a proposal to the UN CLCS regarding territorial claims in the SCS. This submission was made under Article 76, paragraph 8, of the UNCLOS and aimed to clarify certain unresolved disputes in the southern regions of this vital waterway. Along with the proposal, they included maps to illustrate their claims. At the same time, China responded with its own statement through its Permanent Mission to the UN. This statement included a map depicting China's claims based on the controversial Nine Dashes line, which asserts China's sovereignty over the islands and waters in the SCS. The Chinese government viewed the joint submission from Vietnam and Malaysia as a direct challenge to its sovereignty and rights in the area. In light of this, China formally lodged an objection with the UN Commission following Article 5(a) of Annex I to the Commission's Rules of Procedure. Despite this action, China maintained its position of not recognizing the joint submission, emphasizing the ongoing tensions and disputes over territorial claims in this strategically important region.

In response to the assertions made by the Chinese government, Vietnam likewise transmitted a verbal note to the Secretary-General of the UN on 8 May 2009, contending that Vietnam's claims over the islands Truong Sa (Spratly) and Hong Sa (Paracel) are legitimate and aligned with the Rules of Procedure of the CLCS. The Vietnamese government refuted China's claims on the grounds of legality and historical context, considering them to be misleading (The Permanent Mission of the People's Republic of China to the UN, 2009). The claim of sovereignty over the islands of Truong Sa (Spratly) and Hong Sa (Paracel) originated purely from UNCLOS and requires no further scrutiny of its origin. The Philippines also expressed its displeasure over the claims of Vietnam, Malaysia, and China. It called upon the UN CLCS to disregard the joint Vietnam-Malaysia submission, as it overlaps with the Philippines' claim. The government of the Philippines also has a Sabah area, which is part of the state of Malaysia. All these claims appeared to arise in response to China's claim in the SCS.

The government of Indonesia articulated its concerns and perspectives in a note addressed to the UN CLCS in 2009. It stated that, although Indonesia does not assert claims to the islands, the claims made by all states over the islands within the nine-dash line lack a legal foundation. Regarding China's assertion, the Indonesian government, in a formal note, affirmed that the small and remote islands in the SCS do not justify the establishment of an EEZ and continental shelf independently. Transforming these uninhabited rocks, atolls, and reefs into sovereign territories would present significant challenges to the global community and contravene the provisions of UNCLOS.

In response to the Philippines' claim, the Chinese government submitted an additional note to the UN CLCS to substantiate its assertion, citing substantial historical and legal evidence to support its longstanding claims and sovereignty over these islands. The note contended that the government of the Philippines laid claim to these islands in 1970, whereas China's association with these islands dates back centuries. Furthermore, the Chinese note argued that in 1930, the Chinese government explicitly delineated the geographical scope of Nansha, including its territorial sea, continental shelf, and EEZ.

Although the government of China asserts sovereignty over the entire nine-dash line of the island, it lacks supporting legal provisions under the UNCLOS. Furthermore, the claims seem to be primarily based on its territorial assertion that these islands have historically been and are currently part of Chinese territory. There appears to be a lack of clarity regarding China's claim. The ambiguity stems from China's designation of the 'nine-dash line' as either a national boundary or solely a claim to the seabed and its resources. Irrespective of China's intentions, it unequivocally designates the disputed island chain as an integral part of its territory.

The analysis reveals that the Chinese government's claims are politically motivated. The Chinese government has presented historical accounts from the past, including those of travelers and ancient notes from ambassadors, to support the truth of the claim. However, the claim becomes confusing because it overlaps with those of Brunei, Vietnam, Malaysia, the Philippines, Taiwan, and Indonesia. The Chinese government representative officially addressed the political claims made in 1947, which were immediately rejected by neighboring states, as mentioned by the US Department of Defense's Freedom of Navigation Department (DoD Releases 2015 Fiscal Year Freedom of Navigation Report, 2016). Under international law, claims based solely on historical records lack validity, as China took control of the eastern part of the Paracel Islands in May 1950. In 1974, Chinese vessels clashed with Vietnamese vessels and expelled them from the western part of the Paracel Islands, gaining control of the entire archipelago. However, regarding the Spratly Islands, China did not establish any occupation in 1988 until it took control of Vietnam after a naval clash, during which it planted its flag on seven rocks and atolls. Meanwhile, China potentially benefits from occupying these islands. To bolster its claim, China justifies these actions by citing its occupation since ancient times. Nonetheless, Max Huber, in the 'Palmas case,' examined the idea that occupations from ancient periods would not be accepted if they were not recognized under modern international law. In other words, such claims must also meet the occupation criteria set by current law.

The study looks into the legal issues surrounding the territorial disputes in the SCS, focusing on the conflicting claims made by countries like China, Vietnam, the Philippines, Brunei, Malaysia, and Indonesia. Since 2009, these disputes have intensified, particularly in key areas such as the Spratly and Paracel Islands, which are not only rich in natural resources but also crucial for international shipping routes. The authors examine the claims of these countries in light of UNCLOS and other international laws. They conclude that China's broad claims over these territories do not align well with these legal rules. The unresolved status of these disputes poses ongoing risks to both regional and global stability, as they could potentially escalate into larger conflicts that might threaten international peace. The study emphasizes the importance of diplomatic solutions and conflict resolution strategies to mitigate these tensions and foster a more stable situation in the region. In simpler terms, it is about finding peaceful ways to resolve these disputes, preventing further conflict, and ensuring that everyone can benefit from the resources and shipping lanes in the SCS.

CONCLUSION

The ongoing tensions in the SCS, especially concerning the ownership of the Diaoyu Islands, reveal the complexities involved in international politics and the difficulties that come with settling territorial disputes. Issues such as national pride, historical backgrounds, and strategic interests make these situations even more complex. China's claim to sovereignty over these islands is based mainly on its historical narrative, which includes references to ancient maps and texts that it believes support its position. However, these claims are often challenged by international law, particularly the UNCLOS. This convention focuses on factors such as the geographical relationship between land and water, and emphasizes the importance of clear maritime boundaries. While China relies on historical connections to back its claims, many of its neighboring countries argue their case based on modern legal principles that favor international agreement and established legal practices. This difference in how countries justify their claims makes diplomatic discussions quite tricky, as each nation is often reluctant to compromise on what it considers essential to its national identity.

It is essential to resolve the current disputes about both regional stability and the overall health of international relationships. As tensions rise, the likelihood of making a misstep increases, which could lead to conflicts that affect not only the involved countries but also have consequences worldwide. That is why it is crucial for everyone involved to engage in open discussions and

negotiations, focusing on understanding each other and respecting international laws. We need to prioritize constructive approaches, steering clear of letting historical grievances or nationalist passions drive our interactions. One effective way to build trust and cooperation is through joint development projects, which turn competition for resources into collaborative opportunities. Ultimately, achieving peace in the SCS necessitates a concerted effort towards diplomacy, where conversations take precedence over confrontations, and legal principles guide the resolution of issues. This approach is essential for stabilizing the region for future generations.

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