SYSTEMATIC DOMINANCE OF CHINA IN THE SOUTH CHINA SEA WITH THE AID OF ARTIFICIAL ISLANDS

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ABSTRACT

The artificially created islands in the South China Sea by China is a measured grandiose to have sweeping territorial demands and it is a complete defiance of the international law as laid down by the United Nations Convention of the Law of the Sea (UNCLOS). The 2016 South China Sea Arbitration, according to the law, declared that such artificial features like those found on Mischief Reef and subi reef produce no exclusive economic zones (EEZs) or continental shelf rights since they are low-tide features that cannot be considered eligible to be part of the territorial seas. Dredging has also resulted in massive destruction of the environment in China, and is against the provisions of UNCLOS Articles 192–194. The strategic action between 2013 and 2017 saw China take back more than 3 200 acres in seven features of the Spratly Islands, furnishing them with military runways, radars, and missile systems as power assertions, establishing a fait accompli despite the lack of sovereignty. By January 2026, China is still dredging the Antelope Reef and the Paracels (since October 2025), and is testing the idea of nuclear-resistant floating islands. These measures have led to the drying up of relationships with neighbours such as Vietnam due to continued legal disapproach but not because of new arbitral conclusions.

Keywords: Public International Law, The United Nations Convention on The Law of The Sea (UNCLOS), The 2016 South China Sea Arbitration, The Permanent Court of Arbitration, Arbitral Award, Jurisdictional Authority, Sovereignty Disputes, Maritime Entitlements, Exclusive Economic Zone (EEZ), Continental Shelf Rights.

INTRODUCTION

[1] Public International Law is a decentralised horizontal system, which is essentially horizontal. Such is not the case with the international law, whereby the states are in nominal equality as sovereigns whereby jurisdiction is largely consensual. In comparison to the domestic law, which is characterized by the centralized police and judiciary that enforces obedience to their powers.

This dilemma is currently tested in South China Sea. The case of the claim of the United Nations Convention on the Law of the Sea (UNCLOS) by China of the nine-dash line and its transformation into fortified military point of strength over a submerged reef test the UNCLOS. Under the pressure of the treaty, in 2025-2026 China launched hi-tech Unmanned Maritime System (UMS). In order to understand the seriousness of such deeds, we have to draw some comparisons with the historic precedents which constitute the frame of the international law. There is no legal vacuum in the actions of China, which defy the maxims developed by international tribunals during the last century directly.

The dispute is theoretically applied by the opposition of legal normative treaties made by customary historical claims. The espousal of the doctrine of Mare Liberum led by Hugo Grotius in the 17th century diminished that the oceans are property of common use and that all nations can freely navigate the seas. This principle would develop through centuries and eventually become turned into a whole, legally enforceable UNCLOS, commonly referred to as the Constitution for the Oceans. UNCLOS gives coherent, globally bargained definitions on the territorial waters, Exclusive Economic Zones (EEZs) and the establishment of the legal status of natural geographic features. The wide nine-dash line of China and militarization of the region do not accept this regime of space. China asserts the exercise of vaguely defined historic rights over virtually the entire South China Sea, purportedly to doctor a unilateral claim, based on historic tenure, on top of a system of multilateral treaties.

One effort to establish sovereign territory, and the accompanying maritime rights, by means of drilled-up sand is the creation of artificial islands on submerged reefs, which expressly conflicts with the UNCLOS provisions on artificial installations. Moreover, systems of high autonomy UMS drive the limits of conventional maritime interception and presence into legal waters

[1] *Janis, M. W. (2021). International Law (7th ed.). Aspen Publishing. (Focusing on the consent-based nature of international tribunals and the foundational challenges of sovereign non-compliance).*

unknown before. This is where a critical legal approach is needed to the application of historic precedents, including the principles of territorial acquisition, the right of innocent passage, and the obligation to avoid interference, in new technology and geopolitics approaches. The events that are occurring in the South China Sea are not merely a local conflict but a challenge as to whether a decentralized jurisprudential regime can be effective in limiting physical supremacy as well as to whether the carefully designed maxims of international law can withstand the forges of contemporary great-power politics.

Historic Rights, Treaty Supersession, and the Freedom of the Seas

[2] The issue of public international law implies the multifaceted interaction of customary practices and the law of the treaty. China supports its wide nine taxis misdemeanours of the South China Sea by asserting a historic right to these waters, indicating that the waters have been used and under the rule of its navigators, fishermen and dynasties over centuries long. This claim was rejected in the Hague arbitral decision of 2016 by the use of the principle that treaties override previous practices.

The Tribunal observed that, upon a country signing a United Nations Convention on the Law of the Sea (UNCLOS), it enters into an agreement and submits to a powerful, worldwide acknowledged system. Ratification has the effect of effectively vindicating prior uncodified historic claims to maritime jurisdiction that were inconsistent with the clear division of maritime jurisdiction under UNCLOS. UNCLOS was constructed as an entire structure with no space to make unilateral historic claims to its limits.

This case reflects the Anglo-Norwegian Fisheries judgment of the ICJ of the 1951. Norway was awarded a historic title in some coastal waters, which enabled it to draw straight baselines which excluded British fishermen in the traditional fishing fields. The comparison between the success of Norway and the aspirations of China indicates that there is an important legal distinction that is based on its jurisdiction in terms of magnitude, region, and global forbearance.

The claim made by Norway was coastal only, and connected with its highly indented coast.

[2] *International Court of Justice. (1951). Fisheries Case (United Kingdom v. Norway), Judgment of December 18, 1951, I.C.J. Reports 1951, p. 116; combined with Permanent Court of Arbitration. (2016). South China Sea Arbitration, PCA Case No. 2013-19.*

Norway allowed a long period of time to elapse before substantial outcry against her baseline drawing. The claim by China occurs in more than extensive oceanic water. It also has unilateral claim on high seas and exclusive economic zone (EEZ) of its neighbors such as the Philippines, Vietnam and Malaysia.

China is therefore trampling upon the freedom-of-the-seas doctrine by attempting to enclose the global commons with vague domestic maps. This is the fundamental concept that has dictated most of the historical interactions in the sea which states that the high seas must remain open and accessible to all nations free of being taken over by any individual state.

The Legal Status of Features: Territory Generates Rights

[3] One of the fundamental principles of the international maritime law is the fact that the land overrides the sea. This indicates that the nearest land is the owner of oceanic rights; a state cannot claim a right to maritime by erecting an artificial construction in the high seas. In order to avoid uncontrolled expansion of its territories, the United Nations Convention on the Law of the Sea (UNCLOS) established rigorous, science-based conditions of maritime features classification.

UNCLOS Art. 121 provides that a 200 nautical mile Exclusive Economic Zone (EEZ) and a continental shelf can be established only by naturally occurring islands, i.e. landmasses that are over water at high tide, and which could have human habitation or other economic activity. The other features are very limited. Article 13 establishes LTEs as the areas exposed during low tide but drowned during high tide and declares that LTEs cannot form their own maritime. Effectively LTEs are a constituent of the seafloor.

China has constructed massive military bases on top of characteristics like Mischief Reef, Subi Reef and Antelope Reef (Paracels) by clearing up millions of tons of sand and concrete on top of naturally submerged LTEs. This is an effort to go against the legal maxim of land dominating the sea. Being able to produce artificial physical facts, Beijing wants to elevate the legal status of these features by means of engineering only.

This is similar to the evidentiary procedure used by the International Court of Justice in the

[3] *International Court of Justice. (1992). Land, Island and Maritime Frontier Dispute (El Salvador v. Honduras: Nicaragua intervening), Judgment, I.C.J. Reports 1992, p. 351.*

1992 Land, Island and Maritime Frontier Dispute whereby the natural history and physical existence of small maritime features were considered by the Court in the determination of sovereignty. The ICJ also found that legal title to mere occupation or artificial change was not obtained or changed.

Construction of large artificial islands within the Philippine EEZ, even though illegal by China is against the rights of Manila to claim its continental shelf. It is an illegalistic endeavor to obtain the land by industrial terraforming rather than by accepted legal means. There is no ambiguity in the treaty text or case law that a wide-ranging human alteration, however permanent, to the inherent legal character of a sea feature.

Transboundary Harm and the Obligation to Protect the Marine Environment

[4]In the context of the international environmental law, state sovereignty is not an exception that allows environmental devastation to occur without interference. States have a primary moral duty that does not permit the territory, or the activities which go on in their borders and their jurisdiction, to cause environmental damage to other states or to the common world. These environmental duties are recognized in the United Nations Convention on the Law of the Sea (UNCLOS). Precisely, Article 192 declares that all states have a general, binding responsibility towards protection and preservation of the marine environment whereas Article 194 declares the need to prevent, reduce, and control pollution as it is necessary to safeguard rare or fragile ecosystems, habitat of depleted, threatened, or endangered species, like coral reefs.

The systematic application of the Spratly and Paracels island chain cutter-suction dredgers used by China are a direct and crushing insult of such legal stipulations. Through mechanical polishing of the ancient, structural pillars of such reef systems to get the sand and gravel to construct its artificial outposts, Beijing has destroyed thousands of acres of extremely biodiverse marine life in organized ways. As a result of such terrestrializing, the nearby corals end up suffocated with huge sediment plumes, and these areas permanently become unlivable, which supports fisheries of the area.

The very notion of state-coerced, ecological devastation is an outright appeal to the classic principle of the customary international law, sic utere tuo ut alienum non laedas (use your own

[4] *Arbitral Tribunal. (1941). Trail Smelter Arbitration (United States v. Canada), 3 U.N.R.I.A.A. 1905; and Oral, N. (2017). Environmental Protection of the South China Sea, Edward Elgar Publishing.*

property in such a manner not to injure that of another). It is this old adage that was restructured and deeply entrenched in the law of international environmental law by the trail smelter Arbitration of 1941 (United States v.). Canada). In the case of the momentous situation, the deadly fumes of sulfur dioxide used in a smelting process in Canada flew over the border, destroying large acreages of crop farming in the United States. The resulting arbitration entrenched the legal principle pillar on which states have the ultimate liability to transboundary negative environmental impact caused by activities within the jurisdiction of the state.

Moreover, the magnitude and one-sided character of the Chinese actions attract an interesting comparison to the Nuclear Tests Case with New Zealand in 1974 of the International Court of Justice (ICJ). France). That conflict involved the radioactive fallout and ecological panic caused by the French atmospheric tests in the South Pacific that played dangerous to the broader and wider global commonwealth. China continues to exercise its island-building campaign today to represent the new, maritime version of these earlier environmental crimes.

Proxy Forces, Gray Zone Tactics, and the Threshold of Force

[5] In contemporary South China Sea, China uses the policies of the grey zone: the strategies that border on aggressiveness, but without turning into war. The intention of these tactics is to put pressure on, frighten, and wear down the neighbouring states without violation of the legal status of armed attack. Article 2(4) of the UN Charter prohibits any element of force and/or threats to the political realm and/or territorial respect of any other element of state. The strategies adopted by China keep the international mechanisms of responding at crossroads between normal diplomacy and open war — threatening wars with conventional methods.

As of 2026, this scheme became a reality as the China Coast Guard (CCG) was introduced regularly as well as the People's Armed Forces Maritime Militia (PAFMM). In practice, the PAFMM uses collusion with its state vessels to implement the maritime claims of Beijing, although the fleet positions itself as a legitimate fishery fleet whereby the vessels fly the national flag of the PRC. All these forces have attacked the Philippine resupply ships forcefully, particularly the Second Thomas Shoal which is among the conflicting territories. They employ ramming, water cannon, and flash devices to subjugate the territory without

[5] International Court of Justice. (1986). *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, I.C.J. Reports 1986, p. 14.

necessarily using traditional weapons.

To determine such one-sided strategies, it is important to consider the 1986 **Nicaragua v. United States** case. In that ruling the international court of Justice considered whether the U.S. aid to the Contra rebels constituted an armed assault against Nicaragua. The Court established the test of effective control, as determining that a state acts when it exerts its control over a proxy group, controls particular work, and integrates the group as a part of a larger plan. The actions of the state are considered as a military activity of the state.

Using this framework in reference to the case of the South China Sea, one can note that the maritime militia of China is not the organization of fishermen but a proxy state-run whose chain of command is an inseparable part of the PLA. These actors are clear systems of blockading Philippine vessels, which are in breach of Article 2(4). It is therefore the Chinese state that is to be blamed. Ultimately, China's Gray-zone strategy is meticulously calibrated to keep kinetic violence deliberately submerged just below the threshold that would legally trigger international mutual defence treaties, such as the US-Philippines Mutual Defence Treaty. By outsourcing territorial aggression to nominally civilian or law enforcement vessels, this approach exploits the strict, traditional definitions of "armed attack" within Public International Law. It represents a calculated subversion of the UN Charter, allowing a powerful state to achieve strategic, territorial dominance and enforce its maritime claims without ever sparking the legal tripwires of open, conventional war.

Unwarranted Autonomous Disruption and the Duty to Warn

[6] Use of advanced Unmanned Maritime Systems (UMS) has recently become another giant new addition to the South China Sea, by China. These types consist of extra-large unmanned underwater vehicles (XLUUVs) and surface platforms, i.e. Type-076 drone carrier. Their use leads to gross ambiguities in law concerning freedom in navigation and the manner in which maritime responsibility is attributed. The UNCLOS, the major rule that was created by the international law, was designed to cover the cases of ships that had human crews and commands that were evident. As such, in the event an independent Chinese submarine hunter does work secretly within the Exclusive Economic Zone of a neighbour and runs down a civilian merchant ship, the prevailing legal system would have a hard time trying to apportion

[6] *International Court of Justice. (1949). Corfu Channel Case (United Kingdom v. Albania), Merits, Judgment, I.C.J. Reports 1949, p. 4.*

state accountability and negligence.

To address these new technological threats, the simplest case to consider is the initial momentous case adjudged by the International Court of Justice (ICJ): an earlier case, 1949 Corfu Channel case (United Kingdom v). Albania). The British warships were severely injured in 1946 and many lives were lost when they struck secret sea mines that were laid in Albanian waters. The ICJ decided that it was a clear legal obligation of Albania, who ever laid the mines, to inform the ships of the latent peril. This rigid obligation of the court was not founded solely on the text of the treaties. It applied basic reasoning of humanity, the rule of free sea communication, and the fundamental duty of all states to ensure their land is not exploited to the detriment of the rights of other states.

The common use of autonomous underwater vehicles and drone swarms today in the South China Sea is analogous to the unannounced mines which precipitated the Corfu Channel spy tussle. The technology is however different, but they are both considered as maritime hazards. These self-operating engines silently navigate the trading routes of some of the busiest international shipping routes in the world. Their unexpected appearance poses a threat of unpredictable risk to communication of freedoms of navigation and the security of mariners of civilian vessels.

Customary international law places upon China the responsibility of maintaining safety in the navigation and warning the world about domestic maritime hazards. In order to monitor, intercept or even block foreign ships without providing them with the due navigational warnings or Notice to Mariners, Beijing blatantly smacks the safety regulations established in the Corfu Channel decision eight decades ago. Any presence of AI-powered naval assets without transparency of the law puts in danger the sustainability and safety of the world maritime trade.

Blurring Maritime Jurisdictions: Nuclear-Resistant Floating Platforms

[7] International maritime law faces a puzzle that it has never seen before when it comes to China using a semi-submersible, floating, 78,000 tonne research vessel that is a massive one. It is a technological breakthrough that is destabilizing the established divisions in the United Nations

[7] *Permanent Court of Arbitration. (2015). Arctic Sunrise Arbitration (Netherlands v. Russia), PCA Case No. 2014-02, Award on Merits.*

Convention on the Law of the Sea (UNCLOS), engineered with the technological metamaterials, and capable of enduring nuclear shockwaves. To maintain order in the oceans, law draws a valid line between a sovereign vessel, which is entitled to enjoy the same recovery right as that of freedom of navigation, and an installation or structure, which under Article 60, is under the exclusive jurisdiction, control and consent of the coastal state in its Exclusive Economic Zone (EEZ). The difference between these two categories lies in the first place.

The huge modular platform is officially declared to be a civilian, mobile scientific research ship according to Beijing. However, a more sceptic analysis of the law and strategy- its sheer size, the fact that its design could only withstand a nuclear explosion, and that it was intended to fight in very aggressive deep-water operations imply otherwise. Rather than being a generic research vessel that sails the international commons, the platform serves as a very mobile, sovereign military ambulatory which is capable of moving the strategic geography of the ocean at will.

This intentional despecification of kinds of law resembles the controversial jurisdictional disputes which emerged in the 2015 ArcticSunrise arbitration (Netherlands v.). Russia). In that flaunting affair, the Russian authorities boarded and confiscated a Greenpeace boat that was protesting offshore an already established Russian fixed offshore oil platform Prirazlomnaya in the Pechora sea. The arbitral tribunal was forced to thoroughly demarcate and balance the basic navigational entitlement of the complaining vessels with the highly specified zone of 500 meters of safety that is permitted around the fixed economic facilities.

China is methodically deploying the legal grey area between moving ships and fixed facilities, through the engineering of highly mobile, but virtually indestructible floating islands. A direct approach, with Beijing towering this highly armed, nuclear-resistant platform directly into the undisputed EEZ of the Philippines or of Vietnam and hook it there permanently under the auspices of civilian research would take it beyond the legal definition of continuous navigation. Instead, the platform would represent a lasting, irrefutable intake of sovereign maritime influence inside the territory of another state. This aggressive, asymmetrical posturing effectively checkmates the coastal state. It dares the international community to attempt the forceful, escalatory removal of a heavily fortified, nuclear-protected strategic asset.

The Enforcement Deficit and the Strategy of Non-Appearance

[8] A vivid illustration is found in the South China Sea wherein there is a clear absence of an enforcement mechanism in the public international law. Adjudication of legal rights can be declared by treaties and tribunals, which does not offer itself independent enforcement. This weakness was depicted when China declined to take part in the 2016 Arbitral Tribunal in The Hague. Beijing not merely rejected the final and binding award which invalidated its expansive maritime claims but on a daily basis is also flouting those principles through kinetic blockades, island building and coercion in grey-zone. China has intentionally not participated; it has not done so due to some procedural omission, but a calculated political refusal of the tribunal to have jurisdiction over its professional affairs, to expose its ambitions at home to international review.

Comparatively speaking, the major powers defying international tribunals is not a new occurrence. In 1986, the US withdrew ICJ proceedings the moment the Court declared that it had such jurisdiction. Then Washington exercised its authority in vetoing various United Nations Security Council resolutions which attempted to impose the Judgment on it. In another case, the Russian Federation refused the Arctic Sunrise arbitration saying that the tribunal did not have jurisdiction over its enforcement measures. This makes these incidences a stark reality: great powers will habitually take advantage of the consent the nature of international law when a binding judgment poses a danger to their vital interests.

The major distinction in the contemporary South China Sea controversy is that it is of enduring magnitude, technical prowess and even geographical scope. Historical superpower sabotage entailed transient intervention, black operations or lone diplomacies. Instead, Beijing has built a permanent, comprehensive and possibly nuclear shielded military network over disputed waters.

China has transformed an invalid maritime claim into a fact that is now deemed by the force of heavy fortified garrisons and deployment of the cutting-edge autonomous proxy armies on the man-made artificial maritime features. This is a strategy that fully portrays the final constraint of the international legal order the absence of a centralized supranational executive organ with

[8] *Posner, E. A., & Yoo, J. C. (2005). Judicial Independence in International Tribunals. California Law Review, 93(1), 1-74.*

political will and kinetic capacity to impose judgment on a determined, well-armed hegemon.

Conclusion

[9]And finally, the case of the South China Sea dispute demonstrates that such boundaries of legalism are revealed when it comes to crude geopolitical policy. Through comparison of the current maritime incidents happening in China compared to the history that formed the present day international laws, it can be indicated that such acts are methodical and premeditated. This discussion shows that, as the public international law is not merely an imaginary concept among the courts; it is a living system on which influential states constantly contest to dominate their regions.

An analysis of the above legal theories prominently indicates that there is a multi-domain erosion of maritime law. First, the vast so-called nine-dash line contravents the doctrine of the supersession of treaties. It attempts to give preference to vague, one-sided historical assertion to unambiguous codified treaty law removing the proximity of the coastline and international recognition that authenticated historic claims in the Anglo-Norwegian Fisheries case. Second, the creation of fortified artificial islands where there are low-tide elevations is a flagrant defiance of the basic rule that land prevails over the sea, which is directly opposite to the territorial practices adopted by the ICJ in the Gulf of Fonseca case.

Third, extensive dredging that must be done in order to create these outposts leads to significant irreversible transboundary environmental damage. This destruction revisits state responsibility of transboundary damages accepted in the Trail Smelter arbitration, which is careless about the use of the common world resources. Also, weaponization of purportedly civilian resources, including the Coast Guard and Maritime Militia, borders on an actual combat. These gray-zone strategies, which are run via state-managed-proxies, reflect the debate on effective control and state responsibility that the Nicaragua judgment is all about.

Lastly, the use of highly automated underwater drones and unmanned surface vessels poses a silent menace in highly busy international routes. Such technological escalation transpires to breach the obligation to provide warnings and to guarantee the safety of navigation as in the case of Corfu channel almost 80 years ago. Although this is evident based on the binding decision of the Arbitral Award of 2016, the further rise of China to 2026 with drone carriers of

[9] *Koh, H. H. (1997). Why Do Nations Obey International Law? The Yale Law Journal, 106(8), 2599-2659*

sixth-order precision, hyper-mega-nuclear floating platforms, and unrelenting pressure in the gray-zone, exemplifies an exemplary exploitation of the enforcement loopholes of the general body of international law. This crisis has a crucial, though cynical, lesson steel, legal decision-making cannot be successful in breaking the reality that has been carefully created by dredged sand and hardened steel in place and that has been identified, analysed, and condemned by numerous legal decisions.

REFERENCES:

1) Janis, M. W. (2021). International Law (7th ed.). Aspen Publishing. (Focusing on the consent-based nature of international tribunals and the foundational challenges of sovereign non-compliance).

2) International Court of Justice. (1951). Fisheries Case (United Kingdom v. Norway), Judgment of December 18, 1951, I.C.J. Reports 1951, p. 116; combined with Permanent Court of Arbitration. (2016). South China Sea Arbitration, PCA Case No. 2013-19.

3) International Court of Justice. (1992). Land, Island and Maritime Frontier Dispute (El Salvador v. Honduras: Nicaragua intervening), Judgment, I.C.J. Reports 1992, p. 351.

4) Arbitral Tribunal. (1941). Trail Smelter Arbitration (United States v. Canada), 3 U.N.R.I.A.A. 1905; and Oral, N. (2017). Environmental Protection of the South China Sea, Edward Elgar Publishing.

5) International Court of Justice. (1986). Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 14.

6) International Court of Justice. (1949). Corfu Channel Case (United Kingdom v. Albania), Merits, Judgment, I.C.J. Reports 1949, p. 4.

7) Permanent Court of Arbitration. (2015). Arctic Sunrise Arbitration (Netherlands v. Russia), PCA Case No. 2014-02, Award on Merits.

8) Posner, E. A., & Yoo, J. C. (2005). Judicial Independence in International Tribunals. California Law Review, 93(1), 1-74.

9) Koh, H. H. (1997). Why Do Nations Obey International Law? The Yale Law Journal, 106(8), 2599-2659.