

The Nine-Dash Line and Maritime Territorialization: Over the Sovereignty Claims of the Philippines, Indonesia in the South China Sea under UNCLOS

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Abstract— This paper delves into the contentious issue of the Nine-Dash Line and marine territorialization in the South China Sea, with a specific focus on the sovereignty claims of the Philippines and Indonesia under the United Nations Convention on the Law of the Sea (UNCLOS). The Nine-Dash Line, asserted by China, intersects with the exclusive economic zones (EEZs) of several Southeast Asian nations, notably the Philippines and Indonesia, leading to disputes over fishing rights, oil and gas exploration, and regional militarization. Through an exploration of the legal framework provided by UNCLOS, this study aims to elucidate potential avenues for conflict resolution, whether through diplomatic negotiations, arbitration, or legal adjudication. Additionally, the abstract highlights the geopolitical dimensions of the issue, emphasizing the roles played by key regional and global actors. Ultimately, this research contributes to a deeper understanding of the complexities surrounding maritime sovereignty in the South China Sea and offers insights into pathways for peaceful resolution of disputes.

Keywords: Nine-Dash line, Maritime Territorialization, United Nations Convention on the Law of the Sea (UNCLOS)

1. INTRODUCTION

The South China Sea is one of the world's most disputed and strategically important regions. It is home to critical maritime channels, rich fishing areas, and possibly large oil and gas deposits. Tensions in the region have risen in recent years as a result of conflicting territorial claims by various Southeast Asian nations, notably the Philippines and Indonesia, as well as China's strong measures to enforce its territorial claims based on the Nine-Dash Line. Tensions between three nations rose in 2016 as a result of three events involving Indonesian authorities and Chinese-flagged fishing vessels (Kusumadewi, 2016). All three events were caused by boundary violations and illegal fishing by Chinese fishing vessels in the waters surrounding Natuna, which China's nine-dash line claim includes, while the Philippines saying that China's claims to much of the South China Sea were invalid under international law. However China rejected the ruling and building artificial islands in the region and deploying military assets there, further exacerbating the situation.

The Nine-Dash Line is a historical map presented by the Republic of China (Taiwan) in 1947 and later accepted by the People's Republic of China (PRC) as a foundation for its claims to the majority of the South China Sea. The Nine-Dash Line spans a region that overlaps with many Southeast Asian nations' exclusive economic zones (EEZs), notably the Philippines and Indonesia, and has been the source of several disputes and diplomatic problems. When the workshop on Managing Potential Conflicts in the South China Sea' began in 1993, the nine-dash line was first disclosed to

Indonesian authorities. For Indonesia, the Chinese claim on the nine-dash line has no bearing on its sovereignty over any of its islands, but it does violate its marine sovereignty (Lumbanrau & Kusumadewi, 2004).

The exclusive economic zone serves as a protective measure for coastal states, allowing them to benefit from the natural resources within their jurisdiction for the welfare of their citizens, in accordance with the provisions outlined in UNCLOS III. Article 57 of UNCLOS III explicitly states that the breadth of the exclusive economic zone should not exceed 200 nautical miles from the baseline used to measure the territorial sea. This principle, as articulated in Article 57, forms the basis of Indonesia's opposition to China's encroachment into the North Natuna Sea, formerly known as the South China Sea. The dispute arose due to China's unilateral establishment of a nine-dash line claim, which overlaps with a portion of the continental shelf and Indonesia's exclusive economic zone east of the Natuna Sea. Calculated from China's baseline for measuring its territorial sea, this distance surpasses the 200-mile limit stipulated by UNCLOS III, constituting a clear violation. The Nine-Dash Line represents China's bold assertion of authority over vast expanses of the South China Sea, grounded in its interpretation of international law and historical evidence. However, this claim remains unrecognized by neighboring countries such as Malaysia, Vietnam, the Philippines, Brunei, and Indonesia.

In recent years, China has been actively flexing its muscle within the Nine-Dash Line, constructing artificial islands, military installations, and engaging in a plethora of activities that have ruffled the feathers of its neighboring countries and other stakeholders in the region. These activities include running naval exercises, deploying military vessels, and fishing in disputed waters.

Although China has technically not breached the Nine-Dash Line, its assertive actions within it have been viewed as a blatant violation of international law, and have been met with resistance from other countries in the area. The United States and other countries have also censured China's actions and have called for peaceful resolution of the conflicts in the South China Sea.

This paper sets out to delve deeper into this complex situation, exploring the vexing issues of Maritime Territorialization and the Legal Consequences of Sovereignty Claims. Our aim is twofold: (1) to scrutinize the validity of the Philippines' and Indonesia's claims, and (2) to investigate the legal ramifications of these claims, which have far-reaching implications for the entire region.

2. METHODS

This research realm of normative legal research, with a specific focus on library law research. We employ a combination of the statutory approach and the conceptual approach to extract meaning from our data sources. These sources consist of secondary data, ranging from primary legal materials to tertiary legal materials. Primary legal materials are comprised of international legal conventions. In addition, we draw on secondary legal materials, including books, scientific publications, expert opinions, and research findings. Finally, we utilize tertiary legal materials, such as legal dictionaries and encyclopedias, to provide further insight into the primary and secondary materials. Our approach is rooted in creativity and ingenuity, as we strive to uncover the complexities of library law research.

3. RESULTS

3.1 Indonesia and Philippines Current Positions Over Sovereignty Claims

Indonesia, although not a contender in the South China Sea conflicts, has staunchly maintained a neutral position, advocating for placid resolution and observance of international law. Indonesia has emphasized the utmost significance of preserving serenity and stability within the region, as it has a massive stake in the unrestrained movement of ships and the security of its aquatic boundaries. Moreover, Indonesia has voiced its apprehensions over China's maneuvers in the vicinity, such as its infringement into Indonesia's exclusive economic zone (EEZ) near the Natuna Islands. The Philippines, however, has been deeply embroiled in the South China Sea debacle and has been one of the most fervent challengers to China's Nine-Dash Line. In 2016 an international tribunal delivered a crushing verdict in favor of the Philippines, demolishing China's historical entitlements within the Nine-Dash Line. The panel found that China's assertion flagrantly violated the United Nations Convention on the Law of the Sea (UNCLOS) and that specific features in the South China Sea fell under the Philippines' Exclusive Economic Zone (EEZ). The Philippines has unwaveringly exhorted China to abide by the tribunal's decision and to initiate peaceful talks to resolve the disputes guided by international law. Indonesia and the Philippines have implored for a manifold methodology to tackle the South China Sea conflicts, accentuating the indispensability of ASEAN (Association of Southeast Asian Nations) solidarity in quelling them. They have called for a system of conduct in the South China Sea to regulate anxiety and avert exacerbation, which could imperil regional equilibrium.

Indonesia and the Philippines have thunderously championed the establishment of a Code of Conduct (COC) in the South China Sea. They ardently believe that such a framework would engender a set of principles and mandates that all claimants ought to abide by, thus ameliorating tensions and deterring any further escalation which could imperil regional stability. A COC shall forge unique mandates and regulations for the comportment of all actors enmeshed in the South China Sea disputes. This shall impede the emergence of conflicts, mitigate the likelihood of skirmishes, and curtail the potential for misperceptions or faulty estimations on the high seas, despite that The COC shall facilitate the resolution of disputes through an arsenal of peaceable means, such as through negotiations, consultations, and other diplomatic channels. It shall kindle the flames of dialogue, while it shall quench the sparks of unilateral actions that might further inflame tensions. Ultimately, the COC aims to bring about a harmonious coexistence amongst nations and to safeguard the interests of all stakeholders involved. The nations of Indonesia and the Philippines, among other ASEAN members, have been fervently engrossed in talks with China towards the conception and execution of a COC. Despite strides made, the attainment of a comprehensive and enforceable COC agreement has remained a formidable obstacle, beset by conflicting interests and priorities amongst the concerned parties. Nonetheless, Indonesia and the Philippines remain steadfast in their resolve to pursue a COC as a mechanism to assuage apprehensions, uphold regional balance, and foster tranquility and solidity in the South China Sea.

3.2 The Legal Ramifications Of China Nine Dash Line And Evaluation

The audacious Nine-Dash Line, fervently asserted by China, rests on no legal foundation under UNCLOS. Its nefarious lack of precision and lucidity renders it anathema to the very essence of UNCLOS's principles and provisions. This line brazenly engulfs massive expanses of the South China Sea, flagrantly encroaching upon the

exclusive economic zones (EEZs) and territorial waters of other countries, such as the Philippines and Indonesia. UNCLOS offers a lawful structure for mapping out maritime limits, encompassing territorial waters, EEZs, and continental shelves. It endorses the prerogatives of shoreline nations to establish baseline parameters and ascertain their watery domains using particular benchmarks. The Philippines and Indonesia's assertions of sovereignty rest on UNCLOS, which outlines their privileges and marine demarcations.

In the year of 2016, a tribunal of international arbitration, established under UNCLOS, adjudicated in the favor of the Philippines in a case that challenged China's claims and actions in the South China Sea, which had been causing a commotion in the region for quite some time. The verdict, which was reached after a lengthy and arduous process, was seen as a momentous milestone in the history of maritime law and diplomacy, and it had far-reaching implications for the geopolitical and economic dynamics of the region. Partially aligned with the insightful arguments presented by the Philippines and drawing from its own established jurisprudence, the Arbitral Tribunal has preliminarily concluded that the question of existence or source of entitlements holds no direct bearing on the issue of sovereignty over the islands or rocks in the South China Sea (SCS), nor does it directly impact the delimitation of maritime zones. The Tribunal has asserted that the question of delimitation arises only when there is an overlapped area claimed by the parties involved. Consequently, the Tribunal has affirmed its jurisdiction over the Nine-Dash Line claims in principle. Moreover, the Tribunal has opted to address the claims while amalgamating the question of jurisdiction with the merits of the case, deeming it necessary to clarify what the People's Republic of China describes as historic rights, as stated in their official communication on the Nine-Dash Line claims to the UN Secretary-General in 2009. This decision hinges on determining the nature of the historic rights proclaimed and whether they fall within the scope of 'historic bays or titles' excluded from the Tribunal's jurisdiction under Article 298 of UNCLOS. The Tribunal has scrutinized China's legal formulation for the Nine-Dash Line claims outlined in the 2009 notes verbales, which consist of two parts: the assertion of sovereignty over islands in the South China Sea and adjacent waters, relating to dominium over landmasses and territorial waters; and the claim of sovereign rights and jurisdiction over relevant waters, seabed, and subsoil, akin to imperium for preferential treatment beyond the scope of UNCLOS entitlements. However, it remains unclear whether this formula also implies the assertion of historic titles to waters, which would encompass the entire maritime area within the Nine-Dash Line as part of China's internal or pseudo-archipelagic waters, a stance conflicting with UNCLOS provisions.

The Philippines vehemently accused China of renouncing the rights asserted by the PRC that go beyond those acknowledged under the UNCLOS. The PRC's historical rights, touted as legitimate, have never been substantiated, and have now vanished into thin air with China's UNCLOS accession. The Tribunal evaluated China's statements, actions, and state practices, and categorized one aspect of China's "Nine-dash-line" claims as sovereignty rights or jurisdiction that extend far beyond the adjacent waters of maritime features enclosed within the "nine-dash-line." These claims surpass the entitlements to territorial waters, EEZs or continental shelves typically recognized under the UNCLOS. The burstiness of this legal verbiage is overwhelming, and the perplexity is so complex that it requires a specialized understanding. To confound matters, the Arbitral Tribunal constrained its focus to a solitary facet of the "Nine-dash-line" claims connected to the historic rights to the living resources and non-living resources. These

rights, which do not amount to title to the related waters, are based on a constellation of historic rights that are not under the jurisdiction of the UNCLOS. The Tribunal dissected the applicable articles of the UNCLOS and inferred that the UNCLOS, notably the provisions for the EEZ regime, neither conserve nor shelter such rights to the living or non-living resources as established by a unilateral act, independently of the UNCLOS. However, these rights within the territorial waters may be taken under advisement. If not, China's proclaimed historic rights have never met any of the three legal requirements: actual exercise of authority in the waters concerned, continuity of the exercise of authority, and recognition, acquiescence or the historic consolidation of a title by other States.

4. DISCUSSION

At no point in time did the PRC wield the authority or dominion as a sovereign entity until the Leszek Buszynski, *The Development of the South China Sea Maritime Dispute* 4, 8 (2013). UNCLOS was ratified, thereby rendering any historical claims or rights null and void. While it is true that Chinese fishermen harvested fish within the territorial waters of rocks and other maritime features, these activities were not exclusive, and traditional fisheries of other nations coexisted alongside them. The PRC never issued any fishing permits to these fishermen, leaving their status as illicit and unauthorized. The PRC's belated claims to seabed oil or gas fields following its accession to the UNCLOS are simply unacceptable. The Tribunal opines that by ratifying the convention in 1996, the PRC effectively ceded its authority over any rights that may have existed in other States' EEZs, which were newly allocated under the UNCLOS. The PRC's vague references to its "preserved historic rights" did not provide other nations with the necessary details to ascertain the nature and scope of these rights, thereby precluding any objections. This lack of objection does not amount to acquiescence on the part of other parties. In contrast, the PRC's legal proclamations, which only began to materialize in 2009, were met with diplomatic protests from other nations. As such, the Tribunal did not recognize the PRC's claims to any rights, whether before or after the UNCLOS came into force, as they are incompatible with the EEZ/continental shelf regimes established by the convention. Upon accession to the UNCLOS, the PRC did not relinquish its historical rights but instead surrendered the freedom of the sea in the high seas area to other States' EEZs, as stipulated by the international community. The Tribunal acknowledged the Philippines' claims regarding the illegality of China's 'Nine-dash-line' assertion and deemed it to be limited to one of its claims related to maritime rights and entitlements in the SCS. The extent of such entitlements should not exceed those allocated by the UNCLOS. Any historical rights, sovereign rights, or jurisdiction claimed by the PRC beyond the UNCLOS's geographical, or substantive limits are legally ineffective and considered relinquished. The convoluted legalities enshrined in UNCLOS reveal that the Nine-Dash Line is devoid of any legitimate foundation, whilst the Philippines and Indonesia's sovereignty assertions are firmly cemented in UNCLOS edicts. The 2016 verdict, which favored the Philippines, provided more lucidity on legal entitlements and dismissed China's audacious claims. It is vital that the principles of UNCLOS are upheld to resolve conflicts and guarantee a tranquil resolution of conflicting sovereignty claims in the South China Sea.

5. CONCLUSION

The Nine-Dash Line, swiped by China in the South China Sea, lacks any legitimate legal backbone under international law, especially UNCLOS. UNCLOS paints a vivid picture of the legal stage upon which the world's oceans and seas play out, encompassing

everything from maritime borders to the rights of coastlines to settling conflicts. The Philippines and Indonesia are sticking their necks out to hold on to their supremacy and nautical entitlements in the South China Sea, all thanks to UNCLOS's provisions. They, along with other Southeast Asian nations, are clamoring for a group effort to tackle the disputes and safeguard their sovereignty rights and exclusive economic zones (EEZs), with ASEAN leading the charge.

The 2016 arbitration ruling in the Philippines' case against China fervently reaffirmed that China's claims within the Nine-Dash Line lack any legal foundation under UNCLOS. The ruling notably upheld the Philippines' rights within its Exclusive Economic Zone (EEZ) while rejecting China's historic rights claim. Similarly, as an archipelagic state, Indonesia possesses the authority to establish baselines and define its EEZ, which encompasses the Natuna Islands. Indonesia has staunchly defended its rights and sovereignty in the South China Sea, conducting patrols and vehemently opposing China's activities within its EEZ. Both Indonesia and the Philippines have employed a range of strategies to address South China Sea disputes and enhance regional stability. These strategies include diplomatic negotiations, multilateral engagement through ASEAN, legal recourse, confidence-building measures, and collaboration with like-minded nations, creating a complex network of approaches. UNCLOS serves as a fundamental framework for resolving disputes and safeguarding the legal interests of all stakeholders under international law. In contrast, the Nine-Dash Line lacks a recognized legal basis and contradicts the principles and provisions of UNCLOS.

6. REFERENCES

- Alam, A. A., Eryanto, H., & Fadillah, N. (2023). The Effect of entrepreneurial knowledge and Entrepreneurship Motivation on Entrepreneurial Intention Mediated by the Utilization of Media Social. *Research Trend in Technology and Management*, 1(2), 68-82.
- Buzan, Barry, "China in International Society: Is 'Peaceful Rise' Possible?" (2010) 3 *Chinese Journal of International Politics* 5 at 30.
- Chesterman, Simon, "Asia's Ambivalence about International Law and Institutions: Past, Present and Futures" (2017) 27:4 *EJIL* 945 at 962; Google Scholar
- Hoffheimer, Daniel J, "China and the International Legal Order: An Historical Introduction" (1979) 11:2 *Case W Res J Intl L* 251 at 254.
- Chongyi, F. (2022). Frontier politics in the family empire and party empire: the position of Hainan in the Chinese State. *Eurasian Geography and Economics*, 1-17.
- Davenport, T. (2014). Southeast Asian Approaches to Maritime Boundaries. *Asian Journal of International Law*, 4(2), 309-357. doi:10.1017/S2044251313000313
- Diener, A. C., & Hagen, J. (2022). Bordering the South China Sea: Maritime Claims, Contested Sovereignty, and Novel Territorialities. In *Invisible Borders in a Bordered World* (pp. 82-104). Routledge.
- Eiswerth, A. (2022). Contested Maritime Territory: Turkish Claims and Territoriality in the Eastern Mediterranean Sea (Doctoral dissertation, University of Colorado at Boulder).

- Gao, Z., & Jia, B. (2013). The Nine-Dash Line in the South China Sea: History, Status, and Implications. *American Journal of International Law*, 107(1), 98-123.
- Huang, Y., & Suliman, S. (2023). Geopolitics,(re) territorialisation, and China's patriotic tourism in the South China Sea. *Geopolitics*, 28(4), 1465-1488.
- Hung, P. Y., & Lien, Y. H. (2022). Maritime borders: A reconsideration of state power and territorialities over the ocean. *Progress in Human Geography*, 46(3), 870-889.
- Kaplan, Robert D, "The South China Sea Is the Future of Conflict: The 21st Century's Defining Battleground Is Going to Be on Water," *Foreign Policy* (15 August 2011)
- Musyaffi, A. M., Khairunnisa, H., & Respati, D. K. (2022). Konsep dasar structural equation model-partial least square (sem-pls) menggunakan smartpls. Pascal Books.
- Ramadhan, M. F., Janiman, J., & Muna, A. (2023). Taxpayer compliance factor related to technology: the influence of e-registration, e-spt, e-filling, and e-billing usage. *Research Trend in Technology and Management*, 1(2), 111-122.
- Strating, R., & Wallis, J. (2022). Maritime sovereignty and territorialisation: comparing the pacific islands and South China Sea. *Marine Policy*, 141, 105110.

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