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*UNCLOS and Ocean Dispute Settlement: Law and Politics in the South China Sea*

For several decades, the semi-enclosed South China Sea (SCS) – bordered on the north by Taiwan and China, on the south by Malaysia and Indonesia, on the west by Vietnam, and on the east by the Philippines, Brunei Darussalam and Malaysia – has been subject to some of the most complex and esteemed ocean-related conflicts in the world. While the littoral States (with the exception of Taiwan) have become parties to the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the recent years have seen an upsurge in tension sparking new concerns about conflicting claims to jurisdiction, as well as questions of territorial sovereignty related to several island groups in the SCS. New events – such as China’s formal creation of an administrative body with its headquarters in the Paracels islands (the “Sansha” city) – have suggested that at least one State will not stick to the spirit of a code entered into in 2002, under which China, Vietnam and the Association of Southeast Asian Nations (ASEAN) agreed to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations.

In a media-dominated discourse, this book – which is based on the author’s doctoral dissertation from 2010 – is a timely contribution to the academic literature pertaining to the conflicts of the SCS. The title indicates that the main focus is placed on the dispute settlement procedures of UNCLOS. The book’s subtitle (“Law and Politics in the South China Sea”) reveals, however, that the author not only discusses the conflicts in SCS in the light of the law of the sea, but approaches the issues interdisciplinary, focusing both on international law and international relations.

The book consists of seven chapters. It is equipped with maps, figures and tables, as well as a useful subject index. Chapter 1 explains the book’s scope and purpose. The aim of the book is to, first, assess “the most practical mechanism to settle the SCS disputes under the new development tendency”.1 Second, the book sets out to analyse “the effectiveness and implementation of UNCLOS as an international regime to settle maritime disputes”.2 More broadly, the rationale of the book is to contribute to the discussion on the significance of UNCLOS as the basis for the legal order of the oceans.3

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approach of “regime theory” in seeking to answer a series of more specific questions related to how UNCLOS – as an international regime – affects, or has the potential to affect, the behaviour of States in the troubled waters of the SCS.4

Chapter 2 provides a background on the SCS dispute. The chapter is divided into different categories, such as geopolitics, history, military and security. It gives a fairly detailed account of the conflict in the SCS from different angles, but is well structured and contains a number of useful tables and maps, including one of the maps issued by China in 1947, which projects the famous U-shaped or nine-dotted-line, that is, the demarcation line used by both China and Taiwan for their claims in the SCS.5

One section of Chapter 2 is dedicated to “external” States’ interests in the SCS.6 The author discusses Japan’s, India’s, Russia’s, Australia’s and US roles and interests in the SCS. The analysis here provides an important input in light of present day challenges. There seems to be growing global interest related to the conflicts in the SCS, including that of the US. Since the SCS is located on a major international shipping route between the northeast Asia and the Indian Ocean, a crucial issue for third-States is preserving the fundamental right of freedom of navigation in international waters, which may be jeopardised by extensive maritime claims, territorial disputes and, more generally, instability in the region.

In Chapter 3, Dr. Hong focuses on the dispute settlement regime of UNCLOS and its applicability in the SCS. The role of the third-party compulsory dispute mechanism provided by UNCLOS is discussed in addressing various SCS-disputes. Three categories of disputes are analysed: controversies with regard to sovereignty over islands (which the author considers to be the core issue),7 disputes between historic concepts (as applied in the SCS by China, Taiwan and Vietnam) and certain provisions of UNCLOS (such as the rules on exclusive economic zones),8 and finally, disputes related to, inter alia, resource management, freedom of navigation and environmental protection.9 With regard to the former category, the author makes the important and correct observation that while UNCLOS does not address questions of sovereignty over land territory, UNCLOS can be seen as one of the factors that have led to the inten-

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4 Ibid., p. 3.
5 Ibid., p. 11.
7 Ibid., pp. 50–62.
8 Ibid., pp. 60–71.
9 Ibid., pp. 71–92.