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## **China's artificial islands in the south China sea: geopolitics versus Rule of Law**

*As ilhas artificiais da China no mar do sul da China: geopolítica  
versus Estado de Direito*

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## Abstract

China's construction of artificial islands during last few years has raised concerns about militarisation of the South China Sea threatening stability and security for littoral countries. China claims over 80 per cent of the South China Sea and it is building landing and garrison facilities over geographical features classified as rocks and coral reefs. China's claims are grounded on their supposed discovery and occupation of these features since antiquity. Other claimants, like the Philippines, Vietnam, Malaysia, Taiwan, Brunei and Indonesia, have their own historical narratives and cite articles of the UN Convention on the Law of the Sea (UNCLOS) to justify their sovereignty over part of this disputed maritime region. This multilateral nature of dispute makes it extremely complicated and China's increasingly assertive policies have further compounded it. Accordingly, several nations, including United States, have raised alarm regarding freedom of navigation across the South China Sea. It in this backdrop of rising tensions that this article examines these multiple narratives and what UNCLOS and the Permanent Court of Arbitration say in clarifying the legality of maritime rights to crystal gaze likely future trajectories. However, this study also recognizes that while UNCLOS remains at the core of maritime dispute settlement, it is the evolving geopolitics of Asia that will go a long way in guiding both the interpretation of UNCLOS as also state responses in terms of their proposals for joint development or unilateral strategies.

**Keywords:** south China sea; artificial islands; United Nations Convention on the Law of the sea; Rule of Law; Spratly Islands.

## Resumo

*A construção de ilhas artificiais pela China nos últimos anos causou preocupações com relação à militarização do Mar do Sul da China ameaçando a estabilidade e segurança dos países costeiros. A China reivindica mais de 80% do Mar do Sul da China e está construindo estruturas para aterrissagem e guarnições nas estruturas geográficas classificadas como rochas e recife de corais. As reivindicações chinesas baseiam-se nas suas supostas descobertas e ocupações dessas estruturas desde a antiguidade. Outros postulantes, como as Filipinas, Vietnã, Malásia, Taiwan, Brunei e Indonésia têm suas próprias narrativas históricas e citam artigos da Convenção das Nações Unidas sobre o Direito do Mar (CNUDM) para embasar suas soberanias nas disputas marítimas da região. Essa natureza multilateral da disputa torna-a extremamente complicada e as políticas reivindicatórias crescentes da China a agravam ainda mais. Assim, diversas nações, incluindo os Estados Unidos, lançaram um alarme em relação à liberdade de navegação no Mar do Sul da China. Neste cenário de tensões crescentes, este artigo examina essas múltiplas narrativas e como a CNUDM e o Tribunal Permanente de Arbitragem esclarecem a legalidade dos direitos marítimos para lançar um olhar para o*

*futuro. No entanto, o estudo também reconhece que apesar da CNUDM permanecer no centro da resolução dessa controvérsia marítima, é a geopolítica em desenvolvimento na Ásia que guiará tanto a interpretação da CNUDM em um longo caminho quanto às respostas estatais em forma de suas propostas para desenvolvimento em conjunto ou estratégias unilaterais.*

**Palavras-chave:** *mar do sul da China; ilhas artificiais; Convenção das Nações Unidas para o Direito do mar; Estado de Direito, Ilhas Spratly.*

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## 1. Introduction

Tensions have been escalating in the South China Sea (SCS). This is due to the rapid construction of several artificial islands by the People's Republic of China (PRC), which include civilian and military facilities like airstrips, ports and lighthouses. Although Chinese officials argue that these islands will be used mainly as staging posts for rescue missions and scientific research, there are sustained media reports that allude to military equipment being shipped to these places (HOOPER, 2015). Even if these are civilian facilities, possibilities of dual-use can never be ruled out. Especially, in view of China's sustained economic rise and modernisation of the people's liberation army-navy (PLAN) has already enabled China to finally assert its long-held claims which is reflected in its increased presence in the South China Sea (UENO, 2013). These sustained constructions in SCS have repeatedly raised concerns about a breach of the 2012 Declaration on the Conduct of the Parties in the South China Sea (ASEAN, 2002). This Declaration clearly underlines respect for freedom of navigation in and overflight above the South China Sea, as provided by the UN Convention on the Law of the Sea (UNCLOS) but recent past has witnessed contested interpretations and narratives on their provisions which need to be addressed and examined.

At the very outset, it is not the first time that Chinese actions have triggered such contestations. These ongoing disputes had defined any solution so far and the reason for this is partly related to the remarkable importance of the area due to its strategic resources like fisheries, gas and oil reserves as also its strategic location; more than half of the annual global merchant fleet tonnage passes through it with over 70,000 ships navigating the South China Sea each year (JIA; TALMON, 2014, p. 2). In 2011, Chinese government had raised this claim for sovereignty over the South China Sea with the UN secretary-general, Ban Ki-moon, saying that "China has

indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof." (CHINA, note verbale No. CML/8/2011:1). Others cite UNCLOS provisions and define the South China Sea as "enclosed or semi-enclosed sea as a gulf, basin, or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States" (UNCLOS, 1982, Art.122). Though this was always contested and had seen even military actions, last decade has seen this disputes getting proactive in view of the increasing awareness of resources and other strategic significance of this maritime region. The main groups of islands in the area are Paracel Islands which lie at the centre of dispute between China and Vietnam; the Pratas Islands are administered by Taiwan, Scarborough Reef and Macclesfield Bank are disputed between China and the Philippines and the Spratly Islands group are disputed by most of these countries in the region (SCHOFIELD, 2012, p.3).

Area of recent artificial island constructions on otherwise unsustainable rocks and reefs is located such that it involves primarily claims by the Philippines and China. On 22 January 2013 the Philippines government had submitted a Notification and Statement to the Permanent Court of Arbitration on its claim to start compulsory arbitration proceedings under Art.287 and Annex VII of the UNCLOS regarding the dispute with China over 'maritime jurisdiction' in the South China Sea. The Chinese government declined the Philippines' note verbale and published a position paper in respect to the topic, in which it claimed that Spratly Islands in its entirety belong to China (CHINA, 2014). It even rejected the jurisdiction of the Arbitral Tribunal. Spite of this rejection, the Court of Arbitration decided in October 2015 that it had jurisdiction over the case and that the arbitration would include analysis of the status of maritime features in the South China Sea, the claim of 'historic rights' and the source of maritime entitlements in the South China Sea. In July 2016, the Permanent Court of Arbitration handed down a decision on the case, ruling in favor of the Philippines. Although the SCS disputes may raise the classical question of the effectiveness of international law, a discussion based only in law or geopolitics does not provide legitimacy of claims (BECKMAN,

2012, p.2). Accordingly, this article examines various arguments used by the Chinese government to justify their sovereignty in the region, and how the construction of artificial islands in the controversial features impacts on these claims under dispute with the Philippines. Furthermore, it will also examine the landmark decision of the Permanent Court of Arbitration on this controversy in special the Chinese nine-dash-line and maritime rights claims. This case study should also help elucidate on the challenges of applying the rule of law in this case.

## **2. China's nine-dash-line and other claims**

China's claims over SCS are grounded on their discovery and occupation over centuries. Indeed these historical claims are projected as occurred starting over two thousand years ago and hence predate other nations' claims. This questionable sovereignty was though challenged only centuries later, before World War II by France, by Japan during the war, and by the Philippines and Vietnam after World War II (CHANG, 1991, p.400). As regards PRC, it argues that historical claims sustain its U-shaped nine-dash-line map which demonstrates the sovereignty of China over about 80 per cent of the SCS (UENO, 2013). This map was first published by PRC in 1958 but it was presented to the international community only in 2009 in a diplomatic note sent to the UN Secretary-General (BECKMAN, 2012, p.4). It has been contested by most the other countries which dispute China's sovereignty claims on SCS. Second, this continuous presence by China is in fact, related to claims that fishermen from China would sporadically visit these islands to fish. Others see this as only a private party presence and that the Chinese government officials did not administer these islands and that it makes it a weak argument then that China could really claim sovereignty over them (BENNETT, 1991, p.435). Japan occupied the Spratly Islands in 1939 and formally surrendered them only in 1952 (BELLER, 1994, p.307). The Republic of Vietnam declared its sovereignty over the Spratly Islands in the San Francisco Peace Conference in 1951 (CHANG, 1991, p.401). But both China and Taiwan have refused all claims made by other countries.

Vietnam claims that since the early seventeenth century it exercised state functions over these uninhabited islands (NGUYEN, 2012, p.168). In addition to this claim, it also argued that its sovereignty is based on the right

of cession from the French claim to the islands made in 1933. Although the French government had claimed these islands, it did not occupy them after Japan surrendered (JOYNER, 1999, p.62). In practical terms, it was only after reunification in 1975 that Vietnam started the occupation of features in the Spratlys (BUSZYNSKIP, 2010, p.86). The most recent Vietnamese claim was sent to the Secretary General as Note Verbale in 2011 which states that Vietnam claims sovereignty over the whole Paracel and Spratly Islands (VIETNAM, Note Verbale No. 77/HC-2011) Likewise, the Filipino claims are also based on the 'discovery' of some of these rocks and reefs since 1947. Although individual leaders attempted to create a new state in these features, the Filipino government did not support their claims. It was only in 1971 that the Philippine government made a limited claim on the Spratlys (NGUYEN, 2005, p.15) and limited to the western part of this archipelago (PHILIPPINES, Note Verbale No. 228). Brunei and Malaysia claims are related to some parts of the Spratlys which are close to their coasts and have been less controversial.

The government of China, however, has never accepted any of these claims from any other State. So much so that lack of agreement regarding control of these features had triggered serious armed conflicts between 1973 and 1988 (CHANG, 1991, p.401). Vietnam, the Philippines and Malaysia have since occupied several features of the Spratly Islands, along with China which remains in *de facto* control of larger part of the Spratlys. But, according to interpretations of various international tribunals, historical claims are no longer seen as sole criterion for granting legitimate sovereign control over a territory. The 1928 Islands of Palmas case had set some criteria on this issue. This small island was claimed by Spain by right of discovery in 1648 and the title was transferred to the US after the Spanish-American War. Since Netherlands was using the island occasionally and Spain had never effectively occupied the island, the former claimed sovereignty over it. The Permanent Court of Arbitration decided that inchoate title, i.e., which is not yet transformed into actual possession, does not prevail over the continuous and peaceful display of sovereignty, which was not protested by any States from 1700 to 1906 (PERMANENT COURT OF ARBITRATION, Island of Palmas Case, 1928). It also ruled that in order to acquire the title it is not required to have a continuous occupation, but rather some sort of use and visitation (BELLER, 1994, p.304). Therefore, the discovery must be followed by

occupation which was unlikely to happen in most of the Spratly Islands which had remained uninhabitable.

The Permanent Court of Arbitration in *The Republic of the Philippines v. The People's Republic of China*, (decision on merits of 12 July 2016) held the position that although Chinese fishermen had made use of the islands in the South China Sea, there was no evidence that China had historically exercised exclusive control over the waters or their resources. In addition, in order to establish the exclusive historic right to living and non-living resources within the nine-dash line it would be necessary to demonstrate that China had historically sought to prohibit or restrict the exploitation of such resources by other States (para. 270). None of the Chinese claimed rights based on historical claims were recognized by the Permanent Court of Arbitration. The Court decided that living and nonliving resources within the nine-dash line claimed by China were incompatible with the UNCLOS because it exceeded the limits of China's maritime zones as provided by the UNCLOS (para.261).

### **3. Construction of artificial islands in spratlys**

The name of the Spratly Islands originates from Captain Richard Spratly, master of the whaler 'Cyrus South Seaman', who discovered this group of geographical features in SCS in 1843. The Spratly Islands consist of about 150 features but most of these do not generate maritime zones under UNCLOS and only between 20 to 46 can actually be considered as islands (GJETNES, 2001, p.199). Most of these islands are under water at high tide, but some do have a low elevation and are considered to be reefs (HUTCHISON, 2010, p.372). All features are small and uninhabited, apart from government and military personnel deployed on duty (HUTCHISON, 2010, p.371). Vietnam claims 22 features while the Philippines claims 9, China actually occupies 7 but claims all while Malaysia claims 8 (QUINTOS, 2015, p.2).

The occupation of Spratly islands, rocks and reefs occurred in two waves. The first wave took place between World War II and the 1970s when Vietnam, Taiwan, and the Philippines occupied the largest islands and Malaysia claimed the features within its continental shelf. The second wave started when China took control of the Johnson South Reef in 1988 after Chinese naval vessels sunk Vietnamese vessels killing about 70 Vietnamese



sailors (THUY, 2015). Then, Association of South East Asian National (ASEAN) and China signed the Declaration of the SCS in 1992 which provided that China and ASEAN were to solve questions of sovereignty “by peaceful means, without resort to force”. However, in 1995, China occupied Mischief Reef, which is situated within the Philippine Exclusive Economic Zone (BUSZYSKIP, 2010, p.88). Then during 1995-1999, it built a cemented building on top of Mischief Reef, alongside the three other octagonal structures which are used for setting up communications, anti-aircraft guns, and radar systems for monitoring overflying aircraft and ships sailing in the vicinity (JOYNER, 1999, p.53-54).

China's construction of artificial islands have since been protested by neighboring countries especially by the Philippines and Vietnam governments who highlight breach of the *status quo* by these unilateral construction activities (PHILIPPINES MISSION TO THE UN, 2014, p.3). The recent spate of construction of artificial islands have also drawn condemnation from increasing number of states and it also includes constructions on the Fiery Cross Reef which is claimed by the Philippines. Had the construction of these islands occurred in the EEZ of China, the issue would likely not have been raised. However, this is not the case all the features on which China is undertaking construction are the subject to legal dispute brought by the Philippines before the United Nations Arbitral Tribunal (THAYER, 2015).

#### **4. UNCLOS and artificial islands regime**

China had signed and then ratified UNCLOS on 7 June 1996. Nevertheless, it has not been seen fully complying its provisions and has drawn criticism in this regards. Indeed, China had filed a formal 'Reservation' statement in August 2006 saying it does not accept the 'compulsory procedures' entailing 'binding decisions', as set forth in Article 298 of UNCLOS. Although the UNCLOS provides the regime of islands, it does it assuming that state boundaries are already established and hence, it does not provide mechanisms to fully solve competing sovereignty claims on islands. These matters are ruled by the principles of customary international

law regarding the acquisition and loss of territory (BECKMAN; SCHOFIELD, 2014, p.195).

However, China is not the only case and such defiance can be seen amongst various other claimants to the SCS as well. Other countries in East and Southeast Asia have also been making excessive maritime claims using flexible interpretations of UNCLOS although none of these are as excessive as China's nine-dashed line, especially when they set straight baselines which are often interpreted in a very liberal way (BATEMAN; SCHOFIELD, 2008, p.7). Moreover, countries also make such exaggerated claims to be able to negotiate on these strategic positions and be able to make tactical concessions in that process. Besides, these other claimants have also not issued any clear geographical coordinates about various geomorphological features in the Spratlys as required by UNCLOS in its Art. 16 (BECKMAN; SCHOFIELD, 2014, p.196).

UNCLOS Art 121 stipulates for an Islands Regime that defines 'island' in paragraph 1 that article as "a naturally formed area of land, surrounded by water, which is above water at high tide". In its paragraph 2 it states that the territorial sea, the contiguous zone and the continental shelf can be determined around islands. However, Article 121(3) provides that "rocks which cannot sustain human habitation or economic life shall have no exclusive economic zone or continental shelf." Many of the features in the Spratlys fall in this category of rocks, including those where China is currently carrying out land reclamation works turning them into 'islands'. Djalal argues that a feature can sustain human habitation as long there is fresh water and soil where it is possible to grow food, and there is material to build houses (GAULT, 1998, p.179). Economic life of it is own can be interpreted as a potential to develop its own resources of production and these activities would foster the existence of a community in the feature (XUE, 2012, p.356). It is not acceptable to grant an EEZ on grounds of sustaining an economic life from elsewhere since that would go against the UNCLOS sentiment, which grants rights to the populations of the land territories that generate the maritime zones (GJETNES, 2001, p.194). It would not make sense to grant EEZ for a land where there is no population to enjoy the rights derived from it.

The geomorphological features where the Chinese are carrying out land reclamation work are mainly divided in two groups. The first one includes Jonhson South Reef, Cuarteron Reef and the above mentioned Fierly

Cross Reef, which are classified as rocks (PHILIPPINES MINISTRY OF FOREIGN AFFAIRS, 2013, para.22). Johnson South Reef has a few rocky protrusions rising above water at high tide. Cuarteron reef is a collection of coral rocks reaching no higher than 1.5 m and Fiery Cross is a submerged bank which protrudes no more than 1 m above sea level during high tide. In the second group, there are features which are only above water at low tide, referred to as Gaven Reef, Subi Reef and Mischief Reef, which are neither rocks nor islands. Regarding the first group of rocks, China claims entitlements beyond the 12 nautical miles of territorial waters and uses that argument to exclude other States from these areas (PHILIPPINES MINISTRY OF FOREIGN AFFAIRS, 2013, para 24). This is illegal since according to the Art. 121 (3) rocks do not generate maritime rights over water further away than 12 nautical miles. Regarding the second group of features, low tide elevations which are submerged at high tide and cannot be considered neither as islands nor as rocks, they are part of the seabed and generate no rights whatsoever.

The concept of island according to the UNCLOS does not encompass artificial islands. Art. 80 of UNCLOS explicitly clarifies that “artificial islands, installations and structures do not possess the status of islands”. Hence, the consequence of not being considered as an island is that it will not generate territorial sea and cannot be used as base point for measuring the territorial sea even when these are located within territorial waters. Indeed, the status of an artificial island is even more disadvantageous than a rock; in terms of generating maritime rights it enables its owner to claim no more than a 500-meter safety zone. Therefore, it would be more interesting to argue that Fiery Cross Reef is a rock rather than an artificial island. According to Papadakis, artificial islands can be classified following six categories: (a) sea-cities; (b) artificial islands for economic development and installations like power-stations; (c) artificial installations for communications and transport; (d) installations for scientific research like weather forecast; (e) entertainment installations; and, (f) military installations (PAPADAKIS, 1979, p.11-13). Given the present state of geopolitical equations it appears highly likely that Chinese constructions will be used as military installations. To the least these will always have dual-use possibilities.

Jurisdiction over these artificial islands depends on their position vis-a-vis the claimant coastal state. If the Chinese government had reclaimed these islands while these were within their internal waters or territorial sea

it would doubtlessly have no dispute over China's jurisdiction over these. But these features in SCS that China has been building and occupying are under dispute with the Philippines before the United Nations Arbitral Tribunal and allegedly far away from China's EEZ. If the construction of these artificial islands had taken place even within China's EEZ or continental shelf, the country would have enjoyed "exclusive jurisdiction over them, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations" (GAGAIN, 2012, p.102). In terms of international law, therefore, it appears that since China has modified the status of these rocks and reefs and low-tide elevations into artificial islands, which legally would give it rights to a 500-meter safety zone as long as there was not conflicting claims over them.

Given that UNCLOS has been signed and ratified by all countries involved in the SCS dispute, it is clear that it can provide consensus mechanism for any dispute settlement on SCS. But so far there has been strong tendency to surpass UNCLOS provisions in the name of national interests and this poses serious challenge to the maintenance of peace and stability. This continued refusal to apply the provisions of UNCLOS is now blended with the increasing militarisation of SCS which is led by the Chinese and United States has become increasingly concerned and shows increasing attention and indulgence with it in the name of freedom of navigation and regional stability (IGNATIUS, 2015). Could these contestations be resolved by the rule of law prescribed in UNCLOS and other relevant conventions or will it continue to drift towards military stand-off and crisis. What can happen when several of the states involved refuse to apply the rules of a UNCLOS that they have signed and ratified? The building of artificial islands are only symbolic of the deeper malice of emerging clash between national interest and international law where at least one major power feels capable to implement its strategic plan to ensure its own stability and prosperity through controlling one of the most important maritime regions and routes even at cost of national interests of several other countries.

The Permanent Arbitral Court on grounds of historical data determined that the Spratly features could not be considered as islands. Even with the substantial changes operated in these features by land reclamation, the UNCLOS classifies features on their natural condition. In addition, these features were used by small groups of fishermen and mining

enterprises were attempted, but that was not recognized as inhabitation by a community by the Court. Finally, the Court has ruled that none of these features could generate maritime zones. It also ruled that China has breached articles 60 and 80 of the Convention with respect to Philippines' sovereign rights in its exclusive economic zone and continental shelf by carrying out the construction of installations and artificial islands at Mischief Reef (para.1043).

## 5. Rule of law versus geopolitics

The overlapping claims in the SCS are deemed to be a major example of remaining source of unilateralism. Experts have produced a whole lot of literature which feels largely inclined towards need for multilateral solutions through joint development of the whole maritime region (BECKMAN; SCHOFIELD, 2014, p.203; BECKMAN, 2013, p. 151; XUE, 2012, p.321; DJALAL, 2000, p. 215). However, solution to overlapping and contested sovereign claims in SCS seems still far from being achievable in the short or even long term. States continue to prefer to ignore the jurisdiction of international courts as also conventions and declarations they have signed and ratified. Instead of rule of law, security considerations of geopolitics seems to determine national policies. Pursuit of narrow national interests shows even ASEAN often wanting of building an pan-ASEAN policy position on this. The puzzle remains why have these states chosen to act unilaterally instead of making compromises for higher principles like shared equal security and mutual benefit. The Chinese behavior was summed up in a statement by Itsunori Onodera, then Japanese defense minister:

China has made more and more advancement into the seas. When it did not have as much military capability, China tried to promote dialogue and economic cooperation, setting territorial rows aside. But ,when it sees a chance, any daylight between a nation and its ally, it makes blunt advancements. This is what is happening and what we should learn from the situation in Southeast Asia (OZAWA, 2013).

One sign that can exemplify Chinese investment in its naval power is that China acquired about 41 submarines from 2000 to 2014, while Malaysia acquired 2 (NAGAO, 2015, p.4) and Vietnam acquired only 6 (WHITMAN,

2015). This might be part of the plan predicted by realist scholar John Mearsheimer who relates China's sharp economic growth to an intense security competition with a potential to war (2006, p.160). In this region, it seems states prefer unilateralism over the adherence to the multilateral international conventions, which raises the question of the utility of their conceptualisation, negotiation and ratification (GAULT, 1999, p.238). The most powerful regional player, China, does not accept the jurisdiction of the International Arbitral Court and claims the sea areas inside the nine-dashed line using history as a basis, not taking into account the UNCLOS, as it occupies Spratly features which the Philippines claims to be inside its EEZ. After the Court's ruling on July, 2016, China reassured that the decision would not change their position on the Spratly's features. It vowed to take all the measures to protect its sovereignty over the SCS (BLANCHARD; PETTY, 2016). The United States, which is a leading security provider in the region and is showing increasing interest in China's forays also does not subscribe to UNCLOS.

International law no doubt provides the most agreeable framework as also a promise of a certain degree of legitimacy to official parleys yet it seems evolving contours of geopolitics rather than rule of law is increasingly determining equations amongst all these major stakeholders and claimants. Chinese government does not seem to worry too much about the fact that artificial islands do not generate EEZ or that no continental shelves can be drawn from them as they simply do not consider any countries claims over SCS. Access, control and denial seems to be China's approach which has been working so far. In essence, the focus of China's constructions and reclamation work appears to be driven by their grand geopolitical and geostrategic calculations rather than based on juridical claims. At least in the short term, therefore, neither hedging nor bandwagoning but balancing will be the most potent strategy for ASEAN which itself seems to be a tall order.

Since the Permanent Arbitrator's Court decision, the current president of Philippines, Rodrigo Duterte, who started his mandate in June 2016 has had several flip-flops with regards to the country's claims on SCS. Soon after the Court's decision, he threatened to have a confrontation with China if it did not stay away from the Spratly's features. But, later on, Duterte preferred to side with China, at the same time that sought to stay away from the US.(MORDOUKOUTAS, 2017). He even paid an official state visit to China

before holding a formal meeting with former U.S President Barack Obama. That may have had some effects. Since then, China seems to be allowing the Philippines' fisherman to access Scarborough Shoal, what was not happening since 2012 (WONG, 2016).

Hence, although the PAC's decision favored Philippines, Duterte preferred to set aside the decision and develop good relations with China which would also result in Chinese investments in Philippines (HEYDARIAN, 2017).

## 6. Conclusions

To conclude, therefore, China has been altering the *status quo* of the highly-contested and sensitive SCS by altering the shape and size of various rocks and reefs expanding its physical presence and access to these waters. China's ongoing construction and reclamation works are shrinking openings for lawful and peaceful resolutions. No doubt, mechanisms to interpret facts on the ground and to foster multilateral negotiations, or even to establish a third-party tribunal, do exist in law but these are abide by China in this case. Given the extent of the overlapping claims of the various countries, it is unlikely that this approach will deliver any definite solutions towards maritime delimitations. But no other method can provide lasting solutions. Unilateral and power driven approaches therefore must aim to ensure peace and preservation of the *status quo* in the short run yet, seek accommodation though joint exploration and exploitation of natural resources to evolve norm and law based solutions in the long-run.

It is clear that the Permanent Court of Arbitration's landmark decision may guide future resolutions on maritime rights' controversies. Nevertheless, UNCLOS still remains an instrument with only limited adherence amongst claimants and stakeholders in the disputed SCS. This presents a case where, like several other cases, international law alone does not provide the full necessary roadmap for evolving responses to address this evolving formidable challenge.

China's construction and reclamation work has been fast transforming the *status quo* of SCS and the first step has to be in building atmospherics for dialogue. It also lies in China's interest to decelerate erosion of its acceptability amongst its immediate neighbours and other major powers.

Engaging in processes of strengthening rule of law and dialogue may serve well to ensure its continued peaceful rise and influence in the region. China surely does not wish to push all other claimants to US camp. China's track-record till recently had been far more balanced which provides hope. With the Arbitral Court having announced its valid jurisdiction over the dispute between China and the Philippines, the implications of it defining maritime zones of artificial islands and sovereign claim including the nine-dashed line presents one reliable way to address these questions and obtain clarifications on these complex questions. China may follow this path to tone down rising opposition to its construction spree as also to obtain legitimacy to its expanded footprint over this critical maritime region.

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