

Book Review: South China Sea Developments and Implications for Freedom of Navigation

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In recent years, there has been an unprecedented focus on the South China Sea from a number of different perspectives. The tensions that have arisen between China and the Philippines due to the arbitration that was launched by the Philippines under the compulsory dispute mechanisms of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) have been one aspect of these tensions. China's response, or lack thereof, and its strident objections to the presence of the military vessels of non-littoral states in the South China Sea have been another key aspect. The ongoing reclamation activities of China, and the accompanying artificial island building, including those structures that have been built in the Philippines Exclusive Economic Zone, have been a further feature.

All of these issues, and many more, provide the background within which the authors have put together their short volume that traverses a number of the varied factors that have played out in the South China Sea in recent years.

It is important to recall, at the outset, that UNCLOS marked a watershed moment for the codification of the law of the sea as it consolidated the four 1958 law of the sea conventions (the Convention on the Territorial Sea and the Contiguous Zone 516 UNTS 206; the Convention on the High Seas 450 UNTS 11; the Convention on Fishing and Conservation of the Living Resources of the High Seas 559 UNTS 285 and the Convention on the Continental Shelf 499 UNTS 311) into one comprehensive treaty. It also introduced a number of new elements of the law of the sea – including the Exclusive Economic Zone (EEZ) – which is central to the primary subject matter of this short book.

However, this book is not a law of the sea text as its approach is much broader. As the authors note, they aim to explore 'the historical and strategic context of the SCS disputes and assess the implications of the same for freedom of navigation and other regimes at sea.'

The manner in which the authors have structured the book, with an introduction followed by eight substantive chapters and a conclusion, reflects the variety of issues that are prevalent in the South China Sea at the moment. These issues are cross-disciplinary in nature, and the authors note in their preface that the South China Sea is a region that has been beset by historical and strategic challenges which have had an impact on freedom of navigation in the region. Sensibly, the book does not attempt to cover the entire spectrum of issues that are playing out in the South China Sea as such a task would be almost impossible to achieve. Instead, the authors have built the book in a sequential and logical manner which addresses the key issues with a particular emphasis on identifying the Chinese perspective on relevant issues – and then providing a compelling critique of this perspective.

Chapter one looks at China's actions in the South China Sea from the perspective of 'The Thucydides Trap' which is a term that is commonly associated with the work of Harvard University's John F.

Kennedy School of Government Professor Graham Allison to denote a move towards war when an emerging or rising power, such as China, is threatening to step into the shoes of an existing 'great' power such as the United States of America. The Chapter sets out the politics and actions taken by China in recent years to cement its place in the world and situates these actions within the broader international relations context, including a brief discussion of prominent international relations theories. The authors note that China has been selective in the issues that it has sought to champion, and in that sense has not taken on responsibility for leading world action on 'critical issues' – content instead leaving that task to the United States while concentrating on issues that are directly relevant to China's rise.

Chapter two deals with the South China Sea and here the authors are focused on further scene setting by trying to explain and contextualise the geographic and political complexities of an area that is bounded by at least eight countries or territories as well as being influenced by a number of significant non-littoral countries that have an interest in the region. The role played by regional agencies is explored and the historical claims of China and other claimants are also examined.

Chapter three continues the international relations and historical analysis themes by assessing activities undertaken by China in the South China Sea, and then looking at the United States' approach to China. Again, international relations theories are prominent in this analysis, with the authors adopting a stance that is highly critical of China's behavior in the South China Sea and especially critical of China's lack of adherence to a rule-based international order.

The law of the sea is the focus of Chapter four, and the authors begin concerning the writings of Grotius from the early 1600s which have been so influential in the development of the modern law of the sea. The chapter then provides a brief summary of some of the key laws of sea concepts. A criticism of this chapter is that it is imprecise in a number of areas, which, for a chapter that purports to deal with the law, is not appropriate. For example, the terminology used on pages 78-79 does not reflect that used in the 1982 UNCLOS, and there are also references to Conventions that are not footnoted. The chapter also contains a section that examines the United States Freedom of Navigation program, although the authors do not clearly explain how this program can legitimately co-exist in a world where the United States is not a party to UNCLOS.

The next three chapters provide an assessment of a number of specific issues that have arisen in the South China Sea. Chapter five examines territorial claims over maritime features by looking at the strategy adopted by China in pursuing its interests, the response from the United States, and the stance taken by regional States and ASEAN. The authors are particularly critical of the 2014 'Enhanced Defense Cooperation Agreement between the Philippines and the United States, regarding it as a 'strategic blunder that might only deepen the Philippines' dependence on the US without deterring China's territorial assertiveness within the SCS.' Chapters six and seven examine military activities in the South China Sea and provide a useful summary of key issues and events in recent years, with a particular focus on the actions of China and reactions from regional and other states. Each of the topics examined by the authors in these three chapters has continued contemporary relevance and has been the subject of considerable difference of opinion between scholars and among States.

The final two chapters look at the steps that have been taken to try and resolve the South China Sea conflict(s), including the Arbitral Tribunal's ruling in July 2016, and subsequent actions by littoral States such as Malaysia's claim lodged with the Commission on the Limits of the Continental Shelf in 2019. The final chapter provides some thoughts regarding where the South China Sea dispute might be headed by reflecting on relatively recent military activity in the region and situating that reflection within the context of the current covid-19 pandemic. The conclusion reached by the authors is that as far as the role of the

United States in the South China Sea is concerned '... it seems fairly clear that China has managed to tip the scale of strength in its favor.'

In terms of an overall assessment of this book, it succeeds in providing a potted picture of the South China Sea by applying an international relations lens with some effort also made to situate the issues examined within their international legal context. The book does not purport to provide a deep historical account of the South China Sea, or the various incidents that have occurred in that maritime hot spot, and nor does it undertake a comprehensive academic survey of the literature that abounds on the topic. Rather, the book can be categorised as a contemporary assessment of selected issues that have an impact on freedom of navigation in the South China Sea that is presented in a style that is easy to read and understand.

From an academic viewpoint, deficiencies exist in the manner that the authors have presented with work, such as inconsistency in terminology in places, as well as assertions that are not backed up by footnote references, but these shortfalls do not significantly detract from the overall assessment provided by the authors. The book has been written in a style that makes reading each chapter an easy task, but there are no illustrations or diagrams contained in the book which is a criticism that could have been easily rectified and would have enhanced the appeal of the publication.

Overall, while this book is not a deep academic dive into the topic, it is a useful addition to current literature and is likely to appeal to practitioners and scholars with an interest in the freedom of navigation challenges being faced in the South China Sea.

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