

عنوان مقاله:

Legal Implications of an Arbitration Award under the ۱۹۸۲ Convention on the Law of the Sea, Case Study of the South China Sea Arbitration

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خلاصه مقاله:

The southern part of the China Sea has been the site of one of the most important maritime disputes in five decades. Tensions are so high that some predict World War III will break out in the region. The Philippines's referral for arbitration in respect of some of its disputes with China resulted in the issuing of a ۲۰۱۶ arbitration award. The legal and political significance of this Award has caused debates among scholars. The legality of the Award and the validity of the court's arguments in various positions are among the topics of these discussions. In this study, our main question is how much this award has contributed to resolving and clarifying the legal aspects of the maritime disputes between the parties. Our secondary question is the impact of this Award on regional and international peace. The findings of this study indicate that the arbitral tribunal's approach has a significant impact on understanding the concept of "historical rights" as well as the explanation and interpretation of marine environmental protection provisions in the ۱۹۸۲ Convention on the Law of the Sea. In the tribunal's view, by joining the Convention on the Law of the Sea, the rules concerning maritime zones, except in rare cases, override the historical rights of States. It also played an important role in defining and explaining various maritime features; including islands, rocks, and low-tide elevations. However, the effect of the award on reducing tensions in the southern part of the China Sea, Chinese government policies, and Regional peace is in doubt.

کلمات کلیدی:

Historical Rights, Islands, Low tide elevations, Marine environment, Arbitral Tribunal

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