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THE BACKGROUND OF THE DISPUTES OVER THE SOUTH CHINA SEA ISLANDS

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ABSTRACT: In the light of the official statements made by the capitals of its coastal states, there is probably not a single centimetre of free space left in this sea, to which a claim has not been issued. In some parts of the sea, the claims of three, four or even five states overlap, creating a truly Gordian knot. The significance of the South China Sea causes that if the dispute over the archipelagos is not settled by implementing peaceful methods and means, at the negotiation table, East Asia region is likely to become a potential source of destabilisation and conflict whose size, in respect to the location and the number of parties directly or indirectly engaged in the dispute might turn out to be extremely hazardous.

In recent years, Polish historiography has featured an increasing interest in Asia, with its rich history, civilisation, culture and also with the problems which the inhabitants of this part of the world have to struggle. In the following article we are going to examine one of the numerous issues concerning Asia, namely the background of the contemporary dispute over the South China Sea archipelagos. It might appear that the dispute which is proceeding in a distant place does not affect Poland or Europe, but “[...] the consequences that might be caused [by the disputes – K.K.] are a potential threat to peace in this part of the world. Unrest in such a crucial region of Asia would inevitably have serious international repercussions, extending far beyond the theatre of the

possible conflict.”¹ Therefore, presenting the origins of the mentioned conflicts seems to be justified, in order to enable the readers to form their own opinions on the matter. Thus, we would like to describe the onset of the interest in the islands in question and the argumentation of the parties to the conflict as regards the rights to those islands.

The South China Sea is one of the largest seas in Asia. Its waters surround the southern coast of China, the islands of Hainan and Taiwan, and also Vietnam, the Philippines, Malaysia, Brunei, Singapore and Indonesia. The sea stretches out on the area of 2,240 square kilometres. In the South China Sea body of water we are observing an exceptionally complex situation. In the light of the official statements made by the capitals of its coastal states, there is probably not a single centimetre of free space left in this sea, to which a claim has not been issued. In some parts of the sea, the claims of three, four of even five states overlap, creating a truly Gordian knot. The disputes concern the rights to the particular archipelagos, islets or reefs and atolls, the delineation of the territorial waters and exclusive economic zones, and also the size of the continental shelf, especially given the fact that in many cases it extends beyond 200 miles.²

The waters of the South China Sea were considered by the sailors to be a dangerous area as far back as in antiquity; such belief was based on the relations about the violent storms, treacherous and changeable currents, numerous reefs and rocks on which the ships crashed. Dozens of islets, reefs, shelf areas and atolls spread over the area of c. 200,000 square kilometres. The majority of these islets remain uninhabited. Over the centuries they periodically served as havens for the fishermen, there were also simple navigation signs to aid the navigation of foreign ships. One can say that over the centuries the area used to be free from disputes about the islands located there.³

¹ J. Rowiński, *Morze Południowochińskie – region potencjalnego konfliktu w Azji*, Warszawa 1990, p. 5.

² According to the Montego Bay Convention on the Law of the Sea from 1982, a coastal state can delineate an exclusive economic zone extending up to 200 miles into the sea.

³ J. Rowiński, *Morze Południowochińskie...*, pp. 7–8.

The Paracel archipelago includes about 15 islets with total land area of 3 square kilometres and around 12 reefs and cays periodically submerged by the sea. The Paracel Islands extend on maritime area of 7,500 km². The archipelago is divided into two main groups of islands. One, called the Amphitrite Group, is located in the north-east and comprises eight islands: Woody Island, West Bank, Rocky Island, Lincoln Island, South Island, Middle Island, North Island, and Tree Island. The other, named the Crescent Group (also called the West Group) and located in the south-west part of the archipelago, also consists of eight islands: Robert Island, Pattle Island, Triton Island, Duncan Island, Money Island, Drummond Island, and Passu Keah.

The Spratly Archipelago, situated in the central part of the South China Sea, consists of about 160 small islands, atolls, rocks, reefs and cays scattered over the maritime area of 160,000–180,000 square kilometres, divided into twelve main groups. Their total land area does not exceed 8 square kilometres.

The South China Sea islands became the subject matter of disputes over their affiliation to the particular states as late as in the 19th century. This question was usually executed with the use of diplomatic notes, and the arguments of force were rarely employed. The incidents had purely local character, since the world was not aware of their occurrence.⁴

The significance of the islands on the South China Sea began to be discovered after the World War I. However, they did not become the subject of wider interest until the years after World War II, which was when rich deposits of oil were found in this body of water. Also, the issue of extending the fishing areas emerged at the time, together with the unprecedented intensification of sea and air navigation in the region. As a consequence, the strategic significance of these islands increased, especially in connection with the security requirements of the coastal states.⁵

The turning point as regards the interest of the world public in the disputes in the South China Sea was January 1974, when the commandos of the People's Liberation Army carried out an unexpected assault on the

⁴ *Ibidem*, p. 8.

⁵ *Ibidem*, p. 8.

Saigon marines' fortifications on the islets of the Paracel Archipelago. The information about the incident appeared on the first pages of the world's most important newspapers and became the breaking news on the dominant states' TV channels. Since that moment, all the reports on the conflict in the waters of this sea have been carefully monitored by the world superpowers. The issues of the disputes ceased to be treated as insignificant conflicts somewhere in the peripheries and began to affect not only the interests of the states bordering this body of water, but also their allies. The USA, Russia, PRC and Japan pay utmost attention to the issues of this region. One can state that the South China Sea has transformed into the area of a potential world conflict.⁶

The most significant subject of controversy is the affiliation of two out of four archipelagos located in this body of water, namely the Paracels and the Spratly Islands. The islands of the Paracel archipelago are disputed between China and Vietnam, while the Spratly Islands are the bone of contention between China, Vietnam, the Philippines, Malaysia and Brunei.

From the historical perspective, the attempts of extending the spheres of influence onto the Spratly and the Paracel archipelagos are a contemporary phenomenon. The prospects of using these islands for controlling the shipping routes are very limited, due to the size of this territory (the question of their distribution) and to the small area of the islands themselves. Nevertheless, these issues do not prevent the countries of the region from making claims concerning the described islands. For instance, Chinese historians maintain that both archipelagos, namely the Paracels and the Spratly Islands were discovered by the Chinese sailors during the reign of the Han dynasty (206 BC-220 AD). According to them, the first references to these islands are to be dated back to the reign of Emperor Wu Di (140–87 BC) and Emperor Wang Mang (3 BC-23 AD). Obviously, according to the Chinese, the sailors and merchants from China and the vessels of the Emperor's fleet ventured to the area in the following centuries

⁶ *Ibidem*, p. 10.

as well. The records of the so-called penetration of the islands by the Chinese are to be found in the Chinese sources.⁷

Gaining the control over China by colonial powers caused that the issue of the disputed islands has become, to certain extent, international in character and has become the source of the increasing number of disputes in this body of water.

On the other hand, Vietnamese historians maintain that the Paracel and Spratly archipelagos have formed an integral part of the territory of Vietnam for centuries. Indicating the geographical proximity and their strategic significance for the coastal defence, they also add that the waters surrounding the islands have been centuries-long fishing grounds for the Vietnamese fishermen, quoting numerous reference arguments at the same time.⁸

The main parties of the dispute over the Paracel Islands, namely China and Vietnam, are mutually questioning the veracity of the data and historical facts mentioned by the opponent. The historians' accounts and evidence allow to corroborate that the fishermen, merchants and sailors from these countries were probably the first to have discovered the islets of the Paracel archipelago. Yet, the testimonies made by both countries about the long-standing presence and the effective control over the islands as early as in the 19th century appear to be dubious and are rather declarations than historical facts. However, it is a confirmed fact that nearly all the islets of the Spratly and Paracel archipelagos remained uninhabited practically until the 30s of the 20th century.⁹

Looking at the origins of the dispute over the Spratly archipelago, it appears that actually it is China and Vietnam that prove their long-standing presence on these islands, as it is the case with the Paracels; however, until as late as the mid-20th century their presence was

⁷ J. Rowiński, *Spór o Archipelag Paracelski na Morzu Południowochińskim pomiędzy Chinami a Wietnamem*, in: E. Haliżak, W. Lizak, L. Łukaszuk, E. Śliwka (eds.), *Morze w cywilizacji, kulturze i stosunkach międzynarodowych*, Warszawa-Pieniężno 2006, pp. 290–291.

⁸ *Ibidem*, pp. 292–293.

⁹ *Ibidem*, pp. 293–294.

limited to the activity of the Chinese and Vietnamese fishermen in these waters. Until the 19th century, both states scarcely showed a greater interest in the islands in the South China Sea.¹⁰

During its presence in Indochina, France supported the Vietnamese rulers in their claims concerning the Spratly Islands, and in 1933 it officially included the islands of this archipelago into its colony, only to lose them in 1940 for the benefit of Japan. The Japanese, preparing to war, built a submarine base on the Itu Aba island and several outposts on other small islands, which they had to retreat from following the capitulation in 1945. The base on Itu Aba was taken over by the Kuomintang, which in 1949 withdrew to Taiwan. The People's Republic of China managed to seize only a part of the Paracel archipelago.¹¹ Under the peace treaty concluded in San Francisco in 1951, Japan renounced all the rights to the Spratly islands annexed in 1940, without indicating the benefactor of this event.¹² Thereby, a possibility emerged for the international status of the Spratly islands to be interpreted as *terra nullius*.

The reference materials concerning the presence of the citizens of any country in the islands of the Paracel and the Spratly archipelagos until the 30s of the 20th century are very sparse.¹³ The first data concerning the Spratly Islands date back to the 2nd century BC and come from the Chinese records of fishing in the region. China has treated the islands as its property since the 13th century, and they appeared as its integral part on the Chinese maps. Vietnamese maps have comprised the region of the Spratly and the Paracel Islands since the 17th century, also in connection with fishing.¹⁴ The most comprehensive data on the particular states' presence

¹⁰ P. Kozłowski, *Spór o archipelag Spratly*, in: E. Haliżak, W. Lizak, L. Łukaszuk, E. Śliwka (eds.), *Morze w cywilizacji, kulturze i stosunkach międzynarodowych*, Warszawa-Pieniężno 2006, p. 312.

¹¹ *Ibid.*, p. 312.

¹² Art. 2, p. f., „Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands”, in: <http://www.taiwandocuments.org/sanfrancisco01.html> (accessed: 19.09.2014).

¹³ J. Rowiński, *Morze Południowochińskie...*, p. 43.

¹⁴ Z. Śliwa, *Bezpieczeństwo regionu Azji Południowo-Wschodniej a roszczenia terytorialne wobec Morza Południowochińskiego*, „Zeszyty Naukowe Akademii Marynarki Wojennej” 2010, Year LI, No. 2, p. 110.

in this body of water comes from the 20th century. In 1917 the Japanese began fishing in the waters surrounding the Paracel and the Spratly Islands on a regular basis, and also commenced the exploitation of guano reserves on some of the islands. The Chinese were also seasonally fishing in the area. Still, the Japanese kept a greedy eye on the islands. They pervaded into the Spratly Islands and the Paracels gradually, via Japanese companies that exploited phosphates. The issue of the increasing presence of the Japanese in the archipelagos alarmed France considerably.¹⁵ In 1925, the Minister of War of Annam stated that the Paracels belong to the Empire of Indochina. In 1931 the governor of Indochina declared the Paracels to be the part of French colonial possessions. In 1938 the Emperor of Indochina signed a decree on incorporating the Paracel archipelago into the Thua Tien province. In 1933 the French gained full control over the Spratly Islands, announcing the official incorporation of the archipelago to Indochina.¹⁶ In 1939 Japanese troops seized the Paracel Islands and the Spratly Islands, gaining full control over them.¹⁷ The Japanese took over the whole South China Sea basin which shows they were perfectly aware of the strategic significance of these two archipelagos.¹⁸

The dispute over the archipelagos in the South China Sea, as it has already been pointed out, is a contemporary issue, as it commenced, to a larger scale, only after the World War II, which was when all the states bordering the South China Sea began to present their rights to supremacy over the island located there.¹⁹ The characteristic feature of the dispute is the fact that the PRC, Taiwan and Vietnam all invoke mutually exclusive historical arguments which are to corroborate their sovereign powers to both the archipelagos.²⁰ The remaining states invoke the Convention on

¹⁵ J. Rowiński, *Morze Południowochińskie...*, p. 44.

¹⁶ *Ibidem*, pp. 45–46.

¹⁷ *Ibidem*, p. 48.

¹⁸ J. Rowiński, *Spór o Archipelag...*, pp. 295–296.

¹⁹ E. Haliżak, *Spór o archipelagi na Morzu Południowochińskim – znaczenie dla międzynarodowego prawa morza i bezpieczeństwa w regionie*, in: E. Haliżak, E. Kuźniar, *Prawo, instytucje i polityka w procesie globalizacji*, Warszawa 2003, p. 176.

²⁰ A. Modzelewski, *Spór o Archipelagi na Morzu Południowochińskim a bezpieczeństwo Azji Wschodniej*, „Forum Politologiczne” 2008, Vol. 8, p. 228.

the Law of the Sea. Actually, the development of the international law and the laws of the sea gave the parties major arguments in their territorial claims.

The disputed archipelagos in the South China Sea are located in the direct neighbourhood of the marine shipping routes (Sea Lanes of Communication, SLOC) connecting Southeast and East Asia with the Indian Ocean and the Middle East. It is estimated that the number of trading vessels crossing this sea annually is twice as large as on the Suez Canal and three times larger than on the Panama Canal. In total, c. 15% of the world trade volume cross the South China Sea body of water. For the states like the PRC or Japan, marine supply lines crossing the South China Sea are of strategic significance. C. 39% of Japan's whole foreign trade and c. 27% of the Chinese foreign trade is transported across this sea.²¹ The transport of oil proves even greater significance of the South China Sea. Rapid economic growth of the Northeast Asia and East Asia generally caused a considerable increase in the demand for energy. Its lack in these countries brings about the necessity to import energy resources, especially oil. As much as 67% of the South Korean energy requirements and only slightly less in the case of Japan and Taiwan is transported across the area of the South China Sea. About 80% of oil supplies for Japan, the Republic of Korea and Taiwan is transported this way. Since 1993, even the PRC has had to import oil. It happened due to the dynamic economic growth. Large amounts of LNG (Liquid Natural Gas) are also shipped across the South China Sea, mainly to Japan, but also to the Republic of Korea and to Taiwan. It mainly comes from Indonesia, Malaysia and Brunei. The security and stability in the subregion of the South China Sea is also of key significance for the United States, which is interested in the free movement of the Seventh Fleet and the submarines from the Pacific Ocean to the Indian Ocean and in the reverse direction. In this case, ensuring the safety to the marine supply lines for Japan, the Republic of Korea and Taiwan is a crucial issue, as they are allies of the US. In the region of Asia and the Pacific.

²¹ *Ibidem*, p. 231.

As we can see, the significance of the South China Sea causes that if the dispute over the archipelagos is not settled by implementing peaceful methods and means, at the negotiation table, East Asia region is likely to become a potential source of destabilisation and conflict whose size, in respect to the location and the number of parties directly or indirectly engaged in the dispute might turn out to be extremely hazardous.

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