Taiwan and Itu Aba (Taiping): Creating An ‘Island For All’ in the South China Sea

Abstract

One of the key decisions of the Law of the Sea Arbitration decision of 2016 was that the Itu Aba/Taiping “island” held by the Republic of China (ROC) was not an island at all. Recognising the ongoing policy shifts by the ROC since 2008 regarding the South China Sea, this article contends that the ROC would do well to declare Itu Aba an international haven for scientific exploration. Such a move would buttress the ROC’s international position, appease its allies, and allow the ROC to maintain some form of control over its interests in the South China Sea.

Introduction

A great deal has been written about the South China Sea in light of the 2016 Award on The South China Sea Arbitration (The Republic of Philippines v. The People's Republic of China) that was conducted pursuant to Annex VII to the United Nations Convention on the Law of the Sea (hereinafter referred to as: LOS Tribunal). Hiebert, Poling, and Cronin (2017), Whomersley (2016), Pemmaraju (2016), Franckx (2017), and Fietta, Saadeh, and Rees-Evans (2017) all provide an overview of the arbitration, and Liu, Zou, Wu, and Spangler (2018) provide a critique as well. Dupuy and Dupuy (2013) and Talmon and Jia (2014) further offer an excellent overview of the PRC’s position, discussing the historical reasons for the U-shape line. Gao and Jia (2013) also discuss the PRC’s historical
grounds for asserting sovereignty. Beckman (2013) provides an excellent pre-LOS Tribunal decision overview of the positions of the relevant parties in the South China Sea and concludes that the parties should conform their maritime claims to the Law of the Sea Convention as an inroad towards achieving provisional joint development arrangements. (Beckman, 2013:163).

Some of the initially identified concerns regarding the LOS Tribunal focused upon the LOS Tribunal’s jurisdiction, with many centering on the People’s Republic of China’s (PRC) and the Republic of China’s (ROC) positions in the matter. Talmon and Jia (2014) for example assert that the LOS Tribunal lacked jurisdiction because the matter before the tribunal deals with issues of sovereignty beyond the scope of the tribunal’s jurisdiction under the Law of the Sea Convention (LOS). Indeed, the LOS purposefully does not address issues of sovereignty, and states are actually encouraged to create joint development arrangements pursuant to their political wills and capacities. (Smith, 2010).

Of course, this latter focus on jurisdiction stems from ongoing claims made by the ROC concerning its historical entitlement to the area. (Chang, 2016). Lin (2016) outlines the historical claim to the islands in the South China Sea based on assertions of sovereignty by China over the ages. Hsiao and Cheng-yi note as well how the positions of the ROC and PRC largely depend on the status of cross-strait relations (2016:75). They point out that while the ROC continuously asserted sovereignty over the area, since 2008, the ROC also has begun to propose the idea of turning the area into an internationally protected environmental research zone. (Hsiao and Cheng-yi, 2016:85, 87). More specifically,
Tseng (2017:153) concludes that the PRC (and other states) never really contested the ROC’s control over Itu Aba (despite the dispute as to whether Itu Aba is an island or merely a rock under the Law of the Sea Convention). She notes that it was only after World War Two that the South China Sea became an issue for China (and thus both the PRC and the ROC) given their previous perceptions of the sea as merely an area of defence and not a matter of sovereignty or control. (Tseng, 2017:153). Hayton (2017a:30) goes so far as to assert that given the reliance on dubious historical sources by China in making claims to the South China Sea resulting from their lack of activity in the area prior to World War Two, Itu Aba was only claimed by the ROC in 1946. The result is, as pointed out by Hsiao and Cheng-yi (2016:89) the (somewhat ironic) reliance by the PRC on the ROC’s claims as grounds for asserting its sovereignty to the sole natural island in the area, as the ROC’s territorial and sovereignty claims “form an indispensible component of the Chinese claim.” Of course, this complicates the ROC’s position as its key ally, the United States, disagrees with the PRC’s territorial designation (and by extension the ROC), yet the ROC is hesitant to relinquish its territorial claim due to domestic politics and to the desire to maintain cross-strait relations with China. (Hsiao and Cheng-yi, 2016:90-92).

Nevertheless, the LOS Tribunal ruling raised some serious red flags for the ROC’s position in the South China Sea, particularly when one considers that the ROC is the sole possessor of Itu Aba (Taiping), which is seemingly a habitable island (at least prior to the LOS Tribunal’s decision) under the Law of the Sea. In essence, the LOS Tribunal decision counters the ROC position concerning the status of Itu Aba Island as an “island”
held by the ROC, and undercuts the ROC’s potential role as a motivating actor to settle disputes in the South China Sea in a peaceful manner, despite the ROC’s continuous promotion of regional cooperation and multilateral negotiations as key policy avenues. (Spangler, 2017:130). The ROC’s position is further challenged when accounting for other states’ reactions to the LOS Tribunal. Li (2017:144) for example notes that the Philippines’ pragmatic post-LOS Tribunal position has avoided direct confrontation with the PRC, while Parameswaran (2016) discusses a similar post-arbitration approach taken by Malaysia, especially when factoring in the post-decision actions by the PRC to engage in bilateral agreements with states in the region (including, interestingly, the Philippines). (Foreign Ministry, PRC, 2016; Hayton, 2017b). The PRC position in the South China Sea has generally been to work individually with each relevant state to create agreements favourable to the PRC’s position (Zhang, 2015). It should also be noted that even with the 2002 Declaration of Code of Conduct negotiated by the Association of Southeast Asian Nations (ASEAN), the PRC has slowly been plying its own interests in a manner that can significantly affect the ROC’s position with allies in the region (Storey, 2017). The PRC recognises how internal divisions have hampered ASEAN, including engaging in foot-dragging in adhering to the Code of Conduct, all while pursuing bilateral negotiations with states in the region. (Zhang, 2015:74). Even the subsequently drafted Code of Conduct framework put together in 2017 which basically reiterates the 2002 Declaration Code of Conduct, does not provide any legally binding aspects therein. (Ying Hui , 2017). Thus, language like “rules based framework” is used (a step up, to be sure, from the 2002 Declaration that used fewer binding terms like “respect for”). While the Code of Conduct does refer to approaches like building trust and preventing incidents, it
does not really make use of any pre-existing, binding, normative rules. Rather, the aim is
to ensure for some form of maritime security in the region and allow for the beginning of
the creation of a form of duty of self-restraint, but the forms of conduct are not defined in
anyway. Note as well that the cooperative projects found in the 2002 Declaration of Code
of Conduct have not been implemented.

The post LOS Tribunal reality for the ROC then raises the prospect of the ROC not being
able to maintain its interests in the South China Sea (especially in the economic sphere
when considering fishing rights, and in the security realm when accounting for defence of
the ROC and its capacity to ably patrol surrounding waters). (Li, 2017:147). Given this
impact, it merits examining the ROC’s approach to the South China Sea, especially
regarding the interests that it actually possesses – Itu Abu/Taiping Island. Because the
ROC is the actual possessor of Itu Aba, it maintains some form of control over its fate in
a manner that can influence surrounding state policy (to a certain degree) specifically to
preserve its long-term interests and standing in the South China Sea. The reality for the
ROC is similar to the ongoing reality that confronts the international standing and
position of the ROC as a state in general when accounting for matters pertaining to state
recognition – the ROC exists, it operates as a state, it holds territory, and yet it is not
recognised as a sovereign state in a variety of international circles. (Charney and Prescott,
2000). As such, this article will highlight the important factors from the LOS Tribunal
(whether correct or not) that have altered the ROC’s status in the South China Sea and
examine the ROC’s resultant shifting positions concerning Itu Aba and the region. The
article will then offer an environmentally friendly approach that had been alluded to by
previous ROC governments and that merits consideration at this time as grounds for potentially protecting the current and long-term interests of the ROC in the South China Sea.

**The Status of Itu Aba and the ROC**

From the ROC’s perspective, one key problem is the matter of how Itu Aba has been designated by the LOS Tribunal, altering its positioning and understanding of the area as a proper “island” under the Law of the Sea Convention (and thus impacting upon its designation of the area around Itu Aba as an Exclusive Economic Zone, as well as its ability to patrol the sea).

In the past, most experts had agreed that the land mass was indeed an island under the Law of the Sea. Beckman and Schofield (2014:210-11) highlight how Itu Aba (Taiping) and another eleven islands in the Spratly Island group – including five occupied by the Philippines and six occupied by Vietnam – all have vegetation and some even have roads and other structures built on them despite their limited size, such as to indicate their status as islands under the Law of the Sea (although they do point out that the use of the equidistance line would be most appropriate for determining an Exclusive Economic Zone). It is important to remember that the Philippines withdrew its claims to these islands to support its position that the PRC does not have an Exclusive Economic Zone in the area. (Gau, 2016:486). Gau notes how the Philippines informed the tribunal that the PRC has no historic right to the South China Sea area given that its claim is essentially
based on the ROC’s claims, and the ROC does not lay claim to the area, (Gau, 2016:487) (although that is not actually the case when accounting for statements and assertions made by the ROC government). (Gau, 2016:489). Indeed, Gau refers to President Ma’s statements and to the *amicus* brief filed by the Chinese (Taiwan) Society of International Law (as the ROC lacked legal standing and thus could not be a participant in the proceedings) to refute that the ROC does not lay claim to the island. (Gau, 2016:491-2).

The Philippines for its part asserted that Itu Aba does not maintain the proper natural conditions to be considered an island as it cannot support human habitation (given the lack of water and ability to sustain agricultural production), such that it is merely a rock and does not generate an Exclusive Economic Zone (“EEZ”) or a continental shelf under the LOS. (*Amicus* brief, 2016:3). The Chinese (Taiwan) Society of International Law countered that historically and up to the present day, the island has supported human habitation, (*Amicus* brief, 2016:10-12) and has all the other elements for it to be deemed an island (such as natural water and fertile soil, among other things). (*Amicus* brief, 2016:13-18).

Interestingly, the LOS Tribunal went beyond the state submissions made to the tribunal and decided that Itu Aba was not an island. The reasoning of the LOS Tribunal concerning Itu Aba was that the prevailing historic record of the islands in the region before human modification was what prevailed, and even though there is some water and rainwater collection on Itu Aba, and even growth of vegetables to potentially support humans, it is not sufficient to sustain a sizable population. (LOS Tribunal, 2016: paragraphs 593, 596, 614, and 618-19). While Gau (2019) offers an excellent critique of
the LOS Tribunal’s interpretation of the Law of the Sea’s Article 121(3) (regarding the meaning of rocks and what constitutes an island under the Convention, invoking in particular the rules of treaty interpretation under international law), the LOS Tribunal nevertheless decided that such a conclusion is warranted especially because historically the island was not permanently inhabited (noting as well that current military and governmental personnel do not suffice to regard an island as habitable). Further, the LOS Tribunal found that the capacity of states under the Law of the Sea Convention to deem an area under its Exclusive Economic Zone was not intended to encourage states to artificially fashion population groups on uninhabited islands or rock masses, (LOS Tribunal, 2016: paragraphs 620-21) such as to indicate that there is no real or actual economic life of its own to be found on Itu Aba. (LOS Tribunal, 2016: paragraph 624).

Following such an extreme and overly broad decision by the LOS Tribunal, all indications point to a necessary change by the ROC towards the status and position of Itu Aba. A change is especially necessitated when factoring in the post-Tribunal actions taken by the PRC to address the parties on an individual basis, such as the Philippines, as grounds for ensuring its own interests in the area. Indeed, if the narrative proposed by the LOS Tribunal is accepted as time goes on, the ROC stands to lose a great deal of leverage and functional capacity in the South China Sea.

Interestingly, until 2008-09, the ROC had made ongoing assertions regarding its territorial sovereignty in the South China Sea, largely relying upon the so-called U-shaped line (a series of lines resulting from linking up different points of the nine-dash
line that created a U-shape). Wang (2010) describes the ROC’s 1979 declarations regarding its sovereignty in the seas, and the fact that the ROC never drafted laws to that effect, waiting until 1998 to pass a Law on the Territorial Sea and Contiguous Zone and Law of EEZ and Continental Shelf. The ROC also declared in 1999 that U-shaped line areas are territory of the ROC. (Wang, 2010:242-243). However, after states like Vietnam and Malaysia made their filings with the Commission on the Limits of the Continental Shelf, the reaction by the ROC has been that sovereignty over the archipelagos in question belongs to the ROC (a change in language from a full-on adherence to the U-shaped line). (Wang, 2010:247). Wang references a variety of Ministry of Foreign Affairs statements regarding the position of the ROC to preserve the sovereignty of the ROC in the South China Sea. (Wang, 2010: footnotes 53-54).

Miyoshi (2012:4) however conflates the claims of the PRC and ROC to the nine-dotted line, questioning the validity of these claims given that the historical maps were not a part of any specific treaty. While Miyoshi (2012:5-7) concludes that their claims are at variance with international law, Jinming and Dexia (2003) support the historical validity of the Chinese delimitations.

Interestingly, the position of the ROC changed around 2008-09 where the assertions of sovereignty by the ROC centred on the sovereignty over islands and their surrounding waters, rather than the whole body of water enclosed by the U-shaped line as previously had been asserted. (Wang, 2010:247). Wang concludes that the U-shaped line designations also only applied to sovereignty over the islands given the lack of
restrictions imposed by the ROC (and PRC) over marine transport traffic. (Wang, 2010:249). Yet, the 2008-09 alteration was a significant policy shift for the ROC (even though the ROC seemingly remains purposefully ambiguous about relying on the U-shaped line, possibly to appease both the PRC who relies on the ROC’s assertions and the United States who desires to constrain the PRC’s sovereign capacity in the area). (Chen, 2017:122; Chang, 2016) Indeed, one might maintain that part of the shift in policy was due to the PRC’s reliance on the ROC’s sovereignty claims to the entire waters under the U-shaped line. Hence, this claim is one of the key factors in shaping the PRC’s legal claims to its hold on the South China Sea (their building man-made installations in the area). Thus, for ROC to maintain its position in the end bolsters the PRC position in a manner that does not really play to the ROC’s long-term interests. The question begs however as to what the ROC should be doing post LOS Tribunal to protect itself, without unduly roiling the waters with the PRC (or the United States for that matter).

An Alternative Approach to Itu Aba

An angle that has not been widely discussed but could have a significant impact on the ROC’s security and economic interests in the South China Sea is the issue of environmental concerns, especially when factoring in climate change. Changes are happening in the oceans; they are getting warmer and along with melting glaciers, sea levels are rising. Indeed, impacts from climate change and the danger of rising sea levels are quite acute in the South China Sea. (Cai, Guo, Di Fu, Yan, and Tan, 2017; Solis, 2018; Stephens, 2015). The reality is that the key island of Itu Aba might eventually
become submerged, or at the very least subject to extreme weather conditions which will likely get worse, making it costly and non-beneficial for the ROC to maintain the island and support a physical presence thereon.

As such, a viable proposal that can assist the ROC would be a unilateral move on its part to internationalise the island for the benefit of the world. In essence, what the ROC can do is “donate” Itu Aba to the world, specifically for exploration and examination of environmental impacts of climate change (and other scientific purposes). The South China Sea is undergoing extreme changes. Its coral reefs are subject to bleaching that seriously affects marine life, fish migration patterns have been altered causing massive disturbances to the fishing industry (a major concern for the ROC), and the warmer seas and rising sea levels portend extreme future changes for the entire region (let alone for the tiny island of Itu Aba). These merit examination from a base that would allow for proper scientific scrutiny on an existing landmass that supports life (rather than a manmade installation that might not provide the same form of reliable or viable data as a natural island can).

A move to internationalise Itu Aba for scientific and environmental study allows the ROC to maintain a presence in the region. While it might temper the ROC’s sovereignty claims to areas around the island, an aspect that might disappear anyhow as the sea itself changes and waters rise, the ROC could fashion the arrangement in a manner that would still allow it to serve as an overseer, so to speak, of Itu Aba. (Vu, 2014; McManus, Shao, and Lin, 2010). Marine Protected Areas are constantly raised as an option in the region
and the ROC can be a forerunner of this approach by taking it a step further and allowing
for broad-form international participation, with a focus on research, studying climate
change, and moving away from exploitation of marine resources towards understanding
the impact on such resources in a controlled and rather diverse area of marine and reef
life.

One pointed example worth considering is that the ROC can propose a form of
condominium or coimperium arrangement, whereby states in the region (and beyond)
share a part in the jurisdiction of the island and its environs specifically for actions
centred on environmental and scientific study. It would seem that a coimperium would be
more relevant for the ROC as it allows external states to take a part in the jurisdiction
over an area that it claims, without the ROC necessarily giving up its entire rights to the
area in the future, (Samuels, 2008; Lim and Liu, 2017), as the ROC can place a time
frame on the arrangement so as to ensure that the parties continue to act accordingly and
that the ROC’s interests remain intact and protected.

Condominiums and coimperiums were originally created to allow for joint sovereignty
(or joint exercise) of different forms of authority over certain areas. (Morrison, 2006).
Although sometimes used for areas subject to conflict, condominium arrangements also
have included the joint Anglo-French administration of the New Hebrides islands in the
South Pacific (until Vanuatu gained independence in 1980) or the 2015 proposal to create
joint administration in the Hans Island, in cooperation with Greenlandic and Inuit
communities. (Overthecircle, 2018). Morrison (2006: para. 11-15) also refers for example
to peace treaties after World War One, the League of Nations’ Mandate system, joint
administration areas after World War Two, and Antarctica and the deep seabed, all of
which entailed the assumption of responsibility over an area without according territorial
sovereignty to the participant states. Whilst condominiums allow for the joint ownership
of a real right to territorial sovereignty, coimperiums allow for the common exercise of
sovereignty over a certain area and subject to certain conditions. (Distefano, 2019:140).
Morrison (2006: para. 2) however, contends that there is no formal distinction between
the two. Either way, the ROC can create a legally viable framework of operation and
even control how the island is used over the coming years to protect its own interests as
well.

Itu Aba could serve as a perfect place for a condominium (with a focus on environmental
studies and protection) given that it is situated in a large marine ecosystem, with a rich
and biodiverse environment that bodes well for a collaborative approach. (Lim and Liu,
2017:53-54). Indeed, the island has unique flora, is a resting stop for migratory birds, a
nesting site for the green sea turtle, is close to the Ban Than Reef, and has maintained a
pristine and biodiverse marine ecosystem since the Taiwanese Coast Guard
Administration has not allowed fishing in the area. (Shao, 2017:149 and 152). Thus,
while the ROC can still claim administrative control over the island, aspects like
environmental research, maintaining biodiversity, and protecting surrounding coral reefs
are the focus of shared efforts and joint activities for all states to take part. The ROC need
not relinquish control over resources or share fishing and mineral resources with
surrounding states (in a manner similar to the outcome of the Gulf of Fonseca (1992)
International Court of Justice opinion) since the purpose of the condominium (pursuant to
the designs of the ROC) is to create research consortiums and protected areas that would
serve to move forward environmental protective concerns (similar to the various
agreements that exist under the Antarctic Treaty system).\(^1\) This approach has been
bolstered by the questions raised over the minimal mineral wealth of the island,
indicating that a focus on environmental protection and research would be at an even
lesser cost to all involved (Lim and Liu, 2017:75-76). At the same time, the ROC would
achieve a positive, pro-environmental, stance in the eyes of the world that would,
importantly, further assist with bolstering the ROC’s international stature and legal
position as a viable and legitimate state-like entity. The ROC would be acting in
accordance with the letter and spirit of the LOS Articles 192 and 194 that specifically
calls on states to take measures to protect the marine environment, cooperate to protect
and preserve the marine environment at Article 197, and cooperate with regard to
scientific research policies in semi-enclosed areas at Article 123(c) (which would include
the South China Sea, in accordance with Article 122). (Hu, 2010).

Indeed, the presence of foreign entities being involved in ROC activities in and around
Itu Aba island inherently serves to bolster the ROC’s international status, enmeshing
international relations with other states and making it a desirable destination for those
pursuing climate change studies and scientific assessments of the oceans. The ROC then
can achieves a sense of legitimacy and stronger international standing as the ROC would
be operating with other international actors, becoming part of the emerging policy-

\(^1\) For the Treaty and attendant documents, see [https://www.ats.aq/e/ats.htm](https://www.ats.aq/e/ats.htm)
making mechanisms developing in the region (especially in the field of maritime global
governance) (Hammer, 2018) minimising controversy with other states in their varying
commitment to the ‘One China’ policy of the PRC. (since the involvement of external
states is based around environment and scientific study rather than being seen as taking a
specific side or position between the PRC and the ROC).

The regional benefits are that surrounding states will react favourably to the move as it
protects their own sea boundary limits (or at least, does not threaten their contended
claims) and they are all acting to advance the interests of states in the region (including
the PRC) specifically to examine and study the South China Sea and climate change.
Indeed, post-arbitration statements made by the PRC and the Philippines in 2016 and the
PRC and Malaysia in 2018 indicate the PRC’s (publicly) stated willingness to engage in
coopeative approaches to the South China Sea, specifically to conclude a Code of
Conduct and the importance of upholding peace and security in the region. (Lim and Liu,
2017:84). For example, the 2018 Joint Statement between the PRC and Malaysia
provides, at the end of Section 13, that:

Both sides, together with the ASEAN Member States, will work for the full
and effective implementation of the Declaration on the Conduct of Parties in
the South China Sea (DOC) and encourage maritime cooperation, as well as
actively push forward consultations on a Code of Conduct (COC) to see early
conclusion of an effective
These public statements of willingness to abide by the terms of the DOC and COC are, however, somewhat less positive in light of the post-arbitration actions of the PRC (as discussed above).

The operative principle for Itu Aba would be conservation and environmental research, using the area to examine means of sustainability, effects of climate change, and as a testing ground for future joint activities among the interested regional actors. The ROC need not even reach as far as the Antarctic Treaty system that created an Arctic Council, as the goals here are state involvement and engagement, not control or use of marine resources. In a sense, all state participants are observers given that interests like marine and natural resources are not to be used; the focus is on preservation and sustainability. On a broader scale, external state actors outside the South China Sea can participate as well, currying favour and support for the ROC. It would be but a small step for the United States for example to become involved as a demonstration of its support for environmental initiatives without incurring any real cost to its domestic positions regarding the issue nor raising the ire of the PRC despite acting contrary to the PRC’s direct interests. In essence, the ROC can involve itself in regional and international maritime issues, in much the same way the ROC operates in regional fishery bodies (for example, by changing its name or designation yet still influencing policy and direction). (Scanlon, 2017). Further, the ROC would be establishing a rather unique form of precedent for other countries as an inroad towards potentially solving difficult disputes involving territorial claims.
In 2008, then ROC President Chen called for the protection of the marine environment as a desired policy and goal in the South China Sea. While he also linked in the importance of the ROC’s resource interests in the area, his goal was to press for a friendly form of dispute resolution in the region as well as develop notions of cooperation that focused on environmental protection and sustainable ecosystems as the framework for moving forward. As a concrete move to this end, the ROC had already removed Taiwanese soldiers from the island in 2000, replacing them with the Taiwanese Coast Guard Administration to signal the peaceful motivation of the government. (Shao, 2017:149) (although the Coast Guard was provided with weapon systems in 2012 and engaged in military exercises with the Marine Corps in 2014). (Hsiao and Cheng-yi, 2016:87).

President Chen also launched the Spratly Initiative in 2008 calling for the development of marine conversation in the area, rather than more exploitative actions. (Shao, 2017:154). Another indication of the ROC’s intentions to access an environmentally friendly and research-oriented approach is the move in 2007 to establish the Dongsha (Pratas) Islands as a national park. (Shao, 2017:154). In 2009, the ROC further began to investigate and evaluate the possibility of establishing a marine protected area in Itu Aba. (Shao, 2017:150; Lim, 2019; Hoi and Dang, 2015; McManus, Shao, and Lin, 2010). President Ma continued this approach leading up to the LOS Tribunal decision (where he then lost the elections in 2016) by emphasising the ROC’s desires for peaceful solutions in the South China Sea (while still asserting its sovereignty over Itu Aba) and strong desire to uphold the Law of the Sea Convention. (Spangler, 2017:128). Of course, Ma’s proposal

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was made when ASEAN was involving the ROC in some of the South China Sea discussions. (Song, 2010:261). In fact, President Ma’s South China Sea Peace Initiative from May of 2015 specifically called on all claimants to the area to negotiate on sharing resources. (Shao, 2017:154). President Ma further called for cooperation with international conservation organisations to turn Itu Aba and Ban Than Reef into a South China Sea Peace Park. (Hsiao and Cheng-yi, 2016:87). President Tsai essentially continued this policy, asserting the desire for a peaceful form of dispute resolution, the inclusion of the ROC in multilateral dispute settlement mechanisms, freedom of navigation and over-flight, and the ROC’s desire to pursue joint development in the area. (Spangler, 2017:129). Furthermore, there have been movements by other states to achieve environmental agreements and create marine protected areas in the South China Sea as a form of so-called science diplomacy. (Satyawan, 2018). For the ROC, dedicating Itu Aba as an environmental study centre open to the world would be an incredible policy approach by a state beset by international setbacks given the power and influence of the PRC, a sort of unique form of offensive-minded realpolitik. Yan (2016) points out that “Taiwan should rather focus more on non-political or low-politics issues, such as meteorological, hydrological, and ecological research, which may increase Taiwan’s contributions.” (Yan, 2016:46).

The ROC would be leading the way in much needed scientific data sharing and crucial collaboration. Further, the South China Sea area is the lowest in marine protected ratios among the 62 eco-regions or large marine ecosystems in the world’s oceans, (Shao, 2017:156) establishing marine conservation in the area would significantly assist the
The advantage of creating a condominium would be that the thorny matter of sovereignty is avoided; yet, needed conservation would be established, all while involving the surrounding (and other interested) states. This is an important step towards establishing essential precursors for marine conservation as it would lead to better protection and sustainable management through clearly defined protection goals, (Trajano, Gong, Sembiring, and Astuti, 2018), in an area beset by strong territorial claims and distrust (major drawbacks thus far for the region).3

In the internal political perspective of the ROC, the bifurcated interests of the two key political parties in the ROC, the Democratic Progressive Party (DPP) and the Kuomintang Party (KMT), can be addressed at the same time as well. Granted some have labelled the South China Sea issue as a seminal matter for the ROC that is inherently linked to its national identity as a state as well as pragmatic national security interests. (Lee, 2017). Yet, both political parties have already noted in their policy that they support environmental research and, in this instance, they each can act in a manner that protects the sovereignty of the ROC (thus appeasing the local voting populace) without a great

sacrifice. From the DPP’s perspective, creating an international environmental study zone provides the capacity for the ROC to conduct itself like a sovereign state separate from the PRC, in line with the stated goals of the DPP. From the KMT perspective, declaring an international environmental zone around Itu Aba plays right into the notion of acting like any democratic state would in pursuing the values and ethos that are espoused under the Law of the Sea Convention, such as environmental protection of the global common and acting for the benefit of the marine environment. (Kimball, 1994-1995). While not wholly separating from China, a declaration that internationalises Itu Aba shows how a democratic entity can act in a positive manner. The PRC would be forced to show its hand without maintaining a great deal of policy choices, especially as a declaration regarding Itu Aba as an environmental zone of scientific study plays right into the positive and proactive environmental approach adopted by the PRC over the past years.

Conclusion

The LOS Tribunal decision from 2016 came as a form of surprise for the ROC in a manner that undercut its interests in the South China Sea and hampered its already limited international capacity. As such, a creative approach that would further the interests of the ROC while appeasing the PRC and other key allies (like the United States) is merited. As the possessor of Itu Aba, a natural island in the area, the ROC can serve as a beacon of scientific exploration that would benefit both the states in the region (including the PRC) and beyond by declaring the island to be a haven for international scientific study and exploration of climate change. Using international legal mechanisms
like a condominium arrangement opens the door for the ROC to control the administrative arrangements at the island, maintain its ongoing policy of protecting the environment in and around the island, and offer an opportunity for states in the region and beyond to participate in scientific research and other forms of environmental studies. The ROC thus can control the narrative so to speak in a manner that protects its interests, buttresses its international standing, and provides the world with the means to study the ongoing effects of climate change in important coral reefs and a rich bio diverse region of the ocean.

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