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Introduction

Jirayudh Sinthuphan

The outbreak of COVID-19 has forced us to reassess different aspects of our society - how its institutions function, and how it can it be better prepared for future crisis or provide a social protection to its vulnerable members. The three articles in this issue of the Asian Review invite our readers to do just that.

In *Reinventing Public Healthcare in India,* Milind KOKJE looks at the Indian public healthcare System which was pushed beyond its capacity by the COVID-19 pandemic. He argues that healthcare should be a fundamental right for all. The state has a constitutional responsibility to provide healthcare services for its citizens and to develop public healthcare infrastructures to be better prepared for future crisis.

Similarly, in *Reconsidering Social Protection for Motorcycle Taxi Drivers: Understanding Precarity in Formalized Informality,* Kritsada THEERAKOSONPHONG also ask us to reconsider how social institution provide a social protection to people working in an informal sector. Their article focuses on Thai motorcycle taxi drivers whose occupation is threading a blurry conjunction where formality and informality has been merged through recent developments in the platform economy. Furthermore, they are also caught in uneven power relations that is dominated by the government and non-government officials. All these pose challenges in designing social protection system for the future of formalized informal sector.

Lastly, Yodsapon NITIRUCHIROT applies the dispute settlement mechanism of the 1982 United Nations Convention on the

Law of the Sea (UNCLOS) to examine the Thai-Myanmar maritime dispute. Although the existing UNCLOS can offer a path to resolve the dispute with some remaining issues, the article also proposes an alternative path of a provisional arrangement to establish a joint development area that will allow both countries to avoid direct confrontation and to reduce tension among concerning parties.

Reinventing Public Healthcare in India

Milind Kokje

Abstract—: The outbreak of COVID-19 exposed the gaps and shortcomings in the Indian public healthcare System. The Indian healthcare system is a glaring example of two extremes of positive and negative. The Constitution of India does not guarantee health as a fundamental right, though the Indian judiciary, through its several judgements, has interpreted the concerned articles to expand their scope to include the right to health. India's achievements in developing healthcare infrastructure, having more health personnel in service etc. are still much less than the requirement and below global benchmarks. It has launched the world's largest health insurance scheme. Still, the country lags behind on several factors in healthcare and will have to move with real pace to improve the overall system. The COVID-19 outbreak has stressed that need with urgency. It will be worth knowing if the same pandemic can now become a cause for overall improvement of the healthcare system with speed.

Keywords : Public Healthcare, India, COVID-19, health insurance scheme

Introduction

The outbreak of COVID-19 laid bare the state of affairs of the public healthcare system in India. The pandemic became a catalyst in unravelling the set narrative that all is well in the country, most notably, that pertaining to healthcare. The spin, set in motion by the Federal government and the State governments couldn't be further from the truth. The exposé of the initial scramble to formulate a decisive strategy against the pandemic and the deep-set rot in the healthcare system remained the only positive outcome.

A pronounced shift towards healthcare in the private sector, bereft of insurance or welfare cover became evident. Little wonder then those millions were infected by the deadly coronavirus, claiming several thousand lives, as per official figures. Citizens, literally, had to run from one hospital to another, as most healthcare units were overwhelmed by the sheer number of patients within a short period of time. Inadequate services, lack of beds and the sudden lack of medical Oxygen further added to the already grim situation. What's even more curious and inhuman was, as it turned out, was the black marketing and artificial scarcity created by hoarders of Oxygen cylinders and drugs such as Ivermectin and Remdesivir. Cashing-in on the dead and dying became a dark reflection of the society at large.

Indian healthcare, similar to several other areas, is a glaring example of a paradox of two extremes. It has been successful in eradicating smallpox, polio, controlling HIV and reducing the effects of some epidemics. Some of the most complicated and difficult surgeries are performed in India, even in its public hospitals, attracting patients from abroad. It has a pool of very high-skilled and globally recognised expert medical professionals. It is the pharmacy of the world and it has its own over 5,000-year-old traditional system of medicine such as Ayurveda.

But the other side of the coin is very bleak. It consists of lack of even basic medical facilities in several inaccessible areas, children

dying or being stunted due to malnutrition, women suffering from anaemia, and the high burden of Non-Communicable Diseases (NDCs). It is a country where 46.6 million children are stunted and nearly half of all under-5 child mortality is due to malnutrition. In all 68.4% children and 66.4% women were found to be anaemic in the National Family Health Survey -5 (2019-20). As a result, the bane of child and maternal malnutrition is responsible for 15% of India's total disease burden.

When it comes to healthcare only 31.5% hospitals and 16% hospital beds are situated in rural areas where 75% of the population resides. The World Health Organisation (WHO) had said that in India the density of doctors in urban areas was four times the rural areas. It also estimated that 469 million people in India do not have regular access to essential medicines. Indians are the sixth biggest out-of-pocket (OPP) health spenders in the low-middle income group of 50 nations as per IndiaSpend report of May 2017.

This diametrically opposite picture of India's health segment, preventive as well as curative, appears to be an outcome of neglect of the different aspects of the country's healthcare system, from legislative to financial, and infrastructure to human resource. One of the important reasons for the weak public health system is because the constitution does not guarantee health as a fundamental right.

Health as a constitutional right

India is known for its best law-making, from one of most debated and the best constitutions to various other laws enacted to achieve the goals in the constitution. The preamble to the Indian constitution states the objects which the constitution seeks to establish and promote. It outlines the objectives of the constitution along with socio-economic goals. These goals are then given a concrete shape in the form of six Fundamental Rights enshrined under Articles 14 to 30 and articles 32 and 226 in part III of the

constitution, guaranteeing certain rights to the people.

Although health/healthcare is not included in the fundamental rights, Article 21 ensures protection of life and personal liberty. It says, "No person shall be deprived of his life or personal liberty except according to procedure established by law."

The goals in the constitution are also further strengthened by the inclusion of Directive Principles of the State Policy (DPSP) under Articles 36 to 51 in part IV of the constitution. Among them, article 47 describes the state's duty regarding nutrition and health as, "The state shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties."

Some other provisions in the constitution, too, provide for the health of different groups of citizens. For instance, article 39 (E) recommends securing the health of workers, article 42 directs about the just and human conditions of work and maternity relief, article 47 puts responsibility on the State to raise the nutrition levels and the standard of living of people and to improve public health. The constitution asks local-self-governments like village Panchayats (an elected body for each village for the governance of that village) and Municipal Corporations (a civic body for the governance of major cities) to strengthen public health. "The legislature of a state may endow the panchayats with necessary power and authority in relation to matters listed in the eleventh schedule." Some of the entries in this schedule having direct relevance to health are health and sanitation, including hospitals, primary health centers & dispensaries; family welfare; women and child development and public health, sanitation conservancy and solid waste management.

One important difference between the Fundamental Rights and DPSP is that the former is justiciable. The Fundamental Rights are legally enforceable by courts in case of their violation. But the DPSP are not, they are not justiciable. Article 37 specifically states: "the provisions contained in this part shall not be enforceable by any court, but the principles therein laid down

are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws." But it does not mean that directive principles are less important than fundamental rights or they are not binding on the various organs of the state.

Though the DPSP are not justiciable, they are fundamental in governance in the country. While debating DPSP in the Constituent Assembly in 1948, Dr B R Ambedkar, the then law minister who drafted the constitution, had said, "It is the intention of this (constituent) Assembly that in future both the legislature and the executive should not merely pay lip service to these principles enacted in this part, but that they should be made the basis of all executive and legislative action that may be taken hereafter in the matter of the governance of the country." Though the DPSP are non-justiciable rights of the people but fundamental in the governance of the country, it shall be the duty of the State to apply these principles in making laws as per article 37. The executive agencies should also be guided by these principles.

Thus, the Right to Health in a way has not been given explicit recognition in the constitution, unlike several other rights included in the Fundamental Rights. But, the judiciary in India has played an important role in treating health on par with the other Fundamental Rights. In several constitution related matters, the Supreme Court of India and various High Courts have interpreted the concerned articles in the widest possible manner to expand their scope to include different types of rights into fundamental rights. The judiciary expanded the scope of the word 'life' incorporating the right to live with nobility and right to health.

In State of Punjab & Others Vs Mohinder Singh Chawla the Supreme Court held that-the right to life ensured under Article 21 incorporates inside its ambit the right to health and clinical consideration. In another case, Bandhua Mukti Morcha v Union of India, it put the right to health under article 21 that guarantees the right to life. In Francis Coralie v. Delhi, the Supreme Court observed, "The right to life includes the right to live with dignity and all that goes along with it…..".

Though the judiciary by its interpretation of terms used in different articles of the constitution has time and again expanded its scope, amounting to treating right to health as like a Fundamental Right, the ground level practical situation, as seen earlier is, nowhere near the treating health as Fundamental Right for millions of disadvantaged people. Probably, that is the reason the High-level group on health sector appointed for the 15th Finance Commission, among its various recommendations to the commission has the very first recommendation as 'Declare right to health as fundamental right.' It has asked the government to do it on this year's Independence Day – 15th August, 2021.

The question is what is so sacrosanct about the fundamental rights? The word 'fundamental' suggests that these rights are so important that the Constitution has separately listed them and made special provisions for their protection. The Judiciary has the powers and responsibility to protect the fundamental rights from violations by actions of the government. Executive as well as legislative actions can be declared illegal by the judiciary if these violate the fundamental rights or restrict them in an unreasonable manner.

As a result, a rights-based approach for health would need to look at the availability of infrastructure and human resources and the state's capacities to provide basic preventive, curative and rehabilitative healthcare services, the High-level group on health sector has pointed out. Still, the question remains: will, in reality, changing the status of health to a fundamental right change the current situation of neglect of public healthcare?

Causes of Neglect

The neglect of public healthcare in India begins with a resource crunch. The first financial resource crunch automatically leads to a human resource crunch and infrastructure inadequacy.

The healthcare market in India is expected to reach US$ 372 billion by 2022 due to rising income, better health awareness,

lifestyle diseases and increasing access to insurance, according to Indian Brand Equity Foundation (IBEF). As against this, in the Union Budget 2021-22 the total health sector allocation stood at US$ 30.70 billion. One factor that appears to be good in this year's budget is that the total allocation for the Department of Health and Family Welfare has increased by 9.6% over the previous year's budget estimate - from US$ 8.71 billion (INR 65012 crore - 650.12 billion) to US$ 9.55 billion (INR 71,269 crore – 712.69 billion). By this step taken this year, the Government of India has tried to show that it has implemented one point in the National Health Mission which stipulates a 10% increase in health outlay each year. But, if compared to the revised estimates of 2020-21, which is US$ 10.59 (INR 78,866 – 788.66 billion), it implies that the allocation for 2021-22 has come down by 9.6%.

The Government of India also announced in the same budget US $ 8.80 billion for the healthcare sector over six years to strengthen the existing National Health Mission by developing capacities of primary, secondary and tertiary care. Still, in the budget, public expenditure on healthcare is just 1.2% of the GDP.

Among 191 nations, India ranks 183 in terms of per capita government spending on healthcare and it ranks 176 in government expenditure on health. Even Ghana & Brazil (6.8% each), Philippines (10%), Sri Lanka (11.2%), Mexico (11.6%) and Thailand (13.3%) were spending more on health as against India which was spending only 5.1% of total expenditure as per 2014 figures. Of the total health expenditure in India, public expenditure is 17.3% while in China it is 24.9%, in Sri Lanka it is 45.4% and in the USA it is 44.1%.

As a result, out of total health expenditure, government health expenditure is only 30% against 62% out of pocket expenditure in India. In Sri Lanka, government expenditure is 56.1% and in Thailand it is 77.8%. When it comes to different states in India, the National Health Mission advocates states to spend 8% of their budget on health, the actual expenditure is 4.7%, according to the Reserve Bank of India (RBI).

The National Health Policy of 2017 envisaged health expenditure to be 2.5% of the GDP. The Minister of Health and Family Welfare, Government of India, Dr Harsh Vardhan has reiterated the goal to reach 2.5% of the GDP by 2025. Even the High-Level Group of Health Sector reminded to raise the expenditure to the level of 2.5% of the GDP. The group's other important recommendation is to bring Public Health and hospitals under the concurrent list of the seventh schedule of the constitution from the existing assignment of the state list.

Impact of low outlay

The most important adverse impact of low budgetary allocation is obviously on infrastructure and human resources. Slow implementation and delayed completion of infrastructure, like hospital buildings, laboratories, equipment etc. are common examples. One of the important states of India, Maharashtra is in talks with the Asian Development Bank seeking a long-term, low interest loan to complete its infrastructure projects in healthcare that have remained incomplete due to paucity of funds. This is probably the post-COVID realisation of the Government of Maharashtra. On the national level, allocation for investment in health infrastructure was increased 137% year on year in the 2021-22 budget.

The country had 8.5 hospital beds and eight doctors for 10,000 people before the COVID-19 outbreak. According to a Brookings estimate, such a huge country had only 17,850 to 25,556 ventilators when the outbreak started. The number of Oxygen supported beds increased from 57,924 to 2,65,046 from April to October 2020 and the number of ICU beds and ventilators increased over three times during the period.

Actually, India has a well-defined system of a level of healthcare right from the primary tier for a prescribed population. It consists of a Sub-Centre (SC) for 5,000, a Primary Health Care Centre (PHC) for 30,000 people and a Community Health Centre

(CHC) as a referral centre for every four PHCs covering a population of 120,000 (for hilly, tribal and difficult areas the norms are 3,000 people, 20,000 people and 80,000 people respectively).

Despite such a well-defined system, the inadequate infrastructure results in shortage. According to the 2019 report of the high-level group on healthcare sector to 15th Finance Commission, the country had 156,231 sub-centres with a shortfall of 34,946 (19%), 25,650 PHCs with a shortfall of 6,409 (22%) and 5,624 CHCs having shortfall of 2,168 (30%).

When it comes to Human Resources in healthcare various estimates are being made over the availability of doctors and nurses. But they all, even the highest among them, are still less than the WHO benchmark of one doctor and three nurses for 1,000 people. India has only one physician for every 1,404 people and 1.7 Nurses per 1,000 population, according to the Ministry of Health and Family Welfare. The high-level group on the healthcare sector claimed India had 1 nurse for 670 people. By December 31, 2017, 2,900,000 (29 lakh) nurses were registered in India.

India has a total 1,255,786 Allopathy doctors registered with the Medical Council of India and the various state medical councils as of September 2020. Of them 371,870 are specialists/ post graduates as per the information given by Minister of State for Health and Family welfare Ashwini Kumar Choubey to the Indian Parliament. In addition to the modern Allopathy doctors there are 788,000 doctors from the streams of Homeopathy and Indian traditional system of Ayurved and Unani.

Still, the number of doctors is less than the WHO benchmark. The Lancet commission had described that India needed 65 million surgeries when only 27 million were conducted and to overcome a shortfall of 40 million surgeries 18,000 surgeons were needed. In its 2016 report, WHO had said that to reach the Chinese level of density of doctors India would need additional 700,000 doctors while the capacity of universities was to produce only 30,000 doctors per year. With 479 medical institutions operating in the country, that capacity has now increased to 67,218

medical graduates (MBBS) per year. Still, it will take over a decade to have 700,000 more doctors.

The problem of shortage doctors' density is further complicated by urban rural bias among the doctors. According to a study published in 2012 on the quality of primary care in public and private clinics in rural area of Madhya Pradesh state and urban Delhi, the national capital, approximately 70% of the rural practitioners had no medical training and more than 20% were trained in AYUSH (Homeopathy or Indian traditional medicine system of Ayurved or Unani) and untrained staff (no medical training) used to attend most of the public clinics (63%). The quality of care provided was poor, in addition to brief consultation times and very limited use of correct protocols. Only 41% of the treatments provided were medically appropriate. The doctors' bias to work in urban areas resulted in more than half of the community health centers (CHC) lacking specialist doctors. The majority of the newly-qualified doctors prefer to work in hospital-based specialties instead of PHCs. This has resulted in non-physician clinicians (NPC) serving at PHCs.

The situation seemed to have not changed much later. According to the Rural Health Statistics report released by the Union ministry of Health and Family Welfare in 2016, as compared to the requirement for existing 5,510 CHCs, there is a shortfall of 84% of surgeons, 76.7% of obstetricians and gynaecologists, 83.2% of physicians and 80.1% of paediatricians. When 22,040 specialists are required the sanctioned posts are only 11,262 of which only 4,192 were filled and 7,359 were vacant. The total shortfall was 17,754. As on 31st March 2016, 8.1% of the PHCs were without a doctor, 38% were without a Lab Technician and 18.7% were without a pharmacist depicting a lower shortage of medical professionals at primary healthcare centres.

The situation has been improving with year-to-year additions in infrastructure and personnel. But the pace is slow, and the numbers are still not reaching the minimum required level. As of April 2020 the number of sub centres reached 169,031 from 168,418 in June 2019, and the number of Primary Health

Centres (PHCs) increased to 33,987 from 33,476 during the same period. Though the number of centres is growing, the shortfall of people continues.

The shortfall of specialist doctors at the CHCs in rural areas has come down from 84% in 2016 to 76.1%, as per the ministry's Rural Health Statistics Report released in April 2021. According to the report, there is now a shortfall of 78.9% of surgeons, 69.7% of obstetricians and gynecologists, 78.2% of physicians, and 78.2% of pediatricians.

The progress, albeit very slow, reflects the improvement in India's ranking on Global Healthcare Access and Quality (HAQ) index from 153 in 1990 to 145 in 2016 among 195 countries. India scored 41.2 points, improving by 16.5 points in 26 years. Still, it was well below the global average of 54.4 points and even below Bangladesh, Bhutan, Sudan and Guinea. The index is created by the Global Burden of Disease study published in The Lancet on May 23, 2018.

Though the latest figures for various other parameters are not available in detail, the still existing gaps were visible as COVID-19 set in, and particularly during the second wave from March to June 2021. The problem of Healthcare in India can be summarised in a few points like less financial allocation leading to inadequate infrastructure and shortage of medical personnel, rural urban imbalance with doctor's reluctance to work in rural areas, and expensive private healthcare services.

The union government (ruled by right wing Bharatiya Janata Party under the leadership of Prime Minister Narendra Modi) launched in 2018 'Ayushman Bharat' – Pradhan Mantri Jana Arogya Yojana (PMJAY) (Prime Minister's mass healthcare scheme), the world's largest healthcare scheme. Over 50 crore marginalised beneficiaries will have access to hospital care opportunity under the INR 22,044 core scheme.

The official website of the National Health Authority, which operates the scheme, claimed that Since September 2018 when the

scheme was launched, till June 18, 2021, in all, 159,938,380 Ayushman cards have been issued, and in the same period 18,615,277 patients got admitted the hospitals. However there are several issues in the implementation of the scheme. For instance, an editorial in 2019 issue of Journal of Mahatma Gandhi Institute of Medical Sciences by Vikash R Keshri and Subodh Sharan Gupta quoted a study that showed that the number of private hospitals in health insurance network in Bihar was 253, whereas in contrast, Maharashtra has over 3000 private hospitals, Bihar and Maharashtra contribute to 10.4% and 8% of total beneficiaries of PMJAY, respectively. Besides, around 65% of the private hospitals in the country have strengths of 11–50 total beds, which can significantly limit their ability to function as a tertiary care center, the writers opined. They pointed out that the amount allocated to PMJAY in two subsequent annual budgets (2018–2019 and 2019–2020) is also proportionately much lower to cover the targeted 40% of the population of the country. Around INR 32 billion (US$ 0.43 billion) and INR 64 billion (US$ 0.86 billion) were allocated for the scheme in the 1st and the subsequent year. Even if only 5% of the beneficiary families claim 20% of the insurance amount (i.e., INR 500,000 – US$ 6,700) which they are entitled to, the estimated expenses would be INR 500 billion (US$ 6.7 billion) per annum, without accounting for the running cost of the scheme.

In addition to the Ayusman Baharat, the government initiated various programmes towards healthcare like the National Health Mission, Pradhan Mantri Swasthya Suraksha Yojna (PMSSY) (Prime Minister health protection scheme), and the National Digital Health Mission (NDHM). Large scale allocations have also been made in the budget for the schemes. For instance, PMSSY has been allocated INR 70 billion (US$ 0.94 billion) in FY 21-22, 16% more than the previous year, and NDHM has been given INR 300 million (US$ 4.02 million). Health research has been allocated INR 26.33 billion (US$ 0.35 billion), 27% higher than previous year. The Ministry of AYUSH (Ayurved, Unani, Sidda Homeopathy) has been allocated INR 29.7 billion (US$ 0.4 billion), 40% higher than the earlier year.

But most of the higher allocations are made in this year's (Apr 21-March 22) budget, post first wave of COVID-19. Naturally it will take time to implement the schemes using that money, even if the work is completed with very high efficiency. Schemes like PMJAY will, no doubt, help poorer segments of the society as it aims at providing INR 500,000 (US$ 6,700) per family per year for secondary and tertiary care hospitalisation to over 107.4 million families (500 million beneficiaries). But when one observes the shortage of medical personnel and inadequate infrastructure a question will be how many people will be able to take advantage of this scheme although the treatment charges will be made available by the government.

From that point of view, some of the recommendations by high-level groups in the health sector are crucial and those may lead to a better healthcare picture. In addition to suggesting to make Health a fundamental right, on the infrastructure front it has recommended to set up 3,000 to 5,000 small hospitals of 200 beds each close to the community, which necessitates the participation of the private sector and to bring public health and hospitals under concurrent list of the seventh schedule of the constitution from the existing state list. Going by the past experiences of other rights, there are apprehensions over the actual benefit of making health as a fundamental right. But one thing is sure and it is important that the rights based approach should change the perspective of healthcare from the people's mind from as a purchasable commodity in the private healthcare segment to a citizen's right in the public domain. That probably will help to ensure the improvement in adequate infrastructure and human resources.

All the gaps in the healthcare system came to the fore due to the pandemic of COVID-19. They existed before, were discussed in different forums before, and some temporary measures were initiated from time to time to whitewash them. But COVID-19 once again emphasised the urgent need to look at them and find out permanent solutions. This COVID-19 effect was also reflected in this year's budget with higher allocations. If things really im-

prove in India drastically hereafter on the public healthcare front - the chances are slim going by the past experiences of ignoring the required reforms once the danger is over - that will be the only silver lining to the dark clouds of the COVID-19 pandemic.

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Reconsidering Social Protection for Motorcycle Taxi Drivers: Understanding Precarity in Formalized Informality

Kritsada Theerakosonphong

Abstract—: This article's central argument is that as a consequence of ride-hailing applications (apps), formalized informality has emerged among motorcycle taxi drivers (MTDs). The aim is to provide preliminary recommendations for reconsidering social protection (SP) for MTDs. Platformization and practices of precarising formality through formal-informal interaction are reviewed, as well as employment status and other different forms of employment. MTDs are unevenly matched in power relations dominated by the government and non-government officials, insecurity and uncertainty related to job precarity results. Several critical SP issues are discussed including: the distinction between formality and informality and the related inability to divide the two economies, insofar as formality merges with informality through what may be termed formalized informality; in addition, the nature of society dependent on precariousness, through new groups of structural vulnerability in the informal economy due to novel digital platform production; and finally, employment forms; including standard and non-standard work. These pose barriers to formalization approaches, leading to the impossibility of designing a single standard SP system for the future of such work.

Keywords : Social protection, Motorcycle taxi drivers, Formalized informality, Precarity, Ride-hailing applications (apps).

Introduction

The boundary between formality and informality is becoming increasingly blurred and ambiguous. In terms of the future of labor, this affects platform workers, who informalize employment relationships by self-employment. Due to the proliferation of short-term jobs, including precarious employment, referred to as the new augmented workforce from innovative business platform expansion, this type of work is precarious (Arnold & Bongiovi, 2013; ILO, 2016; Lee, Swider & Tilly, 2020; Rani, 2020). Motorcycle taxi drivers (MTDs) are required to register with the government and follow all applicable laws. However, an informal arrangement, not covered by the law, has been created for the selling of unofficially manufactured vests. To resolve such contradictions, this study focuses on approaches using concepts of informality and precarity.

The goal is to examine MTDs who have become informal workers as a result of ride-hailing applications (apps), and to determine if some MTDs are unable to shift to occupational adaptability due to digital capacity gaps and regulatory weakness. Before the emergence of platformization in 2016, MTDs had difficulty in obtaining social protection (SP) in the informal economy. Additionally, the rapidly increasing platform economy creates friction between the Department of Land Transport (DLT), platform corporations, and ride-hailing drivers (RHDs). Most MTDs have a hybrid status, relying on apps or other jobs for access to SP more than any other purpose. SP is a human rights instrument and a mechanism for enhancing social security. Thailand's SP provides assistance schemes based on need, and charity-based approaches ill-adapted to manage the precarious formalities in the life cycle.

SP is required in this situation because it represents a new development paradigm in the context of globalization and neoliberalism. This policy approach was designed in accordance with United Nations (UN) Sustainable Development Goals (SDGs) (Deacon, 2013; 2016). Since 1999, the International Labor Organization (ILO) has promoted a Decent Work Agenda (ILO,

1999). When the United States of America (USA) was affected by the financial crisis of 2007–2008, SP again played a critical role, expanding to Europe. In 2010, a Social Protection Floor (SPF) framework was designed, based on principles of basic needs, income security, and employment services (ILO, 2010).

Since 2012, Thailand has collaborated with the UN on SP development, as made available to member states through the Social Protection Floors Recommendation, 2012 (No. 202) as a framework for domestic social policy development (ILO & United Nations Country Team in Thailand, 2013). In collaboration with the ILO, the Thai government presented SP programs, including universal healthcare and pension coverage (ILO, 2019). During the Novel Coronavirus 2019 (COVID-19) pandemic, the World Bank studied SP instruments such as social assistance, social insurance, and labor market programs in the context of Thailand's high level of informality. It was concluded that the absence of SP in crisis situations is a top priority for risk management among informal workers (World Bank Thailand, 2021).

Motorcycle Taxi Drivers Transitioning from Informality to Precarity

The Motorcycle Taxi Driver Predicament

Despite the fact that the National Statistical Office (NSO) gathered data on 20.4 million informal workers, or 55% of the labor force, who work in agriculture, fisheries, and farming, MTDs are omitted from Thai research on informal workers. Unprotected by labor laws and unable to obtain adequate social security benefits, informal workers endure unsatisfactory working conditions (National Statistical Office, 2020). Most informal workers are classified by occupational status. HomeNet Thailand, founded in 1999 as a non-governmental organization (NGO) to support home-based workers across the Kingdom, distinguished different groups of workers as domestic, home-based, street vendors, and MTDs. By comparison, other nations exclude MTDs from the

category of informal workers, while including waste pickers. This determination is made according to individual national labor market participation (Orleans Reed et al., 2017).

Published statistics indicate that in 2020, there were 84,889 MTDs and 5,564 motorcycle taxi parking spots. (DLT, 2021). Due to the omnipresence of this profession, it behoves researchers to examine related informal occupational characteristics, formalized by motorcycle licensing, service standards, and safety and speed limits (Phun, Kato & Chalermpong, 2019; Kasemsukworarat, 1990). Ride-hailing apps used to connect passengers with drivers prove customer demand from urban dwellers and their impact on professional stakeholders. During the 2000s, former prime minister Thaksin Shinawatra limited the establishment of illegal stations and motorcycle taxi vest purchases, but features of the grey economy have since become a source of capital accumulation for influential government and local political stakeholders (Sengers, 2016; Sopranzetti, 2014; 2021).

MTDs register vehicles with the DLT and passenger services with the City Law Enforcement Section, demonstrating informality concealed inside formality, or what might be termed formalized informality. As security officials supervise groups of influential people, unregistered drivers are prevalent at each station and vest purchases have become widespread. As a result, this employment is a hybrid of informality and formality, owing to the precarious nature of life and work, which involves risks, insecurities, and uncertainties. It also contains implications for technological development and occupational adaptability in an age of platformization (Standing, 2018a; 2018b).

Interaction of Formality and Informality

Since the 1960s, in developing nations, the formal-informal distinction has served as a global North-South and urban-rural divider. The histories of Kenya and Ghana provided insight into the background of these difficulties, as well as discourse development by the ILO and other UN organizations (ILO, 1972; Hart, 1973; Singer, 1970; Benanav, 2019). The informal sector is a relatively new con-

cept, introduced by the ILO in the 1970s. Throughout the 1980s and 1990s it remained relatively unfamiliar in Thailand. Only in the late 1990s did Thai academics and practitioners finally begin to acknowledge the urban informal sector and advocate for significant human resource development (National Economic and Social Development Board, 1988).

The International Conference of Labor Statisticians (ICLS), the global standard-setting body of labor statisticians, defines informality as a discourse. For example, the 20th ICLS discussed varied types of work and employment relationships, as well as how using a single standard of classification problematically impacted national statistics administration capacity to cover all forms of work. Along these lines, the independent contractor employment status classification would include employers, own-account workers, and unpaid domestic workers. Delivery services, often referred to as the gig economy, are multi-party employment arrangements in which individuals lacking autonomy are defined as algorithmically managed dependent workers (ILO, 2018). Given that the Ministry of Labor (MOL) must include new types of employment, platform firms have tried to avoid ascribing employee status to subcontractors or part-time workers.

Neoliberal rhetoric has emphasized employment informalization during insecure and uncertain times. Critical considerations for analyzing the Thai context include defining the term informal, as distinct from the term outside the system. This refers to the worker's status as unemployed, with a detrimental effect on access to social insurance as well as labor market exclusion and discrimination (Hewison & Tularak, 2013). Although the labor administration and law categorize workers as informal, this principle was not established by the National Statistical Office or the MOL. Instead, it is a principle for data collection and analysis established by the ICLS, a classification standard including descriptions of categories, employment types, and work relationship statistical variants (ILO, 2018).

Transitioning from Informality to Precarity

Precarious work is a term widely used in varied contexts, although mostly associated with academic interpretations, leaving prac-

titioners unfamiliar with related concepts and approaches (Choonara, 2020). This article argues that MTDs face precarity, sometimes referred to as precarious work, as a result of occupational power dynamic. Precarity and informality are frequently used interchangeably to refer to job characteristics associated with non-standard employment, such as part-time work, temporary agency jobs, multi-party employment, and self-employment, as opposed to standard employment such as permanent contracted labor (Rodgers,1989; Kalleberg, 2000; ILO, 2016). Precarity is a natural state of society, and terms such as vulnerability and marginality are commonplace in discussing the informal economy (Yadav, 2021).

Following globalization in the 1970s, precarious work became a conceptual topic in the sociology of work alongside traditional informal sector studies, and labor precarity was a critical aspect of economic system structural positioning, with informality and formality indissociable (Siegmann, 2016; Kalleberg, 2009). According to Hewison (2016), the concept of precarious work facilitates understanding of neoliberal policies of the Washington Consensus. Precarity is a concept referring to vulnerability of industrial production in global supply chains, more specifically migrant workers in industry and home-based workers (Hewison & Kalleberg, 2013). Informal employment is a response to external supply chain subcontracting (Vanek, 2020).

For example, whether or not a home-based worker uses an app, subcontracting creates insecure employment relationships between employer and subcontractor (Nirathron, 2022). Likewise, digital labor platforms disrupt traditional subcontracting and create new spaces for high-skill workers to use apps through platforms (Berg, 2022). These are hidden within informal employment in the informal economy, which is exploited through the perspective of precarious formality (Duran & Narbona, 2021). They are specifically defined as precariat, a neologism for a social class formed by people suffering from precarity, in a state of insecurity and uncertainty. This structural vulnerability arises from technological advancements of the fourth industrial revolution, notably informalization of flexible work (Standing, 2014; 2018a).

While SP is effective in alleviating poverty and inequality, it

is not adept at resolving structural problems. The informal economy employs over 61 percent of the world's population. This number comprises 67 percent of inhabitants of developing countries, 18 percent in developed nations, and 55 percent in Thailand (Chen & Carre, 2020); (National Statistical Office, 2020). Informal workers are excluded and vulnerable due to unequal power dynamics. Jeffrey Harrod (1987; 2014) classified work and power relations into eight patterns. According to Harrod, MTDs, like other labor groups, adhere to the self-employed pattern with low degrees of collective bargaining power with governmental authorities and other influential stakeholders. As a result, precarity is part of the essence of MTDs and informal employment. This is why the SP system must be strengthened by following power dynamics supervision.

Formalized Informality among Motorcycle Taxi Drivers

Mechanisms and design pose difficulties for MTD access to SP systems, due to focus on formalized informality, as well as the distinction between formality and informality. This also occurs within the formality of registration and oversight by government authorities. This all-too-familiar scenario is apparently unavoidable because of precarious work and life circumstances. This section divides MTDs into four conditions to facilitate individual determination of SP coverage (Nirathron, 2021; Phun, Kato & Chalermpong, 2019; Tambunlertchai et al., 2018; Sengers, 2016; Sopranzetti, 2014; 2021; Kasemsukworarat, 1990).

First, MTDs become self-employed or independent workers due to occupational status and employment patterns. 84,889 drivers registered with the DLT for public licenses and yellow plates pursuant to the Vehicle Act, B.E. 2522 (1979), and voluntarily registered as insured persons according to Sections 39 and 40 of the Social Security Act (SSA), B.E. 2533 (1990). This has resulted in labor formality, particularly social insurance contributions, but has not attributed any formal working status as defined by the MOL. Nonetheless, internal procedures of motorcycle taxi stations continue to be based on informal norms, such as a set fee for new

members and purchase of motorcycle taxi vests, facilitating corruption outside legal strictures. In addition, government officials indirectly participate in illicit operations such as collecting police protection fees and sanitation fines.

Secondly, MTDs use ride-hailing apps, which exemplify hidden informality within formality. Many drivers opt for delivery apps, acquiring formal status through platform company registration. Yet they retain informal status under the employment agreement and are unable to access Section 33 of the SSA because they are deemed independent contractors. In fact, they should be considered subcontractors performing platform work and considered formal workers according to MOL rules. Because platform providers shun responsibility for employer-employee relationships, boundaries are blurred between a task done as a workpiece through apps and a delivery partner. Disordered labor governance is responsible for resolving such occurrences in innovative labor.

Thirdly, MTDs have other jobs as primary or secondary income sources; some have permanent employee contracts with formal employment under Section 33 of the SSA, a status known as formal workers as an occupational category defined by industrial sector and responsibility (ILO, 2012). They have written contracts and legal protection if they are hired for other jobs. As a result, for some MTDs, motorcycle taxi driving may not be their major source of income. This group has more access to SP programs than the first or second groups, who are covered by social insurance and voluntary insurance through accident insurance corporations.

Fourthly, MTDs work in a variety of informal economy jobs, including maintenance, street vending, online marketing, informal wage labor, and self-owned enterprises. These individuals would be disqualified from Section 33 of the SSA if they could access Section 39 or 40 due to classification as informal workers under Section 5 of the Labor Protection Act, B.E. 2541 (1998). Due to the fact that hybrid occupations are unprotected by minimum wage laws and other labor regulations, they are more vulnerable than the aforementioned first, second, and third conditions

Table 1 Diverse additional jobs done by MTDs and social protection coverage obstacles.

Diverse job alternatives and income sources		**Formalization dimensions**			**Formalized informality***
Primary	Second	Labor	Financial	Legal	
MTDs	None	Yes/No	Yes/No	Yes	(1) (3) (5)
MTDs	Ride-hailing apps	Yes/No	Yes	No	(1) (2) (3) (5)
MTDs	Permanent/ temporary contract	Yes	Yes	Yes/No	(1) (4) (5)
MTDs	Other informal jobs	Yes/No	Yes/No	Yes/No	(1) (3) (5)

Source: Adapt from Nielsen, Marusic, Ghossein and Solf (2020)

**Note: In Table 1, formalized informality is denoted as follows:*

(1) Legal formalization - register with the public sector, but pay bribes or/and other informal payments.

(2) Labor formalization - informal worker status was achieved as a result of platform work misclassification.

(3) Labor formalization - Section 40 of the SSA is a kind of formalization, although informal workers retain their status.

(4) Labor formalization - Section 33 of the SSA established formal worker status, but provided for non-standard types of employment, such as the so-called temporary contract.

(5) Financial formalization –compulsory registration with e-payment, but with the requirement to obtain short-term measures..

SP offered by state provisions is unable to cover numer-

ous additional jobs of MTDs listed in Table 1. Distinguishing between informality and formality is challenging, because they are inextricably linked and mutually disguised within one another. This is a primary reason for establishing SP for all types of informal workers, insofar as several MTDs work in multiple jobs and generate income in different ways. Initial recommendations should seek to provide SP and eliminate economic inequalities as ultimate goals.

Reconsidering Social Protection for MTDs

Table 1 illustrates three dimensions of formality: labor, financial, and legal. Financial formalities of MTDs, in particular, are referred to, including bank account registration and e-payment (Nielsen, Marusic, Ghossein & Solf, 2020). Ride-hailing apps impede labor formalization due to employment status misclassification. This contradiction between formality-informality and labor governance practices can be termed precarising formality (Duran & Narbona, 2021). Therefore, the SP system becomes critical for social policy and governance in terms of managing precarity based on formalized informality. Three considerations below concerning precarity merit careful study to formulate improvements in the SP system.

First, distinguishing between formal and informal economies emphasizes risks associated with economic inequality, poor working conditions, and lack of social assistance programs. This implies that formal and informal economies should be combined to establish a hybrid economy, underlining the critical contrast between formality and informality in social and economic governance. Moreover, informal economic issues in the Women in Informal Employment: Globalizing and Organizing (WIEGO) network were analyzed from a formal-informal perspective, focusing on specific groups of informal workers as part of supply chains (Chen, 2016). This contrasts with understanding how informality in the global South differs from precarity in the global North

(Rogan et al., 2017). For instance, MTDs construct stations in alleys and street paths, constituting informal governance within formality for motorcycle taxi station owners, but in violation of state law. Indirectly, these practices represent unstable aspects of precarious life and employment through interplay of formality and informality.

Secondly, precarity appears in standard and non-standard forms of employment. For example, MTDs have shifted to digital transportation for passengers through app-based services, creating conditions for formalized informal subcontracting in a well-known business language for delivery partners. Thailand, Indonesia, and Vietnam are all impacted similarly (Fathurrahman, 2020; Turner, 2020; Peters, 2020). Conflict resolution may include adhering to traditional business tactics, enforcing legislation requiring platform companies to pay more than MTDs, or discontinuing operations in certain nations (Wijayanto et al., 2018). As a result, RHDs confront harmful risks independently, as opposed to MTDs, who benefit from protection from government officials and other influential stakeholders.

Thirdly, precarious work and living conditions for MTDs produce an unstable environment within the political system. Employment rights and collective bargaining power were lost due to control by motorcycle taxi station owners and city law enforcement officials acting under authority of Bangkok Metropolitan Administration (BMA) edicts. This demonstrates how bureaucratic profiteering and MTDs have become income sources for new marginal groups within the informal economy. Due to unequal power relations in district subsystems, illegality of unregistered drivers exposed to structural vulnerability results in payment of protection fees and other fines to street-level officials and exploitation groups, including police officers, soldiers, civil servants, local politicians, and businesspeople (Sopranzetti, 2021; Phun, Kato & Chalermpong, 2019; Kasemsukworarat, 1990; Oshima, Fukuda, Fukuda & Satiennam, 2007).

A Guide to Improving the Social Protection System

In Thailand, MTDs are required to have driver's licences and a yellow taxi service plate. Their employment patterns continue to be informal. In addition to MTDs, registering app-based ride-hailing services such as RHDs, categorized as informal workers by the MOL, creates a new form of subcontracting. Teerakowikajorn and Tularak (2020) described the effect of precarity on interactions between platform providers and RHDs as a new precarious work regime. Meanwhile, MTDs, RHDs, and hybrid drivers confront insecurity and uncertainty. MTDs, in particular, rely on app-based passenger delivery, violating DLT rules and regulations; platform firms operate by certifying driver-partner status, a form of informalization resembling formalized informality (Frey, 2020; ITF, 2020).

In Thailand, the SP system excludes informal workers; no legislation safeguards or promotes MTDs. Certain MTDs require additional occupational welfare schemes, such as fuel subsidies, loan funds for occupational capital, and compensation for work-related injuries and illnesses. Similarly, employment pattern of RHDs through apps is blurry and ambiguous, while SP prioritizes social assistance over social insurance and active labor market programs, because the MOL and Ministry of Social Development and Human Security (MSDHS) are not key actors in coordinating and directing SP policymaking. The COVID-19 pandemic demonstrates that the Ministry of Finance spearheads implementation of short-term measures such as the Rao Chana (We Win) and Rao Rak Kan (We Love Each Other) financial aid schemes, and the 50:50 co-payment scheme.

These findings suggest that SP guidelines for MTDs should be formulated in the complex context of the platform economy and COVID-19 pandemic (see Table 2) following World Bank SP recommendations (2018). This would strengthen the SP system of Thailand from the perspective of needs, rights, and risks (Munro, 2008).

Table 2 Guidelines for improving MTD social protection

SP	Programmes or schemes
Social assistance	- Subsidize fuel coupons for low-income drivers through the public welfare card or create e-coupons for all. - Create a risk management fund to cover income replacement, debt forgiveness, and vehicle maintenance when traffic accidents occur. - Develop short-term measures for formalization and constant DLT checks for registered drivers during regular and emergency situations.
Social insurance	- Promote voluntary registration under Section 40 of the SSA and improve social insurance schemes for off-the-books benefits. - Determine contribution from different social insurance packages to occupational risks and dangerous jobs.

Labor market programs	- Low interest rate funds for MTDs to purchase new motorcycles or for performing routine maintenance. - Provide digital skills and ride-hailing app capacity, but platform businesses must adhere to fair employment practices. - Create a national app coordinating with platform corporations and ensuring universal equal access to sales and services. - Foster collaboration between public and private sectors to increase access to accident insurance for MTDs, who face a high risk of job loss. - Collaborate with other government agencies regionally to provide specific services such as parcel and food delivery.

State regulations	- Conduct a review of the role of government agencies in the Vehicle Act, including driver's license and yellow plate. MTDs are registered as a formality, yet are threatened by government authorities, reflecting the precarising formality of practices. - Gain insight into the transition from unregistered to registered motorcycle taxi stations and drivers to provide flexibility for part-time workers, while reducing unlawful operations. - Promote the role of informal SP in the form of group activities within stations or other areas aimed at achieving occupational objectives to boost job promotion and protection.

Source: author's recommendations.

Formalization Driven by MTDs using Ride-hailing Apps

It should be reemphasized that ILO Recommendation No. 204 on the Transition from the Informal to the Formal Economy noted that formalization should entail promoting access to public services in addition to employment, SP, and labor rights (ILO, 2014 ;2013). The COVID19- pandemic inspired several governments to try to promote digital skills for occupational adaptation and technology-enhanced formalization through SP for marginalized groups (Kring & Leung, 2021). One example in Thailand is the PromptPay cashless society system linked to short-term cash transfer programs. Apart from government-provided SP, most MTDs have indirectly adapted to using e-payment and ride-hailing apps as labor and financial formalizations.

The blurring border between formality and informality is merely one of several concerns and challenges currently faced by MTDs. Internationally, different governments have

heavily promoted ride-hailing services as critical for worker-led formalization of informal passenger transport, including MTDs, into platform registration during the COVID19- pandemic. However, governments also recognize the importance of digital literacy and cashless payment (Spooner, 2019). Despite the precarious nature of work and employment, corporations are helped to reduce costs through lack of government regulation (ITF, 2020; Frey, 2020). To compound matters, MTDs lack SP equivalent to that of platform workers. Operating platform firms through algorithmic management affects flexibility and self-governance. RHDs influence the categorization of MTDs as independent contractors, contributing to gig economy stigma with low-wage, no-benefits contracts.

MTD registration with platform companies formalizes informal employment, but does not make workers self-sufficient in the face of precarity. A review of appropriate rules and regulations on using ride-hailing apps for passenger services is essential to guarantee fairness to MTDs and include access to information through digital skills. Ride-hailing services should be rethought from a collaborative governance perspective rather than solely through the lens of legal enforcement, by focusing on social dialogue, public disclosure of reports to demonstrate fairness and transparency, and adopting a code of conduct to govern platform business operations (Randolph & Galperin, 2019; Hauben, Lenaerts & Wayaert, 2020).

5. Conclusion

MTD formalized informality underlines the critical importance of appropriate and complete SP. A three-year action plan (2022–2020) for SP development should recognize social assistance and social services as cost-benefit investments and, like public welfare cards, be used as targeting to determine eligibility (Office of the Permanent Secretary, 2019). It establishes low income and asset ownership thresholds predicated on meeting essential needs, while recognizing the urgent need for universal

welfare. Thailand, for example, provides free basic education to all children for 15 years, adults over age 60 receive a progressive living allowance, and there is universal access to healthcare.

The SP, as defined by UN SDGs, helps reduce inequality but cannot alleviate poverty. The ILO and World Bank have promoted Universal Social Protection as a component of SDGs (ILO, 2019). Platformization should be considered while constructing the SP system, which must include MTDs, who employ over 84,889 workers in the informal economy and over 50,000 in the hidden economy, but are unregistered. The following are initial recommendations for reconsidering the public sector role.

First, the Ministry of Social Development (MSD) and MOL are essential for defining national SP strategy and policy, as well as integrating informal economy databases with other government agencies to expand SP programs. They will also assist in formulating well-defined plans and associated duties. SP concepts based on rights, needs, and risk will be introduced, covering MTDs and ambiguous employment status of platform workers, ensuring: 1) universal welfare for all types of informal workers through social assistance mechanisms; and 2) occupational welfare for MTDs and hybrid drivers, especially in the public sector, should integrate non-standard employment arrangements and diverse job characteristics associated with digital work.

Secondly, the responsibility of the MOL and MSDHS should be broadened to include MTDs with multiple jobs and a major source of income as well as vulnerable groups and the unemployed. Some MTDs earn primary incomes from ride-hailing apps as independent contractors. Government authorities should properly define employment status while examining transportation and labor legislation to eliminate informality and illegality within occupations. Two DLT and City Law Enforcement Section concerns follow: (1) clearly defining employment status to eliminate informality and illegality among MTDs, especially power relations among influential stakeholders and the impossibility of bargaining collectively with them; and (2) taking into account the Vehicle Act and BMA Announcement, certifying formal status

through a driver›s license but informal status with employment agreements. Consequently, developing an SP system cannot ensure diversity of employment characteristics associated with MTDs and hybrids.

To recapitulate, embracing SP goes beyond data and understanding. Some nations have developed a national SP strategy and policy shaping unique SP designs. Theoretically, welfare programs should be based on rights and needs. Informal workers endure comparable precarious living and working circumstances as formal workers in supply chains, such as home-based workers who are location-based and perform crowdwork. Thus, formalization is a pathway to legal protection and social security, but labor formality under Section 40 of the SSA excludes, and discriminates against, certain working groups and exposes MTDs to risks and vulnerabilities from powerful stakeholders. This problem epitomizes the precarising formality of formalized informality, typical of the nature of this occupation.

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Discussion on the Application of Dispute Settlement Mechanism of the 1982 United Nations Convention on the Law of the Sea to the Thai-Myanmar Maritime Dispute

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Abstract—: This qualitative research study aims to examine the Thai-Myanmar maritime dispute, applying the dispute settlement mechanism of the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The research methodology includes documentary research and in-depth interview. After analyzing data collected, it is found that the dispute settlement mechanism of the UNCLOS comprises voluntary and compulsory procedures. As both Thailand and Myanmar are parties to the UNCLOS and their dispute involves an area in the Andaman Sea, those procedures may be applied. The compulsory procedure may be applied with some issues, but not the territorial dispute and the boundary delimitation dispute. Therefore, there are few benefits to gain from the procedure. The voluntary procedure especially negotiation, on the other hand, should be the most appropriate method considering history of both parties.

Keywords : The United Nations Convention on the Law of the Sea, Thai-Myanmar maritime dispute, Dispute Settlement Mechanism.

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Introduction

Thailand and Myanmar have been in maritime boundary disputes over the area at about 90 kilometers from the mouth of the Pakchan River to Surin Island (Thanom. 2007, 128). The key issue that prevents the two countries from reaching an agreement on boundary delimitation is the territorial dispute over the Lam, Khan, and Khi Nok Islands.

The area of the Lam Island (Ginga Island in Myanmar) is approximately 150 rai (60,000 sq.m.), it is about 1.24 kilometers from Sin Hai Island of Thailand and 2.659 kilometers from Victoria Island of Myanmar. The area of the Khan Island is approximately 4 rai (1,600 sq.m.) and is about 347 meters from Tha Krut Island of Thailand and 434 meters from Myanmar's Victoria Island. The area of the Khi Nok Island is about 3 rai (1,200 sq.m.) and is about 775 meters from Victoria Island of Myanmar and 1.299 kilometers of Thailand's Tha Krut Island (Jaturon. 2003, 112). Geographically the three Islands are located between Ranong province of Thailand and the Tennasserim division or Tanintharyi region of Myanmar.

The dispute between the two states was first initiated in 1965 when the Myanmar authorities verbally prohibited Thai fishermen who were fishing around the Lam Island, reasoning that the Island was governed by Myanmar, and Thai fishermen were not allowed to fish there (Vasin, 1977). In 1993, Matichon Daily Newspaper reported on November 17 that the Thai Border Surveillance Operations stationed on Trakut Island found Myanmar soldiers building a Pagoda of a Myanmar style on the Lham Island (Jaturon. 2003, 112). These events led to international confrontation. Myanmar and Thailand started negotiating for maritime boundary delimitation in 1977 at Yangon. The discussion was divided into two parts. The first was delimitation of the maritime area from the mouth of Pakchan river to the Surin-Christie Islands and the second was delimitation of the maritime area from the Surin-Christie Islands to the maritime boundary trijunction between Thailand, Myanmar and India. Nevertheless, due to concern about the sovereignty over the Lham, Khan, and Khi Nok Islands, the maritime boundary line in the first area could not be delimited while the maritime boundary line in the second area was delimited by the Agreement on

the delimitation of the maritime boundary between the two countries in the Andaman Sea in 1980. (Thanom. 2007, 147).

Apart from this, there was no other formal negotiation among the two states. In December 1998, a Thai patrol boat received a report that a Thai fishing vessel was threatened by a non-nationality vessel. The event led to the meeting of the Thai-Myanmar Joint Commission in 1999. The objective of this meeting was to propose a guideline for cooperation in joint naval patrol, not maritime delimitation (Thai Cabinet Resolution on 28th September 1999).

Regarding sovereignty over the three islands, the grounds of Thailand and Myanmar are different. Myanmar refers to the British navigational map no. 3052 which stated that those three islands were in Myanmar's territory, and the 1868 Convention between the King of Siam and the Governor-General of India, which defined the Boundary on the Mainland between the Kingdom of Siam and the British Province of Tenasserim (hereinafter referred to as "the 1868 Convention") and was supportive (Vasin. 1977, 109). Thailand claims that the Royal Thai Survey Department published a map no. 4740 IV and 4640 I that included the three Islands in Thai territory. Besides, all administrative evidence since 1929 shows that Thailand registers the three islands under her sovereignty (Vasin. 1977, 110). It is to say that the two countries refer to contradictory references and the sovereignty over the three islands is still one-sidedly registered.

Considering the grounds of dispute, the sovereignty over these three islands should be discussed and determined so that the maritime boundary can be delimited. There are several methods under Article 33 of the charter of the United Nations that can be applied. The dispute settlement mechanism of the UNCLOS to which Thailand and Myanmar are parties is also applicable, but there are some issues to consider. Therefore, this article aims at exploring the application of the dispute settlement mechanism of the UNCLOS, both voluntary and compulsory procedures, to the Thai-Myanmar maritime dispute and analyzes the possibility and the advantage of each method.

The Dispute Settlement Mechanism of the 1982 United Nations Convention on the Law of the Sea

The disputes settlement under the traditional law of the sea was divided into two types. The first was between states and the second was between state and individual. For disputes between states, there were several methods to be used, such as negotiations, fact-finding and conciliation commissions, arbitration, and the International Court of Justice (hereafter referred to as "ICJ") (Churchill R. R. and Lowe A. V. 1988, 330-335). That is to say, the settlement of maritime affairs was similar to other international disputes.

Nevertheless, the dispute settlement under the law of the sea was improved by the first United Nations Conference on the Law of the Sea (hereafter referred to as "UNCLOS I") in 1958. This conference succeeded in adopting four conventions: the Convention on the Territorial Sea and the Contiguous Zone (Territorial Sea Convention), the Convention on the High Seas (High Sea Convention), the Convention on the Continental Shelf (Continental Shelf Convention), and the Convention on Fishing and Conservation on the Living Resources of the High Seas (Fishing and Conservation Convention).

Among the four Conventions, only the Fishing and Conservation Convention has its own dispute settlement mechanism, stating that any dispute concerning fishing in the high seas shall be submitted to a special commission of five members under Article 9 and the decision of the special commission shall be binding on the States concerned by virtue of Article 11.

On the other hand, the disputes concerning interpretation and application of the first three Conventions shall refer to the compulsory jurisdiction of the ICJ following Article 1 of the 1958: Optional Protocol of Signature concerning the Compulsory Settlement of Disputes (hereafter referred to as "The Optional Protocol"). The compulsory procedure was excluded from the three Conventions because it was not widely accepted at that time and states still maintained their traditional stance on consent-based, non-compulsory methods. Therefore, many states would not ratify this protocol and it has not been effective. (Natalie K. 2005, 17).

Due to the ineffectiveness of the Optional Protocol, the issue of settlement mechanism was raised again in the third United Nations Conference on the Law of the Sea in 1982 (hereafter referred to as "UNCLOS III"). Four fundamental bases were considered for dispute settlement: equality, uniformity, exception, and integrity (Natalie K. 2005, 21). Among issues discussed in this conference, there were three to consider in our study: to which organization should jurisdiction to justify cases pertain? Should the provisions on dispute resolution be contained in the UNCLOS or in other protocols? Should consent-based or compulsory procedures be applied? In the conference, Wiliam Riphagen's proposal that allowed states to select the organization determining their cases was accepted. The provisions on dispute settlement were contained in the UNCLOS for the effectiveness of law enforcement. Both consent-based and compulsory procedures would be applied as the compulsory procedure was then recognized worldwide, and was supported by both developing and developed countries. (UN Doc. A/CONF.62/WP.9 (21 July 1975)).

Finally, the UNCLOS created a unique and innovative mechanism, reconciling the principle of free choice of means with compulsory procedures (Yoshifumi T. 2019, 494). The dispute settlement mechanism was concluded in Part XV of the UNCLOS as three sections. Section 1 contains general provisions that involve voluntary dispute settlement procedures. Section 2 provides compulsory procedures for dispute settlement, and the Section 3 sets out limitations and optional exceptions to the compulsory procedures (Yoshifumi T. 2019, 494). This is binding to all state parties without exception according to the concept of a deal package that prohibits a state party to make a reservation (The UNCLOS, Article 309).

For the voluntary procedures, states shall settle their disputes that involve the interpretation or application of the UNCLOS by peaceful means such as negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resorting to regional agencies or arrangements (The UNCLOS, Article 279) not in danger by their own choices at any time (The UNCLOS, Article 280). Only after the voluntary procedure is exhausted, the compulsory procedure will be applied under the 3 conditions provided in Article 286 as follows:

1) State parties have agreed to seek a settlement, but none has been reached by such means and the agreement does not prohibit state parties to apply any further procedure (The UNCLOS, Article 281),

2) State parties have never agreed through a general, regional or bilateral agreement or otherwise that entails a binding decision (The UNCLOS, Article 282), and

3) State parties have exchanged views regarding its settlement (The UNCLOS, Article 283).

The compulsory procedure will not be applied to any state that has declared exception for the disputes concerning sea boundary delimitations, historic bays or titles, and military activities pursuant to Article 298. Anyhow, such state shall accept the compulsory conciliation under Annex V.

Applying the Voluntary Procedure to the Thai-Myanmar Maritime Dispute

The two countries have never applied any peaceful means for this dispute other than negotiation. Historically they only negotiated once in 1977. The negotiation scope was divided into two parts. The first was the maritime boundary dispute from the mouth of the Pakchan River to Surin-Christie Island and the second was the maritime boundary dispute from the Surin-Christie Island to the middle of the Andaman Sea. The delegates of the two countries could not reach an agreement on the first part because of their concern about sovereignty over the Lam, Khan, and Khi Nok Islands. While an agreement on maritime boundary delimitation in the second part was reached in 1980 and was ratified in 1982 (Thanom. 2007, 147).

The adjudicative method consists of two types of procedures: arbitration and judicial settlement involving the dispute determination between the states through a legal decision. Considering the past inter-state cases, Thailand and Myanmar might not favor the judicial settlement. All the cases that Thailand and Myanmar have been involved in ended up with unsatisfying results e.g. the Preah Vihear

case between Cambodia and Thailand (Case concerning the Temple of Preah Vihear, 1962, 32-33.), the dispute on the maritime boundary delimitation in the Bay of Bengal between Bangladesh (Dispute concerning Delimitation of the Maritime Boundary in the Bay of Bengal, 2011, para. 293.) and the Rohingya case between Gambia and Myanmar (Application of the Convention on the Prevention and Punishment for the Crime of Genocide, 2020, para. 86.).

For the settlement by international organizations, there are two organizations to which both Thailand and Myanmar are members. One is the United Nations (UN) at the global level. The other is the Association of Southeast Asian Nations (ASEAN) at the regional level.

The UN takes very important part in settling international disputes. Its Charter states that the UN must bring about adjustment or settlement to any international dispute or situation that might lead to a breach of the peace by peaceful means and in conformity with the principles of justice and international law (The UN Charter, Article 1 (1)). If the parties involved fail to settle any dispute that might endanger the maintenance of international peace and security (The UN Charter, Article 34), the Security Council may call upon the parties to settle their dispute by peaceful means provided in Article 33. Then it may recommend appropriate procedures or methods of adjustment (The UN Charter, Article 36 (1)) and terms of the settlement, as it may consider appropriate (The UN Charter, Article 37 (2)). In addition, the General Assembly may discuss and make recommendations for procedures or methods of adjustment, or the terms of the settlement concerning any dispute or situation brought before it (The UN Charter, Article 11, 12, and 14). Nevertheless, the maritime dispute between Thailand and Myanmar might not be considered endangerment to the maintenance of international peace and security. Therefore, it is less likely to bring this issue before the Security Council or the General Assembly of the United Nations.

The ASEAN was established to strengthen cooperation in politics, economy, and society, and to maintain peace and stability of the region (The Bangkok Declaration made in 1967 in Bangkok, Thailand) (ASEAN. 2019). According to the ASEAN charter, for any dispute the member states shall act based on peaceful settlement (The ASEAN

Charter, Article 2 para 2 (d)) and shall resolve all disputes promptly and peacefully through dialogue, consultation, and negotiation. The ASEAN shall maintain and establish dispute settlement mechanisms in all fields of ASEAN cooperation (The ASEAN Charter, Article 22)

The Thai-Myanmar maritime dispute may be settled through the dispute settlement mechanisms under the 1976 Treaty of Amity and Cooperation in Southeast Asia (TAC), adopted by the Foreign Ministers at the 1st ASEAN Ministerial Meeting in Bangkok in 1976 and its rules of procedure (The ASEAN Charter, Article 24 (2)). TAC's objective is to promote perpetual peace, everlasting amity and co-operation in Southeast Asia for regional strength, solidarity, and closer relationship (Forty-seventh session of the General Assembly A/C.1/47/L.24 30 October 1992).

In chapter IV of the TAC, the High Contracting Parties shall prevent any dispute with determination and good faith, avoiding threat or use of force, and shall settle any dispute with amiable negotiations (The 1976 TAC, Article 13). In the case that direct negotiation does not end in any solution, the High Contracting Parties shall constitute a High Council to recognize any dispute or situation which might agitate the regional peace and harmony. The High Council shall also recommend the parties in dispute appropriate ways of settlement i.e. good offices, mediation, inquiry or conciliation (The 1976 TAC, Article 14-15). Anyhow this mechanism is applicable only when the disputing parties agree (The 1976 TAC. Article 16).

The member states of the ASEAN shall hold on to peaceful resolution in a timely manner through dialogue, consultation, and negotiation (The ASEAN Charter, Article 22) They may agree with the good offices, conciliation, or mediation arranged so that the dispute is resolved in the time limit agreed (The ASEAN Charter, Article 23 (1)), also they may request that the Chairman or the Secretary-General of ASEAN provide good offices, conciliation or mediation for them (The ASEAN Charter, Article 23 (2)) Appropriate dispute settlement mechanisms including arbitration shall be established for the disputes concerning the interpretation or application of the ASEAN Charter (The ASEAN Charter, Article 25). Nevertheless, the arbitration shall be established only by the mutual consent of the disputing parties or

by direction of the ASEAN Coordinating Council (The 2010 Protocol to the ASEAN Charter on Dispute Settlement Mechanisms, Article 10). In case that, after the above mentioned methods, any dispute is still unsettled, it shall be referred to the ASEAN Summit for the decision (The ASEAN Charter, Article 26). So the approaches provided in the ASEAN Charter and the TAC are diplomatic ones except for the arbitration. As the jurisdiction of the arbitrator depends on the consent of the parties, it is not easy for Thailand and Myanmar to settle the dispute by institutional methods.

Finally, in terms of voluntary procedure, negotiation is still the most appropriate for the Thai-Myanmar maritime dispute. The adjudicative method is not favourable for both countries and the organizational methods are not easy to apply. Also both countries have successfully settled various disputes by negotiations e.g. the 1868 Convention, the 1931 Exchange of Notes regarding the Boundary between Burma (Kengtung) and Siam, the 1934 Exchange of Notes regarding the Boundary between Burma (Tanasserim) and Siam, and the 1940 Exchange of Notes regarding the Boundary between Burma and Thailand (Department of State. 1966). Both parties also have set up negotiation mechanisms at three levels: Joint Boundary Committee, Regional Border Committee, and Township Boundary Committee.

Applying the Compulsory Procedure to the Thai-Myanmar Maritime Dispute

According to Articles 281 to 283, in order to apply the compulsory procedure, there are three conditions mentioned above. There is a question whether the two countries have agreed on the dispute settlement method in conformity with Article 281 and 282. Historically, the two countries have no direct agreement to settle the Thai-Myanmar maritime dispute. Thus, some international instruments such as the TAC, the 1992 Convention on Biological Diversity (CBD), the 2002 ASEAN Declaration on the South China Sea (DOC), and the ASEAN Charter might be considered as an agreement under Article 281 and 282.

Anyhow, the legal status of the TAC, CBD, and DOC has been determined by the Arbitral Tribunal constituted in accordance with Annex VII of the UNCLOS (the Arbitral Tribunal) in the South China Sea case between the Philippines and China. The Arbitral Tribunal ruled that the TAC, CBD, and DOC are not regarded as the agreement in Article 281 and 282. The TAC is a legal binding agreement including several dispute settlement methods, but it does not prohibit applying other settlement methods (Award on Jurisdiction and Admissibility. 2015, para 268) pursuant to Article 17 and does not entail a binding decision. Neither does the CBD enforce the parties to apply the compulsory procedure of the UNCLOS in accordance with Article 27 of the CBD (Award on Jurisdiction and Admissibility. 2015, paras -300 301). Even though the dispute settlement of the CBD entails a legally binding decision, it does not require the parties to submit all disputes to the settlement mechanism (Award on Jurisdiction and Admissibility. 2015, paras 321-317). The DOC is an aspirational political document. Therefore, it is not regarded as an agreement provided in Article 281 and 282 (Award on Jurisdiction and Admissibility. 2015, paras 248-241).

According to the ASEAN Charter, the dispute concerning its interpretation and application will be settled under the dispute settlement mechanism, while other disputes will rely on the TAC. Therefore, the ASEAN Charter is not regarded as the agreement under Article 281 and 282. Consequently, it can be concluded that so far there is no agreement between Thailand and Myanmar that impedes the application of the compulsory procedure.

Another issue to consider is whether or not Thailand and Myanmar have exchanged their views in terms of the Thai-Myanmar maritime dispute. Though there is ambiguity in definition of "exchange of views", there are some judgements or awards from the international courts and tribunals that have interpreted the word, which should be studied.

In the Chagos Marine Protected Area Case, the arbitral tribunal ruled that the exchange of views differs from the negotiation. The objective of the exchange of views is to inform

the other about the application of the compulsory procedure while the objective of negotiation is to settle a dispute (Chagos Marine Protected Area Arbitration. 2015, para 382). The exchange of views has no strict format. States are not required to exchange their views in an official manner. The substance of resolution does not need to be mentioned in their views (Chagos Marine Protected Area Arbitration. 2015, para 385). Only the method of settlement is sufficient as this provision is a procedural matter, not substance (Chagos Marine Protected Area Arbitration. 2015, para 378). In addition, there is no time limit for the exchange of views.

In the South China Sea case, the Arbitral Tribunal ruled that the Philippines and China exchange their views. At the Scarborough Shoal in 2012, the Philippines sent China the Note Verbale calling on China to respect its sovereignty. If China would not agree, the dispute should be settled before an appropriate third-party adjudication body under international law, specifically ITLOS. China refused the Philippine Note Verbale and insisted on its sovereignty over the Scarborough Shoal. In addition, China preferred to settle the dispute only by bilateral talks (Award on Jurisdiction and Admissibility. 2015, para 342). This case reflects that the process of exchange of views is not practically and strictly interpreted. Therefore, the negotiation between Thailand and Myanmar at Yangon in 1977 may be considered as the exchange of views according to Article 283 of the UNCLOS.

To apply the compulsory procedure, there is another question as to which forum the two countries will submit their dispute. According to Article 287, there are four institutions with the compulsory procedure; the International Tribunal on the Law of the Sea (ITLOS), the International Court of Justice (ICJ), the Arbitral Tribunal Constituted under Annex VII of the UNCLOS, and the Arbitral Tribunal Constituted under Annex VIII of the UNCLOS. According to Article 287, once the disputing States select the same institution with a formal declaration, the dispute will be submitted to that institution. On the other hand, if the disputing parties select different forums or do not select any, the dispute will be submitted only to arbitration in accordance with

Annex VII (The UNCLOS, Article 287, paras 5 ,3).

The last question to consider is the scope of the compulsory procedure application; what submission can be submitted to the Arbitral Tribunal. From a comparative study with the South China Sea case, the Thai-Myanmar maritime dispute shares some issues i.e. territorial and delimitation dispute. Notably, the Philippines submitted 15 submissions which were divided into five categories; the legality of the Chinese nine-dashed line, the status of maritime features located in the Spratly Islands, Chinese violations against the UNCLOS, the extended severity of the dispute, and the future practice for both parties. However, the nature and situations of the Thai-Myanmar maritime dispute are different. Some submissions are not among the Thai-Myanmar maritime dispute such as marine environment or historic rights. Only three submissions are concerned in the Thai-Myanmar maritime dispute; the status of the Lam-Khan-Khi Nok Island, traditional fishing rights, and the prevention of the collision of the vessels. Similar to the South China Sea case, Myanmar cannot submit the submission on the maritime boundary delimitation to the Arbitral Tribunal as Thailand has made a declaration on exception of the dispute concerning the maritime boundary in accordance with Article 298 of the UNCLOS. On the contrary, Thailand may submit this submission to the Arbitral Tribunal because Myanmar has never made such a declaration on exception. Nevertheless, it is unlikely that Thailand waives its rights which have been declared previously. Moreover, the Thai-Myanmar maritime dispute includes sovereignty and delimitation disputes, so the Arbitral Tribunal could not delimit the boundary line before indicating sovereignty over the three Islands.

However, despite Thailand's declaration, there is the compulsory conciliation according to Article 297 of the UNCLOS provided that in the dispute concerning maritime boundary that a party had made a declaration of exception, will be submitted to the conciliation commission instituted by the parties. The commission shall hear the disputing parties, examine their claims and objections, and make proposals to them. Though the proposal

is not legally binding and any of the parties has the right to obey or deny.

Conclusion

The Thai-Myanmar maritime dispute includes a territorial dispute over the Lam, Khan, Khi Nok Islands and maritime boundary dispute from the mouth of the Pakchan River to the middle of the Andaman Sea. The cause of the dispute is that both countries have not agreed on who has the sovereignty over the three islands. Moreover, the 1868 Convention that Myanmar referred to does not include any identification of ownership over the three Islands. The unclear sovereignty over the three Islands has lead to an inability of delimitation in the overlapping zone.

While Thailand and Myanmar are both parties to the UNCLOS, the voluntary and compulsory procedures can be applied but with the different outcomes. The voluntary procedure does not only apply to the dispute concerning interpretation and application of the UNCLOS but also to all international disputes. Therefore, the scope of application covers all issues in the Thai-Myanmar maritime dispute. For other peaceful settlements, both countries are not acquainted with the adjudicative method. The intuitional settlement is not easy to apply for the case.

As of compulsory procedure, both countries have never selected a forum for dispute settlement, the Arbitral Tribunal constituted in accordance with Annex VII of the UNCLOS will be the arena for this case. For the scope of application, there are some submissions that may be submitted such as the status of the Lam, Khan, and Khi Nok Islands, the infringement of traditional fishing rights, and the ignorance of preventing the collision of ships. While other issues such as the territorial or delimitation disputes cannot be submitted to the Arbitral Tribunal because the territorial dispute is beyond the scope of interpretation or application of the UNCLOS, and the delimitation dispute has been declared an exception by Thailand that it is not easy for

the Arbitral tribunal to delimit maritime boundary lines before indicating sovereignty over the three Islands. Hence, there is a few benefits to gain from those three submissions.

From the study above, to settle the Thai-Myanmar maritime dispute, negotiation is the most appropriate method which both countries are familiar with and share many experiences. However, the process and substance of negotiation are key elements. The two countries are concerned with sovereignty over the three islands. Therefore, no one has initiated the negotiation and that the method and substance of negotiation have not been discussed.

In the author's opinion, sovereignty is a very sensitive issue in terms of politics and law. Thus, to settle the Thai-Myanmar maritime dispute, the sovereignty issue should be opted out from negotiation, and should be be discussed on another occasion. Also, both countries should negotiate and conclude a provisional arrangement to establish a joint development area which will avoid confrontation and reduce tension among the parties. Another reasonable method that the author would like to suggest is the compulsory conciliation. Because the conciliation commission's proposals will be helpful for negotiation.

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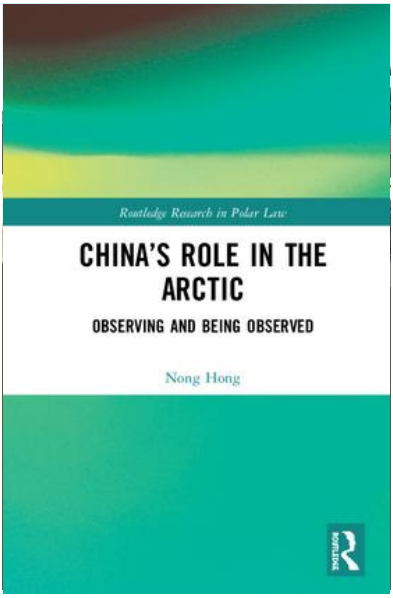

BOOK REVIEW

China's role in the Arctic: observing and being observed. ISBN 9780367278694. Published May 12, 2020 by Routledge. Author: Nong Hong. 232 pages. (Paperback)

Magayo Alves

As indicated by its title, the author of the book – Dr. Nong Hong – focuses her efforts on understanding the current ways in which China sees and operates the Arctic, hence reflecting on how it seeks to develop its policies for the region and how its actions are seen by other actors. In summary, the book's eight chapters could be grouped into three main points: China's involvement in international organizations, its relations with Arctic stakeholders, and more specifically its actions across the Arctic territory, signifying the extent of its engagement with shipping activities and scientific development. Arguably, the main idea is to show readers how the world's most populous nation is expanding its influence and increasing political power well beyond its surroundings, and how Arctic geopolitics will likely be altered by the actions proposed, taken and/or implemented by it and other non-Arctic states in the near future.

The author mentions the existence of a report known as "China's Arctic Policy", released on 26 Jan 2018 and initially, based on its contents, she alludes to the importance it has given to becoming a key player in global affairs. This particular set of strategies came to reaffirm China's commitment to foster international cooperation for resource management and scientific research across the Arctic, while respecting international agreements and Arctic native communities. In essence, Dr. Hong argues that "China's Arctic policy uses these two words

(understand and protect) to underscore the importance of improving capacity and capability of scientific research in the region, so as to create favourable conditions for mankind to better protect, develop and govern it". Labelling itself a "near-Arctic state" China's ambitions, will, however, eventually outgrow its seamlessly peaceful motives for cooperation, challenging the very notion that only Arctic nations should have a say over what happens in the region.

Climate change has, unsurprisingly, prompted various countries to act to preserve their interests in the global economy. Illustrating this, the author mentions the cases of nations such as Japan and South Korea participating as observer states in the Arctic Council due to the belief that their economies will eventually be affected by the extreme weather events we have been witnessing. China, on the other hand, has been since 2007 an ad hoc observer in the Arctic Council, gradually demonstrating its wishes to play a more prominent role in the region's politics. In 2009, it officially announced its intention to become an observer state, a position that sectors from the media feared could occasionally undermine the system of Arctic governance in place until that moment. Regardless of suspicions, however, and with the public support from the Nordic countries, China was granted observer status in 2013. In the next pages, the author goes on writing about Beijing's relationship with the International Maritime Organization (IMO), as well as its adoption of the Agreement to Prevent Unregulated High Seas Fisheries in the Central Ocean (CAOFA) and support for the establishment of an organization that manages Arctic fisheries under the dispositions established in the United Nations Convention on Law of the Sea (UNCLOS). In summary, the idea is to state that China has sought to gain more power over decision making processes for the Arctic region in a lawful manner.

Another point raised is China's relationship with Arctic indigenous communities. According to Dr. Hong, China signed the United Nations Declarations on the Rights of Indigenous People (UNDRIP), explicitly stating its respect for these individuals and their ancestral knowledge. In fact, she writes that "China is striving to strengthen communication and exchanges with these (indigenous) organizations", while also briefly stressing the necessity of appropriate mechanisms to

avoid misunderstandings between East Asian stakeholders and indigenous communities. In essence, the idea stated is that intentions may be good, but how they are applied is crucial to their success.

The next sections touch on the issue of Arctic shipping routes. Essentially, according to the author "China is eager to diversify its supply and trade routes, particularly by reducing its reliance on shipping through the Straits of Malacca and the Lombok Strait". This change in behavior, coupled with the fact that climate change will inevitably facilitate transportation across the Arctic Ocean, have prompted reactions from Arctic and non-Arctic states, which view China with "suspicion and caution", as fomenting a "threat narrative". However, despite these scenarios, it is explained that Beijing's actions have been consistent with international legislation hitherto.

Furthermore, aside from the points raised above, the book fundamentally alludes to the fact that whether or not nations such as the United States and Russia support it, China (and other non-Arctic states/organizations, e.g., Japan and the European Union, respectively) will likely continue to bolster their influence across the Arctic, including frequent and significant investments in scientific research and development. The next decades will continue to see changes in the region's governance system, as climate change reshapes political and economic relations worldwide. The question is no longer how these transformations will occur, but rather how we can all adapt to them. As the author shows, environmental tragedies in the Arctic such as organic, petroleum and radioactive pollution are part of the heritage left by the XX century and its many conflicts. Stronger mechanisms to foster international cooperation for the planet's protection are now more vital than ever before in our history. Fundamentally, looking forward is the only way we may have a chance to survive.

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