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## Examination of the Senkaku/Diaoyu Islands dispute between China and Japan within the scope of the 1982 United Nations Convention on the Law of the Sea

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### Abstract

The Senkaku/Diaoyu Islands dispute is between two (two) countries, namely Japan and China. According to a study by the United Nations Commission for Asia and the Far East (UNCAFE), the Senkaku/Diaoyu Islands have some potential. The largest natural resources include natural resources (SDA), including oil and gas resources. This possibility is why Japan and China are still fighting over the Senkaku/Diaoyu Islands. Geographically, the Senkaku/Diaoyu Islands are 170 kilometers closer to Taiwan than Japan and China. This led to regional/national conflicts that continue to this day. Therefore, this book discusses the Senkaku Islands dispute between China and Japan in writing and examines it in the light of the 1982 United Nations Convention on the Law of the Sea.

**Keywords:** Senkaku, China, Examination, Sea

### 1. Introduction

It controls the relationship between one country and another in this world. The relationship is not only social, technological, military, sanitary, but even the economy and a large part of the national struggle. In these respects, it is undeniable that international relations bring some stress to the countries involved. Confusion over the recognition of territorial sovereignty of islands and archipelagos is an international dispute that frequently occurs between many countries (Mochtar Kusumaatmadja dan Etty R. Agoes, 2003).

Conflicts often occur between one country and another. From a geographical perspective, conflicts often occur between one country and another. Geographically, these countries are close to each other. Geographically, disputes are seas, islands and lands that arise due to the recognition of part or all of the borders of other states by other states (KJ Holsti, 1988) [5].

In the study of international civil law, there are two types of international disputes, namely civil or judicial disputes and judicial or extra-judicial disputes. Although there are no clear rules especially for international disputes, it can be seen here whether the dispute can be resolved by the International Court of Justice (Adolf, 2004: 3) [1]. One such conflict that has emerged is the Senkaku/Daio Islands dispute between Japan and China, which has been ongoing since 1969 and is likely to continue today. This dispute between China and Japan is caused by a territorial dispute between members of the island, located 175 kilometers north of Ishigaki Island (Okinawa, Japan), 190 kilometers northeast of Taiwan, and 420 kilometers east of mainland China. It is in the southeast of the East China Sea (Furqan, 2013: 1).

The Senkaku Islands/Daiojima Islands are an uninhabited archipelago consisting of five small islands, including three atolls. (Li Shiyu, 2002) [11]. Although the islands are uninhabited, the Senkaku Islands/Daiojima are. It also owns more than 50% of major resources such as oil and gas. This fact comes from the results of a study by the Cooperative Research Commission on Mineral Resources in Offshore Asia (CCOP) with the support of the United Nations Commission for Asia and the Far East (UNCAFE). The commission was established after the war to assist in the economic development of the country. UNCAFE later announced the results of the geological survey carried out in October-November 1968, which led to a growing conflict between Japan and China.

In addition to the potential resources mentioned by UNCAFE, there are many plants and animals in the Senkaku/Daioyu Islands. The sea around the island is also a fishing area and there is a lot of seafood. After the Senkaku Islands/Daio Islands were declared Japanese territory in 1985, Japanese citizens settled on the island and engaged in various businesses such as dried bonito trade and bird feather trade.

A total of 200 Japanese live on the Senkaku Islands. (Japanese Ministry of Foreign Affairs, 2016). The Senkaku Islands/Daio Islands are often called islands because they have many islands in Ishigaki City, Okinawa Prefecture, including the Uotsuri Islands, Kitakojima, Minamikojima, Guba, Taisho, Okinawa Oshima, and Okino Minami and Hize (Foreign Affairs Government, Japan). , 2016).

With the spread of scientific knowledge and the location of this region, the dispute between Japan and China over the Senkaku/Daio Islands has become very tense, yes, so a study needs to be done to analyze the conflict between them. If the two countries are particularly concerned with the International Law of the Sea / United Nations Convention on the Law of the Sea 1982, we will therefore talk about the relationship between island laws and the law of the sea when writing this scientific journal in the form of ideas. United Nations Convention on the Law of the Sea The process of resolving the Senkaku Islands/Oyu Islands dispute under the international maritime system law of the 1982 United Nations Convention on the Law of the Sea and the 1982 United Nations Convention on the Law of the Sea Sea of the Sea. The focus of this article is to analyze the relationship between international maritime law and the conflict between the Senkaku/Diaoyu Islands. until today. The complexity and intricacy of the numerous questions of the utility of the laws and the enforcement of judgments of various states, particularly within the case when the foreign regulation mentioned via the law of the given country refers back to the regulation of this given country. Positive legal provisions in pressure on this or that state can't be implemented for precept reasons in a few other states, giving upward push to the well-regarded idea of *ordre public* (public coverage). The desire to conquer a number of these issues led states to agreements. But, it advertditionally tangles a question of assets of personal international regulation as some global agreements are overlapping and now not all of the states have joined the equal agreements. The complexity of the composition of personal international law generates disputes about its problem, nature and assets amongst students and practitioners because it has each academic interest and carried out value. However, it's miles not possible to study a majority of these problems in a enormously brief paper, and, therefore, they gained't be explored within the gift book despite being its inherent heritage.

## 2. Methods of Reading

The comparative prison technique is known as a technique for analyzing juridical phenomena and institutions, which consists in juxtaposing them so that you can find out similarities and differences. by way of evaluating or extra gadgets, you can display or refute their belonging to one magnificence, stumble on potentiality and variability of the improvement of elements of one item on the basis of watching the evolution of comparable factors of any other object or other objects, identify the roots (commonplace or separate) of these gadgets and their factors and investigate changeability of those items and their factors under those or that circumstances. One of the essential tasks in the usage of this technique is to determine truely sizable criteria for contrast, reflecting essential features of the objects. This paper compares the displays of personal international regulation and its establishments in felony acts of a number of states and global gadgets and their interpretations through the courts and scholars of numerous nations.

The synchronous comparison deals with phenomena and establishment's current simultaneously in specific components of the arena, and the diachronic evaluation gives a opportunity to take a look at the same phenomena and establishments but in successive epochs (each are used inside the gift study). The legal comparative approach is an effective tool of exploration; but, it has boundaries in its utility. For this reason, the comparative approach requires having as a minimum items, at the same time as in lots of cases there may be an hobby in one item. Then, the comparative approach offers a belief approximately what goes on as opposed to why it is taking place. This presupposes the use of different methods of studying.

The historic approach allows attention to be centered on a single object taken in its origin and improvement beneath the effect of economic, social, cultural, ideological, religious, mental and different factors, which altogether in their mixture represent the concrete historic situation in each moment in each territory, bearing in mind that those or that enormous traits of private international regulation and its institutions are rooted in its evolution. So, the historic approach allows us to hint the involvement of personal international law and its establishments in the life of society, the effect of this type of existence on them, and the opposite affect of law in this life inside the path of time, as well as to come across modifications as a reaction to rising and re-emerging societal challenges. That is why the historic method is used inside the article each to the distant beyond and to modernity. In the article, financial, social, demographic and other factors are addressed to the extent possible and suited for an exceptionally small textual content. However, the consideration of private worldwide regulation in an ancient context is not sufficient for its full understanding; consequently, other methods of studying need to be recurred.

## 3. Some Clarifications close to look at

So, the existing e-book offers with personal worldwide regulation, meanwhile, it's miles defined in a different way by exceptional authors. that is why I agree with it's far crucial to point out my knowledge of private global law to higher understand my attitude toward the item of my have a look at and my conclusions. One of the maximum commonplace definitions is the comply with: "international personal law or private global regulation is a hard and fast of regulations of procedural regulation that regulates the relationships among physical and judicial humans of various nationalities. It determines which legal device and the regulation of which jurisdiction will practice to a felony dispute among non-public people concerning a foreign detail. It's also called as struggle of legal guidelines. The 3 branches of international private law are jurisdiction, choice of law, and overseas judgments"<sup>1</sup>. I cited this definition for two reasons. The primary one is that it's miles given on a website in particular special to definitions inside the US law, and as such is meant to be one of the maximum common and used. The second one purpose includes its clearness and unambiguity. I trust that it's miles critical to be aware of the interchangeability of the terms "international non-public law" and "personal global law". Such interchangeability is emphasised in the given definition and i shall use both terms within the gift e-book as equal. Defining felony phrases in this site, in addition they try to think about sure nuances of their use. As a consequence, it is said "international private law or personal worldwide regulation" to show that there might be a moderate difference

in dealing with the order of phrases, but the essence of the meaning is the same.

Such an technique to the non-public global law as to a department of a domestic regulation of a kingdom might seem to be supported by legislation of states. As an example, the Swiss law on worldwide personal regulation in its Article 1.1 reads: “This law regulates in global members of the family: a. the jurisdiction of the Swiss courts or authorities; b. the applicable regulation; c. the conditions for the recognition and enforcement of foreign judgments; d. financial ruin and the agreement of succession; e. arbitration”<sup>5</sup>. Every other example is the law of the human beings’s Republic of China on the software of law to Civil prison family members complex through a overseas detail, which explains its subject-count number as follows: “Article 1. This law is for- mulated in order to make clear the software of the regulation to civil family members associated with overseas citizens, reasonable decision of civil disputes associated with foreign affairs, and protection of the valid rights and pursuits of the events”<sup>6</sup>. in the interim, both states are guided in resolving these problems not handiest by way of their inner statutes and rules, however additionally with the aid of worldwide treaties (as an instance, both states are parties to the conference on the popularity and Enforcement of overseas Arbitral Awards of 10 June 1958, international conference to Facilitate the Importation of industrial Samples and advertising Mate- rials of seven November 1952, Customs conference on bins of two December 1972, and lots of others). The Swiss regulation, through the way, in its Article 1.2 says without delay approximately the function of worldwide treaties within the regulation of the areas provided for with the aid of this law: “2. International treaties are reserved”<sup>7</sup>. And the Belgian non-public worldwide regulation Code (Article 2) affords for the concern of global and supranational acts in matters of private inter-countrywide law (Patrick Wautelet factors out the subsidiary project, in his phrases “vocation subsidiare”, of the Code (Wautelet 2005, p. 13)): “difficulty to the application of international treaties, European Union law or provisions contained in unique laws, this law governs, in an global state of affairs, the jurisdiction of the Belgian courts, the determination of the applicable regulation and the conditions the effectiveness in Belgium of judicial decisions and foreign actual gadgets in civil and commercial matters”<sup>8</sup>. Indeed, some worldwide units substitute country wide felony acts in regulation of positive personal regulation issues.

#### 4. Conclusions

the principle trend inside the records of the evolution of the law of personal regulation is a consistent growth on account that historic instances thru middle a long time to the cutting-edge period of the international component in it from denying rights of foreigners to granting foreigners same or nearly same rights with nationals in the non-public law sphere, and from a whole non-admittance of foreign and worldwide rules in country wide felony order to huge implementation of worldwide treaties and reputation of a opportunity to apply underneath certain situations overseas criminal provisions and from a refusal of overseas and global court docket rulings acceptance to their enforcement underneath positive situations. As part of this fashion, a relative narrowing of the countrywide factor of personal issues regulation is located. this sort of narrowing does now not mean an absolute lower inside the variety or quantity of legal guidelines dealing with

non-public troubles (there is probably a certain growth even) however approach a voluntary switch of certain regions of personal law regulation from the national stage to global or supranational one. therefore, a trendy volume of personal regulation issues law may additionally increase with its both components-countrywide and worldwide—growing, but the part of the growing countrywide non-public troubles regulation is reducing in the widespread (also developing) quantity of such law in evaluation with international (developing too) law of private law issues.

In the meantime, this fundamental fashion is antagonistic by means of a fashion impeding internationalization and selling nationalization of private law troubles law, and in certain ancient circumstances, it is able to even be successful. for instance, within the duration of the past due Roman Empire, while, on the one hand, nearly all citizens of the Roman country obtained the repute of residents, and however, a number of neighbouring nations decreased to only a few, almost all trade and all migrations had internal-nation nature, the want in worldwide regulation of the private law issues narrowed drastically, and as depend of reality country wide law of private regulation problems prevailed. At the very give up of the epoch of the Western Roman Empire and early center a long time, numerous tribes invaded the Imperial territory, settled down and created their very own kingdoms. In this era, Roman law turned into still in force and the normal regulation of invaders turned into also in pressure. That is why battle of legal guidelines decision become wished. Later, inside the period of subsistence economy and decline of alternate, national regulation played a major function. A revival of exchange known as into being a reception of Roman law, which had an global or supranational nature in feudal Europe. Then, the codification of custom- ary regulation, along with Sachsenspiegel (thirteenth century) and others, supposed a rise of nationalism. In our days, supranational law within integrations is squeezing out worldwide con- ventions (earlier the example changed into given as the 2008 ecu regulation No. 593/2008 known as the Rome I substituted the 1980 ecu conference on the regulation applicable to the contractual duties). The recession accompanied the financial and financial disaster of 2008, the COVID- 19 pandemic-associated restrictions of 2020–2021, other monetary restrictions introduced in 2022, and so on, also favors nationalism.

Contradictory trends are determined: receptivity and nationalism in the field of private worldwide regulation. On the only hand, criminal structures are drawing near, reception of overseas le- gal institutions are performed, global contraptions are applied, alternatively, borrowed institutions are tailored, domesticated and occasionally converted to an unrecognizable state.

The above-noted modern inclinations within the personal global law evolution were formed largely beneath the impact of the elements considered, although the im- % of every of the elements on a selected tendency is choppy. as an example, the personalization of personal law has resulted from the dialectic interweaving of the growing mobility of the population and the human rights evolution, on the only hand, and the variety of felony cultures and traditions and the difficulties in regulation enforcement, alternatively. The tendency of seeking to increase the nation’s jurisdiction past its sovereign territory is hooked up to such elements as sovereignty and xenophobia, on the only hand, and the internationalization of monetary existence and the

development of method of conversation and transportation, on the alternative. The tendency to sell worldwide arbitration has arisen, to begin with, because of elements of pliability within the use of approach of dispute resolution and the mutual approaching of felony structures and law reception, on the one hand, and the rigidity of legal norms and doctrines and difficulties in regulation enforcement, on the opposite. In the end, the tendency of regionalization inside the worldwide law of private regulation has collected as an end result mostly of the combination of states, the internationalization of economic lifestyles and the mutual drawing near of criminal structures and law reception, on the one hand, and the non-accident of pastimes of societies and populations, the distinction in tiers of economic development of states and areas and difficulties in regulation enforcement, on the other.

It is well worth noting that amongst factors selling internationalization and impeding nationalization of private regulation 3 are of felony nature and 4 lie in the meta-criminal sphere, and among elements selling nationalization and impeding internationalization of private regulation additionally three are of legal nature and four lie inside the meta-felony sphere, by means of which I understand phenomena and tactics of economic, social, cultural or technical-technological nature.

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