

Mare Clausum or Mare Liberum? An Analysis of British Presence in the South China Sea, 1600–1975

Amy Azuan Abdullah^a, Baszley Bee Basrah Bee^b & Yusten Karulus^c

^aCentre for the Promotion of Knowledge and Language Learning, Universiti Malaysia Sabah,

^bFaculty of Social Sciences and Humanities, Universiti Malaysia Sabah, ^cCentre for the Promotion of Knowledge and Language Learning, Universiti Malaysia Sabah

Email: amyaz_abd@ums.edu.my, baszley@ums.edu.my, yusten@ums.edu.my

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Abstract

This study examines the dynamics of British presence in the South China Sea (SCS) between 1600 and 1975 through the conceptual frameworks of *Mare Clausum* (closed sea) and *Mare Liberum* (free sea). Since the seventeenth century, the SCS has served as a contested maritime arena among Western powers, with Britain playing a significant role in shaping the narrative of trade route dominance and maritime claims. Rooted in the principle of *Mare Liberum* introduced by Hugo Grotius, Britain initially promoted freedom of maritime navigation to expand trade through the East India Company (EIC). However, this approach shifted during the nineteenth century as Britain began consolidating control over several strategic islands such as the Spratly Island and Amboyna Cay, applying the *Mare Clausum* principle through the registration of resource exploitation rights and flag-hoisting acts. The purpose of this study is to analyse how the *Mare Clausum* and *Mare Liberum* principles were applied within British maritime strategy, to assess the evolution of British approaches in response to geopolitical needs from the seventeenth to the mid-twentieth century, and to understand the colonial legacy's implications for modern maritime sovereignty disputes in the SCS. The research employs a qualitative method based on the analysis of colonial archival documents, historical maps, and official reports. Findings reveal that Britain adopted a pragmatic strategy, adapting maritime principles according to the prevailing geopolitical context. Following the Second World War, Britain took a passive stance, maintaining its claims without provoking tension with regional powers such as Communist China and France. The study concludes that Britain's presence in the SCS represented a synthesis between the *Mare Liberum* principle for economic gain and the *Mare Clausum* principle for strategic dominance, which subsequently shaped the colonial legacy underpinning contemporary maritime sovereignty disputes.

Keywords: Mare Clausum, Mare Liberum, South China Sea (SCS), British Presence, Maritime Strategy

Introduction

From a geostrategic perspective, the South China Sea (SCS) has long been recognised as a principal arena of interaction and contestation among various maritime powers since the pre-colonial era. The region is not only rich in fisheries, strategically significant geographic features, and potential hydrocarbon resources, but it also constitutes one of the world's most vital trade corridors, linking East Asia, Southeast Asia, and the Indian subcontinent to Europe via the Straits of Malacca. As early as the seventeenth century, two foundational concepts concerning maritime governance (*Mare Clausum* and *Mare Liberum*) became key references shaping Western maritime policy. *Mare Liberum*, introduced by Hugo Grotius in 1609, posited that the sea should remain open and accessible to all nations for purposes of navigation and commerce. In contrast, *Mare Clausum*, articulated by John Selden in 1635, asserted that a state possesses the right to exercise sovereignty over parts of the sea that it can effectively administer and defend. Within this context, Britain expanded its influence in the SCS primarily through the *Mare Liberum* principle, which underpinned the commercial network of the East India Company (EIC). However, shifts in political realities, intensifying competition with other colonial powers, and the imperative of safeguarding strategic interests led to a gradual adaptation towards *Mare Clausum*.

Despite extensive geopolitical and legal analyses of the SCS, there remains a critical gap in understanding how colonial maritime doctrines, specifically Britain's synthesis of *Mare Clausum* and *Mare Liberum*, shaped the foundations of today's sovereignty disputes. Most contemporary scholarship frames the SCS issue through a realist or international relations lens, overlooking the historical continuities between colonial maritime governance and modern legal frameworks such as the United Nations Convention on the Law of the Sea (UNCLOS, 1982). This research therefore addresses the problem of historical underrepresentation by situating British maritime strategy within the broader debates on coloniality, legal pluralism, and post-colonial sovereignty in global social-science discourse. The significance of this study lies in its contribution to contemporary debates on decolonising international law and maritime governance, providing a historically grounded understanding of how imperial legal traditions continue to influence Southeast Asian political geography and regional diplomacy. By tracing how Britain adapted the principles of *Mare Clausum* and *Mare Liberum* to serve shifting strategic needs between 1600 and 1975, this study offers insights into how colonial frameworks continue to shape both academic theory and policy discourse on maritime sovereignty.

This study critically analyses British approaches to the SCS between 1600 and 1975, focusing on how the principles of *Mare Clausum* and *Mare Liberum* were applied in British political, legal, and military actions within the region. It further examines how these strategies, across different historical phases, have produced long-term effects on the structure of sovereignty claims and maritime disputes that persist to this day. Using a historical approach grounded in the analysis of colonial archival documents and secondary sources, this article re-evaluates British colonial maritime strategy not merely as an effort of economic expansion, but as an integral part of the making of the modern maritime geopolitical landscape of Southeast Asia.

Literature Review

Research on the SCS has long been dominated by geopolitical approaches and geographical scholars that focus primarily on the location and physical characteristics of the Spratly and Paracel Islands. Evers (2017) notes a lack of social-historical perspectives on the SCS, observing that most historical writings are Sino-centric, led by Chinese scholars who emphasise “historical evidence” to legitimise sovereignty claims. Accordingly, this study explores the involvement of Western powers, particularly Britain, as an attempt to balance the prevailing narrative. It does not seek to support the claim of any specific nation; rather, it introduces the colonial-historical discourse as part of the SCS’s larger, yet insufficiently explored, historical structure.

The concept of *Mare Liberum* (Free Sea) was introduced by Hugo Grotius in 1609 as a reaction to Portugal’s efforts to monopolise trade routes in East Asia. Grotius argued that the seas could not be owned by any single state and must remain open to navigation and commerce (Grotius, 1609; Verzijl et al., 1979). This notion later formed the foundation of the principle of freedom of navigation in modern international law, as recognised in the United Nations Convention on the Law of the Sea (UNCLOS) (UNCLOS, 1982). In modern contexts, the *Mare Liberum* principle has been invoked by powers such as the United States to counter attempts at maritime monopolisation in the SCS, including China’s extensive claims. At the outset, Britain likewise adhered to this principle to broaden its trade network through the EIC.

Conversely, the concept of *Mare Clausum* was developed by John Selden in his 1635 treatise. Unlike Grotius, Selden contended that the sea could be possessed by a state if it had the capacity to exercise effective control, analogous to ownership of land. This principle offered justification for states to control strategic waters for security and economic purposes (Selden, 1635; Suarez, 2012; Nifterik & Nijman, 2009). In the British context, *Mare Clausum* became central to its strategy of controlling ports, trade routes, and maritime resources, especially throughout the nineteenth and twentieth centuries. Its influence was evident in British “gunboat diplomacy” and in the establishment of strategic ports such as Labuan and Hong Kong (Hayton, 2015).

British involvement in the SCS became increasingly significant after the establishment of Singapore as a free port in 1819. Britain’s main priority was to secure trade routes between India and China while curbing the influence of competing powers such as France and Japan. Territories including Sarawak, Brunei, North Borneo and Labuan emerged as key nodes of British strategic presence (Abdullah, 2023; Becker, 2021; Wright, 1963; Lindgren, 2015; Grove, 2004). By the 1930s, Britain was even considering transforming parts of the Spratly Islands into oil-supply and naval-air refuelling stations to defend Singapore from the rising Japanese threat (Tonnesson, 2001).

Britain ultimately combined the *Mare Liberum* and *Mare Clausum* principles pragmatically, depending on strategic priorities. *Mare Clausum* was applied to claim exclusive rights over maritime zones rich in coal or oil resources and to secure strategic ports, while *Mare Liberum* was upheld to ensure that international shipping lanes remained open and accessible. The implications of this dual strategy were far-reaching, particularly for littoral states such as Malaysia, Vietnam and the Philippines. Their contemporary maritime

boundaries and sovereignty narratives are largely rooted in British colonial legacies (Hayton, 2015; Tonnesson, 2006; Abdullah, 2023).

Nevertheless, several gaps remain in existing research. First, few studies explore in depth the philosophical conflict between Grotius and Selden or how their intellectual debate directly influenced British maritime policy. Second, limited attention has been paid to how littoral states responded to British control in the SCS and whether they have subsequently utilised or neglected, colonial historical legacies in framing present-day sovereignty claims. This article therefore seeks to fill these gaps by critically analysing the British adaptation of these concepts within its evolving maritime geopolitical strategy and by assessing their impact on the framework of international maritime law and the modern structure of sovereignty disputes in the SCS.

Beyond maritime history, this study contributes to contemporary Social Science debates on power asymmetry, colonial legacies, and epistemic justice. Scholars such as Acharya (2014) and Chakrabarty (2020) have emphasised the importance of de-centring Eurocentric frameworks in international relations and historical research, while Desierto (2015), Adrianto and Bengen (2020) highlight how post-colonial states reinterpret inherited legal doctrines to assert new regional identities. In this regard, the British adaptation of *Mare Clausum* and *Mare Liberum* offers an early example of how colonial powers codified sovereignty and governance that persist in modern Southeast Asian statecraft.

Recent empirical analyses strengthen this interpretation. Baviera and Hayton (2021) demonstrate that ASEAN's diplomatic responses to the SCS arbitration reflect the enduring influence of colonial-era legal doctrines. Similarly, Buszynski (2019) identify how the principles of *Mare Liberum* and *Mare Clausum* continue to inform regional security alignments and freedom-of-navigation operations. Zou (2020) further notes that China's recent maritime policies echo the historical logic of *Mare Clausum*, illustrating how past imperial conceptions of control persist in twenty-first-century maritime governance.

By engaging with these recent works, this study bridges the historical and empirical dimensions of SCS research. It demonstrates that the British maritime legacy is not an isolated colonial episode but a continuing structural influence on regional political behaviour and international law.

Research Methodology

This study employs a historical research approach integrating three main methods: document analysis, cartographic analysis, and content analysis. The document analysis involves examining British colonial archives, including official reports, government records, and administrative correspondence related to maritime affairs in the SCS. The cartographic analysis focuses on colonial maps, nautical charts, and hydrographic survey reports that reflect the expansion of British maritime influence and territorial delineation in the region. Meanwhile, content analysis is applied to colonial legal texts, treaties, and diplomatic reports concerning ports, trade routes, and maritime jurisdiction. Through the triangulation of these sources, the study reconstructs the evolution of British maritime strategies and evaluates their implications for the historical formation of sovereignty claims in the SCS.

Analysis and Discussion

Mare Liberum as an Instrument of Free Trade (1600–1800)

During this period, Britain had not yet established permanent territorial control in Southeast Asia and functioned primarily as an emerging trading power. Within this context, the *Mare Liberum* principle introduced by Hugo Grotius was vital in supporting Britain's unrestricted access to maritime trade routes that were then dominated by Portugal and Spain, both adhering to the opposing *Mare Clausum* principle. The British invoked *Mare Liberum* to challenge these monopolies over trade routes across the Indian Ocean and the Far East (Borschberg, 2011; Scammell, 1980). The doctrine of freedom of navigation became a foundational element of British commercial expansion, enabling the EIC to conduct trade voyages without restriction (Grove, 2004). The EIC's navigation through the Straits of Malacca and the SCS relied on the right to free navigation as justification for its presence, despite the absence of formal sovereignty (Hayton, 2015; Tonnesson, 2001).

This informal maritime presence was further legitimised through the publication of nautical charts, navigation logs, and hydrographic reports that served as unofficial instruments of authority, reinforcing Britain's maritime legitimacy even before formal territorial claims were made (Suarez, 2012; Brook, 2015). Hence, at this stage, the British fully exploited the doctrine of *Mare Liberum* as a strategic tool to build both regional and global trading networks (Verzija et al., 1979).

Table 1.1

British-Controlled Areas in the South China Sea (SCS) and the Application of Principles, 1846–1930

Area	Application of Principle
Labuan (1846)	Britain occupied and declared Labuan a colony; an example of <i>Mare Clausum</i> in practice, exercising control over routes to Borneo and access to coal resources.
Port of Singapore (1819)	Functioned as a free port; a combination of <i>Mare Clausum</i> (strategic protection) and <i>Mare Liberum</i> (encouraging open trade).
Hong Kong (1842)	Established through the Treaty of Nanking; used as a strategic base for controlling Chinese maritime routes, representing full <i>Mare Clausum</i> .
Spratly Island and Amboyna Cay (1930s) ¹	Not formally occupied but studied as potential refuelling and naval support sites; elements of strategic observation without formal annexation (<i>quasi-Mare Clausum</i>).

The Colonial Era (1800–1944): Selective Transition to Mare Clausum

By the nineteenth century, Britain had begun to shift from the principle of free navigation to the selective implementation of *Mare Clausum*, corresponding with the consolidation of its colonial empire in Southeast Asia. Strategic ports such as Singapore (established in 1819), Labuan (acquired in 1846), and Hong Kong (following the 1842 Treaty of Nanking) became focal points of this approach. Through the control of these ports and major trade routes, Britain asserted exclusive rights and jurisdiction over surrounding waters, primarily for reasons of security, commerce, and transportation (Wright, 1963). In the case of Labuan,

¹ In colonial records, the terms and spellings used to refer to Spratly Island include Spratley Island or Sprattley Island. Today, the commonly used terms referring to these two features are Spratly Island or *Pulau Spratly* and Amboyna Cay or *Amboina Kecil*. Spratly Island forms part of the group of features located within the Spratly Islands.

Mare Clausum was applied to secure the coal-exporting harbour that linked trade routes between Borneo and China (Abdullah, 2023; Grove, 2004). Meanwhile, Singapore continued to function as an open port, illustrating a hybrid approach that combined *Mare Clausum* for strategic protection and *Mare Liberum* for economic benefit (Hayton, 2015; Tonnesson, 2006). During this period, Britain also began to show interest in parts of the Spratly Island, not for direct occupation, but as potential intermediary stations for naval and aerial logistics (Tonnesson, 2001). Such actions reflected a “quasi-*Mare Clausum*” strategy (informal surveillance and indirect control that laid the early foundations for Britain’s later claims and maritime presence in the region) (Brook, 2015; Suarez, 2012). Thus, this era represented a balance between strategic necessity and economic pragmatism in the application of both maritime principles, signalling Britain’s transition from the ideal of open seas to a more controlled and regionally focused maritime policy (Verzijl et al., 1979; Nifterik & Nijman, 2009).

Table 1.2

British-Controlled Areas in the South China Sea (SCS) and the Application of Principles, 1930–1941

Area	Application of Principle
Spratly Island and Amboyna Cay (as cited in British hydrographic reports)	These areas were identified in colonial nautical charts although never formally claimed; such mapping helped construct a perception of effective control (an indirect <i>Mare Clausum</i> concept).
British Naval Reports before World War II	Mentioned the potential of Spratly and Itu Aba as logistical refuelling stations, indicating a temporary form of maritime control without formal sovereignty.

Post–World War II Era (1945–1975): Mare Clausum and Mare Liberum?

In the period leading up to and following the Second World War, coinciding with the decolonisation of Southeast Asian nations, Britain reinforced its maritime presence in the SCS through a reinterpretation of both *Mare Clausum* and *Mare Liberum*. The *Mare Clausum* principle was applied defensively to safeguard vital maritime routes, such as those between Hong Kong and Singapore, from Japanese and other external threats (Hayton, 2015). The presence of British naval forces in the SCS, as documented in hydrographic surveys and naval intelligence reports, demonstrated an indirect yet significant form of maritime control (Tonnesson, 2006; Wright, 1963).

Amboyna Cay, for example, was identified in several British colonial maps and referenced in navigational surveys as a strategic point within the SCS (CO 144/66. Labuan No. 21957; FO 881-5741; CO 273/565/12; CO 273/646/5). At the same time, Britain continued to uphold *Mare Liberum* diplomatically to ensure open navigation for all nations, particularly in response to emerging exclusive claims by powers such as Japan and later China. This dual posture indicates Britain’s attempt to preserve global freedom of navigation while maintaining control over strategic zones through military presence and maritime diplomacy (Grove, 2004; Tonnesson, 2001).

Such actions were substantiated through official documents, hydrographic charts, and postcolonial agreements that today serve as “supportive evidence” for certain modern

sovereignty claims by states such as Malaysia and Vietnam (Abdullah, 2023; Nifterik & Nijman, 2009). Hence, this era reflects how principles of maritime law were pragmatically reinterpreted and even manipulated to sustain British colonial and strategic interests within the evolving post-war geopolitical landscape.

Responses of Regional and Major Powers

The contest for dominance in the SCS was not limited to Britain but also involved other colonial and imperial actors such as France, Germany, and Japan. Each power pursued its own strategic and economic motivations, ultimately shaping a complex geopolitical environment whose legacy continues to influence the region today.

France and Germany

Through its control of Indochina (Vietnam, Laos, and Cambodia), France sought to strengthen its maritime foothold in the SCS in order to balance British influence in Borneo and Singapore (Becker, 2021; Tonnesson, 2006). From the 1880s onward, France conducted surveys of the Paracel and Spratly Islands, dispatching scientific expeditions and raising its flag on several strategic features (Becker, 2021). Although Britain did not respond with direct confrontation, French activity heightened London's strategic awareness of the need to secure trade routes linking the Indian Ocean with the SCS (Abdullah, 2023; Grove, 2004). Germany, meanwhile, demonstrated growing interest in the SCS toward the end of the nineteenth century through its presence in the Marshall Islands and the western Pacific (Scammell, 1980; Brook, 2015). While Germany did not occupy any island within the SCS, British diplomatic reports expressed concern over German activity that could potentially disrupt the colonial balance of power in Southeast Asia (Wright, 1963; Tonnesson, 2001). Within this context, Britain's efforts to fortify Labuan and Hong Kong can be interpreted as reactive geopolitical measures to counter European rivalry in the East (Grove, 2004; Hayton, 2015).

Japan

By the 1930s, Japan had emerged as the principal threat to British supremacy in the region. Following its victory in the Russo-Japanese War (1905), Japan expanded its influence across Southeast Asia with the objective of controlling a chain of strategic sea lanes stretching from Taiwan to Borneo. Recognising this growing threat, Britain began to plan the extended use of several features in the SCS, particularly the Spratly Island and Amboyna Cay, as refuelling stations for naval and air operations (Tonnesson, 2001; Grove, 2004).

On the eve of the Second World War, Royal Navy Intelligence reports indicated that many of the updated British hydrographic maps were produced primarily for defensive purposes. This strategic posture reveals that Britain no longer regarded the SCS merely as a zone of free navigation but rather as a maritime security buffer that required effective control. Such an approach marked a decisive shift from the idealism of *Mare Liberum* to a militarised interpretation of *Mare Clausum* (Verzijl et al., 1979; Nifterik & Nijman, 2009).

Implications for Post-Colonial Littoral States

The geopolitical and legal legacy left by Britain and other Western powers had a profound influence on the shaping of maritime boundaries and sovereignty claims among post-colonial states such as Malaysia, Vietnam, and the Philippines.

Malaysia: Inherited Documentation and Cartographic Legitimacy

As a former British colony, Malaysia inherited a wealth of colonial documentation, including hydrographic charts, sailing directions, and Admiralty navigation records that continues to carry evidentiary value in contemporary legal and diplomatic contexts. While Malaysia has not asserted sovereignty based explicitly on colonial historical rights, these technical records provide essential “supportive evidence” in defining its Exclusive Economic Zone (EEZ) and continental shelf boundaries. Malaysia’s cautious approach reflects a continuation of the *Mare Liberum* principle, balancing freedom of navigation with territorial sovereignty (Abdullah, 2023; Abdullah, Lai & De Silva, 2024).

Vietnam and the Philippines: Colonial Legacies and Historical Justifications

Vietnam, inheriting French colonial influence, relies on Indochinese documents to justify claims over large portions of the Spratly and Paracel Islands. The Philippines, as a former Spanish and later American colony, bases its assertions on the *doctrine of discovery* and the principle of *effective occupation* (Hayton, 2015). These cases demonstrate how colonial legacies continue to underpin the construction of modern maritime geopolitical identities in the SCS.

Relevance of the Principle of Effective Control

The concept of effective control (*effectivités*), first applied in British nineteenth-century policy, has become a cornerstone of modern maritime law. It emphasises that sovereignty rights are valid only when supported by tangible administrative acts such as settlement, flag-hoisting, or infrastructure development. Within the SCS, this concept forms the basis of ongoing debates over the legitimacy of island and reef occupations, particularly as China now employs a *Mare Clausum*-like approach to consolidate its physical control in the region.

Contemporary Implications

Continuity of Maritime Strategy in the South China Sea

The *Mare Clausum* and *Mare Liberum* principles applied by Britain during the colonial era have re-emerged in new forms within modern SCS disputes. China now employs historical justification and a doctrine of “closed-sea sovereignty,” resembling *Mare Clausum*, to claim almost the entire SCS based on the “nine-dash line” (Brook, 2015). Conversely, the United States and its allies advance the *Mare Liberum* principle to preserve freedom of navigation in international waters through Freedom of Navigation Operations (FONOPs).

According to Freund (2017), FONOPs are operations by U.S. naval and air forces that reinforce internationally recognised rights and freedoms by challenging excessive maritime claims that contravene the UNCLOS. They serve as both a diplomatic and operational instrument to reject unlawful restrictions, such as the requirement for prior notification or authorisation for innocent passage and to affirm the principle that the SCS constitutes part of the global commons. Freund emphasises that these operations are conducted impartially against all states, friend and foe alike, to prevent any single nation from altering customary international law through persistent illegal claims. Between 2015 and 2017, five major FONOPs were carried out by U.S. Navy destroyers such as the USS Lassen, USS Curtis Wilbur, and USS Decatur, each designed to contest different forms of “excessive maritime claims,” including illegal territorial seas and straight baseline assertions around the Paracel and Spratly Islands (Freund, 2017). These operations reflect a deliberate effort to safeguard navigational

rights under the “*Mare Liberum doctrine*” and maintain an open maritime order in Asia. In this context, the ongoing power rivalry in the SCS can be regarded as a “continuation of colonial history in a new form,” where principles originally advanced by Grotius and Selden are re-invoked to legitimise twenty-first-century geopolitical strategies. For ASEAN states, including Malaysia, the primary challenge lies in balancing national sovereignty and regional stability while ensuring that freedom of navigation, a cornerstone of global trade remains protected within the evolving strategic landscape.

Influence on International Maritime Law and UNCLOS

Britain’s synthesis of *Mare Clausum* and *Mare Liberum* provided the conceptual foundation for the development of the UNCLOS in 1982. Article 56 of UNCLOS, which grants sovereign rights over the Exclusive Economic Zone (EEZ), reflects the spirit of *Mare Clausum*, while Article 87, which reaffirms the freedom of the high seas, demonstrates the continuity of *Mare Liberum*. The provisions on *innocent passage* under Articles 17–19 serve as a compromise between these two doctrines. In other words, UNCLOS represents a modern codification of the balance between state rights and international interests, a balance that Britain had long practised within its colonial maritime governance in Southeast Asia.

Lessons and Contemporary Policy Implications for Malaysia

For Malaysia, understanding the legacy of British maritime strategy is essential not only to strengthen its position in maritime negotiations but also to shape academic and diplomatic narratives concerning legitimate occupation and sovereignty over the Gugusan Semarang Peninjau (GSP) in the SCS. Ongoing hydrographic research, the publication of colonial maps, and the retrieval of archival documents from the United Kingdom should be intensified as “supportive historical evidence” reinforcing Malaysia’s legitimate presence in these territories. Furthermore, Malaysia can leverage this colonial legacy within the framework of its Blue Economy Policy by integrating historical, security, and sustainable development dimensions. The SCS should be viewed not merely as a zone of conflict but as a platform for regional cooperation in biodiversity research, conservation, and maritime diplomacy grounded in international law.

Impact on the Littoral States of the South China Sea

The littoral states of the SCS such as Malaysia, Vietnam, and the Philippines face direct consequences of maritime boundaries and geopolitical constructs inherited from the colonial era. Malaysia, as a former British colony, inherited numerous technical records, including hydrographic maps, sailing directions, and navigational charts produced by colonial administrations. Although Malaysia has not formally asserted sovereignty over the SCS based on colonial precedent, these technical artefacts remain valuable “supportive evidence” underpinning the legal dimension of its maritime presence.

In the regional context, Vietnam and the Philippines continue to reinforce their claims through historical narratives, whether by invoking pre-colonial authority, colonial inheritance (as in the French legacy for Vietnam), or doctrines such as discovery and effective occupation developed in post-colonial frameworks. All these claims, however, exist within a landscape still overshadowed by historical ambiguities and unresolved geopolitical boundaries. The consequences are evident in issues of sovereignty, economic exploitation, and regional security. Overlapping EEZs, the extraction of hydrocarbon resources by foreign corporations,

and China's increasing military presence, reflecting a *quasi-Mare Clausum* approach, illustrate how unresolved colonial legacies have evolved into complex contemporary conflicts. Consequently, littoral states must navigate the delicate balance between protecting maritime rights, pursuing economic development, and sustaining diplomatic cooperation for regional stability.

Conclusion

This article has demonstrated that Britain's approach to the SCS from 1600 to 1975 was not merely an exercise in colonial economic or military expansion but was fundamentally guided by international legal justification through the concepts of *Mare Clausum* and *Mare Liberum*. The British pragmatically employed both principles according to their strategic needs, invoking *Mare Liberum* to promote freedom of navigation during the early phase of influence and applying *Mare Clausum* to assert exclusive control once their regional presence had been firmly established. The implications of these policies continue to resonate within contemporary maritime conflicts. Disputes over the Spratly Islands, for instance, and ongoing debates surrounding freedom of navigation involving major powers such as China and the United States, are partly shaped by the inherited legal frameworks and maritime strategies of the colonial era, frameworks that remain ambiguous and are frequently subject to political reinterpretation and manipulation.

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References

- Abdullah, A. A., Lai, Y. M., & De Silva, M. (2024). Sumber Sejarah Sebagai "Supportive Evidence" dalam Pendudukan Malaysia di Gugusan Semarang Peninjau (GSP), Laut China Selatan (LCS). *MANU*. Bil. 35 (2), XXX-XXX, 2024 (Disember). DOI: <https://doi.org/10.51200/manu.v35i2.5766>.
- Abdullah, A. A. (2023). *Keberadaan dan Penglibatan Kuasa-Kuasa Barat di Laut China Selatan, 1600–1975* [Doctoral thesis, Universiti Malaysia Sabah]. Faculty of Social Sciences and Humanities, Universiti Malaysia Sabah, Kota Kinabalu.
- Acharya, A. (2014). *Rethinking power, institutions and ideas in world politics: Whose IR?* Routledge.
- Adrianto, L., & Bengen, D. G. (2020). Traditional knowledge and the origin of maritime territorialisation in Indonesia. *Jurnal Maritime International & Coastal Issues*. 12(3). 201–217. <https://jmic.online/issues/v12n3/20>.
- Becker, B. (2021). *France and Germany in the South China Sea, c. 1840–1930: Maritime Competition and Imperial Power*. Switzerland: Springer Nature Switzerland AG.
- Borschberg, P. (2011). *Hugo Grotius, the Portuguese and Free Trade in the East Indies*. Singapore & Leiden: Singapore University Press and KITLV Press.
- Buszynski, L. (2019). Introduction: The development of the South China Sea dispute. In L. Buszynski & D. T. Hai (Eds.). *The South China Sea: From a regional maritime dispute to geo-strategic competition*. Routledge.

- Brook, T. (2015). *Mr Selden's Map of China: The Spice Trade, a Lost Chart and the South China Sea*. United Kingdom: Profile Books Ltd.
- Chakrabarty, D. (2021). *The climate of history in a planetary age*. University of Chicago Press. CO 144/66 Labuan No. 21957. Sprattley Island & Amboyna Cay, Memo on the intention of the Central Borneo Co. to exploit Guano there from. CO 273/565/12. Spratly or Storm Island, 1930-1931. CO 273/646/5. Strategical Importance of certain island in the South China Sea in the group including Itu Aba, Thi Tu and Sprattley.
- Desierto, D. A. (2015). Postcolonial international law discourses on regionalism in South and Southeast Asia. *International Journal of Legal Information*. 43 (2). 141–163. <https://scholarship.law.cornell.edu/ijli/vol43/iss2/3>.
- Evers, H. D. (2017). *Nusantara Malaysia dan Geopolitik Laut China Selatan* (Trans.). Bangi: UKM Press.
- Freund, E. (2017). *Freedom of navigation in the South China Sea: A practical guide*. Belfer Center for Science and International Affairs: Harvard Kennedy School. <https://www.belfercenter.org/>.
- Grove, E. (2004). *The Century of the China Station: The Royal Navy in Chinese Waters, 1842–1942*. In Harding, R., Jarvis, A., & Kennerley, A. (Eds.), *British Ships in China Seas: 1700 to the Present Day*. United Kingdom: National Museums Liverpool.
- Hayton, B. (2015). *The South China Sea: The Struggle for Power in Asia*. New Haven: Yale University Press.
- Lindgren, S. (2015). A station in transition: The China Squadron, Cyprian Bridge and the first-class cruiser, 1901–1904. *International Journal of Maritime History*. <https://doi.org/10.1177/0843871415590110>
- Meurer, C. (1919). *The Program of the Freedom of the Sea: A Political Study in International Law* (Trans.). Washington: Government Printing Office.
- Nifterik, G. V., & Nijman, J. E. (2009). *The Law of the Sea in Historical Perspective*. Cambridge: Cambridge University Press.
- Scammell, G. V. (1980). *The World Encompassed: The First European Maritime Empires c. 800–1650*. London: Methuen.
- Suarez, T. (2012). *Early Mapping of Southeast Asia*. Singapore: Tuttle Publishing.
- Tonnesson, S. (2001). *An International History of the Dispute in the South China Sea*. EAI Working Paper No. 71. Singapore: East Asian Institute.
- Tonnesson, S. (2005). Locating the South China Sea. In Kratoska, P. H., Raben, R., & Nordholt, H. S. (Eds.), *Locating Southeast Asia: Geographies of Knowledge and Politics of Space*. Singapore: National University of Singapore Press.
- Tonnesson, S. (2006). The South China Sea in the age of European decline. *Modern Asian Studies*, 40(1), 111–142. United Kingdom: Cambridge University Press.
- United Nations Convention on the Law of the Sea (UNCLOS). (1982). Retrieved from <https://www.un.org>
- Verzijl, J. H. W., Heere, W. P., & Offerhaus, J. P. S. (1979). *International Law in Historical Perspective*. Leiden: A. W. Sijthoff.
- Wright, L. R. (1963). *British Policy in the South China Sea Area with Special Reference to Sarawak, Brunei and North Borneo, 1860–1888* [Doctoral thesis, University of London].
- Zou, K. (2020). The historical logic of China's maritime sovereignty claims. *Ocean Development & International Law*. 51(3), 201–219.