Evaluating the role of the PCA in resolving the South China Sea dispute: A review within the framework of SDG 16

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Abstract. This study aims to initiate the role of the Permanent Court of Arbitration (PCA) in resolving the South China Sea dispute, particularly through the 2016 ruling between the Philippines and China under Annex VII of the UNCLOS. The ruling is legally binding, but China's rejection demonstrates the limited effectiveness of international arbitration mechanisms in dealing with major state actors. This condition is a real challenge for achieving the Sustainable Development Goals (SDGs), especially SDG 16, which emphasizes the importance of the rule of law and strengthening effective and inclusive settlement institutions at the global level. This study uses normative legal methods with a regulatory approach, conceptualization, and case studies. Data were obtained from international legal documents such as UNCLOS 1982, the UN Charter, PCA rulings, and related academic literature. The results of this study reveals that the legal finality of the PCA is procedural but has weaknesses in the form of law enforcement. Therefore, there is an urgent need for institutional reform of international arbitration integrated with the sustainable development agenda through SDG 16 as an evaluative framework.

1 Introduction

The United Nations Convention on the Law of the Sea (UNCLOS) 1982 provides a comprehensive international legal basis for regulating the rights and obligations of states in maritime areas. When a dispute occurs, UNCLOS gives states the freedom to choose a peaceful means of resolving it. Article 287 of UNCLOS shows the flexibility in dispute resolution that UNCLOS gives to states in choosing a settlement forum, such as the International Tribunal for the Law of the Sea (ITLOS), International Court of Justice (ICJ), or arbitration based on Annexes VII and VIII. If a state does not explicitly determine its choice, the arbitration mechanism of Annex VII automatically applies, referring to the provisions of Article 287 paragraphs (3) and (5).

One of the disputes that proceeds through standard mechanisms because the country does not specify a choice, or the parties do not agree on the same forum as regulated in Article 287 paragraphs (3) and (5), is the South China Sea dispute between the Philippines and China. In

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the lawsuit filed by the Philippines through arbitration, as regulated in Annex VII of UNCLOS, the Permanent Court of Arbitration (PCA) in 2016 stated that China's historical claim through the "Nine-Dash Line" has no legal basis under UNCLOS [1]. Although the decision is final and binding, the Chinese Government has firmly stated that it does not recognise the jurisdiction of the PCA and rejects the outcome of the decision. This stance is emphasised in the "White Paper" (The State Council of the People's Republic of China, 2016) submitted by the Chinese Government on July 12, 2016, that "China does not accept any means of dispute settlement imposed on it."

China's rejection of arbitration awards shows serious limitations in the effectiveness of international dispute resolution mechanisms, especially when dealing with powerful countries with strategic geopolitical interests. This condition presents a real challenge for achieving the Sustainable Development Goals (SDGs), especially SDG 16, which emphasises the importance of peaceful dispute resolution (indicator 16.3), reducing violence and potential conflict (indicator 16.1), and strengthening international institutions (indicators 16.6 and 16. a).

Given the complexity of law and politics, evaluating the effectiveness of the PCA and UNCLOS mechanisms is important in assessing the role of international law in maintaining peace and sustainable global governance. Through this description, this study presents interdisciplinary novelty by partially integrating two areas that have so far been studied separately: international law (especially the UNCLOS dispute resolution mechanism) and the sustainable development agenda (SDG 16 indicators).

Therefore, the purpose of this study is to evaluate the role and effectiveness of the PCA in resolving the South China Sea dispute, especially in the context of the 2016 arbitral award between the Philippines and China, based on Annex VII of UNCLOS. This study seeks to examine the extent to which the award can contribute to the achievement of SDG 16, with a focus on access to justice, effective institutions, and strengthening the capacity of international institutions. In addition, this study aims to identify the structural and political obstacles that hinder the implementation of arbitral awards.

2 Methods

This research takes a normative legal approach, focusing on analyzing international legal instruments relevant to resolving maritime disputes, with a particular focus on UNCLOS 1982. This normative approach is supported by a descriptive approach, which illustrates the geopolitical dynamics that influence the implementation of international legal norms in the South China Sea region.

There are two main components. To begin with, a normative examination of Article 287 and Annex VII of UNCLOS was carried out to gain a thorough understanding of the framework for peaceful dispute resolution and to identify the challenges associated with its implementation, particularly in cases involving geopolitically influential states.

Subsequently, a case study was conducted on 2016 PCA Award concerning the dispute between the Philippines and China. The analysis aimed to thoroughly evaluate the practical effectiveness of the arbitral award, as well as explore the legal and political risks that may arise from refusing to implement the PCA Award in the disputed area. Using this combined methodology, this study aims to promote a comprehensive understanding of the relationship between international law, geopolitical considerations, and global governance in line with the goals of SDG 16.

3 Result and discussion

3.1 Critical review to the PCA award on South China sea dispute

Arbitration is an international settlement forum based on the principle of agreement of the parties to submit the problem to a neutral third party, namely the arbitrator. In the context of public international law, this mechanism is known as binding arbitration, which distinguishes it from non-adjudicative settlements such as mediation or negotiation, which are more flexible and not legally binding. The submission of the case to the arbitration forum is stated in an agreement known as a "compromise," which aligns the composition of the arbitrators, the selection procedure, the place of the hearing, and the substantive and procedural limitations in the settlement process.

One of the main strengths of international arbitration is its substantial procedural flexibility, including the appointment of arbitrators. The parties are free to select tribunal members who do not necessarily have a formal legal background but may also come from technocratic circles such as engineers, economists, or policy experts. This approach allows for adaptation to the technical characteristics of a dispute.

Within the framework of international maritime law, UNCLOS 1982 places arbitration is one of the primary dispute settlement mechanisms, as stipulated in Article 287, which allows state parties to choose one of four forums for settlement: ITLOS, ICJ, Arbitration under Annex VII, or a Special Arbitration under Annex VIII. If a state does not explicitly express its preference under Article 287, paragraphs (3) and (5), arbitration under Annex VII shall apply by default. This provision affirms the strategic position of arbitration as a standard mechanism within the international law of the sea regime.

The Permanent Court of Arbitration (PCA) serves as the principal facilitator of arbitration under Annex VII of the UNCLOS. Although not part of the United Nations structure, the PCA possesses historical and procedural legitimacy as a neutral forum for the settlement of international disputes involving states, international organisations, and non-state actors. [2,3]. The PCA conducts arbitration proceedings through administrative support, procedural arrangements, and rosters of arbitrators. The procedures are generally flexible and determined by an agreement between the parties with reference to the UNCITRAL Arbitration Rules and the General Act of 1928.

Nevertheless, the institutional design of the PCA and arbitration system under UNCLOS contains a normative paradox. Arbitral awards are final and legally binding, as stipulated in Article 296 of the UNCLOS; however, they are not accompanied by any operational enforcement mechanism. The system relies entirely on the good faith of the parties without any sanctions or coercive measures against parties that reject the award.

This weakness is evident in the South China Sea dispute. In 2016, the PCA issued a ruling declaring that China's claim to the 'Nine-Dash Line' had no legal basis under UNCLOS. However, in an official White Paper released on July 12, 2016,[4] China rejected the jurisdiction of the PCA and asserted that the dispute should be resolved bilaterally. It also stated that sovereignty issues could not be settled through international arbitration and affirmed that international law does not apply to claims based on historical rights.

This action by China reflects an inconsistency with the principle of *pacta sunt servanda*, namely, the obligation to implement international agreements that have been accepted. As a state party to the UNCLOS since 1996 [5], China is bound by Article 287(3), which states that Annex VII Arbitration applies automatically if no forum has been chosen. Not only does China's claim of exemption based on sovereignty and historical grounds contravene the agreement, it also opens the door to the exploitation of the structural weaknesses of UNCLOS.

As noted by Stefan Talmon [6], in the South China Sea dispute, the concept of the finality of arbitration is in fact substantive rather than merely procedural. Within this framework, *final and binding* become illusory when they are not accompanied by political recognition or enforcement. Talmon argues: "In other words, a 'final award' is the last award rendered on the issues in dispute between the parties; it is not necessarily the last word on the legal questions at issue." This view expresses scepticism regarding the normative effectiveness of arbitration when facing major state actors such as China, which refuses to accept both the forum and the resulting decision.

The finality of international arbitral awards is indeed a principle upheld in international law, although not absolute. In precedents, such as *Guinea-Bissau v. Senegal* [7], the International Court of Justice, opened a narrow window for reviewing arbitral awards under exceptional circumstances. The Court stated: "In this respect the Court would emphasize that, as the Parties were both agreed, these proceedings allege the inexistence and nullity of the Award rendered by the Arbitration Tribunal and are not by way of appeal from it or application for revision of it." This means that the Court does not provide for a full right of appeal but allows limited review, for instance, in cases of *exces de pouvoir* when an arbitral body exceeds the authority granted to it. In principle, the authority of arbitrators is limited to what is provided by the parties in the arbitration agreement (*acta compromise*). When an arbitral body fails to adhere to these limits, it exceeds jurisdiction.

Based on the above explanation, the main weakness of the international arbitration system lies not only in procedure, but also in the absence of enforcement power, value impartiality, and the gap between norms and power. This underscores that reform is needed not merely to improve legal technicalities, but to ensure that arbitration operates within a framework of substantive justice and supports the ideals of SDG 16, particularly indicators 16.3 (peaceful dispute resolution and access to justice) and 16.6 (effective and accountable institutions).

The situation reflected in China's response to the PCA ruling shows that the effectiveness of international dispute resolution bodies cannot be separated from their political context and global power structures. When legally binding international norms are not accompanied by a commitment to compliance, a gap arises between legality and reality, which threatens the legitimacy of the dispute resolution system. Therefore, further examination is necessary of how this system functions in practice, particularly through analysis of the 2016 PCA Award in the case of the Philippines versus China. This case study provides empirical evidence of the structural and political issues previously discussed, and serves as a point of entry for evaluating the effectiveness of the UNCLOS arbitration system in ensuring fair, peaceful, and sustainable dispute resolution.

3.2 Evaluation of the PCA with respect to SDG 16

One of the key indicators of the effectiveness of the international legal system is the extent to which dispute resolution mechanisms contribute to the goals of peaceful, inclusive, and rule-based global governance. This is reflected in Sustainable Development Goal (SDG) 16, particularly indicator 16.3 (promoting the rule of law and access to justice), 16.6 (building effective, accountable, and transparent institutions), and 16.a (strengthening the institutional capacity to prevent violence and promoting the rule of law).

The evaluation of international arbitration mechanisms, particularly through the Permanent Court of Arbitration (PCA) and Annex VII of UNCLOS, must be conducted with reference to their direct contribution to these indicators. However, the South China Sea case demonstrates that the effectiveness of international arbitration institutions remains normative, not transformative.

The 2016 PCA award legally provided a legitimate means of peaceful resolution to the Philippines to challenge China's unilateral claims. However, when the award was rejected

and not implemented by the losing party, access to justice became nothing more than a procedural symbol. This reinforces the argument of Thomas M. Franck [8], that in an international system with minimal coercive power, compliance with rules depends more on the legitimacy of the process and its content. When "the black holes in the normative fabric" occur, it may be due to "a lack of legitimacy in the rules and the institutional processes by which they are made, interpreted and applied." This is reflected in China's rejection of the 2016 PCA award, which, although legally valid, failed to achieve effectiveness because of a lack of compliance.

In this case, the existence of an arbitral forum was indeed present, but the access to justice referred to in SDG 16.3 does not merely require procedure but also outcomes that are accessible, respected, and implemented. When major powers do not respect tribunal decisions, access to justice becomes unequal and smaller states lose their legal bargaining power.

Effective institutions do not merely imply the existence of entities but their ability to ensure the implementation of their decisions. In the legal and development literature, institutional effectiveness is assessed through output legitimacy (tangible results) and compliance capacity (the ability to promote compliance), as formulated by Fukuyama [9] in State-Building: Governance and World Order in the 21st century.

In this regard, the PCA does not possess the authority or instruments to ensure that awards are enforced. The absence of a compliance review mechanism or international sanctions for noncompliance renders institutions highly vulnerable to extra-legal political dominance. Therefore, although the PCA may fulfil administrative criteria as an arbitral institution, in terms of SDG 16.6, it fails to reflect substantively effective and accountable institutional practice.

International arbitration is intended to be part of strengthening global capacity to promote peaceful resolution and the rule of law. However, as noted by Czepelak and Adams, arbitration mechanisms risk being used as instruments of private power between states if not governed by universal values such as substantive justice and legal equality.

The absence of corrective instruments for violations of arbitral awards, as seen in the case of China, demonstrates that global institutional capacity remains limited in the face of dominant state power. In line with the critique of Martti Koskenniemi [10], structurally weak international law, marked by indeterminacy, risks becoming a rhetorical tool for powerful states rather than a constraint on power.

Table 1. Evaluation of the PCA with Respect to SDG 16 Indicators

SDG 16 Indicators	Evaluation Target	Evalution Findings	Status
16.3	Peaceful dispute settlement and access to justice	A forum for adjudication was established and a binding decision was rendered, although it has not been recognised or respected by the non-compliant party.	Weak
16.6	Effective and accountable institutions	The PCA does not possess any independent enforcement powers or sanctioning mechanisms to ensure compliance with its rulings.	Unfulfilled
16.a	Strengthen relevant institutions capacities	The institution has no means of forcing major powers that choose to ignore its decisions to comply.	Fail

Through an evaluative approach based on SDG 16, it can be concluded that although PCA plays an important normative role in the peaceful resolution of international disputes, its contribution to the development of a just and effective global institutional framework remains very limited. The absence of enforcement mechanisms, dominance of major state actors, and

lack of corrective systems render international arbitration at risk of becoming a formal procedure without substantive power. In addition, institutional restructuring should be focused on establishing robust compliance systems that are integrated with UN bodies like the Security Council. Furthermore, it is crucial to enhance international collaboration to ensure state accountability. Without this transformative mechanism, international arbitration is still at risk of being merely a legal procedure with no significant power. This means that SDG 16 for peace, justice and strong institutions will still face significant challenges.

The critical reflection above opens up opportunities for further research. The evaluation framework, which is based on SDG 16 indicators were developed in this study, is currently limited to the context of the South China Sea dispute. It has not yet been validated in other cases. Therefore, future studies are encouraged to test the relevance and effectiveness of this framework in disputes with different characteristics. The findings would be made more generalisable and the interdisciplinary literature at the intersection of international law and sustainable development would be enriched if this were done. Furthermore, conceptual recommendations for institutional reform, such as integrating the PCA with the UN General Assembly or Security Council and developing sanctions mechanisms, require more in-depth analysis of operational implementation and the political dynamics of international relations influencing their feasibility and acceptance.

4 Conclusion

Based on a normative analysis of the 2016 ruling by the Permanent Court of Arbitration (PCA) in the South China Sea dispute and an evaluation of the Sustainable Development Goal (SDG) 16 framework, this study concludes that the effectiveness of international arbitration mechanisms under UNCLOS faces significant structural challenges, particularly when confronted with noncompliance by major powers with dominant geopolitical characteristics.

The analysis confirms that although PCA, through the mandate of Annex VII of UNCLOS, provides a procedurally legitimate forum for dispute resolution and issues final and binding awards, such formal legal validity does not guarantee effective implementation. China's outright rejection of the ruling and jurisdiction of the PCA, based on considerations of sovereignty and historical claims, reveals a gap between legality and political reality in the governance of international maritime law. The current system's inability to ensure compliance due to the absence of adequate enforcement instruments and its reliance on good faith fundamentally undermines the capacity of international arbitration as a peaceful, equitable, and just means of dispute settlement. The implications for achieving SDG 16 are critical: unresolved noncompliance undermines the rule of law (indicator 16.3), weakens the legitimacy and accountability of international institutions (indicator 16.6), and hampers efforts to strengthen the global institutional capacity to prevent conflict and promote justice (indicator 16.a).

Therefore, this study highlights the urgent need for substantial systemic reform to improve the contribution of arbitral bodies, such as the PCA, to global governance. This reform should prioritise developing more robust and effective compliance mechanisms, integrating arbitral institutions with UN enforcement bodies such as the General Assembly and the Security Council, and strengthening international cooperation networks to promote greater accountability among state parties. Without such transformative efforts, the aspirations of SDG 16 to foster peace, justice, and strong institutions will continue to face significant challenges, and international arbitration risks remaining caught in a normative paradox.

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