

Disruptive Technology and the Law of Naval Warfare

by James KRASKA and Raul PEDROZO. New York: Oxford University Press, 2022. x + 314 pp. Hardcover: \$99.00/£64.00. doi: 10.1093/oso/9780197630181.001.0001

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Rapid technological advances are transforming our way of life and causing disruptions to it, drawing extensive research and policy debate into their legal and ethical implications. The maritime domain is not an exception to this phenomenon. Indeed, there is a rich history of technological innovations that have transformed humanity's relationship with the sea. Nonetheless, these legal and ethical considerations have given far less attention to the impact of technological developments on maritime affairs—a gap that James Kraska and Raul (Pete) Pedrozo, two highly qualified experts on the law of the sea and naval warfare, are ready to fill with their masterly expositions, as presented in this latest book.

Rich in historical perspective, this book traces how technological innovations have transformed the way in which naval operations are conducted and international law subsequently developed to regulate the conduct of hostilities in the maritime domain. This focus is of particular significance to the Asia-Pacific, where major conflicts are, as Kraska and Pedrozo posit, “more likely to occur from the sea than on land territory” (p. 12). International law plays a significant role not only to regulate the conduct of maritime hostilities engaged between great powers, but also as the legal regime governing the relationship between neutral third states and belligerent parties. The latter regime determines the rights and obligations of neutral states and their nationals engaged in shipping business, which Kraska and Pedrozo unravel with historical and contemporary examples and explain how these rules apply to merchant ships, including those turned into maritime militia.

Modern technological developments are also instrument to the introduction of new capabilities that challenge or defy the application of existing rules of international law. For example, what is the legal status of unmanned maritime vessels under the law of the sea? Are they accorded the status of warship or considered as weapons like naval mines? Are they entitled to navigational freedom and, upon capture by foreign entities, to sovereign immunity? Is it lawful to employ autonomous submarines that carry a nuclear warhead designed to detonate at the coastline to generate a tsunami powerful enough to destroy enemy port cities and naval bases? Kraska and Pedrozo expertly address many of these challenging legal questions by carefully navigating relevant legal frameworks and illuminating different legal positions among states.

What distinguishes this book most from other titles in the field is the recognition that modern naval forces must meet legal challenges beyond what arises in the maritime domain alone. Technological advances are disrupting the traditional boundaries of law by creating a dynamic and distributed operational environment, which interconnects the oceans with land, air, outer space and cyberspace. This changing character of war necessarily makes choice of law decisions harder between the law of armed conflict and the law of naval warfare, neutrality law, and peacetime regimes that apply to different domains. The prescient perspective offered by Kraska and Pedrozo is essential to understand how international law plays its role for future naval warfare engaged in the networked environment.

Competing interests. The author is a senior fellow with the Stockton Center for International Law (SCIL), at the U.S. Naval War College, Newport, Rhode Island. James Kraska is chair and *Charles H. Stockton Professor* of International Maritime Law, and Raul Pedrozo is the *Howard S. Levie Professor* of the Law of Armed Conflict at SCIL.

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China's Treaty Policy and Practice in International Investment Law and Arbitration: A Comparative and Analytical Study

by **G. Matteo VACCARO-INCISA.**

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Most international dispute resolution practitioners today are aware of China's increasingly prominent role as a user of international arbitration. Indeed, China's earlier hesitancy to endorse investment treaty claims by Chinese entities now seems to have come to a definitive end. Chinese investors have brought at least seven investment treaty claims since the beginning of 2020.¹ This two-and-a-half year flurry compares starkly to the previous 13 years during which Chinese investors brought their first seven investment treaty claims.² Perhaps expecting a reciprocated appetite among foreign investors, the Chinese Government announced in January 2022 the appointment of 15 panel law firms to act on its treaty disputes.³ In the same month, the Beijing Arbitration Commission unveiled its panel of over 100 arbitrators and code of conduct for international investment disputes.⁴

In light of these developments, Vaccaro-Incisa's comparative and analytical study of China's various model investment treaties alongside 120 international investment treaties concluded by China has proved prescient. The book provides an engaging and helpful historical, political, and socioeconomic view on China's attitudes towards foreign direct investment (Chapter 1). It also critically engages with past literature and provides, for

¹ See *Huawei v. Sweden* (ICSID Case No. ARB/22/2); *Qiong Ye and Jianping Yang v. Cambodia* (ICSID Case No. ARB/21/42); *Alpene v. Malta* (ICSID Case No. ARB/21/36); *Fengzhen Min v. Korea* (ICSID Case No. ARB/20/26); *Wang Jiazhu v. Finland* (UNCITRAL, 2021); *Beijing Everyway Traffic and Lighting Co Ltd v. Republic of Ghana* (UNCITRAL, 2021); and, *Wang & ors v. Ukraine* (Permanent Court of Arbitration, 2020).

² See *Jetion and T-Hertz v. Greece* (UNCITRAL, 2019); *Zhongshan Fucheng Industrial Investment v. Nigeria* (UNCITRAL, 2018); *Sanum Investments v. Laos* (ICSID Case No. ADHOC/17/1); *Beijing Urban Construction v. Yemen* (ICSID Case No. ARB/14/30); *Ping An Life Insurance v. Belgium* (ICSID Case No. ARB/12/29); *Beijing Shougang & ors v. Mongolia* (PCA Case No. 2010-20); and, *Tza Yap Shum v. Peru* (ICSID Case No. ARB/07/6).

³ "Panel of Chinese law firms to advise state on treaty disputes" *Global Arbitration Review* (20 January 2022), online: *Global Arbitration Review* <https://globalarbitrationreview.com/article/panel-of-chinese-law-firms-advise-state-treaty-disputes>.

⁴ "Beijing centre gears up for investment disputes" *Global Arbitration Review* (9 February 2022), online: *Global Arbitration Review* <https://globalarbitrationreview.com/article/beijing-centre-gears-investment-disputes>.