

Pincer Maneuver: Legality of China's Economic Measures towards India

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Abstract

China today has an enormously massive and diverse industrial sector which cemented its role as the world's factory. This status is mainly borne from cheap, plentiful and capable workforce that given by the size of its population. Increasingly belligerent stances taken by the Chinese Communist Party (CCP) in combination with myriad of other factors have led industries to slowly move their production elsewhere. The alternative, in form of China's nemesis, India which has started to woo manufacturer to do business with them as a more competitive and open market in combination with the abundance of cheap and capable workforce. China in realizing this move are now exposed to the existential problem of power. With the wealth accumulated, China has started curbing the effect of the relocation of its manufacturing sectors to India. Initiatives and program that they create have strangely unaffected India in its efforts to enter into the global manufacturing and distribution system. The paper aims at answering the question on the legality of China's economic measures toward India from the perspective of the existing international law. This normative legal research relies on primary and secondary sources. The study found that the mentioned economic measures are in line with the applicable international law.

Keywords: belt and road initiative; China; future manufacture; India; Maneuver; trade routes

1. Introduction

People's Republic of China, a nation of 1,4 billion widely regarded as the "world's factory". This title is not without its reason, as if one may look at what one may have in one's hand at a given time, there is a high chance of the item to be of Chinese origin. This has not been the case just 40 years ago before the 1980s, China at that time has very little to no contact and diplomacy abroad (Gittings, 2018).

The world's view on the value of Chinese manufacture can be looked since long times ago, records has shown trade connection between the east and the west as early as the antiquities, and in the roman times, where trade between both Romans and the Chinese is extensively well documented where the trade between both empires gave rise to the old Silk Road that connects the east and the west that continued for millennia (Rippa, 2020), and the importance of the said routes both is very important and history-shaping as the routes gave rise and fall to various empires along the ages, but China remain as the destination with commodities that the west desired; spices of generous stock and varieties, silk, gold and porcelain; before the European stolen and mastered the trades of fine porcelainware from

China, the finest porcelain was produced in China, which given way to the name of fine porcelain in the west as "China" is colloquial to fine porcelainware. Such commodities that has been stated historically cannot be produced in the west, arising of the inability to create because of natural of trade secrecy, such scarcity has made said commodities to be desirable in the west where the trade between both region has been historically marred with enormous trade deficits by the west, as China only traded with silver coins, this seemingly petty and inconsequential policies were what shaped the history of the times -- the Portuguese and then the Spanish search for better routes to the east gave rise to the age of empires, the founding of America and the birth of the modern republics thereafter and the subsequent silver rush to fill the coffers of various European empires at the time to fill various need and to close the gap of trade deficits with China, and the finding of said routes also led to the ottomans--the "sickman of Europe" and their long and winding downfall, in short, the trade routes, who, where and how controls the route gave rise to the world and history that we know and learn today (Van Steen, 2017).

The west and the east developed separately over the ages, as the west had their renaissance, the industrial revolution, and the age of empires, in the end had catch up with the Chinese that had been resting on their laurels, and in the early 19th century, China has lost the edge of their technological and trade superiorities and the subsequent century of humiliation thereof that made them bow to the will of the western nations, and the once desirable goods productions had been moved elsewhere, and comes with greater quantities and of better qualities, although China still had one trick up their sleeves, their enormous population (Kroeber, 2020).

Starting from the 1980s onward, China's growth can only be said as astonishing, with yearly GDP growth on double digits from the early 90s to somewhere around the 2010s. As early as the 80s, China was behind Italy in the seventh place in terms manufactured goods output, but currently overtook the US in 2011 (Eloot et al, 2013). China can now produce by orders, high-speed trains, robots, bridges highway, down to the smallest things, subatomic even, computer microprocessors. This diverse sets of industries translates to general increase in wealth and welfare of the Chinese populace, to give some perspective compared to some 40 years ago, per capita income of a Chinese was only 1/3 of a sub-Saharan African. Today, by every measures, China has entered a comfortably middle income society.

Although in recent years, sets of challenges looms towards China, the main advantage that China has, the cheap labor pool, are becoming less and less true as day goes by, as a matter of fact, manufacturing in China is not as cheap as it is used to be and erodes its competitiveness (Ceglowski and Golub, 2012). In combination with the waning of the labor competitiveness in terms of cost, recently, investors grew wary of doing business within China, unstable geopolitical situation, various allegation of industrial espionage, imbalance in trade deals for investors and the loss regulation incentives and advantage that it used to have been forcing manufacturers out of China

India, therefore, as the world seeks for cheaper alternative, has come up to the table. India, a nation of 1,2 billion strong and is thought to surpass China in the near future in terms of population, are bidding to take the title for the world's factory from China, a historically two very important civilizations, where both have influenced each other culturally and intellectually for millennia, and both a very prosperous and very influential culture not only in the region but globally far before the modern history as some of the most important inventions and knowledge that has changed the course of humanity was sprung up back and

forth between the two civilization, but in the present times, some things have changed, as today, these titans is in their early days of battle for trade control and on how it will have collateral effects their neighbors and the region (Kc et al, 2018). Historically, India also has commodities that is in very much was on demand in the rest of the old world, similarly to China in repeat of previous discussion (Eacott, 2016).

In addition on being a cheaper alternative, being a more enticing alternative for manufacturing, India have continuously in similar move to China accumulated wealth and in covet of better influence in the greater region. Unfortunately, India in this race as a result of its 20th century economic performance in addition to its domestic and foreign policy that has been focusing on other sectors has resulted in the country being surrounded by neighboring countries influenced by China in various degree of influence. India, therefore, in light of its burgeoning economic prowess start to counter and maneuver over this encroaching influence. Therefore, seeing the encroachment of China in the region, this research is answering on the question of what sort of maneuver has India made in countering China and its influence, and are said maneuver and measures legal in the current regime of public international law?

2. Method

In answering the inquires as laid above, a normative legal research method was used in which it is legal research method conducted by evaluating secondary sources or library materials. Also a statutory approach in this research was also observed, in which the research highlights some legislation or regulation as the basis for conducting the research related to the issues. The research in addition also collected data by library research, by focusing and analyzing primary and secondary materials, be it legal dictionaries, textbooks, articles, and journals. Examples of secondary legal materials include books, pertinent journals, theses, and articles. The data is then meticulously organized, analyzed, and conclusions are formed on the issue related to the aforementioned research question (Amaren et al., 2020) The data was then analyzed systematically through a qualitative juridical approach (Akinyode & Khan, 2018).

3. Discussion and Analysis

3.1. Pincer Maneuver: China and India

India, has some of the and world's largest and most lucrative market, courtesy of their population number. The move of production has also answered some of the questions that was asked before, as the advantages that was lost, namely, regulatory incentives and advantages (and oversights in some sense). In addition, although the relation between India and the rest of the world has not been always rosy, it has been on the rise tremendously in recent years, since after the years of the cold war, India has fostered a closer relation with the rest of the world and adopted a more liberalized economic system (Bava, 2016), as compared to a more controlled economy of China, and overall that India has a more favorable cordial relationship with the west than the other make the move seem to make more logical and political sense.

China in seeing the development, had started to curb the issue. China with its vast state-held foreign-exchange reserves, amounting to three trillion USD as of late 2016 (Tekdal, 2018). India and its' rise and the rivalries that comes with it is viewed to be dealt with the issue as soon as possible, one of the way to do such is by using the *Belt and Road Initiative*. This

program by China sets to address the issue of how the west is trying to decouple its economy from it, by creating and developing new markets around the globe, the program set to diversify the market, as new markets will be used to revitalize the domestic and regional economy, and the propagation and internationalizing the use of the *renminbi* with the intent of further intensifying and solidifying China's role in the world's affair. The investments that the Chinese made from this program are said to be a bid to enhance regional connectivity and embrace a brighter future. Setting aside on the technicalities of the program and the speculation and discussion that has occurred from this program, the initiatives has covered the world, around 140 countries are part of the initiatives. (Blanchard, 2021)

One of the initiatives are heavily targeting the Indian Ocean. The Indian Ocean is one of the oceanic divisions in the world, bounded by India in the north, Africa to the west and Australia to the southeast, and covering around 70 million square kilometers, a sizable chunk of the world's surface, the Indian ocean by some definition intersects some other regional areas (Alpers, 2014).

China has steadily but surely dug their presence in the Indian Ocean areas, slowly but surely controlling it, as the Indian ocean, which as the name implies is India's backyard, hold several key factors that China cannot pass out for existential matters.

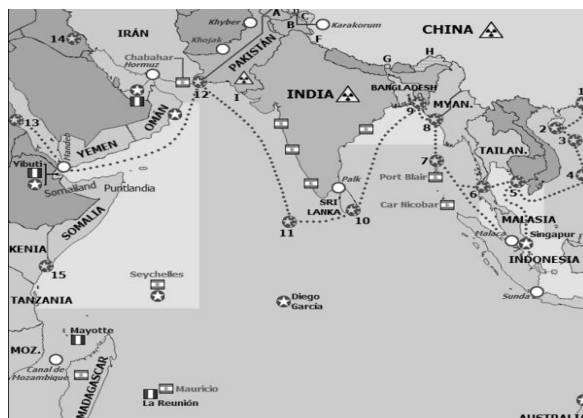
As we have understood from our discussions before that China in addition of having enormous population and also a massive industrial sectors, it is understandable that such society and economy is driven by oil, such combinations of factors lead to China needing a massive stocks of energy and the means to secure it for practical existential reasons, it just so happens that the energy that China needed can be produced internally, although that domestic production is insufficient to sustain the domestic use of oil, such oils that China need usually comes from the middle eastern or African region, Indian oceans also happens to harbor one of the world's busiest and most important trade routes, historically and to the present day the Indian Ocean sea lanes are considered one of the most strategically important in the world, with more than 80 per cent of the world's seaborne oil transport trade and its crucial chokepoints across the Indian Ocean, The Indian Ocean offers major waterways that connect Europe and America to Middle East, Africa and East Asia (Jash, 2015). It carries a particularly heavy traffic of petroleum and petroleum products from the Persian Gulf and Indonesian oil fields. Huge hydrocarbon reserves are being mined in offshore regions of Saudi Arabia, Iran, India and Western Australia. An estimated 40% of offshore oil production in the world comes from the Indian Ocean (Davis and Balls, 2020). Beach sands rich in heavy minerals and offshore deposits are actively exploited by neighboring countries, notably India, Pakistan, South Africa, Indonesia, Sri Lanka and Thailand, and as talked before, in addition to controlling the trade routes in general, in addition China has a strong dependents on imports of mining and petroleum products, as said before they are both the largest petroleum consumer and also in addition to that the largest oil importer to sustain both their domestic consumption and also their manufacture consumption of petroleum products, The Indian trade routes has the significant strategic important to China to be controlled as some of the oil that they consume come through this point, as the main mode of energy supply for the near future will continue to be the overseas export of crude oil from proven active areas, the control and secure of said trade routes (Brewster, 2017).

Another importance of the Indian Ocean and its surrounding environment is that it also contains other means to support the Chinese production. In addition to oil reserves, it is projected that 65% of the global strategic resources are dispersed across the Indian Ocean,

including the discovery of raw material of uranium, platinum, silver, lead, steel, iron ores, tungsten, manganese, Copper and zinc, and more. Additionally, there are abundant reserves of valuable metals distributed in the Sea, with 85 percent of the Manganese world's reserves, 60 per cent vanadium reserves, 86 percent chromium reserve, over 50 percent uranium reserve, India's iron reserves are the world's leading reserves. Amounting to 25 per cent of the planet's reserves. As such as the areas have considerable amount of raw materials (copper, aluminum, coal and other materials) reserves in addition to the aforementioned petroleum, said routes not only have chokepoints that deliver raw materials to China, but also, China has considerable amount of economic stakes in the area, as some 300 Billion USD worth of trade sea trades moves through the area the One Belt One Road (OBOR/BRI) is one of the way to ensure to achieve this objective of national energy sufficiency objective and ensuring trade security in general (Khurana, 2008).

As the world still relies on the sea as the means of transportation as understandably sea gives a relative freedom of movement, and how it is in the modern world the most cost-effective means of transporting good throughout the world as shipping trough the water can naturally ship goods in larger quantities, as ships need water and the water of the Indian ocean, or shipping lines of the Indian ocean plays a role in geopolitical and economic matters as the line hold very important point in the world, as 1/9th of the global seaports and 1/5 of the world's goods went through the channels and chokepoints throughout the areas, and the aforementioned reserves of raw materials and petroleum that China needs to support its domestic consumption went through the area. Such give the area a prominent role in economic and geopolitical role of nations (Scott, 2013). This route named the "petroleum route" is the major lifeline of many major nations as how many nations depends their existence in this major transportation lines making China's control over the area became very important issue for their national interest and India's control over the areas became national interest of utmost importance.

Some has suggested that the BRI/OBOR are used by the Chinese to control the Indian trade routes, but if one may look at maps that depicts the projects of the OBOR/BRI program, one may look at how the program is doing a lot of construction and projects in the South Asian region, yet conveniently excludes India in the program. China and India are the traditional countries where the original silk road went through, that both have historically strong cordial relation in the 2nd century BCE, first records of contact were drawn up between China and India. In the first century CE, Buddhism was transmitted to India to China. The Silk Road has been used as the commercial link between the two regions to create trade ties (Summers, 2016). Ties between both countries are also cultural, as Buddhism, historically until very recently, was one of the main tenets of Chinese culture was stated before as spread from India, where Buddhism originally came from in addition to other as influential cultural ties between both countries but seeing how the current geopolitical currents (Salguero, 2014), it seems that China want to curb Indian influence on the world and through BRI, control and monopolize its economy, as to not share it to the Indians



Chinese Pincer Maneuver in Indian Ocean

The diagram above gives a pretty concrete visualization on the maneuver that the Chinese has on the India, some has suggested again and again on the steps that China has taken on the region as an attempt for containment for India's rise to the world, this cooperation between China and India's neighbors, of which India have murky relations at best are exploited by China through OBOR by its sea silk route and the strengthening relations its neighbors, this strategy, known as the "String of Pearls" strategy (Zhu, 2017), the "pearl" in the term refers to an established or future Chinese overseas military base, mega-infrastructure scheme, economic corridor, port, or other Chinese geostrategic advantage position in the area. The eponymous "string" of these pearls refers to the Chinese navy's possibility of linking these pearls via maritime routes.

Though, the Chinese understanding of the importance of the South Asian sub-continent as it is a hub connecting Europe, Middle East, East Asia and Australia and the seek to control the areas and cutting India from the share, for example. OBOR Program in Pakistan where both countries, have some on and off relation over the course of contemporary history, for example while Pakistan was naturally usually on the western side of block in the Cold war era, and as part of the anti-Communist alliances of Central Treaty Organization (CENTO), South East Asian Treaty Organization (SEATO) some relation between the two nation were built, in the 1950s, Pakistan although part of the western or at the very least democratic world went out of their way some of the times and in the case of India-Pakistan relationship, as one of the countries that have a strategic security, political and economic relation with the People's Republic, and on how Pakistan acted as the bridge between China and the western world in the latter part of Mao's era and in the beginning of China's open door policy, also of noteworthy feature between the two countries on how they have shared borders between both countries, not to mention on the troubled relation between India and Pakistan and its advantages to China to have a strategically important ally, but, this relation is not without its strain, the borders they share became in the past the source of their strained relation in the past, and on how Pakistan is able to position itself as the bridge between two behemoth of the nation's India and Pakistan and how it became relevant in the current geopolitical stream.

A glimmer and big march forward between both China and Pakistan relation in 2013, talks on creating a more comprehensive economic relation between both countries, as the two countries agreed on talk regarding the connection of the Chinese western, the fringes of the middle kingdom, the Xinjian Autonomous Region and the norther part of Pakistan and how it connects to Gwadar port through network of roads and railways (Hayes, 2020). The prospects of Chinese investments within Pakistan through OBOR and the creation of an

economic corridor between both countries are massive, as the investments that the Chinese are willing to pour to Pakistan and its comparison to what Pakistan had received as direct foreign investments are unseen in Pakistani history, as the size of investments that the Chinese are promising amounts to a \$46 billion commitment for the implementation of this multi-faceted network. This amount that the Chinese are promising are massive, as the promised commitment for the China-Pakistan Economic Corridor in the next 15 years will equal and surpass the sum of the foreign direct investment that Pakistan had received in the past 45 years. The Chinese and the corridors that they promise can be divided into several things, the building of; 1. Gwadar Port 2. Communication infrastructure 3. Energy Infrastructure 4. Industrial zones within Pakistan and on how it would as Pakistan sees it would benefit all the provinces of Pakistan including Gilgit-Baltistan. That it is a life opportunity for development, progress and prosperity for Pakistan which should not be missed at any cost. Pakistan sees tremendous advantages by receiving this and understandably how it would generate massive employment and opportunities between the countries and how this can jumpstart the economy of Pakistan (Rahman and Shurong, 2017).

The strategic important of this, for both India and China is that, as part of our subject matter of strings of pearls or containment of India, the Gwadar port and the infrastructure between both is that as the project will strategically link Sino-Pak, it can bypass India entirely on the shipment of goods that might amount to millions of tons yearly for India (Jetly, 2021), as we have discussed the strategic and geopolitical importance of the Indian ocean trade routes and how its effect on global trade, as the chokehold in the region is the way that connects the east to middle east, Africa and Europe and by strategically missing out this in India's backyard might be detrimental to their growth if China can have the monopoly of the region, in addition as mentioned before, as a sizable number of raw materials and petroleum products went through the areas, and how it also will bypass India. But the CPEC is not without its problems, as stated by Ahmar (2014)

"First, Pakistan must provide the required peace and stability for the successful completion of this project because in an environment which is insecure and violent, it will be highly difficult for the Chinese workers and technicians to involve themselves in projects on the construction work.

Second, if China is investing in Pakistan in mega-projects, it is the responsibility on the part of Islamabad to build its capacity building and professional skills to meet the deadlines for the construction of roads, railways, and power stations. Failure to meet deadlines will have a negative impact on CPEC and Beijing may seek other options to seek an outlet to the Arabian Sea via Iran.

Third, as repeatedly stated by various government officials of Pakistan, forces that are deadly against CPEC will try their best to sabotage efforts aimed at bringing foreign investments and putting the country on the track of development. For that purpose, such forces will deepen their efforts to covertly sponsor acts of sabotage, violence and terrorism. Fourth, corruption, nepotism and inefficiency are major impediments to launch successful mega-projects in Pakistan. Islamabad will have to make sure that negative factors in Pakistani society which tend to discourage foreign investments are effectively dealt with."

For Pakistan, as with every foreign aid, and seeing the development of the aid that the Chinese has given and how it affects other countries, question has arisen on the question of the "sincerity" of the aid, and as the aid usually comes with political strings and doesn't come

in a *carte blanche*, question of the sustainability for the Pakistan in the future and how for China the investment that they give are a big bet seeing that the political and economic risk are as of currently unseen and unproven at best, and how the aid that is developing are making way to unequal economic relation between both countries and how it may turn into an economic colony, and how for China, and seeing how the economic corridor that has and will be built by the Chinese to be used as a means to covertly han-ification of the Xinjiang areas, as the connection between the Xinjiang and the Pakistan and the subsequent trade distribution going through the area will be used as further oppression to the people in the respective area. The economic relation that the countries had, although said to be on economic matters and is only limited to said purpose only, there is a fear that the port that is leased to China is used as a gateway to build military presence in the area, and is thought to tilt the status quo of the area, Both New Delhi and Washington feel uneasy about a potential Chinese military presence beyond the Indian Ocean and into the waters of the Arabian Sea or the Persian Gulf (Weimar, 2013).

On the other side of the Indian subcontinent, in the Sri Lanka another of India's neighbor that has a pretty close cordial relation as Sri Lanka was some of the earliest nation to have a cordial relationship with the People's Republic, and how they have an extensive history of trade, social and strategic relationship and treaties are used and continued to be the main point of cooperation between both nations until today, and made both parties willing to help each other's, as well that it helps in addition as China further exerts its' influence abroad, the country is also very strategic as it also has a very important role that connects access to the region, and is one of the most important chokehold in the Indian Ocean trade routes, The two crucial ports which are the Port of Hambantota and the Port of Colombo too have attracted Chinese investment to the country (Sun and Zoubir, 2017). As saw earlier, the initiative that the Chinese has used to subtly control their patron countries also applies here, on how the Chinese "helped" the nation to gather fund, only to be spent to the country back by using the extensive SOEs that China had to build. The infrastructure projects which was built by China in Sri Lanka depended heavily on imported capital goods and intermediate goods coming from China. The Southern Expressway, for example, was constructed using essential imports of Chinese road industrial equipment and road building materials. An extensive network of Infrastructures, ranging from energy, electricity, transportation, connection, road, distribution networks, ports, cities, financial centers and many others, only then to put into a sort of canary trap (Pattanaik, 2019), as 2006 and July 2019, the total value of Chinese infrastructure investment to Sri Lanka was reached to 12.1 billion US dollars or equivalent to 14 per cent of Sri Lanka's GDP in 2018 and later as a result, the port that had been built before are leased for 99 years to the Chinese, this risky investment that the China has are not used solely for economical matters, as they would like the world to believe, as the port and extensive network of infrastructure currently are underwhelming, In 2017, only 175 freighters arrived at the port of Hambantota, at first The images of hope from all sides of the directions from the port of Hambantota does look promising. As especially because of what have been discussed before, when looking to the south, to the Indian ocean, the first thought must have been of certain large ships carrying cargo along one of the busiest shipping lanes in the world, although underwhelming, the leased areas are not of total losses as it will build economic dependencies, which will then be used for strategic purposes and the possibility of the military presence on this other string of pearl may further clamp and constraint India.

More and more stories emerged from the initiative, as it seems like a broken record, in other side of the subcontinent, again, Bangladesh, as a country that does not have a well-

functioning financial system to absorb such large amounts of investment. Large-scale loans might harm macroeconomic stability, are used by China to be used to offload the overcapacity of their industries and how the BRI are used to give China access, and give control on strategically important geopolitical countries- all the while China being the country which will provide additional security and protection and make economic dependence (Callahan, 2016).

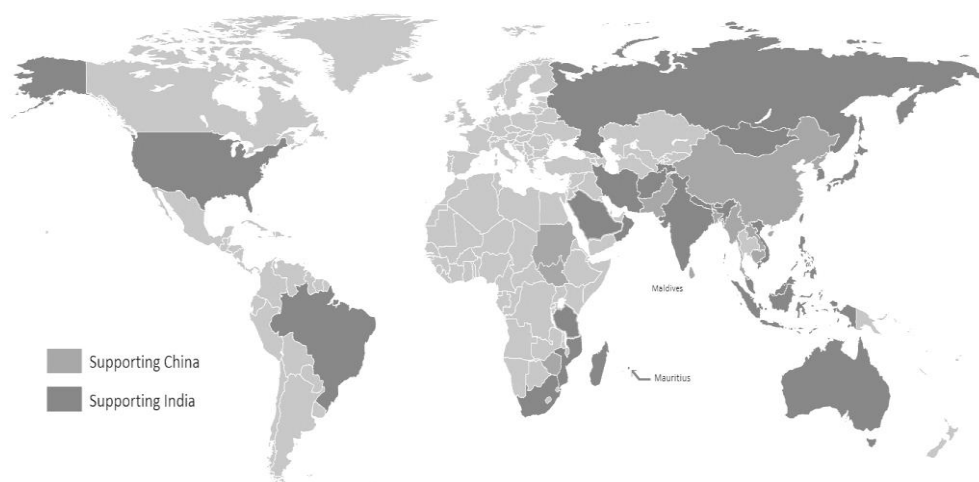
This has effectively completed the pearl strings that China has, as it controls its immediate neighbor, and effectively control over some strategic areas. This is not limited to its immediate surrounding, The BRI also controls some of the most important world trade crossroad around the world, and most importantly in the Indian ocean region.

Djibouti, a country which is located in the eastern horn of Africa, has attracted China because of their strategic geographical location where 30 percent of international shipping passes through the Red Sea from the Indian Ocean and the Suez Canal. China has financed the infrastructure of Djibouti particularly for modernizing the 752.7 km Ethiopia-Djibouti Railway which costs 4 billion US dollars and helping to build the water pipeline system to transport drinking water from Ethiopia to Djibouti which costs US\$300 million; Egypt and their all-important Suez Canal, Kenya, Strategists have also identified the Marao Atoll in the Maldives as a potential Chinese military base of operations. Reports in the Indian press have referred to Chinese plans to construct a submarine base in Marao since at least 1999, in the Seychelles, fears long ago has arisen on the encirclement. Though reports seem to be contradicting, India should have fear on the possibility of the matter (Chaziza, 2021).

Though, India has not resting on its laurel, the strategy to contain the containment, that based on the idea of the strings of pearl, as India has generally favorable positions with its countries around the world, India has used this strength to their favor, India has started to counter this measure considerably, India has quietly made way for its interests in the island nations and African nations in Indian Ocean Region, which includes Mauritius, Maldives, Seychelles and Madagascar and of South Africa, Tanzania and Mozambique, and other countries with very agile foreign policy, economic compensations like the double taxation exemption with Mauritius, Mauritius enjoys deeper relations with India (Das, 2019). India had setup the Mauritius Coast Guard in the 70s and the island nation gone even further to lease two islands to India allowing it to use it "as per its benefit". Also, an ambition of Indian naval presence that is spread throughout the Indian ocean from the Hormuz strait to Malacca and police the international shipping line and the control of chokepoints throughout the Indian Ocean trade routes. In terms of cooperation, in its backyards, as stated before India has opened some military bases to protect its backyards, in Madagascar, it opened a military listening post, in the Maldives, counter offer has been done as the organization of radar station in the Maldives. In Mozambique that will provide the African nation Indian piracy patrols (Brewster, 2014). As China presence grow stronger in India's backyard, India has also brought counter to this, in Tajikistan, India has Farkhor Air Base, and other air bases, and the strategic implication of having a backyard that is minutes away from Kashmir and the China occupied Kashmir region.

To further contain the containment, China stated that "The Indian Ocean is not India's Ocean", India returns the card with the policy of "South China sea is not China's sea", in the dragon's backyard, China has aligned itself with Vietnam, and signed several defense agreements, which in its clauses in addition of arms sales, includes basing right to the Indian Navy on the Nha Trang bases on the western shores of the South China Sea (Panda, 2014). And Russia, a longtime ally of India, that dates back to the Cold War, and still maintains

relationship with India, supplies both India and Vietnam with capable to state of the art military equipment to further irks China, as the deterrents of the NIMBY policy. In addition, India's favorable position with the western allies has helped considerably in the containment of Chinese influence in the region, as US has a strong presence both in the region of Indian Ocean and in the South China Sea (Brewster, 2014), courtesy of their formidable power projection of their navy will deter China in its steps. Japan, China's immediate neighbor, the US-Japan Security Consultative Committee on 21 June 2011, the Japanese and US governments issued a firm joint declaration announcing intentions for the maintenance of the strong US naval deterrent in the Taiwan Strait and the expansion of security ties with ASEAN, Australia, and India. Japanese Prime Minister Shinzo Abe's has described this new China-wary foreign policy as having the potential to create an "arc of freedom" between Japan and its traditional allies the US and Australia, and India. This project is bolstered by the 2008 security co-operation agreement between Japan and India, which calls for greater maritime security co-ordination and diplomatic co-operation on regional issues Not to mention, as both countries are nuclear capable nations, If else fails, the nuclear armaments of both countries can be a formidable deterrent for both countries as Mutually Assured Destruction of both states will cause everybody to lose.



3.2. OBOR and BRI: The Legality in the Public International Law Regime

Every state has their own interest, that a state cannot exist in a vacuum as much as a state would like it to be the condition. Therefore, relations of international stature and diplomacy are natural outcomes of the existence of states. China, in surrounding India by building projects as explained above by method of Belt & Road Initiative or by other measures can be considered as diplomacy.

Diplomacy is in relation to international law, referring to a set of political activities carried out by state or non-state actors to pursue their goals and defend their interests through negotiations, without resorting to violence, propaganda, or law. Diplomacy may consist of but not limited to communication between a number of parties designed to reach an agreement. (Berridge, 2021)

Under the pertinent public international law every state has a set of liberties this liberty in pursuing their interest in protected under a commonly understood and agreed norm that is considered peremptory, this norm, also commonly referred to as *jus cogens* protects state in its international relations to pursue their interest under the peremptory norm of non-interference.

In addition to what has been explained before, states in pursuing diplomacy and using economic measures as what has been explained in the previous subchapter is commonly understood to be lawful means of diplomacy. In general diplomacy is permitted, unless that the means of diplomacy are not permitted if they are:

a. Forceful Intervention

A diplomacy in which a state pursue diplomacy that relies and/or by using the military by force or by threat to influence the decision of its adversaries. Any civilized nature must be able to resolve their issues without resorting to this avenue. This is forbidden by the Charter of the United Nations in art 2(4) that "*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.*"

A state cannot make the first move in the use of force, and the use of force is only authorized under a very limited amount of intensity and in case of self-defence with collective actions (Ruys, 2014)

b. Political Interference

A range of situations in which one state interferes in the internal political affairs of another are referred to as "political interference." Of them the actions considered to be unlawful are political meddling, regime change, support for a terrorist organization in be active, passive, or indifference, statehood recognition or non-recognition and lastly, support for rebel groups was also included in political intervention. (Jamnejad & Wood, 2009)

c. Propaganda

Propaganda is prohibited under public international law, though, it must be stated that the freedom to transmit and receive information is an internationally guaranteed rights under article 19 of the International Covenant on Civil and Political Rights (ICCPR). Though in the proceeding clauses, the rights of such is limited that it does not propagate racial, religious and propaganda, under article 20 of the same covenant. As such, for a transmitting of information as a means of diplomacy is legal as long as it does not coerce and incite calls for regime change. (Jamnejad and Wood, 2009)

Economic intervention is a commonly understood yet debated form of diplomacy. Said form of diplomacy's debate stems on its legality under international law (Santuraki, 2020). Economic intervention (economic coercion) is a contentious topic because it can be difficult to distinguish between lawful economic pressure on one state and unlawful influence on another (Rattan, 2020) and that the usage of such is in contravene with the previously prescribed *jus cogens* norm of non-intervention. That no state is allowed to compel another state to give up the right to exercise its sovereign rights by using economic, political, or any other sort of pressure as prescribed in the Charter of economic rights and duties of states.

The kinds of economic intervention to influence a state's policy considered as an act of force is therefore paramount to the main discussion of this article. Economic sanctions as provided above have the characteristics and definition more a kin to an economic embargo/sanctions with the examples of the most recent economic embargo to Qatar by the gulf states, whereby said embargo were conducted in conjunction with demands with the embargoing states (Santuraki, 2020). Other examples may include to South Africa, Israel, Iraq

and North Korea (Akande et al., 2021). The general theme that can be described as economic embargo and/or intervention includes the general themes of:

- a. Direct imposition of economic restriction from one state to another;
- b. Economic intervention includes imposing restrictions on commerce and shipping as well as denying access by land and sea in order to impose penalties, embargoes, and boycotts. Moreover, prohibiting export and import or imposing external economic policies. (Rattan, 2020);
- c. Said imposition is conducted with the intention of affecting how the other operates on a day-to-day basis, and economic sanctions will not necessarily be viewed as illegitimate interventions. (Jamnejad & Wood, 2009)

With the definition above being said, the imposition of economic diplomacy is hailed as a form of non-use of force to exert changes. That if done correctly and in line with the restriction as laid above can be a form of diplomacy, for example by the UN (or regular state actors) to force changes, as provisioned in the Chapter VII of the Charter of the United Nations. In addition, the International Court of Justice (ICJ) did not specifically state in the *Nicaragua v. United States* judgement that utilizing economic measures—in this case, cutting off economic aid—is against international customary law.¹

The issue in which the pincer maneuver by China towards India is twofold. First, the economic actions in regards with China and its actions of benefitting its neighbour as the criteria established above does not fulfil the criteria of direct imposition. Belt and Road initiative, as nefarious as some detractor of the program, is not a direct economic measure directly towards India. The effects of said program may affect India but generally it is not directed directly and officially towards India.

On the issue of the string of pearls in the region that blocks India to utilize the Indian Ocean, by virtue of globalization, goods originated from India are still able to be processed in said docks along the Indian Ocean. There is no official embargoes or sanctions levied by the two states in respect of the issue thus ruling out economic intervention by any parties involved.

Belt and Road as an initiative does not in any meaningful way affect how India does business nor does directly affect India in its effort for industrialization. Despite of the initiatives, YoY change in Indian economy is growing by continuously steady rate despite of the initiative. Some has even called the effectivity on the initiative on the region at all (Blanchard, 2021) Therefore, Belt and Road initiative however nefarious it may be is therefore a lawful mean of international relations.

4. Conclusion

The world, and its capitalistic idea in combination with rampant globalization has set a collision course between two rising titans, as with the rule of the collision of celestial bodies, it is stated that “when two bodies of massive scale are in motion to a collision, its subsequent evets will cause damages of collateral nature”, this collateral nature comes from the games that both nation are trying to play in the goal of geopolitical endgame. A geopolitical dialectic has happened, both parties has engaged in a classic Hegelian thesis and antithesis. Started by

¹ *Nicaragua v United States of America*, *Supra* note 4, Para 244.

China with its Belt and Road initiative that may at the first look have nefarious outcomes yet ultimately yielding minimal reasons as the move to India is not merely an economic choice but also a political one. The measures by Belt and Road initiative therefore as compared to the prevailing international law as it currently stands, viewed that said measures to be in line with the laws.

References

- Ahmar, M. (2014). Strategic meaning of the China-Pakistan economic corridor. *Strategic Studies*, 34, 35-49.
- Akande, D., Akhavan, P., & Bjorge, E. (2021). Economic Sanctions, International Law, and Crimes Against Humanity: Venezuela's ICC Referral. *American Journal of International Law*, 115(3), 493-512.
- Al Amaren, E. M., Hamad, A. M., Al Mashhour, O. F., & Al Mashni, M. I. (2020). An introduction to the legal research method: To clear the blurred image on how students understand the method of the legal science research. *International Journal of Multidisciplinary Sciences and Advanced Technology*, 1(9), 50-55.
- Akinyode, B., & Khan, T. H. (2018). Step by Step Approach for Qualitative Data Analysis. *International Journal of Built Environment and Sustainability* 5(3).
- Alpers, E. A. (2014). *The Indian Ocean in world history*. Oxford University Press.
- Bava, S. (2016). India: foreign policy strategy between interests and ideas. In *Regional Leadership in the Global System* (pp. 125-138). Routledge.
- Berridge, G. (2021). *Diplomacy: theory and practice*. Springer Nature.
- Blanchard, J. M. F. (2021). Belt and Road Initiative (BRI) blues: Powering BRI Research Back on Track to Avoid Choppy Seas. *Journal of Chinese Political Science*, 26(1), 235-255.
- Brewster, D. (2014). Beyond the 'String of Pearls': is there really a Sino-Indian security dilemma in the Indian Ocean?. *Journal of the Indian Ocean Region*, 10(2), 133-149.
- Brewster, D. (2017). Silk roads and strings of pearls: The strategic geography of China's new pathways in the Indian Ocean. *Geopolitics*, 22(2), 269-291.
- Callahan, W. A. (2016). China's "Asia Dream" the belt road initiative and the new regional order. *Asian Journal of Comparative Politics*, 1(3), 226-243.
- Ceglowski, J., & Golub, S. S. (2012). Does China still have a labor cost advantage?. *Global Economy Journal*, 12(3), 1850270.
- Chaziza, M. (2021). The belt and road initiative: New driving force for Sino-Yemen Relationship. *China Report*, 57(2), 229-246.
- Das, C. (2019). India's Maritime Diplomacy in South West Indian Ocean. *Journal of Strategic Security*, 12(2), 42-59.
- Davis, A. E., & Balls, J. N. (2020). The Indian Ocean Region in the 21st Century: geopolitical, economic, and environmental ties. *Australia India Institute*.
- Eacott, J. (2016). *Selling empire: India in the making of Britain and America, 1600-1830*. UNC Press Books.

- Eloot, K., Huang, A., & Lehnich, M. (2013). A new era for manufacturing in China. *McKinsey Quarterly*, 1(6), 1-14.
- Gittings, J. (2018). *The World and China, 1922–1972*. Routledge.
- Hayes, A. (2020). Interwoven 'Destinies': The significance of Xinjiang to the China dream, the belt and road initiative, and the Xi Jinping Legacy. *Journal of Contemporary China*, 29(121), 31-45.
- Jamnejad, M, & Wood, M (2009). "The Principle of Non-Intervention." *Leiden Journal of International Law*, 22(2), 45–81.
- Jash, A. (2015). The Rising Tide of China in the Indian Ocean Region and India: Strategic Interests and Security Concerns. *China in Indian Ocean Region*. New Delhi: Allied Publishers, 253-66.
- Jetly, R. (2021). The politics of Gwadar Port: Baluch nationalism and Sino-Pak relations. *The Round Table*, 110(4), 432-447.
- Kc, S., Wurzer, M., Springer, M., & Lutz, W. (2018). Future population and human capital in heterogeneous India. *Proceedings of the National Academy of Sciences*, 115(33), 8328-8333.
- Khurana, G. S. (2008). China's 'String of Pearls' in the Indian Ocean and its security implications. *Strategic Analysis*, 32(1), 1-39.
- Kroeber, A. '. (2020). *Chin''s Economy: What Everyone Needs to Know®*. Oxford University Press.
- Naughton, B. (2017). Is China Socialist?. *Journal of Economic Perspectives*, 31(1), 3-24.
- Panda, J. P. (2014). China's tryst with the IORA: Factoring India and the Indian Ocean. *Strategic Analysis*, 38(5), 668-687.
- Pattanaik, S. S. (2019). India's policy response to China's investment and aid to Nepal, Sri Lanka and Maldives: Challenges and prospects. *Strategic Analysis*, 43(3), 240-259.
- Rahman, S. U., & Shurong, Z. (2017). Analysis of Chinese economic and national security interests in China-Pakistan Economic Corridor (CPEC) under the framework of One Belt One Road (OBOR) initiative. *Arts and Social Sciences Journal*, 8(4), 1-7.
- Rattan, J. (2020). Changing Dimensions of Intervention Under International Law: A Critical Analysis. *International Journal of Research in Engineering, Science and Management*, 3(5), 133-141.
- Rippa, A. (2020). Mapping the margins of China's global ambitions: economic corridors, Silk Roads, and the end of proximity in the borderlands. *Eurasian Geography and Economics*, 61(1), 55-76.
- Ruys, T. (2014). The Meaning of "Force" and the Boundaries of the *Jus Ad Bellum*: Are "Minimal" Uses of Force Excluded from UN Charter Article 2(4)?. *American Journal of International Law*, 108(2), 159-210.
- Salguero, C. P. (2014). *Translating Buddhist Medicine in Medieval China*. University of Pennsylvania Press.
- Santuraki, S. U. (2020). Use of Force or Diplomatic Intervention: Assessing the Blockade of Qatar. *IIUM Law Journal*, 28(2), 503-530.

- Scott, D. (2013). India's role in the South China Sea: geopolitics and geoeconomics in play. *India Review*, 12(2), 51-69.
- Summers, T. (2016). China's 'New Silk Roads': sub-national regions and networks of global political economy. *Third World Quarterly*, 37(9), 1628-1643.
- Sun, D., & Zoubir, Y. (2017). "Development first": China's investment in seaport constructions and operations along the maritime Silk road. *Asian Journal of Middle Eastern and Islamic Studies*, 11(3), 35-47.
- Tekdal, V. (2018). China's Belt and Road Initiative: at the crossroads of challenges and ambitions. *The Pacific Review*, 31(3), 373-390.
- Van Steen, G. (2017). Inglorious Barbarians: Court Intrigue and Military Disaster Strike Xerxes, "The Sick Man of E'rope". In *Brills Companion to the Reception of Aeschylus* (pp. 243-269). Brill.
- Weimar, N. D. (2013). Sino-Indian power preponderance in maritime Asia: a (re-) source of conflict in the Indian Ocean and South China Sea. *Global Change, Peace & Security*, 25(1), 5-26.
- Wen, Y. (2016). China's rapid rise. *Federal Reserve Bank of St. Louis The Regional Economist*, 24(2), 8-14.