

GEOPOLITICAL MARITIME ISSUES: A TRAVERSE ACROSS THE TIMELINE

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ABSTRACT

In the era of global development, countries face various instances of conflicts and conventions in all spheres of their operations. Geopolitical issues among the global nations have their deep roots in their intra-functioning from the very ground level. With resources being an important component of both economic and environmental development of the countries, the same amounts to be the major factor for driving tensions among the nations in owning them. The research paper finds that the Marine resources are such part of the mother nature, which serves in terms of both high profits and ecology balance. The research paper focuses on the tangles of maritime geopolitical issues over the timeline and settlements in regard to the same. The research methodology used for this research paper is Doctrinal Research with a descriptive approach from a legal perspective. Findings from the research paper enable us to understand the multifaceted dynamic of Maritime issues. Major concerns extend to territorial dispute, resource exploitation, noncompliance with regulatory measures and piracy threats. India being a peninsular country, tends to have maritime territorial disputes with its neighboring countries such as Bangladesh, Sri Lanka and China. The South China Sea, the Aegean Sea, Arctic dispute are a few instances of Maritime Territorial disputes across the globe. Disputing arising over fishing rights, oil extraction, and the Exclusive Economic Zones are a few other causes of difference of opinions. The binding effects of the United Nations Convention on the Law of the Sea and the other treaties are the subject matter of the research paper. With traces of the Theory of Maritime Jurisdiction and existing Admiralty Law, the research paper also provides suggestions to tackle the rising challenges.

Keywords: Geopolitical, Maritime Law, Marine resources, Territorial dispute, Exclusive Economic Zones, UNCLOS.

INTRODUCTION

More than the land we live in, the blue plant is all covered with water. The major area of this planet is also subjected to territorial distinction from one country to another by means of

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territorial jurisdiction. Maritime Law turns out to be the most required and demanded law for the governance of overseas issues. Marine resources are a great source of interest to any country. Thus, effective use of the same is the primary goal of nations in this present century, as they contribute to the maximum level of development. Trade activities take place via sea routes more than any other transportation method. Shipping of materials needs high surveillance to prevent piracy and other issues. Marine sources are directly linked with both the Economic sector and the Environmental sustainability of the countries. Extraction of resources and finding means of ecological balance is where the Marine Law finds its base. Countries have always been in conflict with respect to the ownership of the sea routes, territorial jurisdiction, and their traditional and cultural rights over the sea. Such issues are well resolved by the Conventions and treaties signed among the global countries. Irrespective of the existing laws there continue to be serious issues around the globe leading to large impacts by means of war, constraint of trade and imposing hefty taxes. Addressing such issues enables us to identify the focal point of such problems and subsequently arrive at the possible actions that shall be taken.

REVIEW OF LITERATURE

Geopolitical maritime issues have a long history as long as human advent. Over the timeline, we tend to witness disputes among the kings, and rulers from centuries back to governments and the state in this 21st century. It was reported recently that the inland issues around Iran have escalated tensions in trade shipping routes covering the Red Sea, Gulf of Aden and Strait of Hormuz. Continuance of such disruptions would lead to changes in route, which may again result in prolonged delivery and increased shipping rates.¹ The maritime border dispute between India and Sri Lanka over decades continues to date. Kachchatheevu had been ceded to Sri Lanka by India in the year 1976 by the Maritime Boundary Agreement. Yet the cultural rights and traditional fishery practices of the Tami fishermen don't stop them from entering into the deep waters of Sri Lanka. The lives of our fishermen had been put at stake, while at the same time, the marine resources of Sri Lanka have also been excessively trapped according to the Sri Lankan government. The usage of trawlers by India and the non-usage of trawlers by

¹ Craig Boyle Smith, 'Ongoing Geopolitical Conflicts continue to Impact the Global Marine Market' *Kennedys Law* (12 March 2024)

<<https://kennedyslaw.com/en/thought-leadership/article/2024/ongoing-geopolitical-conflicts-continue-to-impact-the-global-marine-market/>> accessed on 11 July 2024

Sri Lanka heats up the disputed ground further which still ignites the issue to date.² There are various such Maritime disputes within India and across the globe, that directly and indirectly connect the global nations, as all are connected by means of trade and commerce.

ISSUE OVER TERRITORIAL SOVEREIGNTY IN MARITIME

Assigning territorial borders plays a crucial in exercising control over the resources and overseas functions within the borders. Infringement of these borders is where the point of dissension arrives. The borders are globally accepted by the United Nations Convention on the Law of the Sea. As per the rules listed in UNCLOS, borders are calculated based on the Inland waters to baseline, nautical miles, contiguous zones, exclusive economic zones and continental shelves.³

One of the historical maritime territorial disputes was The Aegean Sea Dispute. The physical location of the Aegean Sea makes it appear as an arm of the Mediterranean Sea. Disputes arose between Turkey and Greece in regard to their unsatisfied bordering on continental shelves. Though borders were recognized by global acceptance of UNCLOS, there was no mutual consent. Only Greece was part of the Convention, whereas Turkey wasn't a part of the Convention itself. After a series of agreements between Greece and Turkey along the timeline since 2020, things have settled down peacefully after the proportional demarcation of the EEZ.

⁴ Disputed sovereignty over land and the overlapping entitlements to maritime rights and jurisdiction are the two major grounds attributing to the Territorial Dispute. It is reported that only 280 maritime boundaries have been agreed upon so far, while out of 460 maritime boundaries, 180 boundaries remain unresolved.⁵ One of the prolonged overlapping maritime territorial disputes is The Arctic Sovereignty Claims. Over 200 nautical miles of Exclusive Economic Zone extension has been disputed among Canada, Denmark, Norway, Russia, and the United States. In addition, Russia has also not been exempted from expressing its desire to own the Arctic Circle. Since the said area is in close proximity to all the above countries, any

² V Suryanarayanan, 'Cooperation on Kachchatheevu would be win-win for Indian and Sri Lankan fishermen' *Indian Express* (11 April, 2024) <<https://indianexpress.com/article/opinion/columns/kachchatheevu-indian-sri-lankan-fishermen-9264083/>> accessed on 12 July 2024

³ Harshit Bhimrajka, 'Maritime Boundaries and disputes in the Indian Ocean Region' (*IPleaders*, 7 Dec 2020) <<https://blog.ipleaders.in/maritime-boundaries-disputes-indian-ocean-region/>> accessed on 12 July 2024

⁴ Jan M Van Dyke, 'The Aegean Sea Dispute : options and avenues' [1996] 20 *ScienceDirect* 397-404 <<https://www.sciencedirect.com/science/article/abs/pii/0308597X96000255>> accessed 12 July 2024

⁵ Colleen Graffy, 'Who will own the Oceans ?' (*GIS Reports*, 24 June 2022) <<https://www.gisreportsonline.com/r/maritime-law/>> accessed on 12 July 2024.

of them may easily establish their entitlement as per the norms of UNCLOS.⁶ Despite these issues, Canada holds firm sovereignty over the rest of the Arctic coastline. The Prime Minister of Canada Stephen Harper has stated that the indigenous people's presence over centuries together made Canada establish its historic title.⁷ There are various other instances of territorial dispute amounting to cause from close vicinity, collective ownership and desire for expansion of border.

RESOURCES CONCENTRATED DISPUTE

Apart from territorial expansion, one of the rational causes of maritime disputes is marine disputes. Owning marine areas ultimately leads to the owning of marine resources. Complete control over the marine resources entails the hosting country to lead wide business operations and economic activities in relation to marine resources. Apart from marine resources, owning marine areas, also helps in the shipment of trade products, charging tax from passers and postal charges. Marines are the largest source of fossil fuels, oil and gas, fishery and minerals which have intrinsic value.⁸

The South China Sea continues to be a never-ending dispute between the Philippines and China. The disputed area is known for its fishing stocks, fuel extraction, aquatic products, natural gas and many other resources. It was estimated that the South China Sea holds \$3.37 trillion worth of global trade leading to 21% of world shipping routes as per the records of the United Nations Conference on Trade and Development. Spratly Islands, Paracel Islands and Scarborough Shoal are the islands that are disputed for entitlement by China, Taiwan, The Philippines, Vietnam and Malaysia. The said areas are found to be the source of 11 billion barrels of untapped oil and 190 trillion cubic feet of natural gas. However, the matter has been brought before the Permanent Court of Arbitration in the Hague, wherein it was decided in favour of the Philippines. Despite this, China took significant steps in building its military base, missiles, radar jets and other deadly weapons, causing a threat to the Philippines' sovereignty.⁹

⁶ Isabelle Wallace, 'Territorial Claims in the Arctic Circle; An Explainer' (*The Observer*, 25 Sep 2020) <<https://theobserver-qiaa.org/territorial-claims-in-the-arctic-circle-an-explainer>> accessed on 13 July 2024

⁷ W.R. Morrison, 'Canadian Arctic Sovereignty' (*The Canadian Encyclopedia*, 6 Feb 2006)

<<https://www.thecanadianencyclopedia.ca/en/article/arctic-sovereignty>> accessed on 13 July 2024

⁸ Lauren Scott, David Wood, 'Marine Resources, Characteristics, Formation and Management' (*Study.com*, 21 Nov 2023)

<<https://study.com/academy/lesson/marine-resources-characteristics-formation-management.html>> accessed on 13 July 2024

⁹ Miles Kenny, 'Territorial Disputes in the South China Sea' (*Britannica*, 3 July 2024)

<<https://www.britannica.com/topic/territorial-disputes-in-the-South-China-Sea>> accessed on 12 July 2024

The traditional sharing of coastline by fishermen of India and Bangladesh makes it difficult to demarcate the maritime space. Fishermen of both countries tend to outrage the limitations posed by the nations mutually which subsequently leads to the imprisonment of both countries' fishermen for trespassing on maritime boundaries. In the year of 2021, 61 Indian fishermen were released from Bangladesh prison. Traditional and cultural aspects have also made it difficult to follow the procedural demarcation of Grey Areas as per the decrees of the International Tribunal for the Law of the Sea.¹⁰ The strategic moves of the US and China make them indirectly fight for the maritime rivalry. The South China Sea apart from being an issue with the coastline countries, also escalates arduous relations between the US and China. While the US advocates Freedom of Navigation Operations, China also strengthens its military base. In response, the US has also initiated the QUAD formation comprising four maritime democracies India, Japan, Australia and the US to yield power in Indo Pacific region.¹¹ The competition among nations to obtain maximum maritime in turn accelerates their economic development in an incessant circle.

IMPACT OF MARITIME DISPUTES

The above-mentioned maritime disputes not only affect the cordial relationship between the countries but also pose a threat to security by piracy, depletion of environmental resources, marine pollution, climate change and rise of sea level. Increased oil extraction and fossil fuels lead to spills of the same on the water surface, which prevents sunlight from reaching aquatic animals and also makes ocean water inapt for survival. Apart from expels over the ocean by marine activities, the discharge of inland wastes into the water also causes ecological imbalance.

Geopolitical disputes over a marine area by many countries would lead to weak governance, creating a lacuna for piracy and other maritime crimes. Lack of control over water bodies by the Somali Government due to prolonged civil war had led to illegal activities, predominantly piracy. Piracy in Somalia had faced multi-million dollar gains in an unethical manner.¹² The

¹⁰ Sohini Bose, 'Finding Solutions to Fishermen Transgressions in the India-Bangladesh Maritime Space' (2021) ORF 7,9
<<https://www.orfonline.org/research/finding-solutions-to-fishermen-transgressions-in-the-india-bangladesh-maritime-space>> accessed on 13 July 2024

¹¹ Nong Hong, 'Navigating U.S-China Maritime Relations' (ICAS, 22 Jan 2024)

<<https://chinaus-icas.org/research/navigating-u-s-china-maritime-relations/>> accessed on 13 July 2024

¹² Crofoot, Tiko S., 'What is the Primary Etiology of Contemporary Somali Piracy and Can the Current U.S Counter Piracy Strategy be Effective without Addressing it' (2015) DTIC iv

pirates of Somalia had made piracy into a beneficial job. Over 50 huge ships and vessels were captured by the pirates of Somalia in the Gulf of Aden affecting the economic ties between Europe and Asia.¹³ In December 2023, the Indian cargo vessel MV Ruen was hijacked by Somali pirates, wherein the Indian navy captured 35 Somali pirates and got our vessel back by March 2024 after strenuous planning and execution.¹⁴

The competing interests of the countries make them ignore the environmental challenges. The concept of the Blue economy is to foster economic growth with sustainable use of ocean resources. However, various incidents around the globe prove to have adverse effects on the Marine economy. The Gulf of Guinea is known for its fuel production. Excessive oil spill by the destruction of oil tankers causes grave consequences for aquatic animals and plantations.¹⁵ The Arctic region is gradually losing its glacier layer due to global warming. The Arctic region which was previously concealed from oil, natural gas extraction and fishing, is open to exploitation by superpowers like the United States and Russia.¹⁶ Gulf scientists reported that more than half of the world's coral has been exploited. UAE the leading oil exporter in the world has already reached 70% depletion of coral reefs.¹⁷ In a very short period, from the 19th to the 21st century, global marine resources have been put to use to a larger extent and resulted in overexploitation.

CONVENTIONS AND RESOLUTION FORUMS

International Maritime Organization (IMO) headquartered in London, is a specialized agency constituted by the United Nations to deal with maritime issues, frame maritime treaties and arrive at resolutions. The slogan of IMO well signifies the objectives of the organization ' Safe,

<<https://apps.dtic.mil/sti/citations/AD1041759#:~:text=A%20lack%20of%20governmental%20regulations,livelihood%2C%20viewed%20this%20encroachment%20helplessly>> accessed on 13 July 2024

¹³ Raunek, 'What are the Causes of Maritime Piracy in Somalia Waters ?' (*Marine in Sight*, 3 July 2022)

<<https://www.marineinsight.com/marine-piracy-marine/causes-of-piracy-in-somalia-waters/>> accessed on 14 July 2024

¹⁴ Hemanshi Kamani, 'Captured Somali pirates arrive in India to face trial over ship hijacking' (*Aljazeera*, 23 Mar 2024) < <https://www.aljazeera.com/news/2024/3/23/captured-somali-pirates-arrive-in-india-to-face-trial-over-ship-hijacking>> accessed on 14 July 2024

¹⁵ Kizzi Asala, 'The History of Exploitation Behind the Gulf of Guinea Piracy' (*African News*, 09 Feb 2021) < <https://www.africanews.com/amp/2021/02/08/the-history-of-exploitation-behind-the-gulf-of-guinea-piracy/>> accessed on 14 July 2024

¹⁶ Zerin Osho, E3oin Jackson, 'Strategic Dynamics in a Melting Arctic' (2024) ORF 5,9

< <https://www.orfonline.org/expert-speak/strategic-dynamics-in-a-melting-arctic1>> accessed on 14 July 2024.

¹⁷ Ian Wylie, 'A tough neighborhood : how Gulf scientists are reaching across political divides to help coral reefs' (*The Guardian*, 8 Dec 2023)

< <https://amp.theguardian.com/environment/2023/dec/08/peace-parks-marine-ecosystems-gulf-scientists-political-divides-coral-reefs>> accessed on 14 July 2024

secure and efficient shipping on clean ocean.' IMO an organization with 176 member countries, has five main Committees namely the Maritime Safety Committee, the Marine Environment Protection Committee, the Legal Committee, the Technical Cooperation Committee and the Facilitation Committee. It also has various Sub-Committees, which together perform various functions.¹⁸

United Nations Convention on the Law of the Sea (UNCLOS) is one of the very first international conventions among the world nations in regard to the Maritime Law, which was adopted in the year of 1982. It is often referred to as the "constitution of the oceans." Clauses provided under this convention helped to regulate coastal borders and maritime boundaries of the nations. The International Convention for the Safety of Life at Sea (SOLAS) has a long time history since 1914. However, it came into effect only from the year of 1980. The convention enumerated minimum safety standards required in the building of vessels. It was an impulsive reaction towards shipwrecks and the collapse of cargo vessels.¹⁹ The International Convention for Prevention of Marine Pollution for Ships: The Ultimate Guide (MARPOL) was adopted in the year of 1973 to regulate and control the emission of pollution, and toxic elements from ships.²⁰ Nairobi International Convention on the Removal of Wrecks was adopted in the year of 2007 in an International Maritime Organization Diplomatic Conference that was held in Nairobi. This convention aimed at regulating the certifications of the ships and the accountability of the ship owners to remove the wrecked vessels. The convention was also extended to the areas of Exclusive Economic Zones and the Territorial Sea of the countries.²¹

To solve disputes among the nations, the International Tribunal for the Law of the Sea was established in the year 1982 with headquarters in Hamburg, Germany. It is an independent judicial body instituted as provided by UNCLOS. In total 32 cases have been heard before the

¹⁸ Andrew Ancheta, 'International Maritime Organization (IMO) : Definition and Purpose' (*Investopedia*, 02 July 2024)

< <https://www.investopedia.com/terms/i/international-maritime-organization.asp>> accessed on 14 July 2024

¹⁹ Raunek, 'Safety of Life at Sea (SOLAS) - The Ultimate Guide' (*Marine in Sight*, 12 May 2024)

< <https://www.google.com/url?q=https://www.marineinsight.com/maritime-law/safety-of-life-at-sea-solas-convention-for-prevention-of-marine-pollution-marpol-a-general-overview/&usq=AOvVaw37vXwFs3oaRFmU6ONBDUYm&hl=en-IN>> accesses on 15 July 2024

²⁰ Raunek, 'MARPOL (The International Convention for Prevention of Marine Pollution for Ships): The Ultimate Guide' (*Marine in Sight*, 4 Mar 2024)

< <https://www.marineinsight.com/maritime-law/marpol-convention-shipping/>> accessed on 14 July 2024

²¹ Author, 'Insight: Nairobi International Convention on Removal of Wrecks (Wrecks Removal Convention) 2007' (*Skuld*, 14 Feb 2024)

< <https://www.skuld.com/topics/environment/wreck-removal-convention-2007/insight-nairobi-international-convention-on-the-removal-of-wrecks-wreck-removal-convention-2007/>> accessed on 14 July 2024

court.²² The Permanent Court of Arbitration (PCA) is a very early institution established by means of Pacific Settlement. Various Maritime cases have been brought before the table for open discussion in PCA. It facilitated the disputed countries to keep their agendas and negotiate for themselves to arrive at a mutually beneficial conclusion.²³

INDIAN ADMIRALTY LAWS AND CASE LAWS

India and maritime have been related since time immemorial. India being a country surrounded by water on all three sides, had been geographically blessed with ports, aqua resources and oil sources. The Sea route has always played a crucial role in shaping Indian history. It is through these sea routes, India's trade flourished to neighbouring countries even in Ancient times. It is through the same route, the British East India Company had made its advent in the motherland. It is during the regime of the British, that various maritime-related laws have been enacted. The Indian Registration of Ships Act 1841, the Territorial Waters Jurisdiction Act 1878, the Indian Ports Act 1908, the Indian Merchant Shipping Act 1923, and the Carriage of Goods by Sea Act 1925 are a few laws that drew base for Maritime Law in India. Independent India has also enacted acts such as the Merchant Shipping Act 1958, the Multimodal Transportation of Goods Act 1993, The Admiralty Act 2017, Major Ports Authorities Act 2021.²⁴

Among many cases that took place, Qatar v. Bahrain is one such case in relation to territorial sovereignty claimed by Qatar against Bahrain over certain islands, continental shelves and maritime boundaries. Wherein the judgment was held in favour of Qatar. The North Atlantic Coast Fisheries Case between Great Britain and the United States of America was held before the Tribunal. The conflict arises over the dominance of British fishing activity over the residents of the US. The tribunal dismissed the claim from the British and provided the fishery right to the inhabitants of the US. Guyana v. Suriname was a case that was brought before the Permanent Court of Arbitration, claiming over marine territory. PCA concluded the case by

²² Philippe Gautier, 'The ITLOS Experience in Dispute Resolution' (2019) BRILL 181-188
<<https://brill.com/display/book/edcoll/9789004380271/BP000033.xml?language=en&body=previewpdf-60831>
> accessed on 19 July 2024

²³ Farchakh Michael, 'Permanent Court of Arbitration (PCA)' (*Jus Mundi*, 6 May 2024)
<<https://www.google.com/url?q=https://jusmundi.com/en/document/wiki/en-pca&usg=AOvVaw2QQS7FvluMn0m8epwH6Kyz&hl=en-IN>> accessed on 14 July 2024

²⁴ Legal Lens, 'Anchoring Legal Clarity: India's Maritime Laws Explored' (*Tidings*, 6 Oct 2023)
<<https://www.jmbaxi.com/newsletter/issue-xlii/anchoring-legal-clarity-indias-maritime-laws-explored.html>>
accessed on 15 July 2024

means of directions provided in UNCLOS to determine the border and also held that both parties were involved in violation of UNCLOS provisions.²⁵

SUGGESTIONS

- Countries must understand the need for Sustainable Development more than rapid economic development. Framing of inland policies and laws should be done in such a way that it never compromises with Sustainable Development.
- Ensuring Responsible Governance in areas of Piracy threat and exploitation of aqua resources. Marine crimes must be considered as heinous crimes against nature as well as the state.
- Oil and natural gas extraction and mineral extraction must be regulated in a universal length by ensuring collective compliance towards the fixed rate of extraction.
- Diplomatic relations between the countries must also be enriched to avoid further room for conflict. Arbitration and Mediation shall be effectively used in matters of conflict resolution for both geopolitical and commercial tie-ups of the nations.
- Appropriate rules must also be enacted to avoid the imprisonment of innocent fishermen who unintentionally cross the maritime border. As such neighbouring countries enjoy traditional and cultural rights, it must consider the social implications of stringent laws.

CONCLUSION

Irrespective of laws and generally accepted conventions, disputes among nations tend to increase. Countries are involved in the acquisition of marine areas mainly for the resources they obtain from Blue Earth. In most cases, countries focus only on the profitable resources that they gain from maritime. While the other facet of Maritime is often left unnoticed. The shift of concentration of global nations from inland to aquatic resources is mainly because of the depletion of inland resources such as forests, animals, plants, reservoirs and many other ecosystem elements. Though significant steps have been taken aiming at sustainable development and environmental protection, the rate of attenuating aquatic resources is on a streak of rise. While advanced machinery is developed for fastened extraction of minerals, our duty to equally develop strategies to balance the aqua chain increases. It is high time for us to

²⁵ Henna Kakkar, '6 Case Laws on Maritime Law' (*Legal Service India*, 23 Sep 2023) <<https://legalserviceindia.com/legal/article-10310-6-case-laws-on-maritime-law.html>> accessed on 15 July 2024

work towards the goal of sustainable development. Leaving behind the treasures we enjoy to the future must be the highest sense of responsibility of every individual. The development would be true in a sense only when it leads to progression in all spheres of life.

