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The United Nations Convention on the Law of Seas - It's Implications on India

AKASH KRISHNAN [1] AND KUSHAGRA GAHOI[2]

ABSTRACT

The rise of the earliest civilisations occurred as early as in 3000 BC in Mesopotamia on the banks of river Nile, in the Indus-River valley . The very source of life on Earth is the extensive amount of water beds that surround us. The incessant ocean spreads around 140 million square miles, contributing to around 72 per cent of the total earth's surface. Not only has the ocean played the role of always being a central source of nourishment for the life it helped generate, but from prehistoric eras itself it has served as a hub for trade, commerce and discovery. It has the capability to both, bring people together and keep them apart,

The oceans have always enjoyed the freedom of-the-seas doctrine, a principle established in the early 17th century, which limited national rights and jurisdiction over the seas of each nation to a narrow belt of sea which surrounded nation's coastline. Whatever remained was declared to be free and open to all nations for use. This continued till the twentieth century, but then with changing times countries began demanding more and by mid-twentieth century there were intensive efforts to extend national claims over all offshore resources with the purpose for private and personal usage only. The United Nations in 1982, in a visionary move, adopted the Convention on Law of the Seas which led to the extension of international law to the worldwide community. The convention was responsible to resolve many of the prominent issues relating to the usage of the oceans and its ownership such as creation of International Seabed Authority and other conflict resolutions mechanisms like the UN Commission on the Limits of the Continental Shelf, setting up of economic zones (up to 200 miles ashore), setting rules for extending continental shelf rights (up to 350 miles offshore), setting up territorial sea boundaries (up to 12 miles offshore) and establishing freedom of navigation rights.

Keywords- *ITLOS, UNLCOS, ISA. CLCS*

I. INTRODUCTION

The rise of the earliest civilisations occurred as early as in 3000 BC in Mesopotamia on the

[1]Author is a student of ICFAI Law School, Hyderabad, India.
[2] Author is a student of ICFAI Law School, Hyderabad, India.

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banks of river Nile, in the Indus-River valley[3]. The very source of life on Earth is the extensive amount of water beds that surround us. The incessant ocean spreads around 140 million square miles, contributing to around 72 per cent of the total earth's surface. Not only has the ocean played the role of always being a central source of nourishment for the life it helped generate, but from prehistoric eras itself it has served as a hub for trade, commerce and discovery. It has the capability to both, bring people together and keep them apart,

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Things started to deteriorate when global concerns emerged over the toll taken on the deep water fishes because of continuous fishing activities by fleets of fishing-ships belonging to several nations and also there was a serious concern over the pollution and wastes which were being generated from transport ships and oil tankers carrying virulent cargoes that crowded the sea routes across the world. These grave pollution hazards now started posing a threat to all coastal regions and the diverse aquatic life forms. The global political forces now began to compete among themselves to mark their presence and boundaries with a showcase of strength both on the surface of water and also under the ocean.

The United Nations has been on their toes putting in efforts on preventing all possible misadventures in the seas and to ensure the peaceful, cooperative and coordinated utilization of the seas and oceans for both individual and mutual interest of all nations. The increasing need of an effective international legal code over oceans and its resources led to the formation of the United Nations Seabed Committee, signing of a treaty which banned usage and storage of nuclear weapons on the seabed, the adoption of a declaration by the UN General Assembly that all natural resources of the ocean floor which lays beyond the territorial jurisdiction of any nation will now have no ownership but will remain the common property of any section of the society and the convening of the Stockholm Conference on the Human Environment which set a framework for reducing oceanic pollution, conservation of non-renewable resources, safeguarding natural resources and wildlife etc.

[3]https://en.wikipedia.org/wiki/River_valley_civilization

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The United Nations Environment Programme (UN Environment) through its Regional Seas Programme, has put its foot forward with an ideology of protecting the oceans and seas and promoting the sustainable usage of marine resources. The Regional Seas Conventions and Action Plans provides for a legal framework so as to protect the seas at a regional level. UNESCO through its Intergovernmental Oceanographic Commission, conducts periodic research on maritime environments, develops security systems and crisis prevention mechanisms.

The International Maritime Organization (IMO) is the prime institution which is responsible for the development and enforcement of international maritime law. It is entrusted with the task of creating a fair and effective legal regulatory framework for the shipping industry which can be adopted and implemented worldwide. The International Maritime Bureau (IMB) is a separate division of the International Chamber Of Commerce (ICC). Its main task is to keep a check on international trade by looking out for any possible fraud or malpractice. For over 25 years now, it has been using industry knowledge and experience along with the support of a large number of contacts worldwide in-order to identify and investigate possible frauds/malpractices, identify new criminal methods, techniques and trends, and prepare for any future threats. After coming into force in 2004, it lays down duties and responsibilities for government agencies, carriage companies, shipping personnel's, to identify security breaches and take actions as to prevent such breaches from occurring in the future and protect the ships and ports which are being used for international trade. In 2014, the need to facilitate trade via waterways led to the adoption of the International Code for Ships Operating in Polar Waters (Polar Code), and many other regulatory frameworks to promote maritime trade, provide better security and prevent environmental hazards.

In recent years reports of piracy on the coast of Somalia and in the Gulf of Guinea are on the rise. Such acts of piracy tend to threaten maritime security by endangering the welfare of traders and their cargos while in transit. These acts of piracy may result in the loss of life and

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property or hostage situations, setbacks in trade and commerce, loss in finances, increased security costs, insurance premiums which will result in the increase of basic price when the god reaches the final consumer. This has resulted in the adoption of several additional resolutions by IMO and UN to assist the enforcement of the rules in the Convention on the Laws of Seas dealing with piracy.

II. HISTORY

President Harry S Truman, in 1945 in response to repeated requests from domestic oil merchants and in-order to protect their interests came up on the decision of expanding the jurisdiction of United States over all natural resources on nation's continental shelf which were oil, gas, minerals, etc. This became the very first challenge to the freedom of the seas doctrine and it also led to the adoption of the same policy by other nations around the world. Argentina, in the late 1940's claimed its shelf and the Epeiric sea above it which is an inland sea which covers central areas of the continent during high sea levels.[4] Chile, Peru and Ecuador in 1947 and 1950 respectively, extended their national rights over a 200-mile radius around themselves, with the intention of limiting fishing fleets of foreign nations depriving it of its resources and to save the depleting aquatic life in the neighbouring seas.

The end of the II World War saw countries like Egypt, Ethiopia, Saudi Arabia, Libya and some Eastern European countries claiming an extension of 12 miles in the territorial sea which was in clear violation of the pre decided 3 mile limits for these countries. The archipelagic nation of Indonesia started establishing a claim over the water which separated its 13,000 islands. The Philippines soon followed suit. In 1970, Canada took upon itself the right to control sea navigation up to 100 miles from its shore with the ideology that this step will result in the protection Arctic seas from intensive pollution.

The oceans were being depleted of its resources causing significant damage to the aquatic life as well. Tin was being mined in the shallow waters of Thailand and Indonesia. South Africa had its eyes on the Namibian coast for diamond mining. Potato-shaped nodules discovered over a century ago almost 5 km down in the ocean was attracting several nations due to its peculiar nature and metal contents. Following this came in fishing. Fishing vessels in large amounts were being dispatched by several nations and were out in the open sea for many months, continuously decimating the aquatic life. Fishes started showing signs of reducing populations as fleets of ships together started sweeping the oceans for them.

It was in the late 1960's that the dangers in the sea were numerous with nuclear submarines

[4]https://en.wikipedia.org/wiki/Inland_sea_(geology)

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exploring deep sea beds which were never before explored, antiballistic missile systems were being designed which were to be operated from the seabed; oil tankers and crude tankers carrying oil from the Middle East to European ports, paving its way through small straits which led to oil spills most of the time and rise in differences between nations worldwide due to conflicting claims over the international waters.

On 1st November 1967, the Ambassador of Malta to the United Nations, Mr. Arvid Pardo, urged the nations of the world to give notice to the unfortunate stature of the oceans around them and brought their attention to the danger looming over them in disguise of irrational claims of the oceans. In a speech to the United Nations General Assembly, he spoke of the super-Power rivalry that was spreading to the oceans, of the pollution that was poisoning the seas, of the conflicting legal claims and their implications for a stable order and of the rich potential that lay on the seabed. Pardo ended with a call for "an effective international regime over the seabed and the ocean floor beyond a clearly defined national jurisdiction". "It is the only alternative by which we can hope to avoid the escalating tension that will be inevitable if the present situation is allowed to continue", he said.[5]

All these factors put together had a ripple effect and it gave rise to a continuous process which spanned over 10 years and led to the creation of the United Nations Seabed Committee, which was formed and a treaty was signed between nuclear nations with the sole purpose of placing a ban on nuclear weapons on the seabed, the adoption of the declaration by the General Assembly that all resources of the seabed beyond the limits of national territories are the common heritage of all nations and the convening of the Stockholm Conference on the Human Environment. What started as an exercise to form regulatory laws for the seabed turned into a global diplomatic effort to regulate and form laws for all ocean territories, usage of the sea and its resources etc. These factors led to the convening of the Third United Nations Conference on the Law of the Sea, which had a sole motive of forming a treaty for the oceans.

This Conference was convened in New York in 1973. It took a long time and ended nine years later with the adoption of the United Nations Convention on the Law of the Sea in 1982. During these nine years, in the states of New York and Geneva, representatives of more than 160 sovereign States sat down and discussed the problems, their personal needs, bargained and traded national rights and obligations in the course of the marathon negotiations that produced the Convention.

[5]https://www.scribd.com/doc/38253364/A-Background-History-of-UNCLOS

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III. THE CONVENTION: HIGHLIGHTS

"Perhaps the most noteworthy legal instrument of this century" is the means by which the United Nations Secretary-General portrayed the settlement after its marking. The Convention was embraced as a "Package Deal", to be acknowledged all in all in the entirety of its parts without reservation on any perspective.[6] The signatories of the convention undertake not to make any move or take any step that may overcome and defeat its objective and purposes. Ratification of, or accession to, the Convention communicates the assent of a State to be bound by its arrangements. The Convention came into power on 16 November 1994, one year after Guyana turned into the 60th State to cling to it. Over the globe, Governments have found a way to bring their all-encompassing regions of nearby sea inside their locale. They are finding a way to practice their rights over neighbouring oceans, to evaluate the assets of their waters and on the floor of the mainland rack. The act of States has in almost all regards been done in a way congruous with the Convention, especially after it came into power and its quick acknowledgment by the global nations as the ground rule for all activities managing the seas and the law of the ocean.

The Coastal States had started receiving the privileges which gave them broad economic rights over a 200-mile wide zone along their shores. The privilege of landlocked nations of access to and from the ocean is presently stipulated unequivocally. The privilege to conduct aquatic research is currently founded on acknowledged standards and can't be nonsensically denied. Earlier established and currently working was the International Seabed Authority, the purpose of which was to sort out and control exercises in the profound seabed past national boundaries with the end goal of regulating its resources. The International Tribunal for the Law of the Sea, which has capability to settle sea related issues emerging from the wrongful application or understanding of the Convention. A better understanding of the convention would result in a better application of the same by the nations.

Stability promises order and harmonious development. Nonetheless, Part XI, which manages mining of minerals lying on the profound sea depths outside of broadly directed sea zones, in what is generally known as the worldwide seabed region, had raised numerous questions particularly from industrialized States. The Secretary-General, trying to accomplish widespread support for the Convention, started a progression of casual meetings among States so as to determine those zones of concern. These meetings effectively accomplished, in July 1998, an Agreement Related to the Implementation of Part XI of the Convention. The

[6]https://www.marineinsight.com/maritime-law/nautical-law-what-is-unclos/

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Agreement, which is a part of the Convention, has now provided a way for all States to move towards becoming a party to the Convention.

(A)SETTING UP OF NATIONAL LIMITS

The disagreement regarding who controls the seas most likely goes back to the days when the Egyptians previously handled the Mediterranean in papyrus pontoons. Throughout the years following, nations both huge and small, having huge maritime armadas or little angling flotillas, husbanding rich angling grounds near shore or peering toward remote harvests, have all competed to own the international waters so as to reap continuous benefits from it.

Extravagant and conflicting cases, over the seas were not new. In 1494, two years after Christopher Columbus' first campaign to America, Pope Alexander VI met with delegates of two of the extraordinary sea Powers of the day - Spain and Portugal - and flawlessly distributed the Atlantic Ocean between them. Spain was granted everything west of the line which the Pope drew through the Atlantic Ocean and Portugal was granted whatever was present towards the east of it by Papal Bull. On account of the same both the Pacific and the Gulf of Mexico were now the new territories of Spain, whereas Portugal had its wings spread over the South Atlantic and the Indian Ocean. Before the Convention on the Law of the Sea could address the abuse of the wealth underneath the high oceans, passage rights, monetary purview, or some other squeezing matter, it needed to confront one noteworthy and essential issue - the setting of points of confinement. Everything else would rely upon plainly characterizing the line isolating national and worldwide waters.

Towards the beginning of the Conference, the States that used to keep their claims to a three-mile regional ocean had been counted down to 25. The claims of 66 nations worldwide for a twelve mile regional ocean limit had already been registered and taken into consideration. Fifteen others asserted somewhere in the range of 4 and 10 miles, and one staying real gathering of eight States guaranteed 200 nautical miles. Generally, smaller nations and those not having enormous, maritime naval forces or dealer armadas supported a wide regional ocean so as to shield their beach front waters from encroachments by those States that did. Maritime and sea Powers, then again, looked to restrict the regional ocean territories to the maximum so as to protect the freedom and exercise rights of their fleets. The Convention holds for naval and merchant ships the privilege of "innocent entry" through the regional oceans of a waterfront State. This implies, for instance, that a Japanese ship, grabbing oil from Gulf States, would not need to make a 3,000-mile bypass so as to stay away from the regional ocean of Indonesia, if it isn't unfavourable to Indonesia and does not undermine its

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security or disregard its laws.

Notwithstanding their entitlement to uphold any law inside their regional oceans, waterfront States are likewise enabled to actualize certain rights in a region beyond the regional ocean, stretching out for 24 nautical miles from their shores, to avert certain infringement and authorizing foreign powers. This zone, known as the "contiguous zone", might be utilized by the Navy or Coast Guards to look after and, if essential, capture and confine suspected smugglers, illegal immigrants or anyone who seeks to violate the laws of the Nation, whether within its land territories or inside its territorial waters.

The Convention additionally contains another component in worldwide law, which is the routine for archipelagic (States, for example, the Philippines and Indonesia, which are comprised of a gathering of firmly divided islands). For those States, the regional ocean is a 12-mile zone reaching out from a line drawn joining the peripheral purposes of the furthest islands of the gathering that are near to one another. The waters between the islands are announced archipelagic waters, where vessels of all States have the right of Innocent entry. In these waters, States may set up ocean paths and air courses where all boats and airplane have been provided with the privilege of quick and unobstructed entry and movement.

(B) NAVIGATIONAL RIGHTS

Maybe no other issue was considered as indispensable or pt the arbitrators of the Convention on the Law of the Sea with as much trouble as that of navigational rights. Nations have by and large asserted some part of the oceans beyond their shores as a feature of their domain, as a zone of insurance to be watched against merchants, warships and others. At its inception, the claim of Coastal States was based to a belt of the ocean was based on security and protection. During the seventeenth and eighteenth century another rule bit by bit developed, that the degree of this belt ought to be estimated by the strength of the littoral sovereign to control the territory.

In the eighteenth century, the supposed "cannon-shot" principle saw an increasing number of European nations coming forth in acceptance. Coastal Nations were to practice domain over their regional oceans to the extent that such shots could be discharged from a cannon affixed on the shore. As per a few researchers, in the eighteenth century the range of land-based cannons was roughly around three nautical miles. It is believed that it was on the basic of this principle that the demands for the conventional three-mile regional ocean limit arose.

At the 3rd United Nations conference in this regard, the issue of entry through straits put the major maritime Powers on one side and Coastal states controlling limited straits on the other.

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The United States and the Soviet Union demanded free passage through straits, which would now give straits a similar lawful status as the worldwide waters of the high oceans. The Coastal States, being worried that entry of remote warships so near their shores may represent as a threat to their national security and may involve them in clashes with foreign powers, dismissed this idea. Rather, Coastal States demanded the assignment of straits as regional oceans and were happy to allow to outside warships just the privilege of "innocent entry". The reality is that the issue of safe passage through these straits was one of the early main impetuses behind the Third United Nations Conference on the Law of the Sea, when, in mid 1967, the United States and the Soviet Union proposed to other Member nations of the United Nations that a universal meeting should be held to manage the issues of straits, over-flight and the width of the regional ocean and fisheries. The agreement that the parties to the Convention came to was the consolidation of the lawfully acknowledged and binding frameworks of innocent passage through regional waters and the freedom of movement and navigation on the high oceans. The new idea, "transit passage", required concessions from the two sides. Ships and vessels in travel entry, in any case, must keep the global guidelines on navigational wellbeing in mind, non military personnel aviation authority and termination of vessel-source contamination and other conditions such as foreign ships cause no circumstances that endanger the resources of that nation neither do they pose a threat or utilize any kind of military power on the coastal state. In all issues other than such transient navigations, straits are to be viewed as a major aspect of the regional ocean of the coastal state.

(C) CONTINENTAL SHELF

From ancient times, fishing and navigation were the basic uses of the oceans. As man advanced, pulled by innovation in certain cases and pushing that innovation at different occasions so as to fulfil his needs, a rich abundance of different assets and utilizations were found underneath the waves on and under the sea depths - minerals, flammable gas, oil, sand and rock, precious stones and gold. What ought to be the degree of a Coastal State's jurisdiction over these assets was the primary question. Where and by what means should the lines differentiating their mainland racks be drawn? In what manner should these assets be used? These were among the other significant questions confronting attorneys, researchers and ambassadors as they collected in New York in 1973 for the Third Conference.

Albeit numerous States had begun asserting wide mainland shelf purview since the Truman Proclamation of 1945, these States did not utilize the expression "continental shelf" in a similar sense. Truth be told, the articulation turned into close to an advantageous equation

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covering a decent variety of titles or claims to the seabed and subsoil contiguous to the regional oceans of States. In the mid-1950s the International Law Commission conducted various endeavours to characterize the "continental shelf" and Coastal State purview over its assets. In 1958, the United Nations Conference on the Law of the Sea acknowledged a definition embraced by the International Law Commission, which characterized the continental shelf to incorporate "the seabed and subsoil of the submarine regions adjoining the coast yet outside the territory of the regional ocean, to a depth of 200 meters, or, past that limit, to where the depth of the adjacent waters concedes to the exploitation of the characteristic assets of the said zones". As of now, as the Third United Nations Conference on the Law of the Sea got going, there was a solid accord for broadening Coastal State power over sea assets out to 200 miles from shore so as far as possible matches with that of the EEZ. In any case, the Conference needed to handle the interest by States with a topographical shelf reaching out past 200 miles for more extensive economic jurisdiction.

The Convention resolved conflicting cases, elucidations and estimating procedures by setting the 200-mile EEZ limit as the limit of continental shelf for seabed and subsoil misuse, fulfilling the topographically distraught. It satisfied those countries with a more extensive shelf which was around 30 States, including Argentina, Australia, Canada, India, Madagascar, Mexico, Sri Lanka and France as for its abroad belongings - by giving them the likelihood of building up a limit going out to 350 miles from their shores or further, contingent upon certain land criteria.

Accordingly, the continental shelf of a Coastal State involves the seabed and its subsoil that stretch out past the breaking points of its regional ocean all through the characteristic prolongation of its property domain to the external edge of the mainland, or to a separation of 200 miles from the baselines from which the regional ocean is estimated. In situations where the mainland expands more than 200 miles, countries may guarantee purview up to 350 miles from the pattern or 100 miles from the 2,500 meter depths, contingent upon specific criteria, for example, the thickness of sedimentary stores. These rights would not influence the legitimate status of the waters or that of the airspace over the continental shelf. To control the cases stretching out past 200 miles, the Commission on the Limits of the Continental Shelf was built up to consider the information presented by the Coastal States and make suggestions.

(D) DEEP SEABED MINING

Deep seabed mining is a colossal test that has been compared with remaining on a New York

City high rise on a blustery day, attempting to draw up marbles off the road beneath with a vacuum cleaner joined to a long hose.[7] Mining happens at a depth which is in excess of fifteen thousand feet below the sea, a great many miles from land. Mining boats are required to stay on station for about five years continuously, working non-stop, and to move the seabed minerals they raise to assistant vessels. At the focal point of the contention were potato-sized manganese nodules found on the profound sea floor and containing various significant metals and minerals.

On 13 March 1874, somewhere close to Hawaii and Tahiti, the group of the British research vessel HMS Challenger, on the principal incredible oceanographic endeavour of present day times, pulled in from a depth of 15,600 feet a trawl containing the main known stores of manganese nodules. Examination of the samples in 1891 demonstrated the Pacific Ocean nodules to contain significant metals, especially nickel, copper and cobalt. During the 1950s, the capacity of these deposits as wellsprings of nickel, copper and cobalt mineral was at long last valued. Somewhere between 1958 and 1968, various organizations started genuine prospecting of the nodule fields to appraise their financial potential. By 1974, 100 years after the primary examples were taken, it was entrenched that an expansive belt of ocean depths between Mexico and Hawaii and a couple of degrees north of the equator (the supposed Clarion Clipperton zone) was completely filled with nodules over a zone of more than 1.35 million square miles. In 1970 the United Nations General Assembly proclaimed the assets of the seabed past the breaking points of national locale to be "the common heritage of mankind".

(E) EXCLUSIVE ECONOMIC ZONE

The Exclusive Economic Zone (EEZ) is a standout amongst the most progressive highlights of the Convention, and one which as of now has profoundly affected the administration and preservation of the assets of the seas. Basically, it perceives the rights of Coastal States with respect to their ownership over the assets of exactly 38 million square nautical miles of sea space. It is up-to the Coastal States whether they want to abuse, create, oversee and preserve all assets - fish or oil, gas or rock which are to be found in the waters, on the sea depths and in the subsoil of a region ranging around 200 miles from its shore. The EEZs are a liberal blessing for sure. Around 87 percent of all known and assessed hydrocarbons which are present under the ocean fall under some national territorial waters accordingly. The 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas enabled

[7]https://www.iucn.org/resources/issues-briefs/deep-sea-mining

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all Coastal States to take "one-sided measures" of protection on what was then the high oceans surrounding their regional waters. The case for 200-mile seaward power made by Peru, Chile and Ecuador in the late 1940s and mid 1950s was started by their craving to shield from remote fishing prospects in the rich waters of the Humboldt Current pretty much agreeing with the 200-mile seaward belt.

The Third United Nations Conference on the Law of the Sea was propelled soon after the October 1973 Arab-Israeli war. The ensuing oil ban and soaring of costs just uplifted worry over control of seaward oil saves. Effectively, noteworthy measures of oil were originating from Coastal States: 376 million tons of oil out of the 483 million tons which was produced was delivered in the Middle East in 1973; 431 million barrels of oil were being delivered to Nigeria every day, 141 million barrels were being delivered to Malaysia, 246 million barrels were being sent to Indonesia. Today, the advantages brought by the EEZs are all the more plainly clear. As of now 86 beach front States have their economic jurisdiction up to the 200-mile limit. Therefore, very nearly 99 percent of the world's fisheries currently fall under some country's purview. Additionally, a huge level of world oil and gas generation is seaward. Numerous other marine assets likewise fall inside the control of coastal states. The numbers further showcased that seaward oil reserves presently extend from 240 to 300 billion tons. Production from these stores added up to somewhat more than 25 percent of complete world generation in 1996. Specialists gauge that of the 150 nations with seaward locale, more than 100, a considerable lot of them being producing nations, have a medium to multiply prospects of finding and generating new oil and gaseous petrol fields. It is obvious that it is archipelagic States and huge countries blessed with long coastlines will normally gain the best territories under the EEZ routine. Among the significant recipients of the EEZ routine are the United States, France, Indonesia, New Zealand, Australia and the Russian Federation.

Be that as it may, with elite rights come duties and commitments For instance, the Convention supports ideal utilization of fish stocks without gambling exhaustion through overfishing. Each Coastal State is to decide the absolute admissible catch for each fish species inside its EEZ and is likewise to appraise its' fishing limits and what it can and can't get. Coastal States are obliged to offer access to other people, especially neighbouring States and land-locked nations, to the overflow of the admissible catch. Such access must be done as per the preservation estimates set up in the laws and guidelines of the Coastal State. Coastal States have certain different commitments, including the adoption of measures to avert and confine contamination and to encourage sea life logical research in their EEZs.

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IV. INTERNATIONAL SEABED AUTHORITY

In 1982 United Nations Convention on the Law of the Sea adopted and the establishment of the ISA soon followed. The ISA is headquartered in Kingston, Jam., and has more than 150 state members.[8]

Following a minimum of ten preliminary gatherings over the years, the Authority held its first debut meeting in its host nation, Jamaica, on 16 November 1994, the day the Convention came into power. The articles administering the Authority have been made "taking note of the political and monetary changes, including market-situated methodologies, influencing the usage" of the Convention. The Authority acquired its observer status to the United Nations in October 1996. As of now, the Authority has 167 member States and the European Union, comprising of all member nations to the United Nations Convention on the Law of the Sea. The Authority works by contracting with private and open companies and different organisations that approve them to investigate, and in the end exploit, determined regions on the deep seabed for mineral assets basic for structure most innovative items. The Convention likewise formed a body called the Enterprise whose duty was to become the Authority's own mining administrator. However no solid advances have been taken to bring this organisation to life.

The Authority's primary administrative achievement to date has been the selection, in the year 2000, of guidelines administering investigation for poly-metallic nodules. These assets, likewise called manganese knobs, contain fluctuating measures of manganese, cobalt, copper and nickel. They happen as potato-sized knots dispersed about on the outside of the sea floor, chiefly in the focal Pacific Ocean however with certain deposits in the Indian Ocean. Notwithstanding its administrative work, the Authority conducts yearly workshops on different areas of seabed investigation, with accentuation on measures to shield the marine condition from any unsafe outcomes. It disperses the consequences of these gatherings through productions. It concentrates more on covering the key mineral territory of the Central Pacific brought about a specialized report on biodiversity, species extents and quality stream in the deep Pacific knob region, with accentuation on foreseeing and dealing with the effects of profound seabed mining. A workshop at Manoa, Hawaii, in October 2007 delivered a method of reasoning and suggestions for the foundation of "conservation reference zones" in the Clarion-Clipperton Zone, where nodule mining would be restricted so as to leave the natural habitat flawless. The latest workshop, held at Chennai, India, in February 2008,

[8]https://www.britannica.com/topic/International-Seabed-Authority

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concerned poly-metallic knob mining innovations, with exceptional reference to its present status and difficulties that lie ahead. In its preface, UNCLOS characterizes the universal seabed territory, the part under ISA locale, as "the seabed and sea depths and the subsoil thereof, past the points of confinement of national purview". There are no maps added to the Convention to portray this zone. Or maybe, UNCLOS plots the territories of national locale, leaving the rest for the universal segment. National purview over the seabed ordinarily leaves off at 200 nautical miles (370 km) toward the ocean from baselines running along the shore, except if a country can exhibit that its mainland rack is normally delayed past that limit, in which case it might guarantee up to 350 nautical miles (650 km). ISA has no job in deciding this limit. Or maybe, this assignment is left to another body built up by UNCLOS, the Commission on the Limits of the Continental Shelf, which looks at logical information put together by beach front expresses that guarantee a more extensive reach. Sea limits between states are commonly chosen by reciprocal exchange (here and there with the guide of legal bodies), not by ISA.

Now, there has been much enthusiasm for the likelihood of exploiting seabed assets in the Arctic Ocean, flanked by Canada, Denmark, Iceland, Norway, Russia and the United States (see Territorial cases in the Arctic). Mineral investigation and exploitation exercises in any seabed region not having a place with these states would fall under ISA purview.

V. PROS AND CONS OF THE FORUMS PRESCRIBED UNDER UNCLOS: THE INDIAN APPROACH

Section 2 (Articles 286-296) of Part XV of the UNCLOS seeks compulsory settlement of disputes that result in binding decisions but the State parties have leverage to choose one or more forums or give preference among forums identified under the UNCLOS. Article 287 prescribes four mechanisms that could be used by member States to settle their disputes. These mechanisms are as follows: [9]

- The International Tribunal for the Law of the Sea established in accordance with Annex VI of the UNCLOS
- The International Court of Justice
- An arbitral tribunal constituted in accordance with Annex VII

Hence, State Parties are required to pronounce their decision or decisions among these choices either at the time of signature, ratification or afterwards. Nonetheless, if the

[9]https://books.google.co.in/books?id=2e5FDwAAQBAJ&pg=PA160&lpg=PA160&dq=Section+2

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contesting gatherings fail in concurring on a discussion for question settlement either by ethicalness of their statement or commonly after the ascent of debate, such questions will consequently be submitted to the arbitral council comprised under Annex.VII.

In this manner, arbitration under Annex. VII will dependably be a default component to settle the debates regardless of disagreement with regards to the separate gatherings.

(A) ARBITRATION

As a member nation to the UN Charter and the UNCLOS, India is already contributing a fair share of money towards the functioning of ICJ and ITLOS. In such a scenario, if India opts for arbitration, there need to be some solid justification to further incur additional expenditure in the arbitration proceeding which is to be constituted under Annex. VII. Thus, as per the provisions of Annex VII, the arbitral tribunal consists of five persons. For these appointments, States have to incur extra expenditures for their services. In short, Arbitration tribunals pave way for high costs and high fee which has to be paid to arbitrators and court registrars, together with rental expenses of premises in which proceedings are carried on. On the other hand, costs and expenditure of the ICJ are borne by the UN.

It is highly unlikely that Annex VII arbitration tribunal will have the same degree of institutional commitment to the UNCLOS as a standing tribunal like the ITLOS. For example, in no possible chain of events can ITLOS downplay the compulsory element in a dispute settlement under the UNCLOS in the way that the Annex VII arbitration tribunal did in the Southern Bluefin Tuna Case.[10]

Arbitration proceedings are mostly kept confidential and remain completely with the disputing nations and no third party This may be useful in maritime boundary disputes where, if the parties to such a dispute still have outstanding differences with other States over their maritime boundaries, they may not want other nations to be aware of that the arguments that they use in the settlement proceedings and for the same to be made a topic of public interest as this may weaken their position in any future negotiations over their other outstanding unresolved maritime boundaries.

(B) INTERNATIONAL COURT OF JUSTICE

The ICJ is a highly time-consuming process. Its involvement with several other categories of international disputes generally may delay the legal process relating to the disputes arising out of the law of the sea. It is the general perception that the ICJ is a politicised body, so there

[10]https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e210

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is a possibility that external elements may infiltrate the legal language of the Court. The control over the selection procedure of its members by the General Assembly and Security Council also does not immune it from considering bare political realities through legal language.

The ICJ by virtue of its jurisprudence has left a wide scope open for any third State to intervene as a non-party under Article 62 of the ICJ laws. In the 1990 judgement of the Gulf of Fonseca (Intervention), the ICJ Chamber for the first time granted a third-party State (Nicaragua) permission to intervene as a non-party under Article 62 of the ICJ laws. There are instances when the Court has taken the view not to decide the case on merits that compromises its chances for providing prompt and effective dispute resolution on the law regarding sea disputes. Article 290 of the UNCLOS talks about the provisions regarding the issue of provisional measures. As per this, a Court or tribunal if satisfied about its own jurisdiction in the dispute may issue provisional measures on the request of a disputing party.[11] To establish this link of jurisdiction is quite tough in case of the ICJ. Further, as per the ICJ laws, any provisional measures prescribed by ICJ should be mandatorily reported to the Security Council. This may unnecessarily politicize the case in hand.

(C) THE INTERNATIONAL TRIBUNAL FOR THE LAW OF SEAS

The composition of ITLOS is much more democratic and it represents the interests of State Parties in a way which is far better than that of ICJ. Its record is also very persuasive in this respect. In most of the cases of provisional measures and prompt release of vessels and crew, ITLOS has a mandatory jurisdiction. So there may always be a need to deliberate before ITLOS in respect of these measures. Therefore any preference of other forums may engage India in two different forums at two successive junctures. It unnecessarily increases the burden to be involved in two different forums for a similar dispute. The selection of the members of ITLOS is governed totally by a democratic process which remains under the control of all these members itself and the State in equal capacity. These may be the most probable reasons which made most of the developing countries to declare ITLOS as their choice for final settlement of disputes

The idea of "cost effectiveness" has been taken from the Agreement of July 1994 on the Implementation of Part XI of the Convention. Section 1 of the Annex to this Agreement requires all institutions constituted by the Convention to be cost effective.[12] Therefore the

[11]https://maxius.nl/verdrag-van-de-verenigde-naties-inzake-het-recht-van-de-zee-montego-bay-10-12-1982/artikel290

[12]https://www.un.org/depts/los/convention_agreements/texts/unclos/closindxAgree.htm

ITLOS is expected to adopt and put in practice procedures which avoid unnecessary extra expenditure both for the litigants and the State parties which fund the ITLOS.

As per the provisions provided in the Convention, if the disputing parties are not agreeing upon any similar mechanism for the settlement of disputes, the arbitration under Annex VII will be invoked automatically. Thus not to take risk of the arbitration procedure and to use the more democratic and specialised forum, reports showcase that most nations find it suitable to declare ITLOS as a primary forum for the settlement of dispute.

VI. INDIA-BANGLADESH : UNCLOS & THE SEA BOUNDARY DISPUTE

In 1974, India and Bangladesh came together in Dhaka to try and resolve the conflicting issue of sea boundaries. Afterwards, a few gatherings occurred at the level of Foreign Secretaries. At the point when the Foreign Secretaries couldn't resolve the disparity due to the strategies for delimiting the limit between the different sides, it was raised to the Foreign Ministers' level in 1975, however it stayed uncertain. In the Commonwealth Summit in Jamaica in May 1975, Bangladesh President Sheik Mujibur Rahman proposed mediation to resolve the issue to Prime Minister Indira Gandhi. However India rejected it. In spite of the fact that the ocean limit talks started again in 1978, 1982, 2008, and in March 2009 under the Hasina government, it couldn't be settled over the disparities in limit delimitations. At the point when the Hasina government found that the discussions had slowed down, it had no choice but to go for arbitration as a solution. At last the Hasina government approached the Court of Arbitration under Article 287 of UNCLOS. India had ratified the UN Convention in 1995 and Bangladesh in 2001, and are both hence bound by the laws of the UNCLOS.

The judgement delivered was non-appealable. Among the five arbitrators appointed for the case, the opinion which stood out was that of the Indian Arbitrator. India acknowledged the judgment and apparently said that the judgment would further facilitate goodwill between the two nations by ending a long standing issue. Bangladesh was granted 19,467 sq km of the absolute 25,602 sq km ocean territory (76 percent), leaving 6,135 sq km (24 percent) to India. The judgment likewise permits Bangladesh a 200-mile EEZ, the mainland rack past the 200-mile financial zone and access to the open seas, consequently keeping it from transforming into a 'landlocked nation'. Bangladesh's granted region allegedly incorporates 10 blocs in the west which were having conflicting interests with India. 10 percent of the six blocs were received by India. It is noticed that the contested sea territory of 25,602 sq km in the Bay of Bengal with Bangladesh comprises around 3-5 percent of the sea region of India's tremendous coastline, extending east from the Bay of Bengal, the Indian Ocean and to the

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Arabian Sea in the west. For Bangladesh, the region in the west with India is 100 percent on the grounds that there is no other oceanic zone accessible for Bangladesh to its west and it is crucial for Bangladesh in the Bay of Bengal to have this territory under its purview.

The judgment stands out for the following reasons. Firstly, both Bangladesh and India have settled their conflict by using the dispute resolution mechanism as prescribed under the UNCLOS, which showcases that the two countries wanted to resolve the dispute amicably. India has won on some issues thus making it only a partial victory for Bangladesh. The judgment is a big win for international law and the international forum which both countries have shown respect to and adhered to. Secondly, the judgment substantially contributes to the improvement in the international law. The judgment reflects the great advantages of consistency and transparency which can be achieved by following judicial precedents. Last but not the least, the peaceful and amicable settlement of the maritime dispute between Bangladesh and India is a great example in the international segment at a time when in many parts of the world conflicts as to sea boundaries are on the rise. For example, in the South China Sea, China and its neighbours, Vietnam, Indonesia and the Philippines, and in the East China Sea, between South Korea and Japan and Japan and China there exist several conflicting claims which are giving rise to tensions between these nations.

VII. THE WAY AHEAD

The Convention's coming into force coupled with the extended jurisdiction of the same, there is a wide scope for increased sage of the oceans and several activities associated with the same and these may lead to several challenges in its path. These challenges include finding appropriate ways to apply the provisions which will be adopted in the future in compliance with the letter and spirit of the Convention, how to bring national legislatures in harmony with the provisions of the convention and how the states are supposed to fulfil the obligations which the convention has laid down upon them. Another real test will be to provide the necessary help and assistance, especially to developing States, so as to enable them to profit by the rights they have obtained under the convention. For instance, a large number of the States that have built up their EEZs are not capable yet to utilize all their rights and perform their obligations under the Convention. The delimitation of EEZ, its management, its observation, the use of its assets and its development are far past the current abilities of most developing nations.

The United Nations should take a step ahead and assume responsibility of observation, accumulation of data on and giving an account of State practice in the execution of the new

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set of rules. It should also provide with reports on the account of exercises of States and also the functioning of worldwide associations in marine undertakings and on significant patterns and advancements. This data will be of incredible help to States in the acknowledgment and approval of the Convention and its application. The Secretary-General of the United Nations should plan on keeping of graphs and keeping a record of the coordinates which determine the territorial boundary of the coastal States. The Secretary-General should also call upon conferences of States Parties regularly to choose the appropriate individuals for the International Tribunal for the Law of the Sea and to decide upon its budgetary limits. The United Nations should keep on building upon the participation that has created in the course of the most recent two decades among the associations in the United Nations framework engaged with marine undertakings. Such close collaboration would be of extraordinary advantage to States, since it would maintain a strategic distance from duplication. It would also help to organize multidisciplinary activities in-order to manage marine issues.

With time, the United Nations should increase its involvement with the law of the sea as it will soon come into public notices that both marine and global issues are interrelated.

VIII. CONCLUSION & RECOMMENDATIONS

"India shares ASEAN's vision for a rules-based order for the oceans and seas. Respect for international law, notably UNCLOS (United Nations Convention on the Law of the Sea), is critical for this. We remain committed to work with ASEAN to enhance practical cooperation and collaboration in our shared maritime domain"

--Narendra Modi

In Jules Verne's 20,000 Leagues Under the Sea, Captain Nemo declared that "in the profundities of the sea, there are mines of zinc, iron, silver and gold but it would be very tough to reach out to", anticipating that the bounty of marine assets could fulfil human need. Despite the fact that he was correct about the wealth of the assets, he surely had no idea about how simple it would be to exploit them. After several decades and in-numerous attempts which were kept on hold, there is restored enthusiasm from the private part and Governments alike in the potential for business of marine minerals. The primary drivers of this new intrigue are a mix of innovative advances in marine mining and an expansion in the long standing interest for minerals, which is owing to globalization and industrialization in the production sector. The need for minerals are growing exponentially as result of the need to serve a constantly developing worldwide population, an extending white collar class that is driving urbanization and the requirement for inexhaustible, low-carbon foundation. Effectively

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mined, high-grade mineral stores are rapidly declining. Albeit new assets are probably going to exist in the profound subsurface or in remote areas and mining these earthly stores will require a lot of vitality and have critical social and ecological outcomes. Deep seabed minerals are accordingly sought to facilitate contributions to the idea of sustainable development. Business interests are right now centred around three sorts of marine mineral stores. Poly-metallic nodules happen all through the sea and are discovered lying on the ocean depths in the deep fields, regularly in part covered in fine grain residue. The focus is laid upon the Clarion-Clipperton Zone (CCZ) in the eastern Pacific, at a depth of around 3,500 and 5,500 meters. This single mineral deposit contains more nickel, manganese and cobalt than every earthbound asset consolidated. Different regions of potential interests are the Central Indian Ocean bowl and the EEZ's of the Cook Islands, Kiribati and French Polynesia.

Under UNCLOS, exploitation of seabed minerals can be conducted only under an agreement with the International Seabed Authority and subject to its principles and guidelines. Contracts might be issued to both government and private mining endeavours, if they are supported by a State gathering to UNCLOS and fulfil certain guidelines of technical and economical limit. At last, the financial points of interest of deep seabed mining. The Authority is should focus more on the improvement of the legal framework which is in place for the exploitation of resources. This includes giving a thought for a new scope of technological, economic and ecological issues. Maybe the most significant issues the Authority is facing as a controller is how to balance the societal advantages of deep seabed mining and access to basic minerals, and technological improvements against the need to ensure the marine condition. Obviously, the way that no mining can be conducted without authorization from the Authority guarantees that the ecological effects of deep seabed mining will be checked and constrained by a universal body. This in itself is a precautionary measure. It is obvious, by and by, that mining will affect the marine conditions, particularly in the most prominent regions of mining activities. Effects may include the deaths of aquatic beings, the removal of substrate natural surroundings and the formation of silt tufts. There is additionally the likelihood of other natural harm through breakdowns in the transportation framework, pressure driven holes, and clamour and light contamination

The adoption of UNCLOS in 1982 was one of the best accomplishments of the United Nations. One of the Convention's most significant commitments is that it set more than 50 percent of the seabed under a global observation. In spite of the fact that it has taken over 50 years of multilateral discussions to start to understand the concept of the "common heritage to

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mankind" as imagined and expressed by Ambassador Pardo and revered in UNCLOS, the prospects for sustainable exploitation of seabed mineral resources are better now than at almost any other time in the last 30 years. If managed effectively, and according to the laws prescribed under the convention, deep sea mining can contribute to the meeting of Sustainable Development Goal 14[13], especially for states which are geographically disadvantaged and landlocked in nature. The small island nations now can rely on the ocean and its resources for economic development.

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[13]https://sustainabledevelopment.un.org/topics/sids/decisions

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