

An Overview of the Law of the Sea

¹Amruta Das, ²Amrita Mishra

***Abstract---** This research paper discusses the various aspects of the Law of the Sea, especially the territorial sea which has within its ambit, various concepts such as internal waters, territorial sea, contiguous zone and exclusive economic zone. The paper also talks about the laws that govern the law of the Sea, which are UNCLOS I, II and III. The paper concludes with discussing the importance of the law and how the various disputes have helped structuralize the existing laws.*

***Keywords—** International law, law of the sea, territorial sea, unclos.*

I. INTRODUCTION

The International Law deals with the concept of Territorial Water. The territorial water is that space in the sea which is right next to the shores of a state and thus, by virtue of its location, has the territorial jurisdiction of that state over it. It was the 17th Century which saw the origination of the concept. It came into being after the controversy over the status of the sea in the initial stages of development of the modern International Law. The principle that the sea because of its nature shall be free of all territorial concept was considered as well but it was majority of the commentators were of the view that for the waters just adjacent to the shores of a territory, that territory needed to exercise some jurisdiction.

Initially there existed two different concepts—that: an area of jurisdiction should be limited to the range of a cannon-shot, and that the area should be a much greater belt of uniform width adjacent to the coast—and in the late 18th century these concepts amalgamated in a compromise view that proposed a fixed limit of 3 nautical miles (5.5 km). In 1793 the United States adopted three miles for neutrality purposes, but although many other maritime states during the 19th century came to recognize the same limit, it never won such universal acceptance as to become an undisputed rule of international law.

Today, it is a settled principle that a coastal state practices sovereignty over the territorial waters along with the seabed and the subsoil beneath it and also on the airspace above it. Though the state practices sovereignty over such an area, peaceful passage can be made by the ships and vessels of the other nations. This rights, though, does not include submerged submarines. It also does not include a right to fish.

There also exists the concept of the high seas. The convention on the high seas was signed in 1958 and had 63 signatories. The convention defined high seas as “all parts of the sea that are not included in the territorial sea or in the internal waters of a State” and where “no state may validly purport to subject any part of them to its sovereignty.” The Convention on the High Seas became the basis of the United Nations convention on the Law of The Sea signed in 1982. In this convention, Exclusive Economic Zones were recognized as well as broadening 200 nautical miles from

the pattern, where seaside States have sovereign rights to the water column which includes the ocean bottom/sea floor and also the resources which are naturally found there.

II. WHAT IS TERRITORIAL SEA?

UNCLOS divides the waters into various zones, which are: internal Waters, Territorial Sea, Contiguous Zone, Exclusive Economic Zone (EEZ) and the High Seas. The convention lays down the principles of governance regarding navigation of the ocean adjacent to a coastal state. It not only zones coastal states' offshore areas but provides specific guidance for states' rights and responsibilities in the five concentric zones.

Internal Waters:

Areas like ports, rivers, inlets and other maritime spaces are termed as the internal waters of a territory. In these water bodies, the state can enforce domestic laws and regulations. The state can take appropriate actions for non-compliance with these laws.

The coastal state has the authority to prevent privately contracted armed security personnel from entering its ports if the law of the land forbids the carriage of weapons. Moreover, once entering a port (and the vessel which they are aboard) can be held accountable for other violations that took place at sea if “(a) they in some way impacted the port state or (b) for other reasons with the permission of the flag state”.

Territorial Sea:

The coastal state having the jurisdiction over the territorial sea has unlimited jurisdiction over all the goings on at the sea, both national and international. The region of the sea within 12 nautical miles from the territorial state is the state's property.

“In the maritime security context, it remains debated as to whether the coastal state can set and enforce laws to restrict movement of PCASP.”¹ Territorial seas are the most straightforward zone. Much like internal waters, coastal States have sovereignty and jurisdiction over the territorial sea. These rights extend not only on the surface but also to the seabed and subsoil, as well as vertically to airspace. The vast majority of States have established territorial seas at the 12 nautical mile limit, but a handful has established shorter thresholds.

Contiguous Zone:

“The Contiguous Zone is an intermediary zone between the territorial sea and the high seas extending enforcement jurisdiction of the coastal state to a maximum of 24 nautical miles from baselines for the purposes of preventing or punishing violations of customs, fiscal, immigration or sanitary (and thus residual national security) legislation.”²

This includes monitoring and looking out for any of the armed activities which might take place in the region. Thus,

¹ Private Armed Security, International Maritime Organisation, 2018

² LOSC, Section 4, Article 33

the coastal state has authority to regulate armed maritime security activities within 24 nautical miles of its territory for the reason of enforcement operations as a precautionary measure in order to see that there is no movement of arms in its territory.

Exclusive Economic Zone:

This zone is an intermediary one, existing between the territorial sea and the high seas. It stretches 200 nautical miles. The coastal state enjoys exclusive right to explore, exploit and conserve all natural resources. Thus, the state has the authority to the infringers of such right and anyone other than the coastal state itself can be taken action against.

For protecting these rights, the state can take appropriate measures which may include boarding, inspection, arrest and judicial proceedings whichever may be adequate in order to ensure that the international laws and regulations have been complied with.

The concept of Exclusive Economic Zones is comparatively newer. The other zones came to existence with the development of the earlier international law. This is not the case with EEZ which was brought into being by LOSC. Any and every naturally occurring resource is the property of the coastal state. “These resources encompass both living resources, such as fish, and non-living resources, such as oil and natural gas.”³ Not just the natural resources, the states also exercise the exclusive right to engage in the energy generation that occurs because of the waves, currents and wind within their Exclusive Economic Zone. “States can use artificial islands, installations and structures, conduct marine scientific research, and protect and preserve the marine environment through Marine Protected Areas.”⁴ “Articles 88 to 115 of the Convention relating to high seas rights apply to the EEZ “in so far as they are not incompatible with this Part [V].”⁵

The United States exercises exclusivity over the largest Economic zone in the world, that is 3.4 Million Square nautical miles. The EEZ’s size derives from the large coastlines on the Atlantic Ocean, the Gulf of Mexico, the western continental U.S., Alaska, Hawaii and many small outlying Pacific islands. Although not a signatory of LOSC, The U.S. established an EEZ by Presidential Proclamation in 1983. EEZs of States worldwide constitute 38% of the oceans of earth that were considered part of the high seas prior to adoption of the LOSC.

The rights that the Exclusive Economic Zone grants the coastal states are often misunderstood. The states do not exercise the right to limit freedom of navigation or overflight like it does on territorial sea and contiguous zone.

Continental Shelf:

The continental shelf is a natural seaward extension of a land boundary. This seaward extension is geologically formed as the seabed slopes away from the coast, typically consisting of a gradual slope (the continental shelf proper), followed by a steep slope (the continental slope), and then a more gradual slope leading to the deep seabed floor. These three areas, collectively known as the continental margin, are rich in natural resources, including oil, natural gas and

³ LOSC, Art. 56

⁴ Ibid.

⁵ LOSC, Art. 58

certain minerals.

There are two methods to determine the extent of a continental margin under the LOSC. The first method is by “measuring geological features using what is called the Gardiner formula.”⁶ By measuring the thickness of sedimentary rocks, the edge of the shelf is drawn where sedimentary rocks become less than 1 percent of the thickness of the soil. The second method is to use fixed distances in what is called the Hedberg formula. This method allows States to draw its boundary 60 miles from the foot of the shelf’s slope. This expanded continental shelf cannot, however, exceed (i) 350 miles from the baseline or (ii) 100 miles from the 2,500-meter isobath.

The Commission on the limits of the continental shelf ropes in scientists in order to check whether the claim of the states regarding the extent of their continental shelf is correct or not. The rights exercised by the state regarding the continental shelf pertain to the non-living and sedentary living resources. The coastal states can also build artificial islands, installations and structures. “Other States can harvest non- sedentary living resources, such as finfish; lay submarine cables and pipelines; and conduct marine research as if it were international waters.”⁷ “Continental shelf rights do not grant a State the right to restrict navigation.”⁸

High Seas:

The High Seas is the part of the sea which lies after the 200 nautical miles of the shore. It is the part which is accessible to everyone. All the countries exercise equal rights over High seas and thus, no state can claim any rights over another countries regarding the use of the High Seas, be it for navigation or exploitation of natural resources. The Convention establishes freedom of activity in six spheres: Navigation,⁹ Overflight,¹⁰ Laying of cables and pipelines,¹¹ artificial islands and installations,¹² Fishing,¹³ and Marine scientific research.¹⁴

When it comes to exploitation of living resources in the high seas, they are available for exploitation by any vessel from any state. LOSC does not put any limitations regarding the exploitation of these resources though it stresses upon the need of conservation of the same by encouraging the states to implement practices that are sustainable.

For the regulation of extraction of natural resources, the LOSC created the International Seabed authority which has its headquarters in Jamaica. This Authority looks over the resource projects. This Authority has as its members, nations functioning as a board of directors. The Assembly is the supreme body for setting policy in the authority.

III. LAWS THAT GOVERN LAW OF THE SEA

⁶ Commission on The Limits of the Continental Shelf (CLCS), United Nations, 2012

⁷ LOSC, Article 78.

⁸ LOSC, Article 136. ¹³ LOSC, Article 151(b). ¹⁴ LOSC, Article 7.

⁹ LOSC, Article 87. 1(a)

¹⁰ LOSC, Article 87. 1(b)

¹¹ LOSC, Article 87. 1(c)

¹² LOSC, Article 87. 1(d)

¹³ LOSC, Article 87. 1(e)

¹⁴ LOSC, Article 87. 1(f)

UNCLOS I:

The rights and responsibilities of the nation's regarding the use of the seas of the world have been defined in the Law of the Sea convention. The third United Nations Conference on the Law of the Sea culminated into The United Nations Convention on the Law of the Sea.

The first Conference on the Law of the Sea (UNCLOS I) was in 1956 in Geneva, Switzerland. This resulted in four treaties concluded in 1958: I. Convention on the High Seas, entry into force: 30 September 1962, II. Convention on the Continental Shelf, entry into force: 10 June 1964, III. Convention on the Territorial Sea and Contiguous Zone, entry into force: 10 September 1964, IV. Convention on Fishing and Conservation of Living Resources of the High Seas, entry into force: 20 March 1966.

UNCLOS II:

The Second United Nations Conference on the Law of the Sea (UNCLOS II) was not responsible for any international agreements. The conference also did not lay down a uniform territory as to the territorial waters and fishing rights.

UNCLOS III:

The third conference was held from 1973 to 1982. This conference addressed the concerns that were brought up in the previous conferences. The convention came into force on November 14, 1994. The convention was ratified initially by the developing states.

The Convention also defined the maritime zone, the territorial sea, the contiguous zone, the exclusive economic zone, the continental shelf, the high sea, the international sea-bed area and archipelagic waters. Important agreements were reached at UNCLOS III which included: I. Territorial sea up to a limit not exceeding 12 nautical miles. II. Contiguous zone up to 24 nautical miles from the shoreline for purposes of enforcement of customs, fiscal, immigration, or sanitary laws. III. Exclusive economic zone up to 200 nautical miles from the shoreline for purposes of exploring and exploiting, conserving and managing the natural resources, whether living or non-living IV. The resources of the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction are the common heritage of mankind. (to all) V. An International Seabed Authority will organize, carry out, and control activities associated with the exploitation of the resources of the international seabed. VI. A parallel system will be established for exploring and exploiting the international seabed, one involving private and state ventures and the other involving the Authority. VII. A so-called Enterprise will carry out activities in the international seabed for the Authority and will be responsible for transporting, processing, and marketing minerals recovered from the international seabed.

IV. CONCLUSION

The law of the Sea can be said to be a flourishing area of the international law. The first and the second conventions laid the path for the decisions taken in the third convention and have now become the part of the customary

international law. The third convention addressed a lot many concerns regarding the territorial extents of the various demarcations of the sea and the same have garnered a positive response from the international community and has been supports by the countries. The provisions laid down bring clarity to the already existing customary laws.

There have been disputes such as the South China sea dispute which have further helped in identifying and defining key issues with respect to the law of the sea and laying down the procedure for holding the parties accountable.

REFERENCES:

- [1] M. Rajkumar, "AUTOMATIC TYRE INFLATION SYSTEM," 2017.
- [2] S. Kumar Purwar, "AUTOMATIC TIRE INFLATION SYSTEM," *Int. Res. J. Eng. Technol.*, 2017.
- [3] T. Mushiri, A. T. Muzhanje, M. Pleasant, H. Zimbabwe, and C. Mbohwa, "Design of an automatic tyre pressure inflation system for small vehicles."
- [4] R. Ramachandra Principal, "AUTOMATIC TYRE PRESSURE MONITORING SYSTEM," *Int. J. Adv. Trends Eng. Sci. Technol.*, vol. 2, no. 5, 2017.
- [5] "Wheel-end assembly for a tyre-inflation system," *Seal. Technol.*, vol. 2018, no. 1, p. 15, 2018.
- [6] M. Massaro, V. Cossalter, and G. Cusimano, "The effect of the inflation pressure on the tyre properties and the motorcycle stability," *Proc. Inst. Mech. Eng. Part D J. Automob. Eng.*, vol. 227, no. 10, pp. 1480–1488, 2013.
- [7] R. B. et al. . Ram Bansal et al., "Automatic Tyre Inflation System in Dynamic Condition," *Int. J. Automob. Eng. Res. Dev.*, vol. 8, no. 1, pp. 1–10, 2018.
- [8] M. Tigges, "Centar tire inflation systems for agricultural vehicles," in *Agricultural Equipment Technology Conference2*, 2015, p. 21.
- [9] S. K. Venkata, "An Intelligent Online Vehicle Tyre Pressure Monitoring System," *Int. J. Electr. Comput. Eng.*, vol. 2, no. 3, 2012.
- [10] A. Mathai and P. Vanaja Ranjan, "A New Approach to Tyre Pressure Monitoring System," *Int. J. Adv. Res. Electr.*, vol. 4, no. 2, pp. 866–872, 2015.
- [11] G. Petchinathan, R. Bharath, T. Thiyagarajan, and S. Kumar, "Automated tyre pressure monitoring and regulating system," in *2014 IEEE International Conference on Vehicular Electronics and Safety, ICVES 2014*, 2015, pp. 22–27.
- [12] S. Prathish, S. Athi Narayanan, and K. Bijlani, "An intelligent system for online exam monitoring," in *Proceedings - 2016 International Conference on Information Science, ICIS 2016*, 2017, pp. 138–143.
- [13] V. Aravinthasamy, R. Vijay Kumar Yadav, B. Tharani Tharan, R. Viknesh, and K. Mahendran, "Tyre pressure monitoring system using wireless communication," *Int. J. Pure Appl. Math.*, vol. 118, no. Special Issue 20B, pp. 895–900, 2018.
- [15] S. R. Javheri, B. K. Sarka, and B. R. S. Patel, "WTPMS: Wireless Tyre Pressure Monitoring System for Motor Vehicles," in *2017 International Conference on Computing, Communication, Control and Automation, ICCUBEA 2017*, 2018.