

Law of the Sea

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ABSTRACT:

The law on sea has evolved from time to time as per the needs and requirements of the countries. It provided the set of regulations and rules to guide the laws related to oceans and the sea. It includes various several treaties and rules that the maritime operations.

KEYWORDS: Coastal, Maritime, UNCLOS, UN

INTRODUCTION:

Prior to establishments of rights and jurisdiction over the oceans, doctrine of freedom of the sea i.e., the seas were declared free for all and belonged to none was prevailed. Over the time, various key events took place to develop laws relating to the sea. The First United Nation Conference on the Law of the Sea was held in Geneva where four conventions on law of sea passed. Thereafter, in 1982, UN Convention on the Law of the Sea (UNCLOS) was held which tried to resolved various disputes related to sea.

1958 Convention:

This is the first conference which held on the law of the sea. In this conference four conventions were passed which are as follows:

- Convention on the Territorial Sea and Contiguous Zone
- Convention on the High Seas
- Convention on Fishing and Conservation of Living Resources
- Convention on the Continental Shelf

These conventions defined the ambits of rights and jurisdictions over the specific issues on law of sea.

United Nations Convention on the Law of Sea (UNCLOS)

This convention came into force in 1994. It's an international treat which tried to provide a universal set of regulations and framework over the seas. This convention replaces the 1958 Conventions.

Various maritime zones under the law of sea were stipulated which are as follows:

Baseline: This waterline is the lowest waterline which is mainly recognized by the coastal states such as Gujarat, Goa Norway, Chile etc.

Internal Waters: Internal waters are the ones which are present on the landward side of the bassline such as rivers, lakes, inlets etc. which are interconnected with the sea. States has all the rights to protect their interval waters and have jurisdictions over the same and have complete authority over their internal waters. For e.g. if a river is flowing in a state then that state can use that water for their purpose. They have the authority to decide how to utilize that water and if they want they can also restrict other states to not claim any authority over their river.

Territorial Sea: Territorial sea extends to the seaward about twelve nautical miles from the baseline. The coastal regions have authority have jurisdiction and authority on territorial seas. These rights are inclusive of subsoil, seabed and airspace but this authority is subject to the doctrine of right of innocent passage. Some relevant Articles of the 1982 Convention to understand the concept of Territorial Sea are as follows:

“SECTION 2. LIMITS OF THE TERRITORIAL SEA

Article 3

Breadth of the territorial sea

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

Article 4

Outer limit of the territorial sea

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.”

Doctrine of Innocent Passage:

Article 17 of the 1982 convention deals with the right of innocent passage of states. Section 3 of UNCLOS deals with Innocent Passage in the Territorial Sea:

“SECTION 3. INNOCENT PASSAGE IN THE TERRITORIAL SEA

SUBSECTION A. RULES APPLICABLE TO ALL SHIPS

Article 17

Right of innocent passage

Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.

Article 18 Meaning of passage

1. Passage means navigation through the territorial sea for the purpose of:

- A. traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
- B. proceeding to or from internal waters or a call at such roadstead or port facility.

2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.”

The right of innocent passage shall be no more innocent if the peace and security of the territorial sea of the state is hampered by any conduct of the vessel of other state.

Provisions regarding War Ships and other Non-Trading Ships:

Article 30 of UNCLOS deals with the provision with regard to War Ships which is as follows:

Article 30

Non-compliance by warships with the laws and regulations of the coastal State

If any warship does not comply with the laws and regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance therewith which is made to it, the coastal State may require it to leave the territorial sea immediately.

This provision states that, if any warship does not comply with the laws and disregards any compliance, the state may require to leave that territorial sea.

Contiguous Zone:

Contiguous zone is a belt of sea beyond and adjacent to the limits of the territorial sea of the coastal State. It is not subject to the sovereignty of the littoral State. However, the littoral State could exercise certain rights of jurisdiction and policy within such zone.

According to Article 33 of the Sea Convention, 1982 (Article 24 of the Territorial Sea Convention, 1958), a coastal State may exercise control in its contiguous zone "necessary to: (a) prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea; (b) punish infringement of the above regulations committed within the territory or territorial sea".

The contiguous zone may not extend beyond 24 miles from the baselines from which the breadth of the territorial sea is measured (Article 33(2) of the Sea Convention, 1982). However, contiguous zone is not appurtenant as in the case of the territorial sea, it must be claimed by the State.

Exclusive Economic Zone (EEZ) (Patrimonial Sea)

Exclusive Economic Zones (hereinafter referred as "EEZ") is considered one of the central innovations of UNCLOS, it was indicated by claims to fisheries jurisdiction beyond the territorial sea. While most states now secure their right to fisheries by claiming an EEZ of up to 200nm from the territorial sea baseline, a number of states continue to claim Exclusive Fishery Zones (EFZ) either instead of or as well as an EEZ. The EEZ also covers the exploitation and management of non-living as well as living resources. Article 56 of the UNCLOS further provides for the sovereign rights of the coastal state 'with regard to other activities for the economic exploitation and exploration of the zone'.

High Seas

The modern law of the high seas is largely set out in two multilateral treaties, both setting out propositions in 'all states' form. The first is the Geneva Convention on the High Seas (GCHS), the preamble of which asserts that its articles 'are generally declaratory of established principles of international law'. Its provisions were substantially co-opted by Part VII (High Seas) of the UN Convention on the Law of the Sea (UNCLOS). The high seas traditionally encompassed all parts of the sea beyond the territorial sea and the internal waters of a state.

By contrast, UNCLOS specifies that the provisions of Part VII 'apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State' (Article 86). This invites two observations, first, by no means all coastal states claim an Exclusive Economic Zone (EEZ) and secondly, many high seas freedoms are applicable in the EEZ. This is also the position in customary international law.

Right to Hot Pursuit:

The Doctrine of Hot Pursuit" is acknowledged as a state's legal prerogative under international law. Article 111 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) recognized it after it was initially established in Article 23 of the 1958 Geneva Convention. The idea of hot pursuit does not apply to the fundamental rule of freedom of the seas. Simply put, it states that if a foreign vessel commits any crime in the state's territorial waters, the pursuit of that vessel will start right away, may continue on the

high seas, and will be lawful if an arrest is made. It makes it possible for a police officer to track down a person who might be escaping to international waters in order to avoid being apprehended.

One of the recent case laws based on this doctrine, that is the Netherlands filed a claim against Russia in the 2013 Arctic Sunrise Case over the imprisonment of the ship, which was demonstrating against oil extraction in the Russian Exclusive Economic Zone. The argument aroused concerns about the ability to protest on the high seas and the implementation of coastal state laws beyond territorial waters.

Continental Shelf:

The United Nations Convention on the Law of the Sea (UNCLOS) governs the continental shelf, which is the underwater extension of a coastal state's mainland. The UNCLOS lays out procedures for identifying the continental shelf's outer boundaries, defines the continental shelf, and creates guidelines for coastal governments to claim continental shelves that extend beyond 200 nautical miles. The Commission on the Limits of the Continental Shelf (CLCS), which was also created by the UNCLOS, assists coastal states in defining the boundaries of their continental shelf.

India's Place on the Continental Shelf:- Section 6 of the Maritime Zones Act of 1976 clarifies India's position on the continental shelf. Part 1 of the aforementioned Section states that the Indian continental shelf consists of: "the sea-bed and subsoil of the sub-marine areas that extend beyond the limit of the territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of 200 nautical miles from the baseline where the outer edge of the continental margin does not extend up to that distance.

Conclusion:

The law of sea tries to ensure peaceful environment across the maritime operations. It tries to resolve the maritime disputes and set the guidelines and norms for oceans and sea. It ensures to maintain the integrity and security of maritime.