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UNCLOS Conundrum: India's Struggle to Balance Sovereignty and International Obligations

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Abstract

Historically, the seas have always been an arena of dispute over territorial jurisdictions, claims over mineral resources, fisheries, exploration etc. The United Nations Convention on the Law of the Sea aims to establish a comprehensive international legal framework to govern and regulate the global waters. However, the UNCLOS does not provide answers to all problems and confusion that arises in practice. As for India, the regime envisioned under the Convention poses certain limitations on India's economic growth and maritime sovereignty. India must take advantage of its regional and international stature in the ongoing dynamics of the global balance of power. India must create a national legislative framework that upholds its needs for maritime security and strengthens its position as a defender of international law in order to foster genuine cooperative efforts in maritime security. The paper aims to uncover the challenges posed by UNCLOS over India's global ambitions and tries to formulate policy solutions to counter the same.

Keywords: Law of the Sea, UNCLOS, India, Exclusive Economic Zone, Maritime Security, Indian Ocean Region

1. Introduction

In our global history, the seas and global waters have played a prominent role in transportation and communication of goods, ideas and cultures. Ideally, the navigation in global waters was considered universal and a tacit freedom was accorded to the uninterrupted movement in the high seas. However, as there came to be advances in maritime technology, increases in maritime trade, and the growing economic value of offshore energy and living resources have collectively led to a paradigm shift in the centuries-old division of the ocean between three-mile territorial seas under

coastal state authority and the high seas, where freedom of navigation and exploitation typically reigned. As time progressed, the coastal states' claims over oceanic resources grew and so the formidable 1982 UN Convention on the Law of the Sea (UNCLOS) established a new comprehensive oceanic order and an international legal framework that offered the stability required to preserve the maritime environment, support trade and development, maintain national security, and defend sovereignty. It resolved the long-standing debates on the state's maritime claims and paved the way for new developments.

Law of the sea is as old as nations, and the modern law of the sea is virtually as old as modern international law. For three hundred years it was probably the most stable and least controversial branch of international law[1]. The standards governing the rights and responsibilities of States in the maritime environment make up the complex and multifaceted field of law known as the law of the sea. UNCLOS is frequently recognised and qualified as a "constitution for the oceans". In addition to highlighting a fundamental aspect of that international treaty on the law of the sea, it establishes an assumption that any activity in the seas and oceans is governed, in whole or in part, by the UNCLOS and that any future regulations that may be negotiated and adopted must be compliant with it.

The comprehensive nature of the Convention reflects the idea that all issues pertaining to the law of the sea are interconnected. The UNCLOS divides the sea into zones and thus specifies the rights and duties of the States. Simultaneously, it also provides for the establishment of a Seabed Authority, regulates the protection and preservation of the marine environment, and sets out the rules governing marine research. It has also created multiple institutions to handle joint responsibility for managing mineral resources outside national borders as well as establishing the bounds of national jurisdiction.

It also offers other dispute resolution procedures, with mandated dispute settlement for certain circumstances. UNCLOS established the International Tribunal for the Law of the Sea (ITLOS), composed of 21 independent members, to adjudicate disputes arising out of the interpretation or

[1] Louis Henkin, How nations behave, 212 (2d ed. 1979)

application of UNCLOS. [2] The Law of the Sea is particularly important in the Indian Ocean and the South China Sea, where overlapping claims of sovereignty have given way to considerable stress on the international legal regime.

However, there are certain limitations to the working of the Convention. UNCLOS imposes significant limits on the scope of coastal State powers to prescribe and enforce their laws over foreign actors in certain maritime zones. In some gray areas, the provisions under the Convention provide vague definitions and put the burden of interpretation and application on the States, hindering the unified approach boasted by the Convention. This has posed significant limitations to India's exercise of its maritime sovereignty. The paper aims to examine the challenges to the working of UNCLOS and how these limitations pose challenges to India's maritime jurisdiction.

2. Literature Review

The entire paper has been compiled using several research papers, books, blogs, bills, data and guidelines. Some of the important ones are :-

- The book titled "How Nations Behave" by Louis Henkin sets the tone by providing a realistic analysis of the importance of international law. Historically, the seas have been seen as areas of open access for every nation with a tacit approval for freedom of navigation. However, as the world progressed and so did the concept of nation-states and territorial sovereignty, the need was felt to devise effective international law in place to regulate disputes and conflicts. The book addresses common objections to the validity and significance of international law, providing a layman's explanation of how law affects national foreign policy through historical and modern instances. The second edition of the book demonstrates a depth of experience and consideration, much like the foundation they join, and it's over fifty pages of notes offer a wealth of information for more research. The book however provides only an overview of adherence to international law by global

[2] See Annex VI of UNCLOS. International Tribunal for the Law of the Sea (ITLOS), "Members,"

players and does not delve deep into the specifics of certain regions like the Indian Ocean Region.

- The research paper titled "The UN Convention on the Law of the Sea and the Maritime Dispute in the South China Sea" by Robert Beckman published in the International Journal of American Law gives an overview of the UNCLOS highlighting its key provisions including the maritime territorial extent of coastal nations, the maritime zones under the Law of the Sea and the disputes arising from such demarcation. The paper specifically addresses the disputes concerning the South China Sea and outlines the limitations of the UNCLOS in addressing the same. The paper gives a detailed analysis of the evolving positions of the states bordering the South China Sea and how regional as well as national politics is driving the dispute in the region, keeping the Law of the Sea at bay. The paper however does not address disputes beyond the South China Sea.

- The research paper titled "Regional Maritime Security Limitations under UNCLOS" by Vasileios Lymperopoulos has explored and outlined the limitations present under the UNCLOS. Though the UNCLOS aims to provide a robust and comprehensive global framework to govern global waters, it still suffers from its own set of ambiguities and challenges. These limitations impinge on the stakeholder states' capacity to exercise sovereign jurisdiction in its maritime boundaries, leaving the burden of interpreting the law on the nations. This often leads to conflicts in implementing the provisions mentioned under the UNCLOS. The paper highlights multiple case studies such as the South China Sea Dispute, the Aegean Sea Dispute wherein the Law of the Sea failed to provide a smooth de-escalation of conflict in the region. The paper argues that there is a lack of clarity and guidance about the Law of the Sea which has hindered the establishment of a comprehensive maritime regime in the region. It also highlights the shortcomings of the UNCLOS in addressing key security issues like piracy, terrorism and illegal fishing. However the paper does not cover the challenges and limitations faced in the Indian Ocean Region, specifically the key stakeholders in the region like India.

- The Occasional Paper published on the Observer Research Foundation's blog, titled "India and a Stable Indo-Pacific: Managing Maritime Security Challenges in the Bay of Bengal" authored by Sohini Bose and Anasua Basu Ray Chaudhury gives a detailed explanation of the maritime challenges faced by India in the Bay of Bengal region. The Bay of Bengal acts as a bridge between India and the ASEAN and a gateway to the broader waters of Indo-Pacific and therefore is a strategic component of India's maritime diplomacy. The Bay also holds enormous economic potential for India, holding 4% of the global fish-catch. The paper first explores the position of the Bay and then analyzes how it fits into India's vision of the Indo-Pacific. The paper provides a detailed analysis of the traditional and non-traditional threats including inter-state competition, freedom of navigation issues, drug trafficking, illegal and undocumented migration, maritime terrorism and unregulated fishing. The paper highlights the impacts of these maritime challenges on India's maritime as well as internal security and further provides policy recommendations for the same. The recommendations offered by the paper includes tapping into the Andaman and Nicobar's strategic potential, enhancing maritime domain awareness and bolstering eastern naval defenses.

- The Ministry of External Affair, India, in one of its distinguished lectures under the title "India's maritime diplomacy in the Indo-Pacific in pursuit of its national objectives" highlights India's ambitions to maintain its territorial sovereignty while also adhering to international obligations under the UNCLOS. In today's geopolitical scenario, India is busy establishing its footing as a key strategic player in the Indian Ocean Region as well as the Indo-Pacific. In order to emerge as a strong contender India needs to balance its territorial integrity along with maintaining the international order. The Ministry's lecture thus outlines and provides an analysis of India's maritime diplomacy to secure its national interests and build coordination and cooperation with the stakeholder nations in the Indo-Pacific region.

3. Development and Application of the Law of the Sea

Over 80% of the global business is carried out by the seas. In order to govern the transaction and transportation seamlessly, the UNCLOS provided a legal framework, which is adhered to by the party nations. So far, UNCLOS has been ratified by 168 parties. These include 164 United Nations Member States, a United Nations Observer State (Palestine), the European Union, the Cook Islands and Niue. One of the most significant States that has neither signed nor ratified UNCLOS is the United States of America. The United States refused to accede to the Convention, citing concerns about certain elements of UNCLOS pertaining to the seabed and ocean floor that it believed to be in opposition to its interests in economic and security.

Particularly noteworthy is the fact that the United Nations does not have any major role in the functioning of the UNCLOS. The major role is played by the International Maritime Organization, assisted by other organizations such as the International Whaling Commission, and the International Seabed Authority. The meeting established guidelines for the nations' restricted mobility, their susceptibility to monitoring or interdiction, and their naval forces' prohibition on gathering information and oceanographic data within a 200-mile radius. Additionally, UNCLOS identifies certain features of the oceans—including mineral resources in the continental shelf and the deep seabed to which it gives states different bundles of rights. Certain other rules govern other geographical configurations that have special importance for states, including straits, which connect different parts of the high seas, and archipelagos. [3]

Nonetheless, it cannot be assumed that every provision of UNCLOS has obtained customary law status. The proposition that a specific rule contained in UNCLOS is part of customary international law needs to be supported by State practice and by *opinio juris*, which is the States' conviction that they have a legal obligation to comply with such a rule. [4] The application of the Law of the Sea and the interpretations of the international law has been ambiguous to certain degrees that interjects with India's exercise of its maritime sovereignty. Over the years, India has formulated various domestic policies and laws to safeguard itself from these ambiguities while also maintaining its obligations to the global maritime order.

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[3] Eric A. Posner & Allan O. Sykes, Economic Foundations of the Law of the Sea, (John M. Olin Program in Law and Economics Working Paper No. 504, 2009), 10,(2009)

[4] Curtis

4. Indian Domestic Laws for Maritime Jurisdiction

By applying a legal perspective to the maritime sector, we can make well-informed decisions that reduce risks, guarantee compliance, and spur innovation. It gives us the ability to proactively handle problems and take advantage of opportunities, which eventually promotes a more robust and successful industry. India's marine legislation has changed significantly throughout the years, fostering investment opportunities and adjusting to the shifting demands of the maritime sector.

Majority of the maritime legislations in India have evolved under the influence of the English legislations. Since independence, India has been proactive in securing its maritime jurisdiction through key legislations such as the Merchant Shipping Act 1958, Multimodal Transportation of Goods Act 1993, The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act 2017, Major Ports Authorities Act, 2021 which have been instrumental in developing India's maritime infrastructure and legal structure. These legislations through their various provisions have helped India maintain its territorial and maritime sovereignty and integrity from time and time while also providing it an avenue to adhere to international obligations.

Furthermore, a confidential document from 1998 titled "Maritime Military Strategy" is also worth mentioning. It's probable that this strategy document and the SDR are the same. In addition to accommodating shifting perceptions of threats, India's development into a legitimate regional force, and the IN's expanding blue water capacity, these responsibilities also demonstrated the expansion of India's strategic maritime outlook. Periodically, "maritime vision" and "strategic guidance to transformation" documents are released in response to developments in the maritime industry. These publications set the direction for the Indian Navy's marine outlook and implement the necessary adjustments to conform to the current maritime environment. These consist of the current strategic papers in addition to organizational and structural modifications and act as a guiding light for India’s maritime strategies.

In addition to offering clarity on the Indian Navy's current strategic maritime view, Indian Maritime Security Strategy 2015 has made India's "intent" highly transparent to all parties

involved, particularly those with whom India and its navy have strategic partnerships. In line with the component policies and maritime outlook, it has also directed the continuous acquisition and modernization of a force level. So while UNCLOS continues to be ambiguous, challenging India's exercise of its maritime rights, these domestic legislations have tried to make sure that India does not lag in protecting its maritime boundaries and resources.

5. Challenges under UNCLOS

The provisions of UNCLOS are not always complied with in practice even though most states have adopted it. An overarching challenge is that of enforcement and also of gaps in UNCLOS. In some cases, this is because issues such as climate change and rising sea levels were not understood to the extent they are relevant today and similarly new technologies such as maritime autonomous vehicles were developed only after UNCLOS was drafted. Other issues such as human rights at sea, labor protections, maritime security, and the regulation of access to certain economic resources, such as those on the deep seabed have intensified only after the adoption of the provisions of UNCLOS.

5.1 Maritime Security

The UNCLOS aims to provide a robust legal framework in order to govern the world’s oceans and promote peaceful cooperation among nations. However, in recent years we have seen that nations have come up with their own regional security mechanisms which inadvertently hinders the application of a cohesive and unified legal approach to maritime security on a global level, which the UNCLOS envisions. The example of Caribbean Community is a case study in concern. The regional organization aims to address challenges specific to their own region, however according to experts it may not fully align with the global order established by UNCLOS and may reflect inconsistencies in jurisdiction and enforcement. Critics argue that fragmented and inconsistent regional security regimes can lead to confusion and lack of coordination in responding to maritime security challenges. Additionally, the reliance on regional agreements may result in overlapping

jurisdictions and conflicting enforcement mechanisms, especially when it comes to transnational maritime threats such as piracy and illegal fishing. [5]

Article 280

Settlement of disputes by any peaceful means chosen by the parties

Nothing in this Part impairs the right of any States Parties to agree at any time to settle a dispute between them concerning the interpretation or application of this Convention by any peaceful means of their own choice. [6]

The above provision under the Convention puts the onus on the respective states to resolve the regional disputes as they seem fit according to their interpretation or application of the Convention. However, disputes about the interpretation or application of UNCLOS arise from conflicts regarding the exercise of rights and obligations in the relevant maritime area. A complex topic that has arisen in several disputes regarding the application of UNCLOS is how to overcome jurisdictional challenges where disputes are of a mixed nature, i.e. disputes that are not limited to differences regarding provisions of UNCLOS but extend also to other rules of international law. The question arises whether, and in the affirmative, to what degree, such disputes are eligible to fall within the application of the compulsory dispute settlement mechanism under UNCLOS, notwithstanding the dispute is connected to disputes that are not governed by UNCLOS. [7] Under these conditions, UNCLOS remains a vital tool for ocean governance to guarantee maritime safety and security for years to come, but the interpretation and implementation of the Convention have created problems for its functioning.

The Aegean Sea dispute between Greece and Turkey highlights the unclear guidance provided by the Convention to address region specific maritime disputes. Furthermore, it has hindered the establishment of a comprehensive maritime security regime in the region leading to escalation of conflicts between Greece and Turkey. Similarly in cases of overlapping claims on the South China

[5] Lymperopoulos, V. (2024). Regional Maritime Security Limitations under UNCLOS. The Review of Contemporary Scientific and Academic Studies

[6] Article 280, UNCLOS

[7] Preservation of Territorial Integrity – A Substantive Rule under UNCLOS (2024, April 17). EJIL: Talk!

Sea, the UNCLOS does not provide any mechanism for resolving the disputes. China claims a whopping 80% of South China Sea as its sovereign territory, which is at odds with similar maritime claims made by states like Taiwan and other southeast asian nations. China seems to be asserting that UNCLOS does "not restrain or deny a country's right which is formed in history and abidingly upheld." That position, applied to a large marine area bordered by many states, threatens the entire legal regime established under UNCLOS. By the same token, it engages the fundamental interests in the law of the sea not only of the states bordering the South China Sea but of all states with an interest in the law of the sea and in the continuing vitality of UNCLOS. [8] In summary, UNCLOS offers a fundamental framework for maritime governance, but it falls short in addressing modern threats to maritime security and creating strong regional security frameworks.

5.2 Piracy and Crimes at Sea

A significant aspect of maintaining maritime security is to combat crimes at sea. Blue crimes such as piracy, illegal fishing and smuggling by sea are increasingly recognised as a major international security issue that require political attention. [9] Such crimes are interconnected and their nature is often inconsistent with the regulations laid down under UNCLOS. Blue crimes often take place in areas of diffuse state jurisdiction and create loopholes to evade capture and trial.

There have been significant debates on the definitions of "piracy" as laid down under UNCLOS. According to Article 101 (a), any illegal acts or acts of violence conducted for private gain are deemed acts of piracy. Since there is no further clarification of this provision in the UNCLOS, its significance is difficult to comprehend. Some contend that the phrase "private" can be defined by contrasting it with the term "public." Consequently, if the act included state authority, it does not qualify as private. [10] Similarly there are others who contest that "private ships" mentioned in the definition is insufficient to describe private ends and cannot be taken as a synonym of non-governmental ship. Even though private ends are distinguished from political motives, it is difficult

[8] Beckman, R., Tara Davenport, & Monique Page. (2013). THE UN CONVENTION ON THE LAW OF THE SEA AND THE MARITIME DISPUTES IN THE SOUTH CHINA SEA. In THE AMERICAN JOURNAL OF INTERNATIONAL LAW (Vol. 107, p. 142).
[9] Edwards, S., Bueger, C., Edmunds, T., & Germond, B. (2021). UNCLOS in Action: Evidence on maritime security challenges. *ResearchGate*.
[10] Ibid.

to distinguish private and politically motivated objectives in practice. A case study in concern is the Greenpeace vessel. Despite the fact that Greenpeace's mission was connected to a political movement, this instance was considered to have "private ends" because it was in favor of a personal point of view. [11]

Another point of contention is the scope of piracy in the designated maritime zones under UNCLOS. Article 86 of the UNCLOS states that piracy is excluded from territorial seas, a state's internal waterways, or archipelagic waters. Because the Exclusive Economic Zone (EEZ) is not included in the definition of the high seas, the question of whether attacks carried out there qualify as piracy arises. As a result of this approach, there have been a significant number of piracy cases in the territorial waters of Indonesia and Philippines.

Due to the legal ambiguity this provision creates, anti-piracy legislation will be more difficult to implement. Furthermore, such a concept is inappropriate to counter well-organized pirate attacks in the context of modern piracy. As more pirates become aware of the vulnerability of specific states, the number of piracy incidents will rise if territorial seas are kept out of the definition of piracy. To avoid being apprehended, pirates will use strategies utilizing territorial waters.

Even though Article 105 of UNCLOS gives the arresting states the authority to try pirates, there are frequent issues in prosecuting pirates due to a lack of witnesses or other proof that they engaged in pirate activity. States are not required by UNCLOS to extradite or prosecute pirates who are on their soil. When warships catch pirates, they are not entitled to a trial. Locating witnesses and translators is a challenge for prosecutors. Pirates must be brought before the state's courts where they will be granted a fair trial after being apprehended. States are hesitant to lock up pirates, even in cases when charges are proven.

5.3 Natural Resources and Mineral Exploration

For the purposes of exploring and utilizing its "natural resources," which include "mineral and other non-living resources of the seabed and subsoil," the coastal State has unique "sovereign

[11] Ibid.

rights" under Article 77 of UNCLOS. These rights are not dependent on occupation or formal proclamation. The Convention offers a comprehensive agreement that controls and governs deep-sea mining both inside and outside of sovereign borders. Despite being covered by the same treaty, the two regions are administered differently.

Furthermore, in the case of the shared stock of fisheries which gets distributed between the EEZ of two different states, there are several shortcomings in the law of the sea. Under article 63 of UNCLOS, two classes of fish stocks have been provided. The transboundary stock mentioned in the article refers to the stocks shared between the neighboring coastal states. The second category of stocks refers to the highly migratory stocks, which keep moving from the EEZ to the high seas. The highly mobile character of these stocks poses conflicting issues which have not been regulated. There are no laws and agreements on the management of fisheries in the high seas. Yet another challenge manifests itself in the form of lack of guidance on how negotiations should be conducted on cooperative management arrangements between the shareholder States.

The Convention also does not cover a number of emerging issues such as the conservation of marine biodiversity, or the use of marine genetic resources. Likewise, it does not address some issues arising from global warming. [12] The convention also fails to address the environmental challenges pertaining to the exploitation of fisheries, where in more than 30% of the world fisheries have been pushed beyond their biological limits.

6. Challenges for India under UNCLOS

6.1 Territorial Claims

Through a notification in 2009, India notified its straight baselines around Lakshadweep and declared a new sea area as part of the country's territorial waters. Such straight baselines according to UNCLOS can only be used by archipelagic states and not continental states like India. Therefore, the United States does not recognise India’s 2009 notification. Owing to this, India and

[12] Symonides, J. (2018). Maritime Law, vol. XXXIV. In *Maritime Law: Vol. XXXIV*.

the United States have fundamental differences in interpreting coastal rights in order to stop foreign ships from conducting military activities in their EEZ. India believes that States should have greater control over foreign military activities in their exclusive economic zone. This right however, is not universally accepted nor is part of international Maritime law as articulated under UNCLOS.

In October 2009, Bangladesh began arbitration under Annex VII of the Convention, asking the Tribunal to determine the point at which the two States' land borders terminate and to define each state's territorial sea, exclusive economic zone (EEZ), and continental shelf within and outside of 200 nautical miles, where the two States' claims overlapped. Bangladesh and India disagreed on how to arrive at a fair resolution. India made the case for the use of the "equidistance/relevant circumstances" technique, a three-step procedure that involves the identification of a provisional equidistance line, its adjustment in response to relevant circumstances, and its examination to make sure the outcome is not excessive. India believed that there was no need for modification. Bangladesh contended that the application of the "angle-bisector" method—which divides the angle formed by the lines that form each State's coast into two sections to create a boundary line—was necessary due to the concave nature of the Bay of Bengal and the coast's susceptibility to erosion.

Similarly, in the Arabian Sea, where conflicting claims in the Exclusive Economic Zone create legal ambiguities, the India-Pakistan maritime boundary is still a source of contention. The discovery of resources, such as fishing and hydrocarbon extraction, is complicated by the absence of a clear boundary. Under the UNCLOS's dispute resolution procedures, India runs the possibility of legal issues; in order to prevent tensions from getting worse, both nations must establish a defined border.

6.2 Maritime Security and Crimes at Sea

Under the provisions of UNCLOS, there is an extended jurisdiction upto the EEZ in cases like piracy. It also provides for a universal jurisdiction, meaning any warship or pirate captured by the States can be tried by them. However, there are legal barriers in prosecuting pirates in international

waters, for example, the Indian Penal Code, 1860 provides for prosecution of foreigners within its territorial limits only. Locating witnesses and translators is a challenge for prosecutors. For example, in the Alondra Rainbow case (1999), the Mumbai High Court acquitted the accused on grounds that India did not have the jurisdiction to prosecute them. [13] Pirates must be brought before the state's courts where they will be granted a fair trial after being apprehended. States are reluctant to lock up pirates because they would be stuck with them when they are released, even in the event that charges are proven.

The UNCLOS doesn't counter piracy at the threshold and there are contradictions to General Principles of International Law and security measures adopted by the Sovereign member States. Therefore there is a need to have in- depth research on piracy on the high seas and solutions to end the menace of piracy. [14]

6.3 Mineral Exploration

For India, a number of factors, including a dearth of scientific evidence, difficulties in assessing and quantifying allowable environmental harm, and the ISA's inadequate implementation and oversight capabilities, all contribute to the need for an adoption of robust legal framework when it comes to the start of seabed mining. The movement for an international ban on seabed mining and the sluggish progress towards finalizing exploitation regulations are leading to a "wait and watch" mentality.

7. Indian Response

With its vast 7500 km of coastline, 1200 islands, and over 2,000,000 km² of Exclusive Economic Zone, India's marine interface plays a major role in its strategic objectives. India's maritime diplomacy employs a multifaceted strategy that is tailored to the strategic conditions in several

[13] Prsindia.org
[14] Tandfonline

subregions within the larger Indo-Pacific region. It considers the diplomatic goals of the other nations that are of significance to it in this endeavor.

Due to several ambiguities in the Convention and a confusion in its implementation, the need is felt for India to develop a comprehensive domestic legislation on piracy. It has been decided to bring about domestic anti-piracy legislation for the prosecution of persons for piracy-related crimes and to promote the safety and security of India's maritime trade including the safety of our vessels and crew members. This involves the Anti-Maritime Piracy Bill (2019) that seeks to counter piracy attacks both in the Indian Ocean and the Gulf of Aden. It criminalizes encouraging, promoting, and/or aiding piracy and expands the definition of authorities authorized to initiate arrests and seizures. This move has been made to guarantee India's sovereignty in managing its security challenges while at the same time taking inspiration from international law to maintain its global obligations.

In 2013, India signed a trilateral maritime security accord with Maldives and Sri Lanka that would likely expand to a five-power grouping including Mauritius and Seychelles. This move has been in consonance with the view to counteract against the growing threat of piracy in the west IOR and also reinstates India's image as a security provider in the region. Added to this is the threat posed by the growing Chinese presence in the region and its advancement of loans to the littoral states which poses coordination and cooperation challenges for India. The Trilateral accord in a way signaled India's growing readiness to assume greater responsibility and overt leadership in the region. India intervened to pledge to support the capacity building because all of the islands in the region lacked marine capability. Therefore, the main goal was to unite these nations under a single multilateral marine security framework, reinforcing India's new neighbor-first policy.

In order to guarantee what is referred to as "freedom of navigation" and the "openness" of oceans, India had established its maritime footprint in the IOR by 2009, was expanding into the larger Indo-Pacific, and was interacting with other countries and their navies. The Indian Maritime Security Strategy 2015, reflects these changes which are distributed among the five component strategies. These strategies address the following topics: maritime force and capability development, deterrence, conflict, shaping a favorable and positive maritime environment, and

coastal and offshore security. Every component plan has a distinct goal related to maritime security. With initiatives and concepts such as Security and Growth for All in the Region (SAGAR), Neighbourhood First, Act East, Look West, and the Indo-Pacific Oceans Initiative (IPOI), these five policies effectively support India's strategic marine approach. Combating the persistent nature of threats emanating at and from the sea, bolstering interagency coordination and cooperation mechanisms, and creating a seamless, cohesive maritime security framework are the three main focuses of the Strategy for Coastal and Offshore Security.

Moving beyond IOR, India has strengthened its links with ASEAN and is also looking farther ahead of the region. [15] The peculiarity of today's concerns lies in the way maritime Asia's geopolitical power dynamics place limitations on the application of coordinated security measures to address specific threats. This move steps up collaboration as it ties India with ASEAN as a group. Notwithstanding the convergence of the maritime domain between India and ASEAN, bilateral relations need to be cultivated on the basis of India's strong historical relations and bonds with the founding members of ASEAN individually, as well as the later accessions. The ASEAN has much to offer to India in terms of maritime cooperation, maritime diplomacy, and the trade of high-end military-maritime weapons and other equipment. Other factors include the urgency to jointly address the diverse security concerns that thrive in the domain and to cater to the diverse set of environmental and ecological concerns that may hinder a progressive future.

Indian naval patrols are stationed in the Exclusive Economic Zones (EEZs) of multiple nations, allowing them to enhance resource security and prevent illicit operations. Along the international maritime border lines, the Indian Navy coordinates patrols with other friendly navies. In order to help partner nations better manage their marine resources, it provides them with precise hydrographic maps. In addition to training and platform transfers, the Indian Navy has arrangements for port calls and logistics cooperation to expand its maritime security patrolling area. Such cooperation and coordination with neighboring states ensures that India continues to safeguard its maritime boundaries. The coordination comes at an advantage for India in terms of

[15] Teriin.org

intelligence and technology sharing between stakeholder states to ensure sovereignty and protection against organized crimes at sea.

For seabed mining and mineral exploration, the Convention provides treaties through which seabed mining both within and outside national jurisdiction is regulated. This grants the States sovereign rights which allows them to collect natural resources. India has obtained two exploration licenses since 1981 from the ISA for the exclusive right to undertake exploration for polymetallic nodules and polymetallic sulfides in the Indian Ocean. Similarly, India's ambitious Draft Blue Economic Policy and Deep Ocean Mission demonstrate its commitment and interest towards deep sea mining and also provide policy guidance.

India has formulated the Offshore Area Minerals (Development and Regulation) Act 2002 as the governing national legislation for deep-sea mining. The SAGAR initiative along with the Maritime Vision 2030 is India's current roadmap for maritime development. The SAGAR initiative was put forward to make the Indian Ocean Region more inclusive and collaborative with other nations. The policy initiatives taken by India to refurbish its maritime approach range from infrastructure overhaul to defense collaborations.

8. Recommendations

- India should clarify its legal stance on the use of straight baselines in accordance with UNCLOS to avoid international disputes. This could involve revisiting the 2009 notification to align with the archipelagic baseline concept or seeking an advisory opinion from the International Tribunal for the Law of the Sea (ITLOS).

- India should expedite the passage of the Anti-Maritime Piracy Bill and update domestic laws like the Bharatiya Nagarik Suraksha Sanhita (BNSS) to provide jurisdiction over piracy and related crimes committed in international waters.

- The Indian Navy's fundamental strategy for maritime security is still based mostly on the idea of cooperative operations, which prioritizes friendly outreach and cooperative monitoring assignments. The need of the hour is to build a strong narrative, combining hard power with soft power to shape the perception of foreign policymakers towards India's maritime capabilities and also warn adversaries in the region. Display of maritime power through the unraveling of the latest technology and equipment is one way of doing so as is being undertaken by other countries like North Korea. India can create and fortify naval bases in strategic areas to improve logistical capacity and enable quick reaction to security threats.

- India has recently sanctioned Rs. 65,000 crore as the Indian Navy's budget for the financial year 2024-25. An increased budgetary allocation to the Indian Navy is pertinent to building capacity in order to fight crimes at sea. In terms of operational reach, New Delhi's strategic vision should include waters beyond the IOR. This is especially relevant in light of the Indo-Pacific region's growing prominence and the networks of relationships that are developing. A Public-Private Partnership model can be applied to maintain maritime security and power projection, by investing in cutting-edge naval capabilities, such as submarines, aircraft carriers, and multirole naval vessels. This will boost the navy's cyber capabilities to safeguard critical marine operations and infrastructure.

- India should make strategic advances to secure cooperation with non-conventional players like Canada, New Zealand and Norway. A number of strategies will be necessary in the years to come: the establishment of requisite institutional and physical infrastructure for constructive engagement, the cultivation of strategic trust, reforming institutional insufficiencies, and collaborating towards the mitigation of system destabilization threats. [16] Such collaboration can also be done using social media and international venues, in order to run initiatives to raise awareness of India's nautical heritage, trade routes, and contributions to maritime safety worldwide. India can also produce an informative

[16] Ministry of External Affairs, Distinguished Lectures, "India's maritime diplomacy in the Indo-Pacific in pursuit of its national objectives"

documentary series showcasing India's nautical accomplishments, sea lanes, and cross-cultural interactions which will serve as its soft power.

- In terms of Research and Development activities, a dedicated national Maritime Think Tank can be established for forecasting and analyzing threats and opportunities in the maritime sector. It can contribute to the formulation of maritime doctrines and strategies that enhance naval capabilities, maintaining Indian sovereignty while at the same time adhering to international obligations. This can be done by creating maritime training facilities in association with other nations to promote the exchange of information and skill development in maritime fields. Another way to achieve this is to provide professionals and students from coastal nations with exchange opportunities and scholarships so they can attend maritime schools in India.

- Encourage public-private partnerships (PPP) to enhance maritime infrastructure, including port development, and to invest in advanced naval capabilities.

- India should draft and adopt a comprehensive legal framework for seabed mining that aligns with international standards and addresses environmental concerns. A clear legal framework will enable India to responsibly exploit deep-sea resources while minimizing environmental impact.

- Strengthen environmental impact assessment (EIA) procedures for seabed mining and develop a national monitoring system to ensure compliance with environmental regulations. Rigorous EIA and monitoring will help mitigate the ecological risks associated with seabed mining and protect marine biodiversity.

- India should actively engage with the ISA to influence the development of global seabed mining regulations and secure its interests in deep-sea exploration. Rationale: Active participation in ISA decision-making processes will ensure that India’s interests are safeguarded in the evolving legal and regulatory framework for seabed mining.

- With regard to the Blue Economy, further study in oceanic sciences, technology, and policy is required. Compiling statistical data, defining the Blue Economy, and establishing an information repository using a transdisciplinary framework are vital tasks. Increased collaboration to exchange scientific knowledge and create instruments and systems to tackle environmental degradation and climate change, which are vital for the sustainable development of the oceans. India can create and put into effect Integrated Coastal Zone Management policies that support the sustainable use of coastal resources while striking a balance between economic growth and ecological preservation. India can also adopt transparent licenses and a rights-based fishing strategy to promote ethical fishing methods. This vision can also be achieved by establishing and maintaining MPAs is essential to preserving marine biodiversity and restoring fisheries. Further, India can give communities that are involved in fishing and travel, educational programs to improve their knowledge of sustainable practices.

- India should work with other maritime nations to establish a comprehensive international framework for combating piracy, including information-sharing mechanisms and joint naval operations. Collaborative efforts will address the transnational nature of piracy and improve the effectiveness of anti-piracy measures.

- For the marine industry to succeed, capacity building and training beyond scientists and technologists are crucial. When navy fighting prowess is complemented by a robust civilian maritime sector and infrastructure, true progress occurs. It is imperative to educate stakeholders from the banking and insurance sectors, academia, think tanks, and commercial organizations on the evolving ocean ecosystem. This will enable them to make valuable contributions to the ongoing dialogue about the Blue Economy and its practical application.

- In order to guarantee that all parties involved in the marine business are aware of their rights and obligations, India can provide training on pertinent laws, rules, and policies. Encourage collaborations to conduct joint research and exchange findings between academic institutions, research centers, and the marine industry. Plan interactive seminars

on subjects like marine building, sustainable fishing methods, and regulatory compliance. Provide easily navigable manuals and resource packs that stakeholders can utilize to learn about best practices in sustainability and maritime operations.

- It might be a good idea for the new military maritime strategy to readdress a few important points of the National Maritime Agenda, 2010–2020, which outlines measures to create port capacity, improve port performance, and increase tonnage under the Indian flag. India can establish forums and roundtables to effectively discuss and deliberate these strategies and by assessing stakeholders' issues and educational needs on a regular basis to successfully customize capacity-building initiatives. India's marine strategy will have a composite strategic character as a result.

- India can establish a national Maritime Security Research Institute focused on studying and developing strategies to counter maritime crimes, including piracy. In-depth research will provide insights into emerging threats and help develop innovative solutions for maritime security.

9. Conclusion

The oceans have been an invariable part of the history of mankind’s progression. With growing technology, discovery and globalization, the need was felt to put the freedom of navigation so enjoyed in the ancient times under a legal framework for seamless functioning. The United Nations Convention on the Law of the Sea sought to codify the rules and regulations with respect to the high seas. However, while it provides a universal guidance for the rules and duties needed to be observed by party States, in some areas the ambiguities and lack of clarity of interpretation and implementation under UNCLOS has posed legal challenges. For India, the legal challenges pertaining to claims over its territorial waters, combating piracy and other crimes at sea pose limitations to its economic growth and sovereignty. India has developed multiple maritime strategies and policies to counter these challenges and find its way around it. India's maritime

diplomacy must use its own resources and the goodwill it enjoys throughout a huge portion of this large region to traverse these hurdles in addition to carefully collaborating with other states.

10. References

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