



# Controlling Ocean Governance: Analysing The Development & Significance Of Unclos 1982

Tanuja. H.B  
Research Scholar  
Department of Studies in Law  
University of Mysore, Manasagangotri  
Mysuru.

and

Prof (Dr). Maruthi .T.R.  
Professor of Law  
Department of Studies in Law  
University of Mysore, Manasagangotri  
Mysuru.

## Abstract

This paper illuminates the importance of Ocean Governance and upholds and clarifies the ongoing significance of UNCLOS 1982 in promoting collaboration, harmony, and sustainable growth throughout the world's seas, therefore enhancing and promoting marine sustainability and fair resource administration. A keystone in regulating ocean affairs is the 1982 United Nations Convention on the Law of the Sea (UNCLOS), offering a thorough legal framework to control a range of activities and interests in the world's seas. The paper analyses the relevance of UNCLOS in forming global marine governance, which examines the historical background, development, main clauses, and impacts of the Convention. This paper aims to clarify the ongoing significance of UNCLOS in promoting cooperation, peace, and sustainable development throughout the world's seas by exploring the influence of the Convention on current difficulties and its applicability in tackling upcoming concerns. This paper provides a thorough study that advances knowledge of UNCLOS's function in navigating the challenges of ocean governance and promoting attempts to manage resources fairly and sustainably in the ocean.

**Keywords:** UNCLOS 1982, UNCLOS and Maritime Governance, UNCLOS and Sustainable Development

## I. INTRODUCTION

### Introduction

The law of the sea has been a major worldwide topic of interaction for centuries because it plays a crucial role in promoting economic growth, enabling international trade, and protecting the priceless treasure of marine resources. The United Nations embarked on extensive interactions over several years to draft a historic treaty known as the United Nations Convention on the Law of the Sea (UNCLOS) in light of growing concerns and difficulties surrounding marine issues. <sup>1</sup> This historic agreement, which was ratified by several countries, sought to create a comprehensive regulatory framework that would regulate every aspect of ocean use and management in addition to codifying ancient customary international law. UNCLOS is a testament to the UN's dedication to promoting collaboration, settling conflicts, and guaranteeing the sustainable use of maritime resources for current and future generations, having been

meticulously designed under its supervision. 2 As such, it stands as a pillar in the continuing development of international law and offers hope for the just and peaceful cohabitation of states in the international marine domain.

### Historical Background

UNCLOS was founded in the middle of the 20th century, at which time there were growing worries about the number of competing maritime claims, unrestricted resource exploitation, and increasing environmental damage in the world's seas. The need for an extensive legal framework to oversee marine activities was acknowledged by the international community as a response to these urgent concerns. With the ratification of the Geneva Convention on the High Seas in 1958, which established fundamental guidelines for regulating activity outside of state borders, the first steps towards this objective were made. 3 The UNCLOS I in 1958 and UNCLOS II in 1960 were the result of later attempts to further define international maritime law. The lofty objective of creating a treaty that was universally ratified proved elusive despite sincere attempts to create agreement and reconcile conflicting interests among participating parties throughout these sessions. UNCLOS I and UNCLOS II ultimately failed to achieve their intended goals due to the difficulties of balancing conflicting national

1 Angela Del Vecchio, Roberto Virzo, ' Interpretation of the United Nations Convention on Law of the Sea by

International Courts and Tribunals', (Springer International Publishing AG, Switzerland), 2019, at 5-6

2 Bimal N Patel, 'The State Practice of India and the Development of International Law', ( Brill Nijhoff, Leiden,

Bostan),2016, at 72-75

3 Supra at 69

3

interests and different legal traditions. This opened the door for further efforts and a drawn-out negotiation process that resulted in the comprehensive UNCLOS framework in 1982.

### Development and Implementation

The UNCLOS, which was ratified in 1982, has been evolving and adapting ever since to successfully handle new issues in maritime administration. Centuries of maritime exploration, trade, and warfare have shaped the historical background of UNCLOS 1982 and underscored the necessity for an all-encompassing international legal framework to govern the world's waters.

Conflicts between colonial powers and indigenous peoples originated from territorial claims and maritime borders throughout the 18th and 19th centuries' colonial expansion. The necessity for precise regulations controlling marine rights and borders was highlighted by World War 1 and II. Following the war, there was a surge in global initiatives to advance international collaboration, security, and peace. When the United Nations was founded in 1945, it gave nations a platform to discuss issues on the world at large, particularly those involving the seas. Technological developments during the 20th century led to a rise in human activity in the seas, resulting in worries about resource depletion, environmental degradation, and marine security. These developments included enhanced technology for communication, navigation, and resource exploitation.

Before UNCLOS 1982 was developed, UNCLOS I and II were the first attempts to resolve the difficult challenges underlying the law of the sea.

Held in Geneva in 1958, UNCLOS I was the inaugural United Nations Conference on the Law of the Sea. The main goals of UNCLOS I were to define the extent of territorial waters and the idea of the continental shelf, 4 which subsequently became essential components of UNCLOS 1982. It also covered matters about the seabed's legal standing outside of state borders, setting the stage for further talks over the deep seabed mining regime. Furthermore, the exclusive economic zone (EEZ) concept was introduced in UNCLOS I and further developed and formalised in UNCLOS 1982. 5 The meeting made it easier for participating

states to share ideas and viewpoints, which opened the door for further discussions and agreements at later UNCLOS conferences. Important issues that remained unsolved included 4 Donald R Rothwell, Tim Stephens, 'The International Law of the Sea', (Hart Publishing), 2010, at 6-7 5 R .P. Anand , 'Studies in International Law and History : An Asian Perspective', (Springer , Netherlands ), 2004, at 197-202

4

the extent of the territorial sea, navigational rights, and the use of resources outside of state borders.

Held in Geneva in 1960, UNCLOS II was a follow-up meeting to UNCLOS I. The goal of the conference was to resolve outstanding concerns and build on the success established at the UNCLOS I. The Convention on the High Seas, which was adopted as a result of UNCLOS II, formalised concepts about freedom of navigation, including innocent passage and the rights of landlocked nations. Other important concerns, such as the extent of the territorial sea and the exploitation of resources in the continental shelf and deep subsurface, were not resolved by the meeting, though.

Subsequent attempts to create an all-encompassing law of the sea convention were made possible by UNCLOS I and II. UNCLOS 1982 derived from the agreements that were ratified during these sessions, which offered useful frameworks and guiding concepts.

Even while UNCLOS I and II did not fully address all problems, they did highlight how crucial international collaboration is when dealing with marine concerns. The conferences cleared the path for further law of the sea talks and negotiations, which resulted in the holding of UNCLOS III. Following the agreement made at the UNCLOS III in Montego Bay, Jamaica, UNCLOS 1982, also known as the United Nations Convention on the Law of the Sea, came into force. 6

Representatives from several nations gathered for this 1973–1982 meeting to negotiate and finalise the convention's text. During UNCLOS III, the member nations agreed to put UNCLOS 1982 into effect. On December 10, 1982, the conference accepted the convention's final wording after several years of deliberations. UNCLOS 1982 was then made available for signing on December 10, 1982, and it came into effect on November 16, 1994, following the ratification process by 60 states, as specified in Article 308. A notable milestone was reached in 1994 with the ratification of the UNCLOS Agreement Relating to the Implementation of Part XI, or the 'Seabed Mining Agreement.' This agreement provided a framework for the management and exploitation of mineral resources in the international seabed area, addressing issues on deep-sea mining operations. 7

6 James Harrison, 'Making the Law of the Sea: A Study in the Development of International Law', (Cambridge

University Press), 2011, at 37-51

7 Alexander Proelss, 'The United Nations Convention on the Law of the Sea: A Commentary, (Nomos Verlagsgesellschaft) , 2017. at 4-7

5

Even though many governments have ratified UNCLOS, challenges have arisen over time to execute its requirements fully. Among these challenges are cases of noncompliance by specific governments and ongoing maritime disputes that have not been settled. To overcome these obstacles, attempts have been made to improve state collaboration and fortify compliance procedures. To support UNCLOS and make its implementation easier, several international agreements and programmes have also been formed.

Following UNCLOS principles, the International Marine Organisation (IMO) has been instrumental in the development and implementation of international laws that support marine safety, security, and environmental protection. In keeping with UNCLOS goals, the International Tribunal for the Law of the Sea (ITLOS) has furthermore offered a platform for

the amicable settlement of maritime disputes.

Additionally, the implementation of UNCLOS provisions at the regional level has been aided by regional agreements and organisations like the Association of Southeast Asian Nations (ASEAN), Regional Forum and the Common Fisheries Policy of the European Union. The international community is working together to preserve the values of UNCLOS 8 and make sure that the seas are effectively governed for the benefit of present and future generations, as seen by these agreements and initiatives.

Main Provisions of UNCLOS:

With its 320 articles and 9 annexes, UNCLOS tackles a wide range of marine concerns that are essential to international cooperation and governance.

□ A major component of UNCLOS, which establishes standards for defining marine borders and claiming national authority, is territorial sovereignty. The UNCLOS's concept of territorial sovereignty, which grants coastal nations exclusive authority over the waters that border their shores, is essential for resource management and national security. Because of their sovereignty, governments can control activities such as fishing, resource exploitation, and navigation inside their territorial waters, promoting environmentally sound growth. It serves as the cornerstone for upholding legal requirements, claiming authority over marine operations, and promoting peace and order at sea. Furthermore, territorial sovereignty establishes unambiguous limits, which lessens conflict and promotes collaboration between neighbouring

8 Yoshifumi Tanaka, 'The International Law of the Sea', (Cambridge University Press ),2019, at 40-43

6

governments. It strengthens the rights and obligations of coastal nations under international law and preserves the idea of state sovereignty in marine issues.

□ The Exclusive Economic Zones (EEZs) idea is established by the treaty, which gives coastal governments exclusive control over maritime resources within a 200-nautical-mile radius. Fisheries, minerals, oil, and gas are some of these resources. Other states have freedoms like overflight, scientific research, sailing, installation of underwater cables and pipelines, and exclusive rights over the resources inside their EEZs, but coastal states have all of the above freedoms. 9 The sustainable management of resources inside the EEZs by coastal governments is mandatory, with consideration for the interests of neighbouring states and future generations.

□ By establishing a boundary of 12 nautical miles for territorial seas, UNCLOS upholds the sovereignty of coastal governments over nearby waterways. The coastal state has complete control over operations including fishing, resource exploitation, navigation, and scientific research inside this zone. Foreign vessels are allowed to sail through the territorial sea, but, as long as they don't do anything that may jeopardise the security, peace, or good order of the coastal state. This is known as the right of innocent passage. Certain actions, such as military drills, could require prior notice or approval from the state bordering the sea.

□ Under UNCLOS, all nations's vessels are guaranteed the right to navigate freely on the high seas and in EEZs, with some restrictions on environmental preservation and national security. 10 This freedom includes the ability to fly above, navigate, install pipes and wires beneath the surface, and carry out scientific studies. Coastal states must protect and preserve the freedom of navigation, making sure that their rules and laws do not prevent other states from exercising this fundamental right. 11 States may, nonetheless, take action to control navigation in their internal and territorial waters to safeguard public health and safety as well as the environment.

□ Groups of islands and the waterways around them make up archipelagic states. To define their territorial waters, EEZs, and continental shelf, archipelagic nations are

9 Satyendra Kumar Sharma , 'Taxmann's Law of Sea & Exclusive Economic Zone',(Taxmann Allied Services),

2008

10 Charles Quince, 'The Exclusive Economic Zone', (Vernon Press), 2019, at 84-91

11 Cameron Moore, 'Freedom of Navigation and the Law of the Sea: Warships, States and the Use of Force' (Routledge Research on Law of the Sea), 2023

7

permitted under UNCLOS to construct straight archipelagic baselines linking the furthest points of the archipelago. By recognising the distinct position of archipelagic states, this Convention permits countries to maintain international navigation and overflight rights while reaffirming their sovereignty over their territorial seas. The states that form an archipelago must make sure that the baselines are drawn by UNCLOS and do not cause the high seas or EEZs to be unnecessarily bounded. 12

□ The seabed and subsoil of the underwater regions next to the coast that is outside of the EEZ, where the coastal state has the sovereign right to investigate and use natural resources, are referred to as the continental shelf. UNCLOS acknowledges that, in some geological circumstances, the continental shelf may extend more than 200 nautical miles from the baseline. Coastal governments have the right, using scientific and technological standards, to define the outer boundaries of their continental shelf. 13 This permits coastal governments to make use of resources found on the continental shelf, including minerals, oil, and gas, as long as they adhere to their duties to preserve the maritime environment and distribute profits to other nations.

□ Among the noteworthy provisions are those that provide for the peaceful settlement of conflicts via the use of arbitration and the ITLOS. ITLOS, which was established by UNCLOS, guarantees the uniform implementation of the convention's provisions, fostering stability and legal clarity in marine affairs. Its jurisdiction encompasses a wide range of issues, such as disagreements about the implementation and interpretation of UNCLOS, maritime borders, and marine resource protection. 14 By providing a dispute resolution system, ITLOS helps to settle disputes amicably, fostering confidence and collaboration between nations. Its rulings preserve the rule of law in the seas and serve as authoritative interpretations of UNCLOS, directing governments in their maritime operations.

□ UNCLOS highlights the significance of protecting the maritime environment and lays forth the government's responsibility to stop pollution and preserve marine resources.

To minimise ecological impact and protect marine ecosystems, the agreement requires 12 A. Tan, 'Security Strategies in the Asia-Pacific: The United States's "Second Front" in Southeast Asia', (

Palgrave Macmillan), 2011

13 Derek, et al, 'Governing the Coastal Commons: Communities, Resilience and Transformation' (Earthscan

Oceans),

14 P. Chandrasekhara Rao, Philippe Gautier, 'The International Tribunal for the Law of the Sea: Law, Practice

and Procedure', (Elgar International Law and Practice), 2018

8

actions to be taken to avoid and mitigate pollution from a variety of sources.

UNCLOS promotes long-term environmental sustainability and resilience in the face of major global concerns like climate change by encouraging responsible stewardship of maritime resources. By defending the rights and interests of both present and future generations, protecting the marine environment also maintains the idea of intergenerational justice in ocean governance. By recognising the interdependence of marine ecosystems and the shared duty of governments to protect them, it promotes international collaboration and collective action.

□ UNCLOS provides norms for the conduct of research activities in international seas, which addresses scientific research in marine habitats. To promote responsible exploration and use of marine resources, research activities in international waters are encouraged and controlled by UNCLOS 1982. To further scientific understanding of the marine environment, states are permitted to carry out marine scientific research in international waters. Such actions, meanwhile, have to be carried out about other state's rights and interests, as well as in compliance with international law and rules. UNCLOS places a strong emphasis on states, working together to share technology, data, and research findings for the sake of humankind as a whole. To reduce detrimental effects on marine ecosystems, the treaty also requires environmental impact studies. 15 UNCLOS fosters informed decision-making in ocean governance and sustainable development by promoting research collaboration and data exchange. Consequences and Current Issues:

Widespread effects of the UNCLOS may be seen in the fields of sustainable development, maritime security, and international relations. UNCLOS has been the main legal foundation for settling disputes and encouraging cooperation among states since it was adopted in 1982. 16 Its function in promoting amicable settlements of marine conflicts via institutions like arbitration and the ITLOS is one significant consequence. For instance, the ITLOS rendered a historic decision in the Philippines v. China case in 2016, highlighting the significance of UNCLOS in settling intricate territorial disputes and defining maritime rights in the South China Sea. 17

15 Zaza Pirveli, 'Rights of Geographically Disadvantaged States under the UNCLOS 1982', ( LAP Lambert Academic Publishing), 2012

16 James B Morell, 'The Law of the Sea', (Mc Farland & Co I. ),2013

9

By defining precise guidelines and obligations for governments concerning rights of navigation, piracy, and other maritime offences, UNCLOS has played a significant role in improving maritime security. 18 In line with UNCLOS principles, efforts have been made to improve maritime security and combat piracy, as evidenced by the creation of the IMO in 1959 and subsequent conventions like the International Ship and Port Facility Security Code (ISPS Code), which was adopted in 2002.

By promoting international collaboration in marine matters and providing a complete regulatory framework to support UNCLOS 1982's provisions, the IMO considerably strengthens the convention. The IMO creates and enforces rules and regulations to improve maritime navigation safety. This covers guidelines for the design, machinery, and navigation systems of ships as well as regulations for preventing maritime accidents. To guarantee ship safety and the preservation of navigational rights, these initiatives are compliant with UNCLOS regulations. The ISPS Code is one of the measures the IMO develops to improve maritime security in response to changing security threats. By UNCLOS directives to advance maritime security and peace, this code specifies standards for ship and port security to deter terrorism and guarantee the protection of ships and marine infrastructure. To combat piracy and armed robbery at sea, the IMO works with member nations and regional organisations. To successfully combat maritime crime, it supports capacity-building programmes, information-sharing platforms, and the development of best practices. The UNCLOS's objectives of preserving maritime order and guaranteeing freedom of passage are furthered by these initiatives.

By adopting the International Convention on Maritime Search and Rescue (SAR), the IMO promotes global collaboration in search and rescue operations at sea. In compliance with UNCLOS regulations, this agreement sets up protocols for organising search and rescue operations and improving marine safety and security. The IMO helps developing nations implement and adhere to international maritime norms by offering technical assistance and capacity-building support. This supports the efficient application of UNCLOS by strengthening marine governance and enforcement capacities through training initiatives,

workshops, and the supply of technical knowledge.

17 Kriangsak Kittichaisaree, 'The International Tribunal for the Law of the Sea', (Oxford University Press,

Oxford), 2021

18 Donald R. Rothwell , Tim Stephens , 'The International Law of the Sea', (Hart Publishing, Portland ), 2010

10

Although the IMO does not directly resolve conflicts, its rules and policies help to keep disagreements at bay and encourage state cooperation. 19 By UNCLOS principles, the IMO reduces the likelihood of disputes over marine rights and resources by creating uniform standards and procedures for maritime activities. When it comes to stopping and managing ship-related marine pollution, the IMO is essential. It has drafted several international agreements that establish guidelines for the release of pollutants into the maritime environment, including MARPOL (International Convention for the Prevention of Pollution from Ships). 20 The goals of UNCLOS to save and maintain the maritime environment are supported by these actions.

A vital part of maritime security initiatives to stop terrorist attacks and improve the safety of ships and port facilities is the ISPS Code. The ISPS Code promotes peace, security, and stability in maritime affairs, strengthening the values and goals of UNCLOS 1982 even if it is not directly related to it. The increased threat of terrorism against marine targets, including ships and port infrastructure, prompted the adoption of the ISPS Code. The ISPS Code improves maritime security and aids in the prevention of acts of terrorism at sea by providing a standardised framework for evaluating security threats and putting security measures in place. This advances the goals of UNCLOS, which include preserving marine security and freedom of passage.

According to the ISPS Code, port facilities and ships doing international trips must have security procedures in place to effectively identify, prevent, and address security risks. This covers actions like monitoring, perimeter security, access control, and employee security training. The ISPS Code contributes to the preservation of essential marine infrastructure and encourages safe and secure navigation by UNCLOS regulations by defending ports and shipping lanes against security threats.

To improve maritime security, the ISPS Code promotes collaboration and information exchange between nations, port infrastructure, and shipping firms. To promote international cooperation in combating security threats, it sets protocols for exchanging security-related information and coordinating security measures. This cooperative strategy is in line with the

19 International Maritime Organisation, 'Onboard assessment (IMO model course, 1.30)', (International Maritime Organisation), 2017

20 International maritime organization, 'Marpol Consolidated Edition 2006', (International Maritime Organisation ), 2006

11

UNCLOS principles, which call for state collaboration to advance maritime security and safety.

The ISPS Code gives states a framework for carrying out their duties to protect marine transportation security and safety under international law, such as UNCLOS. 21 States exhibit their commitment to preserving international maritime law and promoting the orderly conduct of maritime operations in line with UNCLOS goals by putting security measures in place that comply with the ISPS Code.

Through the improvement of maritime security and the mitigation of security event risk, the ISPS Code contributes to the establishment of a stable and predictable maritime trade and commerce environment. Encouraging the sustainable use of marine resources and maritime

activities in line with UNCLOS principles that promote the economic and social advantages of the seas, promotes economic development and prosperity.

UNCLOS's ability to effectively address today's concerns depends on its widespread adherence and strong enforcement. The effectiveness of the pact has been compromised by cases of non-compliance by some states, even though it has been widely ratified. 22

Additionally, there are serious risks to maritime sustainability and security from new issues like climate change and increasing sea levels. For example, climate change-induced increases in the frequency and severity of extreme weather events can disrupt marine transportation and infrastructure, putting lives in danger and worsening environmental degradation. 23 The oceans, which are essential to the Earth's climate system and are undergoing major changes as a result of rising global temperatures, are directly impacted by climate change.

The UNCLOS 1982's present position on climate change reflects the growing understanding of the necessity to address climate-related issues within the framework of ocean governance.

UNCLOS contains concepts and procedures that can support international efforts to reduce and adapt to the effects of climate change in the seas, even if it does not specifically address the issue. UNCLOS places a strong emphasis on addressing actions that might pollute the maritime environment as well as on safeguarding and maintaining the marine environment

21 International Maritime Organisation, ' Guide to Maritime Security and the ISPS Code', ( International Maritime Organisation, 12 th ed), 2012

22 Christopher Hill , Susan Hodges, 'Principles of Maritime Law', (LLP Professional Publishing),2001

23 Gemma Andreone,' The Future of the Law of the Sea- bridging Gaps Between National, Individual and Common Interests', (Springer International Publishing AG, Switzerland) 2017

12

and encouraging the sustainable use of marine resources. 24 These ideas apply to tackling the effects of climate change, including changes in marine biodiversity, sea level rise, and ocean acidification.

UNCLOS also creates a legal framework for global coordination and collaboration in the resolution of transboundary problems, such as climate change. To comprehend and lessen the effects of climate change on the seas, states can collaborate through the Convention's systems for undertaking scientific study, keeping an eye on environmental circumstances, and exchanging data and information.

UNCLOS also acknowledges coastal nations's rights and interests in managing and safeguarding their marine and coastal resources, particularly about measures to adapt to climate change and increase resilience. Coastal states have the power to create policies that safeguard their marine ecosystems and environment, such as by implementing coastal zone management plans and designating marine protected zones.

Marine security is still seriously threatened by piracy and armed robbery, especially in areas where piracy is common, such as the Malacca Strait, the Gulf of Guinea, and the Gulf of Aden. The legal foundation for governments to pursue anti-piracy actions, such as prosecuting pirates and deploying naval troops for counter-operations, is provided by UNCLOS.

Illegal, Unreported, Unregulated (IUU) Fishing threatens marine ecosystems, food security, and the way of life for coastal populations, posing major security and sustainability issues. States are required under UNCLOS to control fishing operations inside their EEZs and to work with regional fisheries management organisations (RFMOs) to prevent illicit, commercial, and unreported fishing.

For maritime security, there is still a risk of maritime terrorism, which includes assaults on ships, ports, and offshore infrastructure. UNCLOS backs initiatives to stop and deter acts of terrorism at sea, including bringing offenders to justice and putting in place security measures to guard marine property. Transnational organised criminal groups frequently use maritime channels as cover for shipping weapons, people, and drugs. Through information exchange, coordinated patrols, and the enforcement of rules and regulations, UNCLOS empowers states to work together to combat maritime crime. 25

24 Nutan Kapoor Mahawar , et al, '1982 UNCLOS: Perspectives from the Indian Ocean',( Vij Books India),2021

25 Natalie Klein, et al, 'Maritime Security: International Law and Policy Perspectives from Australia and New Zealand', ( Routledge), 2009

13

Cybersecurity risks are becoming more of a problem in marine operations due to the growing dependence on digital technology and networked systems. Although cybersecurity is not a topic that UNCLOS expressly addresses, it does offer nations a framework for securing their marine assets and infrastructure from cyber-attacks by implementing the necessary security measures.

Maritime security and stability in impacted regions might be jeopardised by conflicts over maritime borders between states. To promote stability and avoid disputes over marine boundaries, UNCLOS has mechanisms for the peaceful settlement of maritime disputes through discussion, mediation, arbitration, and adjudication. Environmental risks that impact ecosystems, public health, and economic activity, such as oil spills, unlawful dumping, and marine contamination, can have a substantial impact on security. 26 According to UNCLOS, states must take action to stop, lessen, and manage pollution from ships and other sources to promote environmental security in the marine sector.

With overlapping territorial claims between China, Vietnam, the Philippines, Malaysia, Brunei, and Taiwan, the South China Sea continues to be one of the most volatile maritime regions. The main issues in these conflicts are those of maritime boundary demarcation, resource exploitation (fisheries and hydrocarbons, for example), and sovereignty over islands, reefs, and shoals.

Tensions in the region have escalated and bilateral ties have been strained as a result of disagreements between China and Japan on sovereignty of the Senkaku/Diaoyu Islands in the East China Sea. Due to the abundance of fisheries and possibly profitable energy resources in the region, both nations have competing claims and conduct marine patrols.

The Northwest Passage and the Northern Sea Route are two examples of the new maritime routes made possible by the melting of Arctic Sea ice brought on by climate change. There are disagreements about navigation rights and the boundaries of coastal state authority in these Arctic seas as a result of Canada's claim of sovereignty over the Northwest Passage and Russia's claim of control over the Northern Sea Route. 27

Many unsolved maritime conflicts, such as the Cyprus dispute between Cyprus and Turkey and the disputes between Greece and Turkey about maritime boundaries and the delimitation

26 Dr Pradeep kumar Kulshrestha , Dr Shashi Bhushan Ojha, '40 Years of United Nations Convention on The

Law of the Sea', (Satyam Law International), 2023

27 Haijiang Yang, ' Jurisdiction of the Coastal State over Foreign Merchant Ships in Internal Waters and the

Territorial Sea', (Springer Berlin, Heidelberg), 2006

14

of EEZs, are located in the Mediterranean Sea. Security, stability in the area, and energy development are all impacted by these disagreements. Competing claims over islands, maritime borders, and exclusive economic zones are at the heart of maritime conflicts in the Indian Ocean. Notable instances include the ongoing difficulties over maritime boundaries between India, Pakistan, and Bangladesh, as well as the dispute over the Chagos Archipelago between the United Kingdom and Mauritius.

Small island states in the Pacific, like Kiribati, Fiji, and Tuvalu, have difficulties with climate change, maritime boundaries, and the protection of marine resources. These fragile states are seriously threatened by conflicts over who owns islands and reefs, as well as worries about illicit fishing and environmental damage. In the face of geopolitical conflicts and

environmental changes, the administration of the Arctic territory under UNCLOS 1982 continues to be a matter of concern. The necessity for efficient governance becomes more pressing as the Arctic Sea ice continues to melt, creating new marine lanes and chances for resource extraction. A legal framework for controlling marine operations in the Arctic, such as defining maritime borders, granting rights of passage, and safeguarding the environment, is provided by UNCLOS. Overlapping claims, environmental deterioration, and indigenous populations' rights continue to provide difficulties, nevertheless.

UNCLOS laws have been the basis for territorial claims made by the Arctic coastal states, 28 which include Denmark, Norway, the United States, Canada, Russia, and Greenland. Still, there are disagreements about resource rights, shipping lanes, and sovereignty that need to be settled. 29 A platform for talking about environmental preservation, sustainable development, and scientific collaboration was established in 1996 by the Arctic Council, which brings together indigenous people and Arctic governments. Stronger governance structures are required because the Arctic Council cannot make decisions regarding matters of security and resource management.

The region's sustainable growth, environmental preservation, and peaceful collaboration among stakeholders will be dependent on efforts to fortify Arctic governance under UNCLOS as global interest in the region develops. Deep-sea mining under UNCLOS 1982 is still complicated and divisive today. Commercial deep-sea mining has not yet started on a substantial scale, despite UNCLOS providing a legal framework for regulating activities in

28 Louise Spilisbury , Richard Spilisbury, ' Arctic Ocean', ( Heinemann/ Raintree), 2015

29 Tafsir Johansson , Patrick Donner, ' The Shipping Industry, Ocean Governance and Environmental Law in the

Paradigm Shift: In Search of a Pragmatic Balance for the Arctic', ( Springer International Publishing AG), 2015

15

the deep bottom outside state jurisdiction, including the exploitation of mineral resources. 30 Interest in deep-sea mining has increased due to ongoing technological breakthroughs and the growing need for rare earth minerals, especially in regions with abundant cobalt-rich crusts, hydrothermal vents, and polymetallic nodules. Sediment plumes, habitat devastation, and biodiversity loss are among the environmental effects of deep-sea mining that continue to raise concerns. The International Seabed Authority (ISA) has been working to create laws for deep-sea mining, 31 but agreement on important matters, such as revenue-sharing arrangements and environmental protection requirements, has been difficult to achieve. To protect the well-being of the deep-sea ecosystem, several nations and groups have urged for a cautious approach to deep-sea mining, highlighting the necessity of thorough environmental evaluations and global collaboration. 32

Consistent attempts to address the protection and sustainable use of biodiversity in regions beyond national jurisdiction are reflected in the current position of Marine Biodiversity Beyond National Jurisdiction (BBNJ) under UNCLOS 1982. 33 UNCLOS governs these regions, which include the deep bottom and the high seas, although it does not have extensive legislative structures for the conservation of biodiversity. Negotiations for a new legally enforceable instrument under UNCLOS to resolve BBNJ have been going on at the UN in recognition of the need to close this governance vacuum.

Creating Marine Protected Areas (MPAs) and regulating activities that may influence the ecosystem, such as shipping, deep-sea mining, and fishing, are two ways to preserve and sustainably exploit marine biodiversity in areas beyond national jurisdiction. For the benefit of present and future generations, the BBNJ's current position under UNCLOS 1982 represents an increasing understanding of the significance of good governance and collaboration in preserving and sustainably managing marine biodiversity outside of national borders.

Although UNCLOS offers a framework for the amicable resolution of maritime disputes through discussion, mediation, arbitration, and adjudication, difficulties in reaching

30 Douglas Guilfoyle, 'Shipping Interdiction and the Law of the Sea: 63', (Cambridge University Press), 2011

31 International Sea Bed Authority, 'International Sea Bed Authority: Basic Texts', (International Sea Bed Authority), 2013

32 Satya Nandan, Kristine E. Dalaker, 'Reflections on the Making of the modern Law of the Sea: The Search

for a New Legal Order', (NUS Press), 2020

33 Rupert F. G. Ormond, et al, 'Marine Biodiversity', (Cambridge University Press), 2010

16

consensus continue to exist. While some governments have chosen to continue bilateral discussions, others have turned to international legal institutions like the Permanent Court of Arbitration (PCA) or the International Court of Justice (ICJ).

#### Conclusion

With its comprehensive framework for overseeing the world's seas, the UNCLOS represents a critical turning point in International Maritime Law. The fact that it has been widely adopted shows how important good ocean governance is on a global scale. Nonetheless, obstacles continue to exist in guaranteeing the complete execution of UNCLOS and tackling novel marine concerns. Among these concerns are the noncompliance of certain nations and the advent of fresh dangers such as marine pollution and illicit fishing. Together, we must fully realise UNCLOS's promise to advance maritime peace, security, and sustainable development. UNCLOS has the potential to successfully prevent maritime disputes, maintain marine ecosystems, and guarantee fair access to ocean resources by promoting adherence to its principles and fostering collaboration among states.

In a globally linked world, UNCLOS continues to be a pillar of international maritime governance, providing a guide for sustainable ocean management. To fully realise UNCLOS's promise, we must continue to be committed to and work together as we manage the complexity of the maritime realm. By working together, we can ensure that our oceans and the communities that depend on them have a safer, more secure, and sustainable future.