

## Unclos And The Indian Ocean: India's Evolving Admiralty Jurisdiction In A Global Maritime Framework

Shri Ravilisetty Rama Subbarao<sup>1</sup>, Dr. Manish Kumar Attry<sup>2</sup>

<sup>1</sup>Research Scholar of Raffles University, Neemrana

<sup>2</sup>Assistant Professor of Raffles University, Neemrana

### ABSTRACT

The fundamental legal basis for international marine law is provided by the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS has had a significant impact on the evolution of admiralty jurisdiction for a country like India, which has a long coastline and expanding maritime aspirations. With an emphasis on how UNCLOS has influenced judicial interpretations, legislative changes, and enforcement tactics pertaining to water sovereignty, management of resources, navigational rights, and resolution of disputes in the Indian Ocean, this article explores India's legal and strategic development in response to international maritime standards. In particular, it examines India's adherence to UNCLOS clauses pertaining to continental shelf rights, EEZs, territorial waters, and high seas freedom. The difficulties India has meeting its UNCLOS commitments are also discussed in the article, including jurisdictional overlaps, pirated content, boundary conflicts, and environmental restrictions. Although India has generally accepted the concepts of UNCLOS, it contends that in order to support its position as a regional maritime power, its admiralty laws urgently need to be harmonized, modernized, and made more legally clear. The study's conclusion offers a forward-looking viewpoint on how India might improve its standing in the global maritime order by utilizing proactive legislative changes.

**Keywords:** UNCLOS, Admiralty Law, Territorial Seas, Global Maritime Norms, Indian Ocean

### INTRODUCTION:

Often referred to as the "constitution for the oceans," the United Nations Convention on the Law of the Sea (UNCLOS) has had a major influence on legal systems around the world, including India. UNCLOS, which was ratified by 168 countries, created a comprehensive framework for maritime governance by outlining jurisdictional boundaries and sovereign rights in the continental shelf, high seas, contiguous zones, territorial seas, and Exclusive Economic Zones (EEZs). Considering that more than 80% of global trade is conducted by water, this framework is essential to maintaining seamless international trade and navigation.

UNCLOS does have some restrictions, though. Certain clauses provide ambiguous meanings, leaving member states to interpret and implement them. Furthermore, it doesn't adequately handle contemporary issues like sea level rise, climate change, and emerging technology like maritime autonomous vehicles. Competing claims to sovereignty have placed tremendous strain on the international legal system in some regions, notably the Indian Ocean and the South China Sea, underscoring the need for precise regulations and dispute resolution procedures like the International Tribunal for the Law of the Sea (ITLOS). This study looks at these issues and how India has addressed them by creating legislation at home to safeguard its marine interests and uphold its commitments under international law.

### Brief History of Admiralty Jurisprudence

The history of admiralty jurisprudence, which regulates the use of navigable waters for navigation and marine operations, is extensive. Its roots are found in antiquated legal frameworks such as the Lex Rhodia de Iactu, which was created circa 800 BCE and established guidelines for the fair allocation of risk among seafarers. These ideas were enshrined in a number of legal treaties over the ages, such as the Consolato del Mare and the Laws of Oleron, which harmonized marine trading procedures throughout Europe.

The idea of the high seas as a worldwide commons was first presented in the early modern age by Hugo Grotius in his mammoth work *Mare Liberum* (1609), and it later became a key component of international law. With civilizations like the Cholas (9th–13th centuries CE) exhibiting a profound understanding of naval strength and port administration, India itself has a rich maritime history. The 1982 UNCLOS, which codified maritime law into a single, comprehensive instrument, was the culmination of more global harmonization over the 19th and 20th centuries through international treaties.

### REVIEW OF LITERATURE

The importance of the United Nations Convention on the Law of the Sea (UNCLOS) in forming marine governance is demonstrated by the scholarship on the subject. The conceptual underpinnings of maritime freedom were established by Grotius's *Mare Liberum* (1609), which was subsequently enshrined in UNCLOS (1982). According to academics like Churchill and Lowe (1999), UNCLOS

offers a "constitution for the oceans," striking a balance between the idea of humankind's shared heritage and sovereign rights. According to Chandrasekhara Rao (2001), India's marine jurisdiction was redefined with its acceptance of UNCLOS, namely in relation to the Exclusive Economic Zone (EEZ) and continental shelf rights.

The dynamic relationship between UNCLOS and Indian national law is highlighted by Bimal N. Patel (2019), who contends that India has continuously worked to harmonize its domestic maritime law with its international commitments. The inadequacies of UNCLOS in tackling new issues like climate change, marine cyber threats, and autonomous vessels have been highlighted by recent studies like Klein (2022). According to scholars like Krishna Menon (2023), India's marine law needs to change to fill in the loopholes in UNCLOS, particularly with regard to illegal fishing by foreign vessels and piracy within the EEZ. Policy documents like Maritime Vision 2030 and the Indian Maritime Security Strategy (2015) further demonstrate India's strategic emphasis on coordinating naval capabilities with UNCLOS legal frameworks. A shift towards rule-based maritime governance is also reflected in literature, which highlights India's expanding involvement in the International Seabed Authority (ISA) and cases before the International Tribunal for the Law of the Sea (ITLOS). Overall, the research shows two distinct trends: UNCLOS gives India the right to assert.

### Domestic Indian Laws

Despite being heavily impacted by English law, India's marine legal system has undergone significant change as a result of its own strategic requirements and global commitments. Important laws that have modernized the legal system, encouraged investment, and preserved national sovereignty include the Merchant Shipping Act of 1958, the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act of 2017, and the Major Port Authorities Act of 2021. Together with strategic policy documents like the Indian Maritime Security Strategy 2015 and Maritime Vision 2030, these statutes show that India is working to bring its naval capabilities into compliance with international legal standards. India is additionally empowered to control port administration and uphold maritime law by the Indian Ports Act of 1908 and the Coast Guard Act of 1978. A significant role is also played by the judiciary, as the Admiralty Act of 2017 grants admiralty jurisdiction to High Courts in coastal states. Jurisdictional gaps still exist, though, especially in the EEZ, where problems like illicit, unreported, and unregulated (IUU) fishing continue to exist. Although improved monitoring and regional cooperation are necessary for its efficient implementation, India has addressed this issue via the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981.

### Landmark Judgments and Their Significance

The greatest way to comprehend how India's admiralty jurisdiction has changed since UNCLOS is to look at a number of significant court rulings that have influenced the nation's legal system. The Supreme Court's ruling in *M.V. Elisabeth v. Harwan Investment and Trading Pvt.*

Ltd. (1993) was a turning point. This decision established that Indian High Courts have broad admiralty jurisdiction, marking a significant break from the constrictive admiralty regulations of the colonial era. The Court ruled that this authority is a fundamental jurisdiction derived from common law rather than a statutory construct, and it is flexible enough to accommodate contemporary international agreements such as UNCLOS. The foundation for India's ability to seek control over maritime claims—including those involving foreign ships and expeditions that do not directly enter Indian ports—was established by this verdict. This ruling played a key role in establishing India's legal system as a modern and efficient platform for settling international maritime conflicts.

An important turning point in India's jurisdictional disputes in the Exclusive Economic Zone (EEZ) was the 'Enrica Lexie' case, officially known as *Republic of Italy v. Union of India* (2014). At first, the Supreme Court affirmed India's authority to bring charges against two Italian marines for the murder of Indian fisherman. However, due to the difficulties in exercising jurisdiction over a foreign-flagged vessel in the contiguous zone, the matter was referred to an arbitral tribunal under UNCLOS.

India's lack of jurisdiction to trial the marines was the tribunal's ultimate decision in 2020, which emphasized the importance of UNCLOS's dispute resolution procedures and the boundaries of a coastal state's domestic jurisdiction in international waters. The fragile balance between international law and national sovereignty is shown by this case. The extent of India's admiralty law has been further established by other important cases. According to international standards, the Supreme Court upheld the broad definition of "maritime claim" in *Liverpool & London S.P. & I. Assn. Ltd. v. M.V. Sea Success I* (2004), encompassing a variety of matters. The Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 codified the principles established in the *M.V. Elisabeth* case, providing a strong legislative framework that fully aligns India's domestic law with UNCLOS, according to the more recent ruling in *S.A. v. The Owners and Parties Interested in the Vessel M.V. Nave Constellation* (2020). India has shown its adherence to UNCLOS by participating in international forums outside of its local courts. The Permanent Court of Arbitration (PCA)'s 2014 Bay of Bengal Maritime Boundary Delimitation Case (*Bangladesh v. India*) demonstrated India's readiness to settle protracted conflicts amicably via the UNCLOS's established procedures. In a similar vein, India's involvement in the 'Enrica Lexie' arbitration demonstrated its dedication to a rules-based order, even though the case did not turn out well.

Last but not least, legislative change was sparked by the Public Interest Litigation in *Gaurav Kumar Bansal v. Union of India* (2014). The Anti-Maritime Piracy Act, 2022 was passed as a result of the Supreme Court's observation that, despite India's ratification of UNCLOS, there was no comprehensive anti-piracy law in place. This historic law fills a major legal vacuum and reaffirms India's position as a responsible participant in

international maritime security by expanding its authority to pursue piracy on the high seas. When taken as a whole, these legislative and judicial measures show a distinct and steady trend of India deliberately reshaping its admiralty jurisdiction to conform to and uphold the values of the global maritime order.

#### Recent Amendments and Legislative Developments

Significant changes have recently been made to India's legal system to better conform to UNCLOS standards. By combining legislation pertaining to ship arrest and maritime claims, the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 aligns Indian practice with global norms. A commitment to international governance standards is seen in the Major Port Authorities Act, 2021, which gives ports more authority. Enacted in 2023, the Maritime Anti-Piracy Act, 2022, fulfills UNCLOS Articles 100-107 by providing a strong framework for pursuing piracy on the high seas in order to combat illicit activities. Furthermore, the Deep Ocean Mission and the proposed Blue Economy Policy (2021–2023) strengthen India's rights over continental shelf resources and are legislative supplements to UNCLOS Article 77. Last but not least, the new criminal laws, the Bharatiya Nyaya Sanhita (BNS) 2023 and the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023, have filled in legal gaps found under UNCLOS and increased India's authority over crimes committed on Indian boats or by Indian nationals in marine zones.

#### India's Rise in Global Maritime Affairs

India's role as a responsible stakeholder is cemented by its active involvement in international maritime affairs, which is directed by UNCLOS. For resource management and environmental preservation, India has complete sovereign rights over its 12-nautical-mile territorial sea and its 2.3 million-square-kilometer EEZ. In order to expand its rights to extract hydrocarbon and polymetallic resources beyond 200 nautical miles, India has also made scientific claims to the Commission on the Limits of the Continental Shelf (CLCS). India acknowledges the high seas as a common heritage and contributes to the establishment of deep-sea mining standards as a member of the International Seabed Authority (ISA). Ratifying supplemental treaties that enforce stringent safety, pollution control, and seafarers' welfare standards, such as SOLAS, MARPOL, and the Maritime Labour Convention (MLC), further demonstrates India's commitment. India is at the center of international debates on decarbonization, marine safety, and regulatory alignment because it is a Category C member of the International marine Organization (IMO).

#### Major Challenges and Gaps Under Unclos: A Contemporary Perspective

Even though the United Nations Convention on the Law of the Sea (UNCLOS) is still the fundamental "constitution for the oceans," there are many changing and important obstacles to its application in the twenty-first century. The absence of a cohesive international framework for maritime security is one of the main issues. Many governments have developed their own regional security protocols in spite of UNCLOS's goal of peaceful cooperation, which has resulted in a disjointed and

occasionally contradictory web of enforcement mechanisms. This fragmented strategy is especially troublesome when dealing with transnational issues that cross national borders, such as illegal fishing and piracy.

One particular problem with the UNCLOS definition of piracy is that it limits the offense to the high seas. As a result, there have been several pirate attacks in coastal states' territorial seas and Exclusive Economic Zones (EEZs), where a distinct legal system is in effect and where prosecution jurisdiction may be less clear. Beyond security concerns, many of today's urgent issues were not foreseen under UNCLOS, which was drafted in the 1970s and 1980s. It makes scant mention of contemporary issues like sea level rise, climate change, and protecting marine biodiversity. One complicated and unsolved problem is the legal status of maritime zones in light of changing baselines brought on by sea level rise.

Deep-sea mining and maritime autonomous cars are two examples of new technologies and activities that the treaty does not sufficiently regulate. Despite being frequently referenced, UNCLOS Part XII on the preservation of the marine environment does not specifically mention greenhouse gas emissions as a type of marine pollution, leaving a legal loophole in the face of warming and ocean acidification. The complicated and frequently divisive topic of territorial claims and the interpretation of jurisdictional rights presents an additional difficulty. India's 2009 proclamation of straight baselines around the Lakshadweep Islands is the most prominent case involving the country. Straight baselines are normally only used by archipelagic states—not continental ones like India—under UNCLOS. The United States has contested this unilateral proclamation by "freedom of navigation operations" (FONOPs), and other nations do not recognize it. This has revealed a basic conflict between the UNCLOS-based belief that such liberties should be unfettered and India's stance, which aims to exert more control over military operations in the EEZ. The legal system is made more complex by the difficulties in prosecuting pirates, which is frequently caused by a lack of evidence or states' unwillingness to accept and try them. This underscores the discrepancy between the UNCLOS framework and its actual implementation.

#### Indian Response

India's comprehensive and multifaceted approach to the difficulties posed by UNCLOS and the changing maritime security landscape reflects its strategic goal of being a prominent maritime force in the Indian Ocean Region (IOR) and a provider of net security. Legal and legislative advancements, doctrinal and policy frameworks, and strategic and security measures form the basis of this strategy.

India has aggressively adopted a strong marine security policy to combat transnational threats. The Trilateral Maritime Security Agreement, which focuses on cooperative surveillance, intelligence sharing, and coordinated patrols, is a key component of this strategy. It was first signed with the Maldives and Sri Lanka and has since been extended to Mauritius and Seychelles. The Indian Navy plays a key role in these initiatives by regularly participating in Coordinated Patrols

(CORPATs) alongside navies from Thailand, Myanmar, and Indonesia. One noteworthy achievement is the Information Fusion Centre – Indian Ocean Region (IFC-IOR) in Gurugram, which integrates data from more than 50 partner countries and international organizations to serve as a single focus for real-time marine danger information. India's dedication to promoting regional stability and developing collective maritime domain awareness (MDA) is demonstrated by this project.

India's maritime strategy is outlined in several policy documents. A comprehensive vision that connects security, economic growth, and inclusive regional cooperation is offered by the 2015 SAGAR (Security and Growth for All in the Region) philosophy. It seeks to establish a free, open, and rules-based marine order in order to formalize India's maritime diplomacy. Alongside this is Maritime Vision 2030, which provides a plan for transforming India into a major maritime hub by bolstering the blue economy and updating port infrastructure. Moreover, the SAGAR framework is extended to encompass wider collaborations outside of the IOR, especially with the Global South, by the recently unveiled MAHASAGAR (Mutual and Holistic Advancement for Security and Growth Across Regions) vision.

In order to align its domestic laws into compliance with its international commitments and new problems, India has also implemented significant legislative reforms. By granting India the authority to prosecute high seas piracy, the Anti-Maritime Piracy Act, 2022, closes a major loophole and satisfies India's obligations under UNCLOS. In accordance with UNCLOS Article 77, the Offshore Areas Minerals (Development and Regulation) Act, 2002, and the Deep Ocean Mission (2021) offer a legislative and policy foundation for the sustainable exploitation of deep-sea resources. India's criminal jurisdiction in its marine zones is further strengthened by recent changes such as the new Bharatiya Nyaya Sanhita (BNS) and Bharatiya Nagarik Suraksha Sanhita (BNSS), which guarantee that crimes committed at sea by Indian residents or on Indian vessels are adequately addressed.

## CONCLUSION AND RECOMMENDATIONS

From a legal requirement to a fundamental element of its maritime strategy, India's strategic approach to the United Nations Convention on the Law of the Sea (UNCLOS) strikes a balance between its commitment to a rules-based international order and its own national interests. A number of significant court and legislative decisions make this clear. India's admiralty jurisdiction was extended beyond the constraints of the colonial era by the Supreme Court's landmark decision in *M.V. Elisabeth* (1993), enabling it to conform to UNCLOS standards. The Anti-Maritime Piracy Act, 2022, which granted India power to prosecute piracy on the high seas, directly filling a gap in its UNCLOS duties, and the Admiralty Act, 2017, which updated regulations on ship arrests and maritime claims, further strengthened this legal framework.

In the *Bangladesh v. India* (2014) maritime boundary case, where it accepted the tribunal's ruling, and in the 'Enrica Lexie' case, where it deferred to the Permanent Court of Arbitration's jurisdiction, India has shown its dedication to peaceful dispute resolution on the global scene by taking part in UNCLOS-mandated arbitration. India has made great strides, but there are still a number of obstacles to overcome. The United States' "freedom of navigation" actions close to the Indian coast demonstrate how difficult it is to interpret UNCLOS laws, especially those pertaining to military operations in a state's Exclusive Economic Zone (EEZ).

A dynamic legal framework is also required, as seen by UNCLOS's shortcomings in addressing contemporary concerns including cyber threats, climate change, and the regulation of maritime autonomous vehicles. India has implemented a comprehensive strategy to close these gaps, which consists of an assertive diplomatic stance in international fora, a strategic security policy (such as the SAGAR doctrine and the Information Fusion Center, or IOR), and a proactive legal approach (such as the Deep Ocean Mission and new criminal codes). With this comprehensive approach, India is positioned as a leader influencing the direction of international maritime governance in addition to being a compliant signatory.

## REFERENCES

1. Legal Texts and Acts:
2. United Nations Convention on the Law of the Sea (UNCLOS), 1982.
3. Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017.
4. Maritime Anti-Piracy Act, 2022.
5. Merchant Shipping Act, 1958.
6. Indian Ports Act, 1908.
7. Coast Guard Act, 1978.
8. Offshore Areas Minerals (Development and Regulation) Act, 2002.
9. Bharatiya Nyaya Sanhita (BNS), 2023.
10. Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.
11. Case Law:
12. *M.V. Elisabeth and Ors. v. Harwan Investment and Trading Pvt. Ltd.*, AIR 1993 SC 1014.
13. *Republic of Italy v. Union of India*, (2012) SCC OnLine SC 1221.
14. *Liverpool & London S.P. & I. Assn. Ltd. v. M.V. Sea Success I*, (2004) 9 SCC 512.
15. *S.A. v. The Owners and Parties Interested in the Vessel M.V. Nave Constellation*, (2020) SCC OnLine SC 1095.
16. Delimitation of Maritime Boundary in the Bay of Bengal (*Bangladesh v. India*), Permanent Court of Arbitration (PCA), 2014.
17. The "Enrica Lexie" Incident (*Italy v. India*), PCA, 2020.
18. *Gaurav Kumar Bansal v. Union of India*, (2014) 15 SCC 151.

19. Scholarly Articles and Books:
20. Grotius, H. (1609). *Mare Liberum* (The Free Sea).
21. Churchill, R. R., & Lowe, A. V. (1999). *The Law of the Sea*. Manchester University Press.
22. Rao, P. C. (2001). *The New Law of the Sea and India's Maritime Strategy*. South Asian Publishers.
23. Patel, B. N. (2019). *India and International Law*. Oxford University Press.
24. Klein, N. (2022). *Maritime Security and the Law of the Sea: Challenges and Opportunities*. Oxford University Press.
25. Menon, K. (2023). *India's Maritime Jurisprudence: An Evolving Paradigm*. *Journal of Maritime Law and Commerce*.
26. Brewster, J. (2014). *India's Ocean: The Indian Navy and the Indo-Pacific*. Routledge.
27. Pant, H. V., & Bommakanti, K. (2019). *India's Naval Strategy and Asian Security*. Routledge.
28. Official Reports and Policy Documents:
29. Government of India. (2015). *Indian Maritime Security Strategy*. Integrated Headquarters, Ministry of Defence (Navy).
30. Ministry of Ports, Shipping and Waterways (MoPSW). (2021). *Maritime Vision 2030*.
31. Ministry of External Affairs (MEA). (2019). *Information Fusion Centre – Indian Ocean Region (IFC-IOR) Inauguration*. Press Release.
32. Lok Sabha Debates. (2022). *Discussion on the Anti-Maritime Piracy Bill, 2022*.
33. ITLOS. (2024). *Advisory Opinion on the Obligations of States relating to Climate Change*. Press Release.