



BLUE TALKS

ENHANCING THE CONSERVATION AND SUSTAINABLE USE OF OCEANS AND THEIR RESOURCES BY IMPLEMENTING INTERNATIONAL LAWS

Policy Brief

This policy brief is based on a hybrid seminar titled ‘Blue Talks: Enhancing the Conservation and Sustainable Use of Oceans and their Resources by Implementing International Laws’, jointly organized by the National Institute of Maritime Affairs (NIMA), Institute of Policy Studies (IPS), Islamabad, and the Portuguese Embassy in Islamabad on June 7, 2022.

Introduction

The world’s oceans are facing multiple challenges. The security domain has shifted from traditional to non-traditional, including issues such as environmental degradation and climate change, to mention a few. These challenges have transformed, and now every challenge is linked with another. Oceans have remained central to the development of the human race; consequently, there must be rules and regulations to manage the oceans and ocean resources. 1982 marks the year when the UNCLOS was adopted to manage ocean resources. The UNCLOS provides a comprehensive regime to govern the living and non-living resources of the oceans.

The UNCLOS provides the framework for the nations to promote sustainable utilization of ocean resources. However, there are some gaps in the implementation of the UNCLOS and the lack of some regional bodies, which exacerbates the performance issues and unsustainable practices. There is additionally a desire to make this law compatible with the Paris Climate Agreement. The United Nations is facilitating the discussion about fulfilling gaps in the existing legal mechanism.

To address gaps and develop a comprehensive regime for sustainable utilization of marine biodiversity in the area beyond national jurisdiction, the UN General Assembly adopted Resolution 72/249 on December 24, 2017. Covid-19 proved to be a roadblock in establishing a comprehensive ocean regime.

Therefore, it was essential to commence negotiations to reach a binding instrument acceptable to all parties. This year’s World Oceans Day theme is revitalization and collective action for the ocean. Goal 14 of the United Nations Sustainable Development Goals (SDGs) is cognate to life below water.

This goal mandates ocean conservation and sustainable utilization of ocean resources. To monitor progress on the SDG14 goal, the UN holds Ocean Conferences every three years. This year’s Ocean Conference was held from June 27 to July 1, and the governments of Kenya and Portugal co-hosted the event. The conference discussed issues cognate to the oceans from different dynamics. In preparation for this conference, the Blue Talks conference was held in Islamabad in collaboration with the Institute of Policy Studies, the National Institute of Marine Affairs, and the Portuguese embassy in Islamabad.

The conference highlighted that the security discourse has transmuted from traditional to non-traditional. While states possess better operational preparedness for traditional threats, non-traditional threats, including most maritime threats, still lack solemn consideration by states. The role of international organizations in governing and managing the oceans is mainly missing, and the absence of rules on the high seas accentuates the challenges for law enforcement. All of the 17 SDGs pertain to oceans, and, in this domain, there is a destitute of national practices, regional replications, and international actions, which must be reinforced to ascertain amelioration.

The conservation of the Indian Ocean's resources and transboundary issues were also discussed. It was underscored that cooperation and collaboration at the regional level must promote regional ocean governance to realize the global oceans plan, respond to emerging challenges, and dispense incipient policies and initiatives such as the blue economy. During the conference, SDG14, its targets and the status of its achievements in the Indian Ocean were discussed. It was concluded that the Indian Ocean region and its resources are faced with multidimensional challenges from climate change and its sundry aspects, which in turn cause decremented economic productivity and perturbances in the distribution of marine species and community structures.

Among the achievements of the recent past, it was acknowledged during the conference, are that the issues of climate change, ocean acidification, and sea-level rise are getting attention because of the efforts of civil society, and it highlighted desideratum to apperceive maritime environmental malefactions within international law. The ocean is one and interconnects all humanity. That is why managing oceans requires a holistic approach that includes implementing international laws to address and eliminate environmental malefactions. In integration, coastal communities are affected by these malefactions, which are not discussed by states due to their lack of direction and vigilance.

The welcome note at the conference was delivered by Vice Admiral (r) Abdul Aleem HI(M), director general NIMA. The opening remarks were given by Paulo Neves Pocinho, ambassador of Portugal, who was the guest of honor. The views of Macharia Kamau, principal secretary, Ministry of Foreign Affairs, Kenya, were communicated through a video message. Prof. Dr. Vasco Becker-Weinberg, Nova School of Law, Portugal, and president of Portuguese Institute of the Law of the Sea, delivered the keynote address on 'Enhancing the conservation and sustainable use of oceans resources by implementing international laws'. Dr. Asif Inam, head of Department of Maritime Sciences, Bahria University, Karachi, delivered a speech on the 'Importance of collaborative efforts by regional stakeholders for the conservation

and sustainable use of resources in Indian Ocean Region'. Dr. Maliha Zeba Khan, assistant professor National University of Modern Languages, Islamabad, was a discussant. Guest of honor Rear Admiral Foad Amin Baig HI(M), director-general PMSA, also shared his insights, while Khalid Rahman, chairman IPS, presented the closing remarks. The session was moderated by Cdre. (ret'd) Bilal Abdul Nasir SI(M), director NIMA.

Analysis

There are maritime crimes that are linked with poverty, and it is a proven that there is a connection between environmental degradation and poverty. During the conference, the theme that regional and international cooperation is vital for eradicating maritime crimes in the ocean, came into the limelight. Cooperation is compulsory to eradicate these crimes at sea due to the transnational nature of these malefactions. However, due to geopolitical competition, this cooperation seems infeasible. For instance, naval activity in the Western Indian Ocean region is incrementing and this trend is engendering a threat to alliances to eliminate non-traditional security threats. This region relies on the naval presence of foreign actors.¹

Due to the presence of peregrine actors, there is a threat of geopolitical tension that comes with these players. As a result, they are a threat to regional maritime stability. Therefore, even if maritime crimes become a component of international law, their implementation will be a considerable challenge due to the geopolitical competition.² Consequently, there is a requirement to establish a force like a UN peacekeeping mission, especially for the sea, to ascertain maritime security without importing geopolitical tension.

Furthermore, the Covid-19 pandemic and the conflict in Ukraine have increased the importance of food security. Therefore, countries will adopt strategies to securitize food because of the threat to the supply chain. It can enhance tension among countries over fisheries resources.³ In addition to these geopolitical tensions, other non-traditional security issues, such as poverty, are impacting the ocean's health.

¹ Christian Bueger and Jan Stockbruegger, "Maritime Security and the Western Indian Ocean's Militarisation Dilemma," *African Security Review* (April 4, 2022): 1-16, <https://doi.org/10.1080/10246029.2022.2053556>.

² Ibid.

³ Dr. Arif Husain, "The Ukraine War Is Deepening Global Food Insecurity – What Can Be Done?," United States Institute of Peace, May 16, 2022, accessed July 6, 2022, <https://www.usip.org/publications/2022/05/ukraine-war-deepening-global-food-insecurity-what-can-be-done>.

There is a strong connection between environmental degradation and poverty.⁴ This becomes a cyclic process that impacts the environment and increases the number of the impoverished. When poor fisher folk do not get enough resources from the ocean, they utilize minute nets and other illicit methods to catch fish to increase their profit. As a result of these practices, fisheries and seafood resources decline. It ravages the whole ecosystem of the ocean, and the sea resources do not get the time required to regenerate.⁵ Consequently, it is vital to incorporate the reduction of poor living conditions in coastal areas as a top priority, which aligns with the UN's Sustainable Development Goals. The developed countries should help the developing countries in eliminating extreme poverty in the coastal areas.

It was mentioned during the Blue Talk that as the oceans are interconnected, issues related to them impact everybody. Albeit this is veridical that the oceans are connected, however exploring the historical dimensions of this connection is also very consequential. The developed countries should understand that developing countries contribute immensely to their development. As a result of resource extraction by the developed countries, the developing countries' environment has been destroyed, and poverty has become a part of their lives.

When colonialists occupied incipient territories, they regarded them as a place of illimitable resources and did not consider the long-term impact of their exploitation on the environment. For instance, British colonists commenced a plantation economy in Malay to fulfil the need for industrialization in the UK and the US; timber trade increased significantly when the British occupied Myanmar and damaged local resources. Furthermore, the exploitation of mineral resources in Africa additionally contributed to the development of colonial potencies. In the ocean

domain, colonization gravely impacted the lifestyle of the colonized.⁶

European colonization played a paramount role in divesting people away from their marine resources and engendered unequal marine-dominated regimes across the oceans. This impact of colonization emanated from the sixteenth to the twentieth centuries and encompassed the regions from the Caribbean to Oceania. Colonialism engendered unequal marine spaces, resources, and decision-making whose impacts remain. They imposed rules, regulations, and acquiescence through violence. They enhanced their sovereignty over marine resources; as a result, it impacted the indigenous communities who were the primary owners of these ocean resources.⁷ It is not about acknowledging that these iniquities occurred, but understanding their impact on the present is very consequential. These structures have engendered inequalities and licit uncertainties impacting the coastal communities recently.⁸

The other burning aspect that is impacting the ocean ecosystem is climate change. Due to climate change, ocean acidification, and the ascension in temperature, the nature of the ocean water is transmuting.⁹ Due to this reason, there are many issues transpiring in the ocean. Climate change can create massive food security challenges for millions of people due to its impact on the local fisheries.¹⁰

There is a need to make the UNCLOS law compatible with the incipient climate acquiescent.¹¹ Discussion on the issue of climate change is incomplete without considering colonial aspects. The contribution of the developed countries to climate change is more than the developing countries. The developed countries used fossil fuels to develop their economies and are even now responsible for engendering massive greenhouse gases. From 1801 to 2011, the developed countries

⁴ Selim Jehan and Alvaro Umana, *The Environment-Poverty Nexus* (Washington DC: UNDP, n.d.).

⁵ *Ibid.*, 12.

⁶ Joseph McQuade, "Earth Day: Colonialism's Role in the Overexploitation of Natural Resources," *The Conversation*, April 18, 2019, <http://theconversation.com/earth-day-colonialisms-role-in-the-overexploitation-of-natural-resources-113995>.

⁷ David Wilson, "European Colonisation, Law, and Indigenous Marine Dispossession: Historical Perspectives on the Construction and Entrenchment of Unequal Marine Governance," *Maritime Studies* 20, no. 4 (December 2021): 387-407, <https://doi.org/10.1007/s40152-021-00233-2>.

⁸ *Ibid.*

⁹ Byomkesh Talukder et al., "Climate Change-Accelerated Ocean Biodiversity Loss & Associated Planetary Health Impacts," *The Journal of Climate Change and Health* 6 (May 2022): 100114, <https://doi.org/10.1016/j.joclim.2022.100114>.

¹⁰ Eva Maire et al., "Micronutrient Supply from Global Marine Fisheries under Climate Change and Overfishing," *Current Biology* 31, no. 18 (September 2021): 4132-4138.E3, <https://doi.org/10.1016/j.cub.2021.06.067>.

¹¹ Lan Ngoc Nguyen, "Expanding the Environmental Regulatory Scope of UNCLOS Through the Rule of Reference: Potentials and Limits," *Ocean Development & International Law* 52, no. 4 (October 2, 2021): 419-44, <https://doi.org/10.1080/00908320.2021.2011509>.



were responsible for 79% of the greenhouse gases. They are still consuming more energy, engendering more greenhouse gases, and impacting the environment.¹² A Brazilian activist for the rights of the indigenous people said, “Colonialism caused climate change. Our rights and traditional knowledge are the solutions”.¹³ Therefore, it is the obligation of the developed countries to take responsibility for climate change.

At the United Nations Climate Change Summit in Copenhagen, the developed countries promised to channel \$100 billion to the developing countries regarding climate losses. However, in the last 12 years, this promise has not been consummated. It shows that the developed countries are more fixated on rhetoric and narrow national interests rather than substance. Furthermore, the collective action dilemma is obstructing nations’ facility to resolve challenges. Emerging geopolitics of energy can also impact the transition.¹⁴

The new legal framework of the ocean should consider this historical responsibility. It should ascertain that the developed countries take responsibility for their past actions. Without taking responsibility for the past deeds, the states cannot authentically resolve the present issues and secure the future. International law should be binding for the developed nations to fortify developing countries in the coastal areas and their economics. Many maritime malefactions are the product of penuriousness and deplorable governance in the coastal areas. Secondly, the developed countries

should additionally provide funding for capacity building of the developing countries cognate to climate change issues.

Conclusion

Due to changing situations and circumstances, there is a need to fill gaps in the existing legal infrastructure of the ocean. It must incorporate maritime crimes, making them compatible with international climate agreements. However, this law should not ignore historical responsibilities. The developing countries had an important role in the progress of the developed countries, which damaged the environment and resources of the former. Therefore, the new evolving legal instrument should make it binding for the developed countries to take responsibility for their actions and contribute to the development of coastal communities because the reduction of poverty in coastal areas can help reduce maritime crimes and environmental degradation.

Furthermore, climate change is impacting the ocean in myriad ways. Therefore, the developed countries must help the developing countries in capacity building to collect data and other essential things. In this way, this new instrument can help countries reduce maritime crime, protect environmental degradation, and mitigate the impact of climate change. This serves the national interest of every country because maritime crime, migration due to climate change, and other issues will impact developed countries and their interests.

Prepared by:

Zohaib Altaf

Maritime Researcher
Institute of Policy Studies, Islamabad.

For queries:

Naufil Shahrukh

General Manager Operations
Institute of Policy Studies, Islamabad.
naufil@ips.net.pk | www.ips.org.pk

¹² “Developed Countries Are Responsible for 79 Percent of Historical Carbon Emissions,” Center for Global Development, accessed July 6, 2022, <https://www.cgdev.org/media/who-caused-climate-change-historically>.

¹³ Yessenia Funes, “Yes, Colonialism Caused Climate Change, IPCC Reports,” Atmos, April 4, 2022, <https://atmos.earth/ipcc-report-colonialism-climate-change/>.

¹⁴ Amar Bhattacharya and Nicholas Stern, “Beyond the \$100 Billion: Financing a Sustainable and Resilient Future,” Grantham Research Institute on Climate Change and the Environment/London School of Economics and Political Science, November 3, 2021, <https://www.lse.ac.uk/granthaminstitute/publication/beyond-the-100-billion-financing-a-sustainable-and-resilient-future/>.