



General Assembly / B

Regulations of international territories and its relation within worldwide peace and cooperation between Member States.

INTRODUCTION

In today's day international relations and politics, one of the main concepts by which these studies are based is national sovereignty. The concept of national sovereignty is defined as the authority of a state to govern itself and that it can do what needed or pleased inside its territory without the intervention or influence of other extern actor or nation. With this concept comes the basis of international respect and cooperation. The fact that a country is free to make its own decisions let's democracy enter into roll and lets the population decides for it's own laws and regulations.

International territories differ from the common usage of national sovereignty. Since these spaces do not belong to any country or government, it would mean they are exempted from laws and regulations. The international community, instead of allowing these loopholes to be the cause of human rights violations, crime or other actions that disrupt peace, have created laws and regulations that make sure that there is no loss of human dignity nor room for international conflicts (whether economic, social, or military) to occur.

These laws regulate commerce, military deployment, resource gathering and exploitation, pollution, etc. Although these laws are here to ensure the respect of national sovereignty and to stop the escalation of any conflicts, there are times in which national interest stumble upon these regulations, and thus causing diverse conflicts involving the countries that are with contact of these international territories.

Conflict arises when national interests are in jeopardy, and with that threat, a country is in the need to act. One of the main drivers of international conflict is the violation of national sovereignty. Since this is the most important consideration of a nation it will jealously defend its territorial boundaries. Within a nation's territory, the country has the absolute right to claim over, control and use all the natural resources (Rule of "Territorial Sovereignty"). The countries notion implies to use and exploit the biggest amount of resources before they cross to other countries territory, thus sharing each time less and creating conflict between nations.

While national sovereignty is the main driver, there also exist plenty others that are the cause of plenty today day's conflicts. The levels of development and the way that they vary between neighbor countries is also a big factor. The main factors of the development that matter are economic development and technological capacities. In each regain, there is a dominant regional nation, and it has great strategic and economic value on the resources and is able to take proactive steps to take up projects. They can also interfere in a temporal or definitive way in projects made by other countries. The more social and economic insecurity can lead to greater political instability.

| | Upstream | Downstream |
|-------------------|--|---|
| Developed Nation | Proactive operational action, emphasis on bilateralism, semblances of regional action, strongly resist outside intervention. | Attach strategic/ security importance to water supply, suppresses upstream diversion schemes, military threats or action, other imbalanced reciprocity. |
| Developing Nation | Demand imbalanced reciprocity, delay as a tool to bargain. | Internationalization, campaign for outside intervention, look for riparian alliances to pressurize. |

Tiwary R. Economic and Political Weekly (2006)

Another cause, though there are fewer examples in the world, can originate more explosive and sudden conflicts due to the nature of the situation. This is the water scarcity. A big idea that has grown tremendously among countries is resource consciousness. There is a big importance that is attached to water resources, and with this type of resources come two important issues, shortage and scarcity, which affects the quantity of the resource. Water shortage exists when real demand exceeds the real supply. The concept is directly related to water scarcity, which refers to climatic availability of water in real terms.

Other continual inputs that are responsible for the creation of conflicts are:

Ruling regimes: change of government, or party that rules the nation. This provokes a great impact on the trajectory of the nation's interests. The new government may make the decision to abrogate, ignore, modify or freeze international agreements.

Water Security: now day's states' economic and political well being depends greatly in the environmental security. Water has a great strategic value in many regions and thus it is seen as a main aspect of national and regional security. It also involves macroeconomic aspects and food security.

Maritime Law is the one in charge of regulating the reach of the national territories of all the countries that count with a shore. This law is enforced internationally and helps to make sure that national sovereignty is not violated. It originates from the need of a set of regulations for international territory. Since these territories do not have governing bodies, laws nor rules Maritime Law helps protect people and resources. This law establishes the limits of a nation's territory that expands deep into the sea. Considering different layers at which domestic laws apply and regulations regarding taxation, contamination, commerce and military.

The limits that this law establishes are divided in four sections that help the regulation of the traffic of the ships. The territorial waters, which is in which domestic laws apply, gathers the first 12 miles from the water line with the lowest low tide. After that comes the Contiguous zone in which customs, taxation, immigration and pollution laws apply. This area consists of the consequent 12 miles after the territorial waters end. Another area is the Exclusive Economic Zone (EEZ) that consists of 200 nautical miles from shore (230 miles or 370 km). The EEZ represents the territory in which just the owner country is able to exploit the resources.

HISTORICAL BACKGROUND

Falklands War

This armed conflict was a ten-week confrontation between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland. On 2 April 1982 Argentina, under the claim of historical ownership of the islands, invaded the Falklands. In those times, and still to today's day, the territory of the Falklands was a colony from the UK. Argentina started the campaign with the claim of historical right over the islands, since they inherited the territory from Spain in the 1800s.

Banc Du Geyser Dispute

This conflict arose from the rightful ownership and the sovereignty claim over a reef named "Banc du Geyser" made by three different countries (Comoros, France, Madagascar). The reef is located in the Indian Ocean (Mozambique Channel) and is said to contain oil fields. Each country has a different argument over the claim of this territory. France states that it belongs to their territory because of a historical right, stating that since French Madagascar (Colony 1897-1958) annexed the island to its territory it now belongs to them, and the reef became part of the French Southern and Antarctic Lands since 2007.

The other two countries' claims over the territory are rather different. Madagascar formally introduced the reef into its territory in 1976, and is said to be under the interests of the oil. In the other hand Comoros claims the territory since it is within the 200 nautical miles of its EEZ and thus has sovereignty over the reef. The dispute has not reached any agreement and is still currently under dispute.

Ganges River Dispute:

The Ganges River is a long trans-boundary river, which passes over India and Bangladesh. The dispute starts with India's independence in 1947 and with the Pakistani talks with India in 1951 over the creation of the Farakka barrage. To understand this dispute we need to take into consideration the water scarcity and shortage that the region suffers in the dry season. Although the region has abundant water resources and counts with plenty of rain and snow it suffers a radical change.

Pakistan's main concern was the alarming quantity of water that the barrage would take for India, and that it would let the country with significant shortage of water during the dry season. With the creation of the Farakka barrage India would take the 80% of all the water that passes thru the river and ends at Pakistani territory.

Pakistani claims were responded by India with the fact that the construction of the barrage was still being planned and that the concerns were only “hypothetical”.

The next years of the petition, Pakistan insisted occasionally with the notice of new projects being created by India. In the years of 1957 and 1958 it proposed several external interventions including the supervision of UN organs over the hydraulic projects. India responded with vague statements of cooperation and started cooperation talks.

CURRENT RELEVANCE

South China Sea:

The South China Sea is a part of the Pacific Ocean that consists of approximately 3,500,000 square kilometers. This territory is a highly disputed territory in which, due to its immense amount of natural resources, all the countries with an EEZ inside that zone want to claim. A main claim of those countries in the region is the ownership of the Spratly Islands, which is an archipelago located in the heart of the region.

As stated before the body of water counts with gigantic amounts of resources including: oil, natural gas and fishing. The estimated amount of oil is eleven billion barrels, of natural gas is 190 trillion cubic feet, and is said to contain 10% of the world’s fisheries. As it is rich in resources it represents a big gateway for all the commerce and trade shipping, being that 30% of the entire world’s shipping passes thru there.

The conflict arises from the Maritime Law claim that every country is owner and is able to exploit the resources that are within their EEZ. In this region the EEZ of six different countries meet (Brunei, China, Malaysia, Philippines, Taiwan, Vietnam) and each claims their 200 nautical miles and none is willing to negotiate and yield territory. Another big influencer in the ownership of the region are the Spratly Islands, the importance of this archipelago is that whoever has it can extend rightfully their national territory and will have full sovereignty over all the resources in the area. This islands are spread between four countries (China, Malaysia, Philippines, Vietnam) and are continuously disputed and being taken away from each country.

Another important influencer in the conflict of the ownership of this territory is the “Nine-Dash Line” drawn by China in 1947. This claim by China states that they have the historic right to 90% of the South China Sea territory. Since the concept was issued past World War II China has never been willing to negotiate and insists of the sovereignty of that land.

China:

Its main claim of ownership over the South China Sea is based over the historical rights of the “Nine-Dash Line” and thus claims the majority of the territory. It is said that China’s main focus for the control of the area is the rich banks of natural resources that it house, though it is also inferred through their recent actions that a military approach has also taken place and it is that focus that threatens diplomatic relationships and the possibility of a peaceful resolution of the conflict.

Although firm with the historical right of ownership, China is also taking action so that the territory would “legally” be owned by it. China is staying proactive in the matter and is creating man made islands in the area from reefs that already exist. By dragging gigantic amounts of sands into the reefs, China is making its presence in the territory more marked. China has today created 6 islands out of reefs (Fiery Cross Island, Cuarteron Reef, Subi Reef, Mischief Reef, Hughes Reef, Gaven Reef), but the most worrying part is that they are more than just islands. Each man made island represents a military base with: buildings, anti-aircraft weaponry, radars, and take off platforms for planes.

Malaysia:

Its approach has always been pacific and diplomatic negotiation and actions. Since past year both prime ministers of China and Malaysia gathered in order to have defense cooperation in the region and to remark their alliances so that there is no conflict between the two nations. With their most recent approach they trust in diplomatic discussions, hoping China respects its “Code of Conduct” established for this situation and wanting to prevent any armed conflict.

“We need to enhance our naval cooperation to ensure peace and stability in the South China Sea and enhance our mutual trust” – Najib Razak, Malaysia’s Prime Minister

Philippines:

Its approach is rather decisive in the matter that it has the purpose to protect its territory within the sea. It has taken action against the military strategies that China adopted in the area and has also arrested Chinese fishermen. It also counts with military bases in the islands that are present in the area, and one of the most noted is Ayungin Shoal (with 8 military bases) due to the recent big tensions with China. Philippines wen to the International Court at the Hague in July 2016, charging China with invading their rightful territory in the South China Sea. Although the Court ruled in favor of the Philippines, China give a threatening statement that if the Philippines were to take action with the tribunal’s decision it would respond with war.

USA:

Its main part in this conflict has been of guarding the water territory and protecting, with military presence, their allies in the region. The USA does not want to get involved in the conflict and wants to have a parallel status next to the countries involved. The USA is known for having the capacity and taking action over the guarding of international waters throughout the globe. And its presence in the South China Sea is not the exception. US approach is guided by the intention not to provoke China, though lately the presence of its navy in the region has led to "Serious political and military provocation" and the Chinese president states that the relationship is "affected by some negative factors".

Piracy and ship hijacking in the Gulf of Aden and the Arabian Sea:

Sri Lanka:

Recent actions by the private companies include the creation of "Floating Armories" in order to protect ships and to save money and time with legality and custom laws that apply in the countries in which they touch shore. Due to each nation's regulations and laws, the fact of a ship being guarded with guns is very a task that is very difficultly performed. In some nations the carrying of weapons can be considered smuggling being capable of creating embargos or other legal measurements so that the law punishes the action.

Previous to the creation of these armories, companies were forced to buy illegal guns (usually in Yemen) and then when entering the contiguous zone of any country had to mandatory through the guns to the sea so they would not be charged with any offence.

Somalia:

The shores that belong to these bodies of water and that have proximity with Somalia are well known for the high amount of piracy that threatens all the ships that pass over those territories. In the need of safeguarding the ships and their cargos plenty of companies have adopted the use of armed officials, who belong to private security companies, so that the risk of being hijacked is lowered.

The problematic starts with the poor management of these so-called "Floating Armories". Many of these are known to have poor conditions for the guarding that is employed, including not having enough personnel to actively guard the stations and not having enough beds for all the people there. This situation leaves the platforms and ships that have all the weapons vulnerable to pirate attacks and thus incrementing the problem of armed pirates instead of solving it. Also there is a big concern that these armories are responsible of illegal trade of weapons, the smuggling of illegal weaponry and the possible commerce that can take place with extremist groups.

INTERNATIONAL ACTIONS

The Security Association for the maritime Industry (SAMI) This association was created with the purpose of lowering, and then eliminating, the pirate hijacking of ships in the coasts of Somalia. It counted originally with 180 members counting both countries and private security companies. It was responsible of making forums, recommendations, evaluations, and to facilitate the whole process of safeguarding ships. It is said that it had 100% rate of success and manage to make that since May 2012 there has not been a successful hijack of any ship in the delimited High Risk Area. It has now dissolved and is no longer active but it represents a clear example of how proactive cooperation between both nations and the private sector is the only thing needed to eliminate conflicts around the world.

UN ACTIONS

1. Predecessor Resolutions of the 1997 United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses:

- General Assembly Resolution #1401 (XIV). (21 November 1959). In this resolution came the first desires of international regulations for maritime spaces. It recognized the importance of the consideration of international water territories and the need to regulate those. In the resolution it was stated, “desirable to initiate preliminary studies on the legal problems relating to the utilization and use of international rivers with a view to determining whether the subject is appropriate for codification”.
- General Assembly Resolution #2669 (XXV). (8 December 1970). This resolution titled “Progressive Development and Codification of the Rules of International Law Relation to International watercourses”. This resolution stated, “Take up the study of the law of the non navigational uses of international watercourse with a view to its progressive development ad codification.”

2. United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses:

It is a Convention that concluded on 21 May 1997 and made an annex to the General Assembly resolution #51/ 229. It is a governing shared freshwater resources treaty that is considered the only one that is universally applicable. It has the characteristic that it can be adjusted to suit specific characteristics of particular international watercourses. It was said that the “Cornerstone of the Convention” was the equitable and reasonable utilization and participation.

That means that all nations that share a watercourse should always keep a cooperative perspective with its neighbors and that they should all share.

- States are to “Participate in the use, development and protection of an international watercourse in an equitable and reasonable manner”.
- States are to “Take all appropriate measures to prevent the causing of significant harm”.

3. United Nations Conference on the Law of the Sea (14 February – 27 April 1958)

Resolution 1105 (XI)

- Convention on the Territorial Sea and the Contiguous Zone (CTS) (10 September 1964)
- Convention on the High Seas (CHS) (30 September 1962)
- Convention on Fishing and Conservation of the Living Resources of the High Seas (CFCLR) (20 March 1966)
- Convention on the Continental Shelf (CCS) (10 June 1964)
- Optional Protocol of Signature concerning the Compulsory Settlement of Disputes (OPSD) (30 September 1962)

The purpose of the conference was “to examine the law of the sea, taking account not only of the legal but also of the technical, biological, economic and political aspects of the problem and to embody the results of its work in one or more international conventions or such other instruments as it may deem appropriate” (Resolution 1105(XI))

4. General Assembly resolution 2749 (XXV) (17 December 1970)

This resolution states that the entire ocean floor, seabed and every resource it includes that are beyond national limit jurisdiction “are the common heritage of mankind”. It states that there is no nation with the right to exercise and/or claim sovereignty over these resources, and that the exploitation, transportation, and processing of these shall be made with the purpose and maintenance of peace. It also states that all the processes regarding these resources must be handled by “international regime” and “appropriate international machinery” and that all these must be established within a universally chartered treaty.

5. United Nations Convention on the Law of the Sea (14 November 1994)

This Convention is considered the “constitution of the oceans”, and is a without a precedent result of an effort for the progressive development of international law. It is also considered one of the most detailed and extensive results of the cooperation between member States under the UN. It counts with four hundred articles and nine annexes and binds for 154 States and the European Community.

BULLET POINTS TO BE TACKLED

- Previous and current actions taken by States involved in this problematic.
- The regulation of international waters and the relation to naval belligerent conflicts.
- The actions taken by Non-Governmental Organizations to prevent national interests from prevailing over international maritime law.
- The regulation of international territories and waters that are inside or adjacent to conflict zones.
- Regulations of natural resources in international waters
- Proposals of new and better regulations in such territories, with a focus on natural resources, avoidance of belligerent and economic conflicts.

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