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## **STATE RESPONSIBILITY UNDER THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)**

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### **ABSTRACT**

This paper dives into the working of the state responsibility under UNCLOS and how the responsibility varies with reference to what maritime zone you are referring to. UNCLOS outlines the zones such as those within internal waters up to the high seas and the Area with its rights and responsibilities. In my opinion, responsibilities cannot be the same in every situation but they are shaped according to the degree of sovereignty or control of a state within a specific zone. Although general rules of international responsibility are applied everywhere, the special responsibilities, in particular, those related to environmental protection, managing resources, freedom of navigation, and sea mining, vary according to the zone. With the text of the treaty and the attempts to interpret it by the courts, the paper demonstrates that due diligence is the most significant connection between the power of the state and its responsibility in the contemporary maritime government.

## **Introduction**

UNCLOS did actually upset our mode of thinking in regard to maritime law, which has introduced a whole new legal framework which encompasses all aspects of the ocean. The core of this structure is the elaborated separation of maritime zones where states have varied levels of sovereignty and jurisdiction. These rights are accompanied by the corresponding responsibilities. When we discuss the issue of state responsibility under UNCLOS, we must refer to the zone-based architecture. As opposed to mere territorial sovereignty, the sovereignty that a state enjoys in the waters is amplified and functionally restricted beyond its territorial sea. This gradation forms what responsibilities states have, be it in protecting the environment, in providing navigation or administering resources or in handling seabed activities. The introduction will address the way UNCLOS combines general concepts of international responsibility and zone-specific duties to provide a subtle regime of accountability which differs across the various maritime spaces.

## **Main Body**

The United Nations Convention on the Law of the Sea (UNCLOS) which was adopted in 1982 in Montego bay is commonly referred to as the constitution of the oceans. It establishes a hierarchical arrangement of marine spheres extending between a coastal footing and the high seas and the Area and attributes different degrees of jurisdiction and responsibility to each. UNCLOS does not even hold state responsibility equally across all these spaces. Rather, responsibilities change depending on the degree of sovereignty, rights, or functional authority within each zone by the state. Due to this, when a wrongful act is committed by a state at sea, it is not possible to look at the principles of the world as a whole, but on the territory where the act occurred. The state responsibility under UNCLOS incorporates the traditional international accountability provisions and the treaty, case-law, and emerging due-diligence norms of responsibility pertaining to the maritime environment.

The coastal state is the one with the most authority in the internal waters and the territorial sea. The sovereignty of internal waters is no different than that of land and Article 2 of UNCLOS governs the territorial sea (within 12 nautical miles of the baseline) but it is also subject to the Convention and other international law. The primary weakness in this zone is the foreigners right to innocent passage. The concept of state responsibility here has two manifestations, that a state may be liable through interference in the case of innocent passage, or the failure of the

state to control harmful acts within its territorial sea which affects other states. When the transit of a coastal state is unfairly impeded in conflict to Part II of the Convention, that constitutes a violation. On the same note, in case the pollution caused by the state ports or water is harmful to the neighbours, the liability may increase under the UNCLOS and the customary norms that govern the harm to other countries.

Its jurisdiction is limited to the contiguous zone which extends up to 24 nautical miles along the baseline. This zone does not have the full sovereignty but is allowed to take actions required to prevent, and sanction breaches of its customs, fiscal, immigration or sanitary laws, which impact on its territory or its territorial sea. The scope of responsibility here is also purpose-based: when the state exceeds its mandate, i.e. by doubling its criminal jurisdiction to the purposes which are enumerated, it is liable to the international community. Similarly, omission based responsibility can be generated by a failure to implement due controls on smuggling or sanitary risks which damage borders. The critical standard in such cases is the due-diligence standard, which enquires whether the state acted in reasonable steps of its competence, but not whether it achieved a specified result.

The Exclusive Economic Zone (EEZ) extends 200 nautical miles to the baseline and indicates the onset of shifting the full sovereignty to sovereign rights. Article 56 and 58 provide the right to explore, exploit, conserve, and manage natural resources, jurisdiction over artificial islands, marine science and environmental protection to the coastal state. Freedom of navigation and overflight is still enjoyed by other states. The rights in the EEZ are augmented with obligations: when a state unjustifiably limits navigation or forms unequal and uneven regulations, it can be found liable to the violation of the rights of other states. On the other hand, failure to secure living resources or control pollution within the EEZ may also be grounds on which responsibility may be based, particularly when there is overexploitation or ecological damage of neighboring states or marine ecosystem.

Environmental commitments, which are found in Part 12 of UNCLOS are significant in the development of differentiated responsibility amongst zones. Article 192 imposes on all the states the duty to conserve and safeguard the marine environment, and applies to all places regardless of whether the country has jurisdiction over it or not. The content of it, however, is determined by the nature of the zone, and the jurisdiction of the state. The coastal state is the best regulator in the territorial sea and the EEZ. It should come up with laws and regulations

to deter, curb and control land based sources of pollution, seabed activities and vessels based pollution.

The inability to establish or implement proper domestic laws that are consistent with international rules may be taken as a violation of the Convention. The flag state is primarily charged with the responsibility of ensuring the compliance of its ships to the international environmental regulations on the high seas, though, so the objective of environmental protection is identical to that in all other areas, it is the location that differs.

That was again the case of the continental shelf. Article 77 provides that the coastal state is entitled with sovereign rights to explore and exploit the seabed and subsoil of its continental shelf, notwithstanding that it is not necessarily physically present. However, those powers are accompanied with responsibilities, such as defending the environment and covering the submarine cables and pipelines of other states. When a coastal state allows drilling to occur, which spills onto the waters of other countries, or does not police its own private drilling companies, then that is a breach, even though the state must still take into account the interests of other states. This rule of due regard is a check on law which obliges the coastal state to strike a balance between the rights of the global community and its own wants.

Part VII of UNCLOS applies to high seas across national boundaries. The high seas are common to all, not restricted to a coast bound or a land bound country, and the primary liberties are navigation, fishing, research, and even flying over. The principle that is predominant there is the flag-state principle, which states that the ships under the flag of the state must be in actual control and under its supervision. Unless you actually lose real control, or impose the safety and environmental standards, the flag state would be internationally liable. Since the high seas are not owned by one state, the responsibility is connected to who is owning the ship.

The common heritage of man kind is considered to be the Area- the seabed beyond national jurisdiction. The International Seabed Authority (ISA) organizes its operations. Annex 3 of UNCLOS applies to states that sponsor the activities of private companies that are engaged in the deep seabed mining. In 2011 the Seabed Disputes Chamber of ITLOS declared that states which sponsor must have due-diligence to ensure that their contractors follow the rules. This is not a strict liability but an appeal to the states to embrace framework laws, administrative measures and enforcement systems that are aligned with present technology and risk.

Another example of differentiated responsibility is provided by the maritime boundary disputes. Though a delimitation remains being established, it is up to the States under Articles 74 and 83 not to endanger that process and unilateral use of the contentious territories may qualify as a violation. The message continues to be that it requires cooperation and thus states can be responsible not only when they can cause physical damage but also through actions undermining negotiating and restraining.

Part XV of UNCLOS provides the dispute -settlement scheme, which forms the accountability backbone. Cases can be brought to ITLOS, the ICJ or arbitral tribunals by the states. The courts and tribunals have explained who bears responsibility when, e.g. in the words of ITLOS states should release detained ships and their crews without delay, and that non-observance of provisional steps may be the source of liability on its part. As reflected in the decisions, UNCLOS combines the usual international-law principles of state-responsibility with its maritime liabilities.

This is the principle of due diligence, which is the repetitive motif of all the maritime zones. Rather than blipping everyone with unlimited liability on any damage within their jurisdiction, UNCLOS usually anticipates the states to do all possible measures to avert violation. In completely independent locations, the pressure is greater since the state enjoys greater control in the form of regulation. In functional areas such as the EEZ or High seas, the obligation is subject-matter in nature. Sponsoring states in the Area have to adapt to the new science and risk assessment regulations. The progressive in doing-adequate work turns the difference into space developed into the Convention.

UNCLOS and customary international law also interrelate. The principles on state responsibility that ILC adopted are associated with non-observance of the UNCLOS commitments. In the circumstances where the behavior of the state breaches an international obligation, the state is liable to make apology, guarantees and reparations. The extent of that obligation however differs according to the maritime zone. The secondary rules of responsibility basically operate everywhere whereas the primary rules vary according to place.

The Human Rights aspect continues to reoccur. Whether it is in the territorial waters or on the high waters, there are touching interdiction, contiguous zones or on the high seas which can bring about the treatment of people, the use of force, and the rescue obligations. This obligation to assist the needy is stipulated in UNCLOS and other conventions and avoiding it will lead to

liability irrespective of the location. This indicates that there are certain requirements that transcend the spatial difference which is based on universal humanitarianism.

Lastly, there are further complexities of climate change and sea-level rise. An increase in the sea may cause a shift in the baselines, thus altering the jurisdiction of someone and those on the hook. The obligation to conserve the ocean environment compels states to address greenhouse-gas emissions that damage the ocean. Although UNCLOS does not directly address climate change, its environmental provisions are being relied upon in order to take a more liberal approach to responsibility. The matter of the maritime laws may change as much as our scientific knowledge bolts up.

To conclude, state responsibility in UNCLOS is not necessarily a unitary idea, but a unitarized and varied regime. My interpretation of sovereignty in the waters internal to states and in the territorial seas gives states broad regulatory powers and a significant responsibility. Functional jurisdiction of the contiguous zone and the EEZ reduces the area of power and yet subjects certain responsibilities within the zone, which are associated with the resources management and environmental protection. And at the high seas, the individualization of responsibility is done by the flag-state system. Derivative obligations are imposed on the common-heritage principle in the Area on the sponsoring states. In all areas, due diligence serves as the normative rope between jurisdiction and accountability. In essence, the Convention finds a dynamic balance in rights and obligations that entrenches the idea of spatial differentiation into a single system of international law.

## **Conclusion**

The state accountability in the United Nations Convention on the Law of the Sea is of a delicate and complex balance of the maritime rights and international responsibility. The zonalization of the Convention means that the obligations are in proportion to the nature and scope of jurisdiction that states assume in internal waters all the way to functional responsibilities on the high seas and on the Area. This paradigm shift model would not only prevent absolute liability and a regulatory vacuum, but rather base responsibility on the concept of due diligence. The judicial interpretation and the state practice further support the fact that the maritime rights are not separable: it is impossible to separate them according to the environmental, navigational and cooperative responsibilities. The spatially calibrated point of reference of UNCLOS is flexible as more challenges like climate change, deep-sea mining, and maritime security arise.

In conclusion, the Convention is an example of how the international law may balance the sovereign interests and the collective stewardship of the oceans.

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