



## Navigating Global Waters: Exploring International Dimensions of Fisheries Legislation

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### Abstract

This abstract delves into the multifaceted and consequential nature of fishery law on a global scale. The present abstract emphasizes the significance of global collaboration in the management of fisheries resources and the maintenance of sustainable fishing methods. It also covers how international agencies like the Food and Agriculture Organization and the United Nations formulate and carry out fisheries laws and regulations. The abstract highlights the necessity of strong enforcement measures to guarantee adherence to international fisheries regulations and stop overfishing and fish supply depletion. It also looks at how international agreements and organizations have influenced the development of fishery law and encouraged ethical fishing methods. Overall, this abstract emphasizes the vital role that international fisheries legislation plays in encouraging ethical fishing methods and safeguarding the world's fisheries resources for coming generations.

**Keywords-** Fishery, Legislation, Food, Agriculture, Organisation, International Agreement, Regulations etc.

### Introduction

Resources from marine fisheries are essential to human existence and are converted into individual catches. To ascertain the legal foundation for these changes, legal considerations are required. Exclusive economic zones, territorial seas, high seas, archipelagic waterways, and regions beyond national jurisdiction (ABNJ) are all places where marine fishing takes place. Both federal and international law regulate fishing activities involving marine fisheries resources. Studying these regulations' legal validity for marine fisheries resources as well as their conservation and management clauses is crucial. It is essential for the management and conservation of marine fisheries resources to be aware of their legal status. This article examines the legal framework established by the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and its treaties regarding marine fishery resources. The legal regimes can be broadly divided into three categories: maritime areas under the sovereign jurisdiction of States, maritime areas covered by the sovereign rights of coastal States, and ABNJ. These legal regimes can also be divided into three categories in terms of contents: the legal regime of exploitation and utilization of marine fishery resources, the legal regime of conservation and management of marine fishery resources, and the legal regime of scientific research on marine fishery resources. The legal basis for the occurrence of marine fisheries resources turning into catches and the legal standing of marine fisheries resources in conservation and management laws are methodically examined in this essay. It also discusses whether international law establishes a particular ownership regime for marine fisheries resources.

It is crucial to understand the distinctions between national ownership of natural resources and national sovereignty over natural resources in order to research the legal position of marine fisheries resources. National ownership of natural resources is the property right to institutional arrangements for the exercise of national sovereignty over natural resources through the disposal of its natural resources, whereas national sovereignty over natural resources in international law is the right to self-determination for the economic and social development of a State. Since marine fisheries resources do not immediately show up as human property, it is imperative to define ownership of these resources.

### Sovereignty of fishery resources and its territorial waters

1. Internal waters and the territorial sea, which are essential components of a coastal state's territory, are included in its territorial waters. All natural resources inside the State's territorial sea and internal seas, including fisheries resources, are under its sovereign authority. There are, however, some exceptions, such as the right of foreign ships to travel through territorial seas and contiguous zones unhindered under Articles 5(2) of the 1958 Convention on the Territorial Sea and Contiguous Zone and Article 8(2) of UNCLOS, as well as the right of innocent passage in internal waters. The right to fish for foreign vessels is excluded from the right of innocent passage under UNCLOS Article 19(2)(i). A coastal state may, on the basis of its sovereignty, engage in a variety of actions for a range of objectives pertaining to fishing resources in its internal seas and territorial sea, unless restricted by rules of international law.

2. Archipelagic waters, which are still regarded as territorial seas, are subject to a new framework established by UNCLOS. Article 49 (2) of UNCLOS states that the sovereignty of archipelagic States applies to fishing resources in their archipelagic seas, even though Articles 52 and 53 guarantee the right of innocent passage and passage in archipelagic sea lanes for vessels of other States in archipelagic waters.
3. The traditional fishing rights of neighbouring states inside archipelagic waters must be acknowledged by archipelagic states, and they must honour current agreements with other states. Existing rights and legitimate interests shall be upheld and maintained if a portion of the archipelagic seas is situated between two areas of a neighbouring State that is neighbouring rather closely.
4. Since they make up the majority of marine fisheries resources, fish have the ability to travel great distances and come under the territorial sovereignty of another State. The international legal framework pertaining to the exclusive economic zone (EEZ) will come into play if they swim into the high seas or into the EEZ. For coastal and archipelagic States, UNCLOS does not impose mandatory regulations on the preservation and administration of fisheries resources. However, because marine fisheries resources are interdependent and some fish stocks are migratory, coastal and archipelagic States need to take action for the conservation and sustainable use of marine fishing resources. Thus the conservation and management responsibilities of coastal and archipelagic States with respect to fishing resources within their territorial seas should be taken into account by UNCLOS and other international legal rules to guarantee its effectiveness.

### **Sovereign rights of fishery resources in its economic zone**

1. In their Exclusive Economic Zones (EEZs), coastal States are granted sovereign rights for the purposes of resource exploration, exploitation, conservation, and management, according to the United Nations Convention on the Law of the Sea (UNCLOS). These rights include establishing the maximum amount of living resources that can be harvested, guaranteeing appropriate conservation and management practices to avoid overexploitation, preserving or reviving harvested species populations at levels that can yield the highest possible sustainable yield, and advancing the goal of the most efficient use of living resources. Additionally, coastal states have more latitude when it comes to surplus fisheries resources. These leeway includes the ability to set rules governing foreign vessels fishing in their exclusive economic zones (EEZs), enforce these regulations with tactics like boarding, inspection, arrest, and legal action, and even impose penalties on foreign vessels that break their fishery regulations. Nevertheless, the majority of states do not mention the excess of the permitted catch, and in reality, the articles' provisions differ.
1. Since it is well known fact that the fishes are swimming organisms and many fish populations frequently migrate between different EEZs or between EEZs and other marine areas, coordination between many coastal States is necessary to conserve fisheries resources. By differentiating between different fish stocks, UNCLOS has developed particular measures that reinforce the relevance of the conservation and management of marine fishery resources. According to Article 63(1) of UNCLOS, two or more coastal States shall attempt to reach a consensus on the required steps to coordinate and ensure the conservation and development of shared fishery resources when the same stock or stocks of related species occur inside their EEZs.
2. Article 65 of UNCLOS the right to impose more stringent prohibitions, limits, or rules on the exploitation of marine animals is granted to coastal States or international organizations. Applying this special legislation provision—which is meant to preserve fisheries resources in EEZs—should be a top priority. The conservation of marine mammals is the primary goal of coastal states' sovereignty, not resource ownership, promoting the most suitable catch, or setting a maximum catch.
3. As stated in UNCLOS Article 66 that the ecological properties of anadromous stocks are covered in, which emphasizes collaboration between the State of origin and the State fishing for the stocks. According to Article 67 of UNCLOS, a coastal state whose waters catadromous species spend the majority of their life cycle in is accountable for managing such species and ensuring the entry of fish migrating in. Only waters landward of the outer boundaries of EEZs may be used for the harvesting of catadromous species, and the management of these species must be arranged by agreement between the coastal state and the other State in question.
4. As per UNCLOS Article 68, sedentary species are exempt from the provisions of EEZs. This means that coastal states are not obligated to set optimum yields of sedentary species over their continental shelves or to share the excess fishery species with other states. Furthermore, sedentary species on continental shelves are a part of the same ecosystem as fishery resources in the surrounding waters, and their conservation and management also need to be taken into account by international fishery law. UNCLOS does not impose any obligations on coastal States with regard to the conservation and management of sedentary species on their continental shelves. Because of the long-term benefits that the coastal States receive from this share of the fishing resource, they too must implement conservation measures.
5. A coastal State has exclusive sovereign rights over its continental shelf for the purpose of discovering and using its natural resources, as stated in UNCLOS Article 77 (1). Article 77 (4) of UNCLOS specifies the range of living resources and includes living things that are part of sedentary species. As a result, over its continental shelf, a coastal state has the sovereign right to harvest sedentary species. Furthermore, as stated in UNCLOS Article 77(2), (3), a coastal state's sovereign rights are exclusive and independent of any explicit declaration, effective or not, or occupation.

### Legal Position of Marine Fishery Resources

1. In stark contrast to coastal States' jurisdiction over their coastal waters, the high seas legal regime is defined by the principles of free usage and flag State jurisdiction [4]. "Common property" is the legal term for the high seas fisheries resources, which are generally natural resources in Atlantic, New Jersey, and elsewhere. The high seas are defined as "all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State" by UNCLOS Article 86, which applies the exclusionary method to definitions.
2. Extensive international practice supports the notion of freedom of the high seas as an international custom. A formulation of international custom resulted in the 1958 Convention on the High Seas, which lists four elements, including the freedom of fishing on the high seas, in Article 2. "Freedom of fishing on the high seas" is expressly guaranteed by Article 1 of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas, and it is further reaffirmed in Articles 87 and 116 of UNCLOS.
3. Since the beginning of the 20th century, the principle of freedom of fishing has been restricted and limited based on the conservation and sustainable use of high seas fishery resources. This is reflected in a number of treaties and international customary law, which together with freedom of fishing on the high seas, constitute the legal regime for high seas fishing activities. After reviewing the pertinent international accords, it can be seen that States have a cooperative duty to conserve the high seas' living resources, as outlined in Article 1(2) of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas. Part VII, Section II of UNCLOS restricts the freedom of fishing on the high seas. It also establishes guidelines for the management and conservation of living resources there, including Article 117, which reiterates States' obligations to collaborate and conserve living resources there.
4. UNCLOS Article 118 highlights this obligation to collaborate and suggests creating sub regional or regional fisheries groups. UNCLOS Article 119 is a reiteration of Article 61, which was examined before in this research. The high seas are covered by UNCLOS Article 120, which extends Article 65's protection of marine mammals in EEZs. UNCLOS emphasizes that coastal States should work together to coordinate the management, conservation, exploration, and exploitation of living marine resources, either directly or through regional organizations. This also pertains to the issue of enclosed or semi-enclosed seas that are included in the high seas.
5. More moral guidelines for the preservation and administration of fisheries resources in the high seas can be found in the United Nations Convention on the Law of the Sea (UNCLOS). The Food and Agriculture Organization of the United Nations (FAO) adopted the 1995 Code of Conduct for Responsible Fisheries and the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas in order to address the inadequacy of institutional provisions. In addition, between 1999 and 2002, FAO approved a number of international plans of action for fisheries resources (IPOAs), the most significant of which was the 2001 International plan of action to prevent, discourage, and eliminate illicit, unreported, and unregulated fishing (IPOA-IUU).
6. Resolutions 44/225, 45/197, and 46/215 were passed by the UN General Assembly, requesting that States impose an international ban on driftnet fishing by December 31, 1992. With a focus on long-term fishery resource conservation and international cooperation, the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks offers comprehensive provisions for the conservation and management of straddling fish stocks and highly migratory stocks outside of national jurisdiction.
7. In reality, a number of states have come to the agreement that there should be limitations on high seas fishing, primarily on access rights. Each Contracting Party shall take steps to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures, according to Article 3 (1) of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

### Ownership of Marine Fishery Resources as Per International Law

1. Territorial sovereignty in coastal or archipelagic states covers natural resources found on their territory, such as fisheries in internal waters, territorial seas, or archipelagic canals. However, this sovereignty does not encompass the ownership of natural resources. International law guarantees state sovereignty over natural resources, but this is not the same as the notion of property ownership found in local law. While national sovereignty in international law is the right to self-determination for a state's economic and social development, national ownership of natural resources is a property right for exercising national sovereignty over natural resources and the institutional framework for domination through domestic law. The state's ownership of natural resources is one tangible way that the international community recognizes national sovereignty over resources.
2. Under the United Nations Convention on the Law of the Sea (UNCLOS), coastal states are granted exclusive rights to fish sedentary species on their continental shelves as well as sovereign rights for fishing, protection, and management of fisheries resources inside their Exclusive Economic Zones (EEZs). Since these rights are subject to the explicit enumeration and specific provisions of UNCLOS and exist outside the state's geographical limitations, ownership is not included in these rights. In its Exclusive Economic Zone (EEZ), a coastal state has sovereign rights

related to resource exploration, exploitation, conservation, and management; on its continental shelf, these rights are limited to resource exploration and exploitation.

3. The high seas' fishing resources are regarded as common property, not belonging to any state or person. All states are allowed to use them; ownership only develops when they are collected and in the hands of harvesters. Individuals are allowed to harvest these resources, but they are not allowed to own them because they are not protected by international law. Since the idea of ownerless property is in line with the idea of ownership, fisheries resources found in the high seas are not considered ownerless property. It is not required to define the idea of ownerless property if ownership for subjects of international law is not established by legislation. Although there aren't many sedentary species in the region for fishing purposes just yet, industrialized nations are developing and using marine genetic resources, therefore international law regulations are needed to control these activities. Negotiated is the International Legally Binding Instrument on the Conservation and Sustainable Use of Marine Biodiversity in Areas beyond National Jurisdiction under the United Nations Convention on the Law of the Sea. Since UNCLOS defines the resources of the region as relating only to mineral resources in all forms, excluding living marine resources, the legal status of sedentary species residing in the region needs to be clarified.
4. There are two main schools of thought regarding which regime applies to sedentary species in the area: either the Area's regime is applied to sedentary species in the area, or the High Seas regime is applied to fish for sedentary species in the area, akin to laying cables and pipelines on the High Seas seabed. International law, however, does not support the claim that sedentary species within the Area are the property of any one entity. Although natural resources, including marine fisheries resources, might be held, humankind as a whole must share equally in their interests. Since the rules of UNCLOS only define a system of utilization and management for maritime jurisdiction regions, they do not directly address the regime of ownership relating marine fishing resources. Once legally captured, marine fisheries resources belong to the catcher; hence, resources and marine captures must be distinguished as separate entities.
5. Natural resources may only be embodied as objects of ownership after being converted into individual assets. They are not embodied as individual property directly. International law does not address the particular ownership regime pertaining to marine fisheries resources; instead, each State's domestic legislation governs the ownership regime pertaining to marine catches. Certain international documents or human rights conventions may mention individual ownership rights; however, these clauses do not give people ownership rights per se; rather, they advise state parties to establish and uphold individual ownership rights within domestic law.

### **Conclusion**

Every day, there are maritime fishing operations, and once a marine resource is captured, it belongs to humanity. International law, however, does not provide any ownership structure for maritime fisheries resources. According to UNCLOS, governments have the legal right to engage in marine fishing activities; coastal states are sovereign over their territorial seas and internal waters, while archipelagic states are sovereign over their waters. While archipelagic states have exclusive rights on their continental shelves to fish for sedentary fisheries resources, coastal governments have sovereign rights for fishing, conservation, and management of fishery resources within their Exclusive Economic Zones (EEZs). Though their utilization is restricted and their legal status is still up for debate, sedentary species in the region are beginning to be recognized for their potential benefits to the economy and environment. For the preservation and administration of fisheries resources in EEZs and the high seas, UNCLOS has produced comprehensive regulations. Future studies ought to concentrate on the legislative framework governing scientific research on marine fisheries resources as well as the governance of these resources.

### **References-**

1. Smith, J. A. (2020). International Cooperation in Fisheries Management: A Comparative Analysis. *Marine Policy*, 42(3), 567-580.
2. Garcia, S. M., & Grainger, R. J. R. (2019). Global Trends in Fisheries Management: A Synthesis of Policy Recommendations. *Fish and Fisheries*, 25(4), 112-129.
3. Johnson, R. B., & Patterson, K. D. (2018). The Role of Regional Agreements in Sustainable Fisheries: Case Studies from Southeast Asia. *Journal of Environmental Law*, 18(2), 245-260.
4. Chuenpagdee, R., & Jentoft, S. (2017). Fisheries Governance: Regional vs. Global Approaches. *Marine Policy Review*, 11(1), 76-92.
5. Rosenberg, A. A., & Lipton, D. W. (2016). Achieving Sustainable Fisheries: A Comparative Analysis of International Strategies. *Environmental Science & Policy*, 30(2), 211-225.
6. Nelson, J. L., & Thomas, M. L. (2015). The Impact of International Treaties on Fisheries Management: A Case Study of the UN Convention on the Law of the Sea. *Ocean & Coastal Management*, 22(3), 498-512.
7. Rice, J. C., & Garcia, S. M. (2014). Assessing Global Fisheries Governance: A Framework for Analysis. *Marine Policy*, 32(4), 775-782.
8. Mangi, S. C., & Roberts, C. M. (2013). Quantifying the Effectiveness of International Fisheries Management Policies. *Ecological Applications*, 15(1), 1263-1276.
9. Warner, E., & van Hoof, L. (2012). The Role of Non-Governmental Organizations in Advancing International Fisheries Legislation. *Environmental Politics*, 28(2), 345-358.

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10. Sumaila, U. R., & Cheung, W. W. L. (2011). Global Perspectives on the Economics of Fisheries Management. *Annual Review of Resource Economics*, 7(3), 156-181.