PalArch's Journal of Archaeology of Egypt / Egyptology

THE LEGAL SYSTEM OF THE INTERNATIONAL AREA OF HIGH SEAS AND STATES' OBLIGATIONS ABOUT IT

[1]Dr. Mohammed Salman Mahmood, [2]Ali Asdam Ghojan
Faculty of Law, University of Misan
[1]mohamadlaw@uomisan.edu.iq, [2] aliggzali@gmail.com

[1]Dr. Mohammed Salman Mahmood, [2]Ali Asdam Ghojan; The Legal System of the International Area of High Seas and States' Obligations about it-Palarch's Journal Of Archaeology Of Egypt/Egyptology 17(12), 1673-1691. ISSN 1567-214x. Published December, 2020.

Keywords: legal regulation, international area, high seas, obligations

ABSTRACT

The new concept of the international area implies the universal character that makes it extend to all members of the international community or the international community, and for this it is due to the reliance in organizing and exploiting the international area on a principle that is new in a general international legal framework directed to the benefit of all humanity, regardless of the geographical location of the states. whether coastal or land - locked, but enjoy this system of the peoples that have not yet total independence or otherwise impair judgment conditions of self, which makes humanity in general , at a level of some of the ideological differences of economic and other disparities of differences , where the " law of the Convention seas "1982, taking into account the interests of both developing and developed countries, despite the adoption of the principle of the common heritage of humanity, which affirms the idea of equality and non-discrimination between countries. With regard to developing countries, the Convention on the Law of the Sea links the development of resources in the region to the organization and economic development in light of the multiple problems faced by different countries, and it tries to ensure the participation of these countries in the wealth of the seabed and oceans through the principle of common heritage , ensuring access to part of the wealth , and preventing Rich countries free their hands to exploit them, and ensure preferential treatment for backward countries, in addition to ensuring that the economies of these countries are not harmed. As for the developed countries, the "Convention on the Law of the Sea" adopts the idea of pioneering investment aimed at protecting the investments that have already started in areas such as the seabed, by allowing countries that had started their activities in those areas to follow what they started as pioneers in this field. And that this privilege applies a key applicable to developed countries, although this

does not preclude the benefit of some developing countries if he meets with the conditions of this privilege, with confirmation of the use of the mentioned area exclusively for peaceful purposes.

Introduction

The United Nations established the Law of the Sea in 1982 CE, a legal system that had not previously existed in the conventions that regulated the law of the sea, such as the Geneva Convention of the High Sea and the Continental Shelf of 1985 CE, and that the new system that the 1982 Law of the Sea Convention brought about is a very important accountability system at the international level, which is the region As this agreement came in its eleventh part dedicated to organizing the organization of this region, and making its resources a common heritage of all humanity, and previous agreements lacked this organization as the Geneva Convention of the High Sea did not specify the legal system for the exploitation and exploration of the seabed and oceans, as well as the continental shelf agreement did not specify the areas subject to The jurisdiction of the coastal state, and this was a vacuum or loophole, due to which countries were exploited to extend their continental shelves to larger and wider areas, so that it threatened the existence of the region that lies outside the borders of these countries, and perhaps the motivating reason that pushed the countries to cross the borders drawn for their continental shelf is what has been exposed Huge parts of the international region and this discovery came as a result of the development of the tremendous technological capabilities that were exploited by the major countries, Next led it to overcome this pressing d and d and exploitation of international area.

1. Definition of the international area and the principles governing it

In this topic we will discuss the definition of the international area through the first requirement, and then discuss the principles governing the international area through the second requirement, as follows:

- **Definition of the international area**

The seas and oceans are legally divided into sectors, including those that fall within the national jurisdiction of coastal states, which are inland waters, the territorial sea, the contiguous area, the exclusive economic area, the continental shelf, and two that fall outside the borders of the national jurisdiction of coastal states, namely (the high seas and the international area - the bottom of the high seas) Through this, the international area can be clarified as follows:

the definition of legislation Fiqh the International Region:

The international area of the high seas is defined as those parts that do not form the maritime expanses that are subject to the sovereignty, jurisdiction, or authority of the coastal state, and therefore the high seas are located beyond all the following marine areas: inland waters or archipelagic waters of archipelagic states, the territorial sea, and the region Adjacent or MullaSaqa and the Exclusive Economic Area(Abdullah, 1981). It is also "all parts not subject to the jurisdiction of the coastal state" (Muhammad, 2008). The international area is also viewed as "all parts of the seas and oceans that do not enter into the territorial sea or the internal waters of a state and which every state has the right to use on an equal footing. "(Nasreddin2013). It is also known as the bottom of the seas and oceans located outside the territorial jurisdiction of coastal states, and all the resources located on and under the seabed and their resources are the common heritage of humanity (Essam, 2012). Several definitions

of the seabed have been mentioned, so there are those who defined the seabed as meaning "the soil that directly below the sea water, that is, the surface of the ground base of the sea" (Muhammad, 1998). As for beneath the bottom, it is the ground layers below the surface of the ground base of the sea, i.e., what follows the bottom directly from the soil (Muhammad, 1998). Jurisprudence has established that the international area includes all the marine areas that lie outside the internal waters and the territorial waters of the coastal state (Essam, 2014).

Defining the international area in light of the 1982 Law of the Sea Convention:

In 1982, the United Nations Convention on the Law of the Sea established a new legal system that was not present in previous maritime conventions and treaties. The 1982 Agreement, in Part XI, deals with Articles (133) to (191) to the legal system of the region and its location, to delineate its external borders and to the general behavior of states in it. This part of the agreement clarifies that the area is "an area or a maritime extension located on the high seas subject to the principle of heritage. This area includes the seabed and the subsoil of its land beyond the continental shelf of countries, and deals with all solid, liquid or gaseous mineral materials located in the depths of the sea or in the subsoil of its land, including mixed mineral blocks, and this region and its resources are a common heritage of humanity that places within the reach of development It is worth noting that this common heritage of humanity is characterized by three criteria that contribute to defining it, namely (Salim, 1994):

-joint ownership of the International Department of the region by all States.

-Not to own the region or any part of it whatsoever, whether it is a state, individual, organization or institution .

-Equitable distribution of the benefits provided by the international area among all countries, taking into account the needs and special interests of developing countries, including African countries. An accurate description of the location of the region can be given, as it is an area outside the boundaries of the continental shelf and the borders of the exclusive economic area, and is not affected by border delimitation agreements concluded between countries with opposite or neighboring coasts, and it has a distinct legal system, and all its resources are a common heritage of humanity, and it is not subject to the jurisdiction of a state or Any natural or legal person, as well as not exercising sovereignty over it from any country, and no part of it is subject to ownership, and its activities are carried out by a specialized international organization. For this reason, the 1982 United Nations Convention on the Law of the Sea established an international authority to supervise the exploitation of the resources of the international region or to exploit them by themselves for the benefit of all humanity, by ensuring the harmonious development of the global economy, the balanced expansion of international trade and the advancement of the process of international cooperation in order to achieve comprehensive development for all countries, in particular. For developing countries, and those ideas were subsequently formulated, as the General Assembly of the United Nations issued a declaration of principles within Resolution No. 2749 in its 25th session of December 17, 1970, which included the first item of it: the seabed and the oceans, "the soil of the earth, as well as what Underneath it, outside the national jurisdiction, as well as the resources of this region are a common heritage of humanity, and due to the importance of the region, it has imposed itself on the United Nations conference, so

Articles (136) and (137) of the 1982 Convention were drafted in this regard, thus definitively determining the location of the region, by making it part of the high seas (age 2003) . the area described in Article 1 of the United Nations Convention of 1982 as " the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction." this is clear from the description that the region's It does not include any seabed or seas under the control of any coastal state. It can only be found in vast oceanic areas, with the outer limit of the continental shelf defined in accordance with Article 86 of the 1982 Law of the Sea Convention (Abdul-Raouf, 2008). It seems that the rules of the region in the eleventh part of the new agreement do not include the airspace and the sea areas above the area and which are subject to the principle of access to a high water. They are available to any country, whether it is coasts or otherwise, as stipulated in Article 87. From Part Seven of the Convention (Sassy, 1987). And defines in the region as well as the international part of the ocean is not included in the legal description of the part associated with the ocean a particular legal system, such as regional ocean or exclusive economic areas or continental shelves or territorial waters or archipelagic waters (Isa2015). The international seabed area can be defined as "the group of marine areas extending outside the internal waters and the territorial sea of the different country, that is, all the waters surrounding the land, except for that narrow area in which the sea is connected to the land and which is known as coastal or territorial waters. The international seabed area does not belong to anyone, and it is not subject to the sovereignty of a specific state or states alone, and all states and individuals have the right to free use of it alike."(Muhammad, 2016) It also means the seabed and the waters outside the regional and economic waters. And in which all countries enjoy freedom of movement and navigation in it, therefore, the ship of any country moves freely even if it is carrying the flag of a landlocked country, and international waters also express areas of the water oceans that do not follow the sovereignty of any state, and are considered a common property open to navigation and fishing And exploration and travel within a range whose borders start at a depth of 200 nautical miles, and all countries have equal rights in this area (Nasr, 2013). It is evident from the foregoing that the international seabed area is considered an area open to any country for fishing, travel and research, and all countries have equal rights in it, and each of them must respect the rights of other states. The 1982 United Nations Convention on the Law of the Sea states that in the event of wars, international law allows neutral countries to continue trade with other neutral countries, and with the warring countries, and in this case, it is assumed that the ships of the neutral countries will not transport the trade prohibited in the war, and the warring countries decide the materials they consider to be smugglers. war. By this, we conclude that the waters of the oceans and seas are divided into: territorial waters extending from the shore for a distance of 12 nautical miles; Contiguous waters extending for another 12 nautical miles; Economic waters and extending to 200 nautical miles from the termination point of the adjacent waters; International waters or the high seas and start from a depth of 200 nautical miles, that is, from the end point of the economic waters (Oliver, 1965). From the previous definitions of the high seas, the following can be observed (Saladin, 2000):

-The international seabed area cannot be owned by any country in the world. As no state has the right to claim sovereignty over it, so it is not permissible for states to annex parts of these areas to the maritime extensions under them. Or to prevent certain countries from using certain parts of them, or to limit that to their own citizens only, and as a result, no country, for example, may establish military bases in these areas and use them in conducting military maneuvers or carrying out atomic or nuclear explosions, and this is due to the international seabed area should be designated primarily for peaceful purposes .The International Seabed Area is dominated by the principle of equality, meaning all countries have equal access to these areas, regardless of the country's geographical location, whatever its population, and whatever its military strength. The concept of the International Seabed Area reduced the sea area, by removing large areas from its concept due to the convention's creation of two new marine areas that did not exist under international law prior to this agreement, namely the exclusive economic area and the international seabed area. We conclude from the foregoing that the entire legal system of the region is based on a purely economic idea, given that it does not translate any of the rights of states to the region's resources regardless of their geographical location and that those resources are considered fixed for all humanity. It is known that the application of this system faces many difficulties despite the entry into force of the 1982 Convention into legal implementation, given the idea of making the region's resources a common heritage of humanity. Countries that have the technology to exploit those resources still have not responded to them, and therefore the application of this idea remains theoretical. And according to the 1982 Convention, the scope of the bottom area is a very important international seas in identifying and described, where only the great development impact on the international law of the sea and resulted in the formation of new legal structures such as economic area exclusive and the seabed International .

- **The principles governing the International Area**

The agreement established the international area system by relying on several basic principles that clarified the specific field of its application, which is in the process of laying the legal and practical foundations for the area system and how to exploit it. It relied on several principles to draw this new legal system for the depths of the seas and oceans, which was approved by the international community in its resolution issued by the General Assembly No. (2749/25) (Ibrahim, 1987), so we will refer to the principles or legal features of the international area as follows:

the region for the benefit of humanity as a whole:

The idea that the region will benefit all of humanity means that it is outside the scope of the national sovereignty of any state that claims national loyalty over it and can act in the scope it wants, as follows:

The area should be used for the benefit of all mankind.

Therefore, all activities in the region take place as the common heritage of mankind, carried out for the benefit of all humankind. Therefore, the interests of developing countries and peoples that have not yet achieved full independence or have not been recognized by the United Nations should be considered, should benefit the interests of the autonomous regions, regardless of Geographical location of coastal or inland countries, of all countries, in accordance with UN Resolution 15/14 (D_15) and other relevant General Assembly resolutions.

No sovereignty anywhere in the region.

It is not possible for all states to impose their sovereignty or enjoy the sovereign rights in any part of the region or its properties, and no individual, whether natural or otherwise (legal) , has the right to seize the region's resources , and the agreement recognized the absence of the right to claim or practice from This kind of sovereignty or sovereign rights is in addition to abandoning the adaptation that viewed the area as permissible money that had no owner (Salah al-Din, 2007) . However, the agreement leaves no room for states to assess the methods of exploitation. Rather, it creates a legal system through which activities that take place in areas represented by international authorities can be monitored, rather than over certain other areas. What the state lacks is a country with high technological capabilities, and no state or individual can claim that ownership of minerals is natural or legal in accordance with the provisions of Part 11 of Article (137) of the Convention. The system of exploitation is as a field developed by the common heritage of mankind (Saladin, 2007).

the exploitation of resources of mineral

This refers to the gel and most of the mineral, gaseous, liquid, or solid resources located above or below the seabed, including multi-metal node chains (133 / a). This has produced a set of results, to which the entire country is committed:

1 -The legal system in this region does not affect the demarcation of the external borders of the continental shelf in accordance with Part VI, nor the validity of the agreements related to the delimitation of borders between the countries opposite or adjacent to the coast .

2 -The legal system in this field does not affect the legal status of the upper waters and the airspace above them, nor does it affect any rights granted or exercised under the text of Article (135) of the Agreement.

3 -Article (142) states in its paragraphs (1) and (2), which takes into account the activities that he undertakes in resource reservoirs across the state's jurisdiction in that region, and takes into account the activities that extend over the length of its mandate (Ibrahim,1987), and the rights are fulfilled. And the legitimate interests of any coastal state through cooperation with these coastal states in order to avoid any problems that may occur in the future, and if the resources are exploited within the scope of the national jurisdiction of the country, the consent of these countries must be obtained, as long as this is subject to their national jurisdiction, and also add the same Article, that any legal regime for the region does not prejudice the right of coastal states to take necessary measures if activities in the area cause pollution or reduce or eliminate grave risks to the coast or related interests (3/142).

Use the area for peaceful purposes only.

The agreement was approved based on the basic principle that all states use the region exclusively for peaceful purposes without any discrimination, and therefore the region should not be used for nuclear tests, and the seabed is not a military competition area.

marine scientific research.

The agreement authorizes the international authority to conduct marine scientific research and resources in the region for peaceful purposes and for the benefit of all mankind, and it can conclude contracts prepared for this purpose, endeavor to

enhance the conduct of marine scientific research in the region and encourage it, and coordinate and publish results and clarify it when it has information (Syed, 2012).

Transfer of technology.

In view of the scientific and technological development in the marine development of the region, the Authority must take the necessary measures and measures in accordance with the agreement, which are:

1 -Facilitating the transfer of technological and scientific knowledge to developing countries and encouraging it to benefit all states parties.

2 .Located on the shoulders of the international authority of the transfer of technology to the enterprise and developing countries in terms of the active in the region, and to enable workers of institutions and countries developing from receiving a training in the fields of science and technology and participation full of in the activities .

Protection of the marine environment.

The international authorities shall take the necessary measures to ensure the necessary and required protection of the marine climate of the region from the harmful effects that may be caused by the activities by following the following:

1 -Preventing pollution and threats to the marine environment, and ensuring that they are reduced and controlled when they occur .

2 -Protecting and preserving the natural resources of the area and preventing damage to or inflicting any harm to marine fauna and flora.

protecting human life.

Article (146) states that the authority must take the necessary measures for activities in the region to ensure the effective protection of human life, and the authorities must strive to adopt the existing international laws and the rules of relevant international treaties (Sayed, 2012).

The purpose of exploiting the international area.

The aim behind the exploitation of this region and the activities that take place in it were not for the benefit of a specific country. Rather, the main goal is to support the peaceful development of the global economy and the balanced growth of cooperation between countries, for the purpose of promoting the full development of all developing countries for the sake of (Syed, 2012):

1 -Resource development in the region.

2 -Managing the area's resources in a regular, safe and reasonable manner, taking into account the effective management of the activities in the area in an efficient manner, and avoiding waste according to the principle of peaceful preservation.

3 -Developing a common heritage and benefiting all of humanity.

4 -Expand opportunities to participate in these activities in a manner that is particularly consistent with Articles 144 and144.

5 -Increase the supply of minerals extracted from the region and minerals extracted from other sources as needed to ensure the supply of these minerals to the consumer.

6 -We strive to provide producers and consumers with fair, stable and remunerative prices for minerals extracted from the region and other sources, and to promote a long-term balance between supply and demand.

7 -Enabling the authorities to contribute to the transfer of technologies and revenues to institutions and developing countries, as stipulated in the agreement.

8 -Protecting developing countries from the harmful effects on their economies or export earnings due to lower mineral prices or reduced exports of minerals, the extent of which should be attributed to the reduction in activities in the region.
9 -Market access conditions for imports of minerals and commodities extracted from the region should be better balanced with those of imports under other conditions.
10 -All Contracting States, regardless of their social or economic system or geographical location, enjoy more opportunities to participate in the development of resources in the region and to prevent any monopolistic activities in the region (Ibrahim,1987).

Coordination of activities in the region and the marine environment.

The agreement stipulates that on condition that the state protects the marine environment, the facilities in the area must comply with a series of conditions, which are as follows (Seed, 2012):
1 -It is not permissible to construct, repair or dismantle any facility, unless it is in accordance with the provisions of this section, taking into account the Authority's rules, regulations and procedures, and appropriate notification of residence, eviction, or inalienable rights, and means of permanent warning (if any) must be provided.
2 -It is prohibited to establish facilities that impede international navigation in places where sea lanes are considered necessary or where intensive fishing activities are carried out.
3 -Safetyareas for safety must be established around facilities and highlighted with appropriate signs to ensure the safety of navigation and installations
4 -These establishments do not have their own territorial waters, and their presence does not affect the territorial sea, the exclusive economic area, or the delimitation of the continental shelf.
5 -These facilities are only used for peaceful purposes .

The pioneering investment system.

Decision No. (2) was issued, which is considered one of the annexes to the 1982 agreement, which stipulates the legal status of pioneer investors and aims, according to the decision, to enable exploration of investments in a specific heritage area before the agreement comes into force. France, the Soviet Union and India were considered pioneer investors, government agencies, and natural or legal persons belonging to these countries, so any one of them has effective control over a part of the region, and has spent at least $ 30 million before January 1. 1983, and it was in accordance with the conditions signed by the state in the region, and that the sector was defined, surveyed, or divided on the condition that the aforementioned countries sign the agreements before January 1, 1983 (Muhammad, 1985), and the investors adhere to a set of rules, namely (Ahmed, 2006):
1 -It is not possible to register a pioneer investor, and the investor is the owner of the right to be granted the right to participate in the initial activity in this sector.
2 -The investor must pay the commission an amount of $ 2,500.00 to the committee, and after approval of the Exploration and Development business plan, he must pay a fine of $ 1 million to the relevant authority every year.
3 -Only when the state is a party to the agreement can the Exploration and Development Business Plan be approved.

4 -The pioneer investor informs that the authority will issue a license within 30 days from the date of commercial production within 5 years, with a renewal period of another 5 years. If continuous commercial production is not possible, a license may be granted to the project or any other investor with the ability to start commercial production within five years.

5 -The Authority and its institutions, as pioneer investors, are bound by Resolution (2) attached to the Final Document of the Third United Nations Conference on the Law of the Sea.

For our part, we agree with the principles stated in the 1982 Law of the Sea Convention, because it protects developing countries and preserves their rights in high seas regions. It also encourages scientific research and technological progress, links developed countries with developing countries and prevents the monopolization of living wealth, natural resources, minerals, oil and petroleum for developed countries. It states that this wealth is the right of everyone and that it is a public property that everyone has the right to dispose of in accordance with a law that applies to all countries equally without discrimination.

2. Rights and obligations of states in the international area on the high seas

The 1982 Convention on the Law of the Sea adopted, as previously stated, the principle of the common heritage of humanity, which is one of the most important principles of modern international law , and its application to the international area (the bottom of the seas and oceans and the subsoil of its land outside the territorial jurisdiction of coastal states) and made it open to all countries, whether coastal or imprisoned In which all activities are carried out in accordance with the provisions and rules of Part Eleven of the Agreement. The international community has recognized the rights of all land-locked countries, both developing and developed, in the international region, with due regard for the land-locked developing countries (SASI, 1987). In addition, there are many obligations. Which states must abide by in the international area? In order to clarify these different rights and obligations of states in the international area, we will divide this topic into two demands. The first requirement we will talk about the rights of states, while the second requirement we will address the obligations of states in the international area .

- **The rights of states in the international area on the high seas**

Article (137) of the 1982 Law of the Sea Convention referred to the legal system of the region and its resources, where it clarified that: “No state may claim or exercise sovereignty or sovereign rights over any part of the area or its resources. No state or natural or legal person shall seize it. No such claim or exercise of sovereignty or sovereign rights will be recognized, nor will it be recognized that all rights to the region’s resources are fixed to all mankind, for which the authority acts on its behalf, and these resources cannot be relinquished. It is not permissible to relinquish it except in accordance with this part and the Authority’s rules, regulations and procedures, and no state or natural or legal person can claim, acquire or exercise rights in relation to minerals extracted from the area except in accordance with this part. Other than that, no claim, acquisition or Exercise of such rights." Through this, it is clear that there are many different rights for states resulting from the use of the international area, and these rights can be clarified as follows:

the rights of coastal states in the international area

The United Nations General Assembly took into account the rights of the coastal state in the international area by approving Article 12 of the Declaration of Principles issued in 1970, which includes what the state undertaking activities in the region and activities related to its resources must take into account the legitimate rights and interests of the coastal state in the region, and the rights and interests of states that These activities will be affected (Ibrahim, 1973). Nothing in these principles prejudices the rights of the coastal state to take the necessary measures to prevent any grave danger that may threaten its maritime territory, whether it is caused by pollution or any other threat related to its relevant interests (Paragraph 13 / b) of the Declaration of Principles Resolution No. 2749 issued in 1970. The 1982 Seas Convention granted coastal states rights similar to those stipulated in the Declaration of Principles issued by the Assembly. This is evident in Article 142 of the Sea Convention. By extrapolating the texts of its paragraphs, we find the first paragraph that states the following: The resources in it that extend across the borders of the national jurisdiction, with due regard being given to the legitimate rights and interests of any coastal state that extends through its jurisdiction." The second paragraph of the same article specifies the means that the authority must follow before it embarks on the exploitation of the resources of the area overlapping with the coastal state, which is a choice approach. Consultations and a system of prior notification in order to avoid infringement of those rights and interests. Comes the last paragraph of Article (142) to show that it does not affect this part nor any rights granted or practice in accordance with, the rights of coastal States to take consistent measures with the relevant provisions of Part II may be necessary to prevent or mitigate or eliminate the risk Severe attacks on its coasts or on its related interests, from pollution or any dangerous events resulting from or caused by any activities in the region (Hashem, 2012). It can be concluded that the coastal states that possess borders with the international area have rights that may exceed the rights of the international authority, be equal to it, or be less than sometimes, and this determines the location and extent of the oil reservoir, and the scale of the balance of consultations between the two parties varies according to the distance or proximity of those mineral resources to the borders. Each party, as well as according to the capabilities or the coastal state's possession of financial and technical capabilities or not, which enables it to benefit from this wealth individually, in conjunction with the authority, or by making room for specialized national companies or for applicants to the international authority after the approval of the coastal state, which will not be fulfilled. Except in the context of a fair settlement that gives each party its right without prejudice. It is also evident from the agreement that it has established rules, regulations and procedures aimed at protecting coastal states from their inclusion of the principle of special care for their legitimate interests, and a system of prior notification for non - infringement of rights, while giving them the appropriate means to eliminate any infringement of these rights, especially with regard to marine pollution.

The right of the land-locked countries in the region to participate in the activities of the area:

The desire of technologically advanced countries about attracting third world countries - towards adopting a parallel exploitation system for the activities of the international area - agreed to the right of developing countries, coastal and landlocked

ones, to participate in the benefits from the exploitation of the international area, which made them have a preference in that. However, this participation with regard to the benefits, it did not satisfy the aspirations of these countries in the international region, but worked to have the right to participate in the activities that take place in it. Indeed, these countries succeeded in changing their previous status, but this success was only theoretical, but in practice it is not easy. Due to the inability of such countries to carry out these activities, due to their lack of financial and technical means, which made the agreement establish incentives for contractors on a unified and non-discriminatory basis in order to carry out joint activities with the corporation and the developing countries or their subjects in order to be able to effectively participate in the activities of the international region. (Lamia, 2016). And that this active participation in the activities on the part of the land-locked countries, especially the developing countries, is considered one of the factors of preference for them to overcome the obstacles that they may encounter, and the problems resulting from their location. Geographical, and the landlocked countries 'request for preferential treatment on the basis of equality and fairness in participating in seabed activities can be returned, given their geographical position, which represents an obstacle to them in reaching the seas, as well as the lack of transportation means and the exorbitant expenses, they incur in order to reach the seas and the acute shortage of capital. The weak technology and human skills it has, all these reasons and factors are a justification for the preferential treatment that the landlocked developing countries receive (Lamia, 2016). This preference for landlocked developing countries was included in more than one article of the 1982 Law of the Sea Convention, which stipulated: To promote the effective participation of developing countries in activities in the region as specifically defined in this part, with due regard to their interests and people with special needs, especially what is mentioned in this section. State of the landlocked and geographically affected State is a particular need to meet the challenges posed by their position that is not appropriate, such as the distance from the city and the difficulties of access to them and of them. Article (152) of the new agreement referred to the right of imprisoned countries to participate in the region, and stipulated an exception to the non-discrimination rule, stating: "Nevertheless, the special consideration stipulated in this part is permitted for developing countries, including special consideration for non-discrimination states. Coastal and geographically affected states among them " (Muhammad, 1993). It also decided to grant the international authority the power to study the problems of the countries that are imprisoned because of activity in the region, saying: to consider problems of a general nature related to activities in the region that face developing countries in particular, as well as problems related to activities in the region that face states as a result of their geographical location, especially states. Landlocked and geographically affected states, and despite the preference rights stipulated in the agreement, they have not been fully implemented in order to contribute to achieving equity. From our point of view, the right of preference has not been implemented, and the evidence for this is that the major countries have the right to transfer technology and this right is fixed for them. However, these countries have worked to give developing countries a part of this right, but the practical reality indicates otherwise, as the major countries do not It wants to give up some of its right in this

region to developing or geographically affected countries, and the right of preference is severely criticized by the major industrialized countries.

The right of the land-locked countries to share the profits from the region's revenues:

The issue of dividing the profits and benefits resulting from the region's revenues is one of the important issues that was a subject of disagreement between the developing countries represented in the Group of 77, and the technologically advanced industrial countries. The landlocked and coastal developing countries worked - through previous attempts at the 1982 agreement. - To urge industrialized countries with advanced technology capabilities to allocate a percentage of their national income to help them, so that even some balance is achieved between the countries of the world. The 1982 United Nations agreement came to fulfill the hopes of the group of developing countries in general and the landlocked countries in particular to establish a new international economic order that can be achieved. Through it the achievement of development objectives that require expanding opportunities for participation in aspects of activity, and this was evident through the participation of developing countries, including land-locked countries, in the profits from mining the international region (Rashid, 2009). This is mainly due to the principle of the common heritage of all humanity adopted by the association General and applied to the international area, to be available to all countries, whether coastal or landlocked, this is the first time in history that a common interest can be decided. Generate income whose return is for the benefit of all humanity, taking into account the interests of developing countries when distributing the benefits and returns from the exploitation of the common heritage area to ensure the achievement of a fair and equitable international economic order in a manner that supports the sound development of the global economy and international trade, and in order to achieve the aspirations of the landlocked countries in the region. Concerning the sharing of returned profits, the group of imprisoned countries presented a project before the United Nations conference containing their proposals on this topic. These countries exaggerated their set of requests represented in allocating 35% of the profits to the captive countries, and the rest is distributed as follows (Lamia, 2016):

-10 %to create a fund to restore the balance between countries producing minerals extracted from land and those that are extracted from the international area.

-35 %is distributed evenly among developing countries.

- 20% is distributed to all countries in the world, whether they are party to the convention or not, on the basis that the region belongs to all of humanity.Which was the subject of a dispute between industrialized countries and developing countries. Those proposals were rejected by the developed countries because of the exaggeration in the percentage allocated to the land-locked countries, and some countries opposing these proposals indicated that the distribution of profits is within the competence of the international authority, and these revenues are distributed to all developing countries, both coastal and landlocked, whether they are made. Ratification of the convention or not, on the basis that the provisions of the convention came in general in the wording of states and not the word states parties, and the reason for that is that the region and its resources are a common heritage of humanity without specifying whether these states are party to the convention or not,

as long as it is an integral part of the international entity that He must benefit from the region, and the agreement has given states the right to share the surplus production from the mining process in the region in a fair and equitable manner. Article (160) stipulates, according to the first sub-paragraph of the second paragraph, that: "It provides the authority to share financial and other economic benefits derived from the area will be shared equitably through any appropriate mechanism. " The new agreement granted the General Assembly of the International Authority some powers and functions, including the process of distributing financial benefits from the exploitation of the region, as it called for the study and adoption of rules, regulations and procedures related to the equitable sharing of financial and other economic benefits derived from activities in the region , as well as the payments and contributions made in accordance with Article (82), based on the Council's recommendation, while taking into account the interests and needs of developing countries and peoples that did not participate in the region's activities " (Rashid 2009) . It also shares a fair and equal share of financial and other benefits arising from activities in the region, according to The slogan of the international authority, its laws and regulations, and what is clear from the previous texts is that all of the imprisoned countries in terms of reality do not enjoy a special advantage in treatment because the matter of determining this feature is subject to the determination of the international authority that has the power to grant or prevent (Abdel-Raouf, 2008) .

The right of exploration for countries in the international area

The right to explore in the region is one of the most complex issues raised at the United Nations Conference on the Law of the Sea between industrialized and developing countries, and it is the main reason for the United States' refusal to sign the agreement, as it is also the reason for the United Nations Secretary-General to initiate informal consultations for the purpose of urging the participating countries to update the agreement. And approval of the implementation agreement in line with the desires of developed countries.Wa Third Committee a special subject arose to reveal all resources of the seabed and the ocean, in particular,polymetallic nodules, as part of the examination of the Preparatory Committee for the rules and procedures for the exploration and exploitation discussed in a special project discussion began at its third session in Kingston, Jamaica. This topic is more concerned with representing Western interests than protecting the rights of developing countries. Prospecting is almost threatening the efforts of developing countries to secure their rights, which have struggled for years to establish them in the Convention on the Law of the Sea. Exploration in its broadest sense is to conduct a general survey of a large area in order to collect data through which it can be determined whether the specific areas are worth exploring, and is considered an essential stage for preparing mineral resources for extraction, whether on land or at sea. The excavation method is considered one of the preliminary works that have no commercial purpose (Lamia, 2016). The international body supervises drilling and exploration activities, encourages regional exploration, and markets the oil generated for the benefit of the international community, in compliance with the agreement. The Preparatory Committee worked to promote exploration by approving exploration requests from several countries, either individually as part of their agreement to register the Republic of Korea, or through state federations that include Bulgaria, Cuba, Czechoslovakia, Poland and

the former Soviet Union. The Preparatory Committee agreed to spend $ 2.5 million before the establishment of the commission, until work begins on November 16, 1994, and its council worked to find common ground between representatives of states regarding the issuance of draft regulations distinct from exploration in the region. Germany notified the authority for exploration and exploration for polymetallic nodules in 2005, and the exploration process in the international area is carried out through a set of restrictions and conditions, which are as follows:

-The drilling is conducted in accordance with the United Nations Convention on the Law of the Sea and the Multimineral Nodule Prospecting System.

-Only after the Secretary-General informs the contracting requester that his notification has been registered in accordance with paragraph (2) of Article (4) of the third appendix of the agreement, does the prospecting process begin .

-Blocking all the rights of for specific to the process of exploration and befallen suspended its resources with the exception of the possibility Prospector in the extraction of the amount required for testing and not for commercial purposes.

-In the event that there is material evidence indicating the possibility of serious harm to the marine environment, the applicant is prohibited from prospecting, and he is also prohibited from prospecting in a sector protected by an approved plan of action to explore polymetallic nodules , or in a reserved sector, or in a sector that the Council prohibits its exploitation (Ibrahim, 1973).

-Whoever seeks to obtain a permit to conduct exploration in the area must submit a written undertaking to the international authority, provided that it is acceptable to the authority that establishes it in accordance with the Authority's rules, procedures and regulations, and that the contracting applicant adheres to the rules for protecting the marine environment and in cooperation with regard to training and cooperation programs in All training programs in marine science and technology, marine scientific research and exploration, and for the contract applicant to comply with and be subject to the authority's control during the exploration process, given that the conditions for nationality, ownership or sponsorship are fulfilled, the applicant must be eligible (Ibrahim, 1973) . It follows from this that all rights in the resources of the international area are fixed to all mankind, and that the international authority acts on its behalf, and it is not possible to assign all resources in the international area, and no state can assert or exercise sovereignty or sovereign rights over any part. Of which .

- **Obligations of states in the international area on the high seas**

As for obligations, there are many different obligations for states to use the international area, and these obligations can be clarified as follows:

Protection of the marine environment:

Freedom to use the high seas does not mean freedom to pollute these seas. This is because the increase in the number of oil tankers in the world, and the exploration and exploitation of oil in the seabed, increases the anxiety of humanity in general and the people who live on the coasts close to these areas, and the risks they are exposed to, when quantities of oil leak from these tankers that directly affect the marine environment. Therefore, countries must preserve the environment, and it is necessary to take the necessary precautions in advance to confront pollution of the marine environment, and many countries reached in 1969 the Brussels Agreement on

interference in the High Sea when an accident occurs that leads or could lead to oil pollution. Then, on the second of November 1973, he signed in London a protocol that does not limit intervention in the case of oil pollution only, but also includes pollution resulting from lined materials in a list drawn up by a body called the Maritime Organization between governments, and about other materials, "everything that can make human health in Danger or could damage living animal or plant materials or harm entertainment or affect legitimate use of the sea"(Ballout, 2015). As for the 1982 convention, it included a provision on interference due to pollution, which is the first paragraph of Article 221, which states that "nothing in this part affects the right of states, pursuant to customary and agreement international law, to take and implement outside their territorial sea measures commensurate with the actual damage to protect their coast Or its related interests, including fishing, resulting from a marine accident or acts related to this accident of pollution or a threat of pollution that is reasonably expected to result in major harmful effects. Through that, the absence of sovereignty over the High Sea does not mean that there are no rules to protect the marine environment in it, as the 1982 Law of the Sea Convention allowed all countries to intervene indirectly to secure this protection, as the first paragraph of Article 218 gave the port state, that is, the state in its port or In its port facilities, the ship has the right to investigate that ship, and upon availability of evidence, to file a lawsuit against it, when it is suspected that it has discharged any waste or polluted materials outside the internal waters, the regional sea, or the exclusive economic area of that country, that is, in the high sea, and these rules go to Beyond what was mentioned in the London Agreement of November 2, 1973 for the prevention of pollution from ships, which suffice with inspection by the authorities of the port state. Where we find that most countries do not pay attention to this issue, despite the seriousness of this matter, but it did not find the same interest on the part of states, and often we also find that countries think of their only material or moral gains without thinking about what harms humanity and the best evidence in our present time is stopping the tanker whistling. In the Red Sea from the side of the State of Yemen, which carries 1,200,000 barrels of oil and is said to be a floating bomb threatening the biggest maritime disaster that afflicts most of the world and the international ocean?

Combating Illegal Activities:

These rules aim to fight and abolish some internationally prohibited activities such as piracy, slave trade, drug trafficking, and unauthorized radio and television broadcasting, as these activities harm the core interests of the international community and require solidarity to fight them. Certain restrictions against ships that carry out these activities, and these rules may restrict the freedom of navigation in the high sea, but these restrictions are imposed by the need to protect the fundamental interests of the international community (Muhammad, 2008).

Navigation Security:

There is no doubt that obtaining the maximum benefit from navigation requires ensuring its safety and creating an atmosphere of security and reassurance around it, that is, ensuring the appropriate atmosphere for its movement in the seas without dangers or accidents, which requires imposing some restrictions on the freedom of movement of ships to ensure the safety of navigation. Thus, a large number of

international treaties have been concluded that aim to provide the greatest amount of security and safety for international navigation, including those related to the ships themselves in terms of their construction, equipment and crew, and some of them related to maritime accidents, including those related to assistance and rescue at sea, and the other part with guidance and maritime traffic facilities To reduce collision accidents. With regard to the first type, the third paragraph of Article 94 of the 1982 Convention on the Law of the Sea, which corresponds to the first paragraph of Article 10 of the Geneva Convention Concerning the High Sea 1958, provides for the following: "Every state shall take the necessary measures regarding ships flying its flag. To ensure safety at sea, with respect to several things, including: building ships, their equipment and their seaworthiness, forming crews for ships, working conditions for them, and training them, taking into account applicable international instruments, using instructions, maintaining communications and preventing collisions.

Using the seas for peaceful purposes:

Some countries, with the beginning of the attention of the United Nations through the International Law Commission to codify and develop the international law of the seas, have called for preventing the use of the seas for purposes that would harm the interests of other states in the legitimate uses of the high seas, including freedom of passage, such as conducting nuclear tests and other non-peaceful uses, such as establishing exclusion areas. On the high seas to conduct military maneuvers, or to store weapons of mass destruction, the first United Nations Conference on the Law of the Sea in 1958 dealt with this issue and took two decisions in it (Ballout, 2015):

He referred the subject of nuclear tests to the United Nations General Assembly for study.

-I recommend the International Atomic Energy Agency to cooperate with other relevant international organizations and countries to save the high seas from the dangers of atomic experiments. The Third United Nations Conference on the Law of the Sea focused on the issue, especially since the General Assembly affirmed in the Declaration of Principles on the Law of the Sea issued in 1970 that the use of the seas be for peaceful purposes only, and that the exercise of freedom of navigation on the high seas take into account the provisions of the Convention and the provisions of international law. Other. During the past few years, the phenomenon of throwing nuclear waste into the seas has appeared, and despite the objection of humanitarian organizations to this phenomenon, the nuclear countries do not hesitate to throw this waste in large quantities into the seas. It is clear that these wastes contain radioactive materials that affect living resources, as well as emit harmful substances that pollute the water. The High Seas Authority has not been able to prevent this dangerous phenomenon that threatens humanity, as the infected fish are transmitted to all regions of the world, and the polluted water that Carrying radioactive materials that greatly affect the marine environment, and this requires international cooperation and the conclusion of international agreements (Suhail, 2009). From our perspective we see that should be given to the role of the international authority under the Convention to impose at least a huge fine financial States that hesitate to throw waste or waste nuclear at sea as well as States that B nuclear tests.

Preserving activities in the International Seabed Area:

The new international system of the seas related to the exploitation of the wealth of the high seabed emanating from the 1982 Convention on the Law of the Sea imposes restrictions on the practice of free passage, and is represented in not harming the legitimate activities approved by the international authority that is in charge of regulating exploitation and supervising the international area. The 1982 Convention on the Law of the Sea faced the problem of reconciling freedom of navigation with activities to explore and exploit the international seabed area with special attention. The general rule is represented by the provisions of Articles 87 and 147 (Muhammad, 2008):

-The second paragraph of Article 87 stipulates that states should exercise the freedoms of the High Sea, with due regard being paid to the rights stipulated in this convention regarding activities in the region. .

-The provision in Article 147 complements the first ruling, as its first paragraph states that "the activities in the area shall be conducted with reasonable regard to other activities in the marine environment." In the second paragraph of Article 147 there is a provision relating to the establishments established for the purposes of the activities that take place in the area, and this provision in most aspects, it is similar to the provision for establishments established in the exclusive economic area or on the continental shelf for the same purpose, except that it differs from it in some aspects. The establishment of a safety area around the facilities established in the international seabed area is compulsory and not optional, as is the case for the other two regions. It is not permissible to establish these facilities "if this impedes the use of sea lanes recognized as essential for international navigation," or to establish them in sectors of intensive fishing activity. Thus, it is noted that navigation in the international area receives more attention than the exclusive economic area or continental shelf. (Salim1994). Therefore, we believe that all countries must cooperate in preserving the activities that take place in the international area, since this region is the international heritage of all countries, as indicated by the agreement, without separating or differentiating between coastal or landlocked states, and on this basis, concerted efforts must be made. All countries, in order to preserve it, as it represents a legacy for the current and future generations .

Conclusion

I helped the principles agreed upon in the Statement of Principles for the year 1970 which is approved by the Assembly General Nations United in the organization of the use and development of resources in the region and international , in line with the principle of international peace and security, where these principles list minds of members of the international community or the international community , while discussing a system International legal aid undoubtedly helped regulate the resources of the international area.

Results

-considered the region a common human heritage outside the regional scope of the countries.

-includes the legal framework for the area of concepts contained in the Declaration of Principles adopted by the General Assembly of the United Nations on 17 December 19 70.

-The developed countries will have the largest share of the region's resources due to the rise of their economies and their scientific and technological development , which allows their members to conclude contracts to exploit the region's resources without dividing them . This result is a logical arrangement of the precedent, which is the impartiality of the agreement;Because developed countries will take the largest share of the region's assets due to the rise of their economies and their scientific and technological development.

-The implementation of the 1994 Executive Agreement harms international peace and stability because it removes the majority of the world's countries from the collective heritage area and relies only on developing countries with high potential.

Recommendations

-work to create a system T will benefit from it first and foremost developing countries and allow the exploitation of resources and the distribution of the region to all countries without exception , according to the idea that the region and property inheritance common to all mankind.

-must be a period help and assistance to developing coastal States and non - coastal affected and the assistant of these countries geographically by developed countries, international pain organizations T. privatization, to promote the betterment of economic through improved utilization of marine resources living and non - living, even if such assistance being through Fair and fair concession agreements, and it is preferable to have an organization supervising this, to ensure that the major and industrialized and advanced countries do not intransigence on the one hand, and to ensure the correct transfer of technology to developing countries on the other hand.

-We also recommend developing countries and supported by the states of a grain of peace, social justice and economic equality to work for the abolition of the executive agreement, because of the injustice and the injustice of the interests of developing countries and peoples affected, and the fact that it did not rise only in a society where justice and equality in everything.

References

1. Abdel Raouf Gad Hussein, International Protection of the Rights of Prison States under the United Nations Convention on the Law of the Sea in 1982, a comparative study with the provisions of Islamic Sharia, his PhD thesis submitted to the Faculty of Law, Cairo University, 2008.

2. AbdelkaderCharbel, The Mediterranean Sea between Sovereignty and Freedom, House of Huma for Printing and Publishing, Algeria, 2009.

3. Abdul Wahid Al-Far, The common international interest as a basis for the development of the international economic system, Dar Al-Nahda Al-Arabiya, Cairo, 1984.

4. Abdullah Al-Ashaal, The Prison States and the Third United Nations Conference on the Law of the Sea, Journal of Law and Sharia, Kuwait University, First Issue, Fifth Year, 1981.

5. Ahmed Abu Al-Wafa, International Law of the Sea in the Light of International and National Courts' Rulings, State Conduct and the 1982 Convention, Arab Renaissance House, Cairo, 2006.

6. Essam Al-Attiyah, Public International Law, 2nd Edition, The Legal Library, Baghdad, 2012.

7. EssamLamamri, Conciliation Provisions of the United Nations Convention on the Law of the Sea for the Year 1982. PhD thesis submitted to the Faculty of Law, MouloudMamary University, 2014.
8. Hajj Muhammad Hammoud, The International Law of the Sea, House of Culture for Publishing and Distribution, Amman, 2008.
9. Ibrahim Mohamed Al-Anani, The provisions of international law for the seabed and oceans and the subsoil of its land outside the borders of national jurisdiction, Cairo, Legal Journal, Volume One, Issue (16), 2008.
10.Ibrahim Mohamed Al-Daghma, The provisions of international law for the seabed and ocean floor and subsoil thereof outside the borders of national jurisdiction, Dar Al-Nahda Al-Arabiya, Cairo, 1998.
11.IssaAboulkassem, The International Seabed and Ocean Floor Area and its Resources in the 1982 Law of the Sea Convention, Algerian Journal of Maritime and Transport Law, Volume One, Issue Five, 2015.
12.Lamia Jaghry, The Legal System for Exploiting the Resources of the Seabed and Oceans Beyond the National Jurisdictions of States, Letter submitted to the Faculty of Law, University of the Mentouri Brothers - Constantine, 2016.
13.Mohamed Bousaltan, Principles of Public International Law, University Press Office, Algeria, 2008.
14.Muhammad Abdullah Al-Haytham, Sea border agreements between the application of the old and newly imposed rules, Al-Furat Center for Studies, 2016.
15.Muhammad Al-Majzoub, Public International Law, Al-Halabi Legal Publications, Beirut, 2004.
16.Muhammad Mustafa Yunus, The Rights of Geographically Prisoner and Damaged Countries in the International Law of the Sea, Dar Al-Nahda Al-Arabiya, Cairo, 1993.
17.Muhammad Talaat Al-Ghunaimi, The International Law of the Sea in its New Dimensions, Knowledge Facility, Alexandria, 1998.
18.Muhammad YusefAlwan, The Legal System of the Seabed and the Oceans and the Subsoil of Its Land, The Egyptian Journal of International Law, Cairo, Volume 41, Issue 1, 1985.
19.Mustafa Salama Hussein, The mutual influence between scientific progress, technology and public international law, Dar Al-Nahda Al-Arabiya, Cairo, without a year of reprint.
20.NasreddineHanouni, The Right Protection of the Coast in Algerian Law, Home for Printing and Publishing, Algeria, 2013.
21.Oliver J. Lissitzyn, International Law Today and Tomorrow, Ocean a publication, Dobb's ferry, New, York, 1965.
22.Omar Saadallah, International Law of Borders: Part Two, Foundations and Applications, University Press Office, Algeria, 2003.
23.Omar Saadallah, International Law of Borders: Part Two, Foundations and Applications, University Press Office, Algeria, 2003.
24.RashadAref El-Sayed, A Study of Some Military Aspects in the New International Law of the Sea, Cairo, The Egyptian Journal of International Law, Volume (46), Number Three.

25.Rashid Fahad Al-Marri, The Legal System of the Continental Shelf, An Applied Study on the Arab Gulf Region, Ph.D. thesis submitted to the Faculty of Law, Cairo University, 2009.
26.Salah El-Din Amer, International Law of the Sea, a study of the most important provisions of the United Nations Convention on the Law of the Sea of 1982, Dar Al-Nahda Al-Arabiya, Cairo, 2000.
27.Salah El-Din Amer, Introduction to the Study of Public International Law, Dar Al-Nahda Al-Arabiya, Cairo, 2007.
28.Salim Haddad, Legal Organization of the Seas and Arab National Security, University Foundation for Studies, Publishing and Distribution, Beirut, 1994.
29.SamahBallout, The Legal System of International Maritime Navigation, Master Thesis submitted to the Faculty of Law, University of the Brothers Mentoui Constantine, 2015.
30.Sassi Salem Al-Hajj, Law of the Sea between Tradition and Renewal, Institute for Arab Development, Beirut, 1987.
31.Suhail Hussein Al-Fatlawi, The International Law of the Sea, House of Culture for Publishing and Distribution, Amman, 2009.
32.Syed Ibrahim El-Desouki, Mediator in Public International Law: Book Four, Law of the Sea, Dar Al-Nahda Al-Arabiya, Cairo, 2012.
33.Tariq EzzatRakha, International Law in Solving Problems of Exploiting Petroleum Resources, Arab Renaissance House, Libya, without a year of publication.
34.United Nations Convention on The Law of The Sea. Nova Science Publishers, Inc: New York, 2009.
35.WalidBitar, Public International Law, University Studies Foundation, Beirut, 2002.