

Significance of International Maritime Laws (Law of the Sea) to International Navigation

Abdullahi Rabi'u Kontagora

Department of Political Science and International Relations,
University of Abuja, Abuja

Phone: +234 706754 3074

Abstract

This paper examines the significance of international maritime laws to international navigation, and analyses some other variables such as law of maritime boundaries and right to innocent navigation. The paper adopted the secondary library instrument in gathering its data. The paper discovered that the roots of maritime law extend back to the ancient civilizations of Greece and Rome, which developed rudimentary legislation for managing sea trade, navigation, and conflict resolution. These early laws, such as the Laws of Rhodes (Lex Rhodia) that addressed shipwreck liability and salvage rights, laid the groundwork for modern maritime laws. It also revealed some significance of maritime laws such as right to innocent passage and marine boundaries, among others. The paper concludes that, international maritime law establishes a structured and cooperative framework for governing the world's oceans in an era of increasing contestation and resource pressure. Strengthening international cooperation and enhancing state capacity remain essential for ensuring that the oceans are governed in a manner that supports global security and long-term sustainability.

Keywords: Marine Laws; International Maritime Laws; Marine Boundaries; Innocent Passage; International Navigation

Introduction

International maritime law constitutes the legal foundation that governs the use, management, and protection of the world's oceans. It provides a framework for regulating navigation, maritime boundaries, sovereign rights, resource exploitation, and environmental protection among maritime and coastal states. As global dependence on marine resources increases, effective legal regulation becomes essential to prevent conflict, promote cooperative management, and guarantee equitable access. The contemporary regime is anchored in the United Nations Convention on the Law of the Sea (UNCLOS), which is the most comprehensive codification of maritime rules and obligations among states (United Nations, 1982). This convention serves as the primary reference point for the rights and responsibilities of states in maritime zones, offering clarity on issues ranging from freedom of navigation to jurisdiction over offshore resources. The evolution of maritime law reflects centuries of attempts to balance national interests with the shared nature of the oceans, and this balance remains central to twenty-first century maritime governance.

Material and Method

The materials used in this paper are library documents spanning from the secondary source of information. They include books, journals, periodicals, newspapers among others. It is also historical-descriptive as it follows the historical data that describes the evolution and development of international law.

Literature Review

International law is a set of rules and principles governing the relations and conduct of sovereign states with each other, as well as with international organizations and individuals. Issues that fall under international law include trade, human rights, diplomacy, environmental preservation,

and war crimes. Different international bodies, such as the United Nations and World Trade Organization, are responsible for overseeing these issues. Generally speaking, the goal of international law is to promote peace and order between nations (Alexander, 1952).

International law largely operates upon the consent of participating nations because no governing body exists to explicitly enforce international agreements. The Charter of the United Nations is the document that expounds upon international law, but the United Nations cannot enforce those laws directly in the same way that a sovereign state can enforce its laws domestically. Additionally, international law has no bearing on domestically enforceable law recognized by courts in the United States, barring legislation by Congress that incorporates international legal principles into domestic law. Although international law is not strictly enforceable upon nations or other international actors, treaties and the possibility of economic sanctions work to create heavy incentives for abiding by international law (Archer, 2014).

Public international law governs the relations between nations and sets forth mandates for those nations to abide by. On the other hand, private international law deals with conflicts between private actors in situations where more than one nation's laws may apply. In recent years, public and private international law have become less distinct from one another. Disputes between private actors often implicate matters of public international law, and public international law likewise bears heavily on private actors, particularly multinational corporations (Aust, 2007)

Domains of International Law

International law includes concepts of law—such as statutes, property law, and tort law—that are common in many Western domestic legal systems. Substantive law, procedural law, due process, and remedies are also key facets of international law. The following are some of the central subsets of international law (Baker, 1923).

Sources of International Law

Article 38 of the Statute of the International Court of Justice lists four principal sources of international law: conventions/treaties, customary law, general principles of law, and judicial decisions/scholarly articles (Bashir, 2018).

Treaties are binding agreements between nations that govern the rights and obligations of participating countries. The use of international conventions, i.e., treaties, was codified in the 1969 Vienna Convention on the Law of Treaties. Sovereign states use treaties to cooperate on various issues such as military defense, environmental conservation, and trade. International treaties generally cannot conflict with domestic law in participating nations (Bederman, 2001).

Customary law arises from patterns of behavior in nations. States follow certain practices for a period of time out of a sense of legal obligation, and those practices develop into international law. For example, most nations have agreed to prohibitions on genocide and certain egregious forms of torture (Bederman, 2001).

General principles of law are aspects of common law that are shared by most countries in the world. Because these foundational principles are shared familiarly between most countries, they enter into the realm of international law as well. Rarely, judicial decisions and scholarly articles play a role in international law when the prior three sources of law fail. For example, a tribunal such as the International Criminal Court may refer to judicial decisions of the nations in question if there is no clear rule found in international law.

International Maritime Laws

The development of maritime law has its origins in early efforts to determine control over the seas. Classical thinkers such as Grotius advanced the principle of the sea as a common space that could not be appropriated, arguing that freedom of navigation was necessary for trade and international

relations (Grotius, 1609/2004). Over time, states sought to extend influence over adjacent waters, which produced competing doctrines of free seas and closed seas. The nineteenth and early twentieth centuries witnessed attempts to establish clearer norms, but the absence of a unified legal framework left several questions unresolved. The need for comprehensive regulation became evident as technological advancement expanded maritime capabilities and intensified competition for offshore resources. This context encouraged the international community to pursue a codified system, culminating in a series of United Nations conferences and eventually the adoption of UNCLOS in 1982. The convention integrated historical practices with modern maritime realities, creating a legal order that replaced fragmented rules with a coherent and widely accepted treaty.

Key Provisions under UNCLOS

UNCLOS provides detailed rules governing maritime zones and the rights of states within these areas. Coastal states exercise sovereignty over the territorial sea, which extends up to twelve nautical miles from the baseline, although passage for foreign vessels must remain peaceful and uninterrupted in accordance with the right of innocent passage (United Nations, 1982). Beyond this zone is the contiguous zone, where states may enforce laws related to customs, taxation, immigration, and sanitation. The exclusive economic zone represents one of the most significant innovations. It grants coastal states sovereign rights to explore, manage, and exploit resources within two hundred nautical miles, while preserving the freedoms of navigation and overflight for other states. The continental shelf provision further establishes rights to seabed resources beyond the exclusive economic zone in cases where geological evidence supports an extended claim.

The high seas remain open to all states, and activities on these waters are guided by principles that discourage abuse and promote collective safety. Furthermore, the establishment of the International Seabed Authority created an institutional mechanism for administering mineral resources in areas beyond national jurisdiction. Environmental obligations form an integral part of the convention, requiring states to prevent, reduce, and control marine pollution from land-based sources, vessels, and atmospheric activities. The dispute settlement procedures outlined under UNCLOS enhance predictability by providing peaceful avenues for resolving maritime disagreements (United Nations, 1982).

Findings and Discussion

Maritime law, sometimes referred to as admiralty law, is the branch of law that governs all aspects of the sea. Maritime law encompasses various issues, including (Harrington, 1999):

- i. The regulation of shipping and insurance
- ii. The navigation and passage of ships through different jurisdictions and in the open seas
- iii. The rights of seafarers

Given the fact that oceans cover approximately 70% of the Earth's surface, it is no surprise that maritime law is a part of many international treaties and agreements. Since the oceans are mostly international waters and not under the sovereignty of one nation, maritime law plays an indispensable role in sustaining order and safety in international waters. Maritime law is essential for determining answers to questions involving (Harrington, 1999):

- i. Maritime jurisdiction (disputes between state and private parties concerning trade and security),
- ii. The obligations of nations,
- iii. International standards to maintain peace and security on the seas

The creation of Maritime Law

The roots of maritime law extend back to the ancient civilizations of Greece and Rome, which developed rudimentary legislation for managing sea trade, navigation, and conflict resolution. These early laws, such as the Laws of Rhodes (Lex Rhodia) that addressed shipwreck liability and salvage rights, laid the groundwork for modern maritime laws. Over centuries, these foundational laws evolved into today's complex and codified maritime laws that accommodates the demands of modern commerce, technology, and environmental considerations (OECD, 2004).

Courts and Hearing of Maritime Law Cases

Some countries have a specialized legal system that deals with maritime law. For example, admiralty courts deal exclusively with maritime operations and maritime laws. The United States does not have a dedicated admiralty court, but federal district courts have jurisdiction over maritime cases. This jurisdiction is granted under Article III, Section 2 of the U.S. Constitution, which gives federal courts the authority to handle cases involving maritime contracts, torts, or criminal offenses. U.S. federal courts hear many maritime law cases; admiralty jurisdiction results in maritime lawyers intersecting with many subfields such as maritime commerce, maritime accidents, and insurance. General maritime laws give lawyers ample room to have practices that focus solely on maritime law. In fact, modern maritime law is so complex that general maritime law became a field for lawyers in law firms of all sizes that choose to focus on this subspecialty. In New York, for example, there are law firms where maritime injury lawyers are exclusively busy with tort cases. Does maritime law operate separately in its own niche outside the mainstream legal industry? The answer is no. Federal district courts exercise admiralty jurisdiction over maritime law-related cases, such as (UNCTAD, 2004):

- i. Civil cases related to maritime activities,
- ii. Shipping disputes about contracts for marine transport,
- iii. Personal injury claims by seafarers and sailors,
- iv. Cargo disputes with carriers and insurance companies,
- v. Torts occurring on navigable waters, including vessel collisions, oil spills, and other environmental impact incidents

An interesting phenomenon in the context of maritime law is called an “in rem” (Latin for “against a thing”) proceeding. This maritime law concept refers to a lawsuit brought against a vessel, rather than against individuals. This process is often used in cases involving liens, mortgages, or ownership disputes over a ship. Ultimately, maritime cases and maritime activities can involve several laws. Which laws apply to a case largely depends on the type of case brought before an admiralty court. Often, maritime workers are working in spaces involving concurrent jurisdiction and that makes maritime claims very interesting and complex. A maritime case can involve wrongful death, medical expenses, or personal injury. While these types of cases are normally heard in state courts, the maritime law aspect of the case mandates that a federal court must deal with the case.

Salvage and Treasure Claims

Another interesting aspect of maritime law includes salvage and treasure claims. A federal court can decide who has the right to possess cargo that was salvaged after falling into the sea or found at the bottom of the ocean. Any maritime items that are removed from the oceans generally belong to the finder, and the federal courts need to deal with national laws and international conventions in making their decisions (Notteboom, 2004).

Environmental and Regulatory Laws

U.S. federal courts have jurisdiction in cases involving environmental protection laws that apply to maritime activities, such as the Oil Pollution Act and the Clean Water Act. These types of maritime cases related to the environment can involve large fines, penalties, and corrective actions for environmental violations that occur in navigable waters. Maritime legal issues have significant effect on maritime trade. For example, maritime accidents can have severe environmental results, and marine insurance rates influence the entire business ecosystem. Maritime laws – both in the domestic and international realms – are central to prevent accidents that have disastrous environmental effects. Maritime law also encompasses essential environmental protections to safeguard oceanic ecosystems from pollution, overfishing, habitat destruction, and other threats. The United Nations Convention on the Law of the Seas (UNCLOS), along with supplementary agreements like the International Convention for the Prevention of Pollution from Ships (also known as MARPOL), establishes guidelines that hold countries and corporations accountable for environmental stewardship on the high seas.

These conventions are especially important given the ocean's vulnerability to human activity, including oil spills, waste dumping, and emissions from shipping. Pollution prevention is a core issue in maritime law and environmental law. A critical example regarding the environmental significance of maritime law was the Deepwater Horizon oil spill in 2010, which saw millions of barrels of oil leaked into the Gulf of Mexico. This disaster devastated marine life and coastal economies, underscored the necessity of stringent environmental laws in international waters, and showed the need for clear legal frameworks to assign liability and enforce cleanup measures. Maritime law extends beyond mere resource regulation, however. The preservation of marine biodiversity and the prevention of pollution are critical for sustaining both the health of the oceans and the global environment. Many people believe that without established legal frameworks, marine resources and biodiversity would face even greater threats. Maritime law needs to address challenges in multiple areas, such as vessel construction, cargo safety, and trade conditions.

Dispute Resolution and Maritime Contracts

Federal courts are also responsible for interpreting and enforcing contracts relating to maritime trade, including bills of lading, charter parties, and marine insurance policies. These courts also resolve disputes over international shipping and logistics. While federal district courts have primary jurisdiction over maritime cases, some cases may also be handled by state courts if the incident occurred in state territorial waters. For instance, a maritime injury lawyer might need to conduct maritime cases in state courts and in federal courts, depending on the finer points of civil procedure law.

Maritime Law and Its Relationship to International Law

While maritime law has many domestic aspects, it also has a relationship with international law. Maritime law is closely tied to international law, particularly in managing issues that arise between nations that share maritime boundaries or navigate global waters. Since oceans are international spaces, they require cooperation between nations and regulatory measures to handle transnational concerns such as piracy, shipping rights, trade, and territorial disputes. Maritime law relies heavily on international law frameworks, with UNCLOS serving as a primary legal document for countries worldwide. UNCLOS establishes standards that promote peaceful coexistence and cooperation between nations. It also details permissible activities in territorial waters, economic rights and navigations, and free passage in territorial waters and in the high seas.

UNCLOS balances national sovereignty with international responsibilities, enshrining the concept of cooperative governance over shared ocean resources. For instance, Article 197 of UNCLOS states

that “States shall cooperate on a global basis and, as appropriate, on a regional basis...for the protection and preservation of the marine environment.” This UNCLOS article mandates that countries act in concert to safeguard the oceans from environmental harm and respect international navigation and resource-sharing rules.

The Right of Innocent Passage and Maritime Law

Navigable waterway passage is one important area of international maritime law. While state laws control who can come into a territory, international law created the right to free and peaceful passage through territorial waters. This right of innocent passage allows vessels like ships that are in continuous, expeditious travel to pass through a country's territorial waters without permission, as long as those vessels do not obstruct peace and order. Even submarines enjoy this right as long as they navigate on the surface and show their country's flag (Bugajski, 2021). Since maritime passage requires ship and submarine movement in areas with no clear borders, navigable waters are treated differently than land territory. Navigable waters cannot be closed off, even if they are close to a coast. As Section 17 of UNCLOS states, “Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.” Without the protection of innocent passage in navigable waters, international commerce would be in grave danger. The shipping industry depends on the right of innocent passage through navigable waters and many of our servicemember students protect safe passage in international navigable waters (Bugajski, 2021).

The US Position on UNCLOS

Although the United States has not formally ratified UNCLOS, it recognizes many of its provisions as customary international law. Successive U.S. administrations have adhered to UNCLOS principles, especially regarding navigational freedoms and territorial demarcations, as they align with U.S. interests in maritime mobility and national security. However, concerns over sovereignty and regulatory encroachments have historically prevented full ratification. Many policymakers believe that accepting UNCLOS without reservation could limit U.S. ability to exploit marine resources or act unilaterally in its territorial waters.

President Ronald Reagan chose not to sign the UNCLOS in 1982, due to concerns about specific provisions in Part XI, which governed deep-seabed mining. Reagan's administration feared that the treaty's provisions on resource exploitation in international waters would limit the United States' access to valuable resources, such as minerals on the ocean floor, and impede the activities of U.S. private companies. Part XI of UNCLOS established the International Seabed Authority (ISA), an organization with the power to control mineral-related activities in the international seabed area and redistribute the proceeds to developing countries. Reagan saw the ISA's work as contrary to U.S. economic interests and free-market principles. The U.S. was also concerned that the treaty's seabed provisions would effectively transfer technology to other countries, including rival states, which could diminish the competitive advantage of U.S. companies.

Despite these concerns, the U.S. acknowledges UNCLOS as a crucial framework, respecting its rules on freedom of navigation and using it as a basis for diplomatic negotiations with other maritime nations. This ambivalence underlines the balancing act the U.S. performs between its own maritime interests and global cooperation. There is an ongoing discussion among policymakers about the future of the U.S. and UNCLOS. Some have advised reconsidering Reagan's decision to not ratify UNCLOS, since ratification might enable more U.S. access to sea mining outside territorial waters.

Marine Boundaries

Maritime boundaries are complex. In general, UNCLOS regulates territorial waters, exclusive economic zones (EEZs), and the high seas, which extend beyond any nation's jurisdiction. These areas are at the core of international maritime law. Coastal countries have certain economic rights regarding EEZs. Article 57 of UNCLOS specifies, "The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured." This stipulation ensures that nations have exclusive rights to exploit resources within a limited area adjacent to their coastlines, while high seas remain open for international use (Anderson, 2003). These UNCLOS regulation was designed to provide legal clarity for nations and prevent disputes over territory, fishing rights, and mineral extraction. It also helps to foster cooperation among states while ensuring that no single country monopolizes oceanic resources. This system of clear demarcations and shared usage zones has also helped manage potential conflicts by providing internationally recognized boundaries (Anderson, 2003).

Contemporary Challenges in Enforcing International Maritime Law

While UNCLOS offers a comprehensive legal framework, enforcement continues to face several challenges. Disputes over maritime boundaries remain widespread because strategic waterways and offshore resources influence national security and economic interests. The South China Sea conflict illustrates how overlapping claims and differing interpretations of maritime rights can generate prolonged tension despite the presence of established legal norms (Klein, 2019). In such situations, legal rulings are not always sufficient to compel compliance when geopolitical considerations dominate state behaviour.

Environmental challenges complicate enforcement further. Illegal, unreported, and unregulated fishing persists as states struggle to monitor vast maritime domains effectively. The transboundary nature of marine pollution demands collective responsibility, yet the uneven capacity among states limits implementation. Climate change poses new threats by altering coastlines, affecting baselines from which maritime zones are measured, and creating uncertainties for small island states whose territorial integrity is at risk (Rayfuse, 2020).

Another challenge relates to deep seabed mining, where technological growth has increased interest in mineral extraction from areas under the jurisdiction of the International Seabed Authority. The absence of a fully developed regulatory regime for this activity raises concerns related to environmental damage and equitable benefit sharing. Emerging security threats such as piracy, trafficking, and maritime terrorism also place pressure on international maritime law, requiring states to strengthen cooperation and surveillance mechanisms.

Conclusion and Recommendations

International maritime law establishes a structured and cooperative framework for governing the world's oceans in an era of increasing contestation and resource pressure. UNCLOS remains the foundation of this regime by defining maritime zones, allocating rights, and imposing obligations that promote order, stability, and sustainable resource use. Although the contemporary global environment presents enforcement difficulties, the convention continues to guide maritime relations and provides legal tools for addressing disputes. Strengthening international cooperation and enhancing state capacity remain essential for ensuring that the oceans are governed in a manner that supports global security and long-term sustainability.

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