The International Tribunal for the Law of the Sea (ITLOS): A New Horizon in International Law

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Abstract

The International Tribunal for the Law of the Sea (ITLOS) was established by the United Nations Convention on the Law of the Sea (UNCLOS) in its Third Conference Signed at Montego Bay, Jamaica in 1982. It is one of the four alternative procedures provided under Part XV of the Convention for the settlement of disputes in respect of disputes arising out of interpretation or application of its provisions.

After the adoption of the Convention, there were concerns regarding the relevance of having a separate Tribunal for settlement of disputes since International Court of Justice enjoyed trust of the state parties at an International level for resolving their various disputes. Many writers were of the view that this will lead to fragmentation of International law.

This paper seeks to examine the efficacy of having a separate Specialized Tribunal under UNCLOS, the novelties brought by ITLOS, trust of the state parties in respect of a specialized agency for solving the disputes related to interpretation and application of the provisions of UNCLOS, and provisions related to its Jurisdiction. The paper also seeks to analyze the procedure regarding enforcement and compliance of its orders by the State that are parties to the dispute submitted before the Tribunal.In the end, the author would conclude the paper by analyzing how ITLOS is a preferred choice over existing alternate procedures for settlement of disputes.

Keywords: *UNCLOS, ITLOS, Dispute Settlement Mechanisms and Law of the Sea.*

I. Introduction

Without a doubt, seas are among the most significant assets on earth. They comprise of roughly 70% of the earth surface and assume a critical job in the

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presence and endurance of humanity. In addition to other things, a wide cluster of natural species, for example, fish are obtained from the sea; it likewise fills in as valuable landscape for both traveler and freight transportation; a wellspring of crude materials like raw petroleum, gas, and other significant mineral assets; lastly, different military exercises are continued, above, upon, and beneath it[2].

The use of the sea resources sometimes results in conflicting interests between two or more countries. The provisions of United Nations Convention on the Law of the Sea (UNCLOS), 1982 acts as a tool for balancing interests between parties to conflict by providing a set platform for settling of disputes at International level. Dispute settlement mechanisms provided under Part XV of the UNCLOS provides a very far-reaching and innovative system[3].

The United Nations Convention on the Law of the Sea was opened for signature at Montego Bay, Jamaica, on 10 December 1982. It became effective 12 years after, i.e., on 16 November 1994. An ensuing Agreement relating to the use of Part XI of the Convention was grasped on 28 July 1994 that came into control on 28 July 1996. This Agreement and Part XI of the Convention are to be deciphered and applied all together as an instrument.

The beginning of the Convention goes back to 1 November 1967 when Ambassador Arvid Pardo of Malta watched out for the General Assembly of the United Nations and expressed for the prerequisite of "an effective overall framework over the seabed and the ocean bottom past a clearly described national ward". This provoked the State Parties, in 1973, of the Third United Nations Conference on the Law of the Sea, which following nine years of courses of action got the Convention.

The Convention sets up a total legal framework to coordinate all ocean space, its uses and resources. It contains, notwithstanding different things, courses of action distinguishing and characterizing the provincial sea,the adjacent zone, the territory, the selective monetary zone and the high oceans. It also gives

[2]U.N. Convention on the Law of the Sea, adopted at Montego Bay, Jamaica, on 10 December 1982 (entered into force on 16 November 1994).

[3]Tommy T b Koh “A Constitution for the Oceans” Remarks made by the President of the 3rd UN Conference on the Law of the Sea, in Official Text of the United Nations Convention on the Law of the Sea with Annexes and Index (1983) E 83V5, xxxiii.

arrangements to the security and protecting of the marine condition, for ocean life logical research and for the improvement of marine condition. One of the most significantpieces of the Convention concerns the examination for and abuse of the benefits of the seabed and ocean bottom and subsoil thereof, past the purposes of control of national domain (the Area). The Convention announces the Area and its advantages for be "the customary inheritance of humankind". The International Seabed Authority, developed by the Convention, controls the advantages of the Area.

Part XV of the Convention sets out a thorough system for the settlement of questions that may rise concerning the translation and use of the Convention. It requires States Parties to settle their inquiries concerning the clarification or utilization of the Convention by quiet strategies in consistency with the Charter of the United Nations.The mandates expressed in area 1 of Part XV are gotten from the conciliatory and legal standards and by-laws that are cherished in Article 33 (1) of the UN Charter. The concerned gatherings that are included into any sort of question can likewise take reference from the legal standards that are referenced in Article 287 of the UNCLOS.

In any case, if gatherings to an inquiry disregard to land at a settlement by tranquil strategies for their own choice, they are obliged to fall back on the essential discussion settlement technique including limiting decisions, subject to constraints and exceptional cases contained in the Convention.

The framework set up by the Convention gives four elective techniques to the settlement of questions: The International Tribunal for the Law of the Sea, The International Court of Justice, an Arbitral Tribunal contained according to Annex VII to the Convention, and a Special Arbitral Tribunal built up according to Annex VIII to the Convention.

A State Party is permitted to pick in any event one of these strategies by an aggregate declaration to be made under article 287 of the Convention and kept with the Secretary-General of the United Nations (attestations made by States Parties under article 287).

On the odd possibility that the gatherings to a debate have not recognized a comparative settlement framework, the inquiry may be submitted particularly to Arbitration Tribunal according to Annex VII, with the exception of if the gatherings for the most part agree. The instance of Arctic Sunrise where Netherlands and Russia were included is a model wherein Arbitral Tribunal under Annex VII was utilized as a "dispute settlement mechanism" to determine the case.

According to the courses of action of its Statute, the Tribunal has confined the going with Chambers: The Chamber of Summary Procedure, the Chamber for Fisheries Disputes, the Chamber for Marine Environment Disputes and the Chamber for Maritime Delimitation Disputes.

In accordance with the gatherings, the Tribunal has also surrounded remarkable loads to deal with the Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks in the South-Eastern Pacific Ocean (Chile/European Community) and the Dispute Concerning Delimitation of the Maritime Boundary among Ghana and Côte d'Ivoire in the Atlantic Ocean.

Discussions relating to practices in the International Seabed Area are submitted to the Seabed Disputes Chamber of the Tribunal, including 11 judges. Any gathering to a contradiction with respect to which the Seabed Disputes Chamber has ward may request the Seabed Disputes Chamber to outline an offhand chamber made out of three people from the Seabed Disputes Chamber.

II. The International Tribunal for the Law of the Sea (ITLOS)

The International Tribunal for the Law of the Sea gave under Part XV of the UNCLOS, is a self-ruling legitimate body set up by the United Nations Convention on the Law of the Sea to choose addresses developing out of the comprehension and use of the Convention. The Tribunal is included 21 Judges, browsed among individuals valuing the most important reputation for sensibility and decency and of saw capacity in the field of the Law of the Sea.

The Tribunal has “jurisdiction” over any question concerning the explanation or use of the Convention, and over all issues unequivocally suited in whatever other understanding which the gatherings to debate displays before the Tribunal (Statute, article 21). The Tribunal is accessible to States Parties to the Convention (for instance States and overall affiliations which are gatherings to the Convention). It is moreover open to elements other than States Parties, i.e., States or intergovernmental affiliations which are not gatherings to the Convention, and to state endeavours and private substances "notwithstanding expressly obliged in Part XI or in any case submitted agreeable with some other comprehension exhibited before the Tribunal which is recognized by all the concerned party/gatherings to that case" .

The Tribunal is accessible to States Parties to the Convention and, in explicit cases, to components other than States Parties, (for instance, worldwide affiliations and trademark or real individuals) (Access to the Tribunal).

The domain of the Tribunal incorporates all discussions submitted to it according to the Convention. It in like manner connects with all issues unequivocally obliged in whatever other understanding which gives domain on the Tribunal. Until this point in time, twelve multilateral understandings have been done up which present ward on the Tribunal (noteworthy courses of action of these understandings).

But on the off chance that the gatherings by and large agree, the domain of the Tribunal is compulsory in cases relating to the concise appearance of vessels and gatherings under article 292 of the Convention and to impermanent appraisals pending the constitution of an arbitral court under article 290, segment 5, of the Convention.

The Seabed Disputes Chamber is prepared to give notice suppositions on genuine request rising inside the degree of the activities of the International Seabed Authority. The Tribunal may in like manner give cautioning ends in explicit cases under worldwide understandings related to the inspirations driving the Convention.

Discussions before the Tribunal are started either by made application or by notice of an exceptional comprehension. The framework to be sought after for the lead of cases submitted to the Tribunal is portrayed in its Statute and Rules.

III. A Brief Historical Perspective

Judge Albert Hoffman, Eyewitness from ITLOS, referenced that the Tribunal esteemed and longstanding association with Asian-African Legal Consultative Organization (AALCO) and pursued with incredible intrigue, the significant work that it was doing towards reinforcing the standard of law in worldwide relations.[4] The Judge recognized the significant job that AALCO and its Member States kept on playing in the different foundations built up under the Convention and the dedication they appeared with respect to managing the numerous difficulties standing up to Asian and African States with respect to issues concerning the Law of the Sea.[5]

A few designations underscored upon the insurance of marine condition and marine biodiversity past territories of State party. An assignment noticed that the rising temperature of ocean water would have annihilating effect on seaside States, especially his nation. An assignment featured that the manageable advancement of sea assets was significant for guaranteeing nourishment, security, easing destitution, advancing financial development and protecting social steadiness in all nations, particularly creating nations. Another appointment respected the thought of "marine hereditary assets" issues. A few designations caused to notice sea wellbeing and security issues.[6]

It might be reviewed that the thing "Law of the Sea" was taken up for thought by the Asian-African Legal Consultative Organization (AALCO) at the activity of the Legislature of Indonesia in 1970.[7] From that point forward it has been considered as one of the need things at progressive Annual Sessions of the Organization and the thoughts in AALCO's yearly and between sessional gatherings for about 10 years were centered around this single most significant thing. The AALCO can take sensible pride in the way that new ideas, for example, the Exclusive Economic Zone(EEZ), Archipelago States and Rights of

[4] *Supra* at 8.

[5] Chairman's Statement at the sixth East Asia Summit, Bali, Indonesia, 19 November 2011, para. 5, available at www.aseansec.org/documents/19th%20summit/EAS-CS.pdf.(last accessed on September 23, 2019)

[6] 2002 Declaration on the Conduct of the Parties in the South China Sea, available at www.aseansec.org/13163.htm. (last accessed on September 23, 2019)

[7] Chair's Statement at the twentieth ASEAN Summit, Phnom Penh, 3–4 April 2012.

Land Locked States started and created in the AALCO's Annual Session and were later systematized in the UNCLOS.[8]

The Secretariat Report arranged for the Forty-Seventh Session gave data on the status of the UNCLOS and its executing Agreements; Nineteenth and Twentieth Sessions of the Commission on the Limits of the Continental Shelf; a diagram of the yearly extensive report of the Secretary-General on Oceans and the Law of the Sea; eighth gathering of the Consultative Process; seventeenth Meeting of States Parties to the UNCLOS' 82[9]; Thirteenth Session of the International Seabed Authority; and the settlement of debates under UNCLOS by the ITLOS in the Year 2007; and the thought of the Oceans and the Law of the Sea issues at the 62nd Session of the UN General Assembly.[10]

IV. Novelties Brought by Formation of The International Tribunal for the Law of the Sea

Provision of UNCLOS has been instrumental in establishing a system for ocean governance. This system is based on the substantive rules penned down in the convention. UNCLOS would be of minimal commonsense worth except if it incorporated a successful framework for settling clashes and settling debates that can't be settled by the gatherings themselves.

At the time the UNCLOS was consulted there were no worldwide legal bodies with widespread extension aside from the International Court of Justice. Affectability of the issue definitely indicated the World Court as the model for the institutional structure of the ITLOS. Thus, along these lines, yet with a few exemptions, the ITLOS doesn't, on a fundamental level, have purview over a 'dispute' except if the two gatherings have consented to it, by method for impromptu revelation, exceptional understanding or past discretionary

[8]For the Chairman's Statement, see presspool.jp/asean/officialdocuments/459991.html. (last accessed on September 24, 2019)

[9]For the Chairman's Statement, see www.asean.org/news/asean-statement-communiques/item/chairmans-statement-of-the-22nd-asean-summit-our-people-our-future-together. (last accessed on September 24, 2019)

[10]See Stein Tønnesson, "The South China Sea in the Age of European Decline," 40 *Modern Asian Studies* ,3–57 (2006).

statement. The UNCLOS has been set up based on an arrangement of genuine what's more, profound participation between the State parties. This guarantees a balanced movement and advancement of the substantive decides that UNCLOS embraces to depict.

The ITLOS has settled number of debates identifying with the law of the ocean as an obligatory 'dispute settlement system', however supervision of political arrangements remains it significant work. Out of six brief discharge demands before ITLOS, it has settled four applications, declined ward in one and the 6th was settled before it preceded the Tribunal. ITLOS, being a 'dispute settlement body' has books highlights connected with it in order to have goals quickly like brief discharge. According to the Article 292(1) of UNCLOS, ITLOS has a leftover obligatory "jurisdiction" with respect to the brief arrival of held onto vessels. This element in itself is one of a kind in global law as a result of the two its procedural qualities and its capacities. The summon of its temporary estimates purview is in a state of harmony with that of other global councils like ICJ. It is important that reception of one-sided revelations to the 'dispute' is like what is drilled in ICJ which aides in keeping an open record of the one-sided endeavors made by states during the settlement.

Professor TullioTeveres, a Former judge of ITLOS in his commentary on the workings of the Convention states that the Convention itself although made up of substantive laws is to be read with the supplement of customary laws of the sea.[11] He draws the rationale for this argument, which has been supported in many other commentaries about the Convention on the basis that firstly, the

[11]TullioTeveres, UNCLOS at 30 pg. 3:"Not all law of the sea questions are regulated by UNCLOS and not all States are Parties to UNCLOS. The last paragraph of the UNCLOS preamble recognizes the continuing role of customary law stating that: "matters not regulated by this Convention continue to be governed by the rules of general international law." The fact that UNCLOS as an international treaty does not bind States that are not Parties to it, entails that among non-parties, and in relations between Parties and non-parties, customary rules apply." See also Pg. 4: "Article 295 which gives a role in Convention-based dispute settlement mechanisms to prior exhaustion of local remedies "where this is required by international law." Under Articles 74 and 83, delimitation of the exclusive economic zone and of the continental shelf shall be effected "on the basis of international law as referred to in Article 38 of the Statute of the International Court of Justice."

Convention although a functioning treaty is not binding on non-party states, meaning if you have not signed and/ or ratified the treaty, you would not be governed by the Convention. Moreover the convention allows for third-party dispute settlements under the Article 286 if the parties in a dispute aren't all state parties and this in turn makes UNCLOS make provisions for recognition of customary law of the seas to be part of the rules by which it manages the ocean's governance.[12]

The ITLOS is sorted out particularly like the ICJ at the same time, due to its exceptional center, there are sure contrasts that separates it. Right off the bat, in contrast to its kinfolk, yet like the Court of Justice of the European Communities, the ITLOS is enriched with a changeless uncommon chamber with mandatory "jurisdiction" over a specific classification of debate. The 11-part Seabed Disputes Chamber (SBDC) hears questions concerning exercises in the seabed, sea floor and subsoil past the points of confinement of national "jurisdiction"(the purported Area , which is overseen by an office known as the International Seabed Authority, which was set up in accordance with the UNCLOS).

Furthermore, mirroring the extraordinary idea of the exercises to be completed inside the Area, the locus standi before the SBDC is unique in relation to the one preceding the full Tribunal. Not exclusively can states and the International Seabed Authority have remaining before the Chamber, yet organizations and people of States gatherings can likewise. This element recognizes the ITLOS from other global legal bodies with all inclusive enrollment and degree, similar to the ICJ and the World Trade Organization question settlement framework, where non-state elements are not permitted to bring claims (to a limited degree this applies likewise to the International Criminal Court).

Thirdly, not at all like most worldwide legal bodies, which choose cases for all intents and purposes exclusively based on global law, the Sea-Bed Dispute Chamber(SBDC) can reach outside those points of confinement. The SBDC can

[12]*Bangladesh v. Myanmar* ITLOS (Judgment) [2012]Case No. 17:" Customary international law is one of the sources identified in Article 38. Accordingly, the law applicable under the Convention with regard to delimitation of the exclusive economic zone and the continental shelf includes rules of customary international law".

apply the UNCLOS; standards of worldwide law; the principles, guidelines and strategies of the International Sea-bed Authority; just as terms of agreements concerning exercises in issues identifying with them.

ITLOS appears to have its eye explicitly on oceanic limit delimitation cases. The satisfaction of this excited wish doesn't seem, by all accounts, to be anything but difficult to achieve given the way that ITLOS is obviously in rivalry with different methods of worldwide debate settlement. This is particularly relevant incomparison with the ICJ, which has a demonstrated reputation in the settlement of oceanic limit debates, and keeps on practicing an imposing business model around there of hostile “jurisdiction” even to this date.

Take for instance the sea delimitation body of evidence brought by Romania against Ukraine in ICJ under a Treaty on Relations of Co-activity and Good-Neighborliness, and its Additional Agreement, the two of which came into power on 22 October 1997. It is significant that this case was founded in ICJ on 16 September 2004, when the Tribunal had been for some time built up and its docket was additionally free. Keith Highet's expectation has all the earmarks of being working out as expected that the recently founded "unseasoned" Tribunal being "apparently separated from the settled law of the International Court, might be an obstacle to its determination by States Parties."

There have been a few reactions aimed at the arrangements for the foundation, and determination, of a wide scope of courts under UNCLOS on the premise that every council recorded would obviously have various capacities and there was no real way to guarantee that their systems and usual way of doing things would be fitting to the debates before them. A few judges of the International Court of Justice, specifically, cautioned that the making of a plenty of councils could just prompt fracture of universal law and the law of the ocean because of the development of contending elucidations in a non¬-uniform way from conflicting choices of the various courts, each having an alternate jurisdictional degree and aptitude .

Jurists saw ITLOS as a judicial competitor to the ICJ and that the ITLOS would undermine the importance of ICJ under the International Law in general.

V. Advantages under UNCLOS for Settling the Disputes

The four dispute mechanisms available for the state under Article 287 of UNCLOS[13], i.e.,ITLOS, ICJ, Arbitral tribunal and a SAT.[14] Through mentioned mechanisms the disputes are solved, though the parties to the dispute should have agreed to bring their dispute to the consented mechanism. In reality the state being sovereign in nature has the capacity to choose the mechanism which suits them, which reflects the freedom of choice given to the nations. In return, the states should maintain peace in accord under Article 30 of UN Charter and 279 of UNCLOS. However, when the parties refuse to give their consent to the court and tribunal, UNCLOS plays a vital role in handling the disputes between the states. The provisions which reflect are Article 287 of UNCLOS which provides for compulsorysettlement of disputes[15]. The dispute settlement under UNCLOS tribunals becomes an implied concept when agreeing to be the member of UNCLOS because the dispute will automatically go through Annex VII of Arbitral Tribunal. Whereas, the state has the option of using the third party for settling the disputes also.[16]

VI. Limitations under UNCLOS for Settling the Disputes

The inclusion of Part XV of UNCLOS creates a situation where the disputes can be solved through political will. Secondly, there is no enforcement mechanism to make sure everything goes through the prescribed system. For example, ICJ has an access to Security Council as an enforcement mechanism from UN. Whereas, ITLOS lacks in having a stable body for enforcing its decisions.[17]If there is no enforcement body for ITCLOS under UNCLOS then how can it avail the service of enforcement? Can it take the help of Security Council? No,

[13]Lee Seokwoo and L. Bernard, "South China Sea Arbitration and its Application to Dokdo". 8(1) Asian Journal of International Law24-35 (2018).

[14]http://wcl.american.libguides.com/c.php?g=563260&p=3877822 (last accessed on September 9, 2019)

[15]https://law.yale.edu/system/files/documents/pdf/cglc/yale_law_school_-_unclos_and_arbitration.pdf (last accessed on September 9, 2019)

[16]https://www.repository.cam.ac.uk/bitstream/handle/1810/261222/Nguyen-2016-Asian_Journal_of_International_Law-AM.pdf?sequence=1&isAllowed=nMar (last accessed on September 10, 2019)

[17]Supra at 4.

According to Article 298(1)(c) disputeswhich fall in security council cannot be addressed by the UNCLOS due the limitation of procedural difficulties and political costs.

UNCLOS has the jurisdiction only over the matters concerning disputes and interpretation of UNLCOS. Any matters concerning territorial sovereign lies above their boundaries according to Article 288(1).

The whole of the enforcement framework can be summarized into Article 296 of the UNCLOS. It portrays the decision made by the tribunal having jurisdiction shall be the final and the same should be followed by the parties involved in a conflict. This is exactly symbolized with the drafting of Annex VI, UNCLOS. Whereas, Annex VII speaks about the disputing parties abiding by the decision.

Above provisions are similar to the Article 94(1) of UN charter, which insist that the member of UN stick to the decision made by the ICJ in the case where state is a party. However, 296,Annex VI and Annex VII are not of reference to the security council. Whereas, Article 94 has the capability to give direction to derive at a judgement, which makes the tribunal judgement sound not less than the ICJ.[18]

As the binding force happens only between the parties involved in the conflict. The conflict takes place as different tribunals can issue varying decisions which gives the actual reason for enforcement deficit.

Disputes between the states can exist in many forms, the once which are frequent in nature which includes; issue concerning boundaries, issues regarding fisheries, military activities and law enforcement. These major and most happening issues can be exempted by the parties through Articles 297 and 298.[19]

[18] DONALD R. ROTHWELL & TI STEPHENS, THE INTERNATIONAL LAW OF THE SEA (Hart Publishing, Oxford, 2nd edn.,2016).

[19]https://www.repository.cam.ac.uk/bitstream/handle/1810/261222/Nguyen-2016-Asian_Journal_of_International_Law-AM.pdf?sequence=1&isAllowed=nMar (last accessed on September 16, 2019)

VII. The Problem of Enforcement and Compliance

The enforcement fails due to non connectivity with the special functions of the constitutional enforcement which represents institution capability to pass on the responsibilities to public. Alternatively, the institution does not have the power to delegate the responsibilities to a body which can enforce the functions.[20]

The convention's enforcement structure is established and implemented by the Article 296 of UNCLOS. The Article states that any decision made by the Court or the Governing Bodies must be considered to be final. The decision must be followed by all the concerned parties related to the conflict. The Article mentions that any decision taken will not be considered to be binding. The significance of the binding force would only be considered among the concerned parties. Moreover the binding force must be related to the specific dispute or conflict. The Annex VI of the Article to UNCLOS states that the judgment given by the Tribunal and the decision made by the Court must be considered to be final. The decision needs to be acknowledged by all concerned parties. The decision must be accredited specifically related to the dispute and no other reason. The Annex VII of the Article to the Convention declares that an arbitral award must be ensured by the concerned parties. This must be in accordance to the dispute or conflict among the concerned parties. However it is observed that the Annex VIII of the Article does not procure any such directives. The directives summoned by the above Articles are supposed to be taken from the Article 94 (1) of the United Nations Charter.[21] The Article 94 (1) summons that every Member of the United Nations is mandatory to obey the decision of the International Court of Justice. The members must obey the decisions irrespective of the parties to which they belong. The description of Article 94 is found in the Annexes VI and VII which is related to the Security Council. The article propagates that recommendations and correct decisions can only be done when the distressed party requests the Court to reconsider the

[20] *Supra* at 27.

[21] A.A. JIMENEZ, TERRITORIAL DISPUTES IN THE SOUTH-CHINA SEA(Palgrave Macmillan, London,2015)

decision.[22] It is found that the Article also tells that the binding factor which is similar to the ICJs. These binding factors are not found to be enforceable as per the Article 94 (2). The Article propagates that the arbitral Tribunals also apply the similar judgement process which govern as per the directives mentioned in the Annex VII and more importantly in Annex VIII.[23]

The observance with any jurisdiction is left upon the concerned parties. The involved parties are left free to choose the jurisdictions of any Court or Tribunal that functions under the guidance of UNCLOS. The decisions taken by the parties must be in compliance with the good faith obligation.[24] The concerned parties can take decisions in compliance with the State or with the International law that is applicable. The parties can also take general diplomatic steps in regards to the permitted international Law. The third States involved in the case must also ensure their remittance with the Court's decision and support the decision taken by the Court. The enforcement is also governed by the ITLOS that are particularly formed by the Seabed Disputes Chambers.[25] It is found that interpretations related to Article 39 of Annex VI are well supported by this Seabed Disputes Chamber. Article 39 delivers that decisions that are taken by the chamber must be considered to be compulsorily enforceable. Enforcement must be done in the territories of the States parties in a similar way to that of the commands passed by the Highest Courts. The orders given by the Highest Courts of the State Party are to be enforced in compliance with the decisions taken by the Members of the Chamber. However, it is found that in the case of Medellin v. Texas due to language contrasts with Article 94 (1) of the Charter

[22]S.R. Friedman, "Challenges to the Counter-Migrants Smuggling Regime in the Mediterranean Sea" Hebrew University of Jerusalem International LawForum Working Series 2-18 (2018) available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3116724 (last accessed on September 24, 2019)

[23]D. French, "In the Matter of the South China Sea Arbitration: Republic of Philippines v People's Republic of China", Arbitral Tribunal Constituted under Annex VII to the 1982 United Nations Law of the Sea Convention, Case No. 2013-19, Award of 12 July 2016. 19(1)(*Environmental Law Review*, 48-56. (2017).

[24]*Supra* at 37.

[25]*Supra* at 32.

Justice Stevens could say nothing of the UNCLOS.[26] Moreover, due to lack of self- execution provision as summoned by the Article, the dispute or conflict resolution framework of UNCLOS seems to be absent. This highlights the concerns related to the loss of control that is gratifying the presence of UNCLOS.[27] A need to modify the regulations and lay stress on more stringent enforcement of laws is observed.

VIII. Conclusion

The UNCLOS establishes the normative framework under which coastal States should delimit their maritime boundaries. Throughout this procedure, questions are inescapable. It has been sensibly stated that sea limit delimitation debates are among the most confounded universal questions with unreasonable inclination to develop into pressures and possible clashes if the fitting worldwide 'dispute settlement mechanisms' are not started to determine these debates.

There was some prospect that even the United States of America may likewise before long join the Convention on the Law of the Sea, this would further make ready towards all inclusiveness. Maybe, the twenty-fifth commemoration of the Convention is an ideal minute for non States Parties to consider getting to be Party to the "Constitution of Oceans", that oversees all parts of the sea space, its uses and its assets and incorporates, among others, such issues as fisheries, archipelagic States, sea delimitation, system of islands, assurance and protection of the marine condition, marine research, monetary and business exercises, innovation and the repayment of debates.

The present period requests that a common comprehension rather than suit propensity ought to create to advance the quest for serene relations among states. In any case, this basically political procedure ought not to be mistaken for an arrangement of obligatory 'dispute settlement' based on universal law. As conceded at the beginning, it is still early days for UNCLOS and its necessary debate settlement arrangements. Notwithstanding, if the past is preface, the

[26] M. Aksenova and Burke, *The Chagos Islands Award: Exploring the Renewed Role of the Law of the Sea in the Post-Colonial Context*, 35(1) WILJ 3-35 (2017).

[27] *Supra* at 40.

future doesn't look excessively splendid, either for the systems and foundations along these lines set up or for the advancement of the law of the ocean through summon of this system. The doubtlessly suggestions in the short, or even medium, term are that states will keep on finding inventive approaches to guarantee that debates don't fall under the Part XV obligatory settlement system and that, given the very set number of states which have acknowledged the "jurisdiction" of ITLOS under article 287, 129 ITLOS will keep on being utilized just to choose constrained quantities of brief discharge cases and temporary estimates applications pending foundation of Annex VII Tribunals. Expecting ITLOS keeps on adopting a wide strategy to the subject of by all appearances"jurisdiction", its docket may keep on developing. In any case, as Annex VII and different courts give more direction as to their very own purview, the capacity of ITLOS to discover by all appearances ward to arrange temporary measures, the execution of which it would regulate, will without doubt decay. ITLOS may yet turn into the trinket its faultfinders at first blamed it for being. Moreover, given the challenges presented by procedural fracture it is improbable that numerous cases will be heard on the benefits. The substance of the law of the ocean will in this manner keep on involving discussion and vulnerability subject to the notions of intensity of governmental issues and clashing state practice.