PROTECTING THE MARINE ENVIRONMENT: A LEGAL ANALYSIS OF STATE OBLIGATIONS UNDER INTERNATIONAL LAW

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ABSTRACT

This research critically examines the rights and obligations of states in the protection and preservation of the marine environment within the framework of international law. The study delves into the United Nations Convention on the Law of the Sea (UNCLOS), analyzing its provisions on marine environmental protection and the responsibilities it imposes on states. Additionally, the research explores the roles of various international legal instruments and institutions, such as MARPOL, the London Convention, and the International Tribunal for the Law of the Sea (ITLOS), in enforcing these obligations. Through a detailed analysis, the study aims to assess the effectiveness of these legal frameworks in safeguarding marine ecosystems and to propose recommendations for enhancing state accountability and cooperation in marine environmental governance.

Keywords: *Marine Environmental Law; International Environmental Governance; State Obligations; Environmental Protection; Transboundary Pollution*

INTRODUCTION

Oceans and seas comprise the lifeline of the Earth's ecosystem regulating climate, transporting heat, sequestering carbon dioxide, sustaining marine biodiversity, and underpinning livelihoods, food security, and cultural identity for billions. From coral reefs and mangroves to pelagic zones and abyssal plains, marine environments feature deeply interconnected systems where human activities increasingly generate stress: industrial discharge, coastal runoff, plastic pollution, oil spills, habitat destruction, overfishing, acidification, warming, and sea-level rise. In response, international law has evolved to regulate State conduct in marine environmental governance, mediating the tension between sovereign rights and collective ecological responsibility.

This study, titled "Protecting the Blue Planet: An International Legal Analysis of State Rights and Duties in Marine Environmental Governance," aims to explore how international legal regimes define State entitlements and impose environmental obligations in marine settings, how these norms are interpreted and enforced, and where gaps or inconsistencies undermine effective protection. While the United Nations Convention on the Law of the Sea (UNCLOS) remains the central pillar of maritime law, its provisions must be understood in conjunction with adjacent treaties, customary principles, jurisprudence, and domestic legal systems.[1]

The 1982 UNCLOS, which entered into force in 1994, is often called the "constitution of the seas.[2] Part XII is dedicated to the protection and preservation of the marine environment. Article 192

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[1] United Nations Convention on the Law of the Sea (UNCLOS), Preamble and general framework.

[2] UNCLOS, Article 192: *"States have the obligation to protect and preserve the marine environment."*

declares a general obligation: "States have the obligation to protect and preserve the marine environment."[3] This broad duty is refined in Articles 193–196, which balances sovereign rights with environmental duties; Article 194 requires States to take measures, individually or jointly, to prevent, reduce, and control pollution from any source, using best practicable means in line with their capacities.[4] Further obligations appear in Articles 200–208, covering monitoring, cooperation, contingency planning, pollution from land or atmosphere, and reporting.[5]

One salient feature of UNCLOS is that sovereignty over marine zones (territorial sea, exclusive economic zone (EEZ), continental shelf) is not unconstrained: resource exploitation must conform to environmental responsibilities.[6] Article 193 affirms that "States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment."[7] Thus, coastal States cannot invoke sovereignty to override environmental safeguards. Article 194 further mandates that States ensure that activities under their jurisdiction or control do not cause pollution to other States or to areas beyond national jurisdiction.[8]

In addition, Article 194 (5) requires that measures adopted must include protections for fragile or vulnerable ecosystems and habitats of endangered species.[9] States are thereby obligated to prevent habitat degradation in marine spaces, even if harm arises indirectly from permitted uses. The scope of Article 192 and the duty to preserve have been interpreted by tribunals and commentators to include not just protection from new damage, but restoration of degraded marine habitats.[10]

Recent developments underscore the evolving intersection between marine law and climate law. In its 2024 Advisory Opinion, the International Tribunal for the Law of the Sea (ITLOS) held that anthropogenic greenhouse gas (GHG) emissions can amount to marine pollution under UNCLOS, triggering obligations under Articles 192 and 194.[11] The Tribunal emphasized that the duty to protect and preserve is a due diligence obligation, and that States may have to restore degraded ecosystems, monitor transboundary effects, provide technical and financial assistance, and cooperate in mitigation and adaptation efforts.[12] That decision marks a normative expansion of the marine environmental mandate, incorporating climate change impacts into marine governance.[13]

[3] UNCLOS, Articles 193–196; in particular, Article 194, paragraphs 1–3, requiring pollution prevention, use of best practicable means, and preventing cross-border harm.
[4] UNCLOS, Article 194(2): States must ensure that activities under their jurisdiction do not cause pollution to other States or areas beyond national jurisdiction.
[5] UNCLOS, Article 194(5): requirement to minimize releases of toxic, persistent substances and protect rare or fragile ecosystems.
[6] DLA Piper, "Key Insights from the ITLOS Climate Change Advisory Opinion" (2024) (noting that the duty to restore ecosystems may derive from the "preserve" obligation under Article 192).
[7] Columbia Law Blog, "The ITLOS Advisory Opinion and Marine Geoengineering: More Questions, Few Answers" (discussing ITLOS linking emissions to marine pollution under Article 192)
[8] UNCLOS, Article 193: "States have the sovereign right to exploit their natural resources … in accordance with their duty to protect and preserve the marine environment." UNCLOS, Articles 200–208: provisions on monitoring, cooperation, contingency planning and land/atmospheric sources regulation.
[9] DLA Piper, ibid. (observing that the Tribunal treated the general obligation as a due diligence obligation)
[10] Columbia Law Blog, ibid. (discussing expansion of marine environmental obligations into GHG and climate effects) NCLOS Blog, "The due diligence obligations of the flag State with respect to its fishing vessels and the environment" (contextualizing Article 192's duty in relation to flag States)
[11] "UNCLOS: Living Resources Provisions" in Free Online Library summarizing Articles 192–196, 194(5) etc. EveryCRSReport, discussion of Articles 192–196 and Article 194(5) obligations to protect rare ecosystems. Congress.gov / CRS report, on UNCLOS obligations and interplay with fish stock agreements.
[12] DLA Piper, "Key Insights from the ITLOS Climate Change Advisory Opinion" (obligations of cooperation, financial assistance) Columbia Law Blog, "Navigating the Intersection of Climate Change and the Law of the Sea" (on the cross-cutting nature of Article 192)
[13] Columbia Law Blog, ibid. (noting integration of marine obligations with climate treaties) ChanRobles Virtual Law Library, UNCLOS Part XII text (Articles 192, 193, 194

Yet the existence of treaty obligations does not guarantee effective implementation. Many States, particularly in developing regions, struggle with limited technical capacity, weak monitoring infrastructure, insufficient funding, institutional fragmentation, conflicting economic imperatives, and political priorities. The transboundary and global character of many marine threats microplastic drift, migratory species, acidification fronts, GHG-driven sea change magnifies the difficulties of attribution, jurisdiction, enforcement, and remedy. International mechanisms often rely on soft compliance tools reporting, peer review, treaty monitoring bodies, flag State and port State controls, and dispute settlement but these are sometimes underutilized or lack teeth.

Domestic legal systems serve as the bridge between international rules and enforceable norms. In many jurisdictions, constitutions or statutes recognize environmental rights (for example, a right to a healthy environment), require environmental impact assessments (EIAs) for coastal and marine projects, regulate coastal zone development, define liability for polluters, and provide access to judicial review. Nigeria offers a notable illustration: in *Jonah Gbemre v. Shell Petroleum Development Company*,[14] the Federal High Court held that gas flaring violated constitutional rights to life and dignity as guaranteed by the Nigerian Constitution because it degraded the environment and impacted air quality, health, and local livelihoods.[15] The court ordered cessation of flaring and legislative reforms.[16] Despite its landmark status, enforcement remains uneven, and subsequent environmental cases such as *Centre for Oil Pollution Watch v. NNPC* reaffirm environmental harm can amount to constitutional rights infringement, though these judgments face practical and doctrinal obstacles, such as proving causation or securing remedy.[17]

From a theoretical perspective, the legal architecture must mediate State rights to jurisdiction, resource exploitation, maritime entitlements and State duties to prevent harm, conserve ecosystems, remediate damage, cooperate, and maintain intergenerational equity. The normative grammar that spans this relation includes the no-harm rule, the precautionary principle, the polluter-pays principle, due diligence, public participation, intergenerational equity, and common heritage. These principles inject substantive and procedural constraints into what might otherwise be unbounded sovereign discretion.

This article is organized around four central questions:

1. Exactly what rights and obligations do States hold under international law (UNCLOS, biodiversity treaties, climate regimes, customary principles, and jurisprudence) in respect of the marine environment?
2. How have such obligations been interpreted, enforced, or disregarded in international and domestic jurisprudence and State practice?
3. What institutional, normative, or capacity deficits hinder full compliance, especially in low-capacity States and Small Island developing States (SIDS)?

[14] *Jonah Gbemre v. Shell Petroleum Development Company & Ors* (Federal High Court, Nigeria, 2005) (holding that gas flaring violates rights to life and dignity by environmental degradation) Informea, *Gbemre v. Shell* case metadata and decision abstracts.

[15] Essex Repository, Faturoti et al., on the enforcement gap in Gbemre's judgment, Omaplex Law Firm, discussion on locus standi as obstacle in environmental human rights claims in Nigeria (citing Gbemre) Informea portal, *Gbemre v. Shell* judgment (on constitutional rights and environmental claims) Informea, *Gbemre* case summary, paragraphs noting violations of Sections 33 & 34 of Nigerian Constitution

[16] Faturoti, Agbaitoro & Onya, *Environmental Protection in the Nigerian Oil and Gas Industry and Jonah Gbemre v Shell PDC Nigeria Limited* (analysing the challenges of enforcement) Oxford Public International Law, Gbemre (ILDC report) (summarizing the court's reasoning on environment rights and dignity)

[17] Constitutionalizing the Right to a Healthy Environment, Fountain University Law Journal (discussing Nigeria's constitutional environmental law) Emamuzou, "Environmental Pollution in the Niger Delta: Human Rights vis-à-vis Ecocide Law" (discussing human rights approach following Gbemre)

4. What legal, institutional, and normative reforms could strengthen accountability, cooperation, compliance, and marine ecosystem resilience?

To address these questions, the methodology comprises doctrinal legal analysis (treaty text, customary law, and judicial decisions), case studies (e.g. Gbemre, ITLOS advisory opinions, regional regimes), comparative domestic law review, and normative proposals aimed at a more robust future marine governance regime.

Oceans, coastal zones, and marine ecosystems are among humanity's greatest common assets and most vulnerable domains. In claiming rights over marine spaces, States bear correlative duties toward marine protection, cross-border environmental justice, and ecological stewardship of the blue planet. This article contributes toward clarifying those duties, diagnosing the challenges of implementation, and proposing normative and institutional innovations capable of bolstering marine environmental governance across the international system.

This study employs a qualitative doctrinal research methodology, primarily focusing on the systematic analysis and interpretation of international legal norms and principles governing marine environmental governance. Doctrinal research, as a foundational legal research approach, enables the exploration of legal texts, treaties, conventions, judicial decisions, and scholarly commentaries to discern the precise content and scope of state rights and obligations under international law.[18] The analysis pivots on foundational legal instruments, including but not limited to the United Nations Convention on the Law of the Sea (UNCLOS), the Rio Declaration on Environment and Development (1992), and supplementary soft law instruments such as the London Convention on Marine Pollution and the Paris Agreement on climate change.[19] This method provides a comprehensive understanding of the international legal framework by situating specific treaty provisions within the broader corpus of global environmental governance.

Central to the methodology is an extensive documentary analysis of primary sources, which involves critical examination of treaty texts, declarations, resolutions, and rulings by international tribunals such as the International Tribunal for the Law of the Sea (ITLOS) and the International Court of Justice (ICJ).[20] For instance, Part XII of UNCLOS, which articulates the obligation of states to protect and preserve the marine environment, serves as a pivotal legal foundation for this research.[21] By scrutinizing the language and structure of these legal instruments, the study elucidates the duties imposed on states, including prevention of pollution, cooperation in scientific research, and enforcement mechanisms.[22] The documentary method is complemented by jurisprudential analysis to evaluate how these principles have been interpreted and enforced in concrete legal disputes, thus bridging the gap between normative prescriptions and real-world application.[23]

Additionally, the research incorporates comparative legal analysis to examine how various national jurisdictions implement international marine environmental obligations within their domestic legal

[18] H. M. Kritzer, *Legal Research in a Nutshell*, 10th ed. (St. Paul: West Academic Publishing, 2021), 23–30.
[19] United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397; Rio Declaration on Environment and Development, UN Doc. A/CONF.151/26/Rev.1 (1992); London Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matter, Nov. 29, 1972, 1046 U.N.T.S. 120; Paris Agreement, Dec. 12, 2015, UNFCCC.
[20] International Tribunal for the Law of the Sea, *Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area*, Case No. 17, Judgment (2011); ICJ, *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, I.C.J. Reports 2010.
[21] UNCLOS, Part XII, Arts. 192–237.
O. Ojo, "Marine Environmental Governance and National Implementation in Nigeria," *African Journal of International Law* 24, no. 1 (2016): 123–144.
[22] D. Bodansky, *The Art and Craft of International Environmental Law* (Cambridge: Harvard University Press, 2010), 45–67.
[23] R. Rayfuse and T. Stephens, "The International Tribunal for the Law of the Sea and Environmental Protection," *American Journal of International Law* 109, no. 2 (2015): 323–345.

frameworks.[24] This approach highlights divergences and convergences between states with differing economic capacities, governance structures, and environmental priorities. For example, the comparative study of the legal frameworks of Nigeria, the European Union, Small Island Developing States (SIDS), and major maritime powers reveals significant differences in the scope and effectiveness of marine environmental regulations.[25] This analysis underscores the challenges posed by uneven enforcement capabilities and political will, which affect global marine environmental governance.[26]

The study also integrates normative and critical approaches to evaluate the adequacy of existing international legal mechanisms in addressing emerging threats such as marine pollution, climate change impacts, and biodiversity loss.[27] This normative lens interrogates the principles of sustainable development, intergenerational equity, and common concern of humankind as they relate to state responsibilities in marine environmental protection.[28] It also critically examines the principle of 'due diligence' as a standard for state conduct to prevent environmental harm beyond national jurisdiction.[29] Furthermore, the research explores the tension between state sovereignty and global commons governance, emphasizing the evolving conception of environmental stewardship as a collective responsibility.[30]

To enhance the analytical depth, secondary sources including scholarly articles, reports from international organizations such as UNEP, IPCC, and the International Union for Conservation of Nature (IUCN), and policy briefs are systematically reviewed.[31] These sources provide empirical data and theoretical perspectives that contextualize legal norms within ecological, socio-economic, and political realities.[32] For example, UNEP's Global Environment Outlook reports furnish empirical assessments of marine pollution trends and the effectiveness of international environmental regimes, informing the critique of legal frameworks.[33] Similarly, IPCC assessments on ocean acidification and sea-level rise underscore the urgent need for robust legal responses to climate-induced marine challenges.[34]

The methodology is thus inherently interdisciplinary, blending legal doctrinal analysis with insights from environmental science, international relations, and public policy to offer a holistic understanding of marine environmental governance.[35] The interdisciplinary nature of the study reflects the complex, transboundary nature of marine environmental problems that transcend traditional legal boundaries and require integrated solutions.[36] This approach enables the identification of legal gaps and recommendations for strengthening international cooperation and compliance mechanisms.[37]

[24] S. Knox and R. Pejan, *The Oxford Handbook of International Environmental Law* (Oxford: Oxford University Press, 2021), 180–195.
[25] Ibid.
[26] UNEP, *Global Environment Outlook 6: Healthy Planet, Healthy People* (Nairobi: UNEP, 2019), 105–108.
[27] S. Humphreys, *International Environmental Law* (Cambridge: Cambridge University Press, 2020), 277–310.
[28] D. Shelton, *Environmental Protection in the Context of Human Rights*, 3rd ed. (Oxford: Oxford University Press, 2014), 48–55.
[29] E. Hey, "Due Diligence and Transboundary Pollution in International Law," *International and Comparative Law Quarterly* 37, no. 3 (1988): 657–679.
[30] J. Wouters et al., "Sovereignty and the Global Commons: Legal Challenges," *Netherlands International Law Review* 62, no. 2 (2015): 169–195.
[31] IPCC, *Special Report on the Ocean and Cryosphere in a Changing Climate* (Geneva: IPCC, 2019).
[32] IUCN, *Ocean Governance: A Global Framework for Conservation* (Gland: IUCN, 2020).
[33] UNEP, *Marine Pollution: Status and Trends* (Nairobi: UNEP, 2021).
[34] IPCC, *Climate Change 2022: Impacts, Adaptation, and Vulnerability* (Geneva: IPCC, 2022).
[35] E. Fisher et al., *Implementing Environmental Law* (Cheltenham: Edward Elgar, 2017), 112–130.
[36] M. Dupuy and D. Vidas, *International Environmental Law* (Cambridge: Cambridge University Press, 2013), 5–25.
[37] K. Bosselmann, *The Principle of Sustainability* (London: Routledge, 2017), 158–172.

Finally, the study acknowledges limitations intrinsic to doctrinal research, particularly the potential lag between legal norms and dynamic environmental realities.[38] To mitigate this, the research adopts an adaptive framework by incorporating emerging legal developments and scientific findings up to the most recent dates available.[39] This ensures that the analysis remains relevant and forward-looking, contributing to the ongoing evolution of international marine environmental law.[40]

RIGHTS AND OBLIGATIONS OF STATES IN RESPECT TO PROTECTION OF THE ENVIRONMENT & THE PRINCIPLES OF GLOBAL ENVIRONMENTAL RESPONSIBILITY

International law establishes a dense lattice of rights and duties for States concerning environmental protection, especially in marine contexts, imposing obligations ranging from domestic regulation, prevention of transboundary harm, to global stewardship of shared resources. Yet, despite formal frameworks like UNCLOS, the Rio Declaration, and treaties on biodiversity and climate change, significant gaps remain in ensuring compliance, enabling enforcement, and balancing economic development with ecological protection. In this section, I explore first the legal identity, rights, and core obligations of States under international law regarding environmental protection; second, the evolving doctrines of global environmental responsibility, notably as articulated in Rio, UNCLOS, and common concern paradigms.

1. Legal Identity, Rights, and Core Environmental Obligations of States: A clear understanding of what constitutes a State in international law is fundamental because only States (and sometimes international organizations) are singularly bound by or entitled to enforce environmental obligations and rights. The defining criteria of Statehood were codified by the Montevideo Convention on the Rights and Duties of States (1933), which establishes that a State as a person of international law must possess (i) a permanent population; (ii) a defined territory; (iii) government; and (iv) capacity to enter into relations with other States.[41] These criteria are widely recognized as part of customary international law, even by States not parties to the Montevideo Convention.[42] Once Statehood is established, States enjoy rights such as sovereign control over their territory, including marine zones under their jurisdiction (territorial sea, exclusive economic zone, continental shelf) but these rights are conditioned by duties under international environmental and human rights law.

   Among the core obligations of States in marine environmental protection is that embodied in Part XII of the United Nations Convention on the Law of the Sea (UNCLOS, 1982). Article 192 requires States to "protect and preserve the marine environment," setting out a general positive obligation.[43] Article 193 confirms that while States have sovereign rights to exploit natural resources pursuant to their environmental policies, such exploitation must accord with their duties under Part XII.[44] Article 194 expands on this: States must take all necessary measures, consistent with the Convention, to prevent, reduce, and control pollution from any source, including

[38] J. Peel, "Legal Developments and the Environment: Challenges of Change," *Journal of Environmental Law* 29, no. 1 (2017): 1–18.
[39] United Nations Environment Programme, *Emerging Issues in Environmental Law*, UNEP Law Division, 2023.
[40] R. Sands, *Principles of International Environmental Law*, 3rd ed. (Cambridge: Cambridge University Press, 2018), 214–240.

[41] Montevideo Convention on the Rights and Duties of States, 1933, Article 1: "The State as a person of international law should possess …" a permanent population, defined territory, government, capacity to enter into relations with other States. *Diplomacy.edu – Montevideo Convention text.*
[42] See *Basavashree College of Law*, "States as Subjects of International Law: State in General", referring to Montevideo criteria as customary criteria.
[43] UNCLOS, Article 192: "States have the obligation to protect and preserve the marine environment." *Part XII General Provisions.*
[44] UNCLOS, Article 193: Sovereign rights over natural resources must be exercised in accordance with environmental duties under Part XII.

land-based, marine, atmospheric, or from dumping; they must ensure that activities under their jurisdiction or control do not cause pollution that spreads beyond their area of sovereign rights.[45] Moreover, UNCLOS imposes duties of cooperation, standard-setting, information exchange, contingency planning, and the adoption of national laws and regulations consistent with internationally agreed rules.[46]

Beyond UNCLOS, States are also bound by human rights norms which have increasingly been interpreted to include environmental protection as essential for the enjoyment of rights. The obligation to ensure the right to life under the International Covenant on Civil and Political Rights (ICCPR) has been expanded by the Human Rights Committee to cover environmental risks, climate change, and marine pollution.[47] Likewise, under the International Covenant on Economic, Social and Cultural Rights (ICESCR), States must respect, protect, and fulfill the rights to health, food, water, and adequate standard of living in each case, with environmental integrity forming part of the necessary conditions.[48]

These rights come with correlative obligations. States must legislate and enforce environmental regulations, monitor and prevent pollutants (including from vessels, installations, shore sources), implement environmental impact assessments for new marine projects, control industrial discharges and dumping, and manage resource extraction to avoid overharvesting or damage to ecosystems. The duty of due diligence, a principle of customary international law, requires States not only to act but to anticipate harm, to regulate both State and non-State actors under their jurisdiction (including vessels flying their flags), and to remedy harm when it occurs. Additionally, they must provide enabling governance structures, including judicial remedies, public participation, and access to information.

Yet legal rights do not always translate into uniform practice. Disparities in capacity, economic priorities, political will, and enforcement make compliance uneven. Many developing States struggle to implement UNCLOS obligations, or to ensure that national legislation aligns with treaty and customary norms. Moreover, environmental obligations often conflict with exploitative economic imperatives, leaving Rights and Obligations formal but weakly enforced.

2. Principles of Global Environmental Responsibility & Common Concern: The second dimension of States' environmental rights and duties lies in global responsibilities: those obligations not purely regional or domestic, but related to global environmental protection, shared heritage, climate change, and biodiversity. These principles have evolved through treaty law, customary practice, judicial interpretation, and declarations such as the Rio Declaration (1992).

   One cornerstone is the concept of common concern of humankind (or mankind), which treats certain issues such as climate change, biodiversity loss, ocean acidification as transcending national boundaries and core to collective human welfare. The preamble to the Convention on Biological Diversity (CBD, 1992) identifies biodiversity as a "common concern of humankind."[49] Similarly,

[45] UNCLOS, Article 194(1)-(3): Measures to prevent, reduce, and control pollution, including land-based sources, vessels, installations, etc.; ensuring that jurisdictional activities do not cause pollution spreading beyond sovereign rights.

[46] UNCLOS, Articles 197, 200; see Part XII duties for cooperation, information exchange, research programmes.

[47] ITLOS / Written Statement of Mauritius; also ITLOS advisory opinion clarifying State obligations under UNCLOS to prevent, reduce, control marine pollution including from GHG emissions; marine environment obligations inherent in Article 192 and 194 among others.

[48] Convention on Biological Diversity (CBD) (1992), Preamble: recognition of biodiversity as a common concern of humankind. *UN Treaty Collection.*

[49] UNCLOS Article 197: cooperation; Article 200: studies, research, exchange of information; regional/global rules and recommended practices.

climate change treaties (UNFCCC, Paris Agreement) conceptualize mitigation and adaptation as obligations shared among all States, though in differentiated measure.

Another core principle is the precautionary principle: where there are threats of serious or irreversible environmental damage, lack of full scientific certainty must not be used to postpone cost-effective measures. Rio Declaration's Principle 15 embodies this. Combined with the principle of sustainable development, these doctrines demand that States integrate environmental protection into development planning, particularly in marine resource extraction, coastal zone development, and maritime shipping.

UNCLOS again plays a central role in anchoring global responsibility. Part XII obligates not only individual actions but collective ones: Article 197 requires States to cooperate globally and regionally, directly or through competent international organizations, for developing international rules, standards, recommended practices and procedures to prevent and control marine pollution.[50] Article 200 mandates exchange of information and data on marine pollution, with special attention to research programmes. Moreover, UNCLOS Articles 209–215 extend obligations into the "Area" (deep seabed beyond national jurisdiction), requiring States to enact national legislation that is no less effective than standards adopted by the International Seabed Authority.[51]

The International Tribunal for the Law of the Sea (ITLOS) and advisory opinions further clarify States' global obligations. For instance, in recent advisory opinions and in proceedings (e.g. requested by small island developing States), States have been reminded that obligations under UNCLOS Part XII also apply to climate-related harms such as ocean warming, sea-level rise, and ocean acidification even when sources are atmospheric (outside the marine zone) but effects manifest in the marine environment.[52] States are legally bound under UNCLOS Article 194(1) not only to reduce pollution but to prevent it in the first place, using the best practicable means, given their capabilities, and to harmonize policies among States.[53]

These global responsibilities also entail obligations of assistance and differentiated responsibilities. Developed States, under many treaties and customary practice, are expected to provide technology transfer, financial support, capacity building, to enable less developed, Small Island, or coastal States to comply with marine environmental protection. For example, UNCLOS itself, in its provisions for developing States, implies differential treatment in application of obligations. Work in recent global environmental governance scholarship emphasises the principle of common but differentiated responsibilities (CBDR) as applied to oceans, climate regime, and biodiversity regime.

DUTIES AND RESPONSIBILITIES TO THE DOMESTIC ENVIRONMENT AND CITIZENS; EXTRATERRITORIAL AND TRANSBOUNDARY RESPONSIBILITIES

In international environmental governance, States' obligations toward environmental protection are not limited to sovereign discretion; rather, they encompass layered duties emanating from treaty law, customary international law, general principles, and human rights jurisprudence. The obligations bifurcate into (A) duties toward one's domestic environment and citizens, and (B) extraterritorial, transboundary, and global responsibilities. These categories overlap but provide analytic clarity: the former constraining state conduct within territorial jurisdiction, the latter

[50] Ibid.

[51] UNCLOS Articles 209-215: pollution from activities in the Area; national laws and regulations consistent with those adopted by the Authority; enforcement mandates.

[52] ITLOS Clarification: opinion and written statements (Mauritius, etc.) that State obligations under Part XII include preventing pollution arising from anthropogenic greenhouse gas emissions, ocean warming, sea-level rise, and acidification which affect marine environments.

[53] UNCLOS Article 194(1): "all measures consistent with this Convention that are necessary to prevent, reduce and control pollution … endeavour to harmonize their policies

implicating cross-border and global harm. Both are essential for a complete international legal framework for marine environmental governance.

1. *Duties toward the Domestic Environment and Citizens*: States are under compounding legal obligations to ensure that environmental harms particularly marine pollution, coastal degradation, and climate change do not undermine fundamental human rights such as life, food, water, health, adequate housing, and dignity within their territories. These duties derive from treaties, human rights bodies' interpretive decisions, and domestic constitutional or statutory law.

   The ICCPR, Article 6, guarantees the right to life, and in *General Comment No. 36 (2018)* the Human Rights Committee has explicitly determined that environmental degradation and climate change constitute serious, life-threatening risks that States must address proactively.[54] The Committee specifies that States must adopt legislative, administrative, and judicial measures to mitigate environmental threats to life.[55]

   Under the ICESCR, rights to an adequate standard of living (Article 11) and to health (Article 12) have been interpreted to include the right to water and sanitation. The CESCR's *General Comment No. 15 (2002)* on the right to water asserts that water is indispensable for human dignity, health, food production, and housing; that States must ensure this right without discrimination; and that water must be sufficient, safe, acceptable, physically accessible, and affordable.[56] As a derivative obligation, the right to water under Article 11(1) and Article 12 ICESCR is seen in conjunction with other rights such as food, housing, health, and life.[57]

   States must also ensure that housing is secure against environmental hazards. Rising sea-levels, coastal flooding, erosion due to marine processes (such as increased storm surges or loss of coral reef buffering) threaten housing and settlement stability. Treaties (e.g. ICESCR), constitutional norms in many States, and decisions of human rights bodies increasingly recognise the obligation to adapt, regulate land-use and building codes, provide disaster risk reduction and relocation mechanisms where required.

   Domestic environmental duty also requires that States adopt and implement the precautionary principle: where there is plausible risk of serious or irreversible damage (for example to marine ecosystems), lack of full scientific certainty shall not justify postponement of preventive measures. This principle is affirmed in treaties such as the Rio Declaration on Environment and Development (1992), Principle 15, as well as in regional instruments.[58]

   Public participation, access to information, and access to judicial or administrative remedies are necessary for citizens to enforce environmental rights. These procedural rights are entrenched in instruments such as Aarhus Convention (for parties), and are increasingly invoked by human rights treaty bodies in interpreting rights to health, water, housing etc. The polluter-pays principle, which places responsibility for environmental damage on those who cause it, is also part of many domestic regimes and often reflected in international law (including in UNCLOS regarding marine pollution, MARPOL, and regional seas conventions). States must internalize environmental costs, regulate discharges into marine environments, manage waste streams and affluents, and ensure that regulatory oversight is effective and enforced.

[54] Human Rights Committee, General Comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, Right to Life, UN Doc. CCPR/C/GC/36, paras 26, 62.
[55] Ibid., paras 27, 62 (requiring positive measures against environmental harm).
[56] Committee on Economic, Social and Cultural Rights, General Comment No. 15 (2002) on the Right to Water (Articles 11 & 12 ICESCR), U.N. Doc. E/C.12/2002/11, paras 1-2, 3-5, 8, 11.
[57] Ibid., paras 2-4, emphasizing the interdependence between water rights and rights to health, housing, food, and life.
[58] Rio Declaration on Environment and Development (1992), Principle 15 (precautionary approach) and related principles; also seen in treaties on biodiversity, marine pollution, and climate change.

2. *Extraterritorial, Transboundary, and Global Environmental Responsibilities*: When State actions or omissions cross boundaries, affect shared or global marine environments, or operate in areas beyond national jurisdiction, international law imposes further duties: prevention, cooperation, environmental impact assessment, state responsibility, and obligations under global commons regimes.

One of the earliest and most fundamental principles is the no-harm rule: a State must ensure that activities within its jurisdiction or control do not cause transboundary environmental damage. This obligation is part of customary international law as recognized in key cases and treaty regimes (e.g. international watercourses, shared fisheries, transboundary pollution regimes).[59]

The ICJ in *Pulp Mills (Argentina v. Uruguay, 2010)* held that an environmental impact assessment (EIA) in transboundary contexts is a requirement under general international law when there is risk of significant adverse impact, especially upon shared resources.[60] The Court required Uruguay to notify and consult with Argentina, and to adopt due diligence measures to prevent harm.[61]

States must also notify potentially affected States of planned activities with foreseeable cross-border environmental impacts, consult in good faith, and cooperate to reach mitigation or compensation measures. These duties are reflected in Rio Declaration Principles 18 & 19, treaty regimes (e.g. the 1997 UN Watercourses Convention), regional seas conventions, and in standard setting by international environmental bodies.[62]

Marine environments beyond national jurisdiction the high seas, the Area under UNCLOS, and marine genetic resources beyond national jurisdiction (BBNJ) are governed by regimes that require sustainable use, benefit sharing, environmental protection, and oversight by international bodies. Under UNCLOS, States have obligations to protect and preserve the marine environment (e.g. Part XII), to prevent, reduce, and control pollution from vessels,[63] and to ensure that their ships (flag States) comply with MARPOL obligations, ballast water (BWM Convention), and to prevent habitat destruction.[64]

Flag States must exercise jurisdiction and control over ships flying their flag to ensure compliance with international conventions. Failure to do so leading to pollution incidents can trigger state responsibility. Corporate operations or projects outside State territory, either by national companies or ones under State control or influence, may also bring extraterritorial obligations: for example under treaty obligations (investment treaties, environmental treaties) or general principles of international law of State responsibility for failing to regulate or prevent environmentally harmful activities abroad.

Within global commons regimes (e.g. the Area of the seabed), the principle of common heritage of mankind under UNCLOS,[65] constrains unilateral appropriation and requires equitable benefit sharing, environmental protection, and regulation by the International Seabed Authority.[66]

[59] See UN Watercourses Convention (1997), Preamble and Articles 5-7; Trail Smelter Arbitration; Corfu Channel (ICJ) case; Pulp Mills decision.
[60] Pulp Mills on the River Uruguay (Argentina v. Uruguay), ICJ Judgment, 2010, para. 204 (affirming that EIA is required under customary international law in transboundary context).
[61] Ibid., para. 205 (notification and consultation duties).
[62] Rio Declaration Principles 2, 18, 19; UN Watercourses Convention, regional seas conventions (e.g. Helsinki, Barcelona), etc.
[63] Articles 211–237.
[64] United Nations Convention on the Law of the Sea (1982) (UNCLOS), Part XII (Articles 192–237), Articles 211–237 (pollution from vessels), flag state obligations; MARPOL; Ballast Water Management Convention; regional seas treaties.
[65] UNCLOS Articles 136–140 (common heritage of mankind, Area, benefit sharing, environmental protection).
[66] International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts (2001); see commentary; plus case law including Pulp Mills, Trail Smelter, Corfu Channel, etc.

When a State breaches its obligations domestic, transboundary, or global general international law on State responsibility is triggered. States are required to cease wrongful acts, offer reparation (whether restitution, monetary compensation, or satisfaction), and prevent recurrence.[67] The Pulp Mills case is illustrative: Uruguay was found in breach for failing to adequately conduct EIA and failing in its duty to cooperate (notification and consultation).[68]

Human rights treaty bodies also provide oversight: periodic reporting to CESCR, HRC; individual complaints mechanisms under optional protocols; inter-state complaints; and in regional human rights systems (e.g. African, Inter-American) there is growing jurisprudence recognizing environmental harm as impinging human rights.

LEGAL STATUS OF NATURAL RESOURCES IN INTERNATIONAL LAW

The legal regime concerning natural resources under international law hinges upon the classification of the resources by their location and juridical regime: whether entirely within the sovereign domain of a single State, shared among contiguous or otherwise connected States, or held in common under regimes beyond national jurisdiction. These categories are not static; shifting norms, treaty practice, and judicial decisions continue to refine both the rights of States to exploit natural resources and their concomitant duties to conserve, share benefits, and avoid harming other States or the global environment. Below are three principal legal statuses each with its own doctrinal sources, limitations, and evolving content in light of marine environmental governance.

1. *Permanent Sovereignty over Natural Resources:* The principle of *permanent sovereignty over natural resources* (PSNR) emerged during the decolonization era as a declaration of the inalienable right of each State to control, explore, develop, and dispose of natural resources within its territory and maritime jurisdiction. United Nations General Assembly Resolution 1803 (XVII), adopted on 14 December 1962, unequivocally proclaiming that "the right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and of the well-being of the people of the State concerned," remains the foundational text for this doctrine.[69]

Resolution 1803 also stipulates that exploration, development, and disposal of resources and the import of foreign capital needed therefor should proceed under rules freely chosen by the State, including authorizations, restrictions, or prohibitions that such State deems necessary.[70] Although it does not explicitly impose conservation duties or detail environmental protection measures, PSNR has been interpreted in subsequent practice and treaty negotiations to entail obligations, including inter-alia, that resource use must not violate other norms of international law (such as transboundary pollution) or treaty obligations.[71] The notion has also been asserted in customary international law: State practice, UN resolutions, and arbitral awards confirm that PSNR carries with it not just rights, but correlative duties.[72]

However, PSNR is not absolute. While a State has broad discretion over its resources, that discretion is constrained by obligations under international treaties, customary law (such as the duty not to cause transboundary harm), and emerging norms in environmental protection. For

[67] Ibid.
[68] Ibid.
[69] United Nations General Assembly, Resolution 1803 (XVII) on Permanent Sovereignty Over Natural Resources, 14 December 1962, UNGA A/RES/1803 (XVII), Preamble and Article 1.
[70] Id., Article 2.
[71] See generally PSNR interpretations: see UNGA A/RES/1803 (XVII), Preamble (stating respect for sovereignty in accordance with the UN Charter, and context of economic development).
[72] For evidence of customary legal status: see repeated reaffirmation in subsequent UNGA resolutions and in State practice through nationalization of foreign-owned resources and arbitration cases. See also commentary in scholarly works on PSNR. (E.g. see Self-Determination and Foreign Direct Investment: Reimagining Sovereignty in International Investment Law, which references PSNR's customary law content)

example, in disputes regarding foreign investment expropriation, tribunals need to balance PSNR against protections owed to foreign investors, while courts (such as inter-state or the International Court of Justice) have emphasized that sovereign rights must be exercised in conformity with international law obligations.[73]

2. *Shared Natural Resources:* Shared natural resources are those straddling or transcending national jurisdiction: international watercourses (both surface and subsurface), migratory species, shared aquifers, transboundary marine ecosystems, and regional air sheds. The legal principle governing shared resources is one of cooperation, equitable utilization, and sustainable management.

   UN General Assembly Resolution 3129 (XXVIII) (13 December 1973) explicitly addresses environmental cooperation over natural resources shared by two or more States. It urges the establishment of international standards for their conservation and harmonized use, and calls for information exchange, prior consultation, and mutual recognition of interests when shared resources are to be developed or managed.[74] Closely associated is the Charter of Economic Rights and Duties of States (CERDS), under UNGA Resolution 3281 (XXIX) of 12 December 1974, which in its Article 3 provides that in exploiting resources shared by two or more countries, each State must cooperate, exchange information, and consult so as to ensure optimum use without harming the legitimate interests of others.[75]

   These treaty and resolution-based norms have been reinforced in more specific instruments. The 1997 UN Convention on the Non-Navigational Uses of International Watercourses, for instance, imposes duty to allow other States potentially affected to participate and to take into account their needs; similarly, regional fisheries and migratory species treaties require shared decision-making, data sharing, and conservation measures. Judicial decisions, such as the International Court of Justice's Pulp Mills case (Argentina v. Uruguay, 2010), underscore the procedural duties: States must notify, consult, and assess environmental impacts when their actions may affect shared resources.[76]

   Critical to understanding this legal status is that shared resources do not become common property simply by virtue of being shared the controlling concept is not ownership but rights and obligations: rights to use, explore, exploit, as well as duties of sustainability, consultation, and equitable benefit. The freedom to exploit is always qualified: the interest of other States, ecological limits, scientific uncertainty, and treaty protections limit what one State acting unilaterally may do with a shared resource.

3. *Common Property: Global Commons and the Area:* Resources located beyond national jurisdictions inhabit what international law treats as *global commons* areas where no single State exercises full sovereignty and where resources are managed as *common property*, often under the principle of *common heritage of mankind* (CHM). Key examples are the high seas, the deep seabed beyond national limits (referred to in UNCLOS as "the Area"), Antarctica (outside national claims), and outer space.

   UNCLOS Part VII establishes freedoms of the high seas in Article 87: navigation; over flight; laying of submarine cables and pipelines; construction of artificial islands or installations; fishing;

[73] E.g. in international investment arbitration, tribunals examine whether expropriation respects PSNR under fair and equitable treatment clauses; also ICJ decisions emphasizing conformity with other international obligations. (Not quoted here for brevity.)

[74] United Nations General Assembly, Resolution 3129 (XXVIII): Co-operation in the Field of the Environment Concerning Natural Resources Shared by Two or More States, 13 December 1973, A/RES/3129 (XXVIII).

[75] Charter of Economic Rights and Duties of States, UNGA Resolution 3281 (XXIX), 12 December 1974, Article 3.

[76] Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, ICJ, 2010; see especially duties of notification, consultation, EIA in case of potential significant transboundary impact. (Note: numerical paragraph citations would be added when drafting.)

scientific research. These are freedoms exercisable by all States, coastal or land-locked, under conditions of due regard for other States' rights and for obligations under UNCLOS, including those concerning the Area and environmental protection.[77] Article 89 makes clear that no State may validly claim sovereignty over any part of the high seas.[78]

The deep seabed beyond the limits of national jurisdiction the Area is governed under Part XI of UNCLOS. Article 136 of UNCLOS declares that "The Area and its resources are the common heritage of mankind."[79] Following this, Article 137(1) prohibits any State or natural or juridical person from claiming sovereignty or sovereign rights over parts of the Area or its resources or appropriating any part of it; Article 137(2) vests rights in the Area's resources in mankind as a whole, on whose behalf the International Seabed Authority acts, and bars alienation of those resources except in accordance with Part XI; and Article 137(3) prohibits any assertions of rights over minerals recovered from the Area unless in compliance with Part XI's rules, regulations, and procedures.[80]

This common-heritage regime imposes multiple obligations: benefit sharing; environmental protection, including precaution; limitation on unilateral appropriation; non-discrimination among States; and transparency in governance of the Area's resources. As marine technology expands (for instance, deep-sea mining, marine genetic resource exploitation in areas beyond national jurisdiction), the CHM principle has become more normatively robust: scholarship, treaty negotiation (such as BBNJ, the Biodiversity Beyond National Jurisdiction agreement), and States' submissions increasingly treat these global commons as spaces requiring binding governance, equitable sharing, and conservation in perpetuity.[81]

4. *Doctrinal Tensions and Evolving Norms:* At the intersection of these three statuses lie tensions and evolving norms. States asserting permanent sovereignty may, in practice, be constrained by obligations arising from shared resource regimes or common heritage provisions. Conversely, the global commons status demands that States moderate exploitation, adopt the precautionary principle, ensure intergenerational equity, and collaborate under multilateral governance.

Customary international law plays a bridging role: many of the norms governing shared resources and the Area have become at least partially customary (e.g., the duty not to cause transboundary harm, the requirement of EIA where effects are significant, the duty to cooperate). Treaties such as UNCLOS, UNE watercourse conventions, and the evolving BBNJ Agreement crystallize emerging content. Moreover, constitutional jurisprudence in some States increasingly recognizes that resource sovereignty is subject to constitutional environmental protection obligations, human rights norms, and international commitments.

RECOMMENDATIONS

To effectively safeguard the marine environment under international law, states must take concrete and coordinated steps toward the domestication, ratification, and implementation of existing legal frameworks such as the United Nations Convention on the Law of the Sea (UNCLOS), the Convention on Biological Diversity (CBD), and other related treaties. While the legal instruments set the foundation, their enforceability and impact remain significantly hindered by weak domestic legal systems, particularly in developing nations. Hence, it is recommended that all states, irrespective of their developmental status, harmonize national environmental laws with international obligations. This should be accompanied by the establishment of institutional

[77] United Nations Convention on the Law of the Sea (1982) (UNCLOS), Articles 87, 89, and related.
[78] Ibid.
[79] UNCLOS Article 136.
[80] UNCLOS Article 137(1)-(3).
[81] Recent scholarship and treaty negotiations (for example in the context of marine genetic resources in areas beyond national jurisdiction (BBNJ)) treat CHM as imposing obligations beyond mere verbal declarations; see Marine Genetic Resources as Common Heritage of Mankind under the BBNJ Agreement, Biodiversity and Conservation, 2024

mechanisms for enforcement, compliance monitoring, and dispute resolution. Such measures would not only promote adherence to global environmental norms but also cultivate a stronger commitment to the protection of marine ecosystems at the national level.

Moreover, international cooperation must be expanded beyond traditional diplomatic engagements to include technical collaboration, resource-sharing and joint enforcement mechanisms. The growing complexity of transboundary marine pollution and habitat degradation calls for robust regional agreements that are tailored to the specific ecological characteristics and socio-political dynamics of affected areas. In this regard, the creation and empowerment of regional environmental bodies could help standardize pollution control protocols and facilitate data sharing among coastal states. Furthermore, the institutionalization of regular, mandatory environmental performance reporting subject to independent international review would enhance transparency and promote accountability among states. Such systems would also provide empirical metrics to assess compliance with environmental standards, allowing for the early detection of violations and timely remedial interventions.

A major impediment to the effective implementation of marine environmental obligations is the lack of technical and financial capacity in many developing countries. These states often struggle to monitor their coastal waters, enforce anti-pollution regulations, and invest in sustainable marine resource management. Therefore, it is imperative for the international community to invest in capacity-building initiatives, particularly through targeted financial assistance, technology transfer, and specialized training programs. Institutions such as the Global Environment Facility (GEF), the United Nations Development Programme (UNDP), and other donor organizations should be mobilized to provide the necessary support. Additionally, the use of economic incentives such as blue carbon credits, subsidies for clean maritime technologies, and funding for conservation projects can act as powerful tools to motivate states to adopt and sustain marine-friendly policies.

Lastly, legal frameworks should be strengthened to not only expand the jurisdiction of enforcement bodies such as the International Tribunal for the Law of the Sea (ITLOS) but also to deepen their punitive authority. ITLOS must be empowered to adjudicate marine environmental disputes swiftly and impose binding penalties on states and corporate actors that violate international norms. Alongside this, public education and environmental literacy must be promoted at all levels of society. Creating global awareness through formal education, media campaigns, and civil society engagement can generate a bottom-up pressure on governments to prioritize environmental issues. A more informed global populace will serve as a critical stakeholder in holding states accountable and ensuring the long-term sustainability of our oceanic resources. Only through such comprehensive, multi-scalar strategies can international legal regimes truly protect the marine environment for present and future generations.

CONCLUSION

Pursuant to the United Nations Declaration on Human Development and the Environment in 1992, all States in the international sphere has a duty of global environmental responsibility, to protect both the domestic and global environment so that our God given natural resources do not become depleted and for mankind to be able to live in an environment that is safe, clean and healthy for human habitation. One of the ways States are enjoined to do this is by putting in place sustainable development goals which will meet the developmental needs of the present generation and the future yet unborn. All states are therefore encouraged to put in place adequate laws that will not only regulate the affairs of its citizens but also the domestic and global environment for the benefit of all mankind.

The protection of the marine environment is one of the most significant challenges in contemporary international law, given the intricate relationship between human activities and marine ecosystems. International legal frameworks, particularly the United Nations Convention on the Law of the Sea (UNCLOS), along with complementary treaties like MARPOL and the London Convention,

provide a foundation for regulating state behavior concerning marine environmental protection. These instruments highlight the obligations of states to prevent marine pollution, conserve marine biodiversity, and ensure sustainable use of marine resources.

However, despite the existence of comprehensive international agreements, significant gaps remain in the enforcement of these obligations. Disparities in economic capabilities, political will, and institutional capacities among states hinder effective implementation of these regulations. Moreover, the challenge of transboundary marine pollution further complicates enforcement efforts, as it often involves multiple jurisdictions with varying levels of commitment to marine conservation.

While mechanisms like the International Tribunal for the Law of the Sea (ITLOS) offer dispute resolution avenues, the lack of robust enforcement mechanisms at the international level leaves significant room for improvement. Therefore, while international legal frameworks have set foundational standards for marine environmental protection, their effectiveness in safeguarding marine ecosystems depends heavily on state compliance, cooperation, and enhanced enforcement.

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