THE LEGAL SYSTEM FOR THE WORK OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA IN THE SETTLEMENT OF MARITIME DISPUTES

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ABSTRACT

It is possible to say that the seas may cover an area of not less than three-quarters of the Earth's surface, and thus they may contribute to the great importance of the international community in all its uses and since ancient times as a way to exchange various types of marine activities, the most important of which is international trade, and the importance of the seas and oceans has increased in contemporary time due to The discovery of the living and non-living natural resources present in them, and thus the contemporary technological development has led to the discovery of the mineral resources present in these seas, which has led to an increase in the interest of countries in them in order to control them. Because of this strong competition between countries for control of the seas and oceans for the sake of the mineral wealth that exists in their subsoil, this has led to the emergence of conflicts among those countries, which may develop in most cases into wars between these countries in specific issues of special issues. In matters of the sea, including defining the maritime borders between countries, or because of scientific and geographical research operations, or because of fishing operations, or because of oil and gas exploration and extraction, and other activities that countries practice in the seas and oceans, which may lead to a threat to international peace and security, and thus the need has arisen to Knowing the means that can be resorted to in order to resolve these disputes in a peaceful and just manner for all countries.

And this is why the International Tribunal for the Law of the Sea is so crucial on a global scale. These traits have been apparent ever since the 1958 Geneva Conference on the Law of the Sea established four international accords addressing this field. On the other hand, this court's authority gained immense significance with the 1982 United Nations Convention on the Law

of the Sea. Finding peaceful solutions to such situations is crucial for maintaining global peace and security.

Keywords: International Tribunal for the Law, Settlement of Maritime Disputes, Legal System.

INTRODUCTION

First: The topic of the research and its importance:

Law, in general, is considered to regulate the work and relations of society, while monitoring and keeping pace with the various negative phenomena that appear in it, whether at the internal or international level. The development and acceleration of human society have resulted in the emergence of a collection of legal concepts that control many domains on the international stage. One of these sectors is the international law of the sea. It is one of the most major areas of public international law, and the provisions in the United Nations Convention on the Law of the Sea from 1982 that deal with the resolution of disputes that arise from the application of this agreement are among the most important sections in the convention.

With this in mind, the agreement laid forth a framework for conflict resolution that includes both mandatory and optional procedures. Peaceful resolution of conflicts is the overarching goal of all of these mechanisms, with the International Tribunal for the Law of the Sea standing out among the several mandated by the 1982 United Nations Convention on the Law of the Sea. A strong desire by states to bring their maritime conflicts before an international tribunal was a major factor in its creation. The research aims to address the questions brought up by this topic and provides fair representation in court. It also intends to provide a mandatory resolution method for disputes that occur owing to critical and major interests in the usage of the seas and oceans.

Second: The research problem:

In light of the principle of peaceful settlement of international disputes, which was enshrined in the United Nations Convention on the Law of the Sea in 1982 to preserve international peace and security, it may be necessary to make an effort to address and resolve the following set of issues in order to maintain the distinguished status and great importance of this principle. Let's begin by defining the word "international court." In accordance with the principles and procedures of general international law as well as the United Nations Convention on the Law

of the Sea from 1982, what is the law of the sea? How does its activity influence matters within the purview of this legislation? Which judicial bodies are authorized to adjudicate international disputes pertaining to maritime law, as specified in Part Fifteen, Article 287 of the aforementioned agreement? What is the conceptual and structural foundation of these judicial bodies that enables them to address and peacefully resolve maritime disputes while also presenting the trajectory of international law and legal principles concerning advanced questions?

Third: Research methodology:

This study will take a deductive and analytical approach, based on extrapolating and analyzing legal texts that pertain to the work of the Law of the Sea. This will be done to determine the extent to which the work of the ITLOS overlaps with other judicial bodies competent to settle disputes involving the law of the sea or with international law, taking into consideration the significance of the research topic. Researchers and readers will be presented with an accurate depiction of the court's judicial work thanks to an in-depth examination of the subject based on the texts of pertinent international agreements and developments in jurisprudential opinions and rulings. On the other hand, we can see a trend toward using the historical method, which will lead us to The International Court of the Seas's (ICTS) multi-stage reality of its judicial operation in the absence of an impartial methodology

Fourth: Scope of research:

The research addresses the position of the International Tribunal for the Law of the Sea in light of the 1982 Law of the Sea Convention, under which it was established, due to the impact of these legal texts in determining the nature of its legal work. It also includes the position of international legislation in stating the judicial reality in this field through pre-prepared texts that precisely regulate this process. , in order to peacefully settle international maritime disputes that fall within the jurisdiction of this court, as well as the consequences that arise from that

Fifth: Division of the research plan:

This research, titled "The legal system for the work of the International Tribunal for the Law of the Sea in settling maritime disputes," has examined the significance of elucidating the legal and judicial reality pertaining to the operations of the aforementioned court and establishing

the consequences of this reality for the operations of the IHL. The investigation is structured into two components: The initial prerequisite was labeled: "The concept of the International Tribunal for the Law of the Sea." The subsequent prerequisite was titled: "The powers of the International Tribunal for the Law of the Sea." Both prerequisites were accompanied by an introduction and conclusion, with the former furnishing a concise synopsis of the research subject and the latter presenting the most significant findings and recommendations that were achieved.

The concept of the International Tribunal for the Law of the Sea

The international organization of the work of the International Tribunal for the Law of the Sea is closely linked to the codification of the rules of the international law of the sea, in addition to the customary rules that prevailed such as the Geneva Conventions and others, which preceded the codified rules, as these rules were born from the womb of this law and revolve with it in existence and non-existence. Thus, they are specific and do not tolerate expansion in interpretation. Therefore, it is considered a positive step towards achieving the goals of the International Tribunal for the Law of the Sea. seas in achieving its goals of settling international maritime disputes in a peaceful manner, and thus we will address this requirement, which will be divided into two sections.

First branch

Stages of the emergence of the International Tribunal for the Law of the Sea and its characteristics

Over the course of the Third United Nations Conference on the Law of the Sea, the possibility of mandating the establishment of a new court that would be solely responsible for the resolution of maritime disputes was brought up and considered in depth. When it came to this particular issue, there was no consensus reached at any of the meetings; rather, attendees of the conference took three different approaches: On the basis of the initial observation, it would appear that there is none at all (1). On the other hand, there is a second school of thought that acknowledges the requirement for a marine law court and maintains that the existing International Court of Justice is not suitable for dealing with such cases due to its advanced age, lack of modernity, and, most crucially, the numerous defects that are present in its statute. Due to the current configuration of the International Court of Justice, it is not possible for non-

state entities to participate in litigation with the court; therefore, only states are able to do so. On the other hand, the United Nations Convention on the Law of the Sea from 1982 allowed non-state enterprises to take part in the activities that were associated with the pact (2).

The third trend went beyond everything that the supporters of the previous two trends went for, and it called for the establishment of two international tribunals at the same time specialized in settling maritime disputes. The first specialized in settling disputes in general, while the second specialized in settling disputes related to the seabed region and its subsoil, which is considered a common heritage. For humanity (3)

In light of this difference in trends, the final text of the agreement was as conciliatory as possible by stipulating the establishment of an international court for the law of the sea, taking the second approach, and establishing a room within this court specialized in settling disputes in the region, taking the third approach. This room was one of the most important rooms of the court and accounted for more of half the number of its judges (4).

This signifies the accomplishment of the endeavors that aimed to incorporate the creation of the International Tribunal for the Law of the Sea into the agreement's core. As of 2003, 32 countries had formally expressed their acceptance of one or more of the four settlement methods stipulated in the agreement, while 143 countries had ratified the agreement.

The establishment of the tribunal's requisite structures was the charge of this committee. This committee set out to accomplish its mission for almost eleven years, beginning with the signing of the Convention and ending with its entry into effect. After the Convention takes effect, this will allow the International Seabed Authority and the International Tribunal for the Law of the Sea to fulfill their duties. Most of the necessary steps to get the Authority and the International Court into the field of work were taken at this time. So, the Fourth Committee of the Pre-Convention Meeting...

The court commenced operations in 1996, which is precisely two years subsequent to the Convention on the Law of the Sea's implementation in 1994. Consequently, the commencement of the third phase was delayed until 1996 as a result of the two-year extension of the second phase subsequent to the Convention's entry into force. Such was the circumstance. Saica, an oil tanker, was the initial subject of the court's examination. It was initiated by Saint Vincent and the Grenadines against Guinea on November 13, 1997, precisely one year after the court

commenced its operations. The detention of Saika by Guinea prompted the petition. The cases that were subsequently presented to the court continued. Thirteen international maritime disputes occurred in 2005 (6).

Therefore, in contrast to the United Nations-affiliated International Court of Justice, the International Court for the Law of the Sea is an autonomous international judicial institution endowed with international legal personality, which enables it to administer its operations and legal affairs. Eleven justices are elected to comprise the court for this purpose. It is regarded as one of the contemporary methods governed by the Convention. Article 287 of the Convention delineates two categories of obligatory mechanisms for resolving conflicts within its purview: conventional, including the International Court of Justice and General Arbitration, and contemporary, including the Court of Special Arbitration and the International Court for the Law of the Sea (7).

There are numerous reasons why the International Tribunal for the Law of the Sea stands out. One of these is the extraordinary specialty with which it handles matters pertaining to the Convention on the Law of the Sea. The Convention's interpretation or applicability may be at issue in several cases. Because it is not affiliated with any other international organization, it is free to decide cases pertaining to maritime law on its own, which gives it its independence (8).

It is similar to the International Court of Justice in that it balances the world's main legal systems and ensures that developing nations are fairly represented and allocated within them. Everyone, including those who haven't signed the Convention, can use the courts to resolve their disputes. The right to sue is thus granted to all states and international organizations that have ratified the Convention. The court can also be used by private firms, non-party organizations, governmental institutions, and states, as stated in Article (305) of the Convention and Article (22) of the Basic Law (9).

In addition, the court can be utilized by states. It is also characterized by the finality of its rulings, as they are final rulings binding on international parties disputing before them, and their rulings may not be appealed by any of the known methods of appeal at the international judicial level (10).

Formation of the International Tribunal for the Law of the Sea

The judicial apparatus is the main apparatus upon which the International Tribunal for the Law of the Sea is based. It is the apparatus responsible for adjudicating disputes referred to the court, and the function of the other organs is to support, facilitate and enhance the role of this apparatus. The apparatus consists of The judiciary at the International Tribunal for the Law of the Sea is from a group of judges who are chosen to carry out the task of adjudicating disputes brought before the court, and they are chosen in accordance with the conditions set forth in the statute of the court (11).

According to Article 2 of the Statute of the International Tribunal for the Law of the Sea, the conditions that must be met in the selection of judges are fairness and integrity. Additionally, they must possess in their respective countries the practical qualifications required for appointment to the highest judicial positions. Furthermore, they must be recognized for their competence in international law. Furthermore, they must have a specialization and academic competence in the field of the law of the sea. Furthermore, there must be equitable geographical distribution in order to provide the opportunity for every state or group of states that inhabit a particular geographical area to have a judge in the court. This is done in order to prevent a particular geographical area from dominating the composition of the court (12).

According to Article (4) of the Statute of the Court, the International Tribunal for the Law of the Sea established the election method as the basis for constructing its judicial body, which is the procedure for selecting the judges of the Court. The relative volume of information about the process of electing judges and nominating them in this article set it apart from other courts. According to Paragraph (1) of Article (2) of the Statute of the International Tribunal for the Law of the Sea (13), the number of judges appointed to the court reached twenty-one.

The court registrar is responsible for appointing temporary employees. As for permanent employees, the court has the authority to appoint them based on a proposal submitted by the registrar. The registrar is also responsible for determining the salary scales for employees, determining their working hours, and what other duties and tasks they must perform (15).

The employees are also appointed by the Registrar of the Court, and there is no doubt that the employees of the Court are international employees, and this is what was indicated in the

Statute of the Court's employees, as Article (1) of Clause (1) referred to it, and thus this article has It has resolved any controversy that might arise about the nature of the court's employees and whether they are international or national employees. Employees enter the service of the court through appointment, and the appointment is based on a proposal submitted by the registrar to the court. The appointment of employees in the court is based on a special document called the letter of appointment, which is It's like a knot (16).

It is worth noting that employees are administratively subject to the court registrar as the chief employee. Employees are also subject to a special system that governs their relationship with the court in terms of their rights and duties. Whoever appoints an employee in the court is required to be at the highest levels of competence, ability and integrity, and consideration is also taken of Consideration should also be given to geographical distribution as much as possible, even if it is not inevitable, as is the case with judges when selecting them. The Registrar can also cancel the services of an employee temporarily appointed to the court. In addition to all of this, the employee himself can resign from his job. As for the legal adjustment of the relationship between employees and the court, it is a mixed relationship. It is neither purely organizational nor purely contractual. Rather, it is a contractual organizational relationship that includes an aspect of the organizational elements, such as the possibility of the court amending the relationship between the employee and the court. It also includes a contractual aspect, such as determining the term of appointment by agreement between the court and the employee. As well as notifying the former employee before dismissal from the court, it is a relationship of a dual nature and balanced between regulatory and contractual (17).

Jurisdictions of the International Tribunal for the Law of the Sea

By adhering to the initial stipulation, we obtained a comprehensive understanding of the International Tribunal for the Law of the Sea as a benign mechanism employed by nations to settle maritime disputes. Therefore, its primary objective is to adjudicate conflicts that emerge among the involved parties in adherence to the regulations and stipulations of international law. This is the function of the judicial body. In accordance with the United Nations Convention on the Law of the Sea, the court functions as a judicial entity established through both material and human resources. It is composed of qualified judges who are entrusted with specific responsibilities, and its administrative structure provides the means by which the court is

organized. Regardless, we shall provide an elucidation of the authority vested in the international court in this inquiry.

We have the marine law. According to the UN Convention on the Law of the Sea and the Statute of the Court, the first section deals with personal jurisdiction, and the second with substantive jurisdiction.

Personal jurisdiction of the International Tribunal for the Law of the Sea

The personal jurisdiction of the International Tribunal for the Law of the Sea extends to the categories of persons who have the right to litigate before the court in its entirety, and if, until recently, resort to international judiciary was limited to states only, then depriving the rest of the other subjects of international law and individuals from benefiting from this means to settle their disputes. International (18)

One of the most important features of the statute of the International Tribunal for the Law of the Sea with regard to personal jurisdiction is its departure from the general rule that has always accompanied international courts, which is the rule of restricting litigation before international courts to states only. It was a pioneering step in this field, as it allowed other parties In the agreement, non-states have the freedom to litigate before the court, and among these other categories, according to the text of Article (305) Paragraph (e) of the agreement, are autonomous regions. The concept of regions refers to some regions, or rather islands, that are linked to some countries, but they enjoy self-government (20).

Thus, the regions that can be a party to the agreement are the regions that enjoy complete self-government, and these regions have the right to litigate before the court and are considered a party to the agreement, provided that they are independent in managing affairs related to the agreement, and that they have the legal personality necessary to enter into treaties. With regard to matters falling within the scope of the United Nations Convention on the Law of the Sea of 1982, as well as territories that have not achieved full independence, this category, even if it enjoys self-government, is not considered independent, and here too the same standards should be applied to it that were previously applied to related entities. In another country(21)

In order to be accepted as a party to the Convention, two conditions were stipulated in the organization in order for it to become a party to the Convention. These two conditions are that

the organization must have jurisdiction authorized to be exercised by the States Parties regarding matters regulated by the Convention, as well as the eligibility to enter into treaties related to matters related to the Convention, in order for it to have the right to litigate. Before the International Tribunal for the Law of the Sea (22)

Subject matter jurisdiction of the International Tribunal for the Law of the Sea

Like most other international courts, the International Tribunal for the Law of the Sea has two types of jurisdiction: judicial jurisdiction, which represents the authority of the court to impose a final ruling in a case within its jurisdiction, or meaning the ability of the court to issue judicial rulings in light of its powers, as well as advisory and advisory jurisdiction, which represents The authority of the court to give an opinion or advice to certain parties on a matter related to the Convention and its interpretation. Thus, substantive jurisdiction means the types of disputes that the International Tribunal for the Law of the Sea has jurisdiction to consider or the nature of disputes that are subject to mandatory settlement by the court. As it is known, the court's primary function is to settle disputes related to By the law of the sea peacefully (23).

In the event that two parties cannot agree on any material fact or legal issue, or if their legal claims or interests are in direct opposition to one another, a dispute will arise. According to Article (21) of the Statute of the International Tribunal for the Law of the Sea, the court's substantive jurisdiction included a set of conditions relevant to the matter at hand. The specific agreement that establishes the International Tribunal for the Law of the Sea states that any matter that is referred to it must pertain to maritime law.

This is a logical condition, despite the fact that Article (21) of the Statute does not contain such a requirement, as its absolute language implies that the court has jurisdiction. In light of the dispute at hand, irrespective of its nature, the expression "all issues expressly stipulated in any agreement granting jurisdiction to the court" is a broad phrase devoid of any particular dispute category (24).

Also, the UN Convention on the Law of the Sea specifies which subjects may be brought before the International Tribunal for the Law of the Sea. According to the language of Article (22) of the Tribunal's Statute, which deals with the subject of submitting issues in line with prior agreements, this limitation appears to be in force. Under this clause, the court could look into the dispute if another agreement involving the same subject as the UN Convention on the Law

of the Sea referred it to it. Also, the wording of paragraph (2) of Article (288), which specifies which courts have the authority to decide disputes, suggests this restriction. This is achieved through obligatory processes, even if the wording of Article (288) Paragraph 2 of the Convention is clearer on the subject than that of Article (22) of the Statute of the International Tribunal for the Law of the Sea (25).

There are two broad classes of matters that the court can hear and decide on according to the referral document: issues pertaining to the application and interpretation of the provisions stated in Article (21), which is devoted to the resolution of issues pertaining to the United Nations Convention on the Law of the Sea, fall within the first category of matters addressed under the Convention. two types of disagreements might arise from the subject matter of the Convention: first, those involving the interpretation and application of the Convention, which can be any kind of dispute, and second, those involving any other agreement relating to the same subject area. The authority of the court in this case does not stem from the UN Convention on the Law of the Sea of 1982 but from other treaties that deal with the same issue. We have already laid out the requirements for bringing this matter to court under a special arrangement. Among these conditions is the question of whether the disagreement involves topics mentioned in the agreement or, alternatively, whether it is based on maritime law (26).

As stated in Article (25) of the court's statute, the court may take interim measures to preserve the rights at issue while it examines the case. These interim measures can be taken in an emergency, at the request of one of the disputing parties, or on the court's own initiative. Until a decision is made and a verdict is published, the parties involved in the dispute must refrain from doing anything that could compromise their legal standing. The other party will be notified of these steps, and they are expected to comply quickly.

The court may also withdraw from these measures after the disappearance of the circumstances that justify taking them. The legal basis for the measures is specified in Article (25) of the law. Basic, and Article (290) of the Convention, they are temporary, non-final measures that precede the decision of the case and do not affect the disputed rights, and if there is a case of necessity and urgency, and the purpose of these measures is to preserve the rights of the parties to the dispute, prevent its aggravation, and protect the marine environment, so measures are imposed to protect these Environment (27).

Conclusion

After the research has reached its end, praise be to God, it is necessary to point out the most important proposals and results that can be reached, which contribute to strengthening legal efforts and which aim to deepen the legal understanding of the role of the International Tribunal for the Law of the Sea in settling maritime disputes in a peaceful manner between conflicting states. In order to avoid repetition or prolongation, we will begin to summarize the most important results and proposals as follows:

- The establishment of the International Tribunal for the Law of the Sea, in accordance with its Statute, made this Statute its legal source, from which it derives its legal legitimacy in application to international persons appearing before it. Thus, the Court began its work in 1996, and the Court has proven its efficiency in settling disputes related to With the Law of the Sea, it is no longer a means of settling disputes arising from the interpretation and application of the provisions of the United Nations Convention on the Law of the Sea in 1982, but it has also become a means of settling disputes referred to it by other international agreements, and it has been distinguished by its efficiency and effectiveness in settling disputes referred to it.

- The International Tribunal for the Law of the Sea was named as one of the founding mandatory organizations in the 1982 United Nations Convention on the Law of the Sea. On the other hand, there is a suite of alternative dispute resolution processes available, such as conciliation, mutual exchange, general arbitration, the Special Arbitration Court, and the International Court of Justice. If disagreements emerge over how to apply or interpret this agreement, the combined views provide a novel basis for doing so. The court's large judicial body was also noteworthy; it had twenty-one judges evenly distributed among the state parties and the world's leading legal systems. These judges were able to demonstrate their expertise by meeting a number of requirements. In addition to carrying out its mandate, the Court also gained the ability to bring legal actions to achieve its goals after it attained worldwide legal personality. Doing so brought it closer than any other legislative amendment to the character of an international organization.

- The International Tribunal for the Law of the Sea’s enjoyment of international legal

personality resulted in a number of effects and results ranging from its ability to conclude legal acts, to entering into relations with other persons of international law, as well as its enjoyment of privileges and immunities and the widening of the court's jurisdiction by deviating from the traditional principles of international judiciary, as The court was distinguished by the breadth of its personal judicial jurisdiction, allowing states and non-states to litigate before it. As a result, it recorded an advanced step at the level of international judiciary, taking precedence over the International Court of Justice, before which only states may litigate. The statute of the court also guarantees that it has judicial jurisdiction and jurisdiction. It is a consultant that it undertakes in accordance with the provisions of its articles of association.

Recommendations:

- One of the recommendations that we can make is to work to expand the groups of countries that have the right to resort to areas of international litigation through the International Tribunal for the Law of the Sea or other international judicial institutions in order for their disputes to be resolved by peaceful means. Thus, this resolution will affect The issue of the threat these disputes pose to international peace and security, as well as urging these countries referred to above, through competent international organizations, to resort to this type of settlement of their disputes in order to ward off the dangers of the use of force in international relations.

- The research recommends the formation of a committee or international authority whose mission is to audit, research and monitor all factors that may lead to obstructing the implementation of the decisions of the International Tribunal for the Law of the Sea. The task of this body will be to ensure the implementation of the decisions of this court, while working on the possibility of providing it with powers to impose sanctions. necessary and appropriate for every state or international party that refuses or abstains from implementing international judicial rulings issued by the International Tribunal for the Law of the Sea, without exception, even in the case where the party abstaining from implementing this judicial ruling is one of the major countries in the world that believes that there is nothing to force it. To implement these judicial decisions.

- Working to urge international technical organizations specialized in the field of the law

of the sea to support the research and technical efforts required in order to develop the rules of the law of the sea, as well as developing the rules of this law in a way that is compatible, keeps pace and is consistent with the continuous technical development witnessed by contemporary international relations, and since this The development will result in new types of maritime conflicts in different fields that had not been raised before.

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