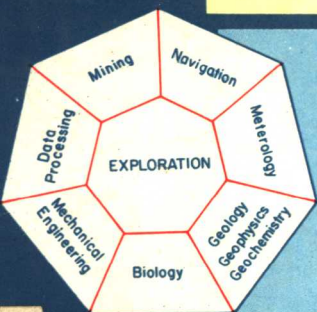
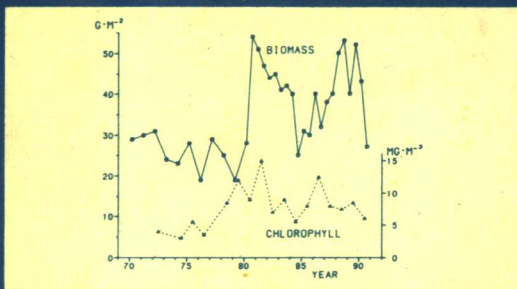


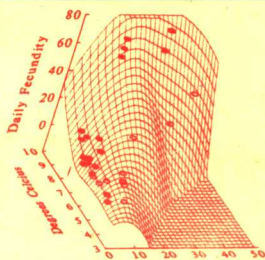
# INDIA'S



# OCEAN POLICY

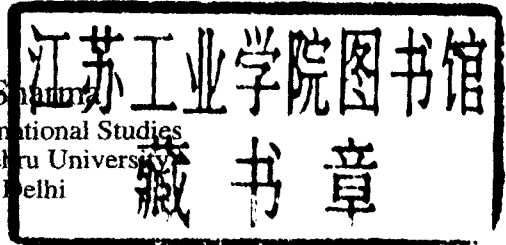


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# India's Ocean Policy

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# INDIA'S OCEAN POLICY

© Professor R.C. Sharma and Dr. P.C. Sinha

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**UNIVERSITY OF HIROSHIMA, JAPAN**



FOR  
  
HIS INSPIRING LEADERSHIP AND CONTRIBUTIONS  
TOWARDS UNDERSTANDING INDIAN GEOGRAPHY  
AND SOCIETY

## Preface

India has clear conviction and deeper commitment with regards to the oceanic environment and possible sustainable development. In the wake of mounting population pressure on land resources, the future lies in tryst with the marine environment. Development and security, not only strategic but otherwise, have intimate relationship with her interaction with the surrounding waters. The marine resource-based euphoria is being epitomized in several forms. As nation, India is determined to play a significant role in the future global oceanic order, shaping as a result of the new emerging law of the sea. She believes in the commonality of interests but fully appreciates the emerging conflict-situations. Among the developing countries, she holds status of the Pioneer Investor and has regularly sent Antarctic scientific expeditions. Technologically, she is matured to have big strides in interaction with her marine environment.

The making of Indias Ocean Policy is both a critical and delicate exercise. It is a compact of hierarchy of interests both short and long terms. The developments with regards to maritime interests are fast and ever changing that the policy options need to be dynamic for optimizing nations interests. New paradigms have emerged and the future developments could be realised and appreciated on the basic plank of understanding, conflict resolution and cooperation in harvesting riches from the sea. Regional conciliation and understanding and global interdependence are cardinal points of policy options with regard to the maritime environment. The ocean policy is an integral part of the overall development policy. There are certain compulsions which need deeper appreciation. Imperatives and motivations both are decisive in influencing the Ocean Policy options in the case of India. The present exercise of defining the basic contours and substance of the ocean policy is holistic in nature and probably it is first of its kind.

Several individuals have helped us in development of this study, both at the conceptual and implementation stages. Many of our professional colleagues at the National Institute of Oceanography, the Department of Ocean Development, Government of India, the School of International Studies, Jawaharlal Nehru University and the Commission on Marine Geography (IGU) have contributed substantially towards a better understanding of the man-ocean -development relationship. Professor Adalberto Vallega, the first and founding chairman of the IGU Commission on Marine Geography has been a great source of inspiration in the writing of this book. Interaction with several experts and scholars attending the International Conference PACEM XX in Maribus at the

International Ocean Institute (Malta, 1992) proved to be very crucial in clearing many of the complicated and foggy issues pertaining to the future of the marine environment. Professor Kenzo Fujiwara, Director, Centre for the Regional Geography of South Asia, University of Hiroshima, Japan, who is pioneer in the field of Antarctic studies, has been the great source of inspiration and strength in the making of this book. We are also grateful to our research students for helping us in several ways.

New Delhi  
February, 1994

R.C. Sharma  
P.C Sinha

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## **CHAPTER I**

### **INTRODUCTION**



# INTRODUCTION

## Background

Once being the largest cultural continuum in the world, South Asian maritime trade experienced its zenith during both Graeco-Roman and Moslem-Hindu-Chinese periods. Revelations made regarding discovered artifacts, travel accounts, trade routes and descriptions of prevailing pirate activities, shipwrecks, dhows and existing slave trade certainly help in identifying the cultural and commercial transactions taking place with surrounding Asian and African countries in ancient and medieval times. Transformation of Hinduism into a royal cult and its subsequent decline, spread of Islamization, firstly along coastal areas and then in penetration of the interior, are the processes, still to be fully understood but at least it had certain distinct maritime links. Study of the transformed structure of maritime trade equation of the post 16th century era points towards the surrender of organic unity of regional maritime trade in geo-economic terms. In more recent period psychological barriers seem to be more responsible for regional disunity than economic rationality. Complex intertwining of questions of the new international Law of the Sea and coastal political geography has added to the discord and divergence in the field of maritime zones demarcations and its management. The possible decisive role of regional cooperative movements in development of an accommodative sustainable regional policy is gaining importance. Understanding of the structural problems of interdependence, integration and disengagement in setting this new direction of regionalism is a prerequisite to develop a conceptual framework of regional maritime policy in their concrete, psychological and abstract terms. Options for revival of maritime commerce, its regional and global complementarity and possible evolution of a coherent ocean policy seems feasible if India takes the lead.

Recognition of the prime importance of a marine dimension of existing developmental policies by the Government of India is relatively new. International Indian Ocean Expedition (1960-65) led to the first systematic study of the Indian Ocean. As a result, the National Institute of Oceanography ( NIO ) was established in 1966 to continue advances in the direction of marine research. The need for creating a workable ocean governance system, which is both equitable and efficient, seemed unavoidable because of the importance of the ocean for the well-being of Indian people. An institutional order was required for providing timely commendation, alternatives and evaluations based on cost-benefit analysis for decision making, also incorporating elements of a more political or diplomatic nature.

The Department of Ocean Development (DOD) was established in 1981 to handle the overall work relating to India's ocean space. Its responsibility was to bring together a multidisciplinary team of marine scientists, resource planners, and policy analysts to examine key issues concerned with tapping the economic potential of India's maritime zones, particularly her EEZ. It began functioning, in cooperation with other concerned agencies, as a nodal organization to promote institutional

capability in areas where adequate work has not been done yet. It was responsible for formulating an ocean policy, also including its security and regulatory measures. The fact that the DOD was placed directly under the office of the Prime Minister is an indication of its vital importance for future economic and strategic needs of the country. The development of an adequate legal framework and the coordinating role of DOD in the overall structure of its legislation is considered to be especially important.

India has 7,500 kilometers of coastline and 2.01 million sq. km of Exclusive Economic Zone (EEZ). The EEZ of India is equivalent to about 66% of its landmass and 4.2% of the Indian Ocean. The area of the EEZ on the west coast is of 0.97 million sq. km, Andaman and Nicobar sea of 0.55 million sq. km. and the east coast of 0.49 million sq. km. The fish production is expected to touch 6 million tons mark by the turn of the century. Indian contribution is supposed to grow from the present 46% to 60% of the total exploited living resources from the Indian Ocean. Also, 60% of the coastal fishing is done within 10% of the in-shore zone of EEZ by around 3,60,000 fishermen, spread over about 2,172 coastal villages. The mechanized fishing crafts number only 16,000. India's coastal aqua culture in 1980 had an impressive share of 12.1% of total global production, so it formed 0.5% of her GNP and 2% of the total export earnings.

From the available geological and geophysical data, it has been estimated in 1985 that the continental shelf around India up to a depth of 200 meters, with an area of 452,000 sq. km. has a potential oil reserve of 1 billion tons and natural gas reserve of 271 billion cubic meters. With an 8-10% annual growth in consumption of petroleum products, the Oil and Natural Gas Commission (ONGC) is strongly committed to nearly two fold increase in offshore petroleum production i.e. 65 million tons of crude oil and 35 million tons of oil equivalent of gas by 2005. Also, the Government of India has extended the Polymetallic Nodule Research and Development Project into an exploratory program for nodule recovery. On August 17, 1987, India was registered as the 'First Pioneer Investor' and a mining area of 1,50,000 sq. km. was allotted for preparing work plan for exploration and exploitation. As on January 1986, India has invested around US \$ 600 million in Mn-Nodule Project. Before the proposed commercial production (3 million tons dry nodules over 22-25 years requiring investment of US \$ 1.15 billion) could start, US \$ 200-300M more would be necessary. India has also the option of identifying 52,300 sq. km. for incorporation in the 'pioneer area' and move towards her short-term aim of recovering 3 million tons dryweight per year by 1992, besides considerable mining of polymetallic sulphides and cobalt incrustations.

India has all the limitations of a developing country. Harnessing the newly acquired maritime zones may be a very expensive business. The total financial outlay for the year 1989-90 for the nodal governmental agency Department of Ocean Development only, has been Rs 24 crores (plan) and Rs 7.7 crores (Non-Plan).

The issue of utilization of national ocean space and its management has become a matter of priority. Technological imperatives for India's being the first registered pioneer investor and an Antarctic Treaty Consultative

Member have to be analyzed in terms of her achievements in the established and existing areas of deep-sea mining, pelagic fisheries, sea-farming, offshore engineering, underwater technology and polar instrumentation. Decisions regarding the contractual arrangements for the exploration and development of hydrocarbon and fishery resources which lead to either direct collaboration or leasing or awarding of blocks indeed have become vital for her immediate energy requirements.

United Nations Conference on Law of the Sea (UNCLOS III) began with what appeared to be a new shared meaning regarding the uses of the oceans: the concepts of oceans as the common heritage of mankind. While the later negotiations soon relegated this idea to the background, it survived in the part of the agreement relating to the mining of the seabed outside the 320 km economic zone. The rules drawn up fully reflect the desire for equity: they also seek to integrate deep-ocean mining, the associated technologies, and the pricing of the minerals to overall economic development planning. The agreement is going into force despite the fact that, for the moment, several of the major countries possessing deep-sea mining technologies refuse to participate.

Nevertheless, the meaning being shared remains very superficial. Access to mining technology, private against public enterprises, expected rents from ocean-mining as opposed to profits from mining the same land-based minerals, national control over siting as opposed to supranational authority — all these issues are mentioned in the agreement without really being integrated and co-ordinated under a consensual master concept. Equality and development of the poor are emphasized without being given an unambiguous dominance.

The fact remains, however, that compared with earlier conferences and agreements on the law of the sea, UNCLOS III represents a major illustration of the process of building a consensus that links diverse political objectives with an economic analysis that of resource use out of the realm of pure profit-seeking. In general, the quasi-legislative conferences, like UNCLOS III in recent years, with new forms of consensus-building are an accepted means of accomplishing this norm-creating task.

## Rationale

Indian efforts in emergence and promotion and in support of a stable and balanced regime of law for the world's oceans have been considerable. On the other hand, her attempts to educate the general public and in particular, her coastal community, about the applicability and extent of acceptability of these international agreements on rules to govern the rapid expansion of ocean uses are negligible. There is a need to pursue innovative and responsive ways to inform decision makers in government, the private sector and the general public in academia, media, and the public interest organizations on issues affecting current and future uses of ocean space.

Ocean law is derived from a continuing process including the practice of states and bilateral ocean law agreement, thus satisfying the variety of

competing national interests. Also in India, till today the best guarantee of peaceful relations among her states in ocean use and development remains elusive. To command widespread acceptance, there remains an urgent need to support any process that can usefully contribute to resolve the problems arising from the existing convention, particularly regarding deep-sea mining and provisions regarding mandatory technology-transfer.

Protection of the national coastal and marine waters is a shared responsibility of the government and the people. National legal regulations regarding the control of health hazard wastes and other marine refuse like plastics, floatables, debris and point and non-point sources of bacterial and other contamination would not only help in limiting habitat degradation and loss but would also reduce the risks and impacts of accidental discharges. To address ocean dumping of industrial wastes and sewage sludge, illegal (direct and indirect) discharges need to be identified and eliminated, minor sources evaluated, and if needed permits issued, revised or abolished for such actions. Hazardous waste minimization, both in qualitative and quantitative terms, should be the top priority in coastal-zone-management.

Control of land-based sources of pollution, regulations regarding the Specially Protected Areas (SPAs) and endangered species through the United Nations Environmental Programme (UNEP) Conventions, London Dumping Convention on Disposal of Wastes in Oceans, International Convention for the Prevention of Pollution from Ships (MARPOL), United Nations Conference on Law of the Sea (UNCLOS), Regulations on Marine Pollution Control and Ocean Scientific Research and Monitoring etc. could form major guidelines.

The major purpose of such an interdisciplinary attempt would be to explore the actual and potential role of government in sustainable ocean space utilization in India's oceanic zones, particularly the EEZ and the Territorial Sea and to evolve a perspective on the possible rights and duties of Indian citizens towards them. Pre-1980 fragmented and sectoral approach has become a matter of relatively little consequence as today's needs and conflicts are making it clear that new and more appropriate forms of ocean governance must be considered.

The major issues which need elaborate evaluation before reaching any conclusive legal regime may be enumerated as the following:

1. India's ocean space utilization: Current status and future prospect of related public policy in light of the international obligations and the stewardship responsibilities which UNCLOS III bestows on coastal nations need to be evaluated in the Indian Case.
2. Philosophical perspectives: Questions like environmental ethics and environmentally sustainable developments, much in contrast with utilitarian and anthropocentric ones need to be addressed while developing our marine sector.
3. Historical perspectives: Analysis of governmental authority and arrangements made for resource development and other uses of these new frontiers of our maritime zones invite critical evaluation.
4. Legal perspectives: The options and regulations regarding the evolution of a 'Public Trust Doctrine' and its applicability to the ocean

and the coastal space would be a timely effort after significantly clarifying the stewardship role of government *vis-à-vis* the coastal zone.

5. The Role of the Public: Enumeration of the rights and duties of citizens *vis-à-vis* the ocean resource management need to be put on paper and made easy for public consumption.
6. Traditional Use and Modern Technological Adaptation: Issues in conflict, particularly in situations of growing mechanization versus primary mode of production and consumption need to be made more specific and understood.
7. The role and functions of various legislative declarations: They would be useful in establishing a more widely understood framework for ocean governance thus preventing from problems of arbitration and encroachment and would help create 'joint development zones' in case of maritime boundary delimitation conflicts.
8. Values and Ocean Space Utilization: Implications of normal practice and the changing attitudes of the people and the government need to be studied thoroughly.
9. 'Multiple Use Conflicts' and Overlapping Jurisdictions: There is a need for an integrated model of interaction and sectoral networking to enhance production capability, thus limiting the issues of inefficiency or delays in production use.

Compounding these abovementioned issues is the magnitude and diversity of ocean related phenomena, broad spectrum of primary interests and remarkable variety of interested parties and secondly, for most of the capital and equipment intensive programs, the 'critical mass concept' based on a scientific modelling of the 'critical area of return' on major investments are specific ones. Therefore India's overall technoeconomic condition needs re-evaluation and then its thorough reappraisal with her bureaucracy for an in-depth understanding of the possible level of resource development in her ocean environment, particularly the EEZ.

### Policy Issues and Options

Developments in the 'problem', 'politics' and 'policy' streams and their subsequent convergence can best provide the opportunity for policy initiatives. Ongoing theoretical and legal discussions ought to be made judiciously synthesized with empirical research findings and the case studies. Moreover, scientists and the policy entrepreneurs should be further encouraged in developing policy proposals, anticipating future constraints, and making decisions to avert problems before they occur. Maximizing the long-term benefits of marine resources and their uses to the nation requires clearly articulated national priorities and stable ocean governance system.

Although it is not legally an Indian 'territory' *per se*, the fact that the Government of India has sovereign rights over virtually all the resources in the new oceanic zones means that we now have, in effect, two Indias;

one, 'land India' and the other, 'sea India'. Even though 'land India' is governed by the general purpose governments (federal, state, and local), decisions about 'ocean India' rely upon single-purpose governmental agencies under specific and narrow legislative mandates. Also in earlier times (i.e. before any demarcation of maritime zones of India), the use of a fragmented approach was of relatively little consequence, but today's needs and conflicts are making it clear that new and more appropriate forms of ocean governance must be considered.

The concept and potential of India's EEZ should be brought into focus. Settlement of claims to the EEZ and the continental shelves would do much to foster amicable relations among the neighbouring coastal countries. Likewise, agreements on transnational marine resources and activities would provide sound opportunities for future cooperation. As far as the regulatory framework is concerned, important gaps exist between handling marine and coastal problems, which can best be addressed by means of a unified legislative approach and a corresponding nodal administrative machinery. Maladjustment between the regulatory framework and the overall requirements of the existing situation remains unresolved. Even the planning bodies display shortcomings in technical competence and the research support fails to respond to the development priorities. Therefore, their contributions need to grow and become complementary.

Marine policy, like other public policies, is complex, dynamic, and open to political situations in the allocation of limited resources to a variety of interests involved in the ocean, the seabed and the coastal zone. Its formulation reflects directly on the nation's attitude that are channeled with exaggeration through interest groups, the government departments, the non-governmental organizations, the ministry and the parliament of the country.

To do justice to the broad topic, an interdisciplinary net has to be cast. Without appreciating the interplay of variables or the flow of matter, energy or ideas in both space and time, realization of this goal seems difficult. Thought should also be given to the fact that the creation of a self-reliant technological base can put a heavy demand on indigenous manpower of trained personnel. It is therefore essential to set the priorities straight so that an equitable balance must be struck between its impact on the nation's interests and benefit to the mankind as a whole.

The subject of state responsibility has been relatively neglected in recent decades. Considerable questions regarding matters of intersection of the national responsibility, the law of the sea, and the federal states' jurisdiction are yet to be resolved. Focus should be also shifted on the more practical sides of managing marine and coastal resources, particularly regarding coordination problems associated with implementing an integrated ocean policy framework. Translation of policy agenda into an action agenda is the need of the time.



The new order of the oceans made its formal initial arrival in 1982 with the third United Nations Conference on the Law of the Sea (UNCLOS III). Nations of the world, both developing and developed ones, experienced for the first time a very defined spatial and territorial component to global oceans including such matters as the territorial sea and the contiguous zone, the exclusive economic zone, international straits, the regimes of islands and archipelagos, freedom of transit for land-locked states, deep seabed mining and preservation of marine environment.

Now with UNCLOS III, some 400 or more international marine boundaries will have to be delimited. This problem of allocation involves issues like:

1. Source of Authority
2. Principal methods devised
3. Dispute settlement process
4. Technical problems of actually drawing a boundary

Out of these basic issues arise many others too. Over and above them even other persistent issues like the protection of fishing grounds, exercise of jurisdiction over customs, fiscal, immigration and health matters, neutrality and security jurisdiction outside the territorial sea, the status of bays and straits etc., real efforts to tie together and harmonise the treaties, arbitral decisions, national claims and practices, and accepted rules were made in UNCLOS III. One thing which appeared crystal clear during and after UNCLOS III was that the motives which underlay the new attention being paid to the affairs of the sea by both national governments and international institutions have deeper roots than mere predilection for complication. On the other hand, the emergence of the new regime for sea did give rise to many conflicting concepts like:

1. Coastal states vs. world maritime powers
2. National control vs. international regulations
3. National egotism of coastal states vs. rights of land-locked states
4. National egotism of new states vs. multinationals
5. New international order of the sea vs. naval-military ambitions of world powers.

No doubt, if the UNCLOS III were to enter into force many issues would be resolved among the state parties. Nevertheless, there still would remain a number of significant uses that would not be resolved by a binding Law of the Sea Convention. Furthermore, the new uses of the oceans develop and nations interest change the law will have to be adjusted to accommodate new demands placed on ocean law.

In nutshell, since the Law of the Sea Convention is a political document, a package deal, a compromise reached by the balancing of interests of various states, as do the provisions of the EEZ in microcosm, any evaluation must look at the larger picture, rather on dwelling on one specific provision.