

Research on Dispute Resolution Mechanism in Marine Resources Disputes

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Abstract: These days, world is having a new dispute over climate change. In Europe, for example, Britain and Iceland are in dispute over the northward migration of the Atlantic mackerel as a result of climate change, and have begun to fish the species uncontrollably [1]. The mackerel issue is only a microcosm of a new type of world dispute in recent decades, and the dispute over marine resources is one of the most obvious manifestations of this kind of resource dispute. If such problems cannot be solved in a timely and effective manner, they are likely to turn into large-scale economic disputes among the countries concerned, and will lead to the uncontrolled exploitation of some marine resources, ultimately damaging the ecological balance and sustainable development. In view of such disputes, this paper explores the causes and solutions of this new type of marine resource disputes by using the research methods of case study and historical research, and proposes feasible solutions from three aspects of environmental protection, legislation and new solutions.

1. Introduction

New disputes and problems are emerging in the world. For instance. In recent years, north Atlantic fishery is facing new conflict. The Atlantic mackerel's habitat is shifting to higher latitudes as a result of climate warming. At the same time, this species which was once confined to British waters has also become an international fish in British waters, Icelandic waters and the high seas. To prevent further losses, Britain began fishing uncontrollably the only mackerels left in its territorial waters, while Iceland also overfished to catch a sudden influx of mackerel. With the fish moving north, these two countries have conflicts and disputes over this fishery resource.

To avoid overfishing and international disputes, the Atlantic mackerel problem must be solved in time. Unfortunately, the existing system of international law does not give Britain and Iceland a suitable solution: For this issue, the current international law lacks some regulations for the solution of such disputes, and there is also no powerful international organization which has the authority that can have binding and coercive force on this kind of disputes in the current international community. As the world situation and the natural environment change, such new problems which beyond the existing international law management system are becoming increasingly more, which requires the managers to find new solutions as soon as possible.

2. Reasons of Current Problems

2.1 Problems of the strategic positioning of marine resources

For countries, the first reason for these climate-change-induced disputes is that they do not have a clear strategic position on natural resources, or that they do not pay enough attention to certain natural resources. However, experts have pointed out that "it is necessary to recognize that the well-being of marine and coastal life should be just as big of a focus as that of human societies [2]". In the case of the Atlantic mackerel cited in this paper, the United Kingdom and Iceland, especially the United Kingdom, apparently did not identify mackerel as an important national strategic resource before the change in mackerel distribution. As a matter of fact, as two typical island countries, UK and Iceland have always been rich in Marine resources, so they think it is too easy to profit from the sea, and they

do not regard Marine resources (fishing industry, navigation industry, etc.) as an important resource related to the future of the country. Aceves-Bueno and Eréndira argued in their research that “the complexity of marine resource is often overlooked in the development of solutions, leading to ineffective and sometimes harmful social and environmental outcomes [3]”. This lack of attention causes the result that these countries never forecast the possibility of change of the Marine resources in the future, nor making preparations for some of the sudden changes in ocean resources, the result when Atlantic mackerel moves north with the climate change happens suddenly, nations begin to find that the reduction in the mackerel catch is extremely serious for them. In the end, this situation leads to vicious competition for mackerel fishing.

2.2 Lack of communication and trust between sovereign states

The second reason for such problems is the lack of trust and consultation between sovereign states. When there is a resource dispute, the first thought between countries is to gain more resource of what is left to ensure domestic supply. While as each country plans and acts in this way, the natural resource which is left will be exploited competitively by multiple countries. As climate change and environmental destruction increase, disputes over natural resources are bound to be exacerbated by national selfishness. PANTEA and BRIE argued in their papers that “In the complex international system, made up of modern traditional states, it is necessary that the existing resources of the regions are very well managed to increase the citizens standard of living [4]”. And actually, it will be far better if the countries concerned are willing to consult and negotiate with other related countries, this can not only rationalize the allocation of resources, but also develop cooperative strategies for the conservation and sustainable use of natural resources. While the practice of this solution can bring up another issue: trust. At the moment, it's very hard for countries to trust other countries in these kinds of issues, because they are afraid that if they choose to negotiate, they'll be the only one to sacrifice, for all the countries involved are reluctant to take the lead in initiating cooperation and agreements, and that's one of the very difficult problems.

2.3 Non-cohesion between international law and domestic law

The third main cause is the inadequacy of the international law system and the absence of a powerful international organization to manage such issues.

First, because problems such as Atlantic mackerel have arisen in recent decades due to climate change, neither the United Nations' legislative bodies nor the International Maritime Organization which is more concerned with these issues, have established regulations in advance of the problem. Even some old International fisheries regulations exist, they are inadequate to cover disputes over shifting species for this is an absolutely new situation, as Singleton-Cabbage, Krista argued in her research that “International law, due to its very foundations, is unable to cope with global environmental degradation as it does not provide a clear and compelling direction for states to work collectively toward a common goal [5]”.

Second, there is a lack of joint between international law and the domestic laws of different countries on such Marine resource issues. International law For some countries, once the country joins an international organization, it directly converts the international law made by the organization into its own domestic law. For others, additional legislation is required to translate international law into domestic law which has power to their domestic citizens. However, international law was not only lacking on such resource issues, the international law remained was also not fully translated into domestic law. This leads to fishers from different countries only following their own national laws, rather than being subject to the same international rules, which indirectly encourages vicious competition.

Take Britain for example, after the Brexit of Boris Johnson government, the environment, food and rural affairs quickly decided brought in a new legislation last year [6], take back the EU ships territorial sea fishing rights in the UK, but at the same time, it didn't stop the other EU member states British territorial waters fishing rights in the EU, the UK won an unequal advantages, also contributed to the British and Icelandic fisheries conflict.

Finally, this kind of problem lacks an international organization that is above the state and has the real power to regulate the unreasonable behavior of the states. Without suitable management, sovereign nations can naturally fish without restraint. While it will be far better if a strong authority can regulate the nation's fishing practices in such natural-resource disputes.

2.4 Illegal and inappropriate way of resolving related disputes

Another major problem is that the instruments used by States to settle disputes over Marine resources are largely disordered and illegal.

Take the dispute between The UK and Iceland over the northward migration of Atlantic mackerel as an example. The UK promptly banned the fishing rights of the EU and its relevant partner countries in UK territorial waters (as mentioned in 2.3), and then began to engage in competitive fishing, which was clearly not in accordance with the normal international order. Iceland, in the face of British insensitivity, has also started competitive fishing, rather than resorting to the International Court of Justice or seeking a solution from the EU. While, in fact, when there are international disputes, especially economic disputes that do not involve sovereignty and national dignity, such as Marine resources, relevant countries can completely resort to international courts and legal organs of relevant international authoritative organizations for adjudicating international disputes and seeking win-win solutions, for these professional organizations usually have more ideas to handle the disputes and can give all disputers the best solutions for themselves. Roxana Alina argued in her research that "Peaceful settlement of international disputes is a basic principle of public international law, an idea as old as that of war or of the use of force to solve problems that may arise between states [7]."

In many cases, sovereign states do not trust the international Court, and states believe that the court will be dealt with in a manner that will harm their interests, so they prefer to use means that are not in accordance with international law (political pressure, economic sanctions, etc.). In fact, if the countries involved engage in endless competition and pressure to protect their national interests, the end result is more likely to be a lose-lose situation. Perhaps, therefore, turn to the international court of justice for solution is the best compromise.

3. Suggestions on Building a Complete Legal System

3.1 Clarifying the legal status of Marine resources

In order to solve maritime disputes more effectively, from the fundamental point of view, the state should first pay more attention to Marine resources, face up to the important strategic position of Marine resources and fishery resources in the national economic system, grant appropriate legal status to Marine resources, and determine the official legal status of national Marine resources from the textual level, lest not to have a legal basis in the event of international disputes over Marine resources.

Prior neglect and lack of legal status of marine resources is not just a problem in the UK and Iceland, but in many regions of the world. Chinese scholar Yuefeng Liu once pointed out in his research that: "Although China has formed a legal system with a certain scale for the protection of Marine resources, With the emergence of chemical and radioactive pollution and the diversification of Marine resources, laws and regulations on the protection of Marine resources require further updates as well [8]." With the continuous development of the world's Marine economy and the rapid development of modern fisheries represented by Marine ranching, Marine resources, especially fishery resources, account for an increasing proportion in the economic system of all countries in the world, and have even become one of the pillar industries of many countries.

In this case, as opposed to a Marine industry rapid development is the neglect of the legislation, such as the Atlantic mackerel important fish resources have not been protected by national legislation, for potentially controversial Marine resources between different countries has also been no setting international agreements or seek to explain to the international court. For Marine resources, countries should improve the law on Marine resources based on the different principles of the high seas and territorial seas. On the high seas, countries should focus on how to achieve win-win results and make appropriate compromises to avoid vicious competition while ensuring their own interests are not

damaged. In exclusive territorial waters, states should attach importance to inviolable sovereignty and protect exclusive resources in their own waters by legislation.

3.2 insisting the global perspective and improving the coordination between domestic legislation and international conventions

For the conflict between international law and domestic law, from the perspective of environmental protection, international law is obviously better than the domestic law of most countries on this point. Therefore, in order to ensure the maintenance of the global environment, we should appropriately compromise the domestic laws that are not conducive to environmental protection and orderly development of natural resources to the international environmental protection law, and urge some countries through the channel of the United Nations to revise the original domestic laws that are inconsistent with the international environmental protection law. At the same time, especially for Marine resources, relevant international organizations (such as the World Maritime Association and relevant departments of the United Nations) should combine the internationally accepted law of the sea and international environmental protection law to solve the dilemma faced by the world's Marine resources and fishery resources from a specific level [9]. This is because only when international law is first unified within itself can domestic law be changed towards the purpose of international law. If international law of the sea and international environmental law are themselves controversial, it is unrealistic to ask domestic law to make concessions to international law.

In view of the domestic law system for environmental protection and rational development of resources legislation is not perfect, it needs to be changed through domestic legislative bodies. The domestic legislature must implement the rational development of Marine resources and other natural resources as a strategy into legislative activities, formulate more relevant laws to protect these resources as strategic materials, and grant them a higher legal status. Meanwhile, more importantly, the domestic legislation must be aware of protecting these resources of the importance of international conventions and international law, legislators itself also needs to deepen the understanding and the understanding to the international environmental law and thus to develop to be able to cooperate with the domestic law of international law in the legislative activities, to protect their own interests at the same time more to cooperate with the international society for the protection of natural resources. As professor Xiangjun Zhang and Hanbing Wei argued in their research that “the international law, regional law and domestic law have the advantages and disadvantages perse, which determines that the most realistic way to respond to the issue is the collaboration among these laws [10].” The legal solution to environmental problems must be through the coordination of international law and domestic law.

Finally, domestic legislators should promptly translate international laws that are beneficial to sustainable development into domestic laws and ensure that such international laws are effectively implemented within their jurisdiction, especially those concerning the protection of resources within territorial waters. Unless some international environmental law or domestic law of the sea seriously harms a country's interests in order to protect resources, then of course that country can refuse to enact domestic legislation, and that country should protest to the international community and apply for a reformulation of the relevant international law.

3.3 Adhere to the principle of equality and mutual benefit and explore ways to settle environmental disputes under international law

Finally, in view of this new and unprecedented international dispute, the world should no longer be bound by the previous international dispute settlement methods, but should explore new international dispute settlement methods on the basis of equality among countries. As professor Chao Zhang and Xiaoming Zhang argued in their paper: “We must make full use of the global platform of international dispute settlement mechanism, explore distinctive regional mechanism through bilateral and multilateral negotiations combining with the construction concept and actual situation of the countries [11].” In the author's opinion, for resource disputes caused by climate change, we can first grade the disputes, and then classify the severity of the disputes before applying different solutions. For those

minor, short-lived disputes between the two countries over a resource that is not very important, the international organization that manages such resources can invite the two countries to negotiate to solve the problem. For the influence extent and duration are centered, and cause a shock of the international community of international disputes, the international community should first try to make the relevant countries to negotiate, but if the negotiation cannot be resolved, should by the United Nations organization for arbitration of relevant countries, and social credibility by some international powers to ensure the validity of the arbitration. Finally, if there is a huge impact and has not been effective to solve international disputes, the United Nations security council and other relevant authoritative international organizations should immediately step in command disputes related experts put forward effective solutions, and force the country to accept mediation, so as to avoid more serious international.

This method of first rating and then settling can effectively improve the efficiency and effectiveness of conflict resolution in the international community, and at the same time avoid some international disputes being ignored for a long time, which will eventually produce worse effects.

The previous Genocide in Rwanda was delayed by the international community because of ethnic conflicts and racial discrimination, which eventually deteriorated and became a major and vicious event attracting worldwide attention. Therefore, in the face of new forms of international disputes arising from climate change or other causes, the international community must pay full attention to them, monitor their severity all the time, and deal with them decisively and appropriately at an appropriate time.

4. Conclusion

Climate change has led to new and unprecedented international disputes over resources, altering the geographical distribution of certain economic species, thus causing panic among the countries concerned, and then more intense competition for these natural resources. The battle between Britain and Iceland over Atlantic cod is just one example of a new international dispute. This paper examines the natural and man-made causes of such disputes, as well as possible solutions to these new types of disputes. The causes of these disputes are not only climate warming caused by excessive carbon emissions, but also the lack of legal solutions due to the imperfect legislation of each country and the lack of close connection between domestic and international laws. At the same time, countries in the dispute before the attention to some natural resources is also one of the important reasons why the dispute intensified. Therefore, the solution of such disputes should also start from multiple perspectives. It should not only improve the international community's understanding of environmental protection and appropriate resource exploitation, but also improve the existing international law and domestic law system to regulate disputes at the legal level. At the same time, it should also put forward a new settlement mechanism to deal with such new disputes. Through the multi-dimensional analysis of the causes and the proposal of effective solutions, it can not only provide a reference for the solution of such disputes, but also promote the protection of Marine resources and other natural resources and the mutual benefit and coordinated development of all countries in the world.

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