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Conservancy of Marine Life: An Insight to International Law

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ABSTRACT

The marine world in the present scenario has been one of the important aspects to be dealt with as to control on the balance of life in the ecosystem. With the advance technology and urbanisation there has been a lot of changes in the life style and with the environment. The absence of proper ways to enforce the laws has made it very difficult to conserve the environment. The environment we survive in is the most necessary area to be taken care of. One such aspect to be looked after immediately would be the marine world. There has been numerous species or otherwise called as aqua animals and plants whose importance cannot be neglected. There are some organisms in the aquatic area that are responsible for the generation of oxygen and sequester carbon. Without marine world it would not create the perfect balance for us to live in the terrestrial area. With the growing concern we need to conserve the marine world i.e. the way it is getting polluted and the resources being misused by the people. Many endangered species of the marine world have started being extinct and few are in great trouble. It is very necessary to protect them as part of our nature. This research paper would mainly subject on how the laws that have been made should be taken into limelight and the same marine world being internationally governed so that countries on their behalf have control over it. The conservation is one of the highlighting issues that if not taken care of would be a huge disaster.

Keywords: Conservation, Marine ecosystem, Pollution, UNCLOS, CITES

I. INTRODUCTION

Marine ecosystem is the interconnection between the marine animals & plants and marine environment, which is regarded as the largest aquatic system. With the ecological cycle, the word environmentalism also comes up in order to protect and conserve the environment. Often the world in marine is neglected, and humans are least concerned about the aquatic life. Optimum utilisation is crafted from the marine environment for the development of social and economic factor, but people fail to realise the harm their importing on marine environment.

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Oceans offers innumerable benefits to the ecosystem as well as the living beings; maintaining the climate condition to fulfilling the survival means of humans, it has been playing a vital role for life sustenance

In return the ocean is degraded with pollution from oil spillage, dumpings, plastic disposition, noise pollution, hunting, slaughtering, illegal trading, marine debris, and many as such disturbs the marine environment cycle, life threats to marine species.

There is utmost necessity of regulations and prohibitions on human activities which is depleting the marine world. And for the time being taking marine pollution as a serious concern it is considered as common interest of the international community. Apart from this it is also necessary to put certain restriction on illegal hunting of marine animals and conserving the resource by protecting the marine world.

There are several threats to the ocean life which are regulated by the international instruments as well as certain regional legal framework. This paper basically focuses on the contemporary issues and its conservancy through several conventions. With the comprehensive laws there lies a responsibility, duty, care, cooperation, management towards the treaties being made.

II. MARINE WORLD

Almost 71% of the globe is covered with ocean ecosystem which is fountainhead of large number of biotic species interacting with the abiotic cycle balancing the environment.³ - From 100ft giant Blue Whale to the 2mm Zooplankton, the intermediary species of the aquatic food chain which transfers energy from primary producers to the Predators in the marine world.

There's no doubt that humans are getting highly benefited from the ecosystem services which ultimately connected with the marine world. For the time being humans are playing a supremacy role over the usage of marine environment, in addition to this marine pollution, climatic changes all leads to the deterioration of the inhabitants of marine world. Apart from their role in economic and social advancement, these ecosystem services must also be appreciated for their connatural characteristics.

“With every drop of water you drink, every breath you take, you're connected to thesea.”

— *Sylvia Earle*

Will it be fine if we call marine world the heart of the environment as it is as important as the heart in human body. Oceans are regarded as the more oxygen producing source than the

³ National Geographic Society. (2020, March 2). *Water Worlds*. <https://www.nationalgeographic.org/encyclopedia/water-worlds/>

rainforests in the world. It said that about 70% of oxygen in the environment is produced by the ocean while rainforests produces 28% of oxygen.

And moreover it will be no wrong if we regard ocean and sea as the climate regulator as it absorbs the heat and acts as the carrier of warm water from equator to the poles and for cold water it transfers from poles to the tropics. Otherwise we will be lacking with the habitable regions in our surrounding. It also keeps a track on the carbon cycle balancing the temperature of the earth.

And any variations in the climatic condition will not only hamper the environment but also will have negative impact on the marine species and other living organisms. The ocean has been warming since 1950s according to the IPCC⁴ -Fifth Assessment Report (AR5). And due to this warming of ocean aquatic species tends to move to cooler region, as in, about 105 marine species of US Northeast coast and in the eastern Bering Sea migrated to northwards.⁵

According to IPCC, ocean warming has been affecting the marine organism which will definitely cause harm to the human communities, fisheries and ecosystem.

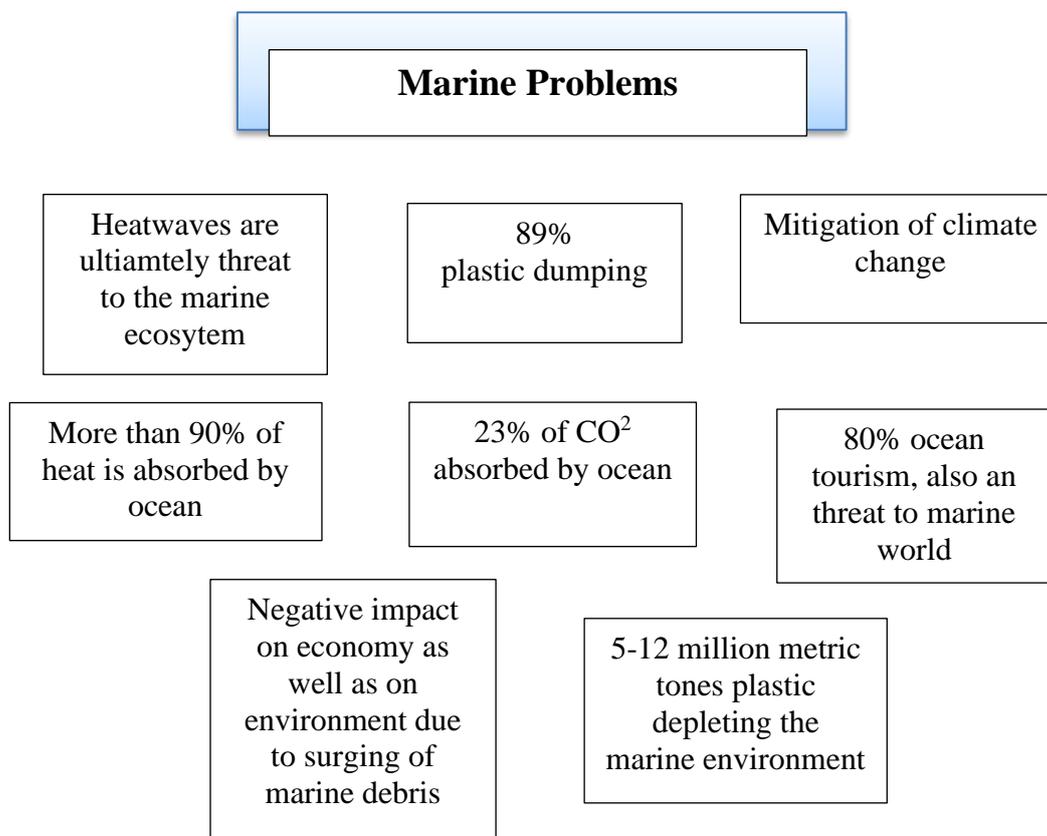
Infact ocean not only a vital component for the primary factor, it is also important in secondary ways like humans can rely on this for their earning. According to OECD report, there will be rise in employment for about 30% in ocean based industries in near future be it 2030.⁶ So ofcourse, the condition and conservance of marine world adversely imapct the economics of a country. Majority of workers, about 3 billion people of developing countries rely on these ocean-based industries for their livelihoods making fisheries as their key source of income.

Due to these numerous reliance of humans and other species, marine world must be conserved and be protected from global warming, ecological imbalance, plastic pollution, ocean dumpings, oil spillings from marine related activities, overfishing and many more as such.

⁴ The Intergovernmental Panel on Climate Change (IPCC) is the leading international body for the assessment of climate change. It was established by the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) in 1988 to provide the world with a clear scientific review of the current state of knowledge on climate change

⁵ <https://www.c2es.org/content/ipcc-fifth-assessment-report/#author>. (2017, November 1). *IPCC Fifth Assessment Report*. Center for Climate and Energy Solutions. <https://www.c2es.org/content/ipcc-fifthassessment-report/>

⁶ *The Ocean Economy in 2030 | en | OECD*. (2016, April 16). <https://Www.Oecd.Org/Environment/the-Ocean-Economy-in-2030-9789264251724-En.htm>.

Figure 1 : About marine problems- facts and data figure

III. SUSTAINABLE DEVELOPMENT

Humans are already well aware of how much precious is marine world to the environment and how living beings are dependant on oceans and fisheries to fulfil the social and economic demands. Cosevancy of marine world has always been important factor to taken care of but which somehow is neglected. Now the degradation of ocean and marine life caught a different pace of exploitation. Apart from making laws and regulations, government came up setting a vision for the conservancy of our marine world. In the amidst of 2015 United Nations Member States adopted 17 Goals⁷, called the Sustainable Development Goals (SDGs)⁸ - in order to set a vision of 15year plan to ensure peace and prosperity among the people and planet by the year 2030 (2030 Agenda for Sustainable Deveelopment).

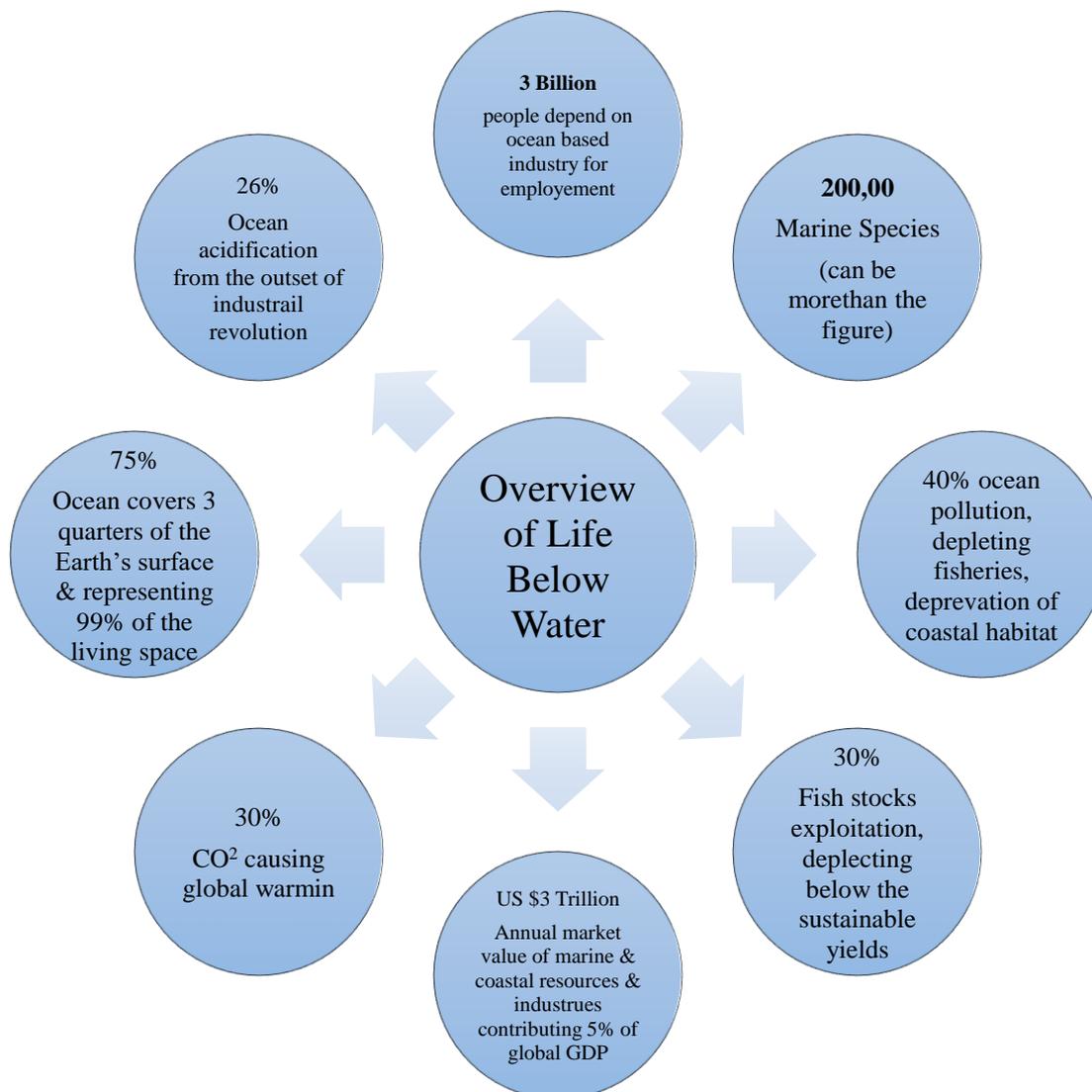
SDGs came up with the goal to protect the marine world and conserve the marine resources,-

⁷ United Nations Enable. (2020, April 15). #Envision2030: 17 goals to transform the world for persons with disabilities | United Nations Enable. United Nations Enable - Disability. <https://www.un.org/development/desa/disabilities/envision2030.html>

⁸ M. (2015). *The Sustainable Development Agenda*. United Nations Sustainable Development. <https://www.un.org/sustainabledevelopment/development-agenda/>

“GOAL 14: LIFE BELOW WATER”⁹ - “SDG 14 is Conserve and sustainably use the oceans, seas and marine resources for sustainable development”.

Figure 2: Overview of Goal 14



IV. CONSERVING THE MARINE WORLD - THE REAL ISSUES FACED

The marine world wouldn't have been taken into account if with the passage of time, the human world would not have realised that we though live in the terrestrial region but we are dependent on the marine world as much as we could in every possible way for our survival. It can't be only said in terms of resources but it can be justified in the way of creating an ecological balance as well as in terms of trade and otherwise having one connection with the life on the other side of the ocean. Till now it hasn't been possible on part of any country to

⁹ Goals, T. G. (2021, January 8). *Goal 14: Life Below Water*. The Global Goals. <https://www.globalgoals.org/14-life-below-water>

know about the entire world that lies within. May be when we can do so is still a mystery, as we try to explore more the depth gets darker and the conditions gets more perplexed.

So is it because of these reasons the marine world needs to be conserved? Well they might add up to the reasons but there are some other factors that we need to consider and put a torch on the issues that are actually faced so that there would be appropriate solutions in protecting it.

Let me talk about the most concerned issue:-

- First of all it is high time that we should work and use an alternative that can make remarkable reduction on the wastage of plastic¹⁰. It has been an easier part of everyone to dump the plastic waste on the water bodies but the fact cannot be ignored that it takes forever to decompose. Speaking more widely this would be even enough that plastics not only dumped in water bodies but anywhere in the environment is harmful and can create tremendous negative impact. The creatures living inside the aquatic system end up in eating that and ultimately dying. It has happened even that some of the fishes that have been caught for human consumption have an amount of plastic particles that we as part of human end up eating. The damage is irreplaceable and we need to work effectively as the present resources that are available in getting reduced for the disposal of plastics in various forms underneath. The use of extreme fossil fuels has made the environment more polluting as well as more acidic. The presence of more than required amount of carbon dioxide is slowly poisoning everything. The way we use energy has been a directly proportional act to the destruction of aqua world.

- Another perspective to look upon is the use of less fertilizer in agriculture. Ultimately it drains into the ocean that significantly does affect the various resources we are able to explore from it. Something beyond requirement is harmful in any ways. In the other manner the absence of proper authorisation in controlling the industrial waste which has more amounts of chemicals in its waste that can be even termed as toxic waste add up so much to the negative condition of the water bodies that it has been one of the growing concerned.¹¹ Some of the negligent works have given the freedom to destroy the marine world in return of some economic strategy. People don't get the reactions that are slowly visible in terms of loosing something unique from the ocean.

- One more economically problem being completely ignored is the ruthlessly killing of flora as well as fauna of the aqua world. The aqua world has its own type of species that are being tortured or being killed or otherwise being tested for the selfish motives in growing up

¹⁰ International Union for Conservation of Nature. (2018, December 5). *Marine plastics*. IUCN. <https://www.iucn.org/resources/issues-briefs/marine-plastics>.

¹¹ Howard, J. (2021, February 10). *Marine pollution, explained*. National Geographic. <https://www.nationalgeographic.com/environment/article/critical-issues-marine-pollution>.

their own finance. No where it has been accepted as a right to take away the life of other species that do co exist with equal rights in this planet. This issue has been ignored as if their life is not an important aspect to be thought or otherwise taken care of. Man one of the creatures who have the ability to utilise brain and have the power to invent various mechanisms to make this place a better one has been in reverse destroying the place reluctantly.

In the course time, the mankind has forgotten to notice that the effect of marine life would be indirectly suffered by all. May be in having the imbalance of resources or by means of pollution that would never be an easy task to control or start from scratch. What has been dumped might not get cleaned. A lot of things might not get reversed. The next generation that is coming in future might not even see the beauty of the aqua world. It is definitely high time to figure out what all are contributing in the degradation of natural resources and the extinction of species and strategically approach towards its conservation and start taking necessary steps.

V. DEVELOPMENTS FOR MARINE WORLD IN INTERNATIONAL LAW

Conserving the marine world has been such an important subject to look upon that the international forum has been trying to make some remarkable changes that will form standardised rules for all over the world. The water bodies have helped in the survival of different marine species and have been the connections for trade and the growth of economics. There are numerous reasons that contributed in the development. One of such reason can be considered as oil pollution i.e. spilling of oil from tanks from ships. The Second World War was one such incident that made people realise that some of the damage caused can never be rectified. This made the adoption of International Marine Convention in Washington in the year 1926 that though was not ratified but it showed the other side of oil pollution and regulations for the increasing situation.

The Declaration on the Human Environment had practically two documents that were adopted at the United Nations Conference on the Human Environment (UNCHE), held in Stockholm in June 1972 that was even otherwise called as Stockholm Declaration¹² where there were special provisions dedicated to marine pollution. The focussed part of that particular document would be Principle 7 which clearly stated on the possible steps that should be taken to prevent pollution of the seas by substances that create threat to human health, the various life of the marine world and the resources that can be extracted from the sea that are legal to be used by the human.

¹² LOUIS, B. SOIIN. (2013). The Stockholm Declaration on the Human Environment. *Harvard International Law Journal / Vol. 14*, 52, 168. <https://doi.org/10.1017/s2078633613000179>

On the other part of it lies Principle 22 that describes about the liability and compensation for the damage caused by way of marine pollution requiring from states and other necessary cooperation in order to develop rules in the international level.

The establishment of United Nations Environmental Programme as an institution was an important achievement that adopted regional seas action plans which had to monitor pollution as it was one idea that some of the problems could be solved when it is controlled regionally and with a proper boundary. The first covered region was the Mediterranean.

We do not have particular conventions that only deal with oil pollutions in the marine but however there are few conventions that are dealing with provisions dealing in regards to environmental protection that are as follows:-

Geneva Conventions of 1958 in its article 5(1) and 5(7) on Continental Shelf states about the different ways the continental shelf gets explored and exploited for the natural resources available. Some of the necessary actions would be navigation, fishing, oceanographic and various other scientific research work and in article 24 on high seas conveys that it is necessary and as part of the state an obligatory act to draft national legislations on pollution preventions from ships or otherwise from pipelines and other sea bed activities that occur in the respective national boundaries. It is even absolute necessary to even work on the safety in the coastal region from any type of harmful agents that can be even part of the destruction of marine world and its unique species.

United Nations Convention on the Law of seas or as abbreviated as UNCLOS have in its document stated about how the steps taken for the prevention, reduction and control of the marine pollution would be a part of international customary law and it has been well describe in Article 192 and 194. It is also obligatory as a part of UNCLOS as described in Article 195 & 197 for the states not to transfer any form of hazardous waste and to have a compromise relation in the regional areas concerning on global issues. The International Maritime Organisation shortly IMO is one such dedicated organisation that looks upon the working of UNCLOS.¹³ Other nautical laws need to be even enforced properly with the proper authorisation.

Some of other laws that work at international level for the conservation of species and resources would be Convention on Fishing and Conservation of Living Resources of the High Seas,

¹³ International Maritime Organization. (2014). *The United Nations Convention on the Law of the Sea (UNCLOS) and the International Maritime Organization*. <https://www.Imo.Org/En/MediaCentre/SecretaryGeneral/Pages/Itlos.aspx>.

adopted in the year 1966. Another law would be Marine Mammal Protection Act of 1972. Not only laws it has to be an essential part for each country to take up the matter seriously. Government as part of their duty though works in the protection as per laws but it is even necessary for the general public to be aware of minimum work that one can contribute. There have been specifically non Governmental organizations who are trying to make some changes. Naming a few of such organizations would be Oceana, Blue Ventures, Marine Conservation Society (United Kingdom), Marine Conservation Institute (United States), Reef Watch (India), Marine life Alliance (Bangladesh), Live Ocean (New Zealand), Australian Marine Conservation Society.

VI. TREATIES ADDRESSING CONTEMPORARY ISSUES OF MARINE SPECIES CONSERVATION

One of the lucrative business is trading the marine species which give effect to booming economic. Around 20million fish and 1.6 million coral reefs are traded annually. And Indonesia being the biggest exporter makes a business about 70% marine trading activities. Also about 80% import business is dealt by US, EU and Japan. Marine species are not only valued in food industry but are also a source of entertainment, ornaments and traded for aquariums. The greed of humans has led to removal of marine species from their own habitat that the marine ecosystem is on the verge of losing its existence. Although some fisheries are in the pink of trading where as some are being not regulated properly and following unsustainable practices. High rate of exploitation of marine species are observed pushing them towards the edge of being endangered or extinct species.

For which international efforts regulating the protection of endangered species from over exploitation give effect to the “Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)” which accords conservation of more than 37,000 species.

Convention on International Trade in Endangered Species of Wild Fauna & Flora

An international convention which puts a check on trading of endangered species by aiming on prevention of the cause of being endangered to become extinct.

183 countries are the parties to the treaty supporting the ethical international trade practice. the trading transaction of import and export are guided by CITES where the approval of national authorities of the Member States are regulated.¹⁴

¹⁴ Convention on International Trade in Endangered Species of Wild Fauna and Flora. (1976). *What is CITES?* / CITES. CITES. <https://cites.org/eng/disc/what.php>

The marine species are listed in Appendices in different level with different regulations, as in Appendices II the marine turtles, queen conch are listed, which contains the strict provision for international trade which basically ensures that the trade is legal, reported and sustainable.

Basically the convention is linkage between the international trade for fisheries and sustainable development goals targeting on implementation of Goal 14 of SDG with efficient steps.

It also complements the work of other organizations to improve fisheries management, such as that of the Food and Agriculture Organization of the United Nations (FAO) and of Regional Fisheries Management Organizations and Bodies.

International Convention for the Regulation of Whaling¹⁵

From the early age hunting has been one of the basic mode of survival, the only difference is that people before hunted just to satisfy their needs but now they do so to satisfy their greed. Be it territorial animals, aerial or aquatic animals, hunting has great impact on booming economics.

So, in the marine world, whales, dolphin, sharks other large vertebrates species are the favourite target of the hunters. From enjoying the Shark fin soup to getting cured by Seahorse's medicinal effect, and again treasuring the bones & teeth of whales to making dolphins our source of entertainment, slaughtering of marine species has caused a great loss to the marine world. The most trainable and intelligent marine animals are Dolphins, orcas and beluga whales for which trade for dolphnariums are high on demand to attract tourism.

And this really has a adverse impact on the ecosystem by affecting the climate of the environment as these marine animals are the owner of carbon supply and balancing the release of carbon.

To protect the Whale and for effective conservation, the International Convention for the Regulation of Whaling(ICRW) came into force in 1946 which applies to factory ships, land stations and whale catches under the jurisdiction of the Parties to the Convention and to all waters in which whaling is carried out. Most of the scientific studies, investigations, collection of data, analysis of such data and all such activities are carried out by the Member States. The major approach of the commission is to review and revise the provisions and regulations prescribed in the convention. It puts a check on method of fishing by putting a restriction on which type of whales, which size and during which season fishing can be done.

¹⁵ Audiovisual Library of International Law. (1946). *International Convention for the Regulation of Whaling*. <https://legal.un.org/avl/ha/icrw/icrw.html>

United Nations Convention on Biological Diversity (CBD)

The International Convention on Biological Diversity was adopted in 1992 in Rio de Janeiro with an objective of sustainable use of biodiversity, conservancy of the biodiversity and equitable share of benefits. The convention is the first comprehensive agreement to take charge of all the factors of the biological diversity, considering it to be the integral part of development. Being one of the most significant development in the field of international relation for protection of the biodiversity, around 180 states had signed the convention and ratified the same.

The Convention defines biological diversity as: "*the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.*"

The convention has national jurisdiction on both marine and terrestrial world, regulates the activities beyond the limits of jurisdiction, they also regulate the national activities that adversely affect the biodiversity. The supreme body of the convention is the Conference of the Parties (COP), which held in Bahamas(1994), then in Jakarta(1995), third in Buenos Aires(1996, fourth happened in Bratislava(1998) and the fifth one was in Nairobi(2000).

In the comprehensive Global Biodiversity Assessment, the issues relating to coastal and marine environment was highlighted by UNEP, and the global consensus agreed on the importance of marine and coastal biological diversity which is said as Jakarta Mandate. It is part of the Ministerial Statement at the COP meeting in Jakarta in 1995 on the implementation of the Convention of Biological Diversity.

Concerning the marine world the CBD is to be executed reliably with the rights and obligation of States under the law of the sea, also emphasizing in the accomplishment of SDGs. Therefore in the Jakarta Mandate, the COP initiated an immediate action plan to work on sustainable use of marine and coastal resources, following this a work programme was initiated which focused on thematic issues like management of marine and coastal areas, the living resources, Mariculture, any kind of alien species with collaboration of effective experts.

The Convention on the Conservation of Migratory Species of Wild Animals (CMS or Bonn Convention)

The convention on conservation of Migratory species of wild animals¹⁶ is an international

¹⁶ CMS / CMS. (1980). Convention on the Conservation of Migratory Species of Wild Animals. <https://www.cms.int/en/legalinstrument/cms>

treaty which works for the safeguard and conservancy of migrated species in every sphere, be it terrestrial, aerial or marine. It is concluded under aegis of the United Nations Environmental Programme (UNEP) with 130 parties ratified the treaty. Basically UNEP has a goal to provide close cooperation on the conservancy of migratory species travelling from one state to another. And to be specific the marine animals are already listed in the Appendices such as turtles, marine mammals, sea birds and so on. Wherein Appendix I contains endangered migratory species or portion of range, and such species are hard to be conserved and quite difficult to restore their habitat. For them it is an endeavour to prevent and eradicate such activities which adversely affect the endangered species. Generally taking the species listed in Appendix I is prohibited and if any allowance is made need to inform the secretariat. And in Appendix II contains basically 12 species such as turtles, whales, dolphins, sharks which explicitly aim at taxonomic group of marine world with an unfavourable conservation status that would significantly benefit from the international co-operation that could be achieved through international agreements for their conservation and management.

The Bonn Convention has recently had a meeting with COP, in which numerous resolutions were taken regarding the light pollution guidelines for wildlife including marine turtles, seabirds, regarding the protection of unsustainable fisheries, important marine mammal areas are to be taken care of, conservation of Hawksbill Turtles to address their trade and use in South-East Asia, adverse impact of Anthropogenic Noise on Cetaceans and other such species, certain guidelines on noise pollution in marine world, recreational activities with marine animals, conservation of whales and their habitat, and many as such decisions and resolutions were taken for the sake of conservancy of migrated species.

VII. CONCLUSION

There are definitely a lot of studies that have shown us light about how the scenario is and how it can be in the next ten years. Only laws won't be sufficient to take up on the situation and rectify it. The common people need to change certain things and also need to replace certain things. The marine world needs to be conserved by any means for our own survival. The mankind should not take everything for granted nor should have the ability to be selfish and only think about the survival of humans. All other creatures have the equal right to be a part of this ecosystem without any fail and the natural resources should be even utilised and not over utilised or to be said precisely overexploited as that is in reverse creating more troubles. On one part we should be following up with the law and the regulations accepted worldwide to make the marine world as well as the ecosystem perfectly balanced.

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