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The Concept of "Common Heritage of Mankind" in the Trusteeship Council: A Critical Analysis

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ABSTRACT

As the questions arise about has the job of the UN Trusteeship Council been accomplished? Has it completed its supervisory role of administering the Trust territories? In the first place it has certainly but when reviewing the council again it needs to address a series of problems that has been overlooked over time again and again[3]. The problems concerning the principle of Common Heritage of Mankind, where it should deal with Indigenous population and their governance, the Ecological, Social, Economical, Post-Conflict Peace building and Culture should now be focused upon. In this way the Trusteeship Council should make an earnest effort to make this world a peaceful place to live. It has more capabilities with more members who can address these problems more fruitfully, by drawing the consent based on protecting the Common Heritage of Mankind and having the ultimate decision to make the Trusteeship council capable to work on the matters, which are not possible to be worked upon by the other organs of the UN. To elaborate this with an example, for instance, there is an atomic plant leakage in a part of the country, which makes, in this case, two organs to come into play those are the International Atomic Energy Agency and the United Nations Environment Program look and work upon the damages, the after-effects and how to solve a problem. So can be true for the Trusteeship Council which can deal with problems in a way that has solutions from every corner and debates have the best of policies for governance in any field.

Here the essay in this regard would be looking on the trusteeship council and about Indigenous non self governing territories. It would then look on the concept of Common Heritage of Mankind. In relation to the Common Heritage of Mankind it will look on the questions on the domain of Arctic Region and the mineral deposited in the Deep Seabed. A revival in the Trusteeship Council focusing on possibilities and finally concluding it with by providing solutions and how this concept of Common Heritage of Mankind be an area for Trusteeship Council to work upon.

Keywords: *Trusteeship council, Security Council, Common Heritage of Mankind, UN*

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[3] R.C.Ryser, Indigenous Nations and Modern State.New York and London: Routledge, 2019

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Environmental Law.

With the Argument in Advance ***"By empowering the UN Trusteeship Council with new roles in the context of Common Heritage of Mankind including Ecological, Economical, Post Conflict Peace building, Social and Cultural based model be appropriate to reform its structure."***

I. INTRODUCTION

As the questions arise about has the job of the UN Trusteeship Council been accomplished? Has it completed its supervisory role of administering the Trust territories? In the first place it has certainly but when reviewing the council again it needs to address a series of problems that has been overlooked over time again and again.[4] The problems concerning the principle of Common Heritage of Mankind, where it should deal with Indigenous population and their governance, the Ecological, Social, Economical, Post-Conflict Peace building and Culture should now be focused upon. In this way the Trusteeship Council should make an earnest effort to make this world a peaceful place to live. It has more capabilities with more members who can address these problems more fruitfully, by drawing the consent based on protecting the Common Heritage of Mankind and having the ultimate decision to make the Trusteeship council capable to work on the matters, which are not possible to be worked upon by the other organs of the UN. To elaborate this with an example, for instance, there is an atomic plant leakage in a part of the country, which makes, in this case, two organs to come into play those are the International Atomic Energy Agency and the United Nations Environment Program look and work upon the damages, the after-effects and how to solve a problem. So can be true for the Trusteeship Council which can deal with problems in a way that has solutions from every corner and debates have the best of policies for governance in any field.

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[4] R.C.Ryser, Indigenous Nations and Modern State.New York and London: Routledge, 2019

II. THE BACKGROUND OF TRUSTEESHIP COUNCIL[5]

We can no more speak of the sovereignty of an Administrating Power over a non self-governing territory than we can of the guardian's ownership of his ward's property.[6]

As rightly expressed by Ambassador Trujillo[7] but here a contradiction arises that a guardian will do the best to develop his wards property and try to reap the benefit for his wards' instead of benefiting himself whereas in the Administrating Powers case it is different as they reap the benefit for themselves leaving the inhabitants of these Non self-governing states as powerless for claiming their rights over the resources and land.

The Colonial power and lawyers had put forth a well-elaborated thought of a very wise formulated diplomatic and juridical concept with greater powers protecting smaller peoples and were also conceived thereby the modern understanding of international trusteeships.[8]

As the year 1945, it took the role of its previous International Organization, which was the League of Nation to oversee decolonization procedure in the colonized states, that later became trust territories for some reason or the other. It had suspended its operation after Palau got its independence and thus fulfilling the objectives enshrined under the UN Charter This process took some time to realize that the trust administrators were not there to develop, but had some other ulterior motive that had a shadow of showing that the trust territories will be benefited after all. This has been proved in the few cases like the Greenland-Denmark and Micronesia-USA to site a few which would be referred for a clear understanding. It is stated here because as per Emer De Vattel,[9]a Swiss Diplomat, Philosopher and Legal expert in his book states that when many people live together in a free nature under a nation or under sovereign state and are bestowed upon with the inherent rights, to a perfect sense of combinations which includes liberty and independence which at all, cannot be derogated from them without their consent

[5] The UN Trusteeship Council was originally authorized by the UN Charter under Article 87 with membership comprised of UN members "administering trust territories" and the five permanent members of the Security Council as designated in Article 23: The Republic of China (now replaced by The Peoples Republic of China), France, the Union of Soviet Socialist Republics (Now the Russian Federation) the United Kingdom of Great Britain and Northern Ireland and the United States of America. The total number of members was to be set as including other elected members for three-year terms by the General Assembly "as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those members of the UN which administer trust territories and those which do not. (Article 86, 1. c.)

[6] UN Doc. A/PV. 485, 1 October 1954 at 146

[7] Ambassador Trujillo of Ecuador speaking at the Plenary Meeting of the 9th Assembly

[8] Ryser, R. (2013). "International Trusteeships, the Unfinished Responsibility." Fourth World Journal. Spring. Vol 12 Num 1. pp. 99-109.

[9] Emer de Vattel ,The Law of Nations, Or the Principles of Law of Nature Applied to the Conduct and the Affairs of Nations and Sovereigns with Three Early Essays on the Origin and Nature of Natural Law and Luxury (PDF), (1844). In Charles Ghequiere Fenwick (ed.),Philadelphia: T. & J. W. Johnson – via Library of Congress.; Emer de Vattel (1916). Le Droit des gens. Carnegie Institution of Washington. p. xxx.

has been the bases for international law for years. Therefore guiding them in a long run but in further interpretations, they have made a slight bend towards that the practices of the nations which were non-European and were completely backward and wanted to revive them into the cultured. Deferring to a common understanding it would be stated that when the ones who want to rule were in bloodied hands, how they could administer the other states with clean hands.

This thing continued till the end of 1994 but left a lot of questions unanswered. The main question till date would be the new roles of the Council and how to look over the problems of the Indigenous, the environmental factors beyond UNEP and UNDP's a bit of work as well as the future administration of Common Heritage of Mankind, which has its work limits and needs someone to work in coordination like in the terms of security, as it would be an appropriate arrangement of the United Nations Security Council and United Nations General Assembly on Uniting For Peace under resolution 377. The island of New Caledonia became the part of French territory that has no connection with France at all.[10]The three ways by which a territory can exercise their right to self-governance is through 1) independence, 2) local autonomy that is related to larger association and assimilating with a bigger Sovereign nation.[11]

III. THE GREENLAND CASE

The region was under the Danish kingdom from 1721 till the year 1953. The region has a high composition of oil, uranium, fisheries and other natural resources, which brought the Danish from across the sea to govern this region. In the year 1953, with the formation of Greenland Provisional Council, who were able to provide their expertise in the matters that had limited authority to speak for themselves. As the time was changing and an internal factor of the Inuit community was getting affected, the youths were eager to revive their own culture. This is where the Inuit community put forth the issues of political, social, cultural and economic stability along with power with authority to execute it. Ultimately it resulted for the Inuit wanting self-governance from the Danish Government, in 1972 which created the Greenlandic Home Rule Committee. In 1975 the Joint Danish Greenlandic Home Rule was formed to view and delegate the powers to the people of Greenland ultimately leading to the following:

a. Greenland remains under the Danish dominion of absolute sovereignty,

[10] UN Doc. A/RES/41/41A,Dec.2,1986

[11] T.PARKER, The Ultimate Intervention: Revitalising the UN Trusteeship Council for the 21st Century, Center for European and Asian Studies at Norwegian School of Manangemnet,55 (The former Italian colony of Somaliland was the one territory placed into trusteeship under Article 77(l)(b))

b. The Home Rule government had the authority to decide over its economy, social as well as political life.

This leads to a question of self-governance enquiring on who is free to integrate and chart out well about their goals and aspirations or are they still under some obligations? To provide an answer to it may be a difficult one but looking into the situation, where the two of the most difficult questions were firstly, the urban population settling from Denmark in Greenland and secondly, the land control that was still with Denmark. Can this be called a real self-governance system? As Ryser states that there should be more integrated system of involving the natives and the state governments for the best possible method by including them into the loop, which sadly over here has not happened instead a semi-autonomy is provided where the main rights of land is still with Danish Authorities. In this case it hampers the developmental process in totality because of which it should have more fair council to look upon them.

IV. MICRONESIAN CASE

This is related to the Pacific belt, where the Portuguese, Spanish, German, and the Japanese regimes had ruled until the Second World War and then UN declared it a Trust Territory. The command was taken over by the US and they administered these territories sitting 1000 miles away from them. Is it possible to foresee and govern any territory from such a far off distance? And if so then why can't the trusteeship Council appoint its own Administrators to look over the territories. Nevertheless, the main question remains that what was so important about these territories that only could be seen by the United States and no one else. To ponder on this question one needs to look upon the history of empires and colonies. This one was for the military and strategic positions that could give the U.S an advantage over others, which in all had a new dimension back then. They termed it as Strategic Trust which had an appointed commissioner on behalf of the American Department of Interior. As the resources found out in the American Indian Policy Review Commission,[12]

The essential reason for the United States' Presence in Micronesians been the military value of the Islands. [As a member of the UN Security Council and a member of the Trusteeship Council]……..the United States was able to have the islands set aside in a side in a special category as a "Strategic" trust. [Permitting]……the U.S. to fortify the islands, and this, as it turned out, was the only noticeable development that took place for quite some time.[13]

[12] A Joint Congressional Commission established by the Congress in 1975 to consider past and recommend future policies relating to the administration, Trusteeship, health, education, governance and legal status of American Indian and Alaskan Native peoples under the administration of the Department of the Interior

[13] P.S.Deloria, R.C.Goetting, M.Tonasket, R. Ryser, & B. Minnis, Report of Federal Administration and structure

In the 1962, May 7, a government was formed in Micronesia under the Presidential Executive Order.[14] It was very clear that the system was governed by the High Commissioner that had been appointed by the American Department of Interior through its Secretary under the Secretarial Orders.[15]The question bringing a serious doubt on was the President by any way consulted for this and did they ever think about having some representative of Micronesian people themselves to be bestowed with the High Commissioner's position for better governance. May be they could assist themselves independently.[16]

There was petition by the Micronesian government for directing the appropriations and pressing them to terminate the intermediary functions of the Department of Interiors, as most of them were completely dependent on the U.S. Employment that was through defense facilities and the grants of the government.

The United Nations took notice of the known development about agricultural sector and also the marine culture which had huge importance to the region but was ignored by the United States government. The educational system included advancement but left out to merge the culture and traditions of these indigenous communities along with the issue of possession of the land that led to a serious crisis that was against anti-collective patterns of ownership. The resources were misused turning this being used against them. This led to negotiations on something referred to as "political status arrangement", which, had ultimately taken 15 long years for transitions.[17]In the 1970s while the negotiations were on a high note, the Americans wanted to have access to lands for gaining an upper hand on military installations that could have an unaffected notion, benefitting the American administration at large.

The Strategic Trust which had the land as one of the major component indeed led to the division of the Pacific islands into the Federation of Micronesia, Palau, Marshall Island, and the Caroline Islands. In this two of the states have opted for independence and are part of the UN which gets a lot of aid from the US and the UNDP, whereas the states of Marshall Island and the Caroline Islands have retained the status of Commonwealth under the United States. Here it reminds of the realistic situations where independence is a demand due to suppression but still looks like the behavior of the monetary value that the suppressor state works to lure for dominating the world at large. To understand this situation there be a solution that could

of Indian Affairs. Washington, D.C.: United States Senate, American Policy Review Commission, (1976).

[14] Presidential Executive Order No.11021

[15] Secretarial Order 2918: Government of the Trust Territory of Pacific Islands, Order No.2918 C.F.R(December 27, 1968)

[16] P.SDeloria, R.C.Goetting, M.Tonasket, R.Ryser, & B.Minnis(1976) Report.

[17] R.C.Ryser Indigenous Nations and Modern States.New York and London: Routledge, (1976).

provide the best alternative to state-imposed trust territories. The answer for this would be yes and supported by the revival of the Trusteeship Council that can look upon the indigenous populous areas and be the fairest to tackle on their problem in reality. To take it on another level it would be very difficult to administer territories that are 1000 of a kilometer/miles away from them and whose maintenance is unbearable enough that is where the Trusteeship Council can help these indigenous people to develop their way of governing themselves and help them be under its umbrella as it works in the direction of Governance.

V. THE CONCEPT OF COMMON HERITAGE OF MANKIND

Under the scope of the res communis which has been applied to the domains related to high seas/seabed and outer space. They are applied in a very lenient manner, which has also incorporated the atmosphere and the oceans within its ambit.[18]The treaties which have been highlighted in the concept of the common heritage of mankind are as flows:

The Antarctic Treaty- the treaty ensures that Antarctica and its region will be used for peaceful purposes only, to promote international scientific cooperation within Antarctica, and to put aside disputes about territorial sovereignty.[19]

The General Assembly had proclaimed that in international law, which will include the Charter of the United Nations, applies to outer space and the celestial bodies,[20] along the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space including the Moon and other Celestial Bodies.[21]

In this the following treaties are

- **a.** Outer Space Treaty (1967);[22]
- **b.** Agreement on the Rescue of Astronauts and Return of Objects Launched into Outer Space (1968);[23]
- **c.** Convention on International Liability for Damage Caused by Space Objects (1972);[24]
- **d.** Convention on Registration of Objects Launched into Outer Space (1974);[25]

[18] Wolfrum, 'Common Heritage of Mankind' (2009) MPEPIL; Taylor & Stroud, Common Heritage of Mankind: A bibliography of Legal Writing (2013). The concept has been explored in the context of the deep seabed: Vitzthum, 'International Seabed Area '(2008) MPEPIL; and the moon: Tronchetti, The exploration of Natural Resources of the Moon and Other Celestial Bodies.
[19] UNTS 71,402 , Arts I-IV,1 December 1959
[20] GA Res 1721 (XVI), 20 December 1961.
[21] UNTS 205,610, Art 3, 27 January 1967.
[22] 10 October 1967, 610 UNTS 205, 10 October 1967.
[23] UNTS 119,672, 22 April 1968.
[24] UNTS 187,961,29 March 1972
[25] GA Res 3235 (XXIX), UNTS 15,1023,12 November 1974

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e. Agreements Governing the Activities of the States on the Moon and Other Celestial Bodies (1979).[26]

The main content on which the common heritage of mankind imprints its mark is due to its presence in the customary international law, with the treaties, which are binding due to its implementation standard that makes it possible to maintain the promotion of international cooperation and the peaceful uses of the Outer Space.[27]The other essential component which it develops is a confidence-building measure in the Outer Space activities.[28]

The second argument in advance on which the essay focuses on is that "***Arctic Circle should be used by all nations because it is the part of Common Heritage of Mankind Concept and there is no one can declare sovereignty over it."***

This region is has been a center for fisheries, resources and the allied stuffs, which has made the countries surrounding it to utilize it along with the Asian giants China and Japan. It is thus, making it difficult for other countries to operate in such a manner that could obstruct their development in the region. It is mostly seen that there has been no similar treaty for the circle, unlike the Antarctica Treaty that could be operating over the Arctic region.[29]The region is basically and largely governed under the law of the sea,[30] with some treaties that are multilateral and bilateral dealing with specific issues of a particular nature.[31] It has an effective soft law declarations and understandings[32], amongst the domestic legislation for the eight Arctic nations.[33] Together they have combined their efforts to implement their work on the Arctic Environmental Protection Strategy, which is also known as the Rovaniemi Process.[34] In 1996, the Arctic Council came into existence and has been the forum for intergovernmental cooperation along with coordination on the pressing issues of sustainable environmental

[26] UNTS 3, 1363, 5 December 1979
[27] James Crawford,Brownlie's Principles of Public International Law (Oxford University Press,9 Edition,2019)
[28] Ibid
[29] Byers, 'Arctic Region' (2010) MPEPIL, Byers &Baker, international Law and the Arctic (2013) 4,28.
[30]Baker in Elferink Molenaar, & Rothwell ,(2013), 35
[31] The International Convention for the Prevention of Pollution from Ships (MARPOL), UNTS 1842,1340,November 1973, modified by Protocol of UNTS 61, 1340,17 February 1974; International Convention for the Safety of Life at Sea (SOLAS), 1184 UNTS, 3,1 November 1974,; Agreement on Conservation of Polar Bears, Oslo, UNTS, 2898, 15 November 1973; Espoo Convention on Environmental Assessment in a Trans-boundary Context, UNTS 309,25 February 1991,1989; Stockholm Convention on Persistent Organic Pollutants, UNTS 119, 2256,22 May 2001; Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Artic,15 May 2013; International Code for Ships Operating in Polar Waters, IMO Doc MSC.385,15 May 2015, (94), which amends both MARPOL and SOLAS and has as its aim the protection of the polar amendment.

[32] E.g. Kiruna Declaration, 15 May 2013; Eight Arctic Council Ministerial Meeting; Declaration Concerning the Prevention of Unregulated High Seas Fishing in the Central Arctic Ocean,16 July 2015
[33] The countries that are forming the council are Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the U.S.A.
[34] Sands et al, Principles of International Environmental Law (4 Edition,2018), pg 644-650

protection as well as recognizing a lot of regional indigenous organizations as the permanent members of the forum. Although they have included the natives along with the eight countries around the region, it seems as a serious regional discrimination that has been prevailing over the years as Antarctica has been open to all the nations for exploring and for promoting international scientific cooperation, whereas in the case of Arctic it represents a monopoly approach, that is a serious violation of the principles of common heritage of mankind.

To bring forward an example in outer space and even in Antarctica, countries have reached to the remote places which are open to all like India has established a scientific center in Antarctica under the name Dakshin Gangotri (meaning the South Ganges). Countries like India and Ethiopia have launched space ventures to work under the common heritage benefit, which implies for all and resources could be used for a noble cause but cannot result leading to monopolize a region. The hegemony of these eight states along with Japan and China for utilizing the resources would be similar to the issue of landlocked states who could not access their sea navigation rights because it did not fall under their territorial ambit but the UNCLOS had provided a right to navigate along with loading/unloading of cargo from the ships harboring at their neighboring states port.[35]

Since there is no territory under the ice caps in the Arctic region, it makes it difficult to have some type of system as in the Antarctica Treaty.[36] Even though a treaty like Antarctica could not be imposed due to no-land mass under the ice cap glaciers, it would be most appropriate option to make the Trusteeship Council have authority on this region and let it unfold its environmental and economic value. As on the Environmental front, they are mainly concerned about global warming, an issue which is due to the melting of ice caps and is a reason of worry for the indigenous people inhabiting over there.[37]

In the broader aspect, there are areas of overlapping jurisdiction which may be conflicted and may relate to the law of the sea, which incorporates the maritime limitations that are been a serious issue for the eight countries and the problem of navigation which are serious concerns of the region.[38]

This can be only addressed well if the Trusteeship Council acts in its utmost equitable manner

[35] UNCLOS, PART X, Article 125;

[36] Koivurova, Introduction to International Environmental Law (2014),pg 102; Loukacheva in Loukacheva (2015) p 19-23;Koivurova,Kankaanpaa, &Stepien (2015) 27 JEL285,288-290. But cf Jabour in Lalonde & Mc Dorman (2015) for discussion of whether an Antarctica Style treaty would work in the Arctic.

[37] Smith (2011) 41 G Wash ILR 651; Winther in Loukacheva (2015)

[38] Joyner in Triggs & Riddell (2007) 61; Byers, 'Arctic Region'(2010) MPEPIL; Smith (2011); Schofield and Sas in Lalonde & Mc Dorman (2015).

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to preside and outline the way nations can have free access for all as well as conflict gets resolved quickly can be appropriate measures to help it re-establish itself. The suggestion over here for the larger benefit of the world and in recognizing the purpose the Trusteeship council can be that it can be the authority to look over the issues and provide equitable solutions that are accepted by all.

The third argument in advance for the essay is on **"Use of Aquatic and Natural resources in the deep seabed should be utilized by all the states for maintaining peace in terms of economic development."**

This is an essential component and has its roots in the UNCLOS and the Seabed Authority to function as well as to allocate the resources in these areas regardless of the geopolitical situation of the states. The main elements present there are polymetallic nodules, which are deposited in the Indian Ocean and the Atlantic Ocean which are having high composition of manganese, copper, nickel, cobalt and petroleum.

As early as 1 November 1967, Dr. Arvid Pardo said that the seabed and its resources are part of the Common Heritage of Mankind.[39] Technology and reach have taken humans far and beyond imaginations the marine scientific exploration in the deep sea is one of them. The seabed contains components comprising of Polymetallic Modules including Cobalt rich Ferromanganese crusts, Polymetallic Sulphides and has one of the largest deposits of petroleum.

The Cobalt rich crusts are present in the EEZ and the high sea that has been commercially beneficial. Around 64% of Worlds Ocean by surface area and 95% volume of components are deposited here. This makes it more difficult to look at the overall situation for the extraction of the precious metals and crude oil, where the precautionary principle of the environment has to be taken into consideration. Here it would be noteworthy to state that the seabed areas of the oceans are full of life forms that are unknown to humans till date. The main crisis that arises in the International Seabed Authority regime is that it has allowed at least 29 contracts in place to extract minerals all over the oceans which are basically nations and corporate houses. The main extraction regions are the coasts of Papua New Guinea, The Pacific Oceania States, Namibia, and Peru, where the activities have caused a problem to the inhabitants as well as demographic structure within these areas.

[39] Churchill & Lowe (3 Edition,1999) p224-229;Lodge in Freestone(2013) p 59;Tuerk in Attard,Fitzmaurice, & Martinez Guitierrez(2014) p 276,279-284

VI. LEGAL PROVISIONS UNDER THE UNITED NATIONS LAW OF THE SEA, 1982

In understanding this in detail we look under UNCLOS,[40] under which the valuable Articles to be referred are Article 136, Article 137.2, and Article 145, that provide codified matter for the covering the Common Heritage of Mankind along with protecting the resources as well as the marine environment.

(A) UNCLOS Article 136—Common Heritage of Mankind

The article states that:

"The Area and its resources are the common heritage of mankind."[41]

It was rightly pointed out that the common heritage of mankind principle needs to be in relation to protect the marine environment, which is a "responsibility to develop" through the International Seabed Authority. The sustainable development concept which focuses on intergenerational sharing has to be kept in mind. A complete assessment should include a set of the targets, which has a combination of research for setting up of the conservation targets that can add to a positive outcome of the ecological protection.[42]

(B) UNCLOS Article 137.2—Legal Status of the Area and Its Resources

The article states that:

[40] UN Convention on the Law of the Sea
UNCLOS in Part XI, together with its 1994 Implementation Agreement relating to Part XI, sets forth the international legal framework for activities related to deep seabed mining and marine scientific research in the Area. The guiding principle of the common heritage of mankind is manifested in many ways: 1) all rights in the resources of the Area are vested in mankind as a whole; 2) no State or natural or juridical persons can claim, acquire or exercise rights in connection to resources in the Area except under Part XI; 3) all mining and any minerals recovered may only be alienated per UNCLOS and the rules adopted by the Authority; 4) States are required to ensure that they exercise "effective control" over any activities by their state enterprises and other natural or juridical persons they sponsor; 5) activities in the Area, including marine scientific research, are to be carried out for the benefit of mankind as a whole; and 5) financial and other economic benefits from seabed mining are subject to equitable sharing under rules to be developed by the Authority (UNCLOS articles 133-143).
UNCLOS requires that necessary measures shall be taken to ensure effective protection for the marine environment from harmful effects which may arise from mining-related activities. The Authority is to adopt appropriate rules, regulations and procedures for inter alia: 1) the prevention, reduction and control of pollution and other hazards to the marine environment; and 2) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment (UNCLOS article 145). UNCLOS in Part XII requires national rules for pollution from seabed activities in the Area as well as within national jurisdiction to be no less effective than international rules, standards and recommended practices and procedures (UNCLOS articles 208-209). Additionally, all States share a common obligation to protect and preserve the marine environment, including rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life (UNCLOS articles 192 & 194.5); https://www.eumidas.net/legal_framework (Last Accessed on 25 December 2019)

[41] As A.Jaeckel, K.M.Gjerde, and J.A.Ardron, Conserving the common heritage of humankind – Options for the deep-seabed mining regime. Mar. Pol. 78, (2017), 150–157. DOI:10.1016/j.marpol.2017.01.019;https://www.frontiersin.org/articles/10.3389/fmars.2017.00418/full (Last accessed on 25 December 2019)

[42] Ibid

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"All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated by this Part and the rules, regulations, and procedures of the Authority."

(C) UNCLOS Article 145—Protection of the Marine Environment

The article states that:

"Necessary measures shall be taken under this Convention concerning activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities.

To this end the Authority shall adopt appropriate rules, regulations, and procedures for inter alia:

(a) The prevention, reduction, and control of pollution and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;

(b)The protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment."

In applying the rule of law as was in the convention, it has relevance to the Sustainable Development Goal 14 which has a special focus for the landlocked and geographically disadvantaged states, who have their heavy dependence on the oceans as well on its resources for their economic stability.[43]

Although these articles are dealing in a great deal on the conservation of the marine environment and the common use by all, the question over here is the leadership of ISA[44] is prudential enough to cater the needs of those nations where these activities are taking place. Even if they are an autonomous authority they need to understand the regional needs and also try to figure out how to rebuild the marine environment in the best way possible. There has been a light year of advancement in scientific research but is that enough to look for the flora and fauna that live in those undiscovered regions?

[43] https://www.un.org/en/chronicle/article/international-seabed-authority-and-deep-seabed-mining (Last accessed on 25 December 2019)

[44] International Seabed Authority

A thought about resettlement has been brought out by the observers, who have contributed to the deep-sea research, and as per them, it takes years to habilitate these aquatic lives because of their regeneration abilities, which can be seen in one of the examples like the coral reefs, they are formed by polyps over a certain time. Can they be regenerated within fraction of seconds or hours? In a computer-based research, it was found out that the sediments of the seabed could nearly take 10 times longer to resettle which would need more to travel within the water column.[45]

This is where a possible way the United Nations Trusteeship Council can work for maintaining an international balance to coordinate the works with ISA and UNDP+UNEP, that can be helpful to the natives and the governments for develop their infrastructure and along with providing the world with resources available for the benefit of all as per the need of the nation. This can be set by the UN Trusteeship Council on the bases of some monetary security, that will help the nations to get these Polymetallic Nodules by providing the Council with something that the nations are famous for, a type of barter but here the difference would be these famous national commodities would be kept as a buffer stock material which can be sold to other nations who would trade them and will provide 80% share of money back to the nation for its development and loss that has occurred these and rest 20 % share of money would be with the council to work on emergencies and other related matter.

To cite some examples of endangered species in the deep sea by extracting metals around the Hydrothermal vents which support creatures like the blind yeti crab (Kiwa tyleri) that has the characteristic of blonde, furry hair and the scaly snail (Chrysomallon squamiferum), which has an amour of iron shell, thereby been declared as endangered spices because of the mining activities.[46]

As per lawyers while the ISA was established back then in 1994, it had a dual nature which on one hand it had the responsibility to protect the marine environment and on other to exploit the resources for the betterment of mankind. Here one of the remarks was that ISA has been a poacher as well as the gamekeeper, [47] which needs a transparent authority to provide a check

[45] B.Gillard, K. Purkiani, D. Chatzievangelou, A. Vink, M.H.Iversen, and L. Thomsen, Physical and hydrodynamic properties of deep-sea mining-generated, abyssal sediment plumes in the Clarion Clipperton Fracture Zone (eastern-central Pacific). Elem Sci Anth, 7(1), 2019, p.5. DOI: http://doi.org/10.1525/elementa.343;http//:https://www.nature.com/articles/d41586-019-02242-y (Last Accessed 25 December 2019); https://www.elementascience.org/article/10.1525/elementa.343/ (Last Accessed on 25 December 2019)

[46] http/:https://www.nature.com/articles/d41586-019-02242-y (Last Accessed on 25 December 2019); Sigwart, J. et al. Nature Ecol. Evol. http://doi.org/10.1038/s41559-019-0930-2 (2019) (Last Accessed on 25 December 2019)

[47] Hannah Lily, a maritime lawyer with the Pew Charitable Trusts in London, who was not speaking on behalf of Pew https://www.nature.com/articles/d41586-019-02242-y (Last Accessed on 25 December 2019)

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and balance mechanism over here. It is thus most appropriate to say that Trusteeship Council seems vital for working and would not be unequal to any side to make the UN function well. It would surely provide a sound base to lift the UN for a good reason.

VII. THE RECOURSE IN THE TRUSTEESHIP COUNCIL

Under Article 87 the Trusteeship council can only try to examine the information from the Administrating States, who are looking after the territory but it also does not provide any power to have a say on recommending the Administrating States on matters of interest for the common population. In this regard a demand can be made for the including the recommending stands of the Administration States in the Trusteeship Council's annual report.[48] There is a general provision that is governing the General Assembly or the Security Council, which has a binding nature of the Charter, which must be taken into account under Article 83.

Article 87 is basically dealing with the Trust territories which are not concerned with strategic trusts, the trusts that are of military advance and it should be considered in the Trusteeship Council for protecting them. The trusts should be protected because they are the ones that are more at risks than the rest in terms of exploitation of their resources as well as their own identity. In this way the administrative authority, which are looking after territory should be accountable to the Trusteeship Council.[49]

The finally the Trusteeship Council should take into consideration issues of indigenous islands, the common heritage of mankind and post-conflict building situation where they can lead a good example rather than the Security Council. In this process the accuracy must be fair and impartial , which will make the council to question the Administrating States as well as the States working under the framework of the Common Heritage of Mankind domains be more accountable and lead to Peace and Harmony.

VIII. CONCLUSION

As in the report submitted by the then Secretary-General Boutros Boutros Ghali in 1992 under the name "An Agenda for Peace",[50] stated that the new role of the council should focus on Post Conflict Peace Building. Although his report made no mention of the Trusteeship councils' new role in it and can play a vital role to tackle problems that are not under the mandate of the Security Council, which can really give Trusteeship Council a moral boost to work. The main

[48] Rule 98 of the Rules of Procedure of the Trusteeship Council
[49] https://opil.ouplaw.com/view/10.1093/law/9780199639779.001.0001/law-9780199639779-chapter-106 (Last Accessed on 25 December 2019)
[50] B.B.Ghali, Agenda for Peace (DPI/1247,1992)

focus of the Security Council is to maintain peace and security, whereas not peace-building. In this case, the Trusteeship Council can bring a cordial solution that can last longer rather than the ones brought out by the Security Council. One of the main advantages of the Trusteeship Council can be its role of primarily dealing with the issues of governance and not security which gives it an upper hand to provide amicable solutions rather than unsettled ones like in the present scenario.

In most of the Trusteeship Agreements, there are provisions for keeping the land and its natural resources with the local population,[51]which in many cases were not followed by administering states like the U.S and the others for which India had proposed that the dependent states and colonies should be kept under a fair and impartial body of the UN which could be none other than the Trusteeship Council. [52]The solutions at the Trusteeship Council are easily solvable through a simple majority vote system, which would give them an advantageous path to lead to take more important emergent actions.[53] In this light some suitable solutions would be extended as follows:

- To integrate the social, political, and economic aspirations of the Indigenous people with the main ones.
- There should be Trust compacts along with a third-party guarantor to enforce the compact agreements.
- Finally, the Trust authorities, which are the states and their officer looking after the premises of non self governing territories should be accountable to the Trusteeship council and making it the apex authority to decide matters for "Common Heritage of Mankind". As Security and Peace matters are dealt with UN Security Council and cases between states dealt by the International Court of Justice

A way to look forward and try to help the world to be a better place to live by maintaining peace, security and peace-building the process of self Autonomy and best practices of common heritage of mankind. The way to look forward in this direction would be to make the Trusteeship Council strong by empowering it with Common Heritage of Mankind to be incorporated into it which would help to bring the vision of the then Secretary-General of United Nations Kofi Annan and the Commission on Global Governance in the year 1995 report

[51] T.PARKER, The former Italian colony of Somaliland was the one territory placed into trusteeship under Article 77(l)(b), supra note 8, at 23
[52]T. PARKER, The former Italian colony of Somaliland was the one territory placed into trusteeship under Article 77(l)(b), supra note 8, at 25.
[53] U.N. CHARTER art. 89 para. 2 on "Decisions of the Trusteeship Council shall be made by a majority of the members present and voting."

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into reality. It stated more on the terms of a regulatory body to bring under its ambit the protection of the environment along with the global commons that are ultra vires to national jurisdiction.[54]

As by this it can be argued that the Trusteeship Council can be taking up the responsibilities which will give them the ultimate authority to make decisions and merge Common Heritage of Mankind for paving the path for Governance and Peace Building that the world seriously would desire.

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[54] Shaw, John: UN Adviser Says World Must Focus On Sustainable Development Archived 2005-02-14 at the Way Back Machine, The Washington Diplomat

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recovered may only be alienated per UNCLOS and the rules adopted by the Authority; 4) States are required to ensure that they exercise "effective control" over any activities by their state enterprises and other natural or juridical persons they sponsor; 5) activities in the Area, including marine scientific research, are to be carried out for the benefit of mankind as a whole; and 5) financial and other economic benefits from seabed mining are subject to equitable sharing under rules to be developed by the Authority (UNCLOS articles 133-143).

UNCLOS requires that necessary measures shall be taken to ensure effective protection for the marine environment from harmful effects which may arise from mining-related activities. The Authority is to adopt appropriate rules, regulations and procedures for inter alia: 1) the prevention, reduction and control of pollution and other hazards to the marine environment; and 2) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment (UNCLOS article 145). UNCLOS in Part XII requires national rules for pollution from seabed activities in the Area as well as within national jurisdiction to be no less effective than international rules, standards and recommended practices and procedures (UNCLOS articles 208-209). Additionally, all States share a common obligation to protect and preserve the marine environment, including rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life (UNCLOS articles 192 & 194.5); https://www.eumidas.net/legal_framework (Last Accessed on 25 December 2019)

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