

## **Legal Status of Coastal Deprived States: Trapped States**

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### **Abstract**

This article focuses on the legal status of coastal-deprived states. Its objective is to illustrate the rights of a state that is confined and geographically impacted within the exclusive economic zone's living wealth. Additionally, it aims to highlight international variations in the rights of a state that is confined and geographically affected within the exclusive economic zone, as established by the Third Conference on the Law of the Sea. The research focuses on establishing the legal definition of a locked-in state. The present study has adopted an analytical technique to examine the entitlement of states that are geographically impacted and trapped to exercise their right to participate in the welfare of living riches on the high seas. Numerous conclusions and recommendations have been derived, with the foremost being the necessity to revise the Convention on the Law of the Sea on the provisions concerning the status of states lacking beaches and geographically impacted states. This amendment is crucial in safeguarding their entitlement to utilize the open ocean and partake in all fishing, mobility, and exploration endeavors to extract minerals and sustain their livelihoods.

**Keywords:** Legal Status, Trapped States, Coastal Deprivation, Law of the Sea

### **Introduction**

They are those states that are far from the seas and have no beaches and are currently number 28, or about one-fifth of the international community, mostly in Africa, followed by Europe, Asia, and Latin America. The oldest states in Europe are Switzerland, Luxembourg, Andorra, San Marino, the Vatican, Liechtenstein, Austria, and Hungary, the oldest in Asia, are Nepal and Afghanistan, and the rest of the countries in general, except Bolivia, which has been trapped since 1879, following their war with Chile, which denied them access to the sea (Al-Ashal, 2000).

Coastal state jurisdiction refers to the authority that a coastal state has over foreign-flagged ships that violate regulations and laws inside its jurisdictional zones. The primary authority of a coastal state consists of its prescriptive and enforcement jurisdiction. The prescriptive jurisdiction pertains to the authority to mandate rules and regulations, whereas the enforcement jurisdiction pertains to

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the authority to ensure compliance with these laws (Buh, 2004; Al-Hammouri et al., 2023a).

The notion of freedom entails that each nation has the unrestricted right to utilize the sea according to its preferences. This article's influence has led to a gradual renunciation of national sovereignty claims by nations over oceanic areas. Contrarily, no nation has yet been able to assert ownership over the deep sea. This new legislation also enabled nations to oppose Great Britain's tactic of impeding trade between its adversaries and the global community due to its dominant position in marine affairs (Bardin, 2002; Al-Billeh, 2022a).

The choice of the subject matter of this study is the result of the emergence of new scientific and practical facts worthy of study and the emergence of several international disputes over the right of a state trapped and geographically affected by the living wealth of the exclusive economic zone, which was organized by the Third Conference on the Law of the Sea. These facts include the following:

The emergence of the exclusive economic zone is the result of the joint defense of the interests of the geographically disadvantaged and imprisoned states as well as the defense of the developing countries.

Article 124 of the Third Convention on the Law of the Sea defines States in custody, so this definition is like that defined by Article 1 of the 1965 Trade Convention, which defines it as "the States without a coast, and thus this definition is general, clear, unambiguous, and unambiguous.

Article 70/2 of the Third Convention on the Law of the Sea defines geographically affected states as coastal states, including coastal states on closed and semi-enclosed seas, whose geographical location is dependent on adequate fish supplies to feed their populations or part of their populations on the exploitation of the living resources of the exclusive economic zones of other states in the same subregion or region, as well as coastal states that cannot claim their economic zones.

The geographically disadvantaged and confined states, owing to their marine and economic geographical situation, are obliged to expand their national competence with their neighboring coastal states. Note that the new world economic order recognizes the principle of the right to participate and the presence of geographically disadvantaged and trapped states in such participation. The topic of this study is new and rare, as it is a topic specialized in the legal status of states that are geographically affected by their right to resort to the high seas. However, this research has been dealt with through reference to several books and research referred to in this study.

In this research, I will address several problems and answer several questions. One of the most important is: Are locked-down beaches at the mercy of neighboring states with beaches? Does the absence of state coasts weaken its national, military, and political economies and increase transport costs? What is the geographically affected state? What role have developing countries played in defending the right of trapped and geographically affected states to resort to the exclusive economic zone to exercise their activities? What is the legal concept of a trapped State? Finally, are trapped and geographically affected States entitled to exercise their right to participate in the welfare of living wealth on the high seas?

### **Methodology**

Accordingly, the analytical approach will be adopted in this research to analyse all provisions of legislation related to the subject of this research to identify its contents, implications, and objectives, then criticize and comment on it, and highlight the differences between those provisions, knowing the strengths and weaknesses of these different trends, and the extent to which they are considered, and highlighting the critical aspect of the researcher, where this research necessitates the use of several research methods due to its complex nature among the texts of the law, the viewpoints, and the jurisprudential trends (Malkawi, 2008).

However, many studies have addressed the topic both briefly and indirectly, so even though the subject of this study has not received enough research due to the rarity of studies, what distinguishes this study is that it is one of the practically distinguished studies in its field. For that purpose, the method in this research will be twofold: first, analysis or interpretation; second, critique with ideas for modifications, followed by a conclusion expressing proposed changes.

### **The Rights of States Which are Geographically Affected at the Third Conference of the Law of the Sea**

The right to use the high seas is not limited to States that own maritime beaches but also have the right to use the high seas on an equal footing with other states. Thus, trapped States must be recognized as having full free access to the sea. Moreover, recognized this principle in the Geneva Convention on the High Seas, whereby a State possessing beaches is obliged to facilitate the communication of States located between the sea and that State (Bardin, 2002; Al-Billeh & Abu Issa, 2023a); this is done through the conventions concluded between States so that these conventions grant trapped States the right of transit in the territories of the States separated from the sea. In such a way that ships of a state's nationality are treated like that accorded by States to their vessels or ships

of other States concerning entry and use of ports; in the absence of agreements linking States, such States deal with issues relating to the free transit of trapped States and their right to equal treatment with other States concerning the use of ports, through a memorandum of understanding between the parties (Ghanem, 1960; Al-Billeh & Abu Issa, 2023b).

The marine natural resources present in the seabed and subsoil of the Portuguese continental shelf, extending beyond 200 nautical miles, are inherently linked to the maritime public domain of the Portuguese State. The Portuguese State possesses exclusive authority over a range of powers associated with this dominance, including exploration, exploitation, conservation, and management of these resources (Al-Billeh, 2022b; Al-Hammouri et al., 2023b). Portugal has implemented several measures, based on a precautionary approach, to effectively manage and exploit marine natural resources in the seabed and subsoil. These measures aim to protect vulnerable marine ecosystems and maintain a high conservation status for marine biodiversity (Al-Billeh, 2023b).

These actions primarily focus on guaranteeing the safeguarding and conservation of the maritime environment, as well as gathering information to further scientific understanding of the marine environment and its resources (Al-Billeh, 2022c; Al-Billeh & Al-Hammouri, 2023).

Considering this, Portugal has consistently emphasized in numerous international forums its commitment to fully utilize its authority by establishing guidelines for fishing operations, to safeguard seabed and their delicate resources, such as sponges and corals, from the detrimental effects of such activities (Al-Billeh, 2022d; AL-Hammouri et al., 2023c).

Ordinance No. 114/2014, issued on May 28th, has established the essential requirements for safeguarding seabeds against the detrimental effects of fishing. This includes prohibiting the utilization and upkeep of fishing equipment that is likely to harm deep-sea ecosystems, as well as mandating the documentation and reporting of captured corals and sponges (Al-Billeh, 2022e).

The responsibility of DGRM is to ensure the effective management and planning of the knowledge framework about natural marine resources in areas under national sovereignty or authority. This includes inventorying, using, and spatially planning these resources (Al-Billeh, 2024a; Block, 2022).

### **The right of the landlocked and geographically affected country to the living wealth of the economic zone.**

At the start of the Third Conference on the Law of the Sea, developing countries proposed the participation of locked and geographically affected States in living and non-living wealth beyond territorial waters, the exclusive economic

zone, and international waters. Trapped and geographically affected States were able to lay the groundwork for addressing their needs at the Third Conference on the Law of the Sea, where the majority supported these proposals (Al-Badri, 2002; Barral, 2012; Al-Khawajah et al., 2023).

Article 125 of the 1982 Convention on the Law of the Sea stipulates that "1. the Landlocked States shall have access to and from the sea to exercise the rights outlined in this Convention, including those relating to the freedom of the high seas and the common heritage of humanity. To this end, land-locked States shall enjoy the freedom of transit through the territory of transit States of transport. The provisions and images of the exercise of freedom of transit between landlocked and transit States concerned are agreed upon through bilateral, subregional, or regional conventions. In exercising their sovereignty over their territories, transit States shall have the right to take all necessary measures to ensure that rights and facilities do not infringe upon their legitimate interests.

From the preceding, we note that the right to participate is limited to exploiting living wealth. It extends only to those in the water column, thereby deriving from the content of this right to participate, the living wealth at or below the bottom and the so-called lying species by the provisions of the article (68) of the draft convention as a wealth of the bottom and bottom of the economic zone, known as the continental extension, the right to exploit its wealth is limited to the coastal State, which considers it to be the natural extension of its territorial territory only. However, the right of the closed and geographically affected States to participate in the exploitation of the living resources of coastal States' economic zones does not preclude the right of coastal States to prohibit, regulate or restrict the exploitation of marine breast livestock, which is effective against all States, including those that have the right to participate in their economic zones, The scope of the right of participation of a closed and geographically affected State on an equitable basis must take into account the economic and geographical circumstances relevant to all States concerned. In particular, it considers the need to avoid adverse effects on fishing communities or industries in states where the right to participate is exercised in their regions (Abdal Majeed, 1982; Cullet, 1999; Khashashneh et al., 2023).

If the shoreline is significantly indented or cut into, or if there are islands nearby, the baseline may be set separately from the low-water mark. In such instances, the technique of connecting suitable spots using straight baselines may be utilised. The delineation of these baselines should not deviate significantly from the overall coastal direction, and the sea regions enclosed within the boundaries must be firmly connected to the land domain to be subject to the regulations of internal waters. However, it is possible to consider, if required, the

economic interests specific to a particular location, which are demonstrated by their longstanding usage and significance. It is prohibited to establish baselines close to drying rocks and drying shoals (Al-Billeh, 2023a).

The exclusive economic zones (EEZ) provide a more intricate scenario, and the United Nations Convention on the Law of the Sea (UNCLOS) has resulted in many interpretations of the rights to utilize the EEZ since its implementation. Some of these interpretations have even been exacerbated in international crises, such as the USA – China Impeccable incident in 2009. As per Article 58 of UNCLOS, foreign governments are permitted to utilize the Exclusive Economic Zone (EEZ) for navigation and overflight activities, if they respect the rights and responsibilities of the coastal state and do not violate international accords. Numerous maritime nations interpret this provision by ascribing naval activities to ship operations, so asserting their permissibility under the United Nations Convention on the Law of the Sea “UNCLOS” (Abdal Majeed, 1982).

### **The right of the landlocked and geographically affected country according to the projects submitted during the preparation of the Third Conference on Law**

During the preparation of the Third Conference on the Law of the Sea, several draft international conventions dealing with the rights of trapped and geographically affected States emerged. Article 69 of the draft convention stipulates:

1. The landlocked State has the right to share in the exploitation of surplus living resources in coastal States' exclusive economic zones, considering their economic and geographical conditions, as per this article and articles 61 and 62.
2. The conditions and forms of such participation shall be determined by the States concerned through bilateral or subregional conventions, considering:
  - A. The need to avoid adverse effects on the coastal State's fishing communities or fishing industries.
  - B. The extent to which the landlocked State is involved by the provisions of this article or its right to participate under existing bilateral or subregional agreements in the exploitation of the living resources of other coastal States' exclusive economic zones.
  - C. The extent to which other landlocked States and States with geographical characteristics are involved in the exploitation of the living resources of a coastal State's exclusive economic zone and the

consequent need to avoid imposing a particular burden on any individual coastal State or part thereof.

D. The food needs of each State's population.

3. When a coastal state can harvest all allowed fishing resources in its exclusive economic zone, it and other concerned states must collaborate to create equitable arrangements for landlocked developing States in the same subregion or region to participate in exploitation. (Abdal Majeed, 1982; Al-Billeh & Al-Qheiw, 2023)

4. Developed landlocked States cannot exclusively exploit living resources in the exclusive economic zones of developed coastal States in the same subregion or region. However, developed coastal States must provide access to their exclusive economic zones to minimize adverse effects on coexisting States.

5. The provisions mentioned above are without prejudice to other arrangements agreed upon in subregions or territories under which coastal States may grant equal or preferential rights to land-locked States located in the same subregion to exploit the living resources of the exclusive economic zone.

Through this provision, it is clear that the right of other States' participation in the exploitation of the wealth of economic zones is governed by a set of rules about the designation of States that have the right to exercise it, those that are obliged to determine it in their economic zones, and the content, scope, and nature of the right to participate (Hammoud, 1990; Al-Hammouri et al., 2024).

### **Geographically Affected Countries' Participation in Scientific Research**

The 1982 Convention on the Law of the Sea addressed the right of trapped and geographically affected States to participate in marine scientific research. The Convention provided that landlocked or geographically affected States should be notified of the proposed research project. Furthermore, the Convention added that neighboring landlocked States and geographically affected States should be made available, Upon request, the opportunity to subscribe, whenever possible from a scientific point of view to the proposed marine scientific research project through qualified experts appointed by those States and not challenged by the coastal State concerned and the competent States or international organizations conducting scientific research and the Convention also established the right of all States, regardless of their geographical location s common heritage, as well as in the water column beyond the limits of the exclusive economic zone (Buh, 2004; Al-Billeh, 2024b; ALMANASRA et al., 2022).

We conclude that the legal status of landlocked and geographically affected States has improved in the 1982 Convention on the Law of the Sea, which is observed through the practical and actual application (Abu al-Wafa, 1989; Symmons & Reed, 2010).

The United Nations Convention on the Law of the Sea explicitly delineates distinct regions within the maritime domain. The historical differentiation between coastal zones, where nations could assert their sovereignty, and the high seas, where the prevailing principle was that of freedom, continues to persist. However, a consensus has been ultimately achieved to establish precise delineations for these zones. The geographical demarcation of various regions is established based on the proximity to the coastline. Every nation has the liberty to establish its standard rationally to delineate its coastline. The baseline refers to either the line that the sea reaches during the lowest tides when the coastline exhibits a relatively organised pattern or the geometric straight lines that connect capes when the coastline displays significant raggedness. The primary regions including the coastal areas to the high seas are internal waters, territorial waters, the continental shelf, and the high sea (Al-Billeh & Abu Issa, 2022; Al-Hammouri & Al-Billeh, 2023).

Article 19 of UNCLOS establishes certain regulations for the movement of vessels in territorial waters. Foreign naval vessels are permitted to navigate in specific regions only if their navigation can be deemed as an "innocent passage," meaning a transit that does not pose any threat to the peaceful state and security of the coastal nation. For naval vessels, this implies that they are prohibited from employing any armaments against the coastal state, conducting drills or man oeuvres that include the employment of weapons, and embarking on aircraft or military apparatus. Article 25 grants the coastal nation the authority to safeguard itself and implement measures to impede the passage of non-innocent individuals. Contrarily, in the realm of international waters, each nation possesses the entitlement to unrestricted passage, including that of military vessels.

### **Conclusion**

The legislation about the sea predominantly derives from traditional sources. This branch of public international law is one of the oldest. The fundamental idea that defines it during times of peace is the principle of freedom, which Dutch lawyer Grotius first proposed in the 17th century.

This principle was expounded in his book "De jure predate" (on the law of prize and booty), particularly in the chapter titled "Mare Liberum" (free sea), which was published in 1609. The originator of public international law advocated for the principle that the sea should not be subject to claims that contradict



terrestrial boundaries, which are the exclusive regions that a nation can occupy. The book was authored in response to the request of the Dutch East India firm, to establish a legal framework that would enable the firm to apprehend hostile vessels.

The right of trapped and geographically affected states to participate in the living wealth of coastal states' exclusive economic zones. The exclusive economic zone shall be regarded as the commonwealth of humanity so that all states share their right of recourse to such zones regardless of whether they are trapped or geographically affected. Trapped and geographically affected states retain their right to resort to the deep-sea area under international control and have the right to share their living goods and wealth with them, as well as to participate in the management of that area. The legal status of landlocked and geographically affected states has improved under the 1982 Convention on the Law of the Sea, as is observed through its practical and effective application.

I recommend that texts addressing the situation of states without beaches and geographically affected States should be amended to ensure their right to resort to the high seas and to engage in all fishing, mobility, mineral exploration, and living wealth activities.

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