

Date: _____

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Q4 What is meant by "Freedom of High Seas"? Discuss certain restrictions on it by international law, including the right of Hot Pursuit by the Ship of a coastal state on the High Seas.

1. Introduction

The high seas are a legal space shared by all humanity, governed by law not by ownership

Malcolm N. Shaw

The freedom of high seas is a fundamental principle of international law that ensures equal access and non-sovereignty over the parts of the ocean that lie beyond any national jurisdiction.

According to Article 87 (1) of UNCLOS high seas are open to everyone but for peaceful purposes. However, there are some restrictions on the freedom of the high seas under

international law such as prohibition of piracy, ban on slave trade, duty to protect the marine environment etc.

Further, there is another freedom of the high seas called hot pursuit, it allows some rights to coastal state.

2. The meaning of "freedom of high seas"

Freedom of the high seas refers to the right of all states to use the high seas for peaceful purposes, beyond the limits of any state's territorial sea, beyond 12 nautical miles from the baseline.

Which UNCLOS

UNCLOS Article 87

The high seas are open to all states, whether coastal or land-locked but for peaceful purposes.

Briefly explain
UNCLOS

Date:

3

a (a) Main freedoms recognized under Article 87 of UNCLOS

Freedom of navigation

Freedom of Overflight

Freedom to lay submarine cables

Freedom of Fishing

Freedom of Scientific research

Freedom to construct

Hugo Grotius
Mare Liberum 1609

This principle originated from Hugo Grotius in his work Mare Liberum, "Sea should be free for all owned by none"

Date: _____

3. Restrictions on the freedom of the high Seas under international law

Peaceful purposes 3 (a)

Prohibition of Piracy 3 (b)

Ban on slave trade 3 (c)

Protect marine environment 3 (d)

Ship must sail under the flag 3 (e)

Prohibition of drug trafficking 3 (f)

Revenue obligation 3 (g)

3 (a) It is obligated that
Use high Seas for peaceful
purposes, military activities

hurting others is a violation

States must use high seas for peaceful purposes. There is restriction of doing military activities that threaten other states may violate this obligation.

UNCLOS, Article.88

(b) Piracy is ban on high Seas and collaboration is crucial for oppressing Sea pirates

Piracy is prohibited in high seas strictly. All states are required to show cooperation in the repression of Piracy. Further, any state can arrest ship of pirate on high seas.

UNCLOS, Article.100, 107

3 (c) All states Shall Suppress the trade of Slave

Date: _____

It is obligatory to combat slavery at sea. Transport of slaves is crime no matter if ship is sailing under flag. Any slave reaching a ship automatically becomes free *Ipso facto*.

UNCLOS, Article, 99

3 (d) **Damaging marine environment and Sea life is Prohibited**

It is obligatory on all states to protect marine life and environment regardless of their jurisdiction.

Further, it is duty of states, to take necessary measures to control and prevent all kinds of pollution from any source.

UNCLOS, Article, 192, 194

3(e) **A Ship cannot fly in high Seas without flag**

It is necessary for a ship to fly with flag of state.

Date:

Farther, there are exception in which a can fly with U.N. flag. Moreover, a ship without flag is considered as piracy.

UNCLOS, Article, 91 to 94

3(f) Drug trafficking is prohibited on high seas

Drug trafficking is prohibited on high seas and all states cooperation is required to suppress trafficking.

A ship carrying drugs is subject to interdiction by its flag state or a suspect foreign-flagged vessel is can be inspected through flag-state's request.

UNCLOS, Article 108

3(g) A vessel shall rescue person in danger except if it endangers its own safety

Date: _____

8

It is necessary for every flying vessel to provide assistance to any person found in dangerous situation in sea. No matter if he is of any nationality, or any situation, until if do not endanger ships own safety.

UNCLOS, Article 98

4. Right of Hot Pursuit:

A Critical enforcement

Powers for a coastal States

Definition =

Hot pursuit is unique exception of international law that allows a coastal state to arrest, chase, and intercept a foreign vessel that violates its law within its maritime zones, even into international waters if necessary and chase must be uninterrupted.

Date: _____

• Legal basis of hot pursuit

It is described in Article 111 of the UNCLOS.

When Does hot pursuit apply

Requirements for hot pursuit

Places where it can happen

When it is considered illegal

4(a) The right of hot pursuit is permissible only under specific conditions

When a foreign vessel violates laws in the state's territorial sea. Exclusive Economic Zone and pursuit begins while the violating ship is still in coastal water.

4(b)

There are specific legal

Date:

Requirements for hot pursuit under international law

The pursuing vessel must give a signal like visual or auditory to stop suspect ship before leaving territorial waters. The chase must be uninterrupted if the pursuing vessel stops, the right ends.

4(c) Hot pursuit may only be conducted in specific maritime zones

The pursuit may continue into territorial sea to international water until interception. Pursuit must stop when vessel enters its own territorial waters or ~~third country~~ state's waters.

4(d) The exercise of hot pursuit is illegal on certain grounds

Date: _____

If the vessel does not violate laws of coastal state. and If the chase is delayed or broken and finally using deadly violence without justification is wrong.

5. Key legal examples of hot Pursuit

MV Saiga Case 1999

Argentina vs. China 2016

France vs. CISNE ROJO 2021

U.S. Coast Guard vs. Drug smugglers

SS Lotus 1927

6. Conclusion

To sum up the

Date: _____

whole discussion, freedom of high seas is fundamental pillar of international law. It allows certain freedom along with few restrictions such as freedom of navigation, overflight, fishing and some restrictions such as threatening military exercises in high seas, piracy, harm on slave trade, degradation of marine eco-system, and ~~ship~~ vessel cannot sail fly without flag. Further, ~~it~~ it allows unique exception of hot exercising hot pursuit to coastal states.



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