The Evolution of International Fisheries Law in the Island Nations of the Pacific: The Quest for Control

Transform Aqorau

Introduction

The ideas of self-determination, control over fisheries resources and the evolution of the Exclusive Economic Zone (EEZ) regime are closely intertwined in the Island Nations of the Western and Central Pacific Ocean (WCPO). In no other region in the world is the confluence between the development of the EEZ and political independence so closely interrelated. This is because many of the Island Nations became independent at the time when the international community was debating the new fisheries regime at the Third United Nations Conference on the Law of the Sea. Fiji, and Ambassador Satya Nandan, in particular, played a pivotal role at the United Nations and Pacific Islands Forum in shaping the final configuration of the EEZ regime and the response of the Island Nations to this emerging international fisheries regime.

The idea of control over fisheries is deeply embedded in the policy responses and postures of the Island Nations. They were newly-independent with long traditions in traditional fisheries and intimate cultural links to the sea reflected in their folklore, songs and dances. The Island Nations viewed the oceans as

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1 The author is from the Solomon Islands. He has worked as Legal Adviser in the Solomon Islands Ministry of Foreign Affairs, Legal Counsel and Deputy Director-General of the Pacific Islands Forum Fisheries Agency in Honiara, Solomon Islands, Legal Adviser to the Pacific Islands Forum Secretariat in Fiji, and Chief Executive Officer (CEO) of the Parties to the Nauru Agreement Office (PNAO) in Majuro, Marshall Islands. He has been involved in oceans governance and management issues in the Pacific Islands region for 25 years. He holds a Bachelor of Laws degree from the University of Papua New Guinea, a Masters of Laws from the University of British Columbia, Canada, and PhD in Law from the University of Wollongong, Australia. He is a Senior Visiting Fellow of the Australian National Centre for Oceans Resources and Security (ANCORS).

2 The reference to the Island Nations in this paper is to the independent states and territories of Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu. The reader is cautioned, though, that while they share similarities, they do not necessarily share the same fisheries interests, and within this group there are the Parties to the Nauru Agreement, the Te Vaka Moana Group and the Melanesian Spearhead Group Fisheries Committee.
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the panacea for their economic hopes and aspirations. As the umbilical ties to their colonial subjugators were cut, the newly-emerging states were compelled to explore alternative means of economic development. The lucrative fisheries resources of the Pacific Ocean offered a logical outlet. After all, they were surrounded, literally, by the ocean. With the exception of Papua New Guinea, and to some extent, Solomon Islands, Vanuatu and Fiji, virtually all the communities in the Island Nations live within a kilometre of the ocean.

However, the quest for control over the Island Nations’ fisheries resources has been shrouded in controversy. The socio-economic configuration of the fisheries has stark contrasts. The Island Nations are physically small, constrained by limited land-based natural resources, and, generally, underdeveloped. They are hampered by the lack of resources to monitor, control and regulate the fishers that plunder their resources. In contrast, fishing is undertaken by vessels that belong to the largest, richest and most powerful countries in the world. Both sides have diametrically opposed outlooks and objectives. The Island Nations want control of the fisheries; to develop it themselves and enjoy the full economic benefits of their fisheries resources. The fishing States want to maintain their monopoly over the fisheries resources, in particular, its production, processing, marketing and retailing. It is against this backdrop that the Island Nations struggle for control.

This paper looks at the evolution of international fisheries law in the Island Nations and their quest for control over the fisheries. It argues that international fisheries law needs a radical reconfiguration in light of continuing decline in some fish stocks, and reshaping of the international economic order for fisheries production. This transformation will contribute to the Island Nations meeting the Millennium Development Goals (MDGs), creating stable governments in a region which has recently undergone political turmoil, and rebalancing trade by integrating the largest single economic activity over the only shared natural resources they have into the Island Nations’ domestic economies. To appreciate their quest for control, it is necessary to examine the fishery industry in the region, its characteristics, the stakeholders and the issues confronting the Island Nations. This is followed by a discussion of the evolution of international fisheries law in the Island Nations, the establishment of the regional tuna fisheries management organization (RFMO) known as the Western and Central Pacific Fisheries Commission (WCPFC) and its implications. The paper looks at the issue of control and maximization of economic benefits from the fisheries resources and offers suggestions for possible reforms to international fisheries law, including rebalancing fisheries production to help Island Nations and other developing coastal States meet the MDGs.