

The Prospects and Challenges before Bangladesh in Exploring and Exploiting Marine Resources: An Economic and Legal Study

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Abstract

Bangladesh is a small country comprising of approximately 147,570 sq. kilometres land territory. But it is an overpopulated country having more than 16 crore citizens. With the boost of population Bangladesh will gradually turn its attention to rich marine resources for food and other needs of its people. It is reported by scientists that resources on sea are much more profile those on land. Since our land-resources are being exhausted gradually, it will be necessary for Bangladesh to depend increasingly on sea resources. This study is intended to highlight the economic benefit may be gained by Bangladesh from its maritime zones as well as focus on the challenges that Bangladesh has to face in achieving the benefit. It is also aimed to make some recommendations how the government of Bangladesh can overcome those challenges.

Keywords

Maritime Boundary Dispute, Baseline, Territorial Sea, Exclusive Economic Zone, Continental Shelf, Marine Resources, Bangladesh, Myanmar and India

1. Introduction

Bangladesh is a coastal state being surrounded by another two coastal states India and Myanmar. Since the emergence as an independent country in 1971, the country has maritime boundary dispute with its two neighbor countries. The dispute came to light in 1974 when Bangladesh entered into agreement with six foreign companies for exploration of natural and mineral resources in the Bay of Bengal which was objected by the other two

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disputed countries (Churchill, 2012). Since then bilateral and transitional arrangement continues among these three countries which produce no result due to lack of sacrifice or waiver of their respective claims. Finally, the respective countries agreed to submit the dispute in International Judicial Forum within the time limited by United Nations.

2. Area of Dispute

The maritime zones of a coastal State comprises with the territorial sea¹, contiguous zone², exclusive economic zone³ and continental shelf⁴ from the baseline. The first three zones can be claimed by any coastal State inherently but the last one depends on geographical characteristics of the land territory. The main dispute among the countries started with the normal baseline. This is because the delimitation of maritime boundaries starts from the baseline. In this regard, Bangladesh was in disadvantageous position in comparison to other two countries. According to International Law, the normal baseline for measuring the breadth of the maritime zones is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State (United Nations Convention on the Law of the Sea, 1982). This rule will apply only when the nature of the coast of a coastal State is normal or straight. Bangladesh fixed its normal baseline from 10 fathom of the coast due its abnormal characteristic of the coast. Both India and Myanmar opposed to this arrangement. Their claim is that low-water line along the coast would be the baseline of Bangladesh as well. But this claim was not acceptable to Bangladesh as its coast is of a concave nature, while the India and Myanmar's coasts are of a convex configuration (Habibur, 1991).

3. Road to Victory

Failing to reach to a constructive solution by bilateral dialog with the two neighboring countries, Bangladesh and Myanmar agreed to refer the dispute to International Tribunal for the Law of the Sea (ITLOS) situated at Germany (ITLOS, 2010) while Bangladesh and India referred the dispute to Permanent Court of International Arbitration situated at Netherlands (UNCLOS, 1982). The trial procedure of ITLOS is quite different from our normal Court system. Bangladesh submitted its memorial at ITLOS on July 1, 2010. The deadline for filing of counter-memorial by Myanmar was December 1, 2010. Bangladesh was to reply to Myanmar's statement by 15 March 2011, Myanmar was to give its rejoinder by 01 July 2011. After hearing from 8-24 September 2011 the Tribunal announced its final and conclusive judgment on 14 March 2012 (Khurshed, 2012). On the other hand, the proceeding at Arbitration started with the submission of Bangladesh's memorial on 31 May 2011 while India submitted its counter memorial on 31 July 2012. After that Bangladesh filed its reply to India's counter-memorial on 31 January 2013. India once again submitted its rejoinder on 31 July 2013. On 7 July 2014 the Arbitration delivered its final verdict after hearing arguments of both the Bangladesh and India recognizing the Bangladesh's claim based on equitable principle as opposed to equidistance principle claimed by India. Both International Judicial Forums took into consideration the abnormal situation of Bangladesh's baseline and in doing so, they fixed the exclusive economic zone and continental shelf among Bangladesh, India and Myanmar.

4. Economic Prospects of Bangladesh

Bangladesh is one of the fastest growing developing countries. The government sets up goal to reach at the stage of mid-level developed countries by 2021 and developed countries by 2041. One of the most important barriers in front of the government's goal is shortage of energy. Settlement of maritime boundary dispute creates an opportunity for Bangladesh's government to exploit natural gas from Bay of Bengal which is the main raw material to produce energy in cheap rate at domestic level. Before the Tribunal's verdict India and Myanmar both claimed 10 and 18 gas-blocks respectively in the maritime zones of Bangladesh and now 8 gas-blocks from In-

¹The term "territorial sea" is used to indicate that part of the sea which extends to a distance not exceeding 12 n.m. measured from the baselines over which coastal State can exercise sovereignty.

²It is an area of sea designed for dealing with customs, fiscal, immigration and sanitary matters of the coastal State.

³It is adjacent to and beyond territorial sea which extends 200 n.m. from the baselines over which coastal State shall have exclusive economic rights.

⁴It comprises the submerged prolongation of the land territory of the coastal state—the seabed and subsoil of the submarine areas that extend beyond its territorial sea to the outer edge of the continental margin, or to a distance of 200 nautical miles where the outer edge of the continental margin does not extend up to that distance.

dia and 13 gas-blocks from Myanmar won by Bangladesh in the Bay of Bengal. According to the Report of USGS⁵, around 40 Trillion Cubic Foot (TCF) gas may be found in the blocks mentioned above (Daily Bangladesh-Pratidin, 2014). Bangladesh can also produce energy using current of water and wind of the sea from 200 nautical miles (n.m.) Exclusive Economic Zone. Besides this, 200 n.m. EEZ encompasses a significance part of global ocean from which Bangladesh can earn huge fishing resources as well. This opportunity will meet the fishing needs of vast population of this country as well as create an employment opportunity of the fishermen where almost 11% people are involved in this profession. The country can further be benefited from 350 n.m. continental shelf from which it can explore and exploit the natural resources which consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil. The non-living resources of the continental self are also much more rich and valuable. It is pointed by Scientist that at least 17 types of sili-con may be founded in the continental shelf of Bangladesh namely cobalt, managanese, copper, nickel etc. Continental shelf resources hold enormous potential for many types of commercial applications, including in health sector, for industrial processes. It is also revealed by research that that compounds from deep seabed organism have been used as basis for potent cancer fighting drugs, commercial skin protection products providing higher resistance to ultraviolet and heat exposure, and for preventing skin inflammation, anti-allergy agents.

5. Challenges before Bangladesh

After solving the maritime boundary dispute, a new Bangladesh emerged in the Bay of Bengal comprising with approximately 118813.00 sq. km maritime zones. It now became a big challenge for Bangladesh to protect this large boundary in one side and on the other to explore and exploit the natural and mineral resources of deep seabed. Reaching deep seabed, extreme environments and maintaining alive the sampled organism as well as culturing them, requires sophisticated and expensive technologies. In this regard, a poor and undeveloped country like Bangladesh has lack the expertise, experience and resources necessary to do this properly. And for this Bangladesh has to depend on technologically developed countries that may impose strict and inequitable conditions for supplying technology taking the disadvantageous position of Bangladesh. Another challenge before Bangladesh is to ensure the safety of people like fishermen who are functioning in the Bay of Bengal. It is another concerned for Bangladesh is to see that marine environment may not become endangered due to overexploitation of living and non-living resources.

6. Recommendation

It is high time for Bangladesh to take short and long terms initiatives for building up a strong economic background with the best utilization of its marine resources. It is not possible for the government alone to achieve this target. The government, the opposition party, the marine scientists and mass people all together must be joined in the development activities. The national institution BAPEX⁶ should be reformed with the experienced manpower and empowered with latest technological equipments. Instead of foreign companies, BAPEX should be given opportunity to explore and exploit gas and oil resources of the maritime zones of Bangladesh. And for this purpose we can hire only foreign expert and technology for BAPEX. At the same the government should establish Marine Resources Research Centre and Training Institute at national level which would be able to prepare skilled power capable of surveying, exploring and exploiting much needed marine natural and mineral resources. In order to ensure the safety of large marine boundary and the persons working in the maritime zones of Bangladesh in different capacity the government should increase the manpower of Coast-guard and Navy of Bangladesh as well as enrich these two forces with supporting ship like patrol ship and other equipments.

7. Conclusion

There is no doubt that Bangladesh has gained crucial economic benefit in solving the 40 years longstanding maritime dispute. The verdict will enable the enhancement of medium and long-term energy security interests of the country. With expansion of the maritime boundary, the opportunities for the nation's fishing industry have

⁵US Geological Survey.

⁶Bangladesh Petroleum Exploration & Production Company Limited.

also been enhanced as fishing now can be carried out in the deep sea. As a coastal state now it can explore and exploit living and non-living resources of water, seabed and subsoil of 200 n.m. exclusive economic zone. At the same time it has sovereign right over its 350 n.m. continental shelf in the sense that even if Bangladesh does not exploit any resources from that area, no one can do so without previous permission of the country. Bangladesh can get relieve from its population pressure utilizing its marine resources properly. For this, the country need to take proper policy planning otherwise it will not be possible to reach its goal.

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