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**Bangladesh in the Dispute Settlement Body under Public  
International Law: An Appraisal**

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## Consent Form

The dissertation titled **“Bangladesh in the Dispute Settlement Body under Public International Law: An Appraisal”** prepared by **Md. Hasibul Haque Imon, ID: 2018-1-66-045** submitted to **Sayed Hossain Sarwar, Lecturer, Department of Law** for the fulfillment of the Course: Law 406 (Supervised Dissertation) for LL.B. (Hons.) degree offered by the Department of Law, East West University is approved for submission.

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Signature of the Supervisor

Date:

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To conclude, I would want to convey my appreciation to everyone who has supported me and encouraged me to follow my heart.

## Declaration

I, Md. Hasibul Haque Imon, bearing Student ID: 2018-1-66-045, declare that the work in this dissertation titled “**Bangladesh in the Dispute Settlement Body under Public International Law: An Appraisal**” has been carried out by me. This is my original work and information used for this research has been duly acknowledged. I have not published this work in any Journal, Newspaper or Article.

## Table of Contents

Abstract	1
List of Abbreviation	2
Chapter 1: Introduction	3
1.1 Bangladesh and its Historical Background	3
1.2 Objective of the Research	3
1.3 Methodology	4
1.4 Limitations	4
1.5 Research Questions	4
Chapter 2: Context of Bangladesh and Myanmar on Maritime Boundary Dispute	5
2.1 History of the Dispute	5
2.2 Dispute between Bangladesh and Myanmar	5
2.3 Law Applicable to the Dispute	6
2.4 Negotiations Between Bangladesh and Myanmar	7
Chapter 3: Context of Bangladesh and India on Maritime Boundary Dispute	7
3.1 History of the Dispute	7
3.2 Dispute between Bangladesh and India	8
3.3 The Arbitral Tribunal's Jurisdiction	9
3.4 Methodology in determining the Dispute	10
3.5 Negotiations Between Bangladesh and India	10
Chapter 4: Legal Principles Involved in Sea Boundary Delimitations	11
4.1 Special Geographical Features of the Maritime Zone of Bangladesh	11
4.2 Delimitation of the Continental Shelf beyond 200 nautical miles	12
4.3 Proportionality	12
4.4 Grey Area	12
Chapter 5: The Settlement of Dispute Under UNCLOS	13
5.1 General Liability of UNCLOS	13
5.2 Conciliation	14
5.3 Arbitration	14
Chapter 6: Conclusion	15
6.1 Findings	15
6.2 Recommendations	16

6.3	Challenges for Bangladesh after the settlement of the Dispute	17
6.4	Conclusion	18
7	Bibliography	19

## **Abstract**

The purpose of the research is to get a deeper understanding of Bangladesh's approach to resolving legal disputes. Since Bangladesh is a very young state, it has begun seeking remedy with this dispute to the relevant international organization for help which is also very significant to be mentioned. The maritime border dispute with Myanmar and India is the focus of this important study. In reality, Bangladesh's method to resolving disputes was groundbreaking. This research will reveal the steps taken to locate the source of the conflict and implement a solution, as well as the method in which the Public International Law under the major body has handled and investigated the matter at hand. Achieving this result and recognizing it as a triumph for Bangladesh ought to be highlighted. With this research, this is also considered the actual facts of the dispute and the negotiations between the nations. Finally, the potential difficulties and consequences of resolving the issue will tie the suggestions together as the aftermath may add values to identify and follow up these dispute settlements procedures.

## **List of Abbreviation**

EEZ	Exclusive Economic Zone
ILC	(United Nations) International Law Commission
ITLOS	International Tribunal for the Law of the Sea
ICJ	International Court of Justice
IMO (United Nations)	International Maritime Organization
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea,1982
UNCLOS I	First United Nations Conference on the Law of the Sea,1958
UNCLOS II	Second United Nations Conference on the Law of the Sea, 1960
UNCLOS III	Third United Nations Conference on the Law of the Sea, 1982

**DISSERTATION**  
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**Chapter 1: Introduction**

**1.1 Bangladesh and its Historical Background**

The dimension Bangladesh is 55,598 square miles are home to around 160 million people (147,570 sq. km). Bangladesh became the independent and sovereign People's Republic of Bangladesh on December 16, 1971, after a brutal nine-month struggle for freedom. Prior to the partition of India in 1947, when Pakistan was founded, Bangladesh shared their land for a long time as a part of India. Since achieving independence, the government has alternated between democratic and military administration. As a portion of British India, it included the provinces of Bengal and Assam in contemporary India. On September 17, 1974, Bangladesh became the 136th member of the United Nations by an official act. Bangladesh is maintaining a very healthy relationship to their neighboring countries. In the perspective of Dispute Settlement with other countries is Bangladesh is quite a new country and this is important to be addressed.

**1.2 Objective of the Research**

This research aims to identify the dispute and settlements. This study will examine the method used by public international entities in addressing the conflict. This study will also attempt to determine the consequences of such agreements. The purpose of this study is to discover methods for resolving disputes under the conditions that have arisen between these nations. The purpose of this study is to determine Bangladesh's participation in resolving this conflict within the UN framework. Therefore, the focus of the study will be on Bangladesh's viewpoint and the actions and approach they've taken to resolve the maritime border dispute with India and Myanmar.

### **1.3 Methodology**

This study is supported by both qualitative and doctrinal research. Important main sources for this issue include judicial decisions, international treaties, and public international law statutes. As secondary sources, I investigate publications, scholarly websites, and blogs written by practitioners in the field. During in the analysis and writing for this dissertation, limitations on available resources were identified; they are addressed in detail in the aforementioned section. Under International Law, Mediation, Peaceful coexistence, and Negotiations are the three basic techniques for settling disputes. This study will examine these processes in detail. On the basis of the research conducted for this thesis paper, a shortage of sources has been detected, which will be described in the limitations section.

### **1.4 Limitation**

In conducting this research paper, lots of limitations were confronted. Among the limitations, the time was very limited to construct more in details. Another limitation during this research is to connect the dispute settlement aspects in comparative manners. This was a unique aspect to work with which reflects that there should be more opportunities to get access journals, publications in the library. Without these limitations, this research would be more informative, organized, spontaneous and effective.

### **1.5 Research Question**

Research question in the paper will be of two types including both main research question and subsidiary research question. The subsidiary research question will be key to answering the main research question.

1. What are the circumstances of arising the Dispute among Bangladesh, Myanmar and India? How did the dispute was addressed and duly settled by UNCLOS?
2. What is the aftermath of this dispute and how significantly this is important for Bangladesh?

## **Chapter 2: Context of Bangladesh and Myanmar on Maritime Boundary Dispute**

### **2.1 History of the Dispute**

Since 1974, Bangladesh and Myanmar have bargained over the terms of their maritime boundary. Neither country has been able to delimit a 12-nautical-mile zone of territorial waters beginning at the mouth of the Naaf River. Myanmar and Bangladesh advocated a fair settlement. The Bangladeshi government sought a judicial settlement when bilateral discussions failed. During 2011, Bangladesh submitted their claim towards the Commission on the Limits of the Continental Shelves (CLCS) Both Myanmar and Bangladesh pushed for a reasonable compromise.

### **2.2 Dispute between Bangladesh and Myanmar**

Myanmar and Bangladesh access bays. Both countries overlap EEZ and continental shelf. Myanmar's coastline is convex, Bangladesh's concave. Border rocks mark Myanmar. Islands, reefs, etc. are in Rakhine. Myanmar violated Bangladesh's maritime rights in July 2009. Myanmar's 1974 baseline was rejected. Bangladesh and Myanmar initiated maritime boundary negotiations after 1974. Myanmar proposed an equidistant line and Bangladesh an equal line. Bangladesh and Myanmar can't agree on a maritime border due to definitional disputes.

Myanmar's 1979 EEZ and continental shelf delimitation was superior.<sup>1</sup> Myanmar's "Friendship Line" Since 2005, Myanmar has issued oil and gas concessions between "Friendship Line" and equidistance line. Myanmar licensees drill in disputed zones without notifying Bangladesh violated Bangladesh's UNCLOS rights to equitable delimitation and sovereignty to explore EEZ and continental shelf natural resources. Myanmar found gas resources A1 and A3 off Bangladesh's Teknaf coast and Sittwe. A1 and A3 gas fields are owned by GAIL and O&NGC. 40% is Daewoo. China and India import gas. Myanmar's EEZ was claimed in 1974. (EEZ). Myanmar wouldn't let Bangladesh's ship inside EEZ (EEZ). Bangladesh's ambassador contacted Myanmar about Bay of Bengal oil and gas claims. Myanmar allowed oil and gas development 50 NM southwest of Bangladesh's St. Martin Island in November 2008. Two navy ships escorted Bahamas, Belize, and Indian exploration boats. Bangladesh dispatched three ships to Myanmar's oil drilling. Myanmar's exploration harms Bangladesh. China helped

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<sup>1</sup> Letter by Burma of 30 April 1982 (UN, Third United Nations Conference on the Law of the Sea, Official records, XVI, p. 255).

Bangladesh suspend oil and gas exploration. Before Myanmar's departure, a Korean company surveyed Block AD-7 without Bangladesh's authorization. Myanmar's unilateral exploration may violate UNCLOS. Bangladesh rejected a 2006 India-Myanmar oil and gas pact, fearing invasion. Marine boundary conflicts are complicated. UNCLOS and international law impede problem-solving. The ICJ's North Sea Continental Shelf rulings define delimitation standards. Delimitation should be done by agreement based on fair principles and all essential conditions. The ICJ demands the median line in North Sea Continental Shelf disputes absent exceptional circumstances. There's no middle ground between two divergent political systems. A state with a marine coastline may benefit from a middle line. A state's continental shelf would "squeeze" without demarcation borders. Fair delimitation is preferred above equidistance by state practice and UNCLOS (next chapter).<sup>2</sup> Due to its proximity to Myanmar, Bangladesh's EEZ and continental shelf borders cannot be determined using equidistance. India and Myanmar can't utilize equidistance to "sea-lock" Bangladesh.

### **2.3 Law Applicable to the Dispute**

Between Bangladesh and Myanmar, the maritime boundary is a cause of contention. In line with paragraph 1 of Article 287 of the United Nations Convention on the Law of the Sea, both countries were required to file a declaration recognizing the jurisdiction of the International Tribunal for the Law of the Sea. There was contention on the total area of 283,471 square kilometers of ocean (Judgement 2012: 142). Bangladesh argued that the 1974 and 2008 Agreed Minutes signed by Myanmar and Bangladesh did not constitute a tacit or de facto maritime boundary agreement. Myanmar argued that St. Martin's Island was an unusual situation due to its location immediately in front of Myanmar's coastline and within Bangladesh's territorial sea limit of 12 nautical miles. The court determined that there were no relevant historical works. The Tribunal made a decision regarding the delineation of Myanmar's maritime boundaries. St. Martin's Island was granted a territorial sea of 12 nautical miles, but not an exclusive economic zone or continental shelf. In conformity with its natural 215-degree inclination, the Tribunal extended the boundary line beyond 200 nautical miles. Myanmar and Bangladesh have maintained oil and gas exploration agreements after accepting the judgment freely.

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<sup>2</sup> Notification of 8 October 2009, in the Dispute concerning the Maritime Boundary between Bangladesh and Myanmar under article 287 and annex VII, article 1 of UNCLOS (ITLOS case no.16), par. 17.

## 2.4 Negotiations Between Bangladesh and Myanmar

The river of Naaf forms a component of the 320-kilometer (about 200-mile) border between Bangladesh and Myanmar. Bangladesh divided its maritime authority into multi-blocks and transfer the territory to multinational oil vendors in 2008.<sup>3</sup> Myanmar has reacted negatively to Bangladesh's move, as this resource is a key source of revenue for Myanmar. It caused Myanmar to quickly begin exploring in the area, without awaiting for the conflict to be resolved. In June 2009, Bangladesh's foreign minister, Dr. Dipu Moni, said that the Bangladesh-Myanmar boundary could only be demarcated based on "justice" principles.<sup>4</sup>

Myanmar categorically rejected Bangladesh's suggestion to demarcate the border based on 'equity' calculations and advocated for the equidistance method. The negotiations in the first week of August 2009 continued the discussions begun in Dhaka in November 2008. According to UNCLOS Articles 15, 74, and 83, both nations are required to delimit their maritime boundaries.<sup>5</sup> The Bangladeshi foreign minister has declared that Bangladesh is open to discuss the problem with any of its neighbors. Numerous discussions have been held with India and Myanmar since 1974, but negotiations have remained unsatisfactory. According to the Rules of the Sea, this kind of disagreement must be settled by the administration of justice.

## Chapter 3: Context of Bangladesh and India on Maritime Boundary Dispute

### 3.1 History of the Dispute

Since the 1970s, Bangladesh, India, and Myanmar have argued the limits of the Bay of Bengal. Bangladesh and India have had 11 border negotiations since 1974. A symmetrical border between India and Myanmar was supported. Bangladesh lies within the Bay of Bengal's concavity, thus its authorities contended that an equidistance delimitation would be unjust since it would cut. Bangladesh requested arbitration against India under UNCLOS Annex VII on October 8, 2009, after maritime boundary discussions broke down. In contrast to the situation between Bangladesh and Myanmar, UNCLOS Annex VII created an arbitral tribunal. India

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<sup>3</sup> Watson S, "The Bangladesh/Myanmar Maritime Dispute: Lessons for Peaceful Resolution | Asia Maritime Transparency Initiative" (*Asia Maritime Transparency Initiative*, October 19, 2015) <<https://amti.csis.org/the-bangladeshmyanmar-maritime-dispute-lessons-for-peaceful-resolution/>> accessed September 9, 2022

<sup>4</sup> "Maritime Boundary Disputes: What Are They and Why Do They Matter? - ScienceDirect" (*Maritime boundary disputes: What are they and why do they matter? - ScienceDirect*, July 18, 2020) <<https://www.sciencedirect.com/science/article/pii/S0308597X20302426>> accessed September 9, 2022

<sup>5</sup> Commentary on the June 26, 2009 article "Bangladesh will push maritime dispute with Myanmar to the United Nations." Available at: <http://aseanaffairs.com>. [accessed on September 09, .2022]

didn't contest the tribunal's legality. The Convention stipulates a straight line between each state's coastlines where territorial waters overlap, unless "historical title" or "exceptional circumstances" dictate otherwise. Any overlap between EEZ and continental shelf limits "must be corrected under international law" Bangladesh and India share territorial seas, exclusive economic zones, and continental shelf in the Bay of Bengal due to 1947 land borders and 1982 maritime boundaries.<sup>6</sup>

### 3.2 Dispute between Bangladesh and India

For some states, numerous maritime issues have not been a top priority; nevertheless, in other locations, they have proven contentious and have resulted in open hostilities. Considering several angles, two categories can be used to explore the reasons for maritime boundary disputes<sup>7</sup>:

#### a. Disputed sovereignty over land

The demarcation of Bangladesh's maritime boundaries with its neighbors is plagued by miscommunication and violence. India was enraged by Bangladesh's oil exploration and production arrangements in Indian seas in 1974. Recent discovery of substantial hydrocarbon resources in the Indian state of Orissa and the Myanmar state of Rakhaine have complicated territorial rights. In 2006, the New Exploration Licensing Policy of India granted IOCs access to 55 Bay of Bengal zones.<sup>8</sup> (24 were deep water blocks with bathymetry exceeding 400 kilometers). Figure 380 demonstrates that its area coincides with 1991 Block 21 of Bangladesh. Bangladesh and India want to establish their maritime border. However, Bangladesh's maritime border concerns persist.<sup>9</sup> India wants to determine its maritime border with Bangladesh through the equidistance method, as Myanmar has done. Bangladesh appreciates fairness. Using equidistance to determine the maritime border might enable Myanmar and India to claim Bangladeshi sea area. When resources

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<sup>6</sup> *Bay of Bengal Mar. Boundary Arbitration (Bangl. v. India)*, (Perm. Ct. Arb.2014), Paragraph 56, <https://pcacases.com/web/sendAttach/383>. [accessed on September 09, 2022]

<sup>7</sup> Khan AA, "Seismogenic Sources in the Bay of Bengal Vis-à-Vis Potential for Tsunami Generation and Its Impact in the Northern Bay of Bengal Coast" (2011) 61 *Natural Hazards* 1127 <<http://dx.doi.org/10.1007/s11069-011-9970-x>>

<sup>8</sup> *Bay of Bengal Mar. Boundary Arbitration (Bangl. v. India)*, (Perm. Ct. Arb.2014), Paragraph 56, <https://pcacases.com/web/sendAttach/383>. [accessed on September 09, 2022]

<sup>9</sup> *ibid.*

are constrained, limits are interpreted differently. Governments are not bound by noninterference principles while pursuing an appropriation settlement.

#### b. Legal Possession of South Talpatty Island

States next to or facing one another may have conflicting claims to Maximum maritime delimitations of 12 miles, 200-mile exclusive economic zones, and 200-mile-plus continental shelves. Since the development of 200-mile rights, overlaps have grown increasingly common. In circumstances of conflicting claims, maritime boundary restrictions apply. State custom, law, and the United Nations Convention on the Law of the Sea incorporate these norms (UNCLOS).<sup>10</sup> Disputes have arisen between Bangladesh and India about who has the right to control a man-made river island. The Hariabhangra river flows mostly through territory that is shared by Bangladesh and India. This island was likely created in 1970 by a storm and tidal bore in the estuaries of Haribhanga and Raimangal. This is fresh terrain formed by the low tide. In 1971, the Admiralty chart No. 859 was produced using data from India.<sup>11</sup> The maritime border between Bangladesh and India in the Bay of Bengal is a source of tension since it overlaps in many places.

### 3.3 The Arbitral Tribunal's Jurisdiction

The Arbitration Tribunal pointed to the fact that both Bangladesh and India are signatories to the Convention. After analyzing the relevant articles of the Convention, the Tribunal found that Bangladesh fulfilled the requirements for presenting the dispute to binding arbitration under Annex VII. The Tribunal further considered the Parties' stipulation that it might establish the terminus of the land border and define the bounds of the continental shelf exceeding 200 nautical miles.<sup>12</sup>

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<sup>10</sup> Mya S, *Settlement of Maritime Dispute in the Bay of Bengal under Unclos* (2014), pp. 23-5.

<sup>11</sup> "The Delimitation of Maritime Boundaries - ScienceDirect" (*The delimitation of maritime boundaries - ScienceDirect*, August 28, 2002) <<https://www.sciencedirect.com/science/article/abs/pii/0260982786900066>> accessed September 9, 2022.

<sup>12</sup> *ibid.*

### 3.4 Methodology in determining the Dispute

The suitable methodology to use in the case was first determined by the tribunal. The tribunal determined it should build a preliminary equidistance line and then evaluate if any special/relevant circumstances needed changing this line to reach an equitable result under the relevant articles of the Convention as interpreted by case law from the ITLOS and the ICJ. This was the "most rational and extensively used strategy," as the panel remarked, and it was better suited to the "paramount purpose" of openness and fair outcomes. By choosing this approach, the tribunal disregarded Bangladesh's alternate angle-bisector method, which called for drawing straight lines down the beaches of each country before cutting the resulting angle in half. In reality, the angle-bisector line suggested by Bangladesh nearly resembled the final line drawn by the tribunal.<sup>13</sup>

### 3.5 Negotiations Between Bangladesh and India

Bangladesh and India launched formal maritime boundary discussions in 1974 in Dhaka, Bangladesh. Foreign secretary-level negotiations followed. When the Foreign Secretaries couldn't agree in 1975, the Foreign Ministers reduced the differences.<sup>14</sup> In 1978, India declined to alter the Ministers' 1975 decisions, frustrating Bangladesh. 1982's session concluded without resolving the disagreement. Despite attempts to mediate, the dispute remained unresolved since India's proposed boundary ran counter to a 1969 International Court of Justice ruling on the jurisdictional limits of the continental shelf of the Indian Ocean. Several meetings were held between 1974 and 2008 to discuss the issue, but India stuck to its stance, which is against international law and ignores the beaches' unique features, effectively "sea-locking" Bangladesh. Bangladesh's predicament is clear. Coastal areas may claim sea area beyond their landmass. Since Bangladesh's land dominion over the Bay of Bengal is also rectangular, the country argued that it was entitled to maritime holdings in the shape of a rectangle there. Bangladesh won't be "sea-locked" thereafter.<sup>15</sup> Location, whether adjoining or opposite, is a major component in deciding the maritime border, and equitable standards are employed in the

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<sup>13</sup> Retrieved March 05, 2016, from <http://www.nortonrosefulbright.com/knowledge/publications/121526/south-asia-maritime-disputes>. [accessed on September 09, 2022]

<sup>14</sup> Agarwal SK, "India-Bangladesh Maritime Dispute: An International Law Perspective" (2010) 6 *Maritime Affairs: Journal of the National Maritime Foundation of India* 28 <<http://dx.doi.org/10.1080/09733159.2010.508241>>

<sup>15</sup> McCreath M and Scanlon Z, "The Dispute Concerning the Delimitation of the Maritime Boundary Between Ghana and Côte d'Ivoire: Implications for the Law of the Sea" (2019) 50 *Ocean Development & International Law* 1 <<http://dx.doi.org/10.1080/00908320.2018.1548425>>.

case of adjacent States. Dr. Dipu Moni, Bangladesh's foreign minister, said on February 12 that Bangladesh must find a peaceful solution to the maritime border problem to safeguard its sovereignty and territorial waters.<sup>16</sup> According to international law and legal precedent, India's claimed Bay of Bengal areas belong to Bangladesh. The maritime areas surrounding the Bay of Bengal must be addressed and demarcated to avoid unwanted conflicts. Out of goodwill and friendship, India will abstain from searching for oil and gas in Bangladesh's claimed maritime territory until discussions commence.

## **Chapter 4: Legal Principles Involved in Sea Boundary Delimitations**

### **4.1 Special Geographical Features of the Maritime Zone of Bangladesh**

Different states may lay claim to the same 12-mile territorial sea, 200-mile EEZ, and 200-mile continental shelf. The increase in 200-mile rights has led to a rise of overlaps. Maritime boundary laws apply in the case of competing claims. State custom, the law, and the United Nations Convention on the Law of the Sea include these rules (UNCLOS). Regarding an island in the Hariabhangra river, Bangladesh and India disagree. India and Bangladesh share the Hariabhangra river. The island was formed in 1970 by a storm and tidal bore in the estuaries of Hariabhangra and Raimangal. This is new land created by the low tide. In 1971, India supplied information for Admiralty Chart No. 859. Bangladesh and India are both involved in maritime disputes in the Bay of Bengal, which happen in marine zones that overlap.<sup>17</sup>

### **4.2 Delimitation of the Continental Shelf beyond 200 nautical miles**

The Convention gives each state the right to independently manage the resources within the exclusive economic zone that extends 200 nautical miles offshore and includes the continental shelf.<sup>18</sup> India argued in favor of an approach known as "equidistance/relevant conditions," which involves drawing an initial equal distance line and then adjusting it based on new information. However, India stated that this clause should not be amended. Due to of convexity of the Bay of Bengal and the vulnerability of the shore, Bangladesh insisted on utilizing the

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<sup>16</sup> Gojkošek M, Jeong MS and Chung CS, "The Maritime Boundary Dispute Between Slovenia and Croatia" (2019) 8 Journal of Marine and Island Cultures <<http://dx.doi.org/10.21463/jmic.2019.08.2.02>>.

<sup>17</sup> Attard, *The Exclusive Economic Zone in International Law*, op. cit., pp. xxx-xxxii.

<sup>18</sup> UNCLOS, art.76, par. (1).

"angle-bisector" approach. The border is determined by determining the general orientation of the Parties' coastlines and then dividing that angle in half. As stated in the Award, the "equidistance/relevant circumstances" method is the preferred method of the Tribunal unless there are "factors which make the application of the equidistance approach improper," as the International Court of Justice noted in another instance. On the other hand, the Tribunal determined that the circumference of the Bay of Bengal was a crucial part and that the interim equal distance line severed seaward extensions of Bangladesh's coast. The Tribunal used the same equidistance/relevant-circumstances technique it had employed to define the coast line within 200 nautical miles to the area beyond this limit. In light of its prior ruling that an adjustment to the temporary equidistance line under 200 nautical miles was necessary due to the convexity of the Bay of Bengal, the Tribunal now maintains that an adjustment to the lines further than this threshold is also necessary.

#### **4.3 Proportionality**

The tribunal looked at whether the exclusive trade zone and continental shelf were affected in a "disproportionate way" due to the revised delimitation line. The tribunal determined that Bangladesh was entitled to 106,613 sq.km of ocean space while India was entitled to 300,220 square kilometers based on the proportion of their respective coasts. The 2:1.81 ratio was deemed acceptable.<sup>19</sup>

#### **4.4 Grey Area**

Bangladesh has their complete rights to get access to their Economic Zone but the arbitral tribunals delimit the 9 line within the 200 nautical mile which occurs the "grey area" near the India's shoreline. Since, the exclusive economic zone of Bangladesh stops at 200 nautical miles from the side of the boundary and thereafter it is separated by the delimitation line. Moreover, in this confusing region of these states the arbitral tribunal did not decide and could not come

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<sup>19</sup> "The Maritime Boundary Dispute Between Bangladesh and Myanmar: Motivations, Potential Solutions, and Implications" (*The National Bureau of Asian Research (NBR)*, July 1, 2010) <<https://www.nbr.org/publication/the-maritime-boundary-dispute-between-bangladesh-and-myanmar-motivations-potential-solutions-and-implications/>> accessed September 9, 2022

out with a conclusion for the parties. Therefore, the question of this defect that refers to “grey area” has been occurred upon the circumstances.<sup>20</sup>

## **Chapter 5: The Settlement of Dispute Under UNCLOS**

### **5.1 General Liability of UNCLOS**

In particular, Chapter XV of the United Nations Convention on the Law of the Sea provides extensive rules for settling legal conflicts at sea. The procedure for dealing with disagreements over the application and interpretation of UNCLOS is laid forth in Part XV. Voluntary means are described in Section 1, required procedures leading to final and binding judgements are described in Section 2, and "limitations and exceptions" to the standards and mandatory conciliation described in Section 2 are described in Section 3. Despite their importance, some processes take a back seat to more central ones. As stated in Article XV of the United Nations Convention on the Law of the Sea, all maritime disputes should be handled by peaceful means. Conflicts arising out of UNCLOS are the responsibility of individual nations. When all other options for resolving the matter have been exhausted, the binding procedure outlined in Section 2 of Part XV must be used. If a disagreement cannot be settled amicably, the parties involved must resort to a binding dispute resolution procedure, with certain limitations and exceptions. Unless the parties agree otherwise, this Part XV shall not apply if the parties to a state dispute have already agreed in a separate agreement to employ a binding mechanism. The establishment of obligatory jurisdiction via such a process might be disputed. The parties to a disagreement may mutually agree to submit their dispute to any binding dispute resolution mechanism, including those listed in Article 2 of the United Nations Convention on the Law of the Sea.<sup>21</sup> Both Bangladesh and Myanmar want their maritime dispute in the Bay of Bengal to be settled by the International Court for the Law of the Sea. There has to be "immediate idea sharing" between the parties once a dispute arises. The provision stresses open lines of communication and agrees to utilize only nonviolent strategies within a defined set of procedures. When a settlement is reached and "the circumstances warrant consultation on the execution of the settlement," or when a procedure has been employed in vain, consultation is

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<sup>20</sup> Professor Robin Churchill, “The Bangladesh/Myanmar Case: Continuity and Novelty in the Law of Maritime Boundary Delimitation”, *Cambridge Journal of International and Comparative Law*, 137–152 (2012)

<sup>21</sup> Klyuchnikov AY, “On Delineation of the Continental Shelf: Decision of the International Tribunal for the Law of the Sea on Delimitation of the Maritime Boundary between Bangladesh and Myanmar, 2012” [2021] *Lex Russica* 155 <<http://dx.doi.org/10.17803/1729-5920.2021.173.4.155-163>>.

necessary. Part XV, Section 1 establishes peaceful settlement via mutually acknowledged procedures, including conciliation, which any Public Authority to a disagreement may request other Governing Party to participate in.<sup>22</sup> Section 2's processes leading to binding judgments take effect if the parties can't resolve the disagreement using Section 1, which occurs following article 283's exchange of views.

## 5.2 Conciliation

UNCLOS conflict party may seek conciliation for the dispute resolution. If the opposite party refuses conciliation, procedures end. Parties may accept UNCLOS Annex V, Section 1 or agree on an alternative. Part XV requires mediation before certain decisions. UNCLOS mediates disputes. Article 1 of UNCLOS Annex V allows parties to submit written notice. Part XV, Article 284 provides that such procedures may only be employed if the parties agree that conciliation would best resolve the maritime dispute. UNCLOS allows impartial Conciliation Commissions. Each party chooses two panelists and a chair. Five-person panel. In a tie vote, the UN Secretary-General decides. Many parties may name conciliators. Parties with competing interests or differing goals may appoint conciliators. Each UNCLOS party may appoint four conciliators. Secretary-list. General's Candidates' names stay until their nominating states delete them. Fish and wildlife need compromise.<sup>23</sup> Disputes that don't include maritime borders, historic harbors, or competing claims may sometimes be resolved via mediation. The data for this is not kept. The attempt at reconciliation failed. In 1980, Iceland and Norway established a Conciliation Commission to reevaluate the border between their countries and Jan Mayen boundary. In 1981, the UN and interested governments proposed a marine development zone. Without agreement, ideas aren't binding.

## 5.3 Arbitration

Arbitration is a kind of adjudication that may be used to settle legal disputes. However, the parties may also choose the national or international law that will govern their dispute, as well as the nature and process of the tribunal and the matters that will be presented to it. They might

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<sup>22</sup> UNCLOS, art. 279. UN Charter, art. 2, par. 3; art. 33. See also: Koroma, "The Peaceful Settlement of International Disputes", *Netherlands International Law Review*, 1996, pp. 227-236; and Brownlie, "The Peaceful Settlement of International Disputes" *Chinese Journal of International Law*, 2009, pp. 267-283.

<sup>23</sup> "JSTOR: A History" (2004) 105 *New Library World* 89 <<http://dx.doi.org/10.1108/0307800410515309>>.

instruct the courts to strike the right balance between the law's language and justice. In the case of a previously unaddressed matter in international law, the parties may request that the tribunal decide *ex aequo et bono*, essentially requesting it to establish new laws on their behalf. There are three procedures available for submitting maritime disputes to arbitration. In order to avoid resorting to violence, the parties are allowed to settle the disagreement in whatever manner they agree upon. Therefore, an arbitration court must be included. Article 287 allows the parties to choose arbitration as their preferred dispute settlement procedure (1). In the absence of a joint statement, it shall be considered that a State Party has accepted arbitration under Annex VII. Each signatory to the UNCLOS has the ability to nominate four arbitrators from a list established by the Secretary-General.<sup>24</sup> The ideal candidate has marine affairs knowledge and is neutral, competent, and honest. An arbitration award must be created for an Annex VII proceeding. If there is more than two main parties or they can't agree on the number, the tribunal has five members. Each side must nominate one arbiter, preferably from the UN Secretary-list. General's. The president and two more members will be selected via consensus.

## **Chapter 6: Conclusion**

### **6.1 Findings:**

Bangladeshis have historically spent the most of their time at sea. Given the scarcity of land resources and the imbalance between those resources and the nutritional needs of Bangladesh's 120 million people, it is crucial to see the promise of the occurs as a feasible future option. Except for India and Myanmar, Bangladesh's only land linkages to the rest of the globe are marine. The vast bulk of our foreign trade occurs over sea. The ports of Chattogram and Mongla are visited by many vessels, some of which fly the Bangladeshi flag. All fuel, raw materials, components, and military weaponry must be carried by sea to Bangladesh. Due to budgetary constraints, we cannot afford to store huge amounts of these products; hence, vital supplies must be transported by water. The nation's existence will depend on preventing more food-related POL consequences. In light of the preceding, the Bangladeshi government approved the relevant Maritime Zones Act in 1974 in legislature concurrently with the debate of the Law

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<sup>24</sup> "United Nations: Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982" (1994) 33 International Legal Materials 1309  
<<http://dx.doi.org/10.1017/s002078290002670x>>

of the Sea Act and long before it was ratified in 1982.<sup>25</sup> This Act creates the following marine zones and includes measures relating to them. By implementing the supplementary provisions of this Act, some of the most significant issues may be resolved.<sup>26</sup>

## **6.2 Recommendations**

Unless the parties agree to its application, international law has no bearing in maritime border disputes. To settle the problem fast, the parties must take the initiative. The majority of disputes need lengthy discussions, which may postpone resolution. This study provides suggestions for resolving maritime border disputes between or among coastal governments as soon as practicable. Priority should be given to settling their maritime border dispute with their neighbors. As soon as a conflict arises, the parties involved should initiate bilateral discussions. Disputes should not derail discussions if the parties are committed to reaching a lasting agreement. As with any other international issue, the maritime border dispute must be resolved via bilateral negotiations based on international law. If bilateral negotiations fail, the parties should swiftly sign and ratify an international agreement. This should be done according to the United Nations Convention on the Law of the Sea, which regulates the resolution of maritime disputes. Since no war is foreseen between adjacent governments, peaceful cohabitation is anticipated in a given region, all parties to the problem should be present to demonstrate their goodwill throughout the resolution process. All parties to a settlement require assurance. Everyone gains from confidence, attention, and regard. The public should be educated about the nation's marine resources and encouraged to urge the government to settle the disagreement with the neighboring coastal state in order for the public to profit from the marine environment. Multilateral diplomatic efforts may be useful in resolving complex situations involving several parties. This strategy allows disputing parties to participate in civil dialogue in order to find a resolution.

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<sup>25</sup> “United Nations Convention on the Law of the Sea / Legal Information Relevant to the United Nations Convention on the Law of the Sea” (2004) 2004 Law of the Sea Bulletin 1  
<<http://dx.doi.org/10.18356/22186018-2004-54-1>>

<sup>26</sup> French D, “In the Matter of the South China Sea Arbitration” (2017) 19 Environmental Law Review 48  
<<http://dx.doi.org/10.1177/1461452916680866>>

### 6.3 Challenges for Bangladesh after the settlement of the Dispute

The award is a major victory for Bangladesh and a significant moment in the development of international law. This concession provides Bangladesh with a substantial portion of maritime real estate, both above and below sea. The leadership of Bangladesh is obviously concerned about both the condition of the ocean and the security of its residents. Here you will encounter various obstacles:

- The judgement impacts the economic and political interests of Bangladesh and India, particularly oil and natural gas development and maritime in the Bay of Bengal. Traditional fishermen, who frequently break the law, and legitimate businesses on both sides of the border have clashed over fisheries. The incentive of the award hasn't destroyed the relationship despite years of courteous answers. India and Bangladesh settled a long-standing land border issue after settling their maritime disagreement. In April 2017, PM of Bangladesh, Sheikh Hasina, visited New Delhi to secure a \$5 billion loan commitment from the Indian government. Thankfully, they have a good connection.<sup>27</sup> We can't create similar relationships with other states. Rohingya is a diplomatic disaster.
- The sovereign sea, Economic zone, and continental shelf of Bangladesh and Myanmar are academic. When one state's continental crust crosses another's EEZ, at Law of the Sea Convention provides little to no guidance on how such a practice may arise or how authority may be exercised. With Myanmar's assistance, much work remains.
- Bangladesh has a big sea area with many resources, but it lacks marine scientists, fishermen, and oceanographers. Even if there are few agencies and just one public institution, the government should build extra expertise to guarantee that seabed resources are used appropriately.
- The United States watches Bangladesh. Both China and India are using a win-win strategy to dominate South Asia. Bangladesh must be mindful of this tri-sided influence and interaction, and the most advantageous option must be chosen while engaging with these countries.

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<sup>27</sup> "Delhi Woos Dhaka: Bangladesh PM Hasina Gets a Warm Welcome in India," *The Diplomat*, April 8, 2017, retrieved from, <http://thediplomat.com/2017/04/delhi-woos-dhaka-bangladesh-pm-hasina-gets-a-warm-welcome-in-india/> [accessed on 06.09.2022].

## **6.4 Conclusion:**

In recent years, Bangladesh, Myanmar, and India's maritime boundary disputes have been a prominent topic of controversy. In 2012, International Tribunal for the Law of the Sea (ITLOS) acted as a mediator in a dispute between Bangladesh and Myanmar. In 2014, the LOS Arbitral Tribunal issued a ruling in a dispute between Bangladesh and India. The lengthy process was caused by Bangladesh, Myanmar, and India's inability to agree on a settlement approach. Myanmar and India have rejected Bangladesh's attempts to have her marine rights defined within the equitable paradigm. Myanmar and India have persisted on using equidistance despite UNCLOS opposition. This disagreement directly caused the breakdown of 36 years of bilateral discussions. Bangladesh and India's disputed ownership over South Talpatti/New Moore Island was another problem. Due to the sovereignty dispute, the two nations couldn't agree on a marine border. Protracted maritime boundary conflicts in the Bay of Bengal affected Bangladesh, Myanmar, and India's economy and politics. No nation can benefit from the Bay of Bengal's marine riches since governments haven't agreed on how to maintain them. This fight heightened bilateral tensions. Both lost money. There were occasions when a direct military conflict seemed imminent. The Bay of Bengal, the world's biggest bay, is crucial to Southeast Asian cooperation. Understanding the procedure that led to the peaceful conclusion of the boundary dispute between Bangladesh, Myanmar, and India can be valuable for resolving similar challenges and sustaining future maritime boundary conflicts between nations across the globe. This study might help settle future maritime border conflicts by enabling speedy decision-making by the opposing parties, something Bangladesh, India, and Myanmar couldn't do. Stable and peaceful coexistence is possible if their maritime resources aren't impeded and the proper choice is made. This study offers a few proposals for a more in-depth analysis of the problems and ramifications of lengthy attempts to resolve maritime border disputes in the Bay of Bengal. Only Bangladeshi stakeholders participated. To provide a full analysis of the current scenario, including Myanmar and Indian players, further research may be needed. After a thorough study, comments or proposals may be made for the speedy and amicable resolution of maritime border disputes between coastal governments.

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