



DELIMITATION OF LAND AND SEA BOUNDARIES BETWEEN NEIGHBOURING COUNTRIES (1989). By Surya P. Sharma. Lancers Books, New Delhi. Pp. ix+191. Price Rs. 150.

SURYA P. Sharma has chosen a very important subject for his monograph.<sup>1</sup> The vast resources underlying the sea have induced the nation states to bring within their jurisdiction as much area of the sea as possible. Hence, maritime delimitation has acquired special importance. This is evidenced by two recent studies on this subject<sup>2</sup> and several agreements in the field of maritime delimitation. Recently Denmark has filed in the Registry of the International Court of Justice (ICJ) an application instituting proceedings against Norway regarding a dispute over delimitation of Denmark's and Norway's fishing zones and Continental Shelf areas in the waters between the east coast of Greenland and the Norwegian island of Jan Mayen.<sup>3</sup>

The book under review contains six chapters. These are, (i) international land boundary disputes—issues and policies; (ii) framework of likely disputes under the 1982 Law of the Sea Convention—some thoughts; (iii) contribution of the ICJ to the international law of maritime delimitation; (iv) role of the equidistance principle in the process of delimitation of maritime boundaries between neighbouring states; (v) relevance of economic factors to the law of maritime delimitation between neighbouring states; and (vi) the single maritime boundary regime and the relationship between the Continental Shelf and exclusive economic zone (EEZ). Some of the chapters have already been published in the form of articles in renowned international journals.

For those who may not be acquainted with nuances pertaining to various kinds of disputes dealt with in the book, the author has at the outset explained the distinction between “boundary” and “frontier”, and between a “boundary dispute” and “territorial dispute”. Various doctrines such as estoppel, acquiescence, recognition and prescription pertinent to these disputes have been fully explained. The significance of the various expressions commonly used, for instance, determination, delimitation, demarcation and administration in the context of land and boundary disputes can also be appreciated in the proper perspective from the author's lucid discussion of these concepts.

The author spells out issues and seabed areas in respect of which disputes are likely to arise as a result of conflicting interpretation of the provisions of the Convention on the Law of the Sea. Patterns of controversy are indicated. The areas of possible dispute in his view could be, (i) the

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1. Surya P. Sharma, *Delimitation of Land and Sea Boundaries between Neighbouring Countries* (1989).

2. Malcolm D. Evans, *Relevant Circumstances and Maritime Delimitation* (1989); Prosper Weil, *The Law of Maritime Delimitation—Reflections* (1989).

3. *UN Monthly Chronicle*, vol. XXV, No. 4 p. 79 (Dec. 1988).



legal status of internal waters as distinguished from territorial waters; (ii) whether passage is innocent or otherwise; (iii) conflicts regarding application and scope of exception to criminal jurisdiction of coastal states; (iv) conflicts due to gaps in international rules and regulations;<sup>4</sup> (v) problems relating to balancing of national and international interests; (vi) disputes relating to marine scientific research in EEZ and the Continental Shelf since this jurisdiction is liable to be shared by the coastal state with other states; and (vii) disputes regarding living resources and military activities, *etc.* The major area of future disputes may be delimitation of maritime boundaries or interpretation of agreements in this field.<sup>5</sup>

The author has very carefully evaluated the role of the equidistance principle in delimitation of boundaries between neighbouring countries in the light of the jurisprudence of ICJ. Even though in its decisions the latter has neither regarded the equidistance principle as a mandatory rule nor deserving any primacy over other methods of delimitation, the author considers that this principle occupies place of respect in the state practice and for its potentiality to yield equitable results in delimitation disputes among states. Sharma does not deal with the state practice on the equidistance principle but he has analysed the official records of the Third UN Conference on the Law of the Sea and the position of various delegations on this issue has been indicated.

In chapter V the author discusses the relevance of economic factors in equitable delimitation of the maritime boundaries. He, *inter alia*, refers to the *Gulf of Maine* case<sup>6</sup> between USA and Canada where both the parties invoked economic factors (economic dependency in respect of fishing activities) for boundary delimitation. He observes that the presence of natural resources is not decisive in the delimitation process though in state practice the parties may deviate from the delimitation line based on geographic features and conclude agreements based on economic solutions. From the point of view of sound policy and in the interest of stable boundaries, he does not favour historical use patterns of resources being disturbed. Various discussions of ICJ have been examined which lead to the conclusion that economic factors do not enjoy any independent status in delimitation but may be relevant for the purpose of assessing its equitable character.

The last chapter deals with the issue concerning the single maritime boundary. The author notes that the Law of the Sea Convention is not clear with respect to the relationship between EEZ and the Continental Shelf. This was the result of difference of opinion among "marigners" and others, particularly the land-locked and geographically disadvantaged

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4. For example, no international standards around artificial islands have been laid down in the Convention on Law of the Sea. See, *supra* note 1 at 45.

5. For pattern of these disputes, see, *id.* at 49-50.

6. *Case Concerning Delimitation of the Maritime Boundary in the Gulf of Maine Area*, I.C.J. Rep. 1984, p. 246. *Id.* at 126.



states. One group favoured retention of the Continental Shelf regime permitting offshore jurisdiction beyond 200 nautical miles. The other group advocated the assimilation of the said regime within the new concept of EEZ restricting jurisdiction to 200 nautical miles. In this context, it is noteworthy that certain obligations which are attached to the regime relating to EEZ do not exist with respect to the Continental Shelf regime. Hence, the justification for a dual regime. The advocates of the single multipurpose regime refer to the fundamentally similar character of the two jurisdictions, that is, both fall short of full sovereignty and preserve many traditional freedoms of the sea. This difference of approach was also reflected in the opinion of the World Court Judges in the *Gulf of Maine* case where both the parties concerned asked for a single maritime boundary. However, the Chamber of the ICJ did not go into the issue of fusion of the two regimes. In the *Libya/Matta* case<sup>7</sup> the court denied that the concept of the Continental Shelf had been absorbed by that of EEZ. The author pleads for homogeneity of regimes within the 200 mile zone. He acknowledges that a partial integration of the regimes will not resolve all problems of delimitation.

Sharma has dealt with the complicated legal issues relating to the delimitation problem with admirable precision. The analysis of the decisions of ICJ is particularly helpful. It is a balanced study with bias for stable and durable boundaries.

*Subhash C. Jain\**

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7. I.C.J. Rep. 1985, p. 285-6.

\*LL.M., Ph.D., Joint Secretary and Legal Adviser, Ministry of Law and Justice, New Delhi. The views expressed are those of the reviewer and do not necessarily reflect views of the Government of India.