

Abstract

The purpose of this thesis is to show that even though there are international conventions intended to protect the marine environment, the effectiveness of these conventions is largely dependent upon the global co-operation of the states and the users of the seas. Global co-operation is necessitated by the impossibility of confining the sea waters in one area and the fact that the provisions of a treaty cannot be enforced against a non-party state unless the provisions have become customary international law.

Chapter one deals with the marine environmental problem which, though identified since 1926 has remained a serious global concern and especially for the third world countries. Different sources of marine pollution are identified. The chapter highlights the failure of the international conventions to adequately deal with these sources of pollution. In a bid to protect their environment, third world countries have embarked on the adoption of regional conventions.

Chapter two identifies the problem of non-applicability of the international conventions to non-party states and the possibility of enforcing the

provisions of these conventions where they are regarded as having attained the garb of customary international law.

Chapter three further identifies the loopholes in the conventions which allow pollution although the purport of the conventions is to prevent it. In some cases the language is so vague that any effort by a party state can be described as fulfilling the demands of the convention. This is partly why both developed and developing countries have polluted the marine environment with impunity. In the case of vessel generated pollution, the grant of innocent passage by the conventions poses a problem especially under the Geneva Convention where the pollution is not a ground for such refusal. The immunity of state vessels creates a gap in the right of states to enforce their environmental laws.

Chapter four further illustrates the limitations of the conventions as far as the high seas are concerned. It would appear that the freedoms allowed in the high seas, because of the vagueness of the language, have been exercised by the industrialised west to the great disadvantage of the developing countries. The rights that can be exercised therein are uncertain and the latter conventions seem to have completely disregarded the issue.

Although the conventions on the law of the sea have attempted to control vessel generated pollution by imposing obligations on flag states, Chapter five identifies how party states have overlooked the conventions and registered vessels in such circumstances that these flag states have little control, if any, over these vessels.

Chapter six highlights the inadequacy of the conventions in requiring uniform standards by both developed and developing states. The irony of such a requirement being that the developing states which are still grappling with the rudiments of development have neither the resources nor the technology to meet the standards required of them by the conventions.