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EQUITABLE PRINCIPLES IN MARITIME BOUNDARY DELIMITATION: RELEVANCE OF THE NORTH SEA CONTINENTAL SHELF CASE

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I. INTRODUCTION

The Delimitation of the Maritime boundaries represents one of the most contested and technically areas of the contemporary public international law as coastal state seek sovereign rights over the any hydrocarbon deposits fisheries or strategic Maritime corridors the framework covering overlapping claims has assumed considerable practical importance where The 1982 United Nations convention on the law of sea which is commonly known as UNCLOS;[2] gives a primary treaty regime recognising the Territorial Sea, Exclusive Economic Zone (EEZ) and Continental shelf as a distinct maritime zone. Crucially, UNCLOS *Articles 74* and *83* conspicuously refrain from prescribing a fixed delimitation role, instead mediating that states achieve an equitable solution, thereby preserving extensive space for regular judicial elaboration. It is within the deliberate doctrine gap that the *International Court of Justice's 1969* judgement in the *North Sea Continental Shelf*[3]cases became foundational. The court, confronting the competing continental shelf claims among the *Federal Republic of Germany, Denmark and the Netherlands*, rejected the automatic application of the equidistance rule and grounded the limitation in the principles of equity as a matter of customary international law. That ruling hasn't shaved every major Maritime boundary adjudication. This essay critically analyses the doctoral content of *The North* Sea judgement while tracing its influence through the subsequent jurisprudence, engages competing scholarly perspectives, and evaluates its contemporary relevance, including its implications for sovereignty, equity and legal certainty.

II. LEGAL AND CONCEPTUAL FRAMEWORK

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[2] *United Nations Convention on the Law of the Sea* (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 ('UNCLOS').

[3] *North Sea Continental Shelf* (Federal Republic of Germany v Denmark; Federal Republic of Germany v Netherlands) [1969] ICJ Rep 3 ('North Sea').

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2.1 The Continental Shelf Doctrine and the 1958 Convention

The continental doctrine emerged in customary international law following the 1945 Truman proclamation and was qualified in the Convention on the Continental Shelf (1958),[4] where it was prescribed that the equidistance as the default method subject to departure in special circumstances this regime reflected a preference for the geometric alternative over any substantive fairness and its inadequacy was exposed by the Germany concave *The North sea* coastline strict equidistance would have confined Germany to a disproportionately narrow shelf relative to its coast and length producing an outcome that the *North Sea* where the court leader characterised as inequitable. Germany had ratified the *1958 convention,* and the court was required to identify the applicant under international law, a task that necessitated the doctrine of intervention and innovation.

2.2 The North Sea Judgement: Equity as Customary Law

The ICJ, in this case, held by eleven votes to six that the equidistance had not crystallised into a rule of customary international law and was binding on non-parties to the 1958 Convention.[5] It also held that Delimitation must be affected by negotiation in accordance with the equitable principle, giving effect to all relevant circumstances. The court enumerated illustrative relevant circumstances: the general configuration and the physical structure of the coast; geological features of the shelf; natural resources, and critically, the principle of proportionality between the length of a state which is relevant to the coastline and the extent of the shelf allocated to it.[6] One of the most important parts of this judgment was the doctrinal contribution, which made a sharp distinction between the legal principle and the decision-making *ex aequo et bono*.[7] Where the court reaffirmed that it was not empowered under *article 38(2)* of the statute to decide where the absent express party consent and it was not doing so. Equity, properly understood, derives its normative force from the law itself and operates as a principle of interpretation and application rather than a license to constrain judicial discretion. The conceptual clarification was essential to transforming equity from a residual corrective into an operative legal standard.

[4] *Convention on the Continental Shelf* (adopted 29 April 1958, entered into force 10 June 1964) 499 UNTS 311, art 6.
[5] *North Sea* (n 2) paras 69–85.
[6] ibid paras 93–101.
[7] ibid para 88; see also Malcolm N Shaw, *International Law* (8th edn, Cambridge University Press 2017) 523–525.

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2.3 The UNCLOS Framework and its relationship to the North Sea Principles

Article 74 and *83* of UNCLOS governing the EEZ and continental shelf limitation, respectively, which requires the state to achieve an equitable solution.[8] The convention staffing history discloses an unconscious decision to defer to judicial elaboration rather than codify a specific rule, reflecting negotiating deadlock between the equidistance and equity cams. The prevailing scholarly review, advanced by *Tanaka* among others, is that the UNCLOS did not supersede but rather qualified and endorsed the *North Sea* approach.[9] This treaty not only obliges to an equitable solution but also imposes on a customer the obligation to apply the principles on this reading, convergent rather than distinct.

III. CRITICAL ANALYSIS

3.1. From Open-Ended Equity to Structured Methodology: Progress or Distortion?

The North Sea judgement most persistent criticism is that it provided equity as an aspiration while furnishing no methodology for its achievement, while the subsequent jurisprudence sought to supply the framework but, in continental shelf *(Libya vs. Malta)*[10] the ICJ employed and line as a starting point where they adjusted in the light of the relevant circumstances a Proto structured approach where this method was customised in the maritime Delimitation in the black sea (*Romania versus Ukraine)*[11], into what it is now the standard three stage methodology where first is the construction of the provisional equidistance or median line in the second the adjustment of that line for the relevant circumstances requiring modification and third and the last at this proportionality check to verify the equitableness of the final result. It was later observed that a formidable counterargument holds that the three-stage methodology introduced by the premise of equidistance that the North Sea sought to displace.[12] If equidistance is invariably the point of departure and requires affirmative justification by the reference to identified bill relevant circumstances that the burden of proof effectively reverses the North Sea court conclusion that equidistance was not a default rule of customer log but it is more than a technical concern it risk the

[8]UNCLOS (n 1) arts 74(1), 83(1).

[9] Yoshifumi Tanaka, *The International Law of the Sea* (3rd edn, Cambridge University Press 2019) 218–220.

[10]Continental Shelf (Libyan Arab Jamahiriya v Malta) [1985] ICJ Rep 13, paras 55–66.

[11] Maritime Delimitation in the Black Sea (Romania v Ukraine) [2009] ICJ Rep 61, paras 115–122.

[12]Sooraj Sharma and Shujoy Mazumdar, 'Equitable Principles & the Delimitation of the Continental Shelf '(2013) 1 NLIU Law Review https://ssrn.com/abstract=2228932 accessed 2 April.

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entrenching the geographic disadvantage of this state with concave or otherwise irregular coastline whose equidistance drives will be adjusted on upon the demonstration of the specific circumstances.

3.2. The Indeterminancy Critique and the Limits of Equity.

One of the most critical critiques of the equitable limitation was that the proliferation of potentially relevant circumstances, such as coastal configuration, resource presence, security interest, and the proportion, effectively renders the educative outcomes unpredictable and incapable of guiding state practice.[13] On this, equity is not a legal principle at all but a vehicle for ad hoc judicial policymaking inconsistent with the rule of law. The list of relevant circumstances has indeed expanded across various judgements and different which weighted identical factors differently producing results that resist the systematic rationalisation it was later analysed while offering a partial rejoinder and distinguish between the outcome and it was argued that the equitable principles[14] constraint educators by requiring that any departure from any equidistance line or stress able to articubale it is case specific factual circumstances and that the proportionality check functions as a adoption will save parts against the principal results.[15] Nevertheless, the tension, which was later identified as the very flexibility that makes the equity sponsor to the geographical wearability, was simultaneously undermining the ex ante predictability on which the peaceful boundary negotiations depend.

3.3. Sovereignty, Equity, and the Geopolitical stakes of Delimitation

Maritime limitation implicates a fundamental question of states' sovereignty. The continental shelf is not nearly a legal construct, but a physical extension of a state's territory. And the delimitation decision directly determines the extent of the sovereign rights over the non-renewable resources. The *North Sea* court equity framework by four rounding the proportionality between the coastline length and the shelf allocation which implicitly adopt a redistributive logic which states with longer relevant coastline should receive larger continental shelf areas which was significant implications for developing coastal states whose resource rich what geometry disadvantage coastline would

[13] Prosper Weil, 'The Law of Maritime Delimitation—Reflections '(1989) 83 AJIL 3, 14–18 https://doi.org/10.2307/2204098 accessed 2 April.

[14] Deependra Singh Rathore, 'Delimitation: Balancing Representation in Democracy '(2025) 8(2) IJLMH 3203, 3208–3212 https://doij.org/10.10000/IJLMH.119172 accessed 2 April.

[15] Vaughan Lowe, 'The Role of Equity in International Law '(1989) 12 Australian Year Book of International Law 54, 67–70 https://www.jstor.org/stable/20686551 accessed 2 April.

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receive systematically reduced allocation and strict equidistance. That *2014 Bay of Bengal arbitration* between Bangladesh and India which illustrate both the promise in the limits of the equitable deal limitation in geopolitics where it was demonstrated that the tribunal substantial modified the provisional equidistance line to account for Bangladesh Concave coastline which precisely the category of geographical disadvantage that are not see sought to address resulting in a materially larger allocation of both the shelf and EEZ to Bangladesh.[16] The award balanced legal doctrine with regional stability and resource governance considerations while confirming that equitable principles retain operational significance in the complex multipolar disputes. However the tribunal considerable latitude was adjusting the provisional line also illustrate that the concerns that equitable methodology places excessive power in the hands of unelected international educators with Limited accountability to the states whose sovereign rights are being determined

4.4. Legal Certainty versus Contextual Justice: A Structural Contradiction

The deepest structural tension in Maritime the delimitation law concerns the relationship between the role of law which demands the prospective certainty and substantive equity which demands the context sensitive justice. The not framework privileges substance over form, where a deal limitation is legitimate if equitable, not merely if geometric. This produces a paradox: parties negotiating maritime boundaries *ex-ante* cannot predict what a tribunal will regard as equitable, since the circumstances are specific and ended. This results in uncertainty and may increase litigation over negotiations, emboldening states to adopt maximising positions.[17]

Further more it was also suggested that the progressive consolidation of the three stage has introduced sufficient productivity to guide the state practice it was later observed in the broader context of international judicial proliferation where the multiplication of the maritime boundary tribunal which is the *ICJ, ITLOS,* arbitral tribunal has generated a substantial body of consistent jurisprudence and taken together constitutes a meaningful lex specialis of Maritime the

[16] Sabrina Hasan, 'An Analysis of the Marine Boundary Delimitation between Bangladesh and India: Legal, Geopolitical, and Economic Implications '(2024) IV(5) IJIRL IJIRL/V4-I5/A21.
[17] Jonathan I Charney, 'Progress in International Maritime Boundary Delimitation Law '(1994) 88 AJIL 227, 241–244.

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delimitation.[18] The *North Sea judgment* addresses the geographical variability of its reducible and that legal rules are inadequate to all circumstances which are unattainable.

IV. CONCLUSION

The North Sea Continental Shelf Cases continue to be a foundational element in the legal doctrine of maritime boundary delimitation, not because of the formula they provided, but because they essentially pivoted the field towards achieving fair results based on law. The Court rejected the automatic use of equidistance and elevated equity to a principle of customary international law and created a flexible but law-bound framework which could adapt to the geographical and political realities of maritime disputes. This practice was not ousted or neutralised by the incorporation of United Nations Convention on the Law of the Sea, but implicitly approved and put into effect by the necessity of finding an equitable solution as required in Articles 74 and 83.

Later jurisprudence has attempted to discipline this malleability by developing systematic approaches, notably the three-step methodology, and thus trying to balance the conflicting demands of predictability and fairness. However, the same strain found in the North Sea diagnosis remains: equity guarantees a context-sensitive justice but cannot be fully systematised, whereas legal certainty demands uniformity that is likely to lead to the creation of unfair outcomes in a variety of geographical environments. This dialectic that has not been resolved highlights the power and weakness of the fair structure.

Finally, the long-term applicability of the North Sea principles is that they appreciate that the delimitation of the sea cannot be made mechanical without undermining substantive justice. Meanwhile, their use requires judicial restraint to prevent the impression of arbitrariness or over-discretion. Equity, as modern disputes, like that of the example of Bay of Bengal Maritime Boundary Arbitration, are showing, is still necessary to find a balanced and peaceful resolution, despite the ongoing debates over its determinacy and legitimacy to influence the development of the law.

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