Study on Application of Right of Hot Pursuit in Stealing Fishing in Myanmar

Aye Po Po Paing [1], Nant Hnin May Lwin[2]

Abstract

Originally, the right of hot pursuit aim undertakes to defend any abuse of territorial sea area such as coastal line area including contiguous zone and exclusive economic zone. Law of the Sea Convention gives an opportunity to exploit natural resources within the limited area of each coastal States. Nowadays, the higher technology helps overfishing within maritime zones and the offences of stealing fish occurred everywhere in the coastal State. Hence, this research, aim to get effective administration to defend stealing fish within maritime zones .This study emphasize the desk review that based on the Law of the Sea Convention, domestic existing fisheries law, scholar books and cases among nations .This research finds the right of hot pursuit that has already existed, the rule of international law and this right can be used to protect fishing area. However, there is no provision or Article in the fisheries law to use the right of hot pursuit to reduce the overfishing challenges, Myanmar needs to apply the right of hot pursuit in the concern fisheries law.

Keywords: Hot Pursuit, Territorial Sea, Coastal Line, Contiguous Zone, Exclusive Economic Zone, Overfishing, Maritime Zone.

INTRODUCTION

The Republic of the Union of Myanmar situated on the mainland of Southeast Asia and has a total land area of 676,577 sq.km. It has a long coastline which stretches approximately 2,227 km and shares maritime boundaries with Bangladesh and India in the Bay of Bengal and India and Thailand in the Andaman Sea. Myanmar's coastline can be divided into three regions: The Rakhine Coastal Region (from the mouth of Naaf River to Mawtin Point, about 740 km in length) the Ayeyarwady Delta and the Gulf of Moattama (Martaban) Coastal Region (from the Mawtin Point to the Gulf of Moattama, about 460 km in length) and the Thanintharyi Coastal Region (from the Gulf of Moattama to the mouth of the Pokchan River about 1,200 km in length) in the Bay of Bengal and in the Andeman Sea. Unlike the fisheries law in another countries, Fisheries Law in Myanmar only emphasize the zone of fresh water or internal water. The fisheries zone in maritime and territorial sea are still ignored. So, Stealing the fish resources in territorial sea and maritime zone concerns the right to hot pursuit. This right can be used to keep away our fish natural resources from stealing in our own territorial sea.

Historical Development of Right of Hot Pursuit

The Right of Hot Pursuit in International Law came out in 1969, in recent years, international law has several developments relating to this right at sea. These developments have not changed originality of general notions in the law of the sea, but the right of hot pursuit has revised in some concerns area.

Some revisions are for an extension of sovereignty and exclusive jurisdiction upon the high seas, despite the original reaction of traditional maritime powers. Thus, it extended the breadth of territorial waters and contiguous zone to 12 and 24 miles respectively, and recognized the establishment of an Exclusive Economic Zone of 200 nautical miles, which several States had already done. Moreover, the Convention further extended the continental

[1] Tutor, Department of Law, Hinthada University.
[2] Tutor, Department of Law, Hinthada University.

shelf upon the high seas and established, for the exploitation of mineral resources and deep-sea mining, the novel notion of the "Area", which means the sea-bed, ocean floor and their subsoil beyond the limits of national jurisdiction.

Right of Hot Pursuit in United Nations Convention on the Law of the Sea

Article 111 of the United Nations Convention on the Law of the Sea (1982) is entitled "Right of Hot Pursuit". It contains eight paragraphs totally, they deal with the right of hot pursuit. Article 111 of the United Nations Convention on the Law of the Sea, 1982 add one paragraph. So, this is the development of the International Law of the Sea Convention because the older Geneva Convention on the High Seas (1958) has already been already existed seven paragraphs. Paragraph 2 of the United Nations Convention on the Law of the Sea, 1982 reflects the new developments in the international law of the sea. It stated:

"2. The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones".

The right of coastal states to establish an Exclusive Economic Zone of 200 miles. Thus, Article 44 of the "Revised Single Negotiating Text", which incorporated the provisions on which agreement had been reached during the Fourth Session of the Third Conference on the Law of the Sea in May 1976, provided in part, in paragraph one as follows:

"1. In an area beyond and adjacent to its territorial sea, described as the exclusive economic zone, the coastal State has: (a) Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the seabed and subsoil and the superjacent waters;"

Article 111, para.2, of the United Nations Convention on the Law of the Sea (1982) states "the right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones".

Moreover, patrol boats of the coastal State, when giving the order to stop to an infringing vessel, may be outside the limit of 200 miles of the Exclusive Economic Zone or even of the maximum limit of 350 miles of the continental shelf, as the case may be. This is clear when parts of paragraphs 1 and 2 of Article 111 of the United Nations Convention on the Law of the Sea (1982) are read together: "It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone". The same also applies *mutatis mutandis* to violations in the Exclusive Economic Zone or on the continental shelf.[1]

[1] Nicholas M. Poulantzas, The Right of Hot Pursuit in International Law, Second Edition, Martinus Nijhoff, 2022, p-12

RESEARCH METHOD

This research involves a doctrinal desk-based analysis of the origins and development of hot pursuit, follows by a comparative analysis based on case studies highlighting contemporary practice to reach why Myanmar Fisheries Law should contains the right of hot pursuit.

Some Fisheries Incident and the Right of Hot Pursuit

Article 46 to 54 of the United Nation Convention on the Law of the Sea (1982) show archipelagic waters to the territorial sea of States, subject to the limitation of Article 53, which deals with archipelagic sea lanes passage. Therefore, hot pursuit may commence in these waters as well. The Right of Hot Pursuit, several cases of hot pursuit have taken place in various countries. The majority of these cases regard fisheries violations within the territorial waters of coastal States or within adjacent or contiguous zones established for the protection of fisheries.

In another region, the Committee for Eastern Central Atlantic Fisheries examined the implications of the United Nations Convention on the Law of the Sea (1982) for fisheries management and development. In the area north of the Committee for Eastern Central Atlantic Fisheries region, the Sub-Regional Commission on Fisheries has decided "to establish a regional register of fishing vessels similar to that used by the South Pacific Forum Fishery Agency." What is more important, the Commission adopted the text of a "regional convention on hot pursuit to establish joint surveillance operations". This regional convention also provides that a Contracting State, in whose territorial waters a pursued ship takes refuge, "has a duty to arrest the vessel and escort it to the pursuing patrol boat".[1]

(A) United States of America

The Lamut and Kolyvan Case[2]

A serious incident occurred in the evening of January 17 to 18, 1972, near St.Matthew Island in the Bering Sea. The 362-foot Soviet factory ship *The Lamut*, the flagship of an 80-vessel Soviet herring fleet, and the trawler *The Kolyvan* were arrested by the United States Coast Guard icebreaker *The Storis* while fishing within the United States contiguous fisheries zone of 12 miles. At the moment of the arrest, the vessels were 9.4 miles off Cape Upright, near St.Matthew Island, which lies about 250 miles off the Alaska mainland.

Prize crews from *The Storis* went aboard both Soviet ships and started them back toward Alaska. However, later the skipper of *The Lamut* claimed that the capture was illegal, because the ships were not fishing, but they were forced into the United States contiguous fisheries zone of 12 miles- at that time- by bad weather. Therefore, he reared his vessel out to see- with the United States boarding party on board- and *The Storis* in hot pursuit.

After it had started a hot pursuit from within the United States fisheries zone, *The Storis* notified Coast Guard headquarters in Washington D.C, and her skipper was given permission to fire warning shorts across the bow of the pursued Soviet vessel, as it crossed the United States fisheries zone and was heading towards the high seas. At the same time, the United States, State Department notified the Embassy of the former Union of Soviet Socialist Republic in Washington, D.C., of developments regarding the arrest of the Soviet trawlers.

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[1] Nicholas M. Poulantzas, The Right of Hot Pursuit in International Law, Second Edition, Martinus Nijhoff, 2022, p-13-14.

[2] Lamut and Kolyuan (RGDIP, 1973 pp.256_6)

During the pursuit, the skipper of the Coast Guard icebreaker *The Storis* radioed a warning to the fleeing Soviet ship *The Lamut* that he was ready to fire across the pursued vessel's bow. The order he radioed was: "Stop or be fired on". However, during the chase, which continued for two hours, no shots were fired. It should be also mentioned that the United States prize crew aboard *The Lamut* was never in danger during the pursuit.

Finally, the Soviet commander Vladimir Artemov surrendered for a second time. Yet, both *The Lamut* and *The Kolyvan* refused United States orders to sail for Adac in the Aleutian. As the Coast Guard vessel *The Storis* was unable to force them to move to Adac, another lager United States icebreaker The *Balsam* sailed from Adac to the scene. It could either tow both Soviet vessels to Adac, or release the ships while arresting and bringing the Soviet officers (only the captains and chief engineers of both vessels) to United States territory. A spokesman for the embassy of the former Union of Soviet Socialist Republic in Washington, D.C., said that there was no reason for the United States Coast Guard to bring the Russian vessel to Adac, as they were forced into United States fisheries waters by bad weather and had not fished within the United States 12-mile contiguous fisheries zone.

The penalties imposed by the United States Court of Adac upon the masters and first officers of the two Soviet vessels amounted to $ 250,000.It is interesting to note in this case that the arguments of the defendants-namely, the Soviet captain of *The Lamut* and the Embassy of the former Union of Soviet Socialist Republic in Washington, D.C.-were extenuating circumstances based on bad weather conditions, or distress amounting to *force majeure*. According to the defendants, it had been bad weather conditions which forced the two Soviet ships within the United States 12-mile contiguous fisheries zone.

Moreover, the United States Coastal Guard vessel did not exceed the use of force permitted by international law in order to force the fleeing Soviet vessel to stop. Under the circumstances surrounding this case, when the Soviet vessel fled upon the high seas- following arrest- with a United States boarding party aboard, the pursuing United States Coast Guard vessel, *The Storis*, would have been entitled (according to international law) to use reasonable force in order to oblige the pursued vessel to stop. The international responsibility of United States Government could not have been involved, had reasonable forced been applied. All the more so as the United States Government had immediately notified the Embassy of the former Union of Soviet Socialist Republic in Washington, D.C., and, following that, had given permission to *The Storis* to use moderate force in order to stop the fleeing vessels.

The Koyo Maru No.2 case [1]

The Koyo Maru No.2 was a Japanese factory ship of approximately 1,450 tons. The vessel was arrested- following hot pursuit – for fishing inside the fishing protection line of Canada, contrary to the provision of section 3(1) and 3(2) of the Coastal Fisheries Protection Act. The master of the Japanese fishing vessel Tatsuya Itoh was found guilty pursuant to section 7 (a) (i) of the same Canadian Act.

The trial court of British Columbia convicted the master of the Japanese vessel on two courts: First, that being the master of the fishing vessel he entered unlawfully Canadian fisheries waters without authority and contrary to Section 7 (a) (i) of the Coastal Fisheries Protection Act; and Second, that as a person on board and a master of a foreign fishing vessel he fished in Canadian fisheries waters without proper authorization, contrary to Section 3 (2) (a) of the same Act.

[1] Regina v. Itoh, No.164/1975 British Columbia Court of Appeal, April 23,1975

Tatsuya Itoh was fined on conviction to 5,000 Canadian dollars for the first infringement and 10,000 Canadian dollars for the second infringement, i.e., a total fine of 15,000 Canadian dollars for both convictions. In addition to these fines, the sentencing judge ordered that the fish found aboard the vessel be forfeited.

On appeal, the Court of Appeal of British Columbia also dealt with this case. Judge Carrothers- who delivered the first judgment –said, *inter alia*: "…the '*Koyo Maru'* was in fact inside the fishing protection line on the day in question. As to the conflicting evidence given by the master and first officer of the fishing vessel as to where the ship was at the times in question, it appears that the discrepancies are in all probability, attributable to less dependable navigation methods at that time employed by the officers of that vessels."

Finally, as to the sentencing, the appellant took no issue with the fines totaling 15,000 Canadian dollars, but only with the forfeiture of the fish found on the vessel at the time of the arrest. The appellant submitted that the forfeiture of the fish was excessive, as it amounted to approximately 165,000 Canadian dollars.

The M/V Limoza and The Taras Schevchenko cases[1]

The Bulgarian trawler *The M/V Limoza* was arrested in the morning of January 26, 1974, by the United States cutter *The Unimak* following hot pursuit from within the United States contiguous fisheries zone of 12 miles. At the moment of the arrest, at 13.5 miles from Little Egg Harbor off Atlantic City, New Jersey, 182 tons of fresh mackerel was found on board the vessel. The trawler was taken to Governor's Island, the headquarters of the Third District of the Coast Guard.

The captain of the Bulgarian vessel Peter Todorov Donchev, protested against the arrest of *The M/V Limoza* by a boarding party consisting of three United States officers, ten armed sailors, and an agent of the United States Fisheries Service. However, the infringement of United States fisheries laws in the Contiguous Fisheries Zone was established beyond any doubt. At the moment of the commencement of the pursuit, the vessel was taken by surprise fishing at 10.5 miles from Little Egg Inlet and within the Contiguous Fisheries Zone. At the sight of *The Unimak*, and despite an order given to the infringing vessel, the crew hauled the dragnets and escaped upon the high seas, where it was arrested following a short pursuit. The Federal Court of Manhattan condemned captain Donchev to a penalty of $ 125,000, on February 4, 1974.

It is surprising that in reporting this case, the late Professor Charles Rousseau, an indisputable authority in the field of International Law (also well known for his accurate reports on events of international law), made a confusion between the United States territorial waters of three miles at that time and the United States contiguous fisheries zone of 12 miles. Moreover, the statement by the above learned author that this was the first arrest of a foreign vessel off the United States Atlantic coast, since the proclamation of a contiguous fisheries zone in 1966, is hardly correct. There have been several arrests of foreign vessels for illegally fishing in the United States Contiguous Fisheries Zone off the Atlantic coast, before the foregoing case.

When the 200-mile fishing zone of the United States came into effect on March 1, 1977, fishing violations multiplied. Thus, it was reported that only in the first month Russian fishing vessels committed twenty-seven violations in this new zone. The situation was becoming so tense that the United States warned the Soviet Union that future violations of United States fishing regulations could endanger United States-Soviet relations. This happened

[1] The Tribune (Nassau), April 12, 1977

when the United States Deputy Secretary of State at that time Warren Christopher called to the State Department Vladillen Vasev, then Soviet charge d' affaires, and complained about fishing violations.

Finally, on April 10, 1977, United States President at that time *J. Carter* approved an order to seize the 275-foot Soviet trawler *The Taras Schevschenko*. The foreign vessel was arrested the same day off Nantucket Island 240 miles south-east of Boston. The United States coast-guard also arrested a second trawler *The Antanas Snechkus*, because it allegedly violated the catch limits placed on river herring. The vessels were towed in custody into Boston Harbor. In May1977, a Federal judge fined captain Aleksand Gupalov of the fishing vessel *The Taras Schevschenko* to $10,000 and imposed on him a nine-month suspended jail sentence for violating the United States new 200-mile fishing zone and for catching more than the quota of river herring permitted to foreign vessels.

The Playa Giron, The Playa Colorada, and The Oceana Antarico case[1]

On November 8, 1976, three Cuban ships (two trawlers and a factory ship) were spotted- on radar -fishing within the Canadian territorial waters of 12 miles. The vessels did not obey the order of the Canadian authorities to heave to and tried to escape beyond Canadian territorial limits, whereupon hot pursuit of the vessels started immediately. At the moment of the commencement of the pursuit the vessels were 2,600 yards inside the limit. The signal to stop to the infringing vessels was given by two military patrol aircraft which also started the pursuit. Hot pursuit of the fleeing vessels was then taken over by two fishery patrol vessels. As these vessels were unable to intercept the foreign ships and force them back into Canadian jurisdiction, the destroyers *The Iroquois* and *The Algonquin* succeeded them in the pursuit. Finally, after almost twelve hours of pursuit the Cuban vessels were arrested and escorted into Halifax, N.S. It was calculated at the time that the pursuit and arrest of these vessels cost the Canadian tax payer $ 20,000.

The captains of the three Cuban vessels, two Soviet citizens and a Cuban, could face charges under the Canadian Fisheries Protection Act carrying fines of up to $ 25,000 or two years in prison. However, Canadian authorities preferred to charge them under Section 7 of the Act, which carries less serious charges, namely, fines of $ 2,000 or a month in jail or both. Trial dates were set for January 4, 5 and 6, 1977. The skippers of the Cuban vessels pleaded not guilty by advancing the defense that, according to their measurements, they were outside the 12-mile limit at the moment of the interception, when the signal was given to stop.

Initially, Canadian authorities in Halifax were thinking of putting armed parties aboard the fishing vessels. However, a letter of intent from an insurance company representing all three vessels appeared to relax the situation. Finally, after pleading guilty in the magistrates court in Halifax, the skippers of the two first vessels were fined $ 2,000 each, and the captain of the mother, or factory ship, $ 1,500.

The Bergbjorn, The Ritsa, and The W. Papivin cases[2]

The 200-mile fishing zone of Canada came into force on January 1, 1977. It brought under Canadian jurisdiction an additional 502,000 sq. miles off the east coast of Canada, another 128,000 sq. miles off the west coast, and a further 421,000 sq. miles in the Arctic. Naturally, this large extension of jurisdiction has created serious additional problems regarding surveillance and policing of the fisheries zones. Although several bilateral agreements on

[1] NM. Poulantzas, 1977, pp.116-118

[2]https://books.google.com.mm/books?id=npdgzJEROswC&pg=PR22&lpg=PR22&dq=he+Bergbjorn,+The+Ritsa,+and+The+W.+Papivin+cases&source=bl&ots=9NJJQUPL6y&sig=ACfU3U2Ve1X0lbittwAQLMdeEf4dy1c19Q&hl=my&sa=X&ved=2ahUKEwjS2LXBjJL7AhW4-3MBHbaIA4wQ6AF6BAgIEAM

Mutual Fisheries Relations were signed (from 1975 to 1978) between Canada and a number of States the fleets of which have traditionally fished in the waters adjacent to the Canadian coast, there have been several violations of Canada's new fishing limit.

Thus, the Norwegian fishing boat *The Bergbjorn* was arrested, following hot pursuit in January 1977, by a Canadian coast guard vessel, after it had been surprised while fishing for cod north of Newfoundland and about 35 miles inside the 200-mile fishing zone .The skipper of the boat, Johan Bigseth, after he had pleaded guilty before a provincial court in St. John's, Nfld., was ordered to pay a total of $ 5,000 in fines, or spend five months in jail. Thus, Bigseth was fined $ 2,000, or two months in jail, for entering without permission the 200-mile zone, and $ 3,000, or three months imprisonment, for fishing without a Canadian licence. The maximum penalty that these infringements incurred was $ 6,000 in fines and four months in prison.

On April 18, 1977, the Soviet trawler *The Ritsa* was spotted fishing by a Canadian Forces Tracker aircraft on surveillance patrol. Although the trawler was ordered to stop, when sighting the patrol aircraft, it started for the high seas. However, hot pursuit was continued by the Canadian fisheries patrol vessel *The Nonia*, which arrested the Soviet trawler next day, 40 miles east of St. John's. The captain of the Soviet vessel, Igorov Valentin Alexeevich, was charged in a St. John's court with fishing inside Canada's 200-mile zone without a licence.

On May 22, 1977, the Soviet trawler *The W. Papivin* and two other Soviet trawlers were sighted by a Canadian Forces Tracker aircraft fishing in an area south of St. John's. The three trawlers were arrested following a pursuit by a Canadian fisheries patrol vessel. On August 17, 1977, captain A.M. Ostashke of *The W. Papivin* was fined $ 3,500 for illegally fishing and ordered to pay the court costs of $ 675.

Captain Ostashke, in his defence, contended that he fixed the position of his trawler by using an electronic navigation system, the depth sounder, and radio beams. He did not maintain that the pursuit and arrest of his vessel was not in accordance with international law. However, in his defence, he further added that, if condemned, he would lose his rank as a captain, because Soviet Law provides severe penalties for trawler masters, who break the fishing laws of third countries.

The Concordia, The Estai Involving Canadian Authorities and French and Other E. U. Vessels. Enforcement Measures Beyond the 200-mile Fisheries Zone of Canada[1]

In 1985, two Spanish fishing vessels were arrested-following hot pursuit by the Canadian destroyer *The Athabaskan*. Armed boarding parties were sent on board the infringing vessels and they were towed back to St. John's, Newfoundland, where heavy fines were imposed upon the masters of the vessels.

On the contrary, on March 13, 1990, the Canadian destroyer *The Saguenay*, on patrol off George's Bank, was repeatedly and with aggressive intention rammed by the United States scallop-dragger *The Concordia*, which was fishing illegally in Canadian waters. Finally, *The Concordia* succeeded in escaping to New Bedford, Mass. In the House of Commons in Ottawa, the Canadian Government was sharply criticized for allowing the vessel to escape. All the more so as U.S coast guard officials had recommended to the captain of *The Concordia* to surrender.

[1]https://www.google.com/url?sa=i&rct=j&q=&esrc=s&source=web&cd=&ved=0CAQQw7AJahcKEwiw2OG_tqv7AhUAAAAAHQAAAAAQAg&url=https%3A%2F%2Fwww.informea.org%2Fen%2Fcourt-decision%2Ffisheries-jurisdiction-case-spain-v-canada&psig=AOvVaw2lWHLUw-RL6BX6272Nz5tp&ust=1668438135234004

Bill McKnight, the Canadian Minister of National Defence- at that time- defended the Canadian navy by stating that the rules of engagement did not permit the Canadian enforcement vessels to jeopardize civilian lives. However, the Canadian Department of External Affairs delivered a protest note with regard to this incident to the State Department in Washington D.C.

Several other incidents have also taken place between the Canadian authorities and French fishing vessels from the French islands of St. Pierre and Miquelon off Newfoundland.

On March 9, 1995, an Royal Canadian Mounted Police emergency response team boarded and seized beyond the 200-mile fisheries zone of Canada the Spanish fishing vessel *The Estai*, for violating the Northwest Atlantic Fisheries Organization conservation measures. This incident followed the amendment in May 1994 of the Canadian "Coastal Fisheries Protection Act" and of the "Coastal Fisheries Protection Regulations".

In May 1994, Canada was the first country to become party to the "Food and Agriculture Organization Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas". This Agreement, together with the United Nations draft Convention on Straddling Fish Stocks and Highly Migratory Fish Stocks, which was tabled at the end of March-April 1995, propose an enforcement scheme on non-flag States, and is possibly expected to fill the gap in the United Nations Convention on the Law of the Sea (1982). These drastic measures for the conservation of fisheries and for enforcement measures against foreign vessels on the high seas, were supplemented with the Agreement Between the European Union and Canada, signed on April 20, 1995, which sets up- for the first time- an effective system of controls on European Union vessels fishing in the Northwest Atlantic.

(B) Australia

The MV Volga Case[1]

The *Volga* litigation arose from a hot pursuit that took place near the Australian Fisheries Zone in 2002. A Russian-flagged longline fishing vessel, *The MV Volga*, which was apprehended by a Royal Australian Navy frigate, *HMAS Canberra* for illegal fishing for more than 120 tons of Toothfish and other species in the Australian Fishing Zone adjacent to Heard and Donald islands. *The Volga* was arrested by Australian naval personnel who first-roped from a helicopter launched from *HMAS Canberra* on 7th February, 2002 approximately 0.5 nautical miles outside the Australian Fisheries Zone.

Under Article 111(5) of the United Nations Convention on the Law of the Sea, 1982, the right of hot pursuit may be exercised only by warships or military aircrafts, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

This litigation was under the Fisheries Management Act, 1991, under which the vessel, its nets and catch were forfeited to the Commonwealth. The Russian Company that owned the vessel, *Olbers Co. Ltd*, applied to the Federal Court of Australia for an order that the arrest was illegal and that the vessel was not forfeited to the Commonwealth. *The Olbers* also claimed damages and other relief. The Federal Court dismissed the application. An appeal against that decision was dismissed by the Full Federal Court and special leave to appeal to the High Court was refused.

[1] http://envlaw.com.au/the-volga-cases/

In separate proceedings, Russia applied to the International Tribunal for the Law of the Sea for prompt release of the vessel under the United Nations Convention on the Law of the Sea, 1982. Russia was successful in the proceedings and International Tribunal for the Law of the Sea ordered the vessel's prompt release on less stringent terms than sought by Australia. But Australia was rejected the order of International Tribunal for the Law of the Sea because the Federal Court ultimately found that *Volga* had been fishing illegally, based on evidence from the Australian Fisheries Management Authority Officer who boarded *Volga* and reconstituted data from *Volga's* computers.

According to the Laws of Australia, the maximum total of fines imposable on the three officers of *The Volga* is AU $ 1,100,000 and the vessel, its equipment and fish on board are liable to forfeiture.

The Implementation of Hot Pursuit in Myanmar

In Myanmar, there are three laws for fishing namely, Myanmar Marine Fisheries Law, 1990, Freshwater Fisheries Law, 1991 and Myanmar Territorial Sea and Maritime Zones Law, 2017. Freshwater fisheries only concerns fishing in internal waters. So, Right of Hot Pursuit mostly concerns Myanmar Territorial Sea and Maritime Zones Law, 2017.

Thus, the Article 26 of the Myanmar Territorial Sea and Maritime Zones Law, 2017, is related with the right of hot pursuit, it state that, the State may, in accordance with the stipulations, exercise the right of hot pursuit of a foreign ship which violates or is believed that it has violated this Law and other existing laws. Such right of hot pursuit ceases if a foreign ship pursued enters its territorial sea or the territorial sea of a third State.

Some of the respective objectives in Freshwater Fisheries Law, 1991 are as follows;

(a) to further develop the fisheries;
(b) to prevent the extinction of fish;
(c) to safeguard and prevent the destruction of freshwater fisheries waters;
(d) to obtain duties and fees payable to the State;
(e) to manage the fisheries and to take action in accordance with the Law.

In addition, under Section (3) of the Myanmar Territorial Sea and Maritime Zones Law, 2017, the objectives are as follows;

(a) to have security, rule of law and tranquility for the interests of the State in the territorial sea, contiguous zone, exclusive economic zone and continental shelf;
(b) to protect and conserve, and excavate natural resources systematically for long term in the territorial sea and maritime zones of the State and to do marine scientific researches;
(c) to protect and conserve from the pollutions on the sea, airspace and impact on marine environment through the territorial sea and maritime zones of the State.

By analyzing the mentioned above some obligations, there is no clear usage for the right of hot pursuit to ensure the safety of Myanmar's fish resources in the coastal line area and exclusive economic zone.

Myanmar has a long coastline which stretches approximately 2,227 km. So, territorial jurisdiction should be safety through fisheries law in order to maintain and exploit fish resources. Therefore, absolute protection for Myanmar Fisheries Zone should be effective.

FINDING AND RECOMMENDATION

There is nothing to show about implementation of the right of hot pursuit in Myanmar Fisheries Law. But other States in particular, United States of America, Canada and Australia establish the implementation of hot pursuit to protect and prevent their fishery areas in coastal States. As to the Myanmar, the Right of Hot Pursuit has already provided in Myanmar Territorial Sea and Maritime Zones Law, 2017. But there is no specific provision for Right of Hot Pursuit in Fisheries Law. It should be provided clearly to use the Right of Hot Pursuit in Myanmar because the rich of fish natural resources are the wealthy of Myanmar to protect their illegal fishery of other countries.

CONCLUSION

Fish is important the natural living resources for food security. Myanmar, a coastal State is plentiful of the fish. But Myanmar could not give well safeguard for the fish stealing within its territory due to various reason such as the less of coastal guard, long coastal area and lack of management and fish resources. The right of hot pursuit can be operated to protect from stealing the fish in marine territorial area. This research suggests that the right of hot pursuit should include as a provision in the marine fisheries law of Myanmar and to establish an organization of coastal guard to protect severe devastating of marine fish resources.

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