



**BP DEEPWATER HORIZON OIL SPILL 2010:  
A LEGAL ANALYSIS ON THE BASIS OF UNCLOS 1982  
AND OPRC CONVENTION 1990**

**BY**

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the degree of Master of Comparative Laws**

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## **ABSTRACT**

This thesis critically analyses the incident of BP Deepwater Horizon oil spill on the basis of UNCLOS 1982 and OPRC Convention 1990. Part XII of UNCLOS 1982 laid down jurisdictional rules for the protection and preservation of marine environment. This thesis outlines and describes in detail articles 192, 193, 194, 204, 205, 206 and 208 of UNCLOS 1982. The 1990 London International Convention on Oil Pollution Preparedness, Response and Co-operation promotes international co-operation in the event of major oil pollution threat. This thesis outlines and describes in detail articles 2, 3, 4, 5 and 6. Both UNCLOS 1982 and OPRC Convention 1990 have shortcomings and weaknesses in addressing the Deepwater Horizon oil spill. The shortcomings and weaknesses of UNCLOS 1982 are the treaty's reliance upon national legislation to implement its provision; the Convention lacks definitive procedures for determining liability, guaranteeing compensation and enforcing the adoption of international rules if a spill or explosion caused by one state and affecting another state occurs and the Convention does not provide coastal or port states with any jurisdiction over pollution matters or with any other specific rights to act upon or report to an international regulatory body if violation stemming from a fixed platform affects a neighbouring state. The shortcomings and weaknesses of OPRC Convention 1990 are the Convention does not define a minimum standard nor does it indicate an appropriate methodology to be used in determining equipment levels on case to case basis; the Convention provides a great deal of flexibility regarding its implementation by Contracting parties and the Convention only concerns with accident planning and response, it does not cover issues pertaining to liability and compensation. In the wake of Deepwater Horizon oil spill, there is a need to implement a global treaty of strict liability that regulates oil pollution from fixed platform and provides consistent standard of enforcement against offending operators in term of liability limits and compensation avenues.

## ملخص البحث

يتناول هذا البحث بالتحليل الناقد حادثة تسرب النفط إلى خليج المكسيك، والتي تسببت فيها حفريات الشركة البريطانية للبتروول، وذلك استناداً على اتفاقية قانون البحار لعام 1982م، واتفاقية مكافحة التلوث لعام 1990م. وينص الجزء الثاني عشر من اتفاقية مياه البحار لعام 1982م على حماية بيئات البحار من التلوث، كما ينص على حفظها كذلك. ويستعرض هذا البحث المواد رقم 192، و193، و194، و204، و205، و206، و208 من اتفاقية قانون البحار لعام 1982م، واصفاً بالتفصيل دلالات هذه المواد. وكانت اتفاقية لندن الدولية لعام 1990م قد عززت التعاون والتأهب لمكافحة التلوث خاصة في حالات تهديدات التلوث النفطي الكبرى. وناقش البحث كذلك بالتفصيل المواد رقم 2، و3، و4، و5، و6، من هذا القانون. وكلتا الاتفاقيتين؛ اتفاقية قانون البحار لعام 1982م، واتفاقية لندن الدولية لمكافحة التلوث 1990م لهما جوانب ضعف، وأوجه قصور في معالجة تسرب النفط إلى خليج المكسيك، وتعدُّ أوجه القصور، وجوانب الضعف في اتفاقية مياه البحر لعام 1982 هي اعتماد المعاهدة على التشريعات الوطنية لتطبيق بنودها، كما ينقص المعاهدة التعريفات الإجرائية لتحديد الاستحقاقات، وتعويضات الضمان، وتبني تطبيق القوانين الدولية في حالة التسرب أو الانفجارات النفطية التي تتسبب في حدوثها إحدى الدول، وتتضرر منها دولة أخرى، ولم تنص المعاهدة على إجراءات قانونية للتلوث الذي يحدث لدول السواحل، ولدول الموانئ، ولم تنص كذلك على أيّ حقوق خاصة تُرفع لهيئات الرقابة الدولية في حالة حدوث انتهاكات من محطات ثابتة تتضرر منها الدول المجاورة. أمّا أوجه القصور، والضعف في اتفاقية التأهب لمكافحة التلوث لعام 1990م فتكمن في أن الاتفاقية لم تحدد الحد الأدنى لمعيار التلوث، كما لم تشر الاتفاقية إلى طريقة مناسبة تُستخدم في تحديد مستويات المعدات في حالة معالجة الحالات الفردية، وأظهرت الاتفاقية مرونة عالية في ما يتعلق بتطبيقها من قبل الأطراف المتعاقدة، واهتمت الاتفاقية فقط بالحوادث المخطط لها، والاستجابة لذلك، ولم تتعرض لقضايا تتعلق بالاستحقاقات، والتعويضات. وفي إطار صحوة تسربات النفط في خليج المكسيك تظهر الحاجة إلى تطبيق معاهدة عالمية باستحقاقات صارمة، تضبط تلوث النفط من المحطات الثابتة، وتوفر معياراً ثابتاً للتطبيق في وجه مخالفات المشغلين في إطار محدودية الاستحقاقات، وسبل التعويضات.

## APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarship presentation and is fully adequate, in scope and quality, as a dissertation for the degree of Master of Comparative Laws.

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## DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Adeline Chan Kiu Ming

Signature.....

Date.....

INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

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**BP DEEPWATER HORIZON OIL SPILL 2010: A LEGAL ANALYSIS ON  
THE BASIS OF UNCLOS 1982 AND OPRC CONVENTION 1990**

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## LIST OF CASES

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MOX Plant (Ireland v United Kingdom) (2002) 41 ILM 405  
Trail Smelter (1907) 3 RIAA 1941

## **LIST OF STATUTES**

Outer Continental Shelf Lands Act 1953 (United States)  
Oil Pollution Act 1990 (United States)  
National Environmental Policy Act 1969 (United States)

## **LIST OF TREATIES**

Baltic Convention 1992  
Barcelona Convention 1995  
Black Sea Convention 1992  
Civil Liability for Oil Pollution Damage 1977  
HNS Convention 1996  
International Convention for the Prevention of Pollution from Ships 1973  
International Convention for the Safety of Life at Sea 1974  
International Convention on Civil Liability for Oil Pollution Damage 1969  
International Convention on the Establishment of an International Fund for  
Compensation for Oil Pollution Damage 1971  
London (dumping) Convention 1972  
London International Convention on Oil Pollution Preparedness, Response and  
Cooperation 1990  
United Nations Convention on the Law of the Sea 1982

## LIST OF ABBREVIATIONS

Art.	Article
ASEAN	The Association of Southern Asean Nations
BOEMRE	Bureau of Ocean Energy Management Regulation and Enforcement
BP	British Petroleum
EEZ	exclusive economic zone
EIA	environmental impact assessment
HNS	hazardous and noxious substances
HVAC	heating, ventilation and air-conditioning systems
IMO	International Maritime Organisation
IWGMP	Intergovernmental Working Group on Marine Pollution
ibid	( <i>ibidem</i> ): in the same place below
id	( <i>idem</i> ): the same below
in	inch
IOPC	International Oil Pollution Compensation Funds
kPa	kilopascal
MARPOL	International Convention for the Prevention of Pollution from Ships
mm	millimetre
m <sup>3</sup> /d	cubic metre per day
MMS	Mineral Management Services
MODU	mobile drilling rig unit
MSY	maximum sustainable yield
MWCC	Marine Well Containment Company
n.d	no date
n.p	no place: no publisher
NEPA	National Environmental Policy Act
OCSLA	Outer Continental Shelf Lands Act
OPOL	Offshore Pollution Liability Association
OPRC	Oil Pollution Preparedness, Response and Cooperation Convention
PAH	polycyclic aromatic hydrocarbon
Plc.	private limited company
Psi	pound force per square inch
RMI	Republic of Marshall Islands
UNCLOS	United Nations Convention on the Law of the Sea.
UNEP	United Nations Environment Programme
US	United States
vol./vols.	volume/volumes

# CHAPTER ONE

## INTRODUCTION

### 1.1 INTRODUCTION

Deepwater Horizon oil well exploded on 20 April 2010. It occurred off the coast of Louisiana, killed 11 people and led to the largest oil spill in U.S. history.<sup>1</sup> At the time of the explosion, it was drilling an exploratory well at a water depth of approximately 5,000 feet (1,500 m) in the Macondo Prospect, located in the Mississippi Canyon Block 252 of the Gulf of Mexico in the United States exclusive economic zone about 41 miles (66 km) off the Louisiana coast.<sup>2</sup> BP was the operator and principal developer of the Macondo Prospect with a 65% share, while 25% is owned by Anadarko Petroleum Corporation, and 10% by MOEX Offshore 2007.<sup>3</sup> It is actually an account of the 1979 Ixtoc I oil well blowout in Mexico's Bay of Campeche that caused the release of approximately 147 million gallons of oil into Gulf of Mexico. The Gulf contaminated 162 of Gulf shoreline, including large sections of the Texas coast.<sup>4</sup> It caused a wide variety damages to natural resources in the Gulf. It had adverse impact on ecology, fisheries, tourism and other economic consequences.

With regard to the above incidents, this study is divided into 3 parts. The first part of the study analyses the provisions in the UNCLOS 1982 that deals with protection of marine environment. It discusses on rights and duties of states over its

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<sup>1</sup> Eric V. Hull, "Crude Injustice in the Gulf: Why categorical Exclusions for Deepwater Drilling in the Gulf of Mexico Are Inconsistent with U.S. and International Ocean Law and Policy", Vol.29(2011) UCLA J. Envtl. L. & Pol'y 1: <[http://www.lexisnexis.com/my/legal/results/docview/docview.do?docLinkInd=true&risb=21\\_T14170233786&format=GPNBFULL&sort=BOOLEAN&startDocNo=1&resultsUrlKey=29\\_T14170233790&cisb=22\\_T14170233789&treeMax=true&treeWidth=0&csi=156995&docNo=23](http://www.lexisnexis.com/my/legal/results/docview/docview.do?docLinkInd=true&risb=21_T14170233786&format=GPNBFULL&sort=BOOLEAN&startDocNo=1&resultsUrlKey=29_T14170233790&cisb=22_T14170233789&treeMax=true&treeWidth=0&csi=156995&docNo=23)> viewed on 10 March 2012.

<sup>2</sup> "Macondo", Offshore Field Development Project, <[http://www.subseaiq.com/Data/Project.aspx?project\\_Id=562&AspxAutoDetectCookieSupport=1](http://www.subseaiq.com/Data/Project.aspx?project_Id=562&AspxAutoDetectCookieSupport=1)> viewed 10 March 2012.

<sup>3</sup> Ibid.

<sup>4</sup> Hull, n.1.

EEZ and general obligations of states to protect marine environment. Article 193 (on exploiting the natural resources with sound environment policies), Article 194 (on taking all measures necessary to prevent pollution of the marine environment, using the '*best practical means*'), Article 208 (on preventing pollution from sea-bed activities) and Article 204-206 (on Environmental Impact Assessment (EIA)) will be looked into.

The second part of the study analyses the provisions of Oil Pollution Preparedness Response and Cooperation under the OPRC Convention 1990 that deals with the above incidents. It discusses objectives of the OPRC Convention 1990 and general obligations of states parties. Article 3 (on oil pollution emergency plans for off-shore installations engaged in oil exploration), Article 4 and 5 (on oil pollution reporting system), Article 6 (on national systems for oil pollution preparedness and response) are discussed.

The third part of the study critically “analyses” the BP Deepwater Horizon oil spill. It focuses on areas like efforts to protect the coastline and marine environment, consequences in terms of ecology, fisheries, tourism and other economic consequences, investigations (finding of faults and disposition of financial obligation), litigation and BP spill response fund and lastly U.S. 's responsibility under international law.

## **1.2 STATEMENT OF THE PROBLEM**

UNCLOS 1982 and OPRC Convention 1990 have their shortcomings and weaknesses in dealing with big scale oil pollution incident like Deepwater Horizon oil spill. The main problems faced by UNCLOS 1982 in dealing with Deepwater Horizon oil spill are the Convention leaves codification of its provisions to the discretion of individual

state government; the Convention does not provide coastal or port states with any jurisdiction over pollution matters or with any other specific rights to act upon or report to an international regulatory body if violations arising from a fixed platform affect neighbouring state; there is no international regulatory body or defined international pollution standard to regulate international oil pollution. The main problems faced by OPRC Convention 1990 in dealing with Deepwater Horizon oil spill are the Convention does not define a minimum standard or does it indicate an appropriate methodology used in determining equipment levels on a case by case basis; the Convention is very flexible in implementing its provision by Contracting Parties and the Convention only concerns with accident planning and response, it does not cover issues pertaining to liability and compensation. Following the incident of Deepwater Horizon oil spill, there is a need to implement a global treaty of strict liability that regulates oil pollution from fixed platform and provides consistent standard of enforcement against offending operators in terms of liability limits and compensation avenues. The followings are the research questions:

- a. What are the protections of marine environment under UNCLOS 1982?
- b. What are the measures offered by OPRC Convention 1990?
- c. What are the efforts taken to protect the coastline and marine environment?

### **1.3 HYPOTHESIS**

UNCLOS 1982 provides sufficient provisions that deal with marine protection. OPRC Convention 1990 provides adequate measures in controlling pollution emergencies at sea.



#### **1.4 OBJECTIVES OF THE PROPOSED RESEARCH**

There is a need to critically evaluate the incident of BP Deepwater Horizon oil spill from the perspective of UNCLOS 1982 and OPRC Convention 1990. Thus the researcher seeks to archive the following objectives:

- a. To discuss protections of marine environment offered by UNCLOS 1982.
- b. To discuss measures taken in controlling pollution emergencies at sea provided by the OPRC Convention 1990.
- c. To critically analyse the BP Deepwater Horizon oil spill.

#### **1.5 LITERATURE REVIEW**

Article 1(4) of the United Nations Convention of the Law of the Sea (UNCLOS) 1982 defines pollution of the marine environment “as the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities”. There are four main sources of marine pollution: shipping, dumping, sea-bed activities and land activities. BP Deepwater Horizon oil spill caused extensive damage to environment as well as economics harm of the coastal state.

Various academicians have given different perspectives and dimensions on this incident. The following are the work of some researchers who have dealt with this area and whose works share close proximity with the subject matter of this research.

*“Crude Injustice in the Gulf: Why Categorical Exclusions for Deepwater Drilling in the Gulf of Mexico Are Inconsistent with U.S. and International Ocean*

*Law and Policy*<sup>5</sup> is an article that “addresses current and future uses of the oceans and requires agencies to work collaboratively by employing ecosystem-based and adaptive management principles in all decisions that impact the ocean and its resources.”<sup>6</sup> Despite the substantial risk associated with deep sea oil drilling in the Gulf, the Mineral Management Services (MMS) has routinely elected to categorically exclude certain offshore oil exploration and development activities in the Gulf from environmental review otherwise required under the National Environmental Policy Act”.<sup>7</sup> The writer has discussed “National Environmental Policy Act (NEPA) and the Outer Continental Shelf Lands Act (OCSLA) which act in a complimentary manner to ensure that the environmental impacts from offshore oil exploration and development are considered before the land is leased”.<sup>8</sup>

*“Deepwater mobile oil rigs in the exclusive economic zone and the uncertainty of coastal state jurisdiction”*<sup>9</sup> is an article concerning “proposal for resolving the uncertainty in jurisdiction over deepwater mobile oil rigs operating in EEZ. There are four suggestions namely, first, to consider mobile oil rig as vessel; second, to consider mobile oil rig as artificial islands; third, to create a new distinct category exclusively for deepwater mobile oil rigs and fourth, to consider mobile oil rig as sea-bed installation once drilling operations begin”<sup>10</sup>.

In this article the writer has discussed the “categorization of deepwater mobile oil rig operating in EEZ as vessel. Since UNCLOS 1982 does not define the word ‘ship’ or ‘vessel’, several national laws and international treaties have legally treated

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<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Rebecca K. Richards, “Note and Student Work: Deepwater Mobile Oil Rigs in the Exclusive Economic Zone and the Uncertainty of Coastal State Jurisdiction”, Vol. 10 (2011) J. Int’l Bus. & L. 387.

<sup>10</sup> Id., at 388.

them as vessel due to their navigational ability and physical similarities to vessels.<sup>11</sup> The writer states that if deepwater mobile oil rig is considered as vessel, coastal state has exclusive jurisdiction over living and non-living resources below the waterline, belongs exclusively to the coastal state and jurisdiction of the operations and activities above the waterline lie with the oil rig's flag state. The split jurisdiction between flag state and coastal state causes uncertainty to the regulatory framework. Moreover, categorisation of mobile oil rig as vessel will cause rig owners option to choose a flag of convenience as state of registry. This treatment is inadequate".<sup>12</sup>

The writer also discusses the suggestion of mobile oil rig as sea-bed installation. This categorisation is inadequate as its purposes vary as well as the evolving nature of technology used on them. The writer also discusses the inadequacy of categorizing mobile oil rig as a new oil rig category. This is due to the fact that it will take a long time to negotiate and draft UNCLOS 1982.

The writer also proposes "categorizing mobile oil rig as sea-bed installation. This is due to the reason that coastal state bears all responsibilities in dealing with consequences of potential major accidents and has complete jurisdiction over deepwater mobile oil rig once they are engaged in drilling or production activities to ensure safe operations. Furthermore, this will remove definitional uncertainty of deepwater mobile oil rig".<sup>13</sup>

Even though the article focuses on uncertainty of coastal state jurisdiction over deepwater horizon mobile oil rig, it does not discuss the BP Deepwater Horizon oil spill in the light of protection of marine environment in the light of UNCLOS 1982.

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<sup>11</sup> Ibid.

<sup>12</sup> Id., at 397.

<sup>13</sup> Id., at 398.

In the article titled, “*Administering America’s offshore oil fields: How fewer, performance-based Regulations can produce better results*”<sup>14</sup> (Derek Orth), the writer has discussed “how United States Coast Guard highlighted several safety measures before the Congress. Due to the BP Deepwater Horizon oil spill, there is a need to reform the technological and regulatory nature of the offshore oil drilling industry. The writer has discussed the current practice adopted by America’s oil field safety regulation. Under the current practice, the operator submits his risk analysis to the government, and the report must comply the safety regulations.<sup>15</sup> However, oil companies consistently by pass this safety provision by invoking the special Gulf of Mexico exemption, thus eliminating its potential effectiveness”.<sup>16</sup>

Furthermore, the writer goes on to discuss the difference between prescriptive and performance based regulations. The writer has explained the “prescriptive regulations as those that specifically describe the means to achieve the objective”. In this “regulatory regime, it is forced to continually update itself with safety innovations and technological improvements, while lacking the technical nous that accompanies daily operation of an oil rig.<sup>17</sup> Whereas, performance-based regulation sets performance goals, allows individuals and firms to choose how to meet them.<sup>18</sup> Under this approach, it has the potential to facilitate technological innovation and evident use of resources, increase industry initiative in developing and implementing plans of action and self-audit”.<sup>19</sup> The writer suggests that a mixed and prescriptive based regulation should be adopted by the U.S. government.

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<sup>14</sup> Derek Oth, “Comment: Administering America’s offshore oil fields: How fewer, performance-based regulations can produce better result”, Vol. 26 (2011) J. Envtl. L. & Litig. 509.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Id., at 518.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

The writer even studies the United Kingdom safety case and Norwegian risk analysis approach. The writer states that these two regulatory regimes have succeeded in preventing large scale disaster like Deepwater Horizon. He proposes that the U.S. government should consider implementing a similar approach.

The article “*Shortcomings and solutions: Reforming the outer continental shelf oil and gas framework in the wake of the deepwater horizon disaster*”<sup>20</sup> discusses the “existing statutory, regulatory, and policy structures that govern oil and gas activities, oil spill preparedness and response on the Outer Continental Shelf”. The writer also identifies and critically analyses shortcomings of the existing Outer Continental Shelf oil and gas framework. Suggestions on the necessary measures to make oil and gas operations safer to protect the marine ecosystem are discussed at length in this article.

In the article “*Symposium: Deep trouble: Legal ramifications of the deepwater horizon oil spill: Deepwater Horizon: Removal costs, civil damages crimes, civil penalties and state remedies in oil spill cases*”,<sup>21</sup> the academicians have discussed the economic loss claims for commercial fishermen who have lost their income due to BP Deepwater Horizon oil spill. The academicians further discuss damages arising from the accident as claimed by individuals and businessmen. Civil penalties and state remedies in oil spill cases are also discussed in detail.

The writer in the article, “*Trade and Investment, and sustainable development: foreign investment contracts in the oil and gas sector: a survey of environmentally relevant clauses*”<sup>22</sup> reviews the environmental standard clauses contained in the oil

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<sup>20</sup> Andrew Hartsig, “Shortcomings and Solutions: Reforming the Outer Continental Shelf Oil and Gas Framework in the Wake of the Deepwater Horizon Disaster”, Vol 16 (2011) Ocean & Coastal L. J. 269.

<sup>21</sup> Robert Force, Martin Davies and Joshua S Force, “Symposium: Deep trouble: Legal ramifications of the deepwater horizon oil spill: Deepwater Horizon: Removal costs, civil damages crimes, civil penalties and state remedies in oil spill cases”, Vol. 85(2011) Tul. L. Rev. 889.

<sup>22</sup> Kyla Tienhaara, “Trade and Investment, and sustainable development: foreign investment contracts in the oil and gas sector: a survey of environmentally relevant clauses”, Vol 1(2011) Sustainable Dev. L. & Pol’y 15.

and gas contracts. “It is stated that most contracts in the sample specifically mention<sup>23</sup> ‘pollution’ or ‘environmental damage’ in liability or indemnity clauses and adopt strict liability practice”. The writer reviewed oil and gas contracts came to a conclusion that they simply provided reference to good oilfield practices. However, “in some contracts, it is stipulated that in the event that the contractor did not act promptly to respond to an emergency or accident, the government had the right to mount its own expense and charged the contractor for expenses that it incurred in doing so”.<sup>24</sup>

The article “*Marine Pollution under the Law of the Sea Convention*”<sup>25</sup> discusses the obligations imposed by Law of the Sea Convention on States to protect marine environment. “The obligations contained in Article 207-212 to adopt laws and regulations; and to establish international global and regional rules and standards that form part of the primary obligation established by Article 192 and 194 to protect and preserve marine environment and to take all necessary measures to prevent, reduce and control pollution”.<sup>26</sup> However, these obligations fell a long way short of constituting a general duty to control and regulate all sources of marine pollution or to protect the marine environment, and their content was uncertainly defined, leaving the states to codify the provisions in the Law of the Sea Convention into their national law.<sup>27</sup> The academician discussed the importance of distinction between the coastal state legislative power over vessels in the territorial sea and in the exclusive economic zone, where coastal state retains its power to investigate, arrest and prosecute vessels in the territorial sea for violation of pollution laws, but it is not given plenary

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<sup>23</sup> Id., at 16.

<sup>24</sup> Id., at 21.

<sup>25</sup> Alan E. Boyle, “Marine Pollution under the Law of the Sea Convention”, vol. 79 (1985) A.J.I.L. 347, at 350.

<sup>26</sup> Id., at 347

<sup>27</sup> Ibid.

competence in the economic zone.<sup>28</sup> In the “exclusive economic zone, its power of enforcement over vessels are substantially less than they are in the territorial sea, and in many cases the coastal state must rely on port or flag state assistance”.<sup>29</sup>

The writer in the article “*Coastal State Obligations and Powers Respecting EEZ Environmental Protection Under Part XII of the UNCLOS: A Descriptive Analysis*” explains coastal state’s environmental rights and duties in the EEZ. Although the UNCLOS as a whole recognizes and affirms a coastal state’s inherent powers over the natural resources within its EEZ, it also creates a legally binding obligation on states to protect the marine environment.<sup>30</sup> However, individual state needs to take those measures necessary to combat environmental damage from any source “using ...the best practicable means at their disposal and in accordance with their capabilities and environmental policies”.<sup>31</sup> The writer takes a closer look at the UNCLOS mandates regarding pollution from vessel sources which will help to provide a more detailed picture of a coastal state’s exercise of prescription jurisdiction and coastal state, port state and flag state’s exercise of enforcement jurisdiction regarding pollution.<sup>32</sup> The writer also explains the relationship between coastal state obligations and powers under the UNCLOS and other conventions.<sup>33</sup>

In the article, “*Fighting Chemicals with Chemicals: The Role and Regulation of Dispersants in Oil Spill Response*”<sup>34</sup> the writers have explained the role of dispersants in the Deepwater Horizon oil spill. Despite the fact that there is lack of

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<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> David M. Dzidzornu, “Coastal State Obligations and Powers Respecting EEZ Environmental Protection Under Part XII of the UNCLOS: A Descriptive Analysis”, vol. 8 (1997) *Colo. J. Int’l Envtl. L. & Pol’y* 283, at 286.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> Charles L. Franklin and Lori J. Warner, “Fighting Chemicals with Chemicals: The Role and Regulation of Dispersants in Oil Spill Response”, Vol. 26 *Nat. Resources & Env’t* 7.

dispersant legislation during 2010, the writers have suggested dispersant law and policy will continue to receive attention in 2011 and beyond based in several trends.<sup>35</sup>

In the article, “*The Deepwater Horizon Disaster: An Examination of the Spill’s Impact on the Gap in International Regulation of Oil Pollution from Fixed Platform*”<sup>36</sup>, the writer has divided her writing into two parts. “Part I summarizes the “current status of relevant international laws that govern both tanker and fixed platform oil spills, including the Convention for the Prevention of Pollution from Ships and UNCLOS”.<sup>37</sup> Part II provides a “general overview of the two private compensation regimes, International Oil Pollution Compensation Funds (IOPC) and Offshore Pollution Liability Association (OPOL) that examines the changes that have been made to these regimes over the decades, and questions the motivations behind these changes”.<sup>38</sup> Part III analyses the “Deepwater Horizon disaster’s impact on both IOPC and OPOL and their current, established frameworks for regulating the international effects of oil pollution”.<sup>39</sup>

Even though there is ample literature available on BP Deepwater Horizon Oil spill, there is a need to critically analyse the effect of this incident to marine environment, efforts taken to protect marine environment, consequences (for e.g. ecology, tourism, fisheries and other economic activities and the investigations into the incident. The above literature does not critically analyse the BP Deepwater Horizon oil spill in the light of UNCLOS 1982 and OPRC Convention 1990.

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<sup>35</sup> Id., at 13.

<sup>36</sup> Marissa Smith, “The Deepwater Horizon Disaster: An Examination of the Spill’s Impact on the Gap in International Regulation of Oil Pollution from Fixed Platforms”, Vol.25 [2011] Emory Int’l L. Rev.1477.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.