

India's Blue Horizon: India's Maritime Strategy and the Challenge of Freedom of Navigation

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Abstract- In light of India's geopolitical objectives, economic expansion, and security dynamics, this study examines the country's changing maritime strategy with regard to the Freedom of Navigation (FON). The paper explores India's responsibilities, difficulties, and contributions to preserving maritime security and granting unhindered access to the world's waters. An examination is conducted of the relationship between international maritime law, India's naval capabilities, and partnerships with both regional and international entities. Case studies of India's involvement in the Indian Ocean Region (IOR) and its response to regional maritime disputes highlight the country's delicate balancing act between security, sovereignty, and international collaboration. The report ends with policy suggestions for advancing the global Freedom of Navigation regime, bolstering India's maritime might, and maintaining stability in the region.

Keywords- maritime strategy, Freedom of Navigation (FON), maritime law, Indian Ocean Region, security, sovereignty

Introduction:

India's maritime strategy and commitment to the Freedom of Navigation (FON) are becoming more and more important as the country grows as a major participant in the world. The nation's oceans, which are situated in a geopolitically delicate area, are more than just huge bodies of water; they are also places where political, military, and economic forces come together. The Indian Ocean Region (IOR) is crucial to international trade and security because of its 7,500 kilometres of coastline and advantageous location between the Middle East and Southeast Asia.

India's economic growth and national security are inextricably linked to its naval might. India's waters are abundant with natural riches and serve as important commercial channels. The marine sector transports around 95% of India's trade by volume and 70% by value, which emphasizes how crucial it is to secure and manage these waterways well. Furthermore, because a sizable portion of imports of gas and oil pass through the IOR, the country's energy security is closely related to maritime routes.

But there are difficulties with the task. India faces a plethora of issues, including complex maritime conflicts, regional power contests, piracy, and non-traditional security risks including illicit fishing and environmental damage. The region's geopolitical rivalry is changing the maritime security environment, particularly in light of China's growing aggressiveness and naval presence in the IOR.

India's approach to FON is analysed in this changing setting using its naval prowess, diplomatic outreach, and compliance with international maritime law as a framework. This essay seeks to clarify the nuances of India's maritime policy, evaluate its effects on the stability of the area, and investigate possible avenues for enhancing the country's leadership in advancing the FON internationally. This report provides a thorough overview for stakeholders, academics, and policymakers interested in the geopolitical environment and maritime security of the Indian Ocean region.

Indian analysts expressed outrage after the US Navy carried out a freedom of navigation operation (FONOP) inside India's exclusive

economic zone (EEZ) in April 2021. Given that incident happened on the 50th anniversary of the USS Enterprise's entry into the Bay of Bengal during the 1971 India-Pakistan War, several people theorized that this was a purposeful provocation. In an era where the United States and India are forging a strategic partnership and are concerned with freedom of navigation, this episode underscores a significant difference in perspectives between Washington and New Delhi over certain aspects of the rules-based international order.

For geopolitical as well as mutual ideals and interests, India is often mentioned as the United States and its allies' natural security partner. This view is reinforced by the rebirth of the Quadrilateral Security Dialogue (Quad) relationship between the United States, Japan, Australia, and India. The Quad is frequently viewed as an alliance of democracies in the Indo-Pacific region. Nonetheless, it appears that Washington and New Delhi hold different opinions about this crucial component of the international order based on norms.

Mare Clausum, Mare Liberum, and Freedom of Navigation:

Mare Clausum, Mare Liberum, and Freedom of Navigation represent core concepts in the discourse of maritime law and territorial rights over the seas. They are pivotal in understanding the principles that govern access and control over the world's oceans, a matter intertwined with geopolitics, economy, and security.

Mare Clausum:

This term, meaning "closed sea," refers to the concept where seas and oceans are considered as territorial waters subject to the exclusive control of a particular country. It was a principle widely adopted during periods when nations sought to establish absolute sovereignty over certain sea routes and maritime resources. Mare Clausum allows for tight control, regulation, and exclusion in specific maritime zones, often leading to restricted access and limited freedom for foreign vessels to pass through.

Mare Liberum:

In contrast, Mare Liberum or "free sea" is a principle advocating that the sea is international territory and should be open to all. Introduced by the Dutch jurist Hugo Grotius in the 17th century, this concept underscores that no single nation can claim sovereignty over open seas, promoting freedom of navigation and overflight. Mare Liberum is foundational to modern international maritime law, including the United Nations Convention on the Law of the Sea (UNCLOS).

Freedom of Navigation:

Freedom of Navigation stems from the Mare Liberum concept. It is a principle of customary international law that ships flying the flag of any sovereign state shall not suffer interference from other states while navigating the high seas, except as provided under international law. This right is essential for global trade, maritime security, and the peaceful coexistence of nations. Countries collaborate through various means, including diplomacy, international law, and multilateral fora, to uphold and promote freedom of navigation.

In the context of India, these concepts are vital in understanding its maritime strategy and diplomacy. Balancing between its sovereignty, regional stability, and international commitments, India navigates through complex waters marked by territorial disputes, security challenges, and global trade dynamics. India's approach to Mare Clausum, Mare Liberum, and Freedom of Navigation, hence, is not only a reflection of its naval and maritime strategy but also an insight into its broader geopolitical stance and international relations.

Recognizing India's Position on Maritime Law and Sovereignty

India's political elite prioritized internal growth and sovereignty after independence. According to this viewpoint, limiting freedom of navigation with regard to foreign warships will help protect India from foreign powers. India is witnessing a recent upsurge in "maritime consciousness" due to a variety of factors, including political pundits, naval personnel, and political-economic endeavours.

India views maritime issues and sovereignty as inextricably linked, as control of the sea allowed Western nations to dominate and occupy Asia.

Indian historian KM Panikkar named this period of time the “Vasco de Gama Epoch,” in honor of the first European explorer to reach the Indian Ocean in the 1490s. The main cause of Asian governments’ loss of sovereignty was Western maritime strength, which was essential to the creation of European empires in Asia. “The awareness that this blatant disregard of naval security ultimately contributed to the colonization of the the Indian subcontinent and the ensuing loss of India’s very autonomy for almost three centuries makes the recurrence of this strategic error utterly unaffordable,” said Pranab Mukherjee, the minister of external affairs, in 2007, echoing Panikkar.

Many postcolonial countries, including India, saw the world as divided between the developing world, which wanted to restrict access to waters off their territory to prevent power projection and to secure economic resources in and under those waters, and the large industrial powers, which had navies and desired freedom of navigation to protect the global commons and project power. As more and more states gained independence, they entered the international system and started to question the established standards. According to O’Connell, the more pressure there is for *mare clausum*, the more states are arranged to have more actors. By granting greater economic rights to ocean space off state territorial waters beyond the customary three-mile limit and limiting freedom of navigation into territorial waters and eventually EEZs, the developing world aimed to change the norms of the ocean regime away from valuing freedom of the seas and narrow coastal jurisdiction. Joseph Nye and Robert Keohane observe that “the situation after 1967 was not merely one of ‘cheating on the regime,’ but of pressure for an alternative regime.” The relative rise of Russia and the Third World South, as James Kraska points out, “predicts a reformation of international law, including well-established tenets of the law of the sea.” Specifically, the rising countries are resuming their campaign for increased coastal state autonomy, authority, and jurisdiction in the EEZ.”

It was controversial to discuss innocent passage and freedom of navigation. Any waterways outside

of territorial waters, according to the maritime powers, are part of the high seas or international waters. Because of this, any state was able to navigate freely through them. This freedom of navigation has included, depending on the state, the “innocent passage” of warships through EEZs and territorial waters as well as the ability of ships, including warships, to cross territorial waters without prior notice as long as they are transiting directly from one place to another and do not engage in hostile activities. Restricting the right of innocent passage in their territorial waters and even their EEZs was backed by a large number of developing coastal states, including Bangladesh, Pakistan, China, and India.

Known as India’s Monroe Doctrine, it aimed to prevent extraregional nations from deploying armed forces in the Indian Ocean region (IOR). Following India’s victory over Pakistan in the 1971 India-Pakistan War, the Nixon administration appeared to be returning to imperial gunboat diplomacy by sending the carrier USS Enterprise from the Pacific to the Bay of Bengal as a symbolic show of force. Later, political leaders in India seemed to be led to believe that South Asia would become a new battleground in the Cold War by the US presence on Diego Garcia, the Soviet invasion of Afghanistan in 1979, and the Carter Doctrine. New Delhi officially protested in 2001, 2004, and 2007 and has continued to oppose US surveying and information gathering vessels off India’s coast. Indian naval officers frequently point out that India is one of the nations where the US performs FONOPs in order to contest “excessive maritime claims.”

Before entering Indian territorial waters, foreign warships were needed to notify India and obtain permission. India did not ratify the four Geneva Conventions on the Law of the Sea (which comprised UNCLOS I) in the 1960s because the first United Nations Convention on the Law of the Sea (UNCLOS) declined to incorporate this restriction. Similar to this, India attempted to restrict foreign military forces’ access to the Indian Ocean Region (IOR), as demonstrated by its 1971 proposal for an Indian Ocean Zone of Peace (IOZP).

India enacted the Maritime Zones Act of 1976 in the run-up to UNCLOS III, “which formally required

all foreign warships to give prior notification when passing through the territorial waters of India, even when undertaking innocent passage.” The position of New Delhi, as spelled out in the 1976 Act, states that “Foreign warships including submarines and other underwater vehicles may enter or pass through the territorial waters after giving prior notice to the Central Government: Provided that submarines and other underwater vehicles shall navigate on the surface and show their flag while passing through such waters.”

According to Iskander Rehman, several sections of the Maritime Zones Act also seem to suggest that India intends to use “designated areas” within its EEZ to restrict access from the outside world, which runs counter to the UNCLOS’s definition of freedom of navigation. Furthermore, it is noteworthy that although India signed UNCLOS in 1982, it did not ratify it until 1995, and only then after appending the subsequent declaration:

- The Indian government retains the authority to announce the dispute resolution procedures outlined in articles 287 and 298 at the suitable moment;

The Government of the Republic of India is aware that the Convention’s provisions forbid other States from conducting military exercises or maneuvers in the exclusive economic zone and on the continental shelf, especially when those activities involve the use of explosives or weapons and require permission from the coastal state.

India’s Revival to Be a Major Maritime Power:

India has been viewed as an emerging great power and strategic ally of the United States by many domestic and international analysts throughout the past 20 years. According to this viewpoint, marine concerns are becoming more significant in light of India’s needs in terms of both energy and economy. Currently, Indian elites are crafting a narrative of an India that is regaining its former status as a major maritime power, as it was under the Chola Empire, by drawing on the country’s sometimes overlooked nautical past.

This transformation is being driven by multiple factors. First, India inevitably became more reliant on international trade and outside energy sources as it opened up to the world economy. The

significance of sea lines of communication and maritime security has been brought to light by this dependence (SLOC).

Second, China now poses a greater security threat to India than Pakistan did. China has been India’s main security concern, along with Pakistan, at least since the terrible border war of 1962. China and India disagree over a disputed border, and China’s military might and topography generally put India at a disadvantage. In addition, China has continued to provide Pakistan with substantial military support and a strong quasi-alliance. From the Indian point of view, China can extend its influence into the Indian Ocean territory (IOR) while this partnership serves to “keep India” down, trapped in its territory in a contest with a smaller state.

India is apprehensive about Beijing’s growing economic and naval ties, facilitated by China’s Belt and Road Initiative (BRI), with other neighboring countries, including Bangladesh, Sri Lanka, Myanmar, and Pakistan. India is motivated by these conditions to uphold the standards of freedom of navigation, as recognized by Western maritime powers, or the amicable transit of warships across East and Southeast Asian EEZs, especially the South China Sea. China can safely project power into the Indian Ocean and maintain control over the Straits of Malacca if it is able to govern the South China Sea. “More importantly, India must be aware that a consolidation of Chinese maritime power in Southeast Asia has a direct bearing on the People’s Liberation Army Navy’s (PLAN) power projection plans in the Indian Ocean,” says maritime affairs specialist Abhijit Singh.

A recurring and expanding theme for governments led by the two main political parties, the Indian National Congress and the Bharatiya Janata Party, has been the notion of India emerging as a major maritime power. “Fortunately, after almost a millennium of inward and landward focus, we are once again turning our gaze outward and seawards, which is the natural direction of view for a nation seeking to reestablish itself not simply as a continental power, but even more so as a ‘maritime’ power-and, consequently, as one that is of significance on the global stage,” said then-

Minister for External Affairs Pranab Mukherjee in 2007.

Later in the same speech, he talked on India's unique moral responsibility to defend world norms:

- India is prepared to offer its maritime strength to guarantee such a favorable outcome because of its expanding capabilities and confidence as well as its history of constructive and active international participation. As an established and accountable maritime nation, we are actively involved in capacity building and operational coordination to counter threats. In our opinion, the Indian Coast Guard and Navy play a significant stabilizing role in this massive energy transfer across the Indian Ocean, not just for India but also for the entire world.

A number of the Modi government's initiatives, including Blue Revolution, Neighborhood First, Act East, Security and Growth for All in the Region (SAGAR, which is also Hindi for "sea"), have highlighted marine themes. In addition to introducing the SAGAR initiative and outlining his "maritime vision" and the Blue Revolution, Prime Minister Narendra Modi visited several IOR nations in 2015. India's hosting of the UN Security Council's (UNSC) open debate on maritime security in August 2021 was arguably the most well-known instance of this. Notably, this was the first open UNSC debate conducted by an Indian prime minister.

Modi tries to find a balance between the modern India, which is integrated into the global system, and India's unique position as an ancient civilization in many of his addresses at international gatherings. I think the clearest illustration is his 2018 Shangri-La Dialogue speech. It is made up of the following components: (1) India is a world-class ancient civilization that is regaining its position as a dominant force; (2) India was once a major maritime power with close ties to Southeast Asia as well as the IOR; and (3) India is a responsible nation that upholds the standards and laws of the international community. Modi begins by mentioning Southeast Asia's historical ties to India:

- Our gateway to ASEAN, or the Association of Southeast Asian Nations, is Singapore. For centuries, it has served as India's entryway to the East. The monsoon winds, the sea currents, and the power of human aspirations have forged enduring connections between India and this region for more than two millennia. It was framed in terms of friendship and peace, language and literature, art and commerce, and religion and culture. These interpersonal ties have endured despite changes in trade and politics. We have reclaimed that legacy over the last thirty years in order to reestablish our connections and position in the area. No area in India is currently given as much attention as this one. And with good cause. From pre-Vedic times, oceans have played a significant role in Indian thought.

Highlighting the significance of the rules-based system:

- We think that in order to ensure our shared security and prosperity, we must work together to develop a single rules-based system for the area. Furthermore, it must be equally applicable to each person as well as the global commons... We shall work to establish a democratic, rule-based international system where all countries—big and small—can prosper as equal, sovereign states. We'll cooperate with others to protect our nations from terrorism, our airspace, seas, and seas open and free, and our cyberspace free from conflict and disruption.

The perception of India as a major maritime power has changed, leading to new declarations of policy and tangible measures concerning maritime conflicts, the rules-based system, and India's part in Indo-Pacific security. This new viewpoint is demonstrated by several examples: (1) the 2014 Hague decision on the India-Bangladesh maritime dispute; (2) Indian comments on freedom of navigation in the Indo-Pacific, especially the South China Sea; (3) a growing appreciation for the utility of sea power for Indian foreign and security policy as seen in the SAGAR policy; and (4) the density of international security arrangements and

relationships with other Asian states and the United States.

In the Bay of Bengal, India and Bangladesh have been embroiled in a protracted maritime conflict. Under UNCLOS, Bangladesh took the dispute to the UN, and India agreed to have the case presented before the tribunal. The UN tribunal ruled in Bangladesh's favor in 2014. Modi's government chose to accept this ruling rather than challenge it, praising it as a model of how authorities ought to resolve conflicts. This has been interpreted by many as a message to Beijing and China expressing their opposition to South China Sea dispute arbitration.

The Indian Ministry of External Affairs released the following statement in response to an incident that occurred in 2011 and involved a Chinese vessel confronting an Indian naval vessel in what the Indians regard to be international waters—that is, within Vietnam's Exclusive Economic Zone (EEZ): "India supports freedom of navigation in international waters, including in the South China Sea, and the right of passage in accordance with accepted principles of international law." Everyone should adhere to these values."

Several government representatives echoed these remarks. In 2016, the Ministry of External Affairs said, "Sea lanes of communication passing through the South China Sea are critical for peace, stability, prosperity and development. ... As a State Party to the UNCLOS, India urges all parties to show utmost respect for the UNCLOS, which establishes the international legal order of the seas and oceans." Similarly, State Minister V.K. Singh explained,

The government has a very clear stance on this matter. Based on the norms of international law, which are prominently expressed in the UNCLOS, India favors unhindered commerce, freedom of navigation and overflight, and both. India holds that states should refrain from threatening or using force to settle disputes and should exercise restraint while engaging in actions that could intensify or exacerbate conflicts that threaten peace and stability.

Subsequently, joint declarations with the US reflected this stance. In a joint statement made in

2015, for instance, President Barack Obama and Prime Minister Modi said, "We affirm the importance of safeguarding maritime security and ensuring freedom of navigation and over flight throughout the region, especially in the South China Sea." Subsequently, former Indian Navy Chief D.K. Joshi declared that India's main priority in the South China Sea is freedom of navigation and that India would not hesitate to use force to defend its interests.

The navy now occupies a more favorable position in Indian defense doctrine. Territorial disputes have been New Delhi's top security concern for the majority of India's existence. India has discovered that the navy is more and more helpful in safeguarding its interests in the Indian Ocean Rim, enhancing security connections with other Asian countries, and preserving its economic expansion. India chose the Andaman Islands to house the Andaman and Nicobar Command (ANC), the country's first tri-service theater command, in 2004. The Milan exercise and other activities have demonstrated the criticality of this command in enhancing outreach and security connections with Southeast Asia. The navy's share of the defense budget has also been rising; in 2022, it saw a 44.53 percent increase in funding.

India has engaged in unprecedented outreach and outreach to the United States and numerous East and Southeast Asian countries over the past 20 years, especially in the last five years. With the US and its allies, it began as bilateral military drills and subsequently expanded to international ones. Additionally, it initiated its own military exercises, such as the ones with Southeast Asia in Milan and on a regular basis with Singapore, France, and other nations. The series of significant security agreements between the United States and India, such as the Communications Compatibility and Security Agreement (COMCASA) and Logistics Exchange Memorandum of Agreement (LETMOA), as well as India's participation in the renewed Quad, may be the most tangible illustration of New Delhi's changing perspectives. Tanvi Maden's enlightening piece, "India Is Not Sitting on the Geopolitical Fence," highlights several pricey signals from New Delhi, indicating that although India cherishes its independence, the current

geopolitical climate necessitates stronger collaboration with the US and its Indo-Pacific partners.

The 2015 Indian Maritime Security Strategy further elucidates this position by highlighting the significance of India's relationship and its place in the maritime neighborhood, particularly with regard to the mutual respect for international laws and norms as well as the shared goal of inclusive, cooperative development. The text continues, echoing Panikkar's 1940s writings, by emphasizing the significance of SLOCs and choke spots that could endanger them. Additionally, a section on maritime territories and disputes is included, emphasizing India's responsibility in resolving its maritime conflicts in accordance with international law and standards:

- With the exception of Pakistan, India has established its maritime borders with all seven of its neighbors in compliance with international rules and conventions. It's... India has also praised the 2014 Arbitration Tribunal ruling that established Bangladesh's maritime border... By reducing the potential for conflict, jurisdictional resolution fosters peace and supports investments in maritime governance, lawful maritime use, collaboration for maritime security, and investments in maritime economic activity. Mutual regard for the ideals of Panchsheel and the common standards of international law is necessary to fortify ties with maritime neighbors. India has continuously upheld these ideals and concepts, even in the maritime sector.

The final section, which simultaneously emphasizes the postcolonial idea of Panchsheel, or the Five Principles of Peaceful Coexistence, and calls on all nations to abide by international laws and standards, may best capture the intricacies of India's maritime strategy. India continues to see itself as a postcolonial state even as New Delhi shows support for the US and other Southeast Asian countries on China's position in the South China Sea. India has modified its diplomatic language and expanded its strategic reach, but it has not altered its current marine laws and policies.

Conclusion:

India's maritime strategy, rooted in an intricate amalgamation of its historical maritime legacy, contemporary geopolitical realities, and future aspirations, is witnessing a transformative phase. Amidst the evolving dynamics of the Indian Ocean Region and the broader Indo-Pacific, India is navigating the waters of asserting its sovereign rights, fostering regional stability, and endorsing international maritime norms.

The dual principles of *Mare Clausum* and *Mare Liberum* are instrumental in understanding India's nuanced approach towards Freedom of Navigation. While territorial integrity and sovereignty remain paramount, there is a clear acknowledgment of the collective benefits derived from open and accessible sea lanes. As India re-emerges as a significant maritime power, its naval modernization, regional collaborations, and participation in multilateral frameworks such as the Quad are indicative of its commitment to a rules-based order.

Regional complexities, characterized by territorial disputes, strategic competition, and non-traditional security challenges, necessitate a multifaceted maritime strategy. India's approach, marked by adaptability and resilience, is geared towards safeguarding its national interests while contributing to regional and global maritime security.

Future trajectories of India's maritime policy are expected to be shaped by technological advancements, climate change implications, and the evolving geopolitical landscape. The balance between national imperatives and global commitments will continue to define India's maritime journey. In this dynamic scenario, India's role as a harbinger of regional stability, an upholder of Freedom of Navigation, and a significant maritime power in the Indo-Pacific is not just imminent but essential. The nation's ability to synergize its domestic imperatives with international obligations will underpin its success in the emerging maritime order.

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