



The Antarctic Treaty was conceived and thereafter, ratified for the purpose of isolating Antarctica to eliminate human impact, yet man continues to imprint the pristine land; Galindez Island, Antarctic.

9. Fate of the Antarctic Treaty

The Antarctic Treaty of 1961 is a seminal document, isolating the continent from international conflict and human impact. The Treaty has been hailed for its uniqueness. However, as the Treaty approaches its year of review, there are speculations that the changed geopolitical scenario and the vested interests of certain signatory members may impact the sanctity of the Antarctic as a peaceful and stable region for scientific collaboration. It is in this context that discussions on the fate of the Treaty in 2048 is needed.

9.1 Introduction

The Antarctic Treaty that came into effect in 1961 has rightly been hailed as a unique Treaty of the twentieth and twenty-first century, comparable probably to Magna Carta, standing the test of the time (Mohan, 2023). The Treaty was conceived and thereafter, ratified for the purpose of isolating Antarctica to eliminate human impact (Pant, 2023a). The current idea of the Antarctic Treaty is a romantic notion as it speaks about isolating Antarctica for preservation. Some scholars express uncertainty over its effectiveness given the signs of tremendous human influence in Antarctica and calls for the reworking of the spirit of the Treaty (Ibid.). Visualising the geopolitical context of Antarctica in contemporary times requires attention on both material and emotive aspects of the Antarctic Treaty. Scholars also talk about the hollowing effect of the Antarctic Treaty System (ATS), given its complex nature. Originally, the Treaty was built on the hope of keeping Antarctica free of international discord and preserve it as a place of nature and science (Chaturvedi, 2023).

9.2 Rationale

The apprehension that the Treaty has an uncertain future, as hinted by the challenging title of the Third Discussion Panel 'Fate of the Antarctic Treaty after 2048' does not probably reflect the spirit of the Treaty (Jortikka-Laitinen, 2023). It is worth noting that despite the Treaty's requirement for a review after 30 years in 1991 under Article 12, all parties expressed their commitment to upholding and enhancing the Treaty on its 30th

anniversary. A similar resolution, termed as ‘Washington Declaration’ was passed by all the Consultative Parties on 50 years of signing the Treaty in 2009 at Washington hailing the Treaty and expressed their continued support in furtherance of the provisions of the Treaty aimed at preserving and protecting the Antarctic environment and its dependent and associated ecosystem (Ravindra, 2023; Parmar, 2023). However, since Article 25 of Madrid Protocol permits a Review after 50 years, there is a growing feeling in some quarters that due to changed geopolitical environment and emergence of new global players, the exclusiveness of ‘Antarctic Club’ may be breached.

9.3 Major Concerns

Some of the major concerns regarding the future of the Antarctic Treaty are that certain member nations and recent geopolitical shifts may attempt to alter the provisions of the Treaty. A growing human involvement may harm Antarctica and cause turbulence in the region’s governance, is another area of concern. There are only 54 signatories to the Treaty including the 29 Consultative Parties with scores of nations being left out of the Antarctic Treaty System. Inclusiveness rather than exclusiveness is the order of the day (Chaturvedi, 2023).

There is an apprehension that the ATS is collapsing under the ever increasing heavy agenda of the ATCMs, which is set by minority Parties but has to be followed by the majority. The generational shift in diplomacy, gradual loss of institutional memory and rising aspirations of some nations who have come up to stand side by side with main players or advanced nations as a result of newly gained financial and technological strength (Chaturvedi, 2023) may be a game changer. This economical or technological supremacy is bound to clash with traditional Antarctic nations in the terms of Antarctic governance. Besides, the success of the ATS cannot be taken for granted. There are challenges in the governance which can pose a major risk to the functionality of the Antarctic governance model (Chaturvedi, 2023).

9.4 Addressing the Concerns

Notwithstanding the provision of Article 25 of Madrid Protocol, the Review is not an automatic process and the Treaty does not have an end date. One or more parties from among the Consultative Parties has to ask for a discussion on the subject of an intended review. There are no indications so far that any Party will ask for such a review, as status quo in the Treaty is best suited to both claimant and non- claimant Parties (Ravindra, 2023). The issue has to be viewed with the perspective that the global geopolitics has changed considerably since the Treaty was conceived in 1959 and a new world order has taken over an era of colonisation. The assumption that need for the exploitation of depleting mineral resources from the inhabited continents and the probability of availability of such resources in Antarctica, may speed up a race for mining, appears to be more speculative rather than supported by logic; firstly, because no detailed mineral exploration has been conducted over Antarctica and secondly, the huge thickness of ice, as overburden, will act as a major deterrent to economic exploitation of mineral resources. Moreover, the prohibition on mineral resource activities cannot be removed unless a binding legal regime on Antarctic mineral resource activities is in force (Art. 25.5). The latter is a near

Washington Declaration

Antarctic environment

Madrid Protocol

geopolitical shifts

ATS collapse

institutional memory

functionality

Consultative Parties

colonisation

economic exploitation

resolution
monitoring
Madrid Protocol

Quaternary
ice cores

impossible exercise as there is a growing international pressure to reduce the ill effect of climate change and no nation would like to endanger safety by disturbing the delicate balance between the cryosphere and the environment. The breaking of the Antarctic ice sheet and the damage it would cause to the global ecology is unthinkable.

Further, the adoption of a resolution by UN General Assembly on the ‘Question of Antarctica’ on December 9, 1992 urging Antarctic Treaty Consultative Parties to establish monitoring and implementation mechanisms to ensure compliance with the provisions of the Madrid Protocol (1991) on Environmental Protection and reiterating its call for ‘the ban to be made permanent’, comes as a ray of hope (Ravindra, 2023).

Science, as usual, is exceedingly taking over the pivotal role in deciding the environmental issues in Antarctica. The very fact that one full day is earmarked for discussions on climate change at 45th ATCM in Helsinki, Finland, speaks for itself about the growing recognition of scientific analysis being forced by anthropogenic activities on the earth’s environment. Antarctica attains growing importance in the climate change discussions owing to its ice sheets being one of the best archives for the signatures of human induced changes in the environment, such as imprints of beta radioactivity, methane, carbon dioxide, industrial sulphur, nitrates, etc. It is from such evidence that Anthropocene—the youngest epoch of Quaternary period after Holocene has been differentiated based on the activities of homo sapiens that have overtaken the control of geological processes (Pant, 2023a). The high resolution of ice cores present an accurate account of recent past climate of the earth and hence the Anthropocene is the subject of intense research (Ibid.).

Measures will be taken to discuss significant issues pertaining Antarctica and its various aspects to secure and sustain the region. Both the 45th and 46th ATCM will devote considerable time on environmental protection, climate change, responsible tourism and other relevant issues (Mohan, 2023; Jortikka-Laitinen, 2023). On an optimistic note, none of the major powers is heard or seen making any serious attempt to disturb the peaceful regime on Antarctica nor is there any possibility of doing away with the existing consensus on Antarctica (Rao, 2023).

9.5 Recommendations

- i. Antarctic governance requires more democratisation and a deep look into the resilience of the Antarctic Treaty System.
- ii. It is necessary to ensure that the existing Antarctic Treaty that has been assiduously built and strengthened over a period of sixty years continues to inspire the international legal regime and keeps Antarctica safe and pristine for future generations.
- iii. As the Treaty was built on emotions of hope and trust, the ATCMs have a great role to play in channelling the opinions of member States and hold up the preamble of the Treaty which says that Antarctica will never become a site of discord (Mohan, 2023; Jortikka-Laitinen, 2023).