



Between Grotius and the pro communitate Principle: The Limits to the Principle of Freedom of the Seas in the Age of Marine Global Commons [

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Analítica

This work aims to defend and argue the need to increase the limits to the principle of freedom of the seas, which Hugo Grotius had proposed in the early seventeenth century, in order to help better protect the general interests of the community international. Marine spaces and resources that are beyond national jurisdiction can now be considered marine global commons. The protection and administration of these global common resources advises and even demands the increase of the limits to the traditional freedoms of the seas. The answer is neither in the land winds that is the bearer of sovereignty nor in the high seas winds that is loaded with freedom. The option is to establish limits to the traditional rules but not in the name of sovereignty but of the general interest of the international community. The fundamental ideas that are exposed and analyzed are, firstly, that the freedom of the seas together with the principle of territorial jurisdiction are constitutive principles of the international system of States that was created after the Peace of Westphalia of 1648. Secondly, it is argued that the increase in uses, users, relationships and practices in the high seas and in the natural resources found in it allows such spaces and resources to be considered as marine global commons. Thirdly, it is found that the traditional rules derived from the freedoms of the seas currently pose serious problems for global marine common spaces and resources. And, finally, it is proposed that a Law of the Sea is necessary with a greater and better legal toolbox making possible to reconcile the activities and interests of States, be they coastal, port or flag, and non-State actors with the protection of the general interests of the international community

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