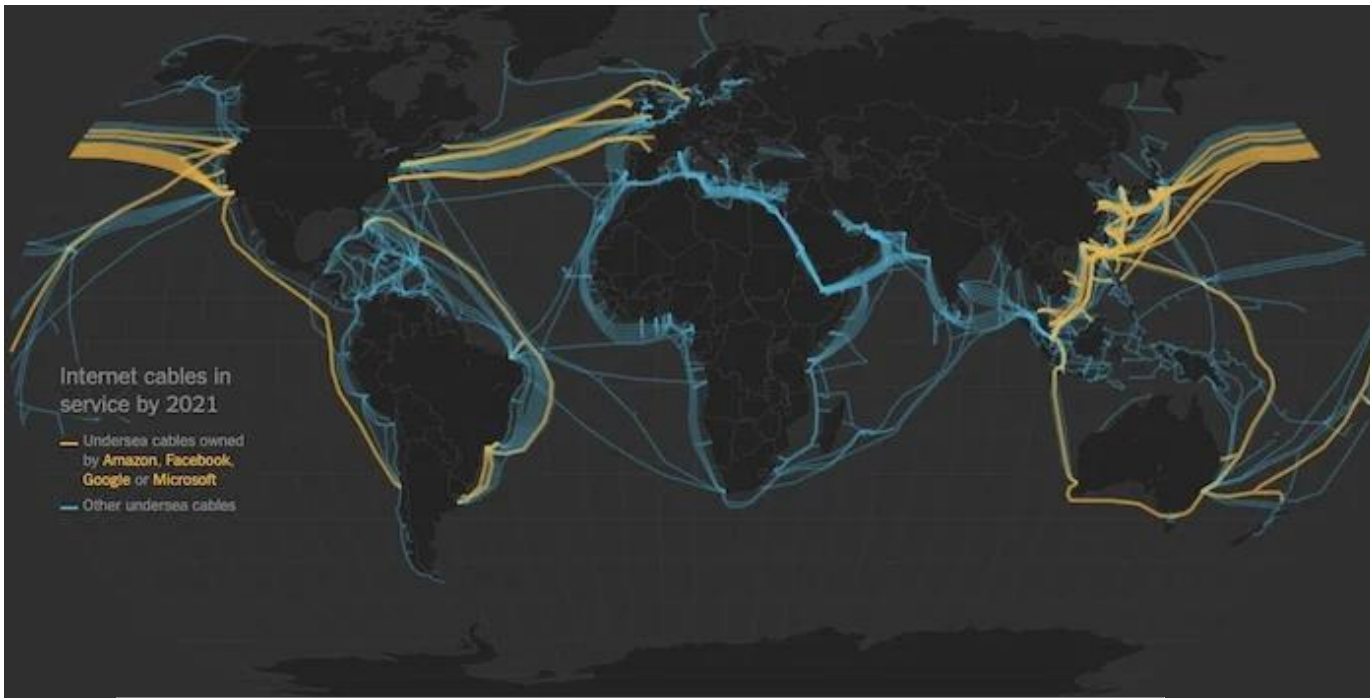


Working Paper

Data as Sovereign Rights and UNCLOS: Protection of Undersea Cables through Legislative Mechanisms

Dr Pooja Bhatt



Carries 95% of the world's internet traffic

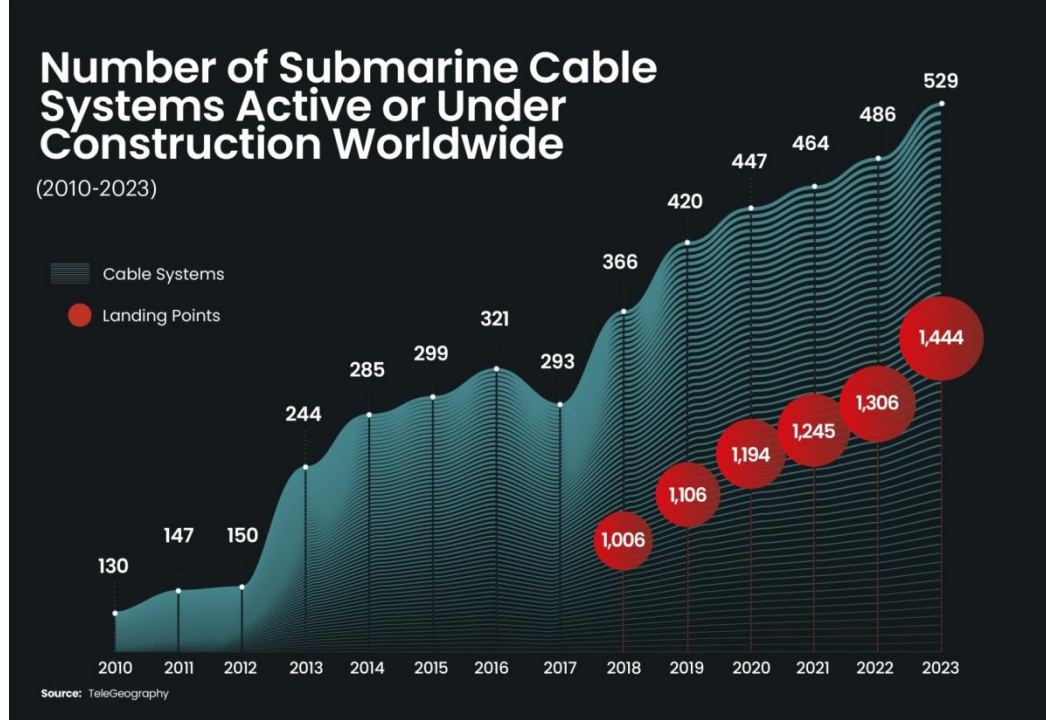
Covering a distance of 800,000 nautical miles

Carry USD 10 trillion transactions EVERYDAY!

Increased Bandwidth, reduced redundancy

Contribute to Global Trade, empower communications, facilitate transactions

As in 2023, 43 additional cables were under construction, over 1,444 Landing stations



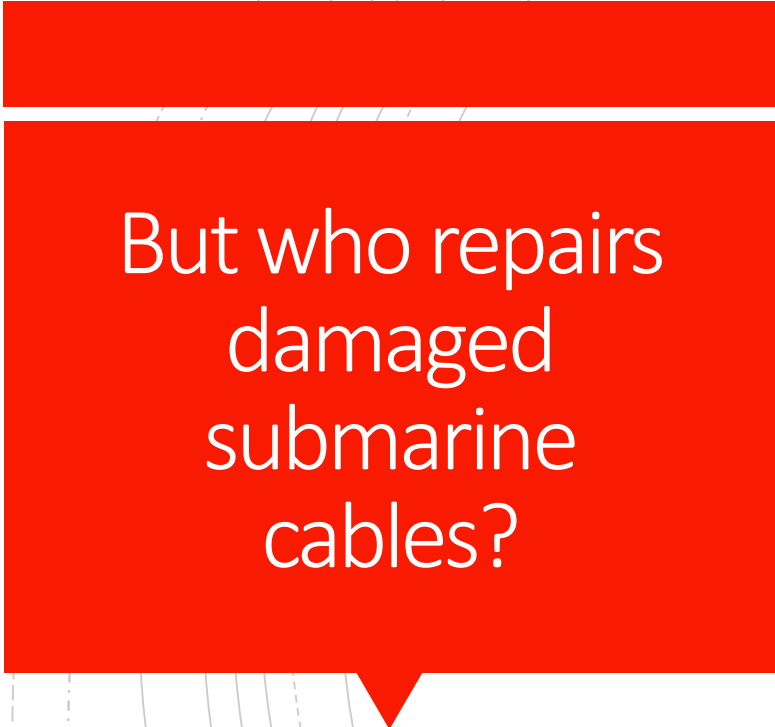
Who owns/manages the Submarines Cables?

PRIVATE OWNERSHIP

- 99% Privately owned
- Google, Meta, Amazon
- Only 1% owned by government entity

INTERNATIONAL CABLE PROTECTION COMMITTEE (ICPC)

- Multinational body since 1958, 215 members from 70 countries
- Establish standards for cable installations, maintenance & protection.
- Monitors International treaties, legislations, supports research initiatives

A red speech bubble graphic with a white border, containing the text 'But who repairs damaged submarine cables?'. The bubble has a tail pointing towards the bottom left.

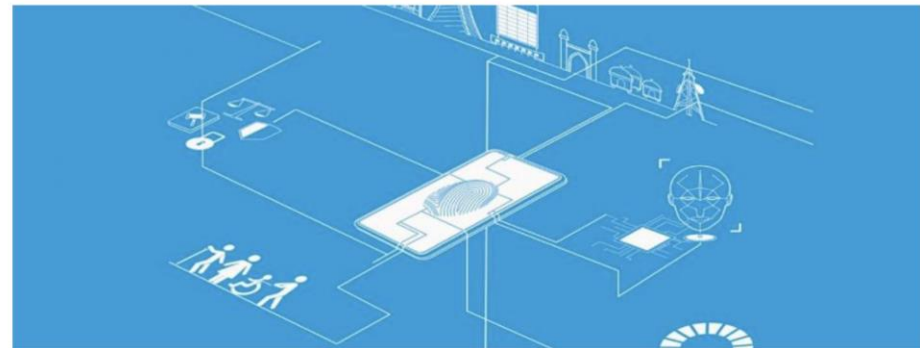
But who repairs
damaged
submarine
cables?

- Both installation and maintenance
- Third party contractors
- Niche, INVISIBLE industry. Only 77 cable ships, acc to SubTel Forum
- Specialized and expensive task
- Aging cable repair fleet, crew often trained on-job
- Located strategically across zones
- Only a few countries owned cable laying and repair ships

DATA AS GLOBAL GOOD and SOVEREIGN RIGHTS OF STATES OVER SUBMARINE CABLES

Home » Roadmap for Digital Cooperation

Roadmap for Digital Cooperation



The Secretary-General's Roadmap for Digital Cooperation



Achieving universal, affordable, connectivity by 2030

—everyone should have access to the internet.



Promoting digital public goods to create a more equitable world

—the internet's open source, public origins should be embraced and supported.



Ensuring digital inclusion for all, including the most vulnerable

—under-served groups need equal access to digital tools to accelerate developmental progress.



Strengthening digital capacity building

—skill development and training are needed around the world.



Ensuring the protection of human rights in the digital era

—human rights apply both online and offline.



Supporting global cooperation on Artificial Intelligence

that is trustworthy, humanrights based, safe and sustainable and promotes peace.



Promoting digital trust and security

—calling for a global dialogue to advance the Sustainable Development Goals.



Building a more effective architecture for digital cooperation

—make digital governance a priority and focus the organization's approach.

The background features a series of concentric circles in light gray, some solid and some dashed, creating a ripple effect. A large, solid red speech bubble is centered on the page, pointing downwards. The text is white and centered within the bubble.

Data is the new oil and
Undersea cables carry 99% of it.

The background of the slide features several thin, curved lines in a light gray color, some solid and some dashed, creating a sense of motion or a globe-like pattern.

Crucial Questions

- 1. Why the cables be willfully damaged?
- 2. How it will be damaged?
- 3. Where it be damaged?
- 4. What can States do about safeguarding these cables?

SUBMARINE CABLES AS CRITICAL AND VUNLERABLE INFRASTRUCTURE



MOSTLY PRONE TO EARTHQUAKE TSUNAMIS, ANCHORS, FISHING NETS, SHARK AND DEEP SEA CROCODILE BITES

"HUMANS ARE INCREASINGLY BECOMING A THREAT TO UNDERSEA CABLES"

Precursor Threats

Terrorist activities

Sabotage

Taiwan suspects Chinese ships cut islands' internet cables

BY HUIZHONG WU AND JOHNSON LAI

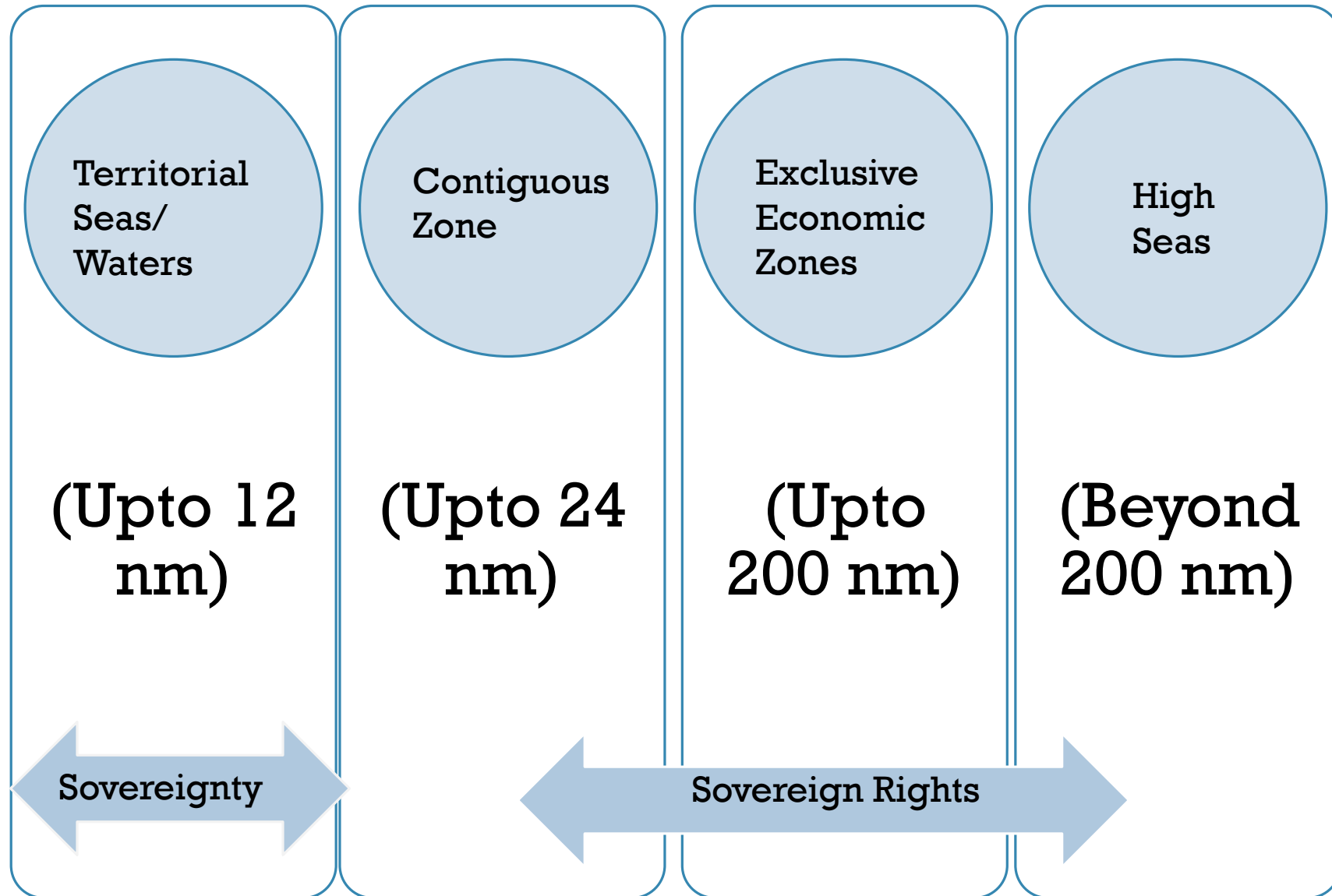
Published 5:29 PM IST, April 18, 2023

BUSINESS | MIDDLE EAST

Houthi attacks in Red Sea threaten internet infrastructure

Nik Martin

03/12/2024





- Art 21(c) in the Territorial Seas
- The coastal **State may adopt laws and regulations**, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of the protection of cables and pipelines.
- Article 51 for Archipelagic States-Existing agreements, traditional fishing rights and existing submarine cables –

An **archipelagic State shall respect existing submarine cables laid by other States and pass through its waters without making a landfall**. An archipelagic State shall **permit the maintenance and replacement** of such cables upon receiving due notice of their location and the intention to repair or replace them.

- Article 87 (c) Freedom of the High Seas

freedom to lay submarine cables and pipelines, subject to
Part VI (Continental Shelf);

UNCLOS and Undersea cables (cont.)

- Article 112 High Seas- Right to lay submarine cables and pipelines

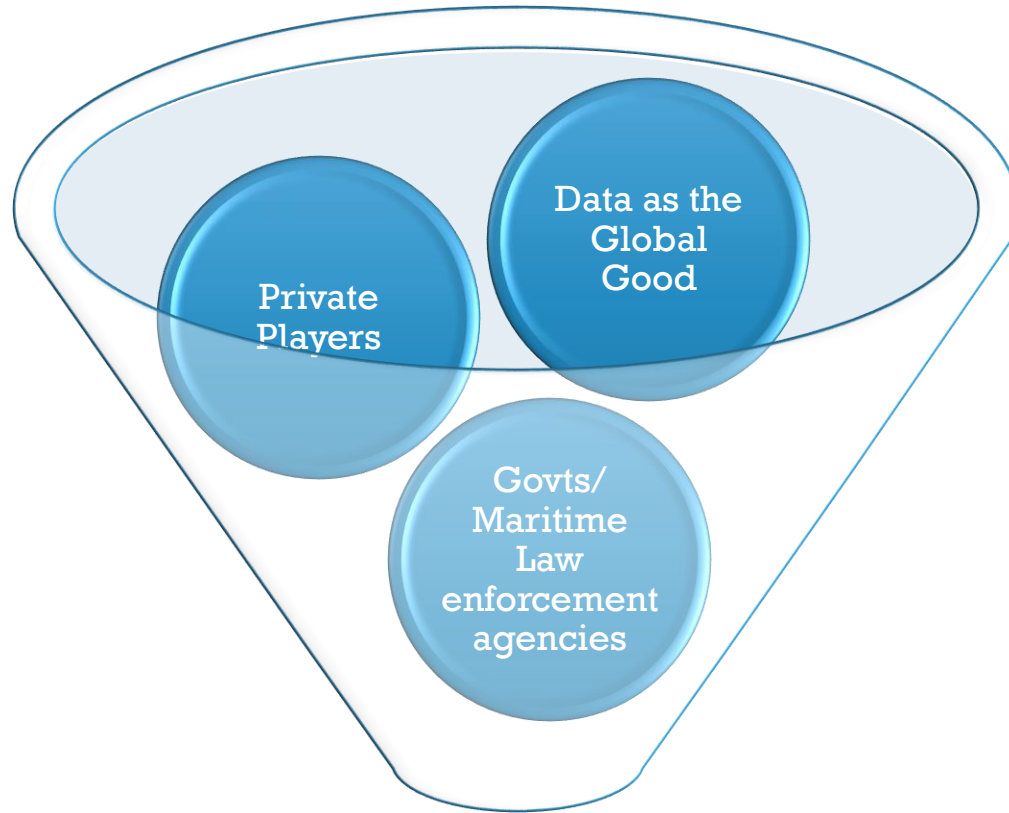
a. All States are entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.

b. Article 79, paragraph 5, applies to such cables and pipelines.

- Article 113 Breaking or injury of a submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to ensure that the breaking or injury by a ship flying **its flag** or by **a person subject to its jurisdiction** of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable, shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

THREAT INDEX TO SUBMARINE CABLES AND LEVELS OF INTERANTIONAL COOPERATION



UNCLOS as the Framework

High Seas

Open to All, Sovereign Rights over data

LEAST THREATENED

Earthquake, tsunami etc.

Multilateral cooperation for cable laying and protection

EEZ

Sui Generis; Sovereign Rights

MOST THREATENED

Terrorist attack, sabotage

Naval Cooperation for cable protection

Multilateral framework for cable ship for repair

Territorial Seas

Coastal State Sovereignty

LESS THREATENED

International support through funding and training to disadvantaged states

Cooperation on Landing Station security