

MAF 577 – International Ocean Law

Fall 2020 – Ballentine Hall 112

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Coastal Institute 215
Office hours: Wednesday 10-12 (send me your Zoom link!)

Course Description

This course covers the development, content, and flaws of the modern ocean governance regime, including its principles, norms, rules, and decision-making procedures. Major institutions covered include the United Nations Convention on the Law of the Sea, the International Court of Justice, the International Maritime Organization, the International Whaling Commission, Regional Fisheries Management Organizations, and others. The first half of the course focuses on the development and implementation of the ocean governance regime, whereas the second half engages case studies of ocean problems that the regime has a mixed record of solving.

Learning Outcomes

The purpose of this course is to provide students with an understanding of the basic features and functions of the international ocean governance regime. After taking this course, it is expected that you will be able to:

- (1) Describe and distinguish features of the international system, including laws, institutions, organizations, norms, principles, rules and regimes
- (2) Describe the basic elements of UNCLOS, especially its zone-based management structure and relationship with other governance institutions
- (3) Explain the relationship between various components of the ocean governance regime, and identify gaps in coverage over ocean issues
- (4) Explain prevailing conflicts and debates in contemporary ocean governance, including territorial disputes, competing interpretations of treaty text, and proposed reforms
- (5) Understand in what areas, and for what reasons, international ocean management is succeeding or failing with regard to its fundamental goals
- (6) Identify emerging environmental, economic, and security problems and challenges for ocean governance

Academic Support Services

This is a challenging course. Success requires that you keep pace with the work, understand course concepts, and study effectively. The Academic Enhancement Center helps URI students succeed through three services: Academic Coaching and Tutoring. There is also a URI Writing Center specifically for graduate students. I suggest you utilize these resources.

Course Delivery

MAF 577 is currently scheduled as an in-person class, but there is a risk that individual students and/or the entire class will have to participate virtually. Every in-person class discussion will be recorded and made available to all students, and those who miss class can make up their participation grade by connecting with the instructor virtually.

Required Texts and Materials

It should be possible for students to obtain all assigned readings without needing to purchase any materials. Assigned readings will be available through the library reserve system, and/or via PDF posted on Brightspace. Students are expected to bring a copy of the text on the days assigned.

Books available through the library:

Harrison, James. *Making the Law of the Sea: A Study in the Development of International Law*. Cambridge; New York: Cambridge University Press, 2011.

Rothwell, Donald R., Alex G. Oude Elferink, Karen N. Scott, and Tim Stephens, eds. *The Oxford Handbook of the Law of the Sea*. Oxford University Press, 2017.

Steinberg, Philip E. *The Social Construction of the Ocean*. Cambridge; New York: Cambridge University Press, 2001.

Thomson, Janice E. *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe*. Princeton Studies in International History and Politics. Princeton, N.J: Princeton University Press, 1994.

Useful reference texts:

Mendenhall, Elizabeth. "The ocean governance regime: international conventions and institutions," in *Climate Change and Ocean Governance: Politics and Policy for Threatened Seas*, ed. Paul Harris (11 pages)

DeSombre, Elizabeth R. "Ocean Governance." In *A Research Agenda for Global Environmental Politics*, edited by Peter Dauvergne and Justin Alger, 114–25. Elgar Research Agendas. Cheltenham, UK ; Northampton, MA, USA: Edward Elgar Publishing, 2018.

The Fletcher School at Tufts, "Law of the Sea: A Policy Primer" – available online

Grading and Assignments

Participation	20%
Midterm examination	25%
Final examination	25%
Paper(s)	30%

Rubrics will be provided for all paper assignments.

Grading scale

A	=	93-100
A-	=	90-92
B+	=	87-89
B	=	83-86
B-	=	80-82
C+	=	77-79
C	=	73-76
C-	=	70-72
D+	=	67-69
D	=	60-66
F	=	below 60

Participation

Attendance is the bare minimum for participation. You should be prepared to participate in every class, which includes posing questions, answering questions, and engaging in open-ended discussion about the readings. This typically requires referencing your annotated readings during class, and actively choosing to participate. Students who regularly contribute to class, and demonstrate close engagement with the readings, will receive a full participation grade.

Examinations

The exams will consist of 3 essay questions, and be taken in class and without notes or books. A week before each exam, I will distribute a list of 10 essay questions. The questions on the test will be chosen from this list. The final exam will be non-cumulative, meaning that it will only test the material reviewed after the midterm. The midterm will be in-class, closed book/notes. The final will be take-home, open book/notes.

Research Paper (1) OR Analysis papers (3)

Students are given the option of completing 1 of 2 writing assignment options. The purpose of the choice is to ensure that students can complete an assignment that most benefits them in their path to complete a degree or certificate program.

Option 1 – three literature analysis papers, 4-6 pages each

Each paper should summarize, evaluate, and analyze three scholarly articles, and draw connections between them. The purpose of each paper is to consider what the articles contribute to our understanding of ocean governance issues, and what they suggest about necessary future research. The three articles must be chosen from the list at the end of this syllabus. Each student is allowed to revise and resubmit one analysis paper for a re-grade.

Option 2 – one research paper, 15-20 pages

Research papers should and take a position on an issue related to international ocean governance. For example, a thesis could support a particular understanding of some feature of ocean governance, or propose an action to be taken by some actor. The paper should do more than summarize or describe; it should explain, suggest, and/or argue. The paper should show evidence of research capabilities and use of available literature and documentation, should be well written, and should indicate a considerable degree of thought by the student. Students can

submit one outline or rough draft to the instructor and receive comments, but must provide the instructor a week to send back comments.

	<i>Choose one of these two options:</i>	
Deadlines	Research Paper	Analysis Papers
October 8	Outline due	Paper #1 due
November 12	First draft due	Paper #2 due
December 10	Final draft due	Paper #3 due

The grades for these papers are determined differently, depending on the option you choose. For the Research Paper, the total grade is out of 100, and the points are assigned this way: 20 points for the outline, 30 points for the first draft, and 50 points for the final draft. For the analysis papers, each one is graded out of 100, and the total is averaged.

Course Policies

Accommodations

Any student with a documented disability is welcome to contact me as early in the semester as possible so that we may arrange reasonable accommodations. As part of this process, please be in touch with Disability Services for Students Office at 302 Memorial Union, Phone 401-874-2098.

Late assignments

...are not accepted without special permission from the instructor, which typically comes with a grade reduction.

Children in the classroom

To the best of my knowledge, the university does not have a formal policy on children in the classroom. The policy for my classroom includes: (1) All exclusively breastfeeding babies are welcome in class as often as is necessary. (2) Unforeseen disruptions in childcare often put parents in the position of having to choose between missing class to stay home with a child and leaving him or her with someone you or the child does not feel comfortable with. While this is not meant to be a long-term childcare solution, occasionally bringing a child to class in order to cover gaps in care is perfectly acceptable. (3) I ask that all students work with me to create a welcoming environment that is respectful of all forms of diversity, including diversity in parenting status. (4) In all cases where babies and children come to class, I ask that you sit close to the door so that if your child needs special attention and is disrupting learning for other students, you may step outside until their need has been met. Non-parents in the class, please reserve seats near the door for your parenting classmates. (5) Finally, I understand that often the largest barrier to completing your coursework once you become a parent is the tiredness many parents feel in the evening once children have finally gone to sleep. While I maintain the same high expectations for all student in my classes regardless of parenting status, I am happy to problem solve with you in a way that makes you feel supported as you strive for school-parenting balance.

Plagiarism

All submitted work must be your own. Students have an obligation to know how to quote, paraphrase, summarize, cite and reference the work of others with integrity. If you need more help understanding when to cite something or how to indicate your references, please ask.

Outside sources must be properly documented, or you will be charged with plagiarism and will receive an F for the assignment. In some cases, this may result in a failure of the course as well. If you have any doubt about what constitutes plagiarism, visit the following: the URI Student Handbook, and Sections 8.27.10 – 8.27.21 of the University Manual.

COVID-19 polices

As members of the URI community, students are required to comply with standards of conduct and take precautions to keep themselves and others safe. Students are required to comply with Rhode Island state laws, including the Rhode Island Executive Orders related to health and safety, ordinances, regulations, and guidance adopted by the University as it relates to public health crises, such as COVID-19.

An addendum on policies and guidelines concerning your obligations during this crisis has recently been integrated into the Student Handbook. These obligations include:

- Wearing of face masks by all community members when on a URI campus in the presence of others
- Maintaining physical distancing of at least six feet at all times
- Following state rules on the number of individuals allowed in a group gathering
- Completing a daily health self-assessment also available through the Rhody Connect app before coming to campus
- Submitting to COVID-19 testing as the University monitors the health of our community
- Following the University's quarantine and isolation requirements

If you answer yes to any of the questions on the daily health assessment, do not come to class. **YOU MUST STAY HOME/IN YOUR ROOM** and notify URI Health Services via phone at 401-874-2246 immediately. If you are already on campus and start to feel ill, you need to remove yourself from the public and notify URI Health Services via phone immediately at 401-874-2246 and go home/back to your room and self-isolate while you await direction from Health Services.

Assigned Legal Texts

**In most cases, students are not required to read these texts word-for-word, but rather should familiarize themselves with the structure and content of each, focusing on substantive rights and duties.

**Do bring UNCLOS I and III texts to class, as we will often refer to these directly and discuss in small groups

UNCLOS III

UNCLOS Preamble

UNCLOS Articles 298, 309-311

UNCLOS Articles 1-7, 15, 17-21, 33-36, 55-60, 74, 76-78

UNCLOS Articles 312-313

UNCLOS Articles 136-144, 156-158, 279-283, 286-296

UNCLOS Annex II

UNCLOS Annex VI

UNCLOS Articles 91-96, 217

UNCLOS Articles 99-109

UNCLOS Articles 192-196, 207-222

UNCLOS Articles 116-120

UNCLOS Article 65

UNCLOS Article 234

UNCLOS Articles 60, 121, 286-288

UNCLOS Articles 86-90, 116-119

UNCLOS Amendments

UNCLOS "Declarations and Statements"

Agreement on the Implementation of Part XI of the 1982 UN Convention on the Law of the Sea

1995 Agreement for the Implementation of the Provisions of the Convention Relating to the

Conservation and Management of Straddling Fish Stocks and High Migratory Fish Stocks

Other Agreements

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter

International Convention for the Prevention of Pollution from Ships 1973/1978

2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

International Convention for the Regulation of Whaling

2008 Illulissat Declaration

UN Resolution 69/292

The International System

9/10 – Introduction

Readings

Jouffray, Jean-Baptiste, Robert Blasiak, Albert V. Norström, Henrik Österblom, and Magnus Nyström. “The Blue Acceleration: The Trajectory of Human Expansion into the Ocean.” *One Earth* 2, no. 1 (January 2020): 43–54.

Guiding Questions

Why is commercial interest in the ocean growing? What new industries might emerge?
What are the main threats, risks, and challenges related to ocean ecosystems?
What is the ‘Blue Acceleration’?

9/15 – International Law – Hard, Soft, Customary

Readings

Handout – International Relations theories

Handout – states and sovereignty

Abbott, Kenneth W., and Duncan Snidal. “Hard and Soft Law in International Governance.” *International Organization* 54, no. 3 (Summer 2000): 421–50. ← **not the whole article**

Harrison, James. *Making the Law of the Sea: A Study in the Development of International Law*. (pgs. 1-26) Cambridge; New York: Cambridge University Press, 2011.

Glennon, Michael J. “Sometimes a Great Notion.” *Wilson Quarterly* 27, no. 4 (Autumn 2003). (5 pages) ← **contains a repeated typo, “roles” should be “rules”**

Guiding Questions

What is the difference between hard and soft law? What are the advantages of each?
What are the three systematic weaknesses of international law (Glennon)?
How do you know when ‘customary international law’ (CIL) exists?
What is the difference between international law and CIL? How are they related?
What is a treaty?

Origins of Modern Ocean Governance

9/17 – Territorial Seas

Readings

Thomas Fulton, "Introduction" (pgs. 1-22), *The Sovereignty of the Sea*. W. Blackwood, 1911

Philip E. Steinberg, "Ocean-space and Merchant Capitalism" (pgs. 68-89), *The Social Construction of the Ocean*. Cambridge University Press, 2001

Guiding Questions

Who claimed 'territorial seas' and why?

What types of justifications were used to support territorial sea claims?

How expansive were early territorial seas?

What rights did non-nationals have in territorial seas?

9/22 – Freedom of the Seas

Readings

Armitage, David. "Introduction" (pgs. xi-xx) in *The Free Sea*. Liberty Fund (2004)

Philip E. Steinberg, "Ocean-space and Merchant Capitalism" (pgs. 89-109), *The Social Construction of the Ocean*. Cambridge University Press, 2001

Anand, R. P., "Mare Liberum vs. Mare Clausum" (pgs. 72-89), *Origin and Development of the Law of the Sea: History of International Law Revisited*. The Hague: Martinus Nijhoff ; [distributed in the U.S. by] Kluwer Boston, 1983.

Oude Elferink, Alex. "De Groot – A Founding Father of the Law of the Sea, Not the Law of the Sea Convention." *Grotiana* 30, no. 1 (November 1, 2009): 152–67.

Guiding Questions

What events precipitated the writing and publication of *Mare Liberum*?

Where did the principle of 'freedom of the seas' originate?

How did Grotius justify the 'freedom of the seas' principle?

What is the relationship between territorial sea claims and the 'freedom of the seas' principle?

How is the 'freedom of the seas' principle reflected in UNCLOS?

9/24 – Flag State Jurisdiction

Readings

Thomson, Janice E. *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe*. (pgs. 21-26, 43-54, 69-76, 107-118) Princeton, N.J: Princeton University Press, 1994.

Kempe, Michael. "Even in the Remotest Corners of the World': Globalized Piracy and International Law, 1500–1900." *Journal of Global History* 5, no. 03 (November 2010): 353–72.

Guiding Questions

Why did maritime states tolerate, and even encourage, piracy?

What is a pirate? A privateer? A corsair?

How did the abolishment of privateering contribute to the norm of flag state jurisdiction?

When, why, and how was piracy eventually suppressed?

9/29 – International Court of Justice

Readings

Handout – ICJ cases

Handout – UNCLOS I and II

Sepúlveda Amor, Bernardo. "The International Court of Justice and the Law of the Sea." *Anuario Mexicano de Derecho Internacional*, 2012, 3–25.

Green, L.C. "The Anglo-Norwegian Fisheries Case, 1951." *The Modern Law Review* 15, no. 3 (July 1952): 373–77.

Wright, Quincy. "The Corfu Channel Case." *The American Journal of International Law* 43, no. 3 (July 1949): 491–94.

Friedmann, Wolfgang. "The North Sea Continental Shelf Cases--A Critique." *The American Journal of International Law* 64, no. 2 (April 1970): 229-240

Guiding Questions

What role have ICJ rulings played in the development of the law of the sea?

What are the main contributions of each ruling?

Who are the primary state actors affecting the law of the sea during this era?

UNCLOS III

10/1 – Negotiations and Treaty Text

Readings

UNCLOS Preamble

UNCLOS Articles 298, 309-311

UNCLOS "Declarations and Statements" (google it – peruse)

Handout – UNCLOS ratifications

Harrison, James. *Making the Law of the Sea: A Study in the Development of International Law*. Cambridge; New York: Cambridge University Press, 2011. (pgs. 37-61)

Beesley, Alan. "The Negotiating Strategy of UNCLOS III: Developing and Developed Countries as Partners - A Pattern for Future Multilateral International Conferences?" *Law and Contemporary Problems* 46, no. 2 (1983): 183–94.

“A Constitution for the World’s Oceans,” Remarks by Ambassador Tommy T. B. Koh (5 pages)

The United Nations Convention on the Law of the Sea (A historical perspective)

Guiding Questions

How did the international political context affect the negotiations?

How did domestic interest groups affect the US position?

Why was the G77 so influential?

Did the "package deal" requirement obstruct or facilitate agreement?

What was 'new' in UNCLOS III?

What is the relationship between UNCLOS III and customary international law?

Should UNCLOS be understood as the "Constitution" for the oceans?

How was UNCLOS III received by the international community when opened for signature/ratification?

10/6 – Zonal Management

Readings

UNCLOS Articles 1-7, 15, 17-21, 33-36, 55-60, 74, 76-78

Rembe, Nasila S. “The Exclusive Economic Zone Concept,” (pgs. 116-127) in *Africa and the International Law of the Sea: A Study of the Contribution of the African States to the Third United Nations Conference on the Law of the Sea*. Sijthoff Publications on Ocean Development; Netherlands ; Germantown, Md: Sijthoff & Noordhoff, 1980.

Hollick, Ann L. “The Origins of 200-Mile Offshore Zones.” *American Journal of International Law* 71, no. 3 (July 1977): 494–500.

Schofield, Clive. “Departures from the Coast: Trends in the Application of Territorial Sea Baselines under the Law of the Sea Convention.” *The International Journal of Marine and Coastal Law* 27, no. 4 (January 1, 2012): 723–32.

Hakapaa, K. and E.J. Molennar, “Innocent Passage—Past and Present,” 23 *Marine Policy* 131-145 (1999)

Guiding Questions

What are the different types of ocean space created by UNCLOS?

What are baselines and why do they matter?

What is the overall balance of duties and rights of the coastal state in each zone?

What are the rights of non-nationals in the EEZ, contiguous zone, and territorial sea?

How did UNCLOS affect the customary international law of 'freedom of navigation'?

What areas of international ocean law did UNCLOS leave open to interpretation?

10/8 – Dispute settlement + UNCLOS institutions

Outline OR analysis paper #1 due

Readings

Handout – Dispute settlement

UNCLOS Articles 279-283, 286-298
UNCLOS Annex II
UNCLOS Annex VI

Law of the Sea Policy Primer, “LOSC Dispute Resolution Provisions”

Østhagen, Andreas. “Maritime Boundary Disputes: What Are They and Why Do They Matter?” *Marine Policy* 120 (October 2020): 104118.

Jensen, Øystein. “The Commission on the Limits of the Continental Shelf: An Administrative, Scientific, or Judicial Institution?” *Ocean Development & International Law* 45, no. 2 (April 3, 2014): 171–85.

Helpful graphic supplement:

Schoolmeester, Tina, and Elaine Baker, eds. *Continental Shelf The Last Maritime Zone*. Norway: UNEP/GRID-Arendal, 2009. (28 low-density pages)

Guiding Questions

Why did UNCLOS need to create three new institutions?
What is the jurisdiction of each of these institutions?
Do decisions of each of these institutions have the force of law?
How does dispute settlement work under UNCLOS?

10/13 – UNCLOS Augmentations

Midterm study guide handed out

Readings

UNCLOS Articles 312-313

1994 Agreement on the Implementation of Part XI of the 1982 UN Convention on the Law of the Sea

1995 Agreement for the Implementation of the Provisions of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and High Migratory Fish Stocks

Harrison, James. “Implementing Agreements” in *Making the Law of the Sea: A Study in the Development of International Law*. (pgs. 85-114) Cambridge; New York: Cambridge University Press, 2011.

Buga, Irina. “Between Stability and Change in the Law of the Sea Convention: Subsequent Practice, Treaty Modification, and Regime Interaction.” In *The Oxford Handbook of the Law of the Sea*, edited by Rothwell R. Donald and Alex G. Oude Elferink, 46–68. New York, NY: Oxford University Press, 2015.

Guiding Questions

What are the various ways UNCLOS can be modified, and what are their relative (dis)advantages?
What is the legal relationship between the Part XI Implementing Agreement and Fish Stocks Agreement, and the original UNCLOS?

In what ways did the Part XI Implementing Agreement make UNCLOS more attractive to advanced industrial states?

In what ways did the Fish Stocks Agreement improve UNCLOS with regard to fisheries?

10/15 – International seabed mining

Readings

UNCLOS Articles 136-144, 156-158,
Handout – International Seabed Authority

Bourrel, Marie, Torsten Thiele, and Duncan Currie. “The Common of Heritage of Mankind as a Means to Assess and Advance Equity in Deep Sea Mining.” *Marine Policy* 95 (September 2018): 311–16.

Kim, Rakhyun E. “Should Deep Seabed Mining Be Allowed?” *Marine Policy* 82 (August 2017): 134–37.

Ginzky, Harald, Pradeep A. Singh, and Till Markus. “Strengthening the International Seabed Authority’s Knowledge-Base: Addressing Uncertainties to Enhance Decision-Making.” *Marine Policy*, February 2020, 103823.

Harrison, Rowland J. “Article 82 of UNCLOS: The Day of Reckoning Approaches.” *The Journal of World Energy Law & Business* 10, no. 6 (December 1, 2017): 488–504.

Guiding Questions

What is the relationship between deep seabed mining and the ISA?

What does the ‘common heritage of mankind’ principle mean?

What is the ISA’s primary function? How does it make decisions?

What are the ‘Draft Exploitation Regulations’ and why do they matter?

Why are there different rules for seabed mining on the extended continental shelf?

10/20 – Midterm Examination

Managing Ships

10/22 – International Maritime Organization

Readings

Chircop, Aldo. “The International Maritime Organization.” In *The Oxford Handbook of the Law of the Sea*, edited by Donald R. Rothwell, Alex G. Oude Elferink, Karen N. Scott, and Tim Stephens, 416–38. Oxford University Press, 2017.

Bodansky, Daniel. “Regulating Greenhouse Gas Emissions from Ships: The Role of the International Maritime Organization.” In *Ocean Law Debates: The 50-Year Legacy and Emerging Issues for the Years Ahead*, edited by Harry N. Scheiber, Nilufer Oral, and Moon-Sang Kwon, 478–501. Leiden: Brill, 2018.

Steinberg, Philip E. "The Ocean and Transport/The Ocean in Transport/The Ocean as Transport; or, *Mobilis in Mobili*," (pgs. 219-224) in *Tidalectics: Imagining an oceanic worldview through art and science*. Cambridge, MA: MIT Press, 2018

Guiding Questions

What is the IMO's jurisdiction? What is its relationship with industry like?
What are the IMO's goals? How does it make decisions and create new rules?
What is the relationship between the IMO and UNCLOS?
Why is IMO action needed to respond to climate change?

10/27 – Flags of Convenience

Readings

UNCLOS Articles 91-96, 217

Negret, Carlos Felipe Llinás. "Pretending to Be Liberian and Panamanian; Flags of Convenience and the Weakening of the Nation State on the High Seas." *Journal of Maritime Law and Commerce* 47, no. 1 (January 2016): 1–28.

DeSombre, Elizabeth R. "Fishing Under Flags of Convenience: Using Market Power to Increase Participation in International Regulation." *Global Environmental Politics* 5, no. 4 (November 2005): 73–92.

Watterson, Christopher J., Stephen Osborne, and Samuel Grant. "Open Registries as an Enabler of Maritime Sanctions Evasion." *Marine Policy* 119 (September 2020): 104090.

Guiding Questions

What are 'flags of convenience' and why are they used?
What is the relationship between FOCs and UNCLOS?
What problems do FOCs cause?
What are some solutions to FOCs?

10/29 – Piracy

Readings

UNCLOS Articles 99-109

Hallwood, Paul, and Thomas Miceli. "Piracy and Privateers in the Golden Age: Lessons for Today." *Ocean Development & International Law* 49, no. 3 (July 3, 2018): 236–46.

Bento, Lucas. "Toward an International Law of Piracy Sui Generis: How the Dual Nature of Maritime Piracy Law Enables Piracy to Flourish." *Berkeley Journal of International Law* 29, no. 2 (2011): 399–455.

Guiding Questions

How has piracy changed since the 18th and 19th centuries?

How, if at all, has anti-piracy international law changed since then?
What are the impediments to combating piracy? Consider laws and political/economic incentives
What are some proposed solutions to redress piracy?

11/3 – NO CLASS

Marine Pollution

11/5 – London Convention and MARPOL

Readings

UNCLOS Articles 192-196, 207-222
Handout – MARPOL
Handout – London Convention

Konig, Doris. "Marine Environment, International Protection." In *Max Planck Encyclopedia of Public International Law*. Oxford Public International Law. Oxford University Press, February 2013. Selected numbers: 1-23; 28-36; 54-55

Hong, Gi Hoon, and Young Joo Lee. "Transitional Measures to Combine Two Global Ocean Dumping Treaties into a Single Treaty." *Marine Policy* 55 (May 2015): 47–56.

Urbina, Ian. "Waste Away." In *Outlaw Ocean: Crime and Survival in the Last Untamed Frontier*, 270–91. London: The Bodley Head, 2019.

Guiding Questions

What does UNCLOS require with regard to marine pollution?
What role does marine science play in the regulation of marine pollution?
What types of marine pollution are regulated?
Why is there a London "Convention" and "Protocol"? What is the difference between the two?
Why was MARPOL so successful? What does complying with MARPOL require?
What factors make enforcement of marine pollution rules difficult?

11/10 – Marine plastic debris

Readings

Jambeck, J. R., R. Geyer, C. Wilcox, T. R. Siegler, M. Perryman, A. Andrady, R. Narayan, and K. L. Law. "Plastic Waste Inputs from Land into the Ocean." *Science* 347, no. 6223 (February 13, 2015): 768–71.

Vince, Joanna, and Britta D. Hardesty. "Governance Solutions to the Tragedy of the Commons That Marine Plastics Have Become." *Frontiers in Marine Science* 5 (June 19, 2018).

Ferraro, Gianluca, and Pierre Failler. "Governing Plastic Pollution in the Oceans: Institutional Challenges and Areas for Action." *Environmental Science & Policy* 112 (October 2020): 453–60.

Guiding questions

How would you describe the problem of marine plastic debris? Where does it come from?
What are the biggest obstacles to solving the problem?
What role do these groups play in solving the problem – public, government, researchers?
What should be prioritized in the effort to find/implement solutions to marine plastic debris?

Fishing

11/12 – RFMOs

First draft OR analysis paper #2 due

Readings

UNCLOS Articles 116-120
Handout – global fishing
Handout – RFMOs

DeSombre, Elizabeth R. “Ocean commons” (pgs. 90-93), *Global Environmental Institutions*. New York: Routledge, 2006.

Barkin, J. Samuel, and Elizabeth R. DeSombre. “Regulatory Capture” (pgs. 63-86) *Saving Global Fisheries: Reducing Fishing Capacity to Promote Sustainability*. Cambridge, Massachusetts: The MIT Press, 2013.

Gullett, Warwick, and Quentin Hanich. “Rethinking High Seas Fishing Freedoms: How High Seas Duties Are Catching Up.” In *Global Commons and the Law of the Sea*, edited by Keyuan Zou, 112–23. Brill | Nijhoff, 2018.

Haas, Bianca, Jeffrey McGee, Aysha Fleming, and Marcus Haward. “Factors Influencing the Performance of Regional Fisheries Management Organizations.” *Marine Policy* 113 (March 2020): 103787.

Sumaila, U. Rashid, and Daniel Pauly. “The ‘March of Folly’ in Global Fisheries.” In *Shifting Baselines: The Past and the Future of Ocean Fisheries*, edited by Jeremy B.C. Jackson, Karen E. Alexander, and Sala. (2011): 21–32

Guiding Questions

What countries and regions do the most fishing?
How did the creation of EEZs impact the sustainability of coastal fisheries?
How is the ‘freedom to fish’ represented in the prevailing system of fisheries governance?
Why are RFMOs generally ineffective at ensuring sustainable fishing?
What is required to ensure sustainable fishing on the high seas?

11/17 – IUU Fishing

Readings

Peruse these websites: Sea Around Us; Global Fishing Watch

Liddick, Don. “The Dimensions of a Transnational Crime Problem: The Case of IUU Fishing,” *Trends in Organized Crime* 17, no. 4 (2014): 290-312

Blasiak, Robert. "Balloon Effects Reshaping Global Fisheries." *Marine Policy* 57 (July 2015): 18–20.

Cutlip, Kimbra. "AIS and the Challenges of Tracking Vessels at Sea." Global Fishing Watch (blog), August 9, 2016.

Bellmann, Christophe, Alice Tipping, and U. Rashid Sumaila. "Global Trade in Fish and Fishery Products: An Overview." *Marine Policy* 69 (July 2016): 181–88.

Poling and Cronin, "Illegal, Unreported, and Unregulated Fishing as a National Security Threat," CSIS, (November 2017): 1-17

Guiding Questions

What is IUU fishing, who does it, and where?

What conditions facilitate IUU fishing?

How can you tell when/how much fishing isn't being reported?

What are "high grading," "product laundering," and "balloon effects"?

Why is the fish trade increasingly international?

How do trade policies affect IUU fishing?

Why would anyone fish legitimately?

11/19 – International Whaling Commission

Readings

International Convention for the Regulation of Whaling

UNCLOS Article 65

Handout – whaling

Mckinnon, J. B. "It's Tough Being a Right Whale These Days." *The Atlantic*, July 30, 2018. (12 pages)

Andresen, Steinar. "Science and Policy in the International Whaling Commission." In *Contesting Global Environmental Knowledge, Norms, and Governance*, edited by M. J. Peterson, 110–23. Transforming Environmental Politics and Policy. Abingdon, Oxon ; New York: Routledge, 2019.

Urbina, Ian. "Hunting Hunters." In *Outlaw Ocean: Crime and Survival in the Last Untamed Frontier*, 380-405. London: The Bodley Head, 2019.

Guiding Questions

What is the current status of global whale populations?

Who is still whaling, and why?

What is "depredation" and what does it have to do with whaling?

Why does Sea Shepherd target whalers in international waters only?

How has the International Whaling Commission changed since its formation?

What options exist for reforming the IWC?

Emerging Challenges

11/24 – Arctic

Readings

2008 Illulissat Declaration
UNCLOS Article 234
Handout – Arctic

Exner-Pirot, Heather. “The Arctic in International Affairs.” In *The Palgrave Handbook of Arctic Policy and Politics*, edited by Ken S. Coates and Carin Holroyd, 307–18. Cham: Springer International Publishing, 2020.

Young, Oran.R. “Governing the Arctic Ocean.” *Marine Policy* 72 (October 2016): 271–77.

Gavrilov, Viatcheslav, Roman Dremluga, and Rustambek Nurimbetov. “Article 234 of the 1982 United Nations Convention on the Law of the Sea and Reduction of Ice Cover in the Arctic Ocean.” *Marine Policy* 106 (August 2019): 5 pages.

Guiding Questions

What makes the Arctic unique as a region?
What is the relationship between the Arctic Council and UNCLOS?
What are the major competing claims in the Arctic? Who is making them, and what types of claims are they making? What resources are at stake?
How does the melting ice cap affect Arctic issues?
What might the Arctic be like in 50 years?

Transition to remote class

12/1 – South China Sea

Readings

UNCLOS Articles 60, 121, 286-288
Handout – SCS
Asia Maritime Transparency Initiative, “Maps of the Asia Pacific,” <https://amti.csis.org/maps/>
Council on Foreign Relations, Timeline: China’s Maritime Disputes
<https://www.cfr.org/timeline/chinas-maritime-disputes>

Fisher, Max. “The South China Sea: Explaining the Dispute.” *The New York Times* July 14, 2016.

Sison, Maximo Paulino T. “Universalizing the Law of the Sea in the South China Sea Dispute.” *Ocean Development & International Law* 49, no. 2 (April 3, 2018): 157–75.

Hong, Nong. “State Practice of UNCLOS in the South China Sea.” In *UN Convention on the Law of the Sea and the South China Sea*, edited by Shicun Wu and Mark J. Valencia, 267–300. Contemporary Issues in the South China Sea. Farnham, Surrey, England ; Burlington, VT: Ashgate, 2015. ←can skim detailed country sections

Guiding Questions

Who are the major claimants in each dispute, and what is the basis of their claims?
What resources exist in the South and East China Seas?
Why is China building islands in the South China Sea?
What role does the US play in all this?

12/3 – NO CLASS (thanksgiving break)

12/8 – Climate Change

Readings

Houghton, Katherine J., Athanasios T. Vafeidis, Barbara Neumann, and Alexander Proelss. "Maritime Boundaries in a Rising Sea." *Nature Geoscience* 3, no. 12 (November 30, 2010): 813–16.

Mendenhall, Elizabeth, Cullen Hendrix, Elizabeth Nyman, Paige M. Roberts, John Robison Hoopes, James R. Watson, Vicky W.Y. Lam, and U. Rashid Sumaila. "Climate Change Increases the Risk of Fisheries Conflict." *Marine Policy* 117 (July 2020): 103954.

Harrould-Kolieb, Ellycia R., and Ove Hoegh-Guldberg. "A Governing Framework for International Ocean Acidification Policy." *Marine Policy* 102 (April 2019): 10–20.

Guiding Questions

In what ways is UNCLOS unprepared for climate change?
How will sea level rise affect global coastlines? What are the options for baselines?
What are the impacts of ocean warming and acidification on marine ecosystems?
How can international law respond to ocean warming and acidification?

12/10 – Marine Geo-engineering

Final study guide handed out

Final draft OR analysis paper #3 due

Readings

Hoegh-Guldberg, Ove et al. *The Ocean as a Solution for Climate Change: Five Opportunities for Action*. (2019) World Resources Institute. Report. Washington, D.C.

Burns, Wil, and Greg H. Rau. "Can We Tweak Marine Chemistry to Help Stave off Climate Change?" *The Conversation*, March 12, 2019.

Boyd, Philip, and Chris Vivian. "Should We Fertilize Oceans or Seed Clouds? No One Knows." *Nature* 570, no. 7760 (June 2019): 155–57.

Fuentes-George, Kemi. "Consensus, Certainty, and Catastrophe: Discourse, Governance, and Ocean Iron Fertilization." *Global Environmental Politics* 17, no. 2 (May 2017): 125–43.

Guiding Questions

What kinds of geoengineering should be understood as *marine* geoengineering?

Why will geoengineering be difficult to govern?

How should we manage research on marine geoengineering?

How does marine geoengineering relate to the ocean governance regime?

12/14 – BBNJ

Readings

UNCLOS Articles 86-90, 116-119

UN Resolution 69/292

Handout – BBNJ

De Santo, Elizabeth M., Elizabeth Mendenhall, Elizabeth Nyman, and Rachel Tiller. “Stuck in the Middle with You (and Not Much Time Left): The Third Intergovernmental Conference on Biodiversity beyond National Jurisdiction.” *Marine Policy* 117 (July 2020): 103957.

Clark, Nichola A. “Institutional Arrangements for the New BBNJ Agreement: Moving beyond Global, Regional, and Hybrid.” *Marine Policy*, August 2020, 104143.

Mossop, Joanna, and Clive Schofield. “Adjacency and Due Regard: The Role of Coastal States in the BBNJ Treaty.” *Marine Policy*, February 2020, 103877.

Guiding Questions

What do the BBNJ negotiations entail – what is on the agenda?

What/whose interests are at stake?

What outcome is preferred by the United States?

What is the relationship between the BBNJ agenda and existing governance institutions?

What is the overall status of the high seas and Area as “beyond national jurisdiction”?

TBD – Final exam @ 11:30am