

# MAF 577 - International Ocean Law

Fall 2018

CBLS 252 – Tuesdays and Thursdays, 12:30-1:15pm

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Coastal Institute 215

Office hours: Thursday 2pm-4pm or by appointment

## **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, Tutoring, and The Writing Center. I suggest you utilize these resources.

## **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 Sakai. Students are expected to bring a copy of the text on the days assigned.

## Books on library reserve:

Byers, Michael, and James Baker. *International Law and the Arctic*. Cambridge University Press, 2013.

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

Hollick, Ann L. *U.S. Foreign Policy and the Law of the Sea*. Princeton, N.J: Princeton University Press, 1981.

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.

## Grading and Assignments

Participation	10%
In-class presentation	10%
Midterm examination	25%
Final examination	25%
Research paper	30%

Rubrics will be provided for all major 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

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.

## Presentation

Each student will be asked to make a 5-10 minute presentation of the readings for a particular week. These presentations should *not* be a complete summary of that week's material, as all students are expected to have done the readings in full. Presentations may review particularly detailed or challenging aspects of the reading, but they should primarily engage the material, which may include adding context, providing commentary, or introducing a criticism of the readings themselves or the subject they cover. Each presentation should end with 2-3 discussion questions, which will start off the class conversation.

## **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.

## **Research Paper**

The research paper can be submitted at any time during the semester, and must be submitted by **5pm on December 15<sup>th</sup>**. 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. A paper should do more than summarize or describe; it should explain, suggest, and/or argue. The flexibility of this assignment is intended to provide students an opportunity to pursue a topic that fits within their more general research portfolio.

Students are expected to meet with the instructor to discuss paper topics, approaches, and sources. Papers should be 10-12 pages. The research paper itself 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 these drafts must be submitted by **December 1<sup>st</sup>**.

**10/4 – paper topics due to instructor**

**11/4 – rough drafts due for peer review**

**12/1 – last day to submit draft for instructor comments**

**12/15 – final papers due by 5pm**

## **Course Policies**

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.

## **Attendance**

Students are expected to attend class. Occasionally, students may miss class activities due to illness, severe weather, religious holidays, or sanctioned University events. Students must inform the instructor of expected excused absences in order to discuss options for missed classes or examinations.

## **Classroom conduct**

Students are expected to treat faculty and fellow classmates with dignity and respect. Students are responsible for being familiar with and adhering to the published “Student Code of Conduct” which can be accessed in the University Student Handbook. If you must come in late, please do not disrupt the class.

## **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.

## **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 I**

1958 Convention on the Territorial Sea and the Contiguous Zone

1958 Convention on the High Seas

1958 Convention on the Continental Shelf

1958 Convention on Fishing and Conservation of the Living Resources of the High Seas

### **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

International Convention for the Regulation of Whaling

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

## 9/6 – Introduction

### *Readings (39 pages)*

Lewis, Martin W. “Dividing the Ocean Sea.” *The Geographical Review* 89, no. 2 (April 1999): 188–214.

Steinberg, Philip E. “Of Other Seas: Metaphors and Materialities in Maritime Regions.” *Atlantic Studies: Global Currents* 10, no. 2 (April 29, 2013): 156–169.

### *Guiding Questions*

What is Lewis trying to explain? Why does it matter?

What perspective does Steinberg identify as a foil (contrasting position)? What approach does he suggest, and what are its benefits?

## 9/11 – International Law – Hard, Soft, Customary

### *Readings (60 pages)*

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.

Glennon, Michael J. “Sometimes a Great Notion.” *Wilson Quarterly* 27, no. 4 (Autumn 2003). (5 pages)

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.

### *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’ exists?

What is the difference between international law and customary international law? How are they related?

What is a treaty?

## 9/13 – Ocean Governance Regime: Overview

### *Readings (39 pages)*

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)

Buck, Susan J. “Organizing the Commons: Definitions and Assumptions.” In *The Global Commons an Introduction*, 1–13. Washington, D.C.: Island Press, 1998.

Young, Oran. "Land Use, Environmental Change, and Sustainable Development: The Role of Institutional Diagnostics." *International Journal of the Commons* 5, no. 1 (February 24, 2011): 66-83.

### **Guiding Questions**

How does the concept of a 'global commons' help us understand ocean governance?

What are the three 'tragedies' Young identifies, and why do they happen?

What are the main goals of ocean governance? Main institutions?

Is all ocean governance properly understood as "law"?

## **Origins of Modern Ocean Governance**

### **9/18 – Territorial Seas**

#### **Readings (43 pages)**

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?

### **9/20 – Freedom of the Seas**

#### **Readings (62 pages)**

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?

## 9/25 – Flag State Jurisdiction

### Readings (60 pages)

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.

Thomson, Janice E. *Mercenaries, Pirates, and Sovereigns: State-Building and Extraterritorial Violence in Early Modern Europe*. (pgs. 21-26, 43-54, 69-77, 107-118) Princeton, N.J: Princeton University Press, 1994.

US Department of State, “Milestones in the History of U.S. Foreign Relations”

Barbary Wars, 1801–1805 and 1815–1816

The Amistad Case, 1839

United States Maritime Expansion across the Pacific during the 19th Century

The Blockade of Confederate Ports, 1861–1865

Mahan’s The Influence of Sea Power upon History: Securing International Markets in the 1890s

### 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?

## Early 20<sup>th</sup> Century

### 9/27 – International Court of Justice

#### Readings (40 pages)

Handout – ICJ cases

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?

## 10/2 – UNCLOS I and II

### *Readings (33 pages)*

1958 Convention on the Territorial Sea and the Contiguous Zone

1958 Convention on the High Seas

1958 Convention on the Continental Shelf

1958 Convention on Fishing and Conservation of the Living Resources of the High Seas

Tommy Koh, “The Origins of the 1982 Convention on the Law of the Sea,” 29 *Malaysian Law Review* 1-17 (1987)

Treves, Tullio. “Historical Development of the Law of the Sea.” In *The Oxford Handbook of the Law of the Sea*, edited by Rothwell R. Donald and Alex G. Oude Elferink, 7–23. New York, NY: Oxford University Press, 2015.

### *Guiding Questions*

Why is the 1930 Hague Conference important to the development of the law of the sea?

Why did UNCLOS I produce four separate Conventions?

What explains the differing levels of adoption/accession between the four conventions?

What issues were left unresolved after UNCLOS I and II?

## UNCLOS III

### 10/4 – Negotiations and Treaty Text

#### *\*Paper topic due\**

### *Readings (53 pages)*

UNCLOS Preamble

UNCLOS Articles 298, 309-311

UNCLOS “Declarations and Statements” (google it – peruse)

Handout – UNCLOS

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.

Ann L. Hollick, “United States Policy and Lessons for the Future” (pgs. 372-381), *U.S. Foreign Policy and the Law of the Sea*. Princeton University Press, 1981.

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

Majumdar, Sumit. “Institutions for International Co-Operation: An Analysis of the United Nations Law of the Sea Conference and Convention.” *Economic and Political Weekly* 25, no. 48/49 (December 1, 1990): 2681–85.



### **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?

## **10/9 – Zonal Management**

### **Readings (37 pages)**

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

US Commission on Ocean Policy, "Primer on Ocean Jurisdictions: Drawing Lines in the Water" (pgs. 70-73)

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.

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?

## **10/11 – UNCLOS Augmentations**

### **\*Midterm study guide\***

### **Readings (51 pages)**

UNCLOS Articles 312-313

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?

## **10/16 – Institutions: ISA, ITLOS, CLCS**

### **Readings (87 pages...not as bad as it sounds)**

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

UNCLOS Annex II

UNCLOS Annex VI

Tuerk, Helmut. "The Contribution of the International Tribunal for the Law of the Sea to International Law." In *Maritime Boundary Disputes, Settlement Processes, and the Law of the Sea*, edited by Seoung-Yong Hong and Jon M. Van Dyke, 253–75. Publications on Ocean Development, v. 65. Leiden ; Boston: Martinus Nijhoff Publishers, 2009.

Harrison, James. "Developments in the deep seabed mining regime" (pgs. 115-153) *Making the Law of the Sea: A Study in the Development of International Law*. Cambridge; New York: Cambridge University Press, 2011.

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?

## **10/18 – Midterm Examination**

## **Managing Ships**

### **10/23 – International Maritime Organization**

#### ***Readings (44 pages)***

Reis, Jeanette, and Kyriaki Mitroussi. “Shipping and Navigation.” In *Routledge Handbook of Ocean Resources and Management*, edited by Hance D. Smith, Juan Luis Suárez de Vivero, and Tundi Agardy, 331–46. London ; New York: Routledge, Taylor & Francis Group, 2016.

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.

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

“UN body adopts climate change strategy for shipping,” IMO Press briefing, April 13, 2018

#### ***Guiding Questions***

How is the shipping industry organized?

What is the IMO’s jurisdiction? What is its relationship with industry like?

What is the relationship between the IMO and UNCLOS?

How does the IMO create new rules?

### **10/25 – Flags of Convenience**

#### ***Readings (60 pages)***

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.

Yu, Yaodong, Yue Zhao, and Yen-Chiang Chang. “Challenges to the Primary Jurisdiction of Flag States Over Ships.” *Ocean Development & International Law* 49, no. 1 (January 2, 2018): 85–98.

#### ***Guiding Questions***

What are ‘flags of convenience’ and why are they used?

What is the relationship between FOCs and UNCLOS?

What problems to FOCs cause?

What are some solutions to FOCs?

## 10/30 – Piracy

### Readings (61 pages)

UNCLOS Articles 99-109

Urbina, Ian. “Maritime ‘Repo Men’: A Last Resort for Stolen Ships,” *The New York Times*, December 28, 2015. (6 pages)

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?

## Marine Pollution

### 11/1 – London Convention and MARPOL

#### Readings (53 pages)

UNCLOS Articles 192-196, 207-222

Read descriptions of the following here:

<http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/Default.aspx>

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

Kirk. “Science and the International Regulation of Marine Pollution.” In *The Oxford Handbook of the Law of the Sea*, edited by Rothwell R. Donald and Alex G. Oude Elferink. New York, NY: Oxford University Press, 2015. (pgs. 516-535)

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.

Mitchell, Ronald. “Intentional Oil Pollution of the Oceans.” (pgs. 183-193, 222-247) In *Institutions for the Earth: Sources of Effective International Environmental Protection*, edited by Peter M. Haas, Robert O. Keohane, and Marc A. Levy. Cambridge, Mass: MIT Press, 1993.

#### 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?

## Research Paper Project

### 11/6 – NO CLASS (ESG) + rough draft exchange

#### *Readings*

Two draft papers written by other students

#### *Assignment*

Meet with small group – exchange comments

Use provided rubric and questions to discuss each paper

### 11/8 – NO CLASS (ESG) + marine plastic debris

#### *Readings (17 pages; database search)*

Mendenhall, Elizabeth. “Oceans of Plastic: A Research Agenda to Propel Policy Development.” *Marine Policy*, May 2018: 1-8

Dauvergne, Peter. “Why Is the Global Governance of Plastic Failing the Oceans?” *Global Environmental Change* 51 (July 2018): 22–31.

Do a database search for “marine plastic” in the journals *Marine Policy*, *Marine Pollution Bulletin*, and *Ocean & Coastal Management* – peruse the results.

#### *Assignment*

**Meet with small group, and discuss the following questions:**

How would you describe the problem of marine plastic debris?

What are the biggest obstacles to solving the problem?

What role do these groups play in solving the problem – public, government, researchers?

**Email professor a 2-3 paragraph description of what you discussed/concluded.**

### 11/13 – NO CLASS (Monday schedule)

## Fishing

### 11/15 – RFMOs

#### *Readings (50 pages)*

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. “International Regulation” (pgs. 13-36) *Saving Global Fisheries: Reducing Fishing Capacity to Promote Sustainability*. Cambridge, Massachusetts: The MIT Press, 2013.

Brooks, C. M., L. B. Crowder, L. M. Curran, R. B. Dunbar, D. G. Ainley, K. J. Dodds, K. M. Gjerd, and U. R. Sumaila. "Science-Based Management in Decline in the Southern Ocean." *Science* 354, no. 6309 (October 14, 2016): 185–87.

Lobo, Rafaella, and Peter J. Jacques. "SOFIA'S Choices: Discourses, Values, and Norms of the World Ocean Regime." *Marine Policy* 78 (April 2017): 26–33.

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

Sumaila, U. Rashid, Vicky W. Y. Lam, Dana D. Miller, Louise Teh, Reg A. Watson, Dirk Zeller, William W. L. Cheung, et al. "Winners and Losers in a World Where the High Seas Is Closed to Fishing." *Scientific Reports* 5, no. 1 (July 2015).

### **Guiding Questions**

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?

## **11/20 – IUU Fishing**

### **Readings (51 pages)**

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

Peruse these websites:

Sea Around Us

Global Fishing Watch

Don Liddick, "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.

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

Christopher Pala, "Detective work uncovers under-reported overfishing," *Nature* (April 2, 2013)

Flothmann, Stefan, Kristin von Kistowski, Emily Dolan, Elsa Lee, Frank Meere, and Gunnar Album. "Closing Loopholes: Getting Illegal Fishing Under Control." *Science* 328, no. 5983 (June 4, 2010): 1235–36.

### **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?  
What does the PSMA add to global fisheries governance?  
Why would anyone fish legitimately?

## **11/27 – International Whaling Commission**

### **Readings (44 pages)**

International Convention for the Regulation of Whaling  
UNCLOS Article 65

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

Chasek, Pamela S., David Leonard Downie, and Janet Welsh Brown. “Whaling” (pgs.188-196) *Global Environmental Politics*. Sixth edition. Dilemmas in World Politics. Boulder, Colorado: Westview Press, 2014.

DiCenso, Matt. “Trouble on the High Seas: A Need for Change in the Wake of *Australia v. Japan*.” *Boston College International and Comparative Law Review* 39, no. 3 (2016): 13–27.

Jefferies, Cameron S.G. “Legally Justified Options for International Marine Mammal Conservation,” in *Marine Mammal Conservation and the Law of the Sea*. (2016): 160-170

### **Guiding Questions**

What is the current status of global whale populations?  
How has the International Whaling Commission changed since its formation?  
Who is still whaling, and why?  
What options exist for reforming the IWC?

## **Territorial Disputes**

### **11/29 – Arctic**

#### **Readings (58 pages)**

2008 Illulissat Declaration  
UNCLOS Article 234  
Handout – Arctic

Van Pelt, T.I., H.P. Huntington, O.V. Romanenko, and F.J. Mueter. “The Missing Middle: Central Arctic Ocean Gaps in Fishery Research and Science Coordination.” *Marine Policy* 85 (November 2017): 79–86.

Michael Byers. “Introduction” (pgs. 1-10) and “Arctic Straits” (pgs. 128-157), *International Law and the Arctic*. Cambridge University Press (2013)

Dodds, Klaus. "Flag Planting and Finger Pointing: The Law of the Sea, the Arctic and the Political Geographies of the Outer Continental Shelf." *Political Geography* 29, no. 2 (February 2010): 63–73.

### **Guiding Questions**

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?

What is the relationship between the Arctic Council and UNCLOS?

How does the melting ice cap affect Arctic issues?

What might the Arctic be like in 50 years?

## **12/4 – South China Sea/East China Sea**

### **Readings (46 pages)**

UNCLOS Articles 60, 121, 286-288

Asia Maritime Transparency Initiative, "Maps of the Asia Pacific," <https://amti.csis.org/maps/>

Watkins, Derek. "What China Has Been Building in the South China Sea," *The New York Times*, October 27, 2015. (**read online**)

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.

Costa, Anna. "Contested Territory," in *The China-Japan Conflict over the Senkaku/Diaoyu Islands: Useful Rivalry* (2018): 1-18

Kraska, James. "Sovereignty at Sea." *Survival* 51, no. 3 (July 2009): 13–18.

### **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?

## **Emerging Challenges**

### **12/6 – Climate Change**

#### **Readings (45 pages)**

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..

"International Law and Sea Level Rise: Law of the Sea Issues," 2018 Report of the International Law Association Committee on International Law and Sea Level Rise, pgs. 8-16

Comaroff, Joshua. "Built on Sand: Singapore and the New State of Risk." *Harvard Design Magazine*, Fall/Winter 2014. (5 pages)



Pinsky, Malin L., Gabriel Reygondeau, Richard Caddell, Juliano Palacios-Abrantes, Jessica Spijkers, and William W. L. Cheung. "Preparing Ocean Governance for Species on the Move." *Science* 360, no. 6394 (June 15, 2018): 1189–91.

Bialek, Dean, and Judah Ariel. "Ocean Acidification: International Legal Avenues under the UN Convention on the Law of the Sea." In *Threatened Island Nations: Legal Implications of Rising Seas and a Changing Climate*, edited by Michael Gerrard and Gregory E. Wannier. Cambridge ; New York: Cambridge University Press, 2013. Read pgs. 473-483, 488-499, 523-529

### **Guiding Questions**

In what ways is UNCLOS unprepared for climate change?  
How will sea level rise affect global coastlines?  
What are the advantages and disadvantages of 'ambulatory' baselines?  
Why has sand acquired strategic importance?  
What risks are created by movement of fish populations, and how can they be assuaged?

## **12/11 – BBNJ**

### **Readings (23 pages read; 57 pages skim)**

UNCLOS Articles 86-90, 116-119  
UN Resolution 69/292

"Chair's streamlined non-paper on elements of a draft text of an international legally-binding instrument under the UNCLOS on the conservation and sustainable use of marine biological diversity of ABNJ"

^Don't need to read thoroughly, just be aware of what it contains

"The Road to High Seas Conservation: A timeline of the United Nations' work to protect marine biodiversity in areas beyond national jurisdiction," Pew Charitable Trusts

"Views expressed by the United States Delegation Related to Certain Key Issues Under Discussion at the Second Session of the Preparatory Committee on the Development of an International Legally Binding Instrument under the UNCLOS on the Conservation and Sustainable Use of Marine Biological Diversity," September 9, 2016 (10 pages)

Young, Margaret A., and Andrew Friedman. "Biodiversity Beyond National Jurisdiction: Regimes and Their Interaction." *AJIL Unbound* 112 (2018): 123–28.

Blasiak, Robert, Jean-Baptiste Jouffray, Colette C. C. Wabnitz, Emma Sundström, and Henrik Österblom. "Corporate Control and Global Governance of Marine Genetic Resources." *Science Advances* 4, no. 6 (June 2018) (6 pages)

### **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?

## **12/13 – Final exam @ 11:30am**