The Law of the Sea - Challenges and research response
Welcome to the Faculty of law Friday 15 March 2019, 11.00-15.30, room 546 JUSS I

A half day seminar organized by Ocean Sustainability Bergen in collaboration with Research group for Natural Resource Law, Environmental Law and Development Law, https://www.uib.no/en/rg/resource and Research group for International Law.

The UN 2030 Agenda and its 17 Sustainable Development Goals (SDGs) is high on the international agenda, and challenges legal research and education. Conservation and sustainable use of the Ocean are relevant under SDG 14, Life Below Water, still closely interlinked to other SDG´s. The Ocean supplies vital ecosystem services and has potential for supplying more food, energy, minerals, transportation and genetic resources. As the Ocean is exposed to multiple stressors, conflicts of interest may occur, also due to preservation of the common heritage of mankind.

The UN Sustainable Development Goals Report 2018 states that "[a]dvancing the sustainable use and conservation of the oceans continues to require effective strategies and management to combat the adverse effects of overfishing, growing ocean acidification and worsening coastal eutrophication. The expansion of protected areas for marine biodiversity, intensification of research capacity and increases in ocean science funding remain critically important to preserve marine resources."

Starting in 2018, a major event in the history of The United Nations Convention on the Law of the Sea (UNCLOS) is the intergovernmental conference to negotiate a legally binding instrument under the convention, on the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction. Can UNCOLS become the comprehensive framework for legal governance of the Seas, and how can legal research contribute in the development of the Convention, and the fulfilment of the SGD 14?

Section 1: UNCLOS

11.00-11.15 Welcome, coffee and lunch

11.15-11.45 **Peter Haugan;** "The Law of the Sea in relation to ocean science"

The United Nations Convention on the Law of the Sea (UNCLOS) has its entire part XIII devoted to marine scientific research (MSR) and mentions MSR in several other parts but never defines it. Shortly after UNCLOS came into force, The Intergovernmental Oceanographic Commission (IOC of UNESCO) established an Advisory Body of Experts on the Law of the Sea (IOC/ABE-LOS). Relevant parts of UNCLOS include Article 76 on the Definition of the continental shelf, the entire part XIII, and part XIV on development and transfer of marine technology (TMT). In particular the IOC has adopted a procedure for the implementation of Article 247 on Marine scientific research projects undertaken by or under the auspices of international organization and has provided an accepted definition of TMT which is relevant inter alia for the ongoing intergovernmental conference on an international legally binding instrument under UNCLOS for the protection and sustainable use of biodiversity of areas beyond national jurisdiction (BBNJ). Several references have been made to the IOC and science in the annual Omnibus resolution on the Ocean and the Law of the Sea by the United Nations General Assembly (UNGA). In 2015 the UNGA proclaimed the UN Decade of Ocean Science for Sustainable Development (2021-2030) and called upon the IOC to coordinate planning and implementation. Current issues relating in particular to the BBNJ process and ocean science will be discussed.

Peter Haugan is programme director at the Institute of Marine Research in Norway with responsibility for global development projects. He is also professor of oceanography at the Geophysical Institute, University of

Bergen. He presently serves as the elected chair of the Intergovernmental Oceanographic Commission (IOC of UNESCO), http://www.unesco.org/new/en/natural-sciences/ioc-oceans/.

11.45-12.20 **Stella Emery Santana**: "Environmental protection on the High-Seas (the common heritage of mankind) and economic activities in the area – past, present and future"

The 1987 Montego Bay Convention that established the international legal framework for the Law of the seas determined that the high-seas, as an area beyond National jurisdiction, constitutes common heritage of mankind and therefore, the benefits from exploitation of resources in this area should be shared. Since this agreement entered into force, some discussion have been made on this regard, but the actual model has not been put in place. Therefore, all the economic benefit from the exploitation has not been shared. Other consideration that must be presented is how environmental protection is being made in this area. Because activities done in the high-seas, accordingly to the present rules, the State where the business is registered should do the control over the activity. This model is also not effective to avoid environmental damages in a common heritage of mankind. This lecture will discuss the past, the present and the future of environmental protection on the High-Seas as a common heritage of mankind.

*Stella Emery Santana:*I started teaching Environmental Law in Brazil in 2002, in the city of Rio de Janeiro. After graduating a 5 year Law School in Brazil, my Masters in Law and Economics discussed the importance of a sustainable agriculture in international trade through the generation of measures by the World Trade Organization. International and Environmental Law have always been my passion and after 5 years living in Rio de Janeiro, I decided to move back to my home state in Brazil, Espirito Santo. When I moved back, I started to work at the Law School of Centro Universitario Faesa, a private university in the capital of the state, in the city of Vitoria. As a coastal state, the relation between activities done by the coast and in the ocean have always driven my studies back to this area. After 3 years trying to understand why Brazilian legal framework for river basins didn't connect this system to the ocean and coast, I started my PhD at the School of Oceanography at the Federal University of Espirito Santo, in my home state, working with integrated river basin and coastal zone management. In 2013 I presented my defense on this issue and was the first practicing attorney in Brazil to have an Environmental Oceanography PhD degree. In 2015 I was appointed by my state bar for the special commission on the Rio Doce Mining Disaster and in 2016 I was hired by Espirito Santo Environmental Secretary to work as a special advisor for the same mining problem that happened in Minas Gerais state in 2015 and reached our state rivers and ocean.Since then I have been researching the relation between coastal activities and how can we develop a legal framework for this area. In 2017 I started a 2 year position Visiting Professor of Law position at Robert H. McKinney School of Law, at IUPUI, in the city of Indianapolis, IN. I have been doing research on Ocean Law and Water Law. In the summer 2019 I return to Brazil to my regular activities at FAESA.

12.20-12.40 Discussion

12.40-12.50 Coffee break

12.50-13.10 **Ernst Nordtveit**; "Towards a system for governance of natural resources in the sea areas beyond national jurisdiction. How can we avoid the common interest tragedies?"

Section 2: Phd-presentations

13.10-13.30 **Esmeralda Colombo**; Access to Justice Reloaded. The Role of International Law in National Climate Change Cases.

13.30-13.50 **Yngvil M Erichsen**; Arctic shipping: Climate Change and Legal Challenges.

13.50-14.10 Discussion

14.10-14.20 Fruit break

Section 3: Ongoing projects

14.20-14.45 **Bjørn Nyberg, Christian Haug Eide:** The CoastalChange project – Land use monitoring from satellite images and potential for cross-disciplinary collaboration

14.45-15.00 **Edvard Hviding**, «Mare Nullius?»

15.00-15.15 **Ingunn E. Myklebust**, GOVLAND

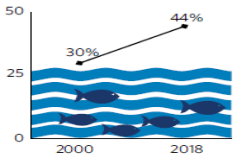
15.15-15.30 **Sigrid E. Schütz, Dorothy Jane Dankel,** LEGARCH, LoVeSe,

Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development

Advancing the sustainable use and conservation of the oceans continues to require effective strategies and management to combat the adverse effects of overfishing, growing ocean acidification and worsening coastal eutrophication. The expansion of protected areas for marine biodiversity, intensification of research capacity and increases in ocean science funding remain critically important to preserve marine resources.

- The global share of marine fish stocks that are within biologically sustainable levels declined from 90 per cent in 1974 to 69 per cent in 2013.
- Studies at open ocean and coastal sites around the world show that current levels of marine acidity have increased by about 26 per cent on average since the start of the Industrial Revolution. Moreover, marine life is being exposed to conditions outside previously experienced natural variability.
- Global trends point to continued deterioration of coastal waters due to pollution and eutrophication. Without concerted efforts, coastal eutrophication is expected to increase in 20 per cent of large marine ecosystems by 2050.
- As of January 2018, 16 per cent (or over 22 million square kilometres) of marine waters under national jurisdiction—that is, 0 to 200 nautical miles from shore—were covered by protected areas. This is more than double the 2010 coverage level. The mean coverage of marine key biodiversity areas (KBAs) that are protected has also increased—from 30 per cent in 2000 to 44 per cent in 2018.

Mean coverage of marine KBAs under protection increased between 2000 and 2018



Open ocean sites show current levels of acidity have increased by 26 per cent since the start of the Industrial Revolution