



UiT K.G. Jebsen Centre for the law of the sea



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FOR THE LAW OF THE SEA
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The K.G. Jebsen Centre for the Law of the Sea

The K.G. Jebsen Centre for the Law of the Sea (JCLOS) was established the 1st of September 2013 by Stiftelsen Kristian Gerhard Jebsen and UiT the Arctic University of Norway, with the Fridtjof Nansen Institute as a consortium partner.

The research objective (of JCLOS) was/has been to assess how the law of the sea is responding to new and existing challenges in order to ensure sustainable development and peaceful uses of the oceans. The cornerstone of the law of the sea is the 1982 United Nations Convention on the Law of the Sea (UNCLOS), supplemented by other international legal instruments and domestic implementing legislation.

Research projects

Fundamental Challenges for the Law of the Sea

In recent decades accelerating human activities coupled with technological innovations and scientific developments have resulted in a set of fundamental challenges to the law of the sea. The goal of the project has been to investigate the adaptability of the law of the sea to the current and foreseeable challenges.

Several publications highlight how international courts and tribunals have contributed to the adaptability of the law of the sea. The law of the sea interacts with other parts of international law and is influenced by scientific developments. One of the findings is that changes in the Earth system affect the law of the sea. A PhD project investigated the role of EU in promoting sustainable fisheries and combatting IUU fishing through the use of trade-related measures.

Maritime Boundaries and Limits & Transboundary Cooperation

The scope of the rights and obligations of States are defined by the outer limits of maritime zones and the maritime boundaries between neighbouring States. The goal of the project was to identify the existing applicable legal frameworks, to establish how they operate and how they could be applied more effectively in practice.

A key issue of the project has been an assessment of the role of the Commission on the Limits of the Continental Shelf, a major innovation to boundary making introduced by the UNCLOS. The Commission is charged with assessing the information submitted by the coastal State on the delineation of the outer limits of the continental shelf. In the monograph *Establishing Continental Shelf Limits Beyond 200 Nautical Miles by the Coastal State - A Right of Involvement for Other States*, the possible legal implications of this process for other States such as neighbouring coastal States is investigated.

The judiciary has been critical in shaping the law on maritime boundary delimitation between States. The anthology *Maritime Boundary Delimitation: The Case Law; Is it Consistent and Predictable?* discusses whether the law as developed by the judiciary has become more consistent and predictable. It is concluded that serious doubts exist in this respect and points to the difficulties in developing a consistent approach to maritime delimitation on a case by case basis by the judiciary.

The seabed and subsoil of a maritime area, which is subject to overlapping claims or is delimited between two or more coastal States may hold transboundary mineral deposits. A PhD project investigated the duties of coastal States under these scenarios and whether they are subjected to shared responsibility in cases where marine environmental damages are caused by activities under their joint management.



Navigation

Freedom of navigation and other navigational rights are fundamental elements of the law of the sea. These rights have been affected by the expanded role of the International Maritime Organization (IMO), other global and regional intergovernmental bodies and the exercise of jurisdiction by port and coastal states. The goal of the project has been to investigate the character and scope of the freedom of navigation in light of this development.

The regulation of Arctic shipping has been a dominant element of the project resulting in two PhD dissertations and an anthology. The PhD dissertations investigated the Russian legislation on navigation of commercial vessels in the Northern Sea Route and its consistency with the law of the sea and how Russia is operating in international bodies such as IMO in relation to Arctic shipping matters. Two ongoing PhD projects examine the developing international law on coastal state jurisdiction over maritime casualties and wrecks; and the implementation of the Polar Code.

The anthology *Governance of Arctic Shipping – Balancing Rights and Interests of Arctic States and User States* examines potential cooperative mechanisms for balancing rights and interests of Arctic States and user States in light of experiences with Southeast Asian cooperative mechanisms.

An important contribution to research on maritime security was provided by the monograph *Violent Seas: Piracy and Law* (English translation) where the history as well as the constituting elements of piracy and its implementation in Norwegian law are investigated.

Sustainable and Equitable Utilisation of Marine Resources

The Oceans are essential for life on the planet, providing ecosystem goods and services including energy, food, fertilizers, bioprospecting resources and other services. The goal of the project was to investigate the rights and obligations of states in relation to access to and utilisation of marine natural resources with a particular focus on the Arctic.

Energy from the Sea; a special issue of the International Journal of Marine and Coastal Law was the result of a workshop held in March 2014 at University of Utrecht. The workshop was a response to the increased focus on the ocean as source of energy and examined different issues such as the competition for ocean space. A PhD thesis also examined Norway's energy relationships with the context of investment and trade law.

Research on ecosystem approaches in fisheries and aquaculture was presented in the anthology *Aquaculture Law and Policy - Global, Regional and National Perspectives*. The anthology highlights the multilevel governance reality surrounding aquaculture with global, regional and national dimensions. One of the conclusions was that many countries still struggle along without specifically tailored aquaculture legislation and continue to rely on an array of general legislation such as fisheries acts, land use laws and general environmental protection statutes.

The project also included research on the law of the sea and rights of indigenous peoples, focusing on the equitable utilisation. This theme was addressed through a PhD thesis and also in the anthology *The Rights of Indigenous Peoples in Marine Areas*. This volume includes one of the first comprehensive examinations of indigenous rights in marine areas - both generally and in a number of different jurisdictions.

In addition, there have been several studies on the Norwegian legal framework for commercial exploitation of living marine resources, including on the legal status of quotas and rights to participate in regulated fisheries. The Arctic focus of JCLOS has also led to extensive research and journal publications on Arctic fisheries issues, especially in relation to the origin, negotiation and conclusion of the Central Arctic Ocean Fisheries Agreement.







Marine Environmental Protection

The current State of the marine environment seems to suggest that the legal order is not functioning as effectively as it should. The goal of the project was to analyse the legal regime for marine environmental protection with a particular emphasis on the Arctic marine environment and Ecosystems.

The project addressed several themes, including the use of different types of norms in international marine environmental law. This was addressed in the monograph *The 'Ecosystem Approach' in International Environmental Law*, discussing whether the ecosystem approach concept represents a paradigm shift.

Environmental standards for deep seabed mining, a special issue of the journal *Marine Policy*, was the result of a workshop held in Tromsø in February 2015. The technological developments and the increasing global demand for metals means that exploitation of seabed mineral resources may become feasible in the near future.

The project includes three PhD theses. A PhD thesis on compensable damage ex delicto as a result of harm in the Barents Sea caused by petroleum spills from offshore installations is concluded. Two on-going PhD theses involves integrated oceans management and plastic pollution.

New projects

Two thematic research projects were developed to integrate research activities of the projects mentioned above.

Areas beyond National Jurisdiction (ABNJ)

The key goal of this project is to map and analyse the most salient challenges and legal issues related to marine areas beyond national jurisdiction, in light of existing principles, rules and regimes and ongoing global and regional legal processes and development. The main activity of the project is an anthology titled *"International Law and Marine Areas beyond National Jurisdiction: Current Status and Future Trends"* The project also includes a PhD thesis on the legislative process on conservation and management of biodiversity in areas beyond national jurisdiction.

Climate Change and the Law of the Sea

The objective of this project is to examine legal mitigation and adaptation frameworks, measures and strategies to respond to ocean related climate change challenges. The project's main research question is to assess to what extent the law of the sea is able to address the uncertainties and possible surprises climate change will bring, focusing on the legal framework's adaptivity and ability to facilitate mitigating measures. It will be addressed as an anthology titled: *"The Law of the Sea and Climate Change: Part of the Solution or Representing Constraints?"*

Research Activities

The results of the research projects have been communicated through nearly 50 workshops/seminars/international conferences, such as the workshop on "Arctic Shipping" in St. Petersburg, 2013, the seminar "Challenges of the Changing Arctic: Continental Shelf, Navigation and Fisheries", Bergen 2014, the conference on "Law, Fragile Ecosystems, Indigenous Peoples and Natural Resources", Florence, 2016, a seminar on "At-sea enforcement and naval warfare", Tromsø 2017, and the Polar Law Symposium, Tromsø 2018. These seminars have been important for the scientific discussions/dissemination and networking. The annual Centre Days has been another important meeting place.

Collaboration

JCLOS cooperated with many individual researchers and research institutes during the last six years, and thereby established an extensive network. The cooperation has been undertaken at different levels involving researchers from different disciplines. Here are some examples.





International collaboration

In December 2015 JCLOS co-organized the conference Arctic Shipping with the Centre for International Law, National University of Singapore. It resulted in the book Governance of Arctic Shipping: Balancing Rights and Interests of Arctic States and User States. Another long-standing partner is the Marine & Environmental Law Institute of Dalhousie University, Canada. This collaboration has involved exchange of researchers, participation in joint projects and teaching in PhD courses. The JCLOS and the Netherlands Institute for the Law of the Sea (NILOS) have collaborated throughout the six years period, exemplified by the workshop Energy from the Sea in March 2014.

Interdisciplinary collaboration

JCLOS was in charge of the project Regulating Arctic Shipping: Political, legal, technological and environmental challenges (A-LEX) which involved lawyers, political scientists, engineers and natural scientists. The A-LEX project addressed the challenges of international shipping in the Arctic Ocean.

National Collaboration

The Fridtjof Nansen Institute has been the major collaborator at the national level. JCLOS has also collaborated with researchers at the faculties of law in Oslo and Bergen, both in organizing seminars and external funding applications. JCLOS has funded master thesis projects in Oslo and Bergen on the law of the sea.

Outreach

The research has been communicated to user groups and the general public in different ways. Outreach efforts have included meetings with representatives from governmental agencies, industry and environmental NGOs. One example of communication with the general public is the regularly held seminar 'Havets Hemmeligheter' (Secrets of the Ocean) where JCLOS staff, often together with researchers from other disciplines, give popular science presentations on topical issues.

JCLOS has been engaged in outreach activities at the international level such as through organizing side-events during the negotiations for an agreement on conservation and sustainable use of biodiversity in areas beyond national jurisdiction at the UN in New York.

The JCLOS Blog, has been an important contributor to the public debate providing around 50 blog posts with commentary on court and tribunal decisions as well as treaty and policy developments in the law of the sea.

Publications

During the six-year period, JCLOS staff published more than 160 articles, around 125 chapters in anthologies, 5 monographs (11 forthcoming), and 5 anthologies (4 forthcoming). A detailed overview of the publications is available at: www.uit.no/lawofthesea

The Future

The end of the funding from Stiftelsen K.G. Jebsen in August 2019 does not mean the end of the Centre. Consistent with the purpose of its funding, the Centre has during the last six years become a strong and viable research centre. It continues from 1 September 2019 as the Norwegian Centre for the Law of the Sea (NCLOS). NCLOS will seek new funding opportunities to further develop and strengthen the Centre.

The vision of NCLOS is to strengthen the research group on law of the sea, as the world-leading Centre of excellence in studies of law of the sea and ocean governance with the ambition to create an environment for innovation in theory and methodology.



JCLOS – staff during the six years period, 2013 – 2019

In addition, several individual researchers have contributed to our research projects.

Ingrid S. Andreassen	PhD-student	Øystein Jensen	Senior Research Fellow, FNI
Svein Kr. Arntzen	Associate Professor	Elise Johansen	Associate Professor
Bjørn Bakke	PhD-student	Kristine D. Kraabel	PhD-student
Nigel Bankes	Professor	Nele Matz-Lück	Adjunct Professor
Dorottya Bogнар	PhD-student	Marianna Melentieva	PhD-student
Signe Veierud Busch	PhD-student/Postdoctor/Associate Professor	Erik J. Molenaar	Professor
Claudia Cinelli	Postdoctor Fellow	Philipp Nickels	Researcher
Irene Vanja Dahl	Associate Professor	Alex Oude Elferink	Professor
Maria Madalena das Neves	PhD-student/Associate Professor	Iva Parlov	PhD-student
Vito De Lucia	PhD-student/Postdoctor/Associate Professor	Margherita P. Poto	Postdoctor Fellow
Endalew L. Enyew	PhD-student	Christian Prip	Senior Policy Analyst, FNI
Natalia Ermolina	PhD-student	Henrik Ringbom	Adjunct Professor
Linda Finska	PhD-student	Seamus Ryder	PhD-student
Magne Frostad	Professor	Lena Schöning	PhD-student
Julia M. Gaunce	PhD-student	Christin Skjervold	Senior Advisor
Vegard Helland	PhD-student	Jan Jakub Solski	PhD-student/Postdoctor Fellow
Tore Henriksen	Professor/Director	Kristoffer Svendsen	PhD-student/Postdoctor Fellow
Ingvild Ulrikke Jakobsen	Professor/Deputy Director	Eva Romee van der Marel	PhD-student
		Davor Vidas	Research Professor, FNI
		Hilde Woker	PhD-student

A detailed overview over the PhD-projects
is available at: www.uit.no/lawofthesea