New Knowledge and Changing Circumstances in the Law of the Sea. Edited by Tomas Heidar. Leiden/Boston: Brill Nijhoff, 2020. Pp. xxii, 476.
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Two diametrically opposed legal responses to new knowledge and changing circumstances in the law of the sea occurred on June 25, 2021. An agreement for a precautionary moratorium on commercial fishing in the Central Arctic Ocean came into force, protecting newly accessible marine ecosystems until sufficient scientific information is available for their sustainable management.[1] On the same day, a rule was triggered that will require the International Seabed Authority (ISA) to approve deep seabed mining proposals in two years, even if it has not by then developed science-based regulations to protect the delicate ecosystems in the area characterized as "the common heritage of mankind."[2] The moratorium is the first agreement of its kind, taking the long view to achieve sustainable use of the ocean; the second occurrence takes advantage of rules forged when we believed the ocean was too vast to despoil.

The central theme of *New Knowledge and Changing Circumstances in the Law of the Sea* is how states can foster ocean governance where the United Nations Convention on the Law of the Sea[3]—described as the "the first and only comprehensive treaty on the law of the sea" (p. 1)—is contested, incomplete, unclear, or in conflict with the needs of the present. The title recognizes that there have been important changes in human knowledge of the ocean, and changes in the ocean resulting from human activities. These include the discovery that the ocean beyond national jurisdiction is incredibly biodiverse; that besides its inherent value, this is a genetic treasure trove. The very topography and composition of the ocean surface and seabed are poorly understood (p. 343): only 20 percent of the ocean surface and seabed have been mapped.[4] As we learn more, we realize how much there is to learn. For example, the ecological impact of deep seabed mining was underestimated by the negotiators of the 1994 Implementing Agreement to the Convention, who were not aware of the diverse life forms inhabiting the lightless zones. Technologies that now allow offshore mineral extraction make the commercial potential of seabed exploitation more alluring, and heighten the potential for conflict over national control of the continental shelf. A nearly doubled world population looks to ocean fisheries to satisfy its increased demand for animal-based protein.[5] Climate change is the most comprehensive, irreversible human impact on the ocean and it was not taken into account in the Convention; it was not generally recognized as a problem until a decade after the Convention's adoption (*id.*). This book offers thoughtful analyses of the "fit" between the text of the Convention, negotiated from 1973 to 1982, and today's ocean.

The issues are of global importance, dealing with the continued existence of small island nations, global food supply, access to critical metals, and the continued function of essential physical-biological Earth features. It is worth making the effort to become familiar with the technical vocabulary to understand what is quickly becoming more than a specialist's problems.

Judge Tomas Heidar, vice-president of the International Tribunal for the Law of the Sea

[1] Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean, Oct. 3, 2018 (parties are Canada, the People's Republic of China, the Kingdom of Denmark (in respect of the Faroe Islands and Greenland), the European Union, Iceland, Japan, the Kingdom of Norway, the Republic of Korea, the Russian Federation, and the United States of America).

[2] Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, 1836 UNTS 3, Annex, Section 1(15) (hereinafter 1994 Agreement).

[3] United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 UNTS 3 (hereinafter UNCLOS, the Convention).

[4] Nat'l Oceanic & Atmospheric Admin., *Story Map: Journey to Earth's Largest Habitat* (June 15, 2021), *at* https://www.noaa.gov/stories/story-map-explore.

[5] Maeve Henchion, Maria Hayes, Anne Maria Mullen, Mark Fenelon & Brijesh Tiwari, *Future Protein Supply and Demand: Strategies and Factors Influencing a Sustainable Equilibrium*, 6 FOODS 53 (2017).

(ITLOS, the Tribunal) from Iceland and the editor of this book, brought the highly qualified contributors to a conference in Reykjavik in 2018. They are experts who are actively engaged in the institutions and negotiations they discuss: diplomats who provide insight into some of the less public aspects, scientists able to help guide the reader along the tricky interface between law and the physical ocean, and members of civil society bringing a global perspective. Contributions, in twenty-two chapters divided into eight parts, describe the stakes for current international discussions. These are, in brief, access to resources and protection of the Earth's infrastructure. National interests explored in the sections dealing with marine genetic resources, fisheries, and deep seabed mining (Parts 2, 3, 6, and 8) motivate the more legally technical chapters analyzing the maritime boundaries that allocate these resources between different countries and the international community (Parts 4 and 5). Part 7 addresses the scientific and legal aspects of climate change-induced sea level rise, a topic that the International Law Association (ILA) addressed in detail and that the International Law Commission (ILC) has put on its agenda.[6] Each topic is supported by a concise but clear explanation of relevant physical conditions, such as the topography of the seabed or the mechanism of climate change and its effect on sea level, and precise explanations of the legal context. The book is richly illustrated with maps, diagrams, and graphs, which are both helpful to the reader and underscore the close connection between the law of the sea and its physical reality.

In the Introduction, Heidar claims that the Convention "contains a substantive legal framework for all uses of the ocean" (p. 1). Yet this remains a key question: is the Convention fixed in a past era or is it a living instrument that can evolve? Were the efforts of its negotiators sufficient to "future-proof" it? Having outlined present governance needs, Heidar reviews the possible means for adapting the Convention. On the one hand, UNCLOS was negotiated as a package deal whose elements represent tradeoffs between states' interests. Alterations to that balance should be attempted with caution. The Convention includes formal amendment procedures, but they are cumbersome and opening up an amendment process risks weakening the original agreement (pp. 2–3). While the Convention has never been amended, important changes to Part XI, covering seabed mining in areas beyond national jurisdiction, were made by means of a so-called implementing agreement (the 1994 Part XI Agreement) (p. 4). The UN Fish Stocks Agreement is a more conventional implementing agreement because it provides specific measures to operationalize UNCLOS Articles 63, 63, and 116–119 (pp. 4–5). Heidar observes that, while preserving the rights, jurisdiction, and duties of states under the Convention, the latter implementing agreement "develops international law in this area significantly" and fills gaps such as the role of flag state obligations, and port state jurisdiction (p. 5). A third implementing agreement is currently being negotiated at the Intergovernmental Conference "to elaborate the text of an internationally legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction" (BBNJ agreement).[7]

Regional and bilateral agreements further implement the Convention, particularly with respect to fisheries. The Convention's negotiators intended for it to be supplemented by "internationally agreed rules, standards and recommended practices and procedures," particularly with respect to environmental protection, in UNCLOS Part XII, which Heidar discusses in greater detail, explaining the role of the International Maritime Organization (IMO), the Food and Agriculture Organization (FAO), UN General Assembly resolutions, and regional organizations in developing them (pp. 6–7). Heidar describes how bodies created by the

[6] International Law Association Committee on International Law and Sea Level Rise, Final Report (Aug. 2018); International Law Commission, Meeting of May 21, 2019, UN Doc. A/CN.4/SR.3467.

[7] GA Res. 72/249 (Dec. 24, 2017).

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Convention—the ISA, ITLOS, and the Commission on the Limits of the Continental Shelf (CLCS)—have applied and adapted the Convention through their administrative, regulatory, and judicial roles. The deft use of state practice and *opinio juris* to shape new customary international law to solve the problem of baselines retreating with sea level rise is another tool proposed here. And finally, judicial interpretation and application of the Convention and related agreements and legal rules not only settles disputes between states parties, it clarifies how the Convention applies to current circumstances. Each of these tools that allow progressive development of the law of the sea is discussed in the chapters that follow.

International courts and tribunals (ICTs) settle contentious cases and provide advisory opinions, in the course of which they apply and interpret international agreements and customary international law. States and other subjects of international law look to their judgments to understand how they should apply the law to their actions. ITLOS Judge and recent past President Jin-Hyun Paik reviews the tools that ICTs have to assist them with the highly technical information that underlies many maritime disputes. One option is for the ICT to turn the problem back onto the parties, as the Tribunal did in relation to the *Southern Bluefin Tuna Cases* (the Tribunal ordered the parties to negotiate management of the shared fishery), the *Case Concerning Land Reclamation* (it directed the parties to cooperate on identifying and addressing any harmful effects of Singapore's land reclamation project on Malaysia), and the *MOX Plant Case* (it ordered the parties to cooperate in monitoring and preventing pollution of the Irish Sea from a plant for reprocessing spent nuclear fuel). Alternatively, the ICT can accept uncontested facts presented by the parties, as the Tribunal did in the *Bay of Bengal* case. Where information is lacking or there is no possibility of agreement, the ICT might take a precautionary approach (p. 19). More often, ITLOS has relied on witnesses presented, examined, and cross-examined by the parties to the dispute, sometimes using questions from the bench. While the Tribunal has not used its power to call its own witnesses, the International Court of Justice (ICJ) and arbitral tribunals under the law of the sea have done so, though rarely. Judge Paik mentions the variations in procedure and type of assistance available under the Convention, the ITLOS and ICJ statutes, and their rules. The Tribunal has the further possibility of requesting appropriate intergovernmental organizations to provide information; the Tribunal has accepted submissions from several intergovernmental organizations in the course of its advisory opinion hearings. Judge Paik notes that the Tribunal has not accepted submissions from non-governmental organizations, although it did post such documents on its website when submitted in relation to advisory proceedings (it may be presumed that the members of the Tribunal read them). Judge Paik encourages the Tribunal to take full advantage of all means at its disposal, and so "avoid the danger of reaching a decision based on facts that a court or tribunal cannot fully comprehend" (p. 24).

Veronica Frank, political advisor for Greenpeace International, and Richard Barnes, professor of international law at the University of Lincoln, present two different chapters examining how the BBNJ implementing agreement now under negotiation fills a governance gap that judicial interpretation of existing law could not. UNCLOS sets forth general environmental principles and duties (p. 105), but it lacks modern principles of ocean governance. Despite the inclusion of Part XII, Protection of the Marine Environment, the Convention does not adequately address biodiversity conservation, leaving a fragmented landscape that is not filled by the numerous sectoral agreements for shipping and fishing. Frank describes UNCLOS as sectoral governance where conservation is not a "primary focus" and cumulative impacts are not addressed (p. 102). The BBNJ agreement is intended to authorize a mechanism for establishing area-based management tools, including marine protected areas (MPAs) in the high seas, creating an opportunity "to deliver cross-sectoral MPAs in most of ABNJ" (areas beyond national jurisdiction) (p. 122). Frank states that MPAs are one of the most effective measures

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that can improve the resilience of ocean life to the cumulative impacts of warming, acidification, and deoxygenation of ocean waters caused by climate change. Barnes underscores that "[t]hreats to ABNJ are threats to a critical earth system and so are in a very real sense existential threats" (p. 152). He is concerned that the BBNJ agreement needs to be robust, and argues it must include fisheries, which he characterizes as "the most significant threat to the biodiversity in marine areas" (p. 124). Barnes's chapter offers a thoughtful analysis of the major barriers to including fisheries, which are not legal but political (opposition by Iceland, Japan, and the Russian Federation) and textual (language in the UN General Assembly authorization to negotiate requiring that the agreement "not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies existing agreements or mandates").[8] He observes that regional fisheries management organizations have widely drawn mandates, but they are weak in terms of duties, and that "any attempt to establish duties will challenge a mandate" (p. 137). Barnes urges us to consider creating a mechanism to engage these existing bodies in the BBNJ agreement.

Professor Alfred Soons, Utrecht University School of Law, suggests using state practice as a means of "tacit modification" of the Convention's rules for ocean zones to minimize the uncertainty caused by climate change-induced sea level rise, the consequent landward retreat of coasts and loss of ocean area. This is the approach recommended by the Final Report (adopted in Sydney in 2018) of the ILA Committee on International Law and Sea Level Rise, on which he served, which reviewed options that also included claims of historic rights, amending UNCLOS, or negotiating a new implementing agreement under UNCLOS or the UN Framework Convention on Climate Change. This chapter is an excellent reference on the ocean zones established by the Convention, which Soons explains in his analysis of the effect of sea level rise on the baselines from which they are measured. By publishing charts describing a baseline with geographical coordinates and depositing the chart with the UN secretary-general, he proposes that waters landward of the fixed baseline could be treated as internal waters, retaining the maximum extent of the state's ocean entitlements. This approach would provide certainty, peace, and security, and would avoid incentives for artificial preservation of baselines. Pacific island states are already doing this, implementing a strategy proposed by the Pacific Island Forum, supported by a partnership of Australia with various organizations and academics who are assisting them to adopt national legislation, negotiate maritime boundaries, and present their continental shelf claims to the CLCS. The success of this approach will depend on other states accepting it as reflecting legal rules. That may, in turn, be influenced by the work of the ILC Study Group on Sea-Level Rise in International Law.[9] The ILC's activities include a process for regular formal and informal input from governments, potentially providing *opinio juris* that will, as Soons says, "strengthen the authority of this practice" (p. 381).

An important motivation for the ILA and ILC work on sea level rise is concern for the fate of those states that risk losing their territory because it is submerged and losing their population because climate change conditions make remaining untenable. Christine Hioureas, counsel at Foley Hoag LLP, and Alejandra Torres Camprubí, attorney at Foley Hoag AARPI, observe that small island states expanded their ocean spaces dramatically as a result of the Convention, to as much as three hundred times their land territory (p. 412). Often poor in other natural resources and remote from other land masses, their economies depend on their ocean spaces. These states are considered good stewards of the ocean, given the centrality of the ocean to their cultural heritage and their close connection with it, and they have influenced the adoption of international commitments such as Sustainable Development Goal 14, Life below Water. Their traditional knowledge is increasingly recognized as useful and necessary for ecosystem management, as is indigenous and local knowledge for example, in the new Arctic

[8] *Id.*, para. 7.

[9] Int'l L. Comm'n, First Issues Paper by Bogdan Aurescu and Nilüfer Oral, Co-Chairs of the Study Group on Sea-Level Rise in Relation to International Law, UN Doc. A/CN.4/740 (Feb. 28, 2020).

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Fisheries Agreement (p. 436). Hioureas and Torres Camprubí outline several options for states whose land mass will eventually be entirely submerged due to sea level rise. They argue that the 1933 Montevideo Convention's criteria for the existence of a state—a permanent population, a defined territory, a government, and foreign relations capacity—lacks legal authority when applied to state extinction. They contend that state practice has been inconsistent in applying the widely-accepted criteria, for example, by continuing to recognize states whose government has collapsed. If territory is no longer considered a requirement, these nations might become a new category of entity with legal personality, neither state nor international organization. Alternatively, they could acquire new territory from another state, as Kiribati has done in purchasing land in Fiji. Or they could merge or form a federation with another state. They could even try to create artificial platforms on the site of their territory. Hioureas and Torres Camprubí test the legal, practical, and political limitations of each of these approaches.

Small island nations also, as sovereign states, have the ability to sponsor commercial mining in shared ocean spaces, just as they can act as "flag states" for global shipping and other activities, with the concomitant duty to provide regulatory oversight of the mining companies. The ISA has not at this time (mid-2021) completed environmental protection regulations or benefit-sharing arrangements for exploitation of minerals in the deep seabed of areas beyond national jurisdiction (defined as the "Area" in the Convention). A complex regime to govern mining in the Area, including ensuring that developing states will participate in its financial benefits, was put in place by the 1994 Implementing Agreement to UNCLOS.

ISA oversight and regulations are discussed only briefly in this book, but an excellent explanation of the physical seabed, its habitats, and the technical challenges of exploiting its mineral resources while protecting its ecosystems is provided by Matthias Haeckel, senior scientist for marine biochemistry at the GEOMAR Helmholtz Centre for Ocean Research Kiel, Annemiek Vink, research counsellor at the Federal Institute for Geosciences and Natural Resources, Felix Janssen, senior researcher at the Max Planck Institute for Marine Microbiology, and Sabine Kasten, professor for sediment diagenesis at the University of Bremen. Haeckel, et al., conclude their chapter with policy recommendations from the European Mining Impact project that call for more scientific knowledge to inform regulations, changes to the reference and habitat conservation areas set aside by the ISA, improvements in monitoring technologies, and development of low-impact equipment. We are left with an appreciation of the challenges that remain to be met before mining might safely begin in the Area.

Although, like the Arctic fisheries discussed next, mining has not yet taken place in the Area, the desire of many states and scientists to declare a moratorium has been strongly opposed by others. Nauru, one of the states committed to deep seabed mining in the Area, triggered an unusual provision in the 1994 Agreement that requires the ISA to begin permitting mining within two years, whether or not regulations are in place.[10] The ISA's attempt to finalize regulations to govern mining has been slowed by the lack of sufficient knowledge of conditions in the deep ocean and the difficulty of establishing a novel international administrative regime; also, due to the COVID-19 pandemic, the ISA canceled the 2020 and 2021 meetings that were scheduled to develop the regulations. Nauru's action will therefore require a rushed process. This may seem surprising: if Nauru fails to provide adequate legal control over The Metals Company, the Canadian mining company that it sponsors with Kiribati and Tonga, Nauru would be held internationally responsible for any environmental damage that the company causes. In its 2011 advisory opinion, the ITLOS Seabed Disputes Chamber stated that:

[10] Helen Reid, *Pacific Island of Nauru Sets Two-Year Deadline for U.N. Deep-Sea Mining Rules*, REUTERS (June 29, 2021), *at* https://www.reuters.com/business/environment/pacific-island-nauru-sets-two-year-deadline-deep-sea-mining-rules-2021-06-29 (Nauru asked the ISA "'to complete the adoption of rules, regulations, and procedures required to facilitate the approval of plans of work for exploitation in the area within two years' from June 30.").

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> Equality of treatment between developing and developed sponsoring States is consistent with the need to prevent commercial enterprises based in developed States from setting up companies in developing States, acquiring their nationality and obtaining their sponsorship in the hope of being subjected to less burdensome regulations and controls. The spread of sponsoring States "of convenience" would jeopardize uniform application of the highest standards of protection of the marine environment, the safe development of activities in the Area and protection of the common heritage of mankind.[11]

In striking contrast, David Balton's chapter, *Implementing the New Arctic Fisheries Agreement*, describes a positive use of international law through diplomacy, "a rare example of governments taking a proactive measure to prevent a problem before it arises, rather than reacting to an existing problem" (p. 429). Balton, a senior fellow with the Woodrow Wilson Center, chaired the negotiations that led to that agreement. Climate change is warming the Central Arctic Ocean, making it newly accessible to ships and therefore to future industrial-scale fishing. (Here again, the maps are very helpful.) The Central Arctic Ocean is a high seas area about the size of the Mediterranean Sea, surrounded by coastal state exclusive economic zones (EEZs); it is therefore both susceptible to being exploited by distant water fishing states and is a matter of concern to the coastal states. The Russian Federation and the United States, which are two of these coastal states, had a very negative experience when a similar situation of other states overfishing in the Bering Sea high seas Donut Hole enclosed by their waters led to the collapse of the pollock fishery. The five Arctic coastal states and four of the distant water fishing states and the European Union agreed to establish the sixteen-year moratorium (with limited exceptions and with the possibility of five-year extensions) and created a Joint Program of Scientific Research and Monitoring, which will provide the information that may eventually lead to commercial fishing. Erik Molenaar, deputy director of the Netherlands Institute for the Law of the Sea, provides a description of this negotiation that underscores the challenge of balancing coastal state interests—both in conservation and in use—with the claims of states prioritizing exploitation.

Marine genetic resources (MGR) refers to the genetic code of marine life forms, which is sought for its potential as a source of pharmaceuticals, and for the cosmetic, food, and other industries. MGR found in areas beyond the jurisdiction of any state is currently unregulated; its existence, let alone its potential value was unknown when UNCLOS was negotiated. Since then, technological developments from scuba gear to high through-put genetic screening have made it commercially interesting and potentially profitable. Like seabed minerals, only countries (or companies) with access to the technology are able to develop products and capture the financial value, clearly an inequitable allocation of a shared global resource. This is why MGR access and benefit sharing was included as one of the four elements in the BBNJ negotiation. It remains the most difficult issue. In four chapters, Sophie Arnaud-Haond, researcher at Ifremer (the French National Institute for Ocean Science), Konrad Jan Marciniak, of the Ministry of Foreign Affairs of Poland, Fernanda Millicay, minister first class of Argentina, and Natalie Morris-Sharma, government legal counsel with Singapore's Attorney-General's Chamber, describe the stakes and the potential for a satisfactory legal regime through the BBNJ negotiation, or alternatively in parallel discussions at the World Intellectual Property Organization, taking account of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights and national intellectual property legislation.

Environmental and equity interests may draw the attention of many readers, but the substantial number of chapters given to boundary delimitation provides a crucial setting against which resource governance and allocation plays out.

[11] Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area, Case No. 17, Advisory Opinion (ITLOS Seabed Disputes Chamber Feb. 1, 2011), 50 ILM 458 (2011), para. 159.

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UNCLOS situates states' rights of exploitation and duties of control according to a system of ocean zones. The boundaries that are established by the Convention determine which country will benefit from exploiting fish, minerals, and other resources in a particular location, and which country can exercise jurisdiction for conservation. Imagine Europe still fighting boundary disputes on land: similar dynamics and risks are at play in the ocean as states reach out to claim sovereignty over oil, gas, other minerals, fish, and, increasingly, other living resources and energy. For the most part, maritime boundary conflicts are fought at the ICJ, ITLOS, and arbitral tribunals, or before the technical experts of the Commission on the Limits of the Continental Shelf, and often are addressed through diplomatic agreements, all of which are discussed here. "Gunboat diplomacy" still occurs; its risks are dramatized in the novel *2034* by Admiral James Stavridis (former supreme commander of the North Atlantic Treaty Organization) and Elliot Ackerman, in which a U.S. freedom of navigation patrol in the South China Sea leads to an exchange of nuclear weapons.[12]

Sean Murphy, professor at George Washington University and ILC member, provides eight basic rules whose observance should keep states from the dire consequences depicted in the novel. The behavior of states with overlapping claims to continental shelf (or to EEZs, as Murphy notes) should be governed by relevant treaties and customary international law, and to a degree by the decisions of ICTs and publicists. Murphy's eight rules are, briefly stated: 1) act in good faith; 2) abide by provisional measures orders if issued by a competent ICT; 3) negotiate in good faith with the other state or states; 4) during the dispute, seek a provisional arrangement for practical purposes; 5) refrain from steps that jeopardize reaching agreement; 6) use only permissible countermeasures in response to unlawful acts; 7) refrain from the threat or use of force; and 8) for third states, refrain from knowingly assisting a state that is acting wrongfully (pp. 184–85). These eight rules are discussed against the background of some of the most dramatic legal cases of the last few years, including the *South China Sea* arbitration and the *Chagos* arbitration, as well as analogies that Murphy draws from land-based boundary disputes that resulted in active military hostilities, for example between Kuwait and Iraq, and between Ethiopia and Eritrea. But this raises the question, how do states determine their maritime boundaries?

The effect of new knowledge about the physical ocean on continental shelf delimitation is well explained by Leonardo Bernard, associate research fellow at University of Wollongong, Australia, and Clive Schofield, professor at University of Wollongong. It is startling to realize that the legal definition of key features diverges from the physical reality, in part because the science explaining the formation of the continents and seabed features lagged behind the formation of the legal regime. Under the procedure established by UNCLOS, states are entitled to their continental shelf up to two hundred miles from their coastal baseline, whether or not there is a physical shelf there. They are also entitled to the seabed resources lying on the further extension of the shelf past two hundred miles, while the superjacent water column is there considered high seas. There are substantial overlaps between claims, which may be resolved by recommendations of the CLCS. But the CLCS was intended to make scientific and technical determinations and "if a submission from a coastal State involved a disputed area, the CLCS would not be able to consider such submission" (p. 162). The specific situations described become fascinating, as they intertwine seascapes with history and politics, and ultimately with the failed effort to apply simplified rules to complex physical Earth features. Similarly, the chapters on seafloor highs provide useful explanations of a very confusing topic. Although given short shrift in this review, this is an important topic because the more expansive states' maritime claims are, the less of the ocean is shared, for better or for worse. It defeases landlocked states, and may disadvantage developing states if they cannot afford to substantiate their claims (Japan's submission to the CLCS cost about US$500 million).

[12] Elliot Ackerman & Admiral James Stavridis, 2034: A Novel of the Next World War (2021).

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The chapters in this volume are current to 2019. Since that time there have been a number of noteworthy developments, but they do not diminish the value of this book. From September 2018 to August 2019, there were three meetings of the BBNJ Intergovernmental Conference but the final meeting, scheduled for March 2020, was postponed due to COVID-19. In the intervening months, government officials participating in an unofficial capacity have been meeting virtually with intergovernmental and nongovernmental experts, a form of diplomacy known as track 1.5 dialogues, but no formal negotiations have occurred to advance a treaty text, and Barnes's warning that apparent progress on some aspects of the BBNJ agreement "conceals deeper currents of discord" (p. 125) still appears to be valid. As noted above, the ISA has not yet completed its mining exploitation regulations but the two-year rule has been invoked. The dispute between Nicaragua and Colombia over their maritime boundary is still pending at the ICJ. This may suggest that international law moves too slowly for our times. Yet, while this review was being written, the Arctic Ocean fisheries moratorium came into force, a sign that nations are still able to take timely steps, informed by science, to manage human activities and protect Earth systems.

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BOOKS RECEIVED

International Law—General

Pavel, Carmen E. *Law Beyond the State: Dynamic Coordination, State Consent, and Binding International Law*. Oxford, UK: Oxford University Press, 2021. Pp. xiv, 202. Index.

International Economic Law & Relations

Asada, Masahiko. *Economic Sanctions in International Law and Practice*. New York; Oxon: Routledge, 2020. Pp. xiv, 256. Index.

Use of Force & Humanitarian Law (Law of War)

Iverson, Jens. Jus Post Bellum: *The Rediscovery, Foundations, and Future of the Law of Transforming War into Peace*. Leiden; Boston: Brill Nijhoff, 2021. Pp. xi, 360. Index.

Rojas-Orozco, César. *International Law and Transition to Peace in Colombia: Assessing* Jus Post Bellum *in Practice*. Leiden; Boston: Brill Nijhoff, 2021. Pp. viii, 195. Index.

International Investment

Radović, Relja. *Beyond Consent: Revisiting Jurisdiction in Investment Treaty Arbitration*. Leiden; Boston: Brill Nijhoff, 2021. Pp. xv, 274. Index.

Vaccaro-Incisa, G. Matteo. *China's Treaty Policy and Practice in International Investment Law and Arbitration: A Comparative and Analytical Study*. Leiden; Boston: Brill Nijhoff, 2021. Pp. xxi, 415. Index.

Law of the Sea & Maritime Law

Rosello, Mercedes. *IUU Fishing as a Flag State Accountability Paradigm: Between Effectiveness and Legitimacy*. Leiden; Boston: Brill Nijhoff, 2021. Pp. xx, 227. Index.

Human Rights

Belser, Eva Maria, et al. (eds.). *The Principle of Equality in Diverse States: Reconciling Autonomy with Equal Rights and Opportunities*. Leiden; Boston: Brill Nijhoff, 2021. Pp. xxi, 438. Index.

Samadi, Mona. *Advancing the Legal Status of Women in Islamic Law*. Leiden; Boston: Brill Nijhoff, 2021. Pp. xii, 222. Index.

Temperman, Jeroen. *Religious Speech, Hatred and LGBT Rights: An International Human Rights Analysis*. Leiden; Boston: Brill Nijhoff, 2021. Pp. xix, 95.

Stirner, Torsten. *The Procedural Law Governing Facts and Evidence in International Human Rights Proceedings*. Leiden; Boston: Brill Nijhoff, 2021. Pp. xi, 508. Index.

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