

# Video Transcripts

## The Law of the Sea

Welcome to my mini-lecture on Chapter 18 of *International Law*, concerning the law of the sea.

The law of the sea is one of the oldest areas in which international law has played an active role because of the nature of the sea as a focal point for communication and interaction between states, but equally as a resource that has been exploited, that has been tussled over, and where there's been contestation as to what states are free to do and what not. Are states free to appropriate the sea as part of their sovereign territory? There were debates about this in the 15th and 16th century that were resolved in favour of the sea being a common space; a space, especially in what are now called the 'high seas', where all states would be free to navigate and to exploit the natural resources, in particular in relation to fishing, and now more recently in relation to exploitation of minerals and other natural resources that exist.

But the sea itself has also been gradually redefined with various different legal developments over time, where states began by claiming what is called 'territorial sea', so the sea that is immediately contiguous to their coasts, and gradually expanding into further and further maritime zones, culminating with something called the 'exclusive economic zone', which is the zone in which states have primary rights to exploit natural resources and to use for economic activity, but also have obligations to respect certain freedoms of the seas, in particular in relation to navigation and overflight that have been historically preserved because it used to be that most of the seas were part of what is called the 'high seas'. And the high seas are that maritime zone that is reserved to all states and where there are very few restrictions on what states may, or may not, do, but they must respect each other's freedoms of navigation, of resource exploitation, and of communication and trade, et cetera.

States have attempted to codify the law of the sea over the years and that culminated in two major efforts: in 1958 there were conventions on the territorial sea, that area immediately adjacent to the coast, and the contiguous zone. In addition, there were conventions on the high seas and on what is called the continental shelf, which is a natural promulgation of land, but under the water itself and through which states have special rights, but also special responsibilities in regard to conservation and exploitation. This all culminated in

1982 in the United Nations Convention on the Law of the Sea. This major multilateral convention sought to regulate, comprehensively, all the different maritime regimes and included innovative provisions in sections, both on the protection of the marine environment, which hadn't existed before in separate conventions, and on the creation of the international tribunal for the law of the sea. A tribunal based in Hamburg, through which any dispute relating to the law of the sea could be taken by a state. And that tribunal has been complementary to the work of other tribunals and has built up an impressive record in implementing and interpreting various provisions of the Convention.

There are basic principles of international law that come into play within the law of the sea. We see both these multilateral conventions, but also the existence of centuries of customary practice, centuries of practice that it was not always systematised, and that continues to exist in parallel, in complementary, to the various conventions in existence. In addition, we see this space called the high seas: this *res communis*, this property of everyone for the common benefit of all humanity. This is a concept that's been transposed also into outer space and to Antarctica, the only continent on Earth that has been reserved from territorial claims of states, and where states have agreed to manage in common. And these are concepts that are borne from the original concept of the high seas borne to all.

But obviously, there are issues of common concern that are insufficiently regulated through the regime that we have. In particular, there's the management of sustainable resources, such as fisheries. There are problems relating to marine pollution and who is responsible for clean-up, for prevention, how states can cooperate in protecting. There are issues relating to the movement of human beings, to the movement of migrants and refugees in particular, and what rights do they have and what obligations fall on states in order to minimise human suffering as they use the sea as a means of transport.

And finally, the law of the sea does not fully resolve all the outstanding maritime boundary disputes, especially those resulting from decolonization, and so this is a vibrant area that serves as a microcosm for the development of public international law as a whole, and the interaction of very many regimes from economic law, to human rights and refugee law, and even to basic questions and state sovereignty, and the application of jurisdiction.

Thank you.