

Concluding Remarks

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‘There is no escaping the world when human life is envisioned as a geological force in and of itself.’¹ This is not a quote from *Panic in the Year Zero!* but what Grove and Chandler scathingly observed talking about the Anthropocene. The consequences of this human-dominated epoch, however, may turn out to be not so different from those suffered by the Baldwin family in the famous ‘60s cult movie, except for the threat of a nuclear catastrophe, which, still and all, the recent invasion of Ukraine brings back to the scene.

Let’s be clear: as humans, being in the driving seat is not necessarily a misfortune, so long as we are not driving the truck (‘our planet’) off the cliff. Is this what’s happening right now? Many would see in the ongoing climate crisis the sign of this looming tragedy. Still, the overexploitation of marine living resources has been warning us for centuries about the

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1. Kevin Grove, David Chandler, ‘Introduction: Resilience and the Anthropocene: The Stake of “Renaturalising” politics’ (2017) *Resilience*, Vol.5, No.2, 79-91, 81.

risks of anthropocentrism and the resultant planetary pressures, such as biodiversity losses, economic dislocation, social imbalances, and food insecurity. In 1997, the international community even found a name for this phenomenon: illegal, unreported, and unregulated (IUU) fishing. A modern three-headed Cerberus plundering the world's oceans and seas of its marine life and ecosystems and costing the global economy up to \$23 billion annually.² The result? According to the Food and Agriculture Organization of the United Nations, one-third of the world's marine fishery stocks fished at unsustainable levels (25% more than 50 years ago),³ many of which are very close to collapse, together with the lives of the millions of people who depend on them, either directly or indirectly.

Fortunately, this is not the end of the story (yet). Scholars have noted that rebuilding global fisheries would actually take no more than 12 years, with an estimated net gain of \$600 to 1,400 billion over fifty years after rebuilding.⁴ These numbers are echoed by a publication study prepared by the International Union for Conservation of Nature in 2015.⁵ Inverting the trend would, nonetheless, require strong political will, a fitter-for-purpose legislative framework, and a better understanding of the environmental, human rights, socio-economic, and security implications of fishing and fishing related activities regulation under international law.

It is against this backdrop that we have decided to focus this year's publication on a critical reflection of the changing role and impact of

2. Food and Agriculture Organization, 'Report of the Expert Workshop to Estimate the Magnitude of Illegal, Unreported, and Unregulated Fishing Globally' (2015) Rome, 2-4 February 2015. Available at <<https://www.fao.org/3/i5028e/i5028e.pdf>> accessed on 13 February 2023.

3. Food and Agriculture Organization of the United Nations (UNFAO), *The State of World Fisheries and Aquaculture 2022: Towards Blue Transformation* (FAO, 2022), 46-47.

4. Ussif Rashid Sumaila (et al.), 'Benefits of Rebuilding Global Marine Fisheries Outweigh Costs' (2012) PLoS ONE 7(7): e40542, 1-12, 2-3.

5. Ana Nieto (et al.), *European Red List of Marine Fishes* (European Union, 2015), 11.

fisheries in the Anthropocene era. The selection of works included in the second volume of the Yearbook on the Law of the Sea strives to analyse and describe this process, focusing on three intertwined concepts that are central to contemporary fishing narratives from an international law perspective: IUU fishing, human security, and sustainability. As spelled out in the report of the UN Secretary-General on Oceans and the Law of the Sea (A/63/63),⁶ overfishing is a direct cause of human insecurity, and both overfishing, and insecurity do not allow meeting 'the needs of the present without compromising the ability of future generations to meet their own needs' (sustainability).⁷

While these three concepts have been prominent in academic discussions, by focusing on the Anthropocene era this volume analyses the necessity to revisit their relation, ultimately demanding new and innovative legal solutions that could contribute rebuilding global fisheries.

In his work, Chin-Chia Tien outlines the human-fish nexus in our zeitgeist and identifies some promising legal approaches to foster sustainability, such as the Central Arctic Ocean Fisheries Agreement (CAOFA). The centrality of this legal instrument is also part of the analysis of Bürkert, who recognises in the CAOFA's implementation a paradigm of the key role played by science in ensuring socio-ecological resilience and reducing the gap between flexibility and stability in the application of law. This aspect is also addressed by Santos and Graciola, who see in scientific knowledge, technical development, and the allocation of adequate human resources for fisheries management a way to effectively implement international rules at a domestic level and achieve sustainability. While

6. UN General Assembly, Sixty-Third Session, Item 73(a), Oceans and the Law of the Sea, Report of the Secretary General (A/63/63), 10 March 2008, ¶39, 15.

7. Report of the World Commission on Environment and Development: Our Common Future (Brundtland Report), 1987, ¶27, 16. Available at <<http://www.un-documents.net/our-common-future.pdf>> accessed 31 December 2022.

acknowledging the key role that science and the adequate use of human resources for fisheries management can play, the piece by Scovazzi reminds us that any new legal solution shall be balanced against the needs and regional interests of coastal States.

The identification of legal approaches to foster sustainability does not necessarily require the adoption or implementation of new regulatory frameworks. Another option to foster sustainability through international law is to reconceptualise fisheries in a contemporary setting. This entails questioning the traditional legal understanding of fisheries to mitigate the negative effects of unconventional threats to human security, including those resulting from disordered legal pluralism, as described by Rosello. A similar approach aimed at challenging the current interpretative foundation is ‘to broaden the normative lens’ through which international fisheries law is considered and consequently redefine the fundamentals of those ‘driving forces’ fuelling fishery conflicts and human insecurity, as examined by Fawks, Nakamura, and Lennan. This supplements Longo’s efforts to rethink the notion of illegal fishing in view of its social and human rights implications.

Finally, with the goal of rethinking the regulatory framework for fisheries, advisory opinions could also play a significant role. As Judge Cabello observed, the 2015 Advisory Opinion of the International Tribunal for the Law of the Sea (ITLOS) on IUU fishing provides a good example in that respect.⁸ Such examples do not exist in isolation. Recently, the Commission on Small Island States on Climate Change and International Law to the ITLOS requested an advisory opinion to the Tribunal,⁹

8. Request for an Advisory Opinion Submitted by the Sub-Regional Fisheries Commission (SRFC), Advisory Opinion of 2 April 2015, ITLOS Reports 2015.

9. Request for an Advisory Opinion submitted by the Commission on Small Island States on Climate Change and International Law, Order of 16 December 2022, ITLOS Reports 2022-2023 (to be published).

to examine the implications of human-induced climate change for UNCLOS parties against the backdrop of obligations to protect and preserve the marine environment – including the conservation of marine living resources.¹⁰

We trust that this volume will be of use to academics and practitioners to critically reflect on the viable options towards a future that would guarantee intergenerational equity and sustainability while transforming the narratives of anthropogenic pressures from detrimental to beneficial.

10. Southern Bluefin Tuna case (New Zealand v. Japan; Australia v. Japan), Order of 27 August 1999, Provisional Measures, ITLOS Case No 3, (1999) 38 ILM 1624, ICGJ 337 (ITLOS 1999), ITLOS Reports 1999, para 70, 29.