Second Annual International Workshop on Human Rights and the Law of the Sea

IMO International Maritime Law Institute
Stockton Center for International Law, U.S. Naval War College

Valletta, Malta
4-5 April 2019

**Purpose:** To generate a stronger and shared understanding of human rights and the law of the sea; develop the rule of law and respect for human rights in the maritime domain and strengthen collaboration between the Stockton Center and IMO IMLI and affiliated scholars and practitioners.

**Workshop Theme: “Human Rights and Law of the Sea.”** The workshop focuses on legal aspects of the most pressing issues in human rights and law of the sea, including responses to irregular maritime migration, maritime piracy, IUU fishing, and standards for the use of force at sea, and legal remedies. These issues arise during maritime law enforcement operations, regulation of international shipping and fishing fleets, and efforts to the plight of seafarers and refugees in maritime migration.

**Format:** Unlike a conference, this workshop is designed to facilitate interaction and engagement and to generate a deeper discussion. We will present the foundations of international law and policy and the practical realities at sea from a variety of perspectives, and then break into groups to develop courses of action for scenarios based on irregular maritime migration, maritime industry and shipping responsibilities, maritime corruption and more broadly, transnational crime at sea.

**Outcome:** Selected participants may be invited to submit an article for peer-review publication in *International Law Studies*, the oldest U.S. journal of international law.

**Participation:** Participation is by invitation only and includes students, scholars and practitioners from or sponsored by the NWC SCIL and IMO IMLI and partner institutions and organizations.
Agenda

Courts are increasingly considering questions of human rights at sea, which is producing a confluence of international law of the sea and international human rights law. These issues are arising during law enforcement operations, regulation of international shipping and fishing fleets, and the refugee and maritime migration.

This workshop considers these overlapping areas of maritime operations and international law within the context of economic and social issues, education, civil and political rights, the marine environment, access to fisheries and armed conflict. Judicial decisions in Europe, Australia, the United States and Africa underscore this new period of maritime jurisprudence. The UN Convention on the Law of the Sea contains numerous ambiguities and seams, so addressing these questions requires reference to related treaties, state practice and guidelines, and perhaps development of new regimes and approaches.

The workshop will develop these issues and contribute to a broader understanding of the complexities of international law of the sea and operational maritime realities. The workshop begins with introductory presentations by some of the world’s leading experts on the most important bodies of law, and then consider gaps and seams in the law through the medium of small group syndicates. The syndicates will develop solutions to the problems posed by the instructors and present them to the workshop.

4 April 2019 (Thursday)

Welcoming remarks

0900-0930  Prof. Dr. David Attard, IMO International Maritime Law Institute
           Prof. Dr. James Kraska, Stockton Center for International Law, Naval War College
           Prof. Norman Martinez, IMO International Maritime Law Institute

Session 1:  Maritime Migration

Readings:

(a) Convention for the Protection of Human Rights and Fundamental Freedoms, 1950
(c) International Convention on Maritime Search and Rescue, 1979
(d) International Convention for the Safety of Life at Sea, 1974 (Provisions on Distress)
(e) Guidelines on the Treatment of Persons Rescued at Sea, 20 May 2004, IMO Res. MSC.167(78)
(f) Principles relating to Administrative Procedures for Disembarking Persons Rescued at Sea, 22 January 2009, IMO Doc. FAL.3/Circ.194
(g) Rescue at Sea, A Guide to Principles and Practice as Applied to Refugees and Migrants, 2015
(i) Convention Relating to the Status of Refugees 1951, art. 33
(j) Ch. V, Reg. 7, Safety of Life at Sea
0930-1000  Patricia Vella de Fremeaux: Context and Case Study
1000-1100  Syndicates meet to consider the questions and develop courses of action

**Session 2: Reception of Foreign Unaccompanied Minors When Migrating by Sea**

1100-1130  Dr. Ángeles Jiménez García-Carriazo, IMO IMLI

**Lunch**

1130-1300  Lunch (on your own)

**Session 3: Human Rights at Sea and Private Industry**

Readings:

(a) United Nations Convention on the Law of the Sea, art. 311
(c) IMO Res. A.912(22), Flag State self-assessment of performance
(d) IMO Res A.914(22), Flag State implementation

1300-1330  David Hammond: Context and Case Study
1330-1430  Syndicates meet to consider the questions and develop courses of action

**Session 4: The Cape Town Agreement of 2012 and its relevance to the Safety of Fishing Vessels**

1430-1500  Ms. Elda Kazara Belja

**Session 5: Work in Fishing Convention 2007**

1500-1530  Ms. Sabina Dolic
1530  Adjourn day 1
5 April (Friday)

**Session 6: Maritime Law Enforcement**

Readings:

(a) United Nations Convention on the Law of the Sea, arts. 101, 103 and 105
(b) International Covenant on Civil and Political Rights, arts. 2(1), 6(1), 7 and 9
(c) European Convention on Human Rights, arts. 1, 2, 3 and 5
(d) European Court of Human Rights, Press Release: Suspects of Piracy against French Vessels, apprehended in Somalia by the French Authorities, Should Have Been Brought Before a Legal Authority as Soon as They Arrived in France, 4 December 2014

0900-0930 Anna Petrig: Context and Case Study

0930-1030 Syndicates meet to consider the questions and develop courses of action

**Session 7: Arrest and Detention of Fishers in South Asia**

1030-1100 Mr. Sanjeet Ruhal

Lunch

1100-1300 Lunch (on your own)

**Session 8: Criminal and Civil Remedies & Access to Justice**

Readings:

(a) Excerpt, Augustine, The City of God, Book IV, Chapter 4 ([426 AD] 2009)
(b) Elena Bernini, Chinese Kidnapping of Vietnamese Fishermen, AMTI, Sept. 14, 2017
(c) United Nations Convention on the Law of the Sea, art. 94
(d) UN A/RES/67/1, Declaration of the High-level Meeting on the Rule of Law, Nov. 30, 2012
(e) Dinah L. Shelton, Remedies in International Human Rights Law, Chapter 1 (2d. ed. 2005)

(g) Robin Churchill, Coastal Fisheries, Max Planck Encyclopedia of Public International Law (2018)

1300-1330  Elena Bernini: Context and Case Study

1330-1430  Syndicates meet to consider the questions and develop courses of action

**Session 9: Lessons Learned Roundtable**

1430-1530  Moderator: James Kraska

Prof. David Attard, Prof. Norman Martinez, Patricia Vella de Fremeaux, Prof. Anna Petrig, Dr. Ángeles Jiménez García-Carriazo, Alfons Vanheusden, David Hammond, Elena Bernini, Elda Kazara Belja, Sabina Dolic, Sanjeet Ruhal, and Brian Wilson

**Closing Remarks**

1530: Prof. Dr. David Attard

Prof. Dr. James Kraska

Prof. Norman Martinez

Adjourn day 2
Prof. Dr. David J. Attard

Prof. Dr. David Attard is Vice President of the International Tribunal for the Law of the Sea and Director of the IMO International Maritime Law Institute. He was educated with a Diploma of Notary Public, University of Malta (1977); Doctor of Laws (LL.D.), University of Malta (1978); Doctor of Philosophy (D.Phil.), University of Oxford (1986). He has served as Advocate, Malta; Barrister-at-Law, Middle Temple, London. His professional experience included Teaching law of the sea (1987–present); Associate Professor, Department of Public Law, University of Malta (1986); Full and Founding Professor of Public International Law, University of Malta (1988–2011); UNEP Chair of Environmental Diplomacy, Mediterranean Academy of Diplomatic Studies (1990); Director, IMO International Maritime Law Institute, Malta (1992–present); Visiting Professor of International Law, University of Rome “Tor Vergata” (1994); Senior Visiting Lecturer, College of Foreign Affairs, Beijing (1995); Visiting Senior Research Fellow, University of Oxford (1998—1999); Fulbright Scholar, Yale Law School (2000); Visiting Professor, University Panthéon-Sorbonne (Paris I) (2007).

Public Office: Retained by numerous Governments to advise on international legal matters, in particular the international law regulating exploration and exploitation of marine resources; led numerous teams in negotiations to delimit single maritime boundaries, continental shelf/exclusive economic zone boundaries and fishing zone boundaries. Member of and Consultant to the Maltese Delegation to the International Maritime Organization General Assembly (1986); Head of the Maltese Delegation to the UN Preparatory Commission on Deep Sea Mining and the Law of the Sea Tribunal, New York (1987); Special Envoy of the Minister of Foreign Affairs to the UN Secretary-General, New York (1987); Adviser to the Maltese Delegation to the 43rd Session of the UN General Assembly, New York (1988); Representative of Malta at the 2nd Committee (Economic) of the UN General Assembly, New York (1988); Principal Delegate to the UNEP/WMO Intergovernmental Panel on Climate Change, Geneva (1988); Personal Representative of the Maltese Prime Minister to the Heads of States and Governments Meeting on the Global Atmosphere, The Hague (1989); Head of the Maltese Delegation to the UNEP Governing Council, Nairobi (1989); Member of Maltese Delegation to the IMO Diplomatic Conference on the Oil Pollution Preparedness and Response Convention, London (1990); Adviser to the President of the UN General Assembly, New York (1990); Adviser to the Maltese Delegation to the CSCE meeting on the Peaceful Settlement of Disputes, Valletta (1991); Head of the Maltese Delegation to the UN Intergovernmental Negotiating Committee on the Framework Convention on Climate Change, Washington, D.C./Geneva/ Nairobi (1991); Chancellor of the University of Malta (2011).

Member: Board of Governors, IMO International Maritime Law Institute, Malta (1989); UNEP/WMO Working Group on the Drafting of an International Convention on Climate, Geneva (1989); Council of Europe Group of Experts on Public International Law, Strasbourg (1989); World Academy of Art and Science, Sweden (1990); Board of Advisers, Climate Institute, Washington, D.C. (1990); Chairman, UNITAR Working Group on
Environmental Diplomacy, Geneva (1991); Steering Committee for Human Rights, Strasbourg (2000); Titular Member, Comité maritime international (2001); Honorary Member, Comité maritime international, Slovenia (2002); Member and Member of Specialized Panel of Arbitrators, Permanent Court of Arbitration, The Hague (2004–present); European Union Expert Group on Maritime Policy, Brussels (2005).

Publications: Numerous articles on international law and in particular law of the sea. The Exclusive Economic Zone in International Law, Clarendon Press, University of Oxford (awarded the Paul Guggenheim (International Law) Prize, Geneva, 1987); General Editor, IMLI Manual on International Maritime Law (3 volumes), Oxford University Press; General Editor and Academic Coordinator of the IMLI Treatise on Global Ocean Governance (3 Volumes) to be published in Summer 2018.

Distinctions: Lega Navale “Dioscuri Prize”, Catania, Italy (1998); Chevalier de l'Ordre National de la Légion d'Honneur, Paris (2004); Official, National Order of Merit, Malta (2007); Encomienda de Número de la Orden de Isabel la Católica, Spain (2009); Order of Merit, Italian Republic (2010).

Prof. Dr. James Kraska

James Kraska is Chairman and Charles H. Stockton Professor of International Maritime Law in the Stockton Center for International Law at the U.S. Naval War College. He is also a Distinguished Fellow at the Law of the Sea Institute, University of California Berkeley School of Law and Senior Fellow at the Center for Oceans Law and Policy at the University of Virginia School of Law. He has served as Visiting Professor of Law and John Harvey Gregory Lecturer on World Organization at Harvard Law School, Mary Derrickson McCurdy Visiting Scholar at the Nicholas School of the Environment at Duke University and an Office of Naval Research Fellow in Naval Oceanography and National Security at the Marine Policy Center, Woods Hole Oceanographic Institution. He has published nine books and numerous articles and is a General Editor of International Law Studies, published since 1895 and the oldest journal of international law in the United States and Editor-in-Chief of the multi-volume treatise, Benedict on Admiralty: International Maritime Law. He is a Permanent Member of the Council on Foreign Relations.

Faculty:

Dr. Felicity Attard

Dr. Felicity Attard - Bio-note

Dr. Felicity Attard obtained her bachelor and doctor of laws degrees at the University of Malta. Her doctorate thesis dealt with the contribution of IMO to the international law regulating maritime security. She then specialised in international maritime law at IMLI, where she obtained an LL.M with distinction. Her thesis examined maritime security under the 1982 United Nations Convention on the Law of the Sea. She continued her studies at Queen Mary, University of London, where she was awarded a first class masters degree for
her research on the smuggling of persons under the high seas regime. In 2017, she received a M.Jur. in International Maritime Law from IMLI for her research on the duty to render assistance at sea under international law. She has also participated in the International Foundation for the Law of the Sea. Dr. Attard is an academic in the Faculty of Laws at the University of Malta, where she lectures in international law and the law of the sea. She has been a teaching assistant at Queen Mary, University of London and has lectured on maritime law at the Centre for Commercial Law Studies, University of London and at the International Ocean Institute. Dr. Attard has presented papers at a number of international conferences (United Kingdom, Malta, Italy, Cyprus, and Georgia) and has published articles in learned journals including Benedict’s Maritime Bulletin and the Journal of Maritime Law and Commerce. She is currently undertaking research on the obligations of the shipmaster when rendering assistance to persons in distress at sea.

Elda Kazara-Belja

Elda Kazara-Belja read law at University of Athens, Greece and obtained her Master’s Degree in International Maritime Law (with distinction) at IMLI in 2008. Prior to joining IMLI as Lecturer in International Maritime Law, Ms. Kazara-Belja was employed as a Senior Legal Officer in the Maritime Transport Department of the Albanian Ministry of Public Works, Transport and Telecommunication. In this position she dealt mainly with the drafting of national maritime legislation implementing various international maritime conventions, including the provisions of the ISPS Code. Ms. Kazara-Belja joined IMLI in September 2008 and over the last decade has lectured in many areas including Law of the Sea, Law of Maritime Safety, Maritime Security, and Maritime Legislation Drafting. She is a visiting lecturer at University of Malta and the International Ocean Institute and has participated in several international conferences and workshops. Ms. Kazara-Belja joined the International Maritime Organization’s Roster of Experts in 2012 and the FAO’s Roster of Experts in 2018.

Elena Bernini

Elena Bernini is the Founder and CEO of Oxford Omnia International, a nonprofit organization that focuses on international development, human rights, and international law. Oxford Omnia is the world’s first fiscal sponsor and accelerator of exclusively youth-led projects. In her research, Bernini covers issues of arbitrary detention, hostage taking, piracy, head of state immunity, exclusive economic zones, extraterritoriality, and the state’s duty to protect its own fishermen and render due process to the fishermen of other nations. Her research builds on 2016 fieldwork she did in the Vietnamese fishing village of Ly Son Island, a disputed island 15 miles off Vietnam’s Central coast in the South China Sea. Bernini graduated with an M.Phil. in Development Studies from the University of Oxford, and a B.A. in Political Science and International Relations, summa cum laude, from the University of Pavia, Italy. Bernini served as a European University College Association Ambassador, including duties in Brussels and London. Her academic work has been featured by the BBC, CSIS, and at the China Centre of Oxford University. Oxford Omnia helps non-profit projects grow, provides administrative and financial assistance, and recruits volunteers for charities initiated by people aged 18-35. It currently oversees three projects: the Matteo Bertero English school in Vietnam, the NutriPeople project in Zambia, and the peer-
reviewed Civil Society Review in the UK.

Ángeles Jiménez García-Carriazo

Ángeles Jiménez is the Nippon Foundation Lecturer in International Maritime Law at IMO International Maritime Law Institute. Her research interests focus on the law of the sea, primarily, on the interaction between maritime zones and delimitation. She has written several articles and presented papers in conferences. Her Ph.D. thesis entitled ‘The Extension of the Continental Shelf within the Framework of UNCLOS’ was published last year in Spanish. She was awarded a degree in Law and International Relations by Universidad Pontificia Comillas, Madrid (Spain). She holds a Ph.D. form the University of Jaen (Spain) and an LL.M. in European Law from the Université Libre de Bruxelles (Belgium). She has conducted research at the Centre of Maritime and Oceanic Law of the University of Nantes (France) and at the National Taiwan Ocean University (Taiwan). She is admitted to the Madrid Bar Association and has worked as a European Law practitioner in Spain and Belgium, respectively.

Sabina Dolić

Sabina Dolić was awarded Degree in Law by Faculty of Law, University of Ljubljana (Slovenia). She obtained a Master of Laws (LL.M.) Degree with Distinction from the IMO International Maritime Law Institute (IMLI) and was awarded the Comité Maritime International (CMI) Prize for Best Overall Performance Student. Before her studies at IMLI she was involved in several marine environmental projects dealing with the implementation of international conventions. In relation to that, she participated at regional conferences and among other attended the Summer Academy Training course on “Promoting Ocean Governance and Peaceful Settlement of Disputes” at the International Tribunal for Law of the Sea, Germany (2016). Upon her return to Slovenia, Ms. Dolić continued with her work as a Senior Legal Expert for Human Rights Ombudsman of the Republic of Slovenia (RS), supervising the conduct of the Government and the Judiciary of the Republic of Slovenia. In January 2019, she joined IMLI as a Lecturer in International Maritime Law with particular focus on issues of maritime labour law and marine environmental law.

Prof. Dr. Patricia Vella de Fremeaux

Patricia Vella de Fremeaux (Mallia) is Associate Professor and Head of the Department of International Law at the University of Malta. She graduated in Law from the University of Malta and Bachelor of Civil Law from Oxford University. She obtained her PhD from IMO International Law Institute, focusing on contemporary threats to maritime security. In 2012 she was awarded the Elisabeth Mann Borghese Fellowship through which she carried out post-doctoral research in the area of the Common Heritage of Mankind. Her research interests focus on issues related to the law of the sea, primarily, on the analysis of contemporary maritime threats and the human element of maritime security. She has contributed to a number of books on the subjects, published both in Malta and abroad, written several articles and presented on this topic. Her book ‘Migrant Smuggling by Sea: Combating a Current Threat to Maritime Security through the Creation of a Cooperative Framework’ was
published by Martinus Nijhoff in 2010.

David Hammond

David Hammond is Founder & Trustee of the independent UK-based charity ‘Human Rights at Sea’ based on the principle that ‘Human rights apply at sea, as equally as they do on land’. The platform was established on 3 April 2014 and became a charity in May 2015. A non-practising English Barrister, David is a former military seafarer and retired Royal Marines’ Officer. He has practical maritime operator (bridge and rotary aviation), front-line operational, and related legal-experience as the first in-house Counsel in the British Royal Marines, where he undertook defence, prosecution and operational law advisory roles for HM Armed Forces, including as the SO1 maritime lawyer to the UK Chief of Joint Operations. He has authored and developed numerous human rights related in-house publications through the charity and is a leading advocate for the on-going international development and drive for the explicit codification of the concept of ‘Human Rights at Sea’ throughout the maritime environment, and its inclusion in applicable future national and international policy and legislation.

Prof. Dr. Anna Petrig

Anna Petrig is a Professor of International Law and Public Law at the University of Basel (Switzerland). She is an expert on the law of the sea and widely published in the field of maritime security, notably on piracy, human rights at sea and private maritime security companies (see, eg, Anna Petrig, Human Rights and Law Enforcement at Sea, Brill-Nijhoff 2014; Robin Geiss & Anna Petrig, Piracy and Armed Robbery at Sea, Oxford University Press 2011). Anna is Co-Editor-in-Chief of the Maritime Safety and Security Law Journal and regularly advises governmental and non-governmental bodies on maritime security-related matters. She is a member of the Scientific Board of the independent charity ‘Human Rights at Sea’. Anna earned her law degree from the University of Freiburg (Switzerland). She holds a PhD from the University of Basel and an LL.M. from Harvard Law School (USA) where she studied as a Fulbright Scholar and focused on international human rights law. She is a member of the Bar of the Canton of Berne (Switzerland) and the New York State Bar (USA). Her broad legal experience includes work in private practice, the courts and the Legal Division of the International Committee of the Red Cross in Geneva.

Sanjeet Ruhal

Mr. Sanjeet Ruhal is The Nippon Foundation Lecturer on International Maritime Security Law at The IMO-International Maritime Law Institute, Malta. Before joining IMLI, Mr. Ruhal served at Symbiosis Law School, Pune, and at Amity Law School, Noida (India). He was a visiting lecturer at the Indian Law Institute, New Delhi, for the year 2011-2012. Mr. Ruhal has completed his Doctor of Philosophy (Ph.D.) research and submitted his thesis, titled 'International Maritime Security Law with Special Reference to India – A Critical Appraisal’ to the Faculty of Law, University of Delhi. He obtained a Bachelor of Laws (LL.B.) Degree from the DAV (PG) College, Dehradun and a Master of Laws (LL.M.) Degree from The
Indian Law Institute, New Delhi. Mr. Ruhal obtained a Diploma in Ocean Law and Policy from the Rhodes Academy, Greece in 2016. His areas of interest include the Maritime Security and National Security Law. He is the author of a number of articles and has delivered presentations at numerous conferences.

Alfons Vanheusden

Alfons Vanheusden is the Director of the Legal Advisory Division of the Belgian Ministry of Defence, as well as a Navy Reserve Officer. He also serves as the Assistant Secretary-General of the International Society for Military Law and the Law of War. Furthermore, he is one of the co-editors of the ‘Leuven Manual on the International Law Applicable to Peace Operations’ (Cambridge University Press). Earlier in his career, Mr. Vanheusden served as Multilateral Affairs & Human Rights Advisor to the Minister of Justice; as Legal and Policy Advisor to the Minister of Defence; as Legal Advisor at the MOD; and as attorney-at-law. He saw operational service in Lebanon (2007) and Afghanistan (2005). Mr. Vanheusden taught international law in Brussels from 2004 to 2012, first at the Royal Higher Institute for Defence and later at the Royal Military Academy. He studied law at K.U. Leuven and at University College Galway. Furthermore, he is a graduate of the National Security Law Institute (University of Virgina), and of the ‘Hautes Etudes de Sécurité et Défense’ (RHID and Egmont Institute).

Brian Wilson

Brian Wilson is the Deputy Director of the Global Maritime Operational Threat Response Coordination Center, the U.S. Government's office responsible for coordinating the interagency response to maritime threats involving U.S. and U.S. interests, and a visiting professor at the U.S. Naval Academy and a nonresident fellow at the Stockton Center for International Law at the U.S. Naval War College. Brian, a retired U.S. Navy judge advocate, has led whole-of-government seminars and table-top exercises in more than ten countries and has written numerous articles on maritime security, including Human Rights and Maritime Law Enforcement in the Stanford Journal of International Law. He has also served as the academic/legal advisor for several NATO Center of Excellence-sponsored maritime seminars. In 2018, Brian was a Fulbright Specialist Scholar at Tbilisi State University Law School, where he was a visiting professor for a course on maritime security and the Black Sea.