

OCEAN

YEARBOOK

28



Edited by

Aldo Chircop, Scott Coffen-Smout, and Moira L. McConnell



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OCEAN YEARBOOK 28



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Lewis M. Alexander (1921–2013): In Memoriam

Dr. Lewis (Lew) M. Alexander was a scholar and a gentleman in the truest sense of those words. Lew passed away at age 91 on May 9, 2013 in his beloved Peace Dale, Rhode Island. He was born in Summit, New Jersey, received his B.A. at Middlebury College, Vermont and then went on to earn a Ph.D. at Clark University, Massachusetts in 1941. Lew then enlisted in the army and served in the air force during World War II achieving the rank of master sergeant. Following the war, Lew began his academic career and ended up where he was most well-known and loved, as professor of geography and marine affairs at the University of Rhode Island (URI).

Dr. Alexander contributed greatly to the field of political and marine geography. My first encounter with Dr. Alexander was by way of his textbook, *World Political Patterns*, which I used in my undergraduate political geography class. It was this text book that led me to URI to study under him for my masters in geography. In addition to mentoring geography students like me, Lew also founded and led the Masters of Marine Affairs Program at URI. For my two years at URI in the early 1970s, with Lew as my mentor, I developed an intense interest in this relatively new field of the law of the sea, a field in which Lew had already created a name for himself.

In the 1960s, Lew wrote several key geography books and monographs that were used extensively in college classrooms. He added to the knowledge of the law of the sea during the 1960s with articles like his "Geography and the Law of the Sea," published in 1968 in the *Annals of the American Association of Geographers*. He studied and published on marine ecosystems and on regional approaches to marine management well before those concepts were in vogue among the world's scientists.

In 1967, he was appointed deputy director of the Congressionally-established Commission on Marine Sciences, Engineering and Resources (the "Stratton Commission"). Its mandate was to assess the interests of the United States in both the coastal zone and offshore areas and whose report, "Our Nation and the Sea," set the framework for U.S. ocean policy for decades to come. A direct result of the Commission's findings was the creation of the National Oceanic and Atmospheric Administration (NOAA).

At this same time Dr. Alexander co-founded, with Dr. John Knauss (dean of the School of Oceanography at URI), the Law of the Sea Institute (LSI) at URI. The creation of this Institute reflects Lew's foresight and leadership in the law of the sea. During my graduate studies under Lew at URI I was fortunate to contribute to the day-to-day running of the Institute. His personality just

bubbled when he was working on law of the sea issues, either in the classroom, in his research and writing or at his annual LSI conferences.

In the early 1970s, the annual LSI conference attracted the best and brightest law of the sea experts in the international community. Following a day of presentations Lew would host the attendees in his home for an evening of camaraderie where I was assigned the task of slicing the meats in his kitchen. I believe the friendships made among the international guests in Lew's home served the U.S. well in later years during the Law of the Sea negotiations. These informal LSI conferences served as preparatory meetings for the United Nations Conference on the Law of the Sea, which first convened in 1974.

Alexander, along with Dr. Robert Hodgson, who from the late 1960s to his untimely death in 1979 as The Geographer of the U.S. Department of State, was the eminent U.S. technical expert on the law of the sea. Both Lew and Bob contributed greatly to the U.S. efforts in the Law of the Sea negotiations in the 1970s. Upon Dr. Hodgson's death Lew was asked to come to Washington to serve as The Geographer and director of the Office of The Geographer at the State Department. Again, our professional paths crossed as I had been in that office since 1975. During Lew's brief tenure of about four years at the State Department he assisted in the U.S.-Canada Gulf of Maine International Court of Justice Case and participated in several rounds of the U.S.-Soviet maritime boundary negotiations. Having Lew's knowledge and enthusiastic personality at the helm of the office, even if so briefly, provided a nice continuity in my professional career.

But, URI beckoned Lew home where he finished his illustrative career. Lew leaves his beloved wife Jacqueline to whom he was married for 63 years; he is also survived by two children, Louise Anne Chebert of Lake Stevens, Washington and Lance Stryker Alexander of Wakefield, Rhode Island; four grandchildren; a sister and a half-sister. And, he is remembered by hundreds of former budding geographers like me, who are deeply indebted to him for instilling in us the love of learning about the world, both dry and wet.

Dr. Robert W. Smith
Geographic Consultant
Oakland, Maryland, USA

Patricia W. Birnie (1926–2013): In Memoriam†

Patricia Birnie began her academic career in the early 1970s, at a time when great changes were afoot in international law. The Third United Nations Conference on Law of the Sea was busy rewriting the law of the sea. The United Nations Conference on the Human Environment, held at Stockholm in 1972, set in train the development of international environmental law. These two great law-making processes inevitably interacted, since many marine problems – oil pollution, overfishing, and conservation of endangered species – are also environmental problems. Pat made the law of the sea and international environmental law her life's work and this brought her to prominence at a time when the latter subject was still in its infancy.

Patricia Winifred Higham (as she then was) grew up in Lytham St Annes, Lancashire, but her father's business folded in the great crash of 1929, and she was brought up by an aunt and uncle. They made sure she was well-educated at Queen Mary School, Lytham St Annes and then at St Hilda's College, Oxford, where she studied Jurisprudence and amongst her other achievements took a cricket blue. She was called to the English Bar in 1952, at a time when women barristers were still rarities, and fewer still went into practice. She was a born academic, however, though it took some time to realise this. Her first job was in the civil service, managing naval estimates at the Treasury, where she met her Scottish husband, Alexander (Sandy) Birnie. They were married in 1951 at the "Kirk of the Crown of Scotland" in Covent Garden, the longest-established Scottish Presbyterian church south of the border, dating from 1711. He took her and their three young children back to Scotland in 1963, and here Pat eventually established a new career teaching international law part-time at Aberdeen and then in 1973 as a full-time lecturer at Edinburgh University. For an English lawyer, and a woman, the Edinburgh Law Faculty at that time must have been an intimidating place in which to juggle a family and the demands of academic life. Nevertheless, it was here that she wrote her Ph.D. on the international law of whaling, becoming the world authority on this controversial subject, and attending meetings of the International Whaling Commission as a legal expert on behalf of various NGOs or as part of the UK delegation. Her thesis was published as *The International Regulation of Whaling* in 1985.

Pat was persuaded by Professor Rosalyn Higgins to join the Law Department at the London School of Economics (LSE) in 1983. Here she published

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profusely, taught law of the sea to graduate students, and developed a new LL.M. course on international environmental law. This ground-breaking course was soon drawing outstanding students from all over the world, many now prominent in governments and international organizations. By the time she left LSE she was one of the world's foremost academic international environmental lawyers. Above all it was her contribution to the writing of *International Law and the Environment*, first published by Oxford University Press in 1992, that will give her an enduring reputation among students and practitioners.

It was in London, at a lecture she gave on international environmental law, that I first met Pat. Her talk was characteristic – slightly breathless, difficult to cram into the allotted hour, and full of new developments in a subject that still struggled for acceptance among the more conservative professors. But Pat was never deterred by conservatism. She simply sailed calmly round the obstacles, her Treasury training coming in most useful. No doubt this was one of the reasons why she was head-hunted from LSE in 1989 by the International Maritime Organisation to become the first director of the International Maritime Law Institute (IMLI) in Malta. Pat thoroughly enjoyed the challenge of building IMLI into a successful training academy for young maritime lawyers from many jurisdictions. It was typical of her that, after she retired in 1993, Pat spent several weeks driving her car slowly from Valetta, through Italy, over the Alps, and back to Buckinghamshire and her cottage in Brill.

Pat led by example, and was unstinting in her support and encouragement for those she saw as the next generation of scholars and practitioners. Her contribution to developing the now well-established corpus of international environmental law makes her one of the more visionary international lawyers of our time, well ahead of others in seeing what was needed. She gave freely of her expertise in support of various organizations dealing with law of the sea and protection of the marine environment, including the Advisory Committee on Pollution of the Sea (ACOPS), whose legal committee she chaired, and the Greenwich Forum, an independent body that promotes public awareness of Britain's dependence on the sea and organizes conferences on maritime affairs. Pat was chair of this body for many years. But she was not starry-eyed about her role. Here was a shrewd and hard-headed lawyer, who knew well that to do good requires professionalism as much as it requires idealism, that saying something should be law does not make it so, and that working with BP is as important as working with Greenpeace. And it was always obvious to those around her that if she was going to save the world, she would most definitely enjoy herself while doing so. No opportunity for a new outdoor experience was ever turned down, and even in her seventies she took her first flights in a balloon and a glider. Everyone who knew her had a Pat Birnie story, if not a fund

of them. Each will contain that unique mixture of enthusiasm, imagination, dedication, curiosity and laughter which characterized her. My own favorite is the one about an escaped whale hovering in Turkish territorial waters. The Russians wanted it back in their aquarium. But was it lawful for the Turks to catch it? Would they be violating the Whaling Convention? No, Pat advised, catching a whale alive for an aquarium was not whaling and did not contravene the Convention. But first catch your whale.

She is survived by her son Charles, her daughters Louise and Jessica, and six grandchildren. Her husband Sandy died in 1982.

Patricia Winifred Birnie. Born 17 November 1926. Died, London, 7 February 2013.

Alan Boyle
Professor of Public International Law
University of Edinburgh, Scotland

The International Ocean Institute



Professor Elisabeth Mann Borgese founded the International Ocean Institute (IOI) in 1972 as a scientific, educational, independent, international, non-profit, non-governmental organization headquartered at the University of Malta. The IOI was created to promote education, capacity building, and research as a means to enhance the peaceful and sustainable use and management of ocean and coastal spaces and their resources, as well as the protection and conservation of the marine environment, guided by the principle of the Common Heritage of Mankind.

For more than 40 years the IOI has stood at the forefront of organizations in addressing these issues with the concern of future generations through an interdisciplinary and comprehensive approach. The IOI has also prepared working papers for the Third United Nations Conference on the Law of the Sea (UNCLOS III: 1973–1982), for the Preparatory Commission for the International Seabed Authority, for the International Tribunal for the Law of the Sea (1982–1994), and for the EU coastal management policy (2006), as well as for various governments. It has provided consultants to UNEP, UNDP, the World Bank, the United Nations Industrial Development Organization (UNIDO), EU, UNESCO/IOC, and the Asian-African Legal Consultative Committee (AALCC). It contributed to the formulation of recommendations of the World Summits in Rio de Janeiro (1992) and Johannesburg (2002), the World Forums on oceans, coasts and islands (2003–2009), as well as to the review of the developments in ocean affairs through the United Nations Open-ended Informal Consultative Process. The IOI was awarded the 2006 South-South Partnership for the special contribution to the tsunami recovery efforts. In 2007, the IOI was granted special consultative status within the Economic and Social Council (ECOSOC) at the United Nations as well as the renewal of formal consultative relations between UNESCO and the IOI from 2011 to 2017.

The goals of the IOI are to:

- contribute to the evolving process of ocean governance through its functions and activities;
- monitor the implementation of international conventions and agreements as they relate to the oceans, participate in and contribute to the evolving policy dialogue on the ocean in the United Nations System and other international organizations;
- mobilize the political will to elaborate appropriate maritime laws and regulations, to implement national and regional plans and international agreements on the management and sustainable use of the ocean, coasts and islands through its organs and bodies;
- raise awareness of the peaceful uses of the ocean, its protection and conservation, as well as the sustainable development of its resources, in accordance with the principle of the common heritage of humankind;
- engage in the dissemination of information and transfer of knowledge and experience;
- contribute to the sustainable uses of the ocean as well as to the sustainable development of developing countries and countries in transition, through institution-building and networking at national and regional levels; and
- respond to the needs of developing countries and countries in transition, particularly coastal communities and enhance the role of women by increasing their abilities to develop and manage the ocean and coastal resources sustainably.

The International Ocean Institute achieves its goals through:

- education and training;
- research and analysis;
- organization of conferences and meetings;
- institution-building and partnership;
- promotion and communication; and
- fundraising in support of the activities of the Institute and its network.

The IOI's activities include training projects, information dissemination, conferences, research and publications:

- Training of hundreds of decision-makers and professionals, mainly from developing countries, through short and long duration interdisciplinary courses in ocean and coastal management;

- Ocean governance advocacy within the United Nations system through participation in and contribution to intergovernmental meetings and conferences;
- Development work among coastal communities with the objective of improving their livelihood while restoring and preserving coastal ecology;
- Information dissemination to international organizations and national institutions through the global IOI Network and the IOI web site;
- Organization of the *Pacem in Maribus* as an IOI brand to serve as a forum on the ocean, and national and regional leadership seminars and workshops on critical and innovative issues in ocean governance;
- Research on a variety of ocean-related areas such as international and regional agreements and policies on oceans and the coastal zone; on regional and sub-regional co-operation and on scientific and technological approaches to sustainable management of living and non-living marine resources;
- Education and awareness-creation about ocean resources, marine and coastal environments, and the need to care for them;
- Publication of the *Ocean Yearbook* in collaboration with the Marine & Environmental Law Institute, Schulich School of Law, Dalhousie University, Canada;
- Maturing IOI's web site (www.ioinst.org) and publication of an electronic newsletter *IOInforma* by the IOI HQ. Regional Operational Centres also publish their own newsletters, research papers and reports; and
- Services include advice, consultancy, and information regarding ocean and coastal environments.

The IOI gained worldwide respect and a reputation through its contribution to the codification and implementation of the Law of the Sea Convention, and to the subsequent development of the concept of sustainable development as it applies to the ocean. Furthermore, through the launching of such projects as the coastal and eco-villages projects, dedicated women and youth programmes, training in ocean governance, risk assessment and others, the IOI has contributed positively to the implementation of ocean governance, with a particular focus on developing nations.

The IOI is now developing an international ocean governance and capacity-building education programme, OceanLearn, that will consist of a network of education, training and research centres with expertise in ocean, coastal and marine affairs and governance. The Centres will be joined together in a partnership so as to provide interdisciplinary and comprehensive coverage of the subject areas. The overall objective will be to enhance the abilities of developing

countries to develop and govern their own marine and coastal resources and environment sustainably.

The IOI scope and presence is truly international with 22 Operational Centres and fourteen Focal Points around the globe, with new Focal Points in the development stage. IOI Focal Points will be selected from alumni and appropriate qualified and experienced persons associated with the IOI. IOI Focal Points are not expected to receive any financial support from IOI, but will provide their intellectual contribution to the IOI on a voluntary basis. The IOI network provides a flexible mechanism with a governing and coordinating structure that generates synergism and strategic planning of the network of semiautonomous nodes. This cohesive and comprehensive mechanism is capable of cooperating equally well with other intergovernmental systems and the private sector. The current Operational Centres and their host institutions are:

IOI–Black Sea, National Institute of Marine Geology and Geoecology, Romania; IOI–Canada, Dalhousie University, Canada; IOI–Caspian Sea, Astrakhan State Technical University, Astrakhan, Russia; IOI–China, National Marine Data and Information Service, State Oceanic Administration, P.R. China; IOI–Costa Rica, Universidad Nacional, Costa Rica; IOI–Cuba, Universidad de la Havana, Cuba; IOI–Eastern Africa, Kenya Marine and Fisheries Research Institute, Mombasa, Kenya; IOI–Egypt, National Institute of Oceanography and Fisheries (NIOF), Egypt; IOI–Germany, Centre for Tropical Marine Ecology, Germany; IOI–India, Auroville Centre for Scientific Research, Tamil Nadu, India; IOI–Indonesia, Centre for Marine Studies, University of Indonesia, Indonesia; IOI–Islamic Republic of Iran, Iranian National Institute for Oceanography (INIO), Tehran, Iran; IOI–Japan, Japan Foundation of Sustainable Development, Japan; IOI–Malta, University of Malta, Malta; IOI–Pacific Islands, University of the South Pacific, Suva, Fiji; IOI–Slovenia, Marine Biology Station at the Institute of Biology, Piran, Slovenia; IOI–South Western Atlantic Centre for Marine Studies, Brazil; IOI–Southern Africa, University of Western Cape, South Africa; IOI–Thailand, Foundation of National Disaster Warning Council, Bangkok, Thailand; IOI–Ukraine, Oceanological Center of National Academy of Sciences of Ukraine, Sevastopol, Ukraine; IOI–United States of America, University of South Florida, St. Petersburg, U.S.A.; and IOI–Western Africa, Nigerian Institute for Oceanography and Marine Research, Lagos, Nigeria.

Each Operational Centre is autonomous, identifying its own priorities for research, capacity building and development within the broad mission of the IOI, while benefiting from the support of the overall IOI Network. Regional approaches to research and capacity building enable the Institute to draw upon the different strengths of the Operational Centres to cater to the needs identified within each region. A director, generally supported by a small staff with a large number of experts and volunteers on call, runs each Centre.

The current Focal Points and their host institutes are:

IOI–Pakistan, National Centre of Maritime Policy Research, Bahria University, Karachi, Pakistan; IOI–Cyprus, Cyprus University of Technology, Limassol, Cyprus; IOI–China, Shanghai Maritime University, Shanghai, P.R. of China; IOI–Australia, Ocean Technology Group, University of Sydney, Australia; IOI–Lebanon, Lebanese Union of Professional Divers, Saida, Lebanon; IOI–U.S.A., the Collaborative Institute for Oceans, Climate and Security, the Venture Development Center, University of Massachusetts, Boston, U.S.A.; IOI–Republic of Korea, Korea Maritime Institute, Seoul, Republic of Korea; IOI–Turkey, Department of Fishing and Processing Technology, Kotecli-Mugla, Turkey; IOI–Singapore, STET Maritime Pte Ltd., Singapore; IOI–Philippines, Office of the Undersecretary for Special and Ocean Concerns, Department of Foreign Affairs, Philippines; IOI–Egypt, Marine Environment Division, National Institute of Oceanography and Fisheries (NIOF), Suez, Egypt; IOI–Malaysia, Borneo Marine Research Institute, Universiti Malaysia Sabah, Sabah, Malaysia; IOI–Finland, Department of Environmental Sciences, University of Helsinki, Finland; IOI–Kazakhstan, Center for Life Sciences, Nazarbayev University, Republic of Kazakhstan.

The IOI is governed by a Board that makes decisions on policy, programme and budget matters. Five regional representatives were elected from Operational Centre directors in 2009 to replace the IOI Committee of Directors and represent five regions, namely Africa, The Americas, Asia and Oceania, Eurasia, and Europe. These representatives will participate in meetings of the newly constituted Board (Steering Committee), but will not participate in discussions on financial, budgetary and personnel matters. Growing steadily and responding to global changes, the IOI Network is now aimed to multiply its spectrum of activities. It plans to move from direct training to training the trainers and from direct implementation of projects to offering advisory and consultative services.

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Marine & Environmental Law Institute

Schulich School of Law



Established in 1883, the Schulich School of Law at Dalhousie University is the oldest common law school in Canada. As a leading law school, it has traditionally played a critical role in the development of national legal education in Canada, in servicing the needs of the Atlantic region and as a focal point for graduate level education globally. The Law School offers the full breadth of undergraduate and graduate level education and is a partner with the International Ocean Institute in supporting, producing and providing a home for the *Ocean Yearbook* in its Marine & Environmental Law Institute (<http://www.dal.ca/law/MELAW>).

The Schulich School of Law, with its location in the vibrant port city of Halifax, is internationally recognized for excellence in marine and environmental law research and teaching. Since its establishment in 1974 as an area of specialization for the Juris Doctor (J.D., formerly the Bachelor of Laws, LL.B.) students and subsequently for Master of Laws (LL.M.) students and Doctor of Philosophy in Law (Ph.D.) candidates, the Marine & Environmental Law Programme (MELP) has one of the most extensive academic course offerings and supervisory capability in these two fields in the world. With more than 12 full and part-time faculty members currently teaching in the Programme, students have a unique opportunity to learn about public and private law practice in marine (including shipping, fisheries and oil and gas) and environmental law (including land-use planning and energy law) taught from domestic, international and comparative perspectives. At the J.D. level students wishing to specialize in these fields have the option of obtaining a certificate of specialization in either Marine or Environmental Law or both.

The Schulich School of Law also hosts two other research institutes, the Health Law Institute and the Law & Technology Institute, and has additional concentrations in the fields of international law, business law, criminal law and public law. In addition to the required courses in the MELP specialization students are also encouraged to undertake research/courses in those and