

SCAR 2020 Conference: “The ATS, International Law and Governance”



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31st July: 7-8.30 GMT (9-10.30 CET)

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<https://uio.zoom.us/j/5994768632>

Meeting ID: 599 476 8632

31st July, 12-12.30 GMT (14-15.30 CET)

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Panel description

Six decades after the signature of the Antarctic Treaty and almost thirty years after the signature of the Protocol on Environmental Protection, it is timely to review how the Antarctic system has evolved and to inquire how it will continue to evolve into the future.

In this panel session, we critically interrogate the Antarctic Treaty System (ATS) and its capacity to confront present and future challenges like climate change, the sustained interest of some actors in Antarctica's living and nonliving resources, and the latent but never forgotten territorial claims. Does the ATS have the legal tools to tackle these challenges successfully? What aspects are in need of revision (if any)? What could be improved or rethought regarding its structure and functioning?

To answer these questions, we invite contributions that focus on specific aspects of the Antarctic legal regime, governance, and political order—for example, CCAMLR's integration of science and policy-making, or the history of CRAMRA and its legacy. We equally invite more general perspectives that assess contested concepts like sovereignty, legitimacy, and colonialism as well as hierarchy and their place in the Antarctic context.

Lead convenor:

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Program

31st July 2020, Session 1: 7-8.30 GMT (9am-10.30am CET)

9:00–9:10 **Welcome and practicalities**

9:10–9:25 **Mathias Albert**, Professor, Bielefeld University, "Between extension, nationalization, and a 'Southern Svalbard'? Futures of the ATS in the system of world politics".

9:30–9:45 **Patrick Flamm**, Victoria University of Wellington, "Antarctic Hierarchies: Stratification, Status and Socialization".

9:50–10:05 **Lyn Goldsworthy**, Institute for Marine and Antarctic Studies, University of Tasmania, "Does the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) use 'Best available science'?".

10:10–10:25 **Kevin Hughes**, British Antarctic Survey, "Antarctic Protected Areas and Climate Change".

Session 2: 12-13.30 GMT (14pm-15.30 CET)

2:00–2:10pm **Welcome and practicalities**

2:10–2:25pm **Peder Roberts**, University of Stavanger/Kungliga Tekniska högskolan Royal Institute of Technology, "Could climate change melt the foundations of the ATS?"

2:30–2:45pm **Ricardo Roura**, Antarctic And Southern Ocean Coalition (ASOC), "Mapping conservation and rational use of the Southern Ocean: The CCAMLR system at a glance".

2:50–3:05pm **Claire Christian**, Antarctic and Southern Ocean Coalition (ASOC), "Using international guidelines to improve tourism management in Antarctica".

List of abstracts

Professor Mathias Albert, Bielefeld University

"Between extension, nationalization, and a 'Southern Svalbard'? Futures of the ATS in the system of world politics"

After its 60th birthday, the future of the ATS is all but certain. This contribution argues that while simple extension and small-scale adaptations remain distinct possibilities, the ATS will probably not escape the reconfiguration of a range of global legal regimes that pertain to non-sovereign territories and spaces (including, most notably, the seabed and outer space). In order to explore these reconfigurations, the paper first offers a reading of the historical development of the system of world politics in terms of the simultaneous presence of forms of organizing political authority (through, for example, sovereignty, imperial hierarchy, global governance etc.) Based on such a reading it offers a spectrum of possible developments of the political and legal forms pertaining to the Antarctic: multilateral exclusive treaty, multilateral inclusive treaty, international authority (direct or trusteeship), realization of sovereignty claims (open contestation, new territorial delimitation), split sovereignty (the Svalbard model), Antarctic sovereignty. The purpose of this contribution is primarily to open thinking spaces on the future of the ATS and Antarctica based on recent historical-sociological research on forms of ordering in the system of world politics. It is an elaboration of a brief presentation originally delivered in a conference on the future of the ATS held in Buenos Aires in late 2019.

Dr. Patrick Flamm, Victoria University of Wellington

"Antarctic Hierarchies: Stratification, Status and Socialization"

Sixty years after the signing of the Antarctic Treaty, global power shifts and especially the growing influence of Asian actors are raising the question whether and how the status quo Antarctic order can be maintained. This paper engages with the most recent International Relations (IR) theory scholarship about hierarchies in world politics (Zarakol 2017; Zarakol and Bially Mattern 2015; Bukovansky et al. 2012; Lake 2009). First, it argues that today's Antarctic order remains a stratified configuration of rights and privileges which centers/constitutes selected states as Antarctic actors with authoritative status. For example, original signatories cannot lose their consultative party status, and unlike any other state territorial claimant states have the right to maintain their claims. Second, it explores stratified processes, dynamics, and forms of power that shed light on socialization dynamics which are crucial for the accommodation of new status aspirations by actors like China or South Korea: are states buying into the stratified Antarctic order for functional bargains, or because of meaningful social relations that constrain or influence agent choices and behavior, and/or because established Antarctic practices are "cultures-in-action" that produce Antarctic players as such as well as their repertoires for action? Understanding how socialization works for established as well as emerging actors within this stratified system, is crucial to political analyses of the future of the Antarctic order for scholars and decision makers alike.

Lyn Goldsworthy, Institute for Marine and Antarctic Studies, University of Tasmania

"Does the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR) use 'Best available science'?"

Human activities in the Southern Ocean are managed through the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). CCAMLR is multinational consensus-based Convention and

meets annually to determine management decisions relating to fishing activities and conservation in the delivery of its objective. The CCAMLR Convention requires its Members to base its management decisions on the 'best available scientific advice', and CCAMLR prides itself on taking such a precautionary approach. But is that true? The current stalemate in the adoption and implementation of a network of marine protected areas, the failure to include the possible impacts of rapidly changing environments when assessing management measures for fisheries, and the failure to take the advice of the Scientific Committee on specific fishery proposals raises questions about the Commissions' interpretation and acceptance of the advice from its Scientific Committee as well as the basis of that advice. This paper tracks proposals from consideration by the Scientific Committee, the Committee's advice to the Commission and the Commission's response to review this claim. It analyses instances where Scientific Committee advice is not accepted and identifies trends across categories of decisions, Members' positions and the arguments used. The analysis identifies that 'best available science' is least accepted in proposals concerning issues that extend beyond directed fisheries management, and that particular Members question the basis of the scientific advice more frequently than others. The paper concludes that the Commission of CAMLR is not consistent in its approach to the application of 'best available science'.

Dr. Kevin Hughes, British Antarctic Survey
"Antarctic Protected Areas and Climate Change"

Antarctica, and particularly the Peninsula region, is increasingly vulnerable to climate change impacts such as ice retreat and changing species distribution, while human activity is putting increasing pressure on marine and terrestrial environments. Under the Antarctic Treaty System, protected areas can be designated to protect locations of scientific, environmental, historic and intrinsic value (Antarctic Specially Protected Areas; ASPAs) or to encourage operational coordination to minimise environmental impact (Antarctic Specially Managed Areas; ASMAs). We evaluated the effectiveness of current policy and environmental management practices for addressing climate change within the Antarctic Protected Areas System. In general, climate change has been little considered in guidelines for designation and management of the region's protected areas. Climate change impacts are discussed in only 17% of ASPA management plans, with those ASPAs located on the Antarctic Peninsula and Scotia Arc generally referring to climate change impacts more than those for areas located on continental Antarctica. Despite rapid climate change having occurred over most of the Antarctic Peninsula, less than 6% of ASPA management plans detail how climate change has affected the management of the area. We recommend greater consideration of climate change within the Antarctic Protected Areas System and suggest designation of new protected areas to mitigate climate change impacts across the continent.

Dr. Peder Roberts, University of Stavanger/KTH Royal Institute of Technology
"Could climate change melt the foundations of the ATS?"

Participation as a consultative party to the Antarctic Treaty System (ATS) is largely dependent upon scientific activity – the "science criterion". In this paper I argue that the science criterion developed from a historically specific conception of Antarctica as a laboratory in which to study phenomena with both local and global significance, rooted in the International Geophysical Year (1957-58). But anthropogenic climate change has altered the continent's status from a somewhat abstract laboratory to a potentially existential threat to millions of people around the world. Should authority over Antarctica instead be invested in states most affected by physical geographical processes in Antarctica rather than the states

that do most to investigate them? I conclude that the science criterion can remain viable, but that its legitimacy may be undermined unless a stronger case is made for the privileged association between science in Antarctica and positive outcomes for the world at large.

Dr. Ricardo Roura, Antarctic And Southern Ocean Coalition (ASOC)

“Mapping conservation and rational use of the Southern Ocean: The CCAMLR system at a glance”

Different interpretations of the roles of conservation and rational use influence spatial uses of the Southern Ocean. The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) has the primary (but not exclusive) responsibility for managing the activities that impact on marine life in the Southern Ocean, in accordance to the Convention on the Conservation of Antarctic Marine Living Resources (CAMLR Convention). The objective of the CAMLR Convention is the conservation of marine living resources, including rational use subject to key principles of conservation that protect the ability of marine life to regenerate and thrive. A complex tapestry of Conservation Measures adopted by CCAMLR applies to different spatial and temporal scales, and for different fishing activities. Marine spatial protection is one of the tools used to achieve the Convention objectives. Non-spatial forms of management cover certain activities or practices as well as specific target species. The effectiveness of this system is influenced by the politics of CCAMLR and of the Antarctic Treaty System at large. Climate change and other stressors are an additional challenge to the longer term effectiveness of this regime. Based on the analysis of fishing and other records, in this presentation we map – both conceptually and in actual maps – the interaction between conservation and rational use in the Southern Ocean. Our purpose is to show how the CCAMLR system works at a glance, identify spatially defined conservation highs and lows, and make recommendations for improvement.

Claire Christian, Antarctic And Southern Ocean Coalition (ASOC)

“Using international guidelines to improve tourism management in Antarctica”.

One of the primary challenges to Antarctic governance is the management of tourism, which could increase by as much as 40% in under a decade. Discussions of tourism at recent Antarctic Treaty Consultative Meetings (ATCMs) have focused on more abstract discussions that have little change of resulting in concrete outcomes. In this presentation, we will examine a potential means for enhancing Antarctic governance of tourism by using the recently published Guidelines for Tourism and visitor management in protected areas from IUCN as a framework for analysis and discussions. IUCN is a well-respected authority on conservation, and these guidelines synthesize lessons learned from a diverse set of countries. In our presentation, we will examine the current tourism management system in Antarctica in the context of the IUCN principles and guidelines and identify where it meets or exceeds international best practice and where it falls short. For example, there is a system of site guidelines to manage visits, but the selection of sites is largely opportunistic and reactive. Therefore, we offer suggestions for framing future ATCM discussions on tourism through the lens of implementing IUCN guidelines and filling gaps between the guidelines and the current system. We will also discuss how IUCN guidelines can be adapted for the unique governance system of Antarctica. This will help the ATCM move from conceptual to practical discussions on tourism regulation, and ensure continued protection of the Antarctic environment based on proven strategies.