#### SELECTED SCHOLARLY WRITINGS OF WILLIAM T. BURKE

## Prepared by

### **Professor Craig Allen**

Craig Allen is the Judson Falknor Professor of Law and Professor of Marine and Environmental Affairs, University of Washington. He was a student and, later, a faculty colleague of Professor Burke's. He is author of a paper entitled "A Legacy of Stewardship for the Public Order of the Oceans: A Tribute to William T. Burke, 1926-2014," that was presented at the LOSI 50<sup>th</sup> anniversary meeting in Berkeley, October 2015; it is scheduled for publication in 2017 as a chapter in a forthcoming book, Ocean Law Debates: The Fifty-Year Legacy and Emerging Issues for the Years Ahead, edited by Harry Scheiber, Nilufer Oral, and Moon Sang Kwon, in the LOSI book series published by Brill/Nijhoff.

#### **Articles**

Myres McDougal & William T. Burke, *Crisis in the Law of the Sea: Community Perspectives vs. National Egoism*, 67 YALE L.J. 539-89 (1957-1958).

Myres S. McDougal & William T. Burke, *Community Interest in a Narrow Territorial Sea Inclusive Versus Exclusive Competence Over the Oceans*, 45 CORNELL L. Q. 171-253 (1960).

William T. Burke, *Some Comments on the 1958 Conventions*, 53 Am. Soc'y Int'l L. Proc. 197-205 (1959).

Myres S. McDougal, William T. Burke & Ivan A. Vlasic, *The Maintenance of Public Order at Sea and the Nationality of Ships*, 54 Am. J. Int'l L. 25-116 (1960).

Myres S. McDougal & William T. Burke, *Claims to Authority over the Territorial Sea*, 1 PHIL. INT'L L. J. 29-137 (1962).

William T. Burke, Aspects of Internal Decision-Making Processes in Intergovernmental Fishery Commissions, 43 WASH. L. REV. 115-178 (1967).

William T. Burke, A Negative View of a Proposal for United Nations Ownership of Ocean Mineral Resources, 1 NAT. RESOURCES LAW. 42-62 (1968).

William T. Burke, *A Contemporary Legal Problem in Ocean Development*, 3 INT'L L. 536-59 (1969).

William T. Burke, *Law*, *Science*, *and the Ocean*, 3 NAT. RESOURCES LAW. 195-226 (1970).

William T. Burke, Comments on Current International Issues Relating to the Law of the Sea, 4 NAT. RESOURCES LAW. 660-67 (1971).

William T. Burke, *Contemporary Law of the Sea: Transportation, Communication and Flight*, 2 YALE STUD. WORLD PUB. Ord. 183-284 (1976).

William T. Burke, Submerged Passage through Straits: Interpretations of the Proposed Law of the Sea Treaty Text, 52 WASH. L. REV. 193-226 (1977).

William T. Burke, *Recapture of Economic Rent under the FCMA: Sections 303-304 on Permits and Fees*, 52 WASH. L. REV. 681-700 (1977).

William T. Burke, Who Goes Where, When, and How: International Law of the Sea for Transportation, 31 INT'L ORG. 267-90 (1977).

William T. Burke, *Critical Changes in the Law of the Sea*, 15 COLUMBIA J. WORLD. BUS. 17-21 (1980).

William T. Burke, *National Legislation on Ocean Authority Zones and the Contemporary Law of the Sea*, 9 Ocean Dev. & Int'l L. 289-322 (1981).

William T. Burke, *Exclusive Fisheries Zones and Freedom of Navigation*, 20 SAN DIEGO L. REV. 595-624 (1983).

William T. Burke, *The Law of the Sea Convention Provisions on Conditions of Access to Fisheries Subject to National Jurisdiction*, 63 OR. L. REV. 73-120 (1984).

William T. Burke, *Highly Migratory Species in the New Law of the Sea*, 14 OCEAN DEV. & INT'L L. 273-314 (1984).

William T. Burke, *Coastal State Fishery Regulation under International Law: A Comment on the La Bretagne Award of July 17, 1986* (The Arbitration between Canada and France), 25 SAN DIEGO L. REV. 495-534 (1988).

William T. Burke, Fishing in the Bering Sea Donut: Straddling Stocks and the New International Law of Fisheries, 16 Ecology L.Q. 285-310 (1989).

William T. Burke, *Driftnets and Nodules: Where Goes the United States?*, 21 OCEAN DEV. & INT'L L. 237-40 (1989).

Edward L. Miles & William T. Burke, *Pressures on the United Nations Convention on the Law of the Sea of 1982 Arising from New Fisheries Conflicts: The Problem of Straddling Stocks*, 20 Ocean Dev. & Int'l L. 343-57 (1989).

William T. Burke, Customary Law of the Sea: Advocacy or Disinterested Scholarship?, 14 YALE J. INT'L L. 508 (1989).

William T. Burke, Regulation of Driftnet Fishing on the High Seas and the New International Law of the Sea, 3 Geo. Int'l Envil. L. Rev. 265-310 (1990).

William T. Burke, *Anadromous Species and the New International Law of the Sea*, 22 OCEAN DEV. & INT'L L. 950131 (1991).

William T. Burke, Mark Freeberg & Edward L. Miles, *United Nations Resolutions on Driftnet Fishing: An Unsustainable Precedent for High Seas and Coastal Fisheries Management*, 25 OCEAN DEV. & INT'L L. 127-86 (1994).

William T. Burke, *Implications for Fisheries Management of U.S. Acceptance of the 1982 Convention on the Law of the Sea*, 89 Am. J. Int'l L. 792-806 (1995).

William T. Burke, Memorandum of Opinion on the Legality of the Designation of the Southern Ocean Sanctuary by the IWC, 27 Ocean Dev. & Int'l L. 315-26 (1996).

William T. Burke, *Legal Aspects of the IWC Decision on the Southern Ocean Sanctuary*, 28 Ocean Dev. & Int'l L. 313-27 (1997).

William T. Burke, *Recent Decisions on International Fisheries Governance*, 6 WILLAMETTE J. INT'L L. & DIS. RES. 15-28 (1998).

William Burke, William Aaron & Milton Freeman, Flouting the Convention: The ongoing campaign to ban all commercial whaling is driven by politics rather than science, and is setting a terrible precedent, The Atlantic (May 1999).

William Aron, William T. Burke & Milton M.R. Freeman, *The Whaling Issue*, 24 MARINE POL'Y 179-91 (2000).

### **Books and Book Chapters**

William T. Burke, *Crisis in the Law of the Sea*, in Myres S. McDougal, STUDIES IN WORLD PUBLIC ORDER (Yale University Press, 1960).

- Myres S. McDougal & William T. Burke, The Public Order of the Oceans: A Contemporary International Law of the Sea (Yale University Press, 1962; reprinted by New Haven Press, 1987). 1226 pages.
- William T. Burke, *The Legal Regulation of Minor International Coercion: A Framework for Inquiry*, in ESSAYS ON INTERVENTION (Roger Fisher ed., Ohio State University, 1964).
- William T. Burke, International Law of the Sea: Documents and Notes (Lupus Publications, 1965). 1 vol. (Casebook Series, Student ed.).
- William T. Burke, A REPORT ON INTERNATIONAL LEGAL PROBLEMS OF SCIENTIFIC RESEARCH IN THE OCEANS (Ohio State University, 1967). 143 pages.
- William T. Burke, TOWARDS A BETTER USE OF THE OCEAN: CONTEMPORARY LEGAL PROBLEMS IN OCEAN DEVELOPMENT (Stockholm International Peace Research Institute, 1969). 231 pages.
- Hiroshi Kasahara & William T. Burke, International Fishery Management in the North Pacific: Present and Future (University of Washington, 1972). 248 pages.
- William T. Burke, Richard A Legatski & William W. Woodhead, *National and International law Enforcement in the Ocean* (University of Washington Press, 1975). 244 pages. (Washington Sea Grant Publication).
- William T. Burke, *Critical Changes in the Law of the Sea*, in FOCUS: LAW OF THE SEA (Columbia University Graduate School of Business, 1980). (Colum. J. World Bus. vol. 15 no. 4).
- William T. Burke, *Extended Fisheries Jurisdiction and the New Law of the Sea*, in GLOBAL FISHERIES: PERSPECTIVES FOR THE 1980s (Brian J. Rothschild ed., Springer-Verlag, 1983).
- William T. Burke, International Law of the Sea: Documents and Notes (Lupus Publications, 1993). 2 vols. (Research Series).
- William T. Burke, *Some Comments on High Seas Fishing and International Law*, in ESSAYS IN HONOUR OF WANG TIEYA 103-13 (M. Nijhoff Publishers, 1994).
- William T. Burke, THE NEW INTERNATIONAL LAW OF FISHERIES: UNCLOS 1982 AND BEYOND (Oxford University Press, 1994). 382 pages. (Translated into Japanese, Shin Suisan Shinbunsha, 1996. 423 pages.).
- William T. Burke, Fisheries Management in the Debate on U.S. Acceptance of the 1982 Convention on the Law of the Sea, in LAW OF THE SEA: WHAT THE NEW CONVENTION MAY MEAN TO YOU AND THOSE YOU WORK FOR (CLE by the Washington Law School Foundation, 1995).

William T. Burke, International Law of the Sea: Documents and Notes (Lupus Publications, 1999). 1 vol. (Student ed.).

William T. Burke, *A New Whaling Agreement and International Law*, *in* TOWARD A SUSTAINABLE WHALING REGIME 51-79 (Robert L. Friedheim ed., University of Washington Press, 2001).

William T. Burke, *Evolution in the Fisheries Provisions of UNCLOS*, in 2 LIBER AMICORUM JUDGE SHIGERU ODA 1355-62 (2002).

William Aron, William T. Burke & Milton M.R. Freeman, *Science and Advocacy: A Cautionary Tale from the International Whaling Debate*, in The Future of Cetaceans In A Changing World 87-97 (William C.G. Burns & Alexander Gillespie eds., 2003).

## Papers and Reports

William T. Burke, *Ocean Sciences, Technology, and the Future International Law of the Sea* (Ohio State University Press, 1966). 91 pages. (Mershon Center for Education in National Security Pamphlet Series no. 2).

William T. Burke, *Law*, *Science*, *and the Ocean* (Law of the Sea Institute, 1969). 34 pages. (Occasional Paper no. 3).

William T. Burke, *Marine Science Research and International Law* (Law of the Sea Institute, 1970) 36 pages. (Occasional Paper No. 8).

William T. Burke, *Some Thoughts on Fisheries and a New Conference on the Law of the Sea* (Law of the Sea Institute, 1971). 17 pages. (Occasional Paper no. 9).

Hiroshi Kasahara & William T. Burke, *North Pacific Fisheries Management* (Resources for the Future, 1973). 91 pages. (RFF/PISFA Paper no. 2).

William T. Burke, *Scientific Research Articles in the Law of the Sea Informal Single Negotiating Text* (Law of the Sea Institute, 1975). 16 pages (Occasional Paper no. 25).

William T. Burke, *Contemporary Law of the Sea: Transportation, Communication and Flight* (Law of the Sea Institute, 1975). 38 pages. (Occasional Paper no. 28).

William T. Burke, *Fisheries Regulation under Extended Jurisdiction and International Law* (UN Food and Agriculture Organization, 1982). 23 pages. (FAO Fisheries Technical Paper no. 223).

William T. Burke, *Impacts of the UN Convention on the Law of the Sea on Tuna Regulation* (UN Food and Agriculture Organization, 1982). 19 pages. (Legislative Series No. 26).

William T. Burke, *Memorandum on Legal Issues in Establishing Fishery Management in the "Donut Area" in the Bering Sea* (Fisheries Management Foundation, 1988). 21 pages.

William T. Burke, *Options for the Management of Tuna Fisheries in the Indian Ocean* (UN Food and Agriculture Organization, 1990). 73 pages. (FAO Fisheries Technical Paper no. 315).

William T. Burke & Francis T. Christy, *Options for the Management of Tuna Fisheries in the Indian Ocean* (UN Food and Agriculture Organization, 1993). 73 pages.

William T. Burke, Mark Freeberg & Edward L. Miles, *The United Nations Resolutions on Driftnet Fishing: An Unsustainable Precedent for High Seas and Coastal Fisheries* (University of Washington School of Marine Affairs, 1993). 77 pages.

# Law of the Sea Institute Proceedings

William T. Burke, *Modes of Establishing Exclusive Economic Zones* (panel chair), in LAW OF THE SEA: CONFERENCE OUTCOMES AND PROBLEMS OF IMPLEMENTATION (Edward L. Miles & John King Gamble Jr. eds. 1965), at 133.

William T. Burke, *Conflict of Uses of the Sea*, in THE FUTURE OF THE SEA'S RESOURCES (Lewis M. Alexander, ed. 1967), at 70.

William T. Burke, *Science and International Organizations* and *Ocean Strategy for the United States*, in NATIONAL POLICY RECOMMENDATIONS (Lewis M. Alexander, ed. 1969).

William T. Burke, Consequences for Territorial Sea Claims of Failure to Agree at the Next Law of the Sea Conference and Research Needs on Ocean Issues, in The LAW OF THE SEA: A NEW GENEVA CONFERENCE (Lewis M. Alexander, ed. 1971), at 37, 145.

William T. Burke, Program Chair and *Concluding Thoughts*, LAW OF THE SEA: CARACAS AND BEYOND (William T. Burke, ed. 1975).

William T. Burke, Commentary on *Enforcement*, in LAW OF THE SEA: STATE PRACTICE IN ZONES OF SPECIAL JURISDICTION (Thomas A. Clingan, ed. 1979), at 468.

William T. Burke, Commentary on *Problems of Cooperation in Marine Scientific Research in the Pacific Basin*, in The Law of the Sea and Ocean Development Issues in the Pacific Basin (Edward Miles & Scott Allen, eds. 1981), at 602.

William T. Burke, *The Law of the Sea Convention and the Fishing Practices of Nonsignatories with Special Reference to the United States*, in Consensus and Confrontation: The United States and the Law of the Sea Convention (Jon M. Van Dyke, ed. 1984), at 314.

William T. Burke, Changes Made in the Rules of Navigation and Maritime Trade by the 1982 Convention on the Law of the Sea, in The Developing Order of the Oceans (Robert B. Krueger & Stefan A. Riesenfeld, eds. 1984), at 662.

William T. Burke, Contemporary Developments Affecting Navigation Rights in the Law of the Sea, in The Law of the Sea: What Lies Ahead? (Thomas A. Clingan Jr. ed., 1986).

William T. Burke, Customary Law as Reflected in the Law of the Sea Convention: A Slippery Formula, in The International Implications of Extended Maritime Jurisdiction in the Pacific (John P. Craven, Jan Schneider & Carol Stimson, eds. 1987), at 402.

William T. Burke & Edward L. Miles, *Pressure on the U.N. Convention on the Law of the Sea of 1982 Arising from Fisheries Conflicts: The Problem of Straddling Stocks*, in MOSCOW SYMPOSIUM ON THE LAW OF THE SEA (Thomas A. Clingan Jr. & Anatoly L. Kolodkin, eds. 1988), at 217.

William T. Burke, Commentary on Marine Scientific Research Panel and Banquet Speech, in IMPLEMENTATION OF THE LAW OF THE SEA CONVENTION THROUGH INTERNATIONAL ORGANIZATIONS (Alfred A.H. Soons, ed. 1989).

William T. Burke, *State Practice*, *Ocean Use*, *and Ocean Governance under UNCLOS*, in OCEAN GOVERNANCE: STRATEGY AND APPROACHES (Thomas A. Mensah, ed. 1994) at 219.

William T. Burke, *Compatibility and Precaution in the 1995 Straddling Stock Agreement*, in Law of the Sea: The Common Heritage and Emerging Challenges 105-26 (Harry N. Scheiber ed., 2000).

### **Congressional Testimony**

Outer Continental Shelf: Hearings before the Subcommittee on Outer Continental Shelf, Senate Committee on Interior and Insular Affairs, Jan. 22, 1970, pages 161-74, 187, 192-200.

Law of the Sea: Hearings before the House Committee on Merchant Marine and Fisheries, July 27, 1982.