



**Ian Urbina**, *The Outlaw Ocean: Crime and Survival in the Last Untamed Frontier*, New York: Vintage, 2019. ISBN: 9781847925855 (cloth); ISBN: 9781529111392 (paper); ISBN: 9781473568709 (ebook)

If you're interested in oceans, or environmental history, or international law, or even a good maritime adventure, then you've probably already seen the reviews of Ian Urbina's *Outlaw Ocean*. The praises piled upon it are sky high, and they're well-deserved; no need for me to jump in with more of the same. Instead, I'd like to put the book into conversation with some of the canonical work addressing the spaces Urbina explores.

But first, briefly, for those to whom *Outlaw Ocean* is new: The book is a collection of high seas tales. Its 15 vignettes are connected with multiple loose threads, but (not surprisingly, given the book's title) the most prominent is the sea's lawlessness. Together, the stories gel into a thesis that our oceans are dangerously underregulated. Again and again, Urbina (p.xi) illustrates the barbarity and atrocities that distance from land allows: "For all its breathtaking beauty, the ocean is also a dystopian place, home to dark inhumanities. The rule of law – often so solid on land, bolstered and clarified by centuries of careful wordsmithing, hard-fought jurisdictional lines, and robust enforcement regimes – is fluid at sea, if it's to be found at all."

Engaging a familiar trope, Urbina describes international waters as the Earth's last frontier. His examples of corrupt, brutal, and sometimes even thrilling action support this framing of the seas as today's wild west, full of cowboy gangs either skirting or full out ignoring the law. But these stories are mostly devoid of the cowboy film's romance. Yes, among them are moments of levity, inspiration, and even heroism. The sea can be a stage for direct action against ecological destruction, for women to circumvent oppressive laws to receive safe abortions, and for people to experiment with alternative forms of statehood (to what level of seriousness, the latter is unclear). But the sea is also a home for unbridled cruelty. Urbina illustrates it with graphic examples, some of which will be at least somewhat familiar to most readers – shark-

fishers cutting off fins while abandoning sharks to die, people forced to choose between hunger at home and slavery at sea, cruise ships entertaining tourists while dumping massive quantities of waste as they sail, and so on. Not to be reduced to simple stories of good guys and bad guys, each chapter illustrates a mess of interactions between personal needs, environmental forces, social dynamics, technologies, local and international politics, and economies that range from the familial to the global.

For students of geography, every paragraph presents a new knot of research questions to untangle. These questions are very much alive on the international stage. Even now, negotiations to regulate the uses of biodiversity on the high seas are underway at the UN.<sup>1</sup> Almost all of the international conversations around the global ocean argue that the need for stronger, more centralized regulation is urgent. At their simplest interpretation, Urbina's chronicles add up to support this position. Urbina (p. 36) writes about one case of a state abdicating responsibility for investigating misconduct at sea: "It was the clearest example I could find of the so-called tragedy of the commons, or the idea that something owned by everyone is more likely to be neglected than it is to be protected." And that problematic – the "tragedy of the commons" – is the one that the outlaw ocean forces us to reckon with.

Broadly, Garrett Hardin's (1968) tragedy of the commons thesis goes as follows: In a hypothetical cow pasture in which there are no regulations on grazing, each individual only has the incentive to act in her own interest. Inevitably, each herder will take as much as possible. Ultimately, these behaviors aggregate to destroy the commons. The problem is that Hardin's commons problem has been thoroughly debunked. Though she is not alone in her research, Elinor Ostrom's (1990) work might be the most significant rebuttal of Hardin's work. She finds that, in the absence of top-down control, communities self-regulate, developing arrangements that allow them to use commons, today more commonly called common-pool resources,

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<sup>1</sup> See the United Nations' "Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction": <https://www.un.org/bbnj/>

sustainably. There are two major characteristics of common-pool resources: one, they are subtractable, meaning that any one person taking from them diminishes the amount that others can take; and, two, while it is difficult to exclude people from using them, it is not impossible.

One big question, a question underpinning Urbina's book, is: In which ways *are* the high seas a commons? Ostrom's theorization and others that follow it rely mostly on local and regional cases, but it's important that what Urbina tackles is the *global* ocean rather than the regional, national, or even local. This is the level that common pool resource theory still fails to address adequately. It has been over a century since Hugo Grotius (1916), arguing for *mare liberum* or freedom of the seas, wrote that "the sea is common to all, because it is so limitless that it cannot become a possession of any one". Today, it seems quite obvious that he was wrong. But international law has not fully caught up. Even in the popular imagination it is only recently that the global ocean is beginning to be thought of as an exhaustible commons rather than as a space available for infinite extraction.

The book gestures towards the complexity of designing a system for governing the world's oceans. On the one hand, political ecological research offers many examples in which regulatory systems protect only the interests of the powerful. On the other, *Outlaw Ocean* is rife with examples in which regulatory holes, corruption, and enforcement gaps allow powerful, wealthy actors to extract money, materials, or even entertainment while leaving destruction in their wake, as in, for instance, Urbina's cruise ships. Sometimes, regulations actually create the most perverse of incentives: When international law forces captains to choose between financial interests and human lives, when "the law protects a ship's cargo better than its crew" (p.149), we end up with predictably tragic results. In one bizarre paradox, legal holes actually allow for a strange sort of enforcement. As Urbina describes, Sea Shepherd can mount vigilante efforts to police illegal fishing precisely because, even as geospatial technologies and naval capacities get better and better, there are still vast gaps in lawful high seas monitoring and enforcement.

Because of the ocean's size, because of the jumble of maritime jurisdictions, because of their remoteness, these problems can seem intractable. And, *Outlaw Ocean* highlights the need for more investigation into the implications of size, into the difference between local and global. How is governing a global ocean different from governing a regional one? How does research scale accordingly? Which lessons from the wealth of coastal research apply to faraway waters? This is a case in which quantitative differences mean qualitative differences; throughout *Outlaw Ocean*, Urbina repeatedly shows us that size matters. Local governance arrangements are different from international law. Working in remote places is different from fishing in your figurative backyard.

Ostrom herself claims that, at the global scale, her theory of common-pool resources has limitations. How to design polycentric arrangements for governing global common-pool resources is still a relatively new question. In 2010, Ostrom argued that theories of collective action can scale up from the local to the regional to the global (see Ostrom 2010a). Here, though, her theory reaches some of its limits. "Fit" must be right for governance arrangements to be effective, and one thing this means is solving the challenge of large-scale commons governance. As Ostrom argues (with Dietz and Stern), "[t]oo many strategies for governance of local commons are designed in capital cities by donor agencies in ignorance of the state of the science and local conditions" (2003: 1910). That is, they are designed without on-the-ground expertise, and this distance between law and action leads to governance that doesn't actually work. Urbina offers up plenty of evidence to suggest that, even where these agreements exist, it is hard to predict to what extent they will work.

It's worth considering alternatives to the kind of centralized regulation for which *Outlaw Ocean* implicitly calls. We can look to Murray Bookchin's social ecology, for example. Bookchin envisions a network of syndicalized communities organized around the principle of voluntary cooperation. Perhaps it's too pat to borrow Hardin's (1974) maritime metaphor for carrying capacity, the "lifeboat ethic", as a foil. In this thought experiment, Hardin compares

nations to floating lifeboats surrounded by people clamoring to board. Allowing them on would risk swamping the boat. By his logic those on the lifeboat must prioritize their own survival rather than take on more passengers. In other words, survival requires exclusion, not open access. Bookchin finds this thinking short-sighted, anti-ecological, and coming from a kind of mile-high thinking that, because of its distance from actual human dynamics in the world, inhibits true understanding. Proximity to real conditions, on the other hand, allows one to relate to the world. Bookchin (1978) concludes that, instead of global-level management, we need “ecological communities, made up of comparatively small numbers of groups ... spaced apart from each other so that you could almost walk to them”.

In the case of the high seas, a global treaty is probably necessary but not good enough. Many marine social scientists agree that good governance calls for some system of nested hierarchies and that locally-driven action combined with top-down support is most effective. As Ostrom (2010b: 555) acknowledges: “Self-organized, polycentric systems are not a panacea! There are no panaceas ... for complex problems.” Designing an effective and equitable regulatory framework is no simple task. Urbina drives home how much managing oceanic spaces (in the absence of legally and morally questionable interventions like Sea Shepherd’s) relies on complicated and *expensive* technologies, political will, and legal authority. As a large and growing body of research demonstrates, top-down marine governance can be misguided or impotent, and where it is not it risks consolidating power to dispossess those it most affects (see, for example, Flannery 2016). Even in the ongoing international negotiations on high seas biodiversity, it is becoming evident that less industrialized nations are at a disadvantage, in both harvesting resources and wielding the power to regulate them. In these vast, remote spaces, it’s not clear to what extent implementing a nested hierarchy like Ostrom and her intellectual descendants advocate is possible. For now, this challenge of managing common-pool resources at a global level remains unresolved – how to apply the lessons of collective action to high seas spaces is the puzzle.



Urbina's work pulls these complexities out of abstraction. So, to the reader: To get beneath the jargon of global environmental governance and to its concrete realities, read *Outlaw Ocean*. Take in its stories. Consider how each is a study in larger economic, political, and environmental relationships. Ask how we might design their governance so as to neither allow the brutality Urbina shows us nor simply replace outlaw rule with the state-backed exploitation we have seen in other large landscapes. The seeds for a radical investigation of the global ocean are scattered throughout the book. But the question remains: How do we regulate the high seas without reproducing the global and local inequalities that have led to their overexploitation and to the human suffering that their murky legal status allows?

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*Aria Ritz Finkelstein<sup>2</sup>*  
*Department of Urban Studies and Planning*  
*Massachusetts Institute of Technology*  
*ariaritz@mit.edu*

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<sup>2</sup> <https://www.ariaritz.com>