

STRENGTHENING INTERNATIONAL FISHERIES LAW IN AN ERA OF CHANGING OCEANS edited by Richard Caddell and Erik Molenaar

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The title *Strengthening International Fisheries Law in an Era of Changing Oceans* well reflects the view permeating the contents of the book. In this collection, every chapter resonates with the vision plunked at the front page. International experts with diverse degrees of experience and professional backgrounds, including preeminent scientists, economists, a social anthropologist and international legal academics make up for an outstanding list of contributors. This robust outlook of international fisheries law avoids purely legalistic points of view, which do not offer sufficient resolutions for dealing with fisheries sustainability in a constantly changing environment. The ‘changing oceans’ circumstances not only point to one of the reasons why international fisheries law needs a makeover, but it also attracts the minds of curious readers wishing to know more about the nexus between international law, fisheries, marine science, environmental changes and the oceans.

A good title is just the starting point of this forward-looking piece of work. The editors’ contributions in the introduction and concluding chapters properly sketch the collection’s central idea while enforcing and connecting the inputs of each of the other 19 contributors. Caddell and Molenaar begin with an overview of international fisheries law (Chapter 1), emphasizing its ‘paramount limitation’ (at 9) concerning States’ reluctance, inability, lack of compliance and often opposability to this domain’s improvement, matters which justify the purpose for and the importance of the collection. The book’s three substantive parts label key contemporary issues for strengthening international fisheries law, namely (i) the interplay between law, science and management, (ii) the ecosystem approach to fisheries (EAF) management and (iii) compliance and enforcement. It is difficult, however, to delineate matters that are inevitably interrelated, and which comprise the overall demands in international fisheries law. If the reader is attracted to one of those issues, a suggestion would therefore be not to limit the reading to just one part of the book, as each chapter can provide useful insights to any given issue.

Cheung, Lam, Ota and Swartz (Chapter 2) provide their inputs from non-legal perspectives to address four main challenges to existing and future fisheries management arising from the climate change impacts on marine capture fisheries. It is well demonstrated, for instance, how the shifts in species distribution caused by climate change can hinder shared stocks management and affect the accuracy of management assessments. In contrast to this technical analysis, a theoretical reflection by Barnes (Chapter 3) suggests to ‘counter-factually’ examine international fisheries law by testing it *vis-à-vis* the domain of international environmental law. Barnes’ arguments lead one to envision more impactful ways and ideas to adapt fisheries management to a dynamic world, which stems also from human imagination and mindful creation. This thought experiment is particularly useful to counter the predictable and static assumptions of law, making one think creatively about possible ways to improve the effectiveness of current legal systems and future regulations. A straightforward analysis by Stokke (Chapter 4) then sets out an agenda for high seas fisheries managers, who include representatives of flag States acting independently or within a regional fisheries regime. Such an agenda is simplified around three fundamental tasks of “cognitional”, regulatory and behavioural natures – a critical suggestion to approach the high seas area which, for not falling under the jurisdiction of any particular State’s purview, is normally heavily complex, if at all managed. In the regional framework context, Harrison (Chapter 5) provides a clear and comprehensive analysis of the trends that have facilitated both the consolidation of regional fisheries governance as a system and the collaboration among certain actors, particularly regional fishery bodies (RFBs). If one has questioned whether RFBs have evolved in their ways of functioning and decision-making procedures, Harrison’s dedicated in-depth analysis supports that certain RFBs have done so, providing an important study for future developments in regional fisheries governance. In turn, Molenaar (Chapter 6) improves one’s knowledge about participation of States and entities in RFBs,

clarifying relevant issues, including the legal framework and the influence of political interests that underpin the membership of RFBs. Though limited to some RFBs, the analysis provides a useful comparison of their memberships; the corresponding status held by countries, fishing entities and organizations; the legal basis for their eligibility criteria and the RFB's accession procedures.

The EAF management part of the collection begins with Caddell (Chapter 7) clarifying the forums which the recent developments in international fisheries law at the global level stem from, which are not solely from law of the sea instruments. This interesting analysis may make one investigate how other fisheries issues have been elaborated and evolved from the United Nations General Assembly (UNGA) resolutions and/or multilateral environmental agreements. For instance, similarly to Caddell's analysis, the reader may note that the debate around unauthorized fishing was initially addressed in UNGA resolutions and later subject to specific policy and legal developments on illegal, unreported and unregulated (IUU) fishing. This was also the case of UNGA resolutions on bycatch and discards, which could have been mentioned as to link this theme to the writing of Scott (Chapter 8), who then continues with a comprehensive analysis of the main actors and legal sources involved in the international regulation for bycatch and discards. These issues were extensively addressed by conservation-focused initiatives and have mainly been tackled in regional forums. The technical and international regulatory aspects of area-based fisheries management are further examined by Dunn, Crespo and Caddell (Chapter 9), who well demonstrate the importance of such tools to improve fisheries governance, while highlighting the challenges of its adaptability in the face of changing oceanic conditions. These matters appropriately connect to the issues of environmental assessment discussed by Marsden (Chapter 10), as both area-based management tools and environmental impact assessment are key components to the ongoing negotiations of the proposed legally binding instrument to regulate marine biological diversity in areas beyond national jurisdiction (BBNJ). In a similar drive, Rayfuse (Chapter 11) highlights the missing elements in fisheries governance, particularly in RFBs, with respect to climate change issues as well as the implementation of the precautionary and ecosystem approaches. This chapter would have suited better earlier in the collection, bridging the part on identifying future regulatory challenges to the third one on EAF management.

The fourth and largest part of the collection is centred on the everlasting problems of compliance and enforcement in international law, which in the case of international fisheries law are largely related to IUU fishing. It is perhaps the most complex part of the book, since IUU fishing is often interpreted differently by the authors, leading to a false sensation of repetition if the reader is not attentive to the particularities of the context addressed in each chapter. Ásgeirsdóttir (Chapter 12) draws on the fundamental basis of international affairs, recalling the difficulties hampering States' ability or willingness to comply with international fisheries regulations and their main interests driving them towards economic rather than environmental concerns. This general outlook is followed by van der Marel's (Chapter 13) detailed explanation of IUU fishing in international fisheries law and the identification of some efforts carried out by the international community to address this problem. A robust complementary view is offered by Churchill (Chapter 14), who provides a clear and substantive examination of relevant issues and progress made in international trade law in addressing IUU fishing. Churchill's analysis is based on the interpretation of facts, legal provisions, identification of measures useful to tackle IUU fishing and appraisal of the relevant World Trade Organization law. From another perspective, Klein (Chapter 15) adds considerations to the existing regulation of flag State performance, lauding the vessels' identification systems promoted by the UN Food and Agriculture Organisation (FAO) and the European Union (EU), as well as the sharing of IUU vessels lists by RFBs as important efforts taken to improve flag State performance and enforcement. Moving from the State sphere towards another key player in the overall international fisheries governance, Massarella (Chapter 16) provides a dedicated analysis of private actors such as environmental conservation nongovernmental organizations in the monitoring, evidence-gathering, activism, partnerships and litigation efforts, provoking insights and opportunities for furthering similar initiatives by other private actors, including private companies

interested in improving their social and environmental responsibility standards. Finally, Caddell, Leloudas and Soyer (Chapter 17) set out their approaches to tackle IUU fishing, especially with regard to the related financial incentives and disincentives that allow those practices to persist. They also address problems concerning associated transnational organized crime, providing innovative suggestions, including insurance and transnational criminal law considerations for legal and policy frameworks against IUU fishing.

The editors conclude (Chapter 18) by reflecting on opportunities that may be in place or forthcoming in furthering international fisheries law developments. They evince the main views expressed by the contributors in every chapter, supplying the key messages of the book, which keeps the reader captivated until the very last page. Indeed, *Strengthening International Fisheries Law in an Era of Changing Oceans* provides a myriad of relevant, substantive and interesting subjects, gathering novel approaches to strengthen this legal domain, including the idea that an EAF is crucial to address both climate change and IUU fishing issues. The interaction of matters across the chapters of the book triggers the impression that the argument is building up at every turn of a page. Coordination among actors, institutions, arrangements and regimes is a predominant issue advocated throughout the book.

One could note, however, at least two limitations. First, it appears to reflect the views of certain regions of the world, which do not necessarily correspond to a global perspective. More references to the Latin America and Caribbean regions, for instance, could have offered the book a fairer global analysis. Examples of RFBs practices in those areas, particularly the Central America Fisheries and Aquaculture Organization and the Caribbean Regional Fisheries Mechanism are noteworthy, even if it is to indicate their inefficiency or insufficient framework in comparison to other RFBs. Second, an important issue that is becoming increasingly relevant and which was not included in the collection is the recognition, promotion and protection of small-scale fisheries (SSF) by international fisheries law. This sector has recently gained special attention by the international community through the adoption of the 2014 FAO's Guidelines for Securing Sustainable SSF and the 2018 UN Declarations on the Rights of Peasants and Other People Working in Rural Areas, which applies to persons engaged in small-scale and artisanal fishing. The SSF sector represents most of the fisheries workforce in developing countries and are largely marginalized by governments and societies across the globe. This is why the changing ocean conditions will likely impact this vulnerable sector the most. The collection would therefore have benefitted greatly from an analysis of SSF and its various challenges concerning capacity building, adaptation and participation.

Overall, however, the collection is an outstanding piece of work that should be made mandatory to all those wishing to review, expand and update their knowledge about international fisheries law. Bearing in mind the critiques made above, the reader will certainly gain relevant insights on many issues leading international fisheries law forward in an era of changing oceans.

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