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# Book Review: *Research Handbook on Ocean Governance Law* by Simone Borg, Felicity G Attard and Patricia Mallia Vella de Fremeaux

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## Book Review

Simone Borg, Felicity G Attard, Patricia Mallia Vella de Fremeaux (Eds.), *Research Handbook on Ocean Governance Law*, Edward Elgar, 2023, 449pp, ISBN: 978-1-83910-768-9

Reviewed by: Jason Lowther, School of Society and Culture, University of Plymouth

A welcome addition to the Elgar series of Research Handbooks in Environmental Law, this text is compelling and timely. Dealing with both familiar territory and emergent themes of contemporary interest and concern, the book is curated expertly. It provides a diverse and detailed examination of the socio-economic, as well as doctrinal, drivers and outcomes of the law and policy in what is becoming increasingly contested space. The book recognises the importance of interdisciplinary dialogues in framing the normative apparatus to confront these many and varied challenges. In doing so, the book is arranged over five themed parts. While there is a distinct focus in each part, there is a discernible connectivity, as with the ocean systems and regulatory schemes which are presented. The coverage and range of subject matters make it impossible to give a thorough evaluation of everything within the book in a short review, so please forgive any omissions or namechecks

The first part, Governance of the Blue Space, reflects on the current legal regime in place for ocean governance. It is a very effective scene-setter, outlining the rationale behind the development of internationally agreed norms and providing clear and detailed accounts of the interrelationships between the various actors, including dispute resolution, as provided for in the UN Convention of the Law of the Sea (LOSC). A standout perspective is that in Chapter 4, which assesses the role of scientific research in the marine environment. It is something both underpinned by the LOSC and of critical importance to lawyers and policy makers as our knowledge and appreciation of marine processes expands. Ensuring a sound scientific basis to decision-making informing the application of principles such as precaution and an ecosystems-led approach to governance is vital in securing favourable outcomes. The means by which such knowledge is exchanged and appreciated between stakeholders is presented as a key determinant in State level implementation.

Part II Governance of the Blue Planet, offers the reader insights into governance regimes specifically targeted towards pollution and the conservation of marine living resources. In the case of the former, the discussion of inputs from vessels, dumping and, importantly, land-based sources of marine pollution, offers the reader significant evaluation of the regimes currently in place. More contemporary issues related to plastic pollution in Chapter 7 and anthropogenic subsea noise in Chapter 8 provide a wealth of material and perspective on these pressing pollution threats to the functional quality of the marine environment. The charting of regulatory interventions in the case of plastic pollution provides a useful context to the ongoing negotiations for a UN Treaty on plastic pollution. The impact of noise – specifically as a transboundary environmental pollution concern – is slowly creeping up the agenda

and use of existing measures and regional agreements is identified as a means by which the lack of an internationally binding measure may, at least in the short term, be ameliorated. Part II concludes with a reflection on the complex and interrelated regulatory regimes in place to manage the exploitation of marine living resources sustainably (Ch. 10). In charting the legal architecture, some interesting observations in respect of sedentary species are made, and the importance of effective coastal, port and flag State enforcement is highlighted as essential to the success or otherwise of the extant law.

The integration of measures to promote sustainable ocean governance is the coalescing theme of Part III, which deals, as one would expect, with some of the big ticket – perhaps existential – crises posing a threat to ocean systems: climate change; effective management of ecosystems in a three dimensional and dynamic environment; and the evolving position of the development of measures to regulate areas beyond national jurisdiction to preserve both their biodiversity and facilitate equitable benefits within the framework of the LOSC. On climate change, the science/policy/law nexus is rigorously examined in Chapter 11 and a very welcome exhortation to break free from disciplinary silos is advanced. This is particularly apparent in the observation that the majority of significant global measures on climate have been less than explicit on the climate-regulating function of ocean systems. The gap analysis presented identifies numerous presumptions and oversights, combined with a lack of definitional clarity. Of solutions considered, the analysis of the legal and ethical issues around geoengineering is interesting, while at the same time offers an insight onto the complexities at stake. Crucially, the relationships between climate and biodiversity are identified and afforded due weight. The conclusion that climate and ocean governance requires a joined-up response is difficult to contest and cogently presented.

As a link through Part III, the consideration of the ecosystem approach and its place within international legal mechanisms provides a basis to examine the effectiveness and contribution of area-based initiatives such as marine protected areas, noting that other types are also considered in some detail. This Part concludes with a lengthy, detailed and analytical discussion on the interaction between the proposed UN Agreement on Biodiversity Beyond National Jurisdiction (BBNJ) and the general law of the sea. The BBNJ agreement, to date, has been through a series of negotiations and is expected to be in final draft in early spring. The progress of the measure and the implications of its wording are meticulously charted across the principal areas of focus, loosely: benefit sharing from marine genetic resources; area based management tools; environmental assessment; and capacity building.

The interface of law and the ‘blue economy’ is considered in Part IV by introducing the reader to specific sectors of economic activity with ocean governance implications. We find the usual suspects: marine renewable energy generation, fisheries and carriage of good by sea. Each chapter presents international and regional governance factors. For wind, it is the EU and an engaging case study around the development of offshore windfarms in the North Sea. Fisheries is viewed through the lens of the governance of the Indian Ocean, where the lack of comprehensive agreements binding in the region is a significant take-home. In

addition, some less researched areas, in the pantheon of blue growth at least, are represented in the chapters introducing the reader to subsea cabling and growing interest in the protection of underwater cultural heritage.

Finally, Part V introduces the reader to a flavour of the many and complex human dimensions. Piracy, smuggling – of people and weapons - and human rights provide the backdrop. Each of these chapters offer the reader scope to ponder more fully issues of maritime security, the human condition and a sense of a connection to the frontier nature of the oceans. This is a very welcome addition to a text on the law as regards ocean governance, which can tend mainly to consider the natural environment and the means to address anthropogenic interventions.

In short, there is something here for anyone whose legal interests are in any way 'salty'. The stated aim, in the introduction, of acquainting the researcher with certain key 'aspects of a pluralistic legal framework' is certainly delivered. The diversity and complexity of the subject matter is effectively communicated, providing both a jump-off point and some exceptionally detailed analysis of the chosen themes. It is a valuable addition to the literature on this burgeoning area of contemporary interest and importance and is certainly well worth the attention of anyone involved in work related to the oceans. To the publisher's credit, an eBook version is priced from £20/\$26 from eBook vendors while in print. The book can be ordered from the Edward Elgar Publishing website.