

INTERNATIONAL LAW AND THE ARCTIC.

Michael Byers. 2013. Cambridge: Cambridge University Press. xviii + 314 p, illustrated, hardcover. ISBN 978-1-10704-275-9. \$99.

The Arctic has been vividly portrayed in the media during the last couple of weeks when Canada submitted its 'claim' for the North Pole to the Commission on the Limits of the Continental Shelf (CLCS). It is the 'race for resources' and the militarization of the North that have often been highlighted in media sources and it seems inevitable that there will be a war over oil and gas in the not so far future. But let us take a step back and perhaps reconsider and reassess. And that is what Byers does in his book *International Law and the Arctic*. In eight chapters, plus an *Introduction* and a *Conclusion*, he leads the reader through a functioning rule of law in the Arctic and creates a 'factual counterweight to the all-too-widespread narrative of unbridled competition and impending conflict' (page 9).

In the first chapter *Territory* Byers presents four examples of sovereignty disputes over land mass in the Arctic. While three of them – Hans Island, Svalbard, Greenland – are rather well-known and have, except for Hans Island, long been resolved, it is also the not so well-known dispute over Sverdrup Islands in northern Canada between Britain/Canada and Norway which Byers nicely depicts. This dispute interestingly was resolved through quasi-binding letter exchange between the two parties in 1930 and has never been contested since. With regard to land mass, it is only small Hans Island which constitutes the last remaining territorial sovereignty dispute.

In a similar manner *Maritime boundaries* are discussed as the second chapter. Known and not so known disputes find mentioning here and how they have been resolved with special emphasis on the recent Barents Sea Treaty between Norway and Russia and the Lincoln Sea agreement between Canada and Denmark. Byers shows with rich empirical data how the Law of the Sea Convention (UNCLOS) is applied and which differences in argumentation lead to which conclusions. This is indeed a very beautiful way of showing the rule of law in practice and enables a comparative approach towards different maritime boundary disputes. It is the underlying practice of peaceful dispute resolution that Byers emphasises and which he sees as the normative standard in Arctic dispute settlement. Indeed, with reference to the Barents Sea Treaty he writes: '[i]f little Norway [...] can negotiate a win-win boundary agreement with powerful Russia [...], there is no reason for any other Arctic boundary dispute to remain unresolved, (page 46).

Chapter 3 in its entirety is dedicated to the *Beaufort Sea boundary* between Canada and the US, which is the 'only significant boundary dispute in the entire circumpolar Arctic' (page 57). Indeed, given Canada's recent submission to the CLCS, this chapter becomes even more relevant and should be widely distributed to media outlets. It is especially the ongoing and potential legal reasoning and responses that make this chapter stand out. Furthermore, the role of domestic politics, for example the Inuvialuit Agreement in Canada, and their influence on the outcome of this dispute are nicely highlighted. But Byers goes even further and, beautifully argued, includes options for Canadian and US co-management of the resources,

e.g. through a combined Exclusive Economic Zone, economic access rights or joint development. He draws on cases from other parts of the world which may have set precedence for options in the Beaufort Sea. Here, a nicely interpretable map of the Beaufort Sea depicting US and Canadian titles to the area ease the understanding of this chapter.

And indeed, given the recent media frenzy, the fourth chapter – *Extended continental shelves* – should also be widely distributed. Yes, it is a very technical chapter and not very easy to understand as it explores geomorphologic issues in combination with legal statuses of the continental shelf. However, it is very informative and has a very progressive approach to possible outcomes of the often-referred-to 'claims' of the Arctic Ocean states. Notwithstanding, the chapter makes clear that all states act according to the rule of law and therefore assert a high degree of legitimacy to the institutions and the legal regime in place. Indeed, the chapter shows that the current legal regime suffices to resolve all ongoing disagreements on continental shelves. For a better understanding it would have been helpful to include illustrations on the continental shelf or the different oceanic ridges.

Arctic straits constitute another source for disagreement as well as the fifth chapter of the book which is a rich and diverse depiction on the status and challenges surrounding Arctic straits. Once again, the most known – Northwest Passage (NWP) and Northern Sea Route (NSR) – are extensively discussed while attention is also paid to the Unimak Strait in the Aleutian Islands as well as the Nares Strait. It is primarily the implications of the legal challenges that this chapter deals with and how e.g. the 'internal waters'-argument for the NWP and the NSR is justified. Interestingly, Byers makes three crucial observations on these two straits: 1. Russia and Canada could cooperate more closely as their legal reasoning to justify the straits as internal waters is very similar; 2. There have only been very few breaches of the internal waters status with regard to not-approved passing (excluding possible submarine crossings); and 3. with regard to US border security, the Canadian internal waters status could indeed benefit the US due to higher levels of control. Once again, Byers nicely argues different perspectives that link all strait-related issues in the Arctic and he provides a very good comprehensive understanding of the legal challenges and how they could be resolved.

As the reader may notice, 'international law' up to this stage has by and large been linked to the UNCLOS. But this changes in chapter 6 entitled *Environmental protection*. This chapter provides a nice overview of different elements of environmental protection issues in the Arctic, such as species protection, fisheries, shipping or deep-sea mining. Yet, this chapter does not seem too convincing for this reviewer as several issues have not been dealt with especially with regard to airborne pollution. For example, it lacks a discussion on Russia's late ratification of the POPs Convention which only occurred in August 2011. This would have been helpful to better understand the overall dynamics and possible effects on Arctic environmental policy-making and environmental security. Also, Mercury is not discussed in the chapter which constitutes a major pollution concern for the Arctic (AMAP 2011) and for the entire globe (UNEP 2013). Moreover, progressive elements as in the previous chapter cannot be found here and for example a stimulating discussion on the effects and possible mitigations of increasing Arctic tourism cannot be found.

The book then turns to the *Indigenous peoples* of the Arctic in chapter 7. Byers provides a basic overview of the peoples and the influence they exert on international policy-making. Interestingly ILO Convention No. 169 is not mentioned in this chapter while it presents different case studies of particularly Inuit sovereignty, adverse effects on Inuit/indigenous cultures (seal products), human rights or nuclear weapons. All in all, this chapter is rather 'thin' and especially lacks an embedment of Arctic indigenous peoples – including Russian indigenous peoples, who are largely absent from this chapter – in international law contexts. For example, an interesting discussion would have been whether legally speaking Greenlandic Inuit would still be considered 'indigenous' as set out under the United Nations Declaration on Indigenous Peoples once Greenland becomes an independent country. This has been briefly picked up by Thisted (2013) and especially for students of international law this would have been very enlightening.

Byers' last chapter refers to *Security* in a rather conservative understanding of the term. He therefore primarily focuses on military security while his examination of the circum-Arctic search and rescue (SAR) efforts and particularly Canada's SAR capabilities is highly informative. Also his inclusion of non-Arctic actors such as China and notions of trafficking and illegal immigration open up a new field of discussion and call for further research. What Byers does not consider are other notions of 'security' such as environmental or human security. Especially in the context of international law a broader understanding of the term would have been beneficial. I can point the reader to Hoogensen Gjørsv's et al. volume that extensively deals with these issues (Hoogensen Gjørsv et al. 2014).

In conclusion, the chapters dealing with Arctic boundaries are highly informative and should be made widely available to media outlets. They are by and large well understandable and show nicely how international law has been accepted as a basis for peaceful dispute resolution. For a better understanding, however, a more frequent use of maps would have been beneficial. Yet, Byers' progressive argumentation does indeed raise very interesting points and I recommend these chapters to anyone interested in the issue or boundary disputes in the Arctic. The last three chapters in my view cannot maintain the high level of their predecessors. This is due to gaps in the respective contexts which also do not focus too much on international law as such. However, the chapters raise very interesting empirical discussions which stimulate further research (Nikolas Sellheim, Faculty of Law, University of Lapland, PO Box 122, 96101 Rovaniemi, Finland (nikolas.sellheim@ulapland.fi)).

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