

## BOOK REVIEW

**Donald R Rothwell and Tim Stephens, *The International Law of the Sea* (Hart Publishing, 2nd ed, 2016) ISBN: 978-1-78225-684-7**

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As one of the reviewers of the first edition anticipated, *The International Law of the Sea* of Donald R Rothwell and Tim Stephens has had such a commercial success that a second edition is now available. There is little point in embarking on a systematic comparison between the two editions. Suffice it to say that the structure of the second edition is the same as that of the first edition. This means that, in the eyes of this reviewer, this second edition suffers from the same structural disadvantages as its predecessor in a market where it is not without serious competition.

Works of this nature follow the same basic approach as the one followed by the drafters of the 1982 UN Convention on the Law of the Sea ('the LOSC'). Whether there is another approach and, if so, whether the conventional approach is the best one are issues which have received little attention. This is however not the place to engage with them. What is clear is that the conventional approach has an inherent logic which makes it pedagogically effective: one begins with a discussion of the legal regime of the various maritime zones (starting from the shore and moving progressively further and further away), after which follows a discussion of the legal regime of various maritime activities before one concludes with the legal regime governing the settlement of disputes.

While the book under review does by and large follow that approach, it departs from it at times and does so in many cases in unconvincing ways. For instance, the fact that archipelagic States are a special category of coastal States (which appears to explain why they are discussed in chapter 8, after the high seas and before the landlocked and geographically disadvantaged States) does not, in this reviewer's opinion, outweigh the fact that the archipelagic waters are landward of all the other maritime zones except the internal waters, wherever the latter exist. A second example, already pointed out by reviews of the first edition, is the fact that the discussion of specific regimes, most if not all the elements of which it makes pedagogic sense to handle together, are to some extent scattered in different chapters of the book. That is the case, for instance, of the legal regime of archipelagic waters, which is not only discussed in chapter 8 but also in the fourth section of chapter 11. A third example relates to the title of some chapters and sections. One of the somewhat problematical ones is that of chapter 2: 'coastal waters'. There are two reasons. The first reason is that the chapter deals with the baselines, which are precisely lines, not waters. The second reason is that, because the chapter discusses only the legal regime of internal waters, it implies that archipelagic waters and territorial waters are not 'coastal waters', something undoubtedly at odds with integrated coastal management principles. Based on the reviewer's experience, structural issues such as the ones pointed out above must not be underestimated. The international law of the sea is a complex field of study and the structure of any work such as the one under review has a significant influence on the ability of many readers to engage constructively with the material.

Looking beyond structure into substance, this reviewer endorses the positive comments made by the reviewers of the book's first edition. The work demonstrates outstanding erudition and attention to detail. As a result, it contains a wealth of information which, without any doubt, makes the book a very handy reference tool. Perhaps its greatest comparative strength in that regard is the last chapter, which is devoted to ocean governance and in which the authors have produced a useful, but arguably still too law-bound introduction to the wider normative environment within which conflicts between competing human activities and interests in the oceans are resolved. Another strength of the work is that the discussion of the law as it stands at present is systematically built on a (perhaps too) detailed exposition of its historical background. Nevertheless, in that feature lies at the same time one of the frustrating aspects of the book in the sense that the authors appear to have been in some instances too readily content to rehash well-worn clichés. For instance, it can be argued that, on page 2, the authors overstate the influence of Spain and understate the influence of Portugal in the events and knowledge on which the Bull of Pope Alexander VI and the Treaty of Tordesillas were based. Another example is the lack of mention, on page 3, of the undeniable fact that Hugo de Groot borrowed heavily from the leading Spanish international law scholars of the 16th century.

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However, the most frustrating aspect of the book, as far as this reviewer is concerned, remains, in this second edition, the fact that, although its perspective stretches far beyond the shores of Oceania, the work speaks far too little to an African audience and, when it does, it does so sometimes in a skewed manner. To be fair, the book reflects in that respect the state of affairs which has by and large prevailed worldwide until now in the literature in the field. Nevertheless, the time has surely come for all role players across the globe to make their respective contributions to the instauration of a new and more sustainable (ocean) international order where Africa plays a more appropriate role than the one it was compelled to play during the past 500 years. There is no doubt that the main burden must be carried by Africans themselves and important initiatives are underway in that regard. As far as it is concerned, the book can easily be made more palatable by small but symbolic touches in spots where some readers can understandably be left with an uncomfortable aftertaste.

For instance, it is difficult to understand why, on page 13, mention is being made of the contribution of Latin American States in the debates leading to the development of the concept and regime of the EEZ, while no mention is made of the arguably as important contribution made by African States. Another example is the section on the entry into force of the LOSC, on page 18. Indeed, in that section, the authors skirt around the sharp divisions within the international community over some provisions of the LOSC, although those provisions had been adopted by consensus after all parties had made often difficult concessions. No mention is also made of the fact that the 'sufficient levels of support' which ensured that the LOSC was not killed at birth by some of the main beneficiaries of the still largely prevailing international economic and political order, came from the African States, the Latin American and Caribbean States and the Asian States which, indeed, constituted 50%, 27% and 21% respectively of the 52 States which had ratified the Convention by the end of the tenth year following its adoption. Linked obviously with the entry into force of the LOSC is the adoption of the 1994 Implementing Agreement, which is uncomfortably likened to the 1995 Fish Stocks Agreement on page 28. although, as the authors timidly remark, the former does not implement but rather modify the LOSC. A third and last example is the discussion of piracy on pages 466–468, which gives a fair account of the developments along the African eastern seaboard, but disposes of the more current, complex and arguably more interesting developments in the whole Gulf of Guinea by merely referring to Nigeria as one of 'a number of other regions'.