

Book Review

International Law and Politics of the Arctic Ocean: Essays in Honor of Donat Pharand

Edited by Suzanne Lalonde and Ted L. McDorman,
Leiden/Boston, Brill/Nijhoff, 2015.
ISBN: 978-90-04-28458-6 (hardback)

Taisaku Ikeshima

Canada and Russia are two salient Arctic coastal states with special interests in the Northwest Passage (NWP) and the Northern Sea Route (NSR), respectively. However, their policies differ based on different viewpoints regarding the management of these maritime routes along their coasts. Canada is relatively more oriented towards environmental concerns, whereas Russia's interests are in economic development. The Japanese people and country are more interested in the NSR because of its geographic proximity and future economic feasibility, although the future perspective will be subject to Japan's diplomatic relation with Russia and the geopolitical circumstances of the NSR. Therefore, there seems to be more literature and documentation on the NSR than on the NWP.

In this context, the book under review is a welcome addition in this field for understanding the legal and political aspects of the NWP and Canada's position on Arctic policy. This volume is a compilation of essays dedicated to the 'father of Arctic legal scholarship in Canada' (p. ix), Donat Pharand, who authored previous important works on the Canadian position under international law regarding Arctic waters.¹ The volume has five parts: Introduction, Arctic Ocean Regional Governance, Arctic Shipping and Navigation, Bilateral Relations, and Specific Arctic Legal Issues.

Part 1 includes a single article by Suzanne Lalonde, which describes in depth the academic achievements and scholarship of Pharand as a leading expert in the field of the Arctic and the law of the sea. Part 2 comprises three essays written by Bartenstein, Charron, and Jabour. They concern the Arctic Council (AC) in the context of Arctic Ocean regional governance, with special reference to Pharand's 'less well-known' (p. 86) contribution to the establishment of the AC as envisaged in his 1992 proposal of 'a treaty as a constitution for an Arctic council' (p. 107). In Part 3,

five papers examine current issues regarding Arctic shipping and navigation through the NSR and the NWP (Lassere/Alexeeva) under the law of the sea with special reference to Article 234 of the United Nations Convention on the Law of the Sea (UNCLOS) (de Mestral) and other multilateral agreements, such as the Polar Code (Roach and McDorman), and bilateral treaties, such as the 1988 Agreement on Arctic Cooperation between Canada and the United States (Rothwell). In its four articles, Part 4 discusses Canada's bilateral relations with the United States (Oxman, Elliot-Meisel, and Lackenbauer/Kikkert) and Russia (Edge/VanderZwaag) in light of Canada's territorial and maritime claims to the Arctic Ocean and in which successful cooperation between those states aims 'to avoid and sidestep differences over important questions of legal principle' (p. 198). The four essays in Part 5 address a variety of Arctic legal issues, such as the sector principle (Oude Elferink), territorial sea baselines (Schofield/Sas), Canada's Arctic continental shelf (Serdy), and Arctic information platforms (Baker).

The book under review merits attention for the following three reasons.

First, the volume neatly and widely expresses the outstanding contributions of Donat Pharand, to whom it is obviously dedicated, in the field of Arctic studies and international law of the sea. All of Part 1, which is almost 50 pages, is dedicated to a detailed and classified exposition of his academic and practical contributions to these fields. Therefore, readers of the volume will have ample opportunities to recognize the significance of Pharand's scholarly work on Canada's Arctic, in particular, not only as his idea and proposal, although not fully materialized, of an Arctic regional council under an Antarctic Treaty-style treaty with his 'attuned' (p. 86) concerns for indigenous peoples. They will also gain an understanding in the context of 'the diplomatic and political history of the relations between Canada and the United States over the Arctic' (p. 160).

Second, the book comprehensively represents an excellent collection of writings on Canadian practices regarding the Arctic Ocean, some of which is, of course, thanks to Pharand's individual scholarship on the topics. Two examples are important in this context. First, some of the books' contributions discuss the historical background and legal status of the sector principle with reference to Pharand's original contribution, which is rarely found in most standard textbooks on international law. However, it is intriguing that the evaluation of the principle in its practical application seems to be opposite between the views of Lackenbauer/Kikkert, who are positive regarding its influence on Canada-United States Arctic relations, and those of Oude Elferink, who dissociates the sector principle in Russian practice from 'legal realities' (p. 290), particularly in the field of maritime delimitation law. The second example of Canadian practice is the practical and current data and information on: (1) the Arctic Passages in the NWP compared to the NSR, (2) its unexpectedly 'pragmatic and successful cooperative relationship' (p. 214) with the United States, and (3) the legal status of sea ice and its impact on the baselines under UNCLOS. In the last of these topics, a thorough and systematic examination by Schofield/Sas is conveyed in a 124-page contribution. It

includes two appended tables on state practices on the recent status of Arctic ice formations and a very detailed chronological and bibliographical list of jurists' approaches to the legal status of ice.

The third reason that this volume is important is its timely coverage, in light of legal, economic, and scientific frameworks, of some attractive and up-to-date topics. These include the Polar Code, the comparison of the NSR and NWP, and the delineation of the outer limits of Canada's extended continental shelf. Leading scholars from various fields and nationalities accomplished a remarkably broad coverage of numerous topics on the Arctic Ocean in the context of international law and politics. This volume represents the thick layer of experts on Arctic studies in the international community as well as in Canada.

Endnotes

- 1 See, for example, *The Law of the Sea of Arctic Ocean* (University of Ottawa Press, 1973) and *Canada's Arctic Waters in International Law* (Cambridge University Press, 1988).