

Research Handbook on Polar Law. Edited by Karen N Scott and David L VanderZwaag. 2020. Cheltenham and Northampton: Edward Elgar. 512 p, hardback. ISBN 9781788119580. GBP 200.

Much of the polar literature to date, legal and otherwise, focuses on the challenges of our times. Rightly so. The poles' physical environments are changing: the warming oceans, the accelerating yearly ice melt and forests burn, the rising air temperature. The poles are both a catalyst and the prime receivers of anthropogenic change. Faced with the urgency brought by physical changes, international law, oft reluctant to change and promoter of stability, is required to adapt. In this context, the polar regions are often brandished as exemplars of cooperation spaces bridging political divides and whose governance systems promote peaceful resolution of disputes through law and innovative solutions. They offer a glimpse of the application of international legal norms in region-specific contexts.

Gathering an array of exceptional scholars, *Research Handbook on Polar Law* explores this broad, developing field of legal scholarship by asking whether there is an emerging common set of legal norms between the Arctic and the Antarctic. One that transcends, in the editors' own words, their "very real differences to provide a foundation for the development of a coherent and principled body of law that applies across and to both Poles" (8). Mostly focusing on the evolution and challenges of polar law and governance in the context of the Anthropocene, the book provides one of the most comprehensive study on polar law since Natalia Loukacheva's now well-known edited volumes – at least to international lawyers with a keen interest in the poles – Polar Law Textbooks I and II (Loukacheva 2010; Loukacheva 2013). Throughout the book, common principles and themes emerge – scientific cooperation, region-specific environmental protection mechanisms as well as fauna and non-living resources management being the most prominent ones. Discussing the polar regions in light of anthropogenic changes, Summerhayes et al. argue, in their chapter, that interconnection between the global Earth system and the polar regions is a vital task for policymakers and internationalists alike in the decades to come (18). However, the scale of the changes associated with the Anthropocene cannot be addressed with the present piecemeal legal frameworks contained in different multilateral and bilateral agreements.

In blazing the trail, the next generations of polar lawyers will walk on, Scott and VanderZwaag's *Research Handbook on Polar Law* might lack a crucial element. Whilst the Antarctic can only be spoken of through the statist lens of conquests and frozen territorial claims, it is important to resist the temptation to amalgamate both poles and transpose the legal realities of one to reinforce the legal fictions of the other. In their study on the historical evolution of polar law and their search for distinctive elements of international law that applies to polar regions, Rothwell and Hemmings hint to the emergence of a Polar *lex specialis* – that is, a special set of legal norms and principles that apply exclusively to polar environments. Linking it to debates around the legal concepts of territoriality and sovereignty, they argue that such *lex specialis* can be traced back to the 1933 Permanent Court of International Justice's (PCIJ) case concerning the legal status of East Greenland (Denmark v Norway) and the PCIJ's distinction between temperate and Polar lands (473). As Johnstone, also a contributor in this volume, points out elsewhere, nowhere in this legal fiction did the Court deem appropriate to properly consider the East Greenlanders themselves (Johnstone 2020, 318).

Of course, throughout the volume, local insights are hinted at. For instance, in an Arctic context, Koivurova, Kleemola-Juntunen, and Kirchner remark that drafting international instruments for a region with specific challenges requires considerable local expertise (65). Moreover, Seck and MacLeod's chapter on *People at the Poles* give a nuanced overview of how international norms relating to people apply in the context of Polar Law, arguing that international human rights law breaks down some of international law's state-centric biases (87-88). However, *Research Handbook on Polar Law* still comes off as state focused. Positivist and doctrinal internationalists would not have it otherwise: The State – one with a capitalised S – still appears to be front and centre of the international legal order and scholarship. It is *their* regulated boundary disputes and treaty-frozen competing territorial claims McDorman and Schofield (124-146) and Shirley V Scott (147-162) disentangle. It is *their* environmental and resource management frameworks and policies that are analysed. Going back to

Koivurova et al, “by creating a set of legal norms that are accessible to all states and have been created with Arctic-specific challenges in mind, Arctic states can utilize international law for the protection of *their interests*, most notably the protection of the natural environment” (83 – emphasis added). Whilst escaping, for now, the realm of state sovereignty, the same can be said to apply to the Antarctic. Evidently, this state-centric approach is not the *Research Handbook*’s fault. It is the symptom of a much broader systemic issue with international law. True to formalistic doctrinal research, each contribution offers a thorough analysis of specific polar legal norms and principles as they are; not as we wish them to be. International law after all remains a state-driven process, for better and for worse.

The quest to find what Polar Law is and whether there are such rules and principles that coherently apply across both poles based on common values can only be achieved by questioning international law’s distinct role and effects at each pole. Acknowledging the regions’ different histories and governance systems is crucial so as not to repeat colonial patterns of thinking about and governing the Arctic and the Antarctic. Whereas, in the South, (mostly) European encounters with a human-less icy landmass might have led to the development of special rules and principles, the legal fiction of *Terra Nullius* applied to the North only served to deny sovereignty to local nations and communities and to draw a curtain over their own laws and territorial rights – one which Indigenous scholars and communities have kept challenging. While Antarctic governance can mostly be understood through a statist lens as well as through nationally founded scientific research, the Arctic is diverse and plurivocal – going beyond states and science. Its legal architectures and landscapes are layered and complex. Notwithstanding the excellent quality of its doctrinal approach to norms and principles of Polar Law, *Research Handbook on Polar Law*, and to a greater extent the broader field of polar legal research, would benefit from engaging more with decolonial and critical legal thoughts.

Such criticism is not to say black letter law approaches ought to be banned – perhaps some would argue they should. However, they certainly need to be complemented by more nuanced

understandings of the paradoxes and contradictions of international law and its application at the poles. In their concluding remarks in the opening chapter, Scott and VanderZwaag advance that rather than being static, polar law is of dynamic nature (17). Current and future challenges put this dynamism to the test. While polar law and international law writ large rely on stable environmental conditions (37-39), adapting polar law to the challenges of the Anthropocene also requires going beyond its state-centric bias. However, the anxieties expressed above are not to be taken as a deterrent to read and engage with this volume. *Au contraire*, they are testament to the need to implicate oneself even more deeply into polar law so as not to miss valuable opportunities to reflect on and expand current understandings of the field. That said, meeting *Research Handbook on Polar Law* on its own terms, its orthodox treatment of polar law as a developing scholarly field will, without doubt, still be of interest to polar researchers and legal practitioners. Although students specialising in polar law would undoubtedly learn from this wide ranging and extensive analysis of legal norms and principles, this research handbook’s hefty price tag locates it more in the budget of university libraries. (Romain Chuffart, PhD candidate in law, Durham Law School with Durham University’s Arctic Research Centre for Training and Interdisciplinary Collaboration (DurhamARCTIC) (romain.f.chuffart@durham.ac.uk)).

References

- Johnstone, R. L.** (2020). From the Indian Ocean to the Arctic: What the Chagos Archipelago Advisory Opinion Tells Us about Greenland. *The Yearbook of Polar Law Online*, 12(1), 308–327. https://doi.org/10.1163/22116427_012010019
- Loukacheva, N.** (2010). *Polar Law Textbook*. Nordic Council of Ministers. ISBN 978-92-893-2056-6.
- Loukacheva, N.** (2013). *Polar Law Textbook II*. Nordic Council of Ministers. ISBN: 978-92-893-2550-9.

DOI: [10.1017/S0032247421000267](https://doi.org/10.1017/S0032247421000267)