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A REVIEW OF SEA CHANGE: THE EXCLUSIVE
ECONOMIC ZONE AND GOVERNANCE
INSTITUTIONS FOR LIVING MARINE RESOURCES

*Betsy Baker**

SEA CHANGE: THE EXCLUSIVE ECONOMIC ZONE AND GOVERNANCE INSTITUTIONS FOR LIVING MARINE RESOURCES. Edited by Syman A. Ebbin, Alf Håkon Hoel, Are K. Sydnes. The Netherlands: Springer. 2005.

More than 100 states have defined an Exclusive Economic Zone (EEZ) or its equivalent, many since the United Nations (U.N.) Convention on the Law of the Sea (CLOS) was opened for signature in 1982.¹ *Sea Change* explores the surprising and varied ways in which EEZs have affected the management of living marine resources in the ensuing years in diverse national and regional settings. The editors identify the accumulation of more than a quarter century of experience with EEZs as one premise for this cleanly structured, concisely engaging, and consistently instructive volume. Elsewhere, editors of this *Ocean and Coastal Law Journal* are publishing symposium articles marking another 25th anniversary, that of the 1984 International Court of Justice chamber decision in the *Gulf of Maine Case*, which itself addressed a dispute that was an outgrowth of the United States and Canada adopting EEZs.

The book's well-chosen and complementary case studies of five national marine management strategies and two regional arrangements represent developed, developing, and post-communist systems.² The

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1. A SEA CHANGE: THE EXCLUSIVE ECONOMIC ZONE AND GOVERNANCE INSTITUTIONS FOR LIVING MARINE RESOURCES 211 (Syman A. Ebbin, Alf Håkon Hoel, Are K. Sydnes eds., Springer 2005) [hereinafter SEA CHANGE].

2. In his chapter on fisheries in Russia Geir Hønneland points out that the category of post-communist systems is often overlooked in the literature on managing marine

four other national case studies are Norway,³ Australia,⁴ the United States,⁵ and the Trobriand Islanders of Papua New Guinea.⁶ Regional strategies are considered in a fine general overview by Are K. Sydnes⁷ and then in two contrasting case studies; one on South China Sea fisheries⁸ and the other on Pacific Islands marine resources.⁹

Sea Change concludes with three pieces addressing theoretical and practical aspects of institutional interactions and directions: the Food and Agriculture Organisation (FAO) and the World Summit on Sustainable Development (WSSD) (Serge M. Garcia, David J. Doulman);¹⁰ governance in the Bering Sea Region (Oran Young),¹¹ which moves deftly beyond issues raised by the existence of the EEZ to highlight the critical importance of a voice for permanent and especially indigenous residents,¹² and to warn of excessive integration of institutions¹³ and reliance on binding agreements.¹⁴ The editors' general conclusion builds neatly and critically from the concept of "fit" between the biophysical properties of living marine resources and the human and institutional responses—at local, national, regional, and international levels—to the enclosure of those resources by economic zones and EEZs.

living resources. Geir Hønneland, *Fisheries Management in the Russian Federation*, in SEA CHANGE 49.

3. Alf Håkon Hoel, *The Performance of Exclusive Economic Zones: The Case of Norway*, in SEA CHANGE 33.

4. Russell E. Reichelt & Geoffrey C. Wescott, *Integrated Oceans Management and the Institutional Performance of Exclusive Economic Zones: The Australian Case*, in SEA CHANGE 64.

5. Syma Ebbin, *The Impact of the EEZ on Pacific Salmon Management: An Examination of Institutional Innovation and Interplay in the US Pacific Northwest*, in SEA CHANGE 78.

6. Lawrence Kalinoe, *Regulating Access and the Use of Marine Genetic Resources within the Exclusive Economic Zone*, in SEA CHANGE 100.

7. Are K. Sydnes, *Regional Fisheries Organisations and International Fisheries Governance*, in SEA CHANGE 117.

8. Ma. Carmen A. Ablan & Len R. Garces, *Exclusive Economic Zones and the Management of Fisheries in the South China Sea*, in SEA CHANGE 136.

9. Joeli Veitayaki, *Staking Their Claims: The Management of Marine Resources in the Exclusive Economic Zones of the Pacific Islands*, in SEA CHANGE 150.

10. Serge M. Garcia & David J. Doulman, *FAO's Fisheries Programme and the Plan of Implementation of the World Summit on Sustainable Development*, in SEA CHANGE 169.

11. Oran R. Young, *Governing the Bering Sea Region*, in SEA CHANGE 194.

12. *Id.* at 200.

13. *Id.* at 203.

14. *Id.* at 204.

The book's thirteen individual chapters, which make ample cross-references to each other, combine to offer parallel and interrelated narratives of how national responses have interacted with existing regional and global arrangements for managing marine resources. In doing so, they also demonstrate how the regional and global arrangements were themselves affected as management practices emerged in the wake of the 1982 CLOS, the 1995 U.N. Agreement on Straddling Highly and Migratory Fish Stocks (Fish Stocks Agreement or FSA), and the 2002 WSSD Joint Plan of Implementation call for application of ecosystem-based management.

For example, the new rights and responsibilities entailed in EEZs threatened to overwhelm the ability of small island states in the Pacific to manage their exponentially expanded zones of jurisdiction, so they successfully banded together in "innovative cooperative agreements."¹⁵ These arrangements allowing them to promote sustainability of their resources both predated the CLOS (e.g. the 1979 Forum Fisheries Agency Convention¹⁶) and followed it (e.g. the 1983 Regional Register for Fishing Vessels¹⁷). By contrast, states in the South China Sea that had competed more aggressively for fishery resources prior to defining their EEZs found it much more difficult to come to grips with the "poor institutional fit between the EEZs of coastal states and the natural structure of fisheries resources."¹⁸

Sea Change effectively illustrates the fact that the EEZ was a new creation to which states responded with a mix of old and new tools, often tellingly representative of their national political and legal systems. The Russian and Norwegian studies, compelling narratives on their own, offer a striking contrast in this regard. The USSR declared a 200 nautical mile Economic Zone (EZ) in 1984, and the Russian Federation adopted the same distance in its 1998 Law on the Russian EEZ.¹⁹ Norway's EZ came into effect in 1977, well before the CLOS negotiations were concluded, in a process that required international diplomacy and "new institutions for bi- and multilateral cooperation in the management of living marine resources."²⁰ Russian fisheries management is shown to be

15. Veitayaki, *supra* note 9, at 164.

16. *Id.* at 154.

17. An inexpensive control of Distant Water Fishing Nation partners "who are provided with incentives for voluntary compliance with national laws and fisheries access agreements" in that foreign vessels must be in good standing with the Registry to receive a license. *Id.* at 155.

18. Ablan & Garces, *supra* note 8, at 136.

19. Hønneland, *supra* note 2, at 51.

20. Hoel, *supra* note 3, at 37.

resistant to international trends such as the precautionary approach²¹ and burdened not only by turf wars between different agencies and the central and regional governments,²² but also by the increase in centralization of fisheries administration at the federal level and the “dubious formal status of Sevryba”—an association of fishing companies—in the regulatory process.²³ Norway, on the other hand, is demonstrated to be open to international cooperation and principles, in part a product of the genesis of its EZ, and to offer useful contributions to the international discussion of what it means in practice to implement the ecosystem-based approach to fisheries management called for by 2010 in the 2002 WSSD.²⁴ The process of drafting Norway’s Marine Resources Act (entering into force in 2009, after the book’s 2008 publication), also demonstrates an openness to both the precautionary and ecosystem-based management approaches. Most remarkable is the way in which the Norwegian Institute of Marine Research has responded to the ecosystem-based approach, by reorganizing from its previous division of four sectors (“resource management, aquaculture, coastal one management, and the marine environment”) into nineteen research groups delivering research through various advisory programs to the Ministries of Fisheries and Environment, so as to “yield scientific advice that is informed by ecosystem considerations.”²⁵

The volume is structured around three research questions:

1. What is the nature of the institutions that coastal states have created within the framework provided by the EEZs?
2. How has the creation of the EEZs affected the vertical interplay among institutions at different levels of social organisation (i.e., international, national, traditional, and co-management regimes) and the horizontal interplay among institutions focused on different functional arenas (i.e., trade, environment, and fisheries)?
3. How has the development of EEZ-based regimes affected the fit of marine resource management institutions with biophysical systems?²⁶

21. Hønneland, *supra* note 2, at 52.

22. *Id.* at 55-56.

23. *Id.* at 57-58.

24. Hoel, *supra* note 3, at 42.

25. *Id.* at 42-43.

26. Are K. Sydnes, Alf Håkon Hoel & Syman A. Ebbin, *Changing Seas, Changing Institutions: Charting New Courses into the Future*, in SEA CHANGE 210 (elaborating only slightly on the same questions posed on page four).

These are variations on questions that lie at the core of Performance of EEZs (PEEZ), a “flagship” activity of the Institutional Dimensions of Global Environmental Change project which is, in turn, a project of the International Human Dimensions Programme on Global Environmental Change.²⁷ The fact that this major evaluation of EEZs is nested in a program on Human Dimensions reflects the integration of humans into the previously ecologically based notions of ecosystems that segregated the “natural” world from human involvement in it.

The fact that seven of the thirteen contributors to SEA CHANGE are experienced marine scientists or resource managers rather than political scientists (four) or lawyers (two) renders the volume itself a lesson in how dependent EEZ-related laws and policies are on the availability of sound science for decision making. Not only does the volume offer insights into how science has gained importance under the EEZ regime and how the three disciplines inform each others’ approaches to the same task of managing living marine resources, but many of the chapters also describe keenly observed differences—usually by the scientists—in cultures and philosophies of the different groups.²⁸ Especially important are observations on the challenges to fostering sound science in a politically-driven environment,²⁹ the “heavy demands” that the 1995 Fish Stocks Agreement placed on science, effectively rendering “enhanced scientific cooperation as a condition for effective regional fisheries management,”³⁰ and the importance of (still inadequate) data management and accessibility.³¹

Of the many services this volume performs, one is to remind the reader of facts, by repeating them in different national contexts, which may have grown so familiar that their significance has escaped deeper consideration. To wit: that the 1995 Fish Stocks Agreement entered into force in 2001 (not even a decade ago); that the 2002 WSSD call for ecosystems-based management by 2010 effected a burgeoning of state efforts to (re)-draft national oceans policies and marine resources legislation; and that the creation of the EEZ led to deleterious effects, at least initially, on the world’s fish stocks (e.g. fish biomass down five to thirty percent in coastal South and Southeast Asia compared to pre-EEZ

27. SEA CHANGE, *supra* note 1, at xii.

28. Reichelt & Wescott, *supra* note 4, at 74-75.

29. Hoel, *supra* note 3, at 42.

30. Sydnes, *supra* note 7, at 124.

31. Reichelt & Wescott, *supra* note 4, at 75.

periods;³² the multiplying of global fishing capacity “significantly accounts for the poor state of fish resources globally”).³³

One theme that surfaces throughout the book is the conflict between economics and the environment; between considering fisheries management as the basis of individual livelihoods, commercial interests and national economic health on the one hand, and viewing it as the platform for conservation and protection of the marine environment on the other.³⁴ In one sense, the chapters in this book tell the related stories of how individual states, as well as regional and international institutions, have implemented EEZs with varying levels of success to overcome that basic tension, and to integrate both concepts in a future-oriented approach to managing living marine resources today.

32. Ablan & Garces, *supra* note 8, at 139.

33. Hoel, *supra* note 3, at 44.

34. *See e.g.*, Hønneland, *supra* note 2, at 61; Ablan & Garces, *supra* note 8, at 143.