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Book Review

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Book Review

Timo Koivurova, Qin Tianbao, Sébastien Duyck and Tapio Nykänen (eds.), *Arctic Law and Governance - The Role of China and Finland*, 1st ed., Bloomsbury / Hart Publishing, Oxford & Portland, 2017, 312 pp., ISBN: 9781509911493, Hardback US\$ 108, ebook US\$ 54.

Arctic Law is an emerging academic discipline which brings together diverse specializations. Among the issues dealt with in the context of Arctic Law are institutional concerns, for example with regard to the Arctic Council, environmental law questions, the law of the sea and human rights, in particular the rights of indigenous communities - to name just a few examples. While many of the legal concepts which are relevant for both practitioners and academics are based on, or at least are related to, international law, the practical implementation of these legal concepts, rights and obligations, occurs on the local and national levels. While international law forms the core of Arctic Law, any endeavor into this emerging field would be incomplete without understanding national approaches. It is therefore timely that *Koivurova et al.* present an edited volume which brings together Finnish and Chinese perspectives on Arctic Law.

While Finland, although no longer an Arctic Ocean coastal state, is a well-established actor in the Arctic (and currently chairing the Arctic Council), China is a non-Arctic state with significant Arctic aspirations which have become more evident in recent years. These aspirations are expressed in China's self-characterization as a so-called 'near-Arctic state', its observer status with the Arctic Council and in its 2018 Arctic Policy White Paper. Even though the book reviewed here has been published before China's Arctic Policy White Paper was released, the volume remains a valuable resource. If anything, China's White Paper now clarifies a number of issues. By including contributions of leading experts from both countries, the editors cover a wide range of issues which are of interest not only from the national perspectives of Finland and China but also for a wider readership interested in contemporary issues of Arctic Law in a wider sense.

The topics approaches in the volume at hand are grouped in three parts, each of which consists of several chapters. Part I covers Chinese perspectives of issues such as the law of the sea, scientific research in the Arctic as well as the Arctic Council. While China's increasing relevance for the Arctic Council has received attention not only by scholars but also by the media in Arctic states, *Ren Shidan's* chapter on scientific research is particularly auspicious as the Arctic Council's Agreement on Enhancing International Arctic Scientific Cooperation entered into force in May 2018. Scientific research is seen by many non-Arctic states, including China, as a doorway to the Arctic. China is a relative newcomer to the Arctic but has significantly increased its commercial and scientific activities in the region in the last years. As this development is not only viewed positively by local actors in the Arctic, the chapter provides an important contribution to improve understanding China's position in this regard. At the core of the chapter, however, is the question whether the People's Republic of China (PRC) has a legal right to conduct research in the Arctic. Particular attention is given to the UN Convention on the Law of the Sea and the Svalbard Treaty. While the Law of the Sea Convention covers areas under national sovereignty as well as areas outside national control, Svalbard is part of Norway's territory, albeit one to which special rules apply. A wide range of international treaties applies in the territories of Arctic states. There are, therefore, already international legal frameworks which govern the Arctic, both under the parts of the Arctic which fall within the national sovereignty of Arctic nations and the areas beyond national sovereignty. The Chinese focus on the Law of the Sea Convention and the Svalbard Treaty, however, is hardly surprising because these are the sets of norms which provide outside nations access to the natural resources of the Arctic.

The Law of the Sea Convention is also at the heart of chapter 5 on maritime sovereignty by *Xiayi Jiang* and *Xiaoguang Zhou*. This issue is relevant for China not least in light of the situation in the part of the Western Pacific which is referred to by China as the South China Sea and by the Philippines as the West Philippine Sea, in the waters disputed by a number of regional states including China. The 2016 decision by an arbitral tribunal which had been established under Annex VII to the Law of the Sea Convention in a case between the Republic of the Philippines and the People's

Republic of China meant a rejection of China's claims but not the end of such claims by the PRC. In addition, China's views on passage rights of foreign vessels in the disputed areas are hardly compatible with the Law of the Sea Convention. This raises questions for coastal states elsewhere, including in the Arctic, as to how China will behave in near-coastal areas far from home. While the situation in the Western Pacific has already been given significant academic attention, chapter 5 makes an important contribution with regard to the Arctic. As is highlighted there, China is particularly interested in nearly emerging shipping routes in the Arctic. The PRC's focus on securing shipping routes in the Arctic would align with China's interests in the so called South China Sea or China's role in counter-piracy operations off the coast of Somalia in recent years. Chapter 5 also reveals that as a non-Arctic state, China is dependent on international cooperation in the Arctic. In the South China Sea, on the other hand, China pursues a very different policy approach. This can lead not only to contradictions but also raises questions concerning the reconciliation between different stances regarding those two regions — or if a coherent policy approach can or should be expected from China in the first place. Unfortunately this important issue is only dealt with extremely briefly, in a single paragraph consisting of three sentences. China's focus appears to continue to be on the sovereignty of nation states. As China demands respect for its own claims to sovereignty over disputed areas in the waters west of the Philippines, the PRC can - as is noted correctly - hardly oppose the sovereignty of Arctic states. What is ignored in the chapter is the fact that China's claims to rocks and islands in the South China Sea has been rejected by the arbitral tribunal and that these claims are on a fundamentally weaker legal footing than the claims of Arctic nations to their land territories and their waters.

Which conclusions Arctic states are meant to draw from China's policies in the Western Pacific for China's future behavior in the Arctic Ocean remains an open question. China's 2018 Arctic Policy White Paper continues to emphasize sovereignty and cooperation but China's neglect of international law in other areas makes the PRC a less than reliable partner, a problem which cannot be solved through a publication like the one under review here. The book under discussion here serves somewhat to inform readers in the Arctic about China's views on the Arctic and the rules which govern the northernmost part of the world. This is achieved in particular by part II which does not present a Finnish perspective as a counterpart to the first chapters of the book which outlined the Chinese point of view. Instead, parts II and III provide the reader with comparisons between Finland and China (part II) and between the European Union (EU) and China (part III), respectively. These comparisons cover not only maritime issues (chapters 9 and 11) but also indigenous peoples (chapter 10), China's observer status in the Arctic Council (chapter 8) or more fundamental observations about "China and Finland in the Globalised Arctic" (the title of chapter 6 by *Lassi Heininen*) but also includes an insightful contribution about the role of the Arctic in different domestic discourses (chapter 7). In particular the latter approach is important for the fostering of mutual understanding. This is not only about defining the Arctic (and there are already numerous definitions of the Arctic for a wide range of different purposes) but more importantly about the role of the respective countries in the Arctic.

As it is shown by *Tapio Nykänen*, there are a number of elements which Finland (an undisputed Arctic state, albeit not a coastal state of the Arctic Ocean) and China (a non-Arctic state, the northernmost point of which is located about as far south as Hamburg, Dublin or Szczecin) have in common. This includes an emphasis on sovereignty, international cooperation and a focus on environmental protection (although both countries have room for improvement when it comes to implementing environmental standards). As they lack an Arctic Ocean coast, China and Finland both depend on the Law of the Sea Convention in order to access the Arctic Ocean, which contributes to an emphasis on cooperation and treaty rights. Internally there are of course significant differences between domestic discourses in a solid democracy which prides itself on its low levels of corruption and discourses in a single-party state in which dissent from the party line is discouraged and often punished. The absence of democratic institutions and processes can make it more difficult for outsiders to understand China's policy choices. Even though chapter 6 was written before the 2018

Arctic Policy White Paper was published, it continues to provide an interesting window into China's views on the Arctic.

The same can be said about the book as a whole: in many different ways, China is already a significant actor on the Arctic stage. The authors of this volume succeed in making the Chinese view on the Arctic, in particular in a legal context, more understandable by contrasting it with EU and Finnish perspectives. This approach makes the book valuable not only for readers with an interest in Finland or China but for anyone looking at the evolution of Arctic Law at a time when the Arctic becomes more accessible very rapidly - which in turn attracts new actors, such as China. The PRC's Arctic ambitions are not to be underestimated and the experience of some states with China's one belt - one road (OBOR) initiative might highlight risks associated with a rapid increase in dependency on Chinese investments. Unlike in the case of cooperation with other Arctic states, the interaction between Arctic states and China, be it in economic terms or when it comes to policies or regulatory institutions, is still a relatively new phenomenon for many Arctic nations. While this book cannot fully level the informational playing field, the authors make it easier for the reader to understand China's views on the region.

As the PRC's role in the Arctic continues to grow, it is only natural that China's ambitions in shaping the rules which govern the Arctic will grow as well. The legal possibilities for China in Arctic fora are limited to its observer status in the Arctic Council and to more general institutions which might occasionally deal with Arctic-related issues, for example when the International Maritime Organization established the Polar Code. As large parts of the Arctic fall under the national sovereignty or sovereign rights (for example in the form of Exclusive Economic Zones) of Arctic states, China's avenues for influencing the creation of Arctic-specific norms are limited. This makes it imperative for the PRC's government to maximize the effectiveness of its efforts in this regard. For Arctic states, this means that there is a substantial need to understand Chinese perspectives on Arctic Law. By contrasting these perspectives with those of Finland and the European Union, the book will prove useful also for readers from Arctic states other than Finland. Understanding, or at least a willingness to understand, is essential for a meaningful dialogue and a fair inclusion of all stakeholders in the processes which shape the international legal standards which apply in the Arctic, based on fundamental concepts which are embraced by almost all Arctic nations, such as respect for international law (including human rights standards and especially the rights of the often neglected indigenous communities of the Arctic) and the sovereignty of nation states, a commitment to cooperation across political divides and an understanding that at times common concerns can override national interests. In times of increasing Chinese involvement in the Arctic, decision-makers in Arctic states need to understand the PRC's motivations and how China perceives Arctic Law. This book not only meets this need for more information but should also prove an important resource for legal academics and practitioners in the Arctic and beyond.

Disclaimer: The author of this review works with one of the editors of the book under review but was not involved in the creation of the reviewed book.

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