

*Towards Principled Oceans Governance Problems such as the effects of global warming, overharvesting of fish stocks, the impacts of marine pollution, ineffective maritime regulation and enforcement, and security concerns are common throughout the world's oceans, seas and marine regions.*

His current research interests are ocean governance and the implementation of the Law of the Sea Convention and the UNCED process, with a focus on maritime security, regionalization and capacity building. His disciplinary and interdisciplinary research interests are in comparative ocean law and policy, law of the sea, international marine environmental law, maritime law and integrated coastal management. Her research interests include a broad range of international public law and policy issues. Her industry experience includes environmental management, environmental impact assessment and four voyages to Antarctica with the Australian National Antarctic Research Expeditions. She has published on environmental management and environmental impact assessment, coastal and ocean management, land-based water management, sustainable tourism and visitor center planning. Her research interests are in the processes of community change especially as they relate to tourism. She teaches and writes in a variety of areas, including aboriginal title, administrative law, property law, and gender and the law. He is the recipient of the H. His previous appointments were at Dalhousie University 1987 , University of Toronto 1972 , and Harvard University 1977 . He has taught and written extensively in international and comparative law, marine and environmental law and policy, international relations and modern Chinese studies. Professor McDorman has written extensively on ocean law, policy and management issues. The Journal of Marine Affairs. Myers current major research is on the meta-analysis of data from many populations and communities, and a global assessment of sharks. Her recent interests include the modeling of ecosystems including Bowie Seamount. Sakell previously held senior executive positions in private industry and in the Department of Premier and Cabinet in Tasmania. Tsamenyi has written extensively on ocean policy making and developing legal frameworks to implement the Law of the Sea Convention and has undertaken consultancy for several governments and international organizations. Over 3, delegates met to debate issues facing natural resource management. Since the latter part of the 1980s when the national park system began, our focus has been on the terrestrial world. In recent years, articles have begun to appear in the public domain highlighting the threats that human activities are posing to the marine environment. While understanding of the need to do something may be increasing, tangible results or even small steps appear few and far between. Who are the custodians of the oceans? How can oceans effectively be governed to ensure that the principles of ecosystem and integrated management, intergenerational equity, and the precautionary approach are implemented? These questions are for scientists, policy- and decision-makers alike. While oceans are of importance to every part of the globe, the two countries, Australia and Canada, which are the focus of this book, have vast coastlines and histories of indigenous cultures and aspects of national development linked to the oceans. The way of life in many coastal communities is tied to the health of the marine environment and the sustainability of living and non-living resources. Both countries have delved into ocean governance issues. At the same time there are a number of areas where the countries diverge. Jurisdiction in marine areas is shared in Australia among the Commonwealth and state governments, whilst in Canada, the federal government has almost exclusive jurisdiction. Approaches to indigenous issues generally and those associated with jurisdiction differ as well. The beach culture in Australia has a profound impact upon the national psyche. I am honored to have been involved with ACORN and was particularly struck by the range of disciplines and depth of experience of participants at the June Canberra Challenge Workshop which forms the basis for this book. As Chairperson of the Canberra Workshop, I found it to be a really interesting experience. The Workshop was designed around each research team group, of which there were 11, presenting their research results to not only their own peers but primarily to a challenge team of six distinguished Australian and Canadian oceans governance opinion leaders. It is critical at this time in our evolution that we address the lack of integrated frameworks for oceans governance both domestically and internationally. Moving from coastal, to three nautical miles, then to nautical miles, then

beyond to the outer limits of the continental shelves we are now beginning to debate the future of the common heritage of mankind – the high seas. Our ability to explore the depths is increasing as is access, development and utilization of deep-sea resources. These areas, previously thought of as too remote and available to all who wished to venture there, are now being recognized as needing urgent action and attention. The question is whether we can take steps in time before precious and unique ecosystems are irreparably harmed. Applying precaution, using a multidisciplinary integrated approach and having foresight to take innovative actions such as involving more than just resource users and governments in the determination of the future, would certainly be a positive indicator of things to come. Hopefully the steps we are taking now will be viewed as leading to positive results and not just as waves of rationality in a perpetual sea of vagueness. Donna Petrachenko – Chairperson; Dr. Preface Just leaving port. International legal principles, such as precaution and ecosystem-based management, have emerged from the United Nations Conference on Environment and Development and the World Summit on Sustainable Development, but the principles only set general directions. A sea of conceptual and practical challenges face countries and citizens as they navigate towards implementation strategies and measures. This book is the outcome of a comparative research program in ocean law, policy and management focusing on Australian and Canadian approaches towards principled oceans governance. It highlights national challenges in implementing key international oceans and environmental law principles in oceans and coastal management, with a particular focus on the principles of integrated coastal and ocean management, integrated maritime enforcement, precaution, ecosystem-based management, indigenous rights, and community-based management. The present volume consists of core overview papers emanating from the project. Various other entities and persons are also acknowledged. In the production of this book, particular thanks are extended to the library staff of Dalhousie University, the University of Sydney and the University of Victoria, and to Susan Rolston, Seawinds Consulting Services, who undertook considerable editing responsibilities. Molly Ross was endlessly patient with her word processing. Rothwell and David L. VanderZwaag Introduction Crises in ocean and coastal management are facing states throughout the world. The global legal framework The global agenda for oceans management can be seen in three phases. First, the developments up till in the international law of the sea and some initial efforts at marine environmental management and protection. This is particularly evident in the contrast between the willingness of coastal states to assert sovereign rights over the oceans,<sup>26</sup> and their reluctance to accept responsibility for ocean management of not only areas within their own national jurisdiction and control but also in the case of areas beyond national jurisdiction. However, the concept is not easy to pin down because of multiple dimensions. VanderZwaag off the evils of ever-expanding globalization and commercialization pressures through fundamental regulatory shifts such as reversing the legal burden of proof to proponents of change. While setting the general directions of governing human uses based on ecosystem rather than political boundaries and moving from species protection to broader biodiversity considerations,<sup>44</sup> the approach has not settled the tensions between ecocentric and anthropocentric perspectives. Paragraph 30 d encourages the application by of the ecosystem approach. Whether aboriginal title, recognized for terrestrial areas,<sup>57</sup> can extend to ocean areas is unresolved. While Canada has established a legislative foundation for integrated planning through a new Oceans Act,<sup>65</sup> Australia has facilitated planning pursuant to a National Oceans Policy. Numerous common constraints include federal–provincial jurisdictional tension, lack of certainty over how management plans will be given legal force, and limitation of planning powers to marine areas. VanderZwaag A related challenge is dealing with ecosystem-based management. It is clear that more needs to be done in this area to foster bureaucratic change so as to recognize public concern over the need for a healthy marine ecosystem. A range of options is available in devolution of management to the community level. However, to date there has been limited consideration in the academic literature of what legal and institutional provisions may be necessary to support community-level governance. In Australia, Coastcare, a community-based grants scheme, has had a positive impact in its promotion of community projects and education. However, the Australian experience also suggests that some communities have not been seriously involved in coastal decision making and have been used as an unpaid workforce. Because of their differing historical, legal and political backgrounds, these issues have been addressed differently in the two countries. In

Canada, the extent of Aboriginal title over the ocean seabed and adjacent waters remains unresolved. Fish and wildlife co-management arrangements have also been incorporated into modern land claims such as the Nunavut Land Claims Agreement in the Arctic. Concerns remain, however, with many First Nations in British Columbia over possible offshore oil and gas activities and the threats of salmon farming to wild salmon stocks. Following recent court decisions, which have partly resolved the status of offshore native title in Australia, there has been a surge of interest in this area to such an extent that as of there were approximately native title claimant applications in sea areas around Australia. Recently, there has been increasing debate over the institutional, ethical and theoretical dilemmas confronting global society in trying to ensure sustainable seas. There are also major conceptual problems such as the competing orders of rationality – biological, social, political and legal. Against this background, there has been an increasing focus on integration in oceans management and governance. Three sub-global levels of regime building are thought to hold particular promise: The United Nations, a body with a long-standing interest in ocean affairs, is actively engaged in the process of monitoring developments. The United Nations Secretary-General has noted: The most effective approach to ensure the protection of vulnerable ecosystems is through the adoption of integrated, multidisciplinary and 10 Donald R. VanderZwaag multisectoral coastal and ocean management at the national level, as recommended in chapter 17 of Agenda 21 and by the Plan of Implementation of the World Summit on Sustainable Development, as well as by the Consultative Process. Sea change to principled oceans governance 11 9 This period was also characterized by several pivotal decisions by the International Court of Justice on the law of the sea, such as the North Sea Continental Shelf Cases Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Iceland [] ICJ Rep 3. Japan; New Zealand v. For comment, see E. VanderZwaag 27 See, e. Van der Schans Governance of Marine Resources:

*The Sea Change Towards Principled Oceans Governance Part 2: Towards Integration and National Responses 2. Beyond the Buzzwords: A Perspective on Integrated Coastal and Ocean Management in Canada 3. Beyond the Buzzwords: A Perspective on Integrated Coastal and Ocean Management in Canada 3.*

Print Recognizing the oceans and their resources as part of our common human heritage, as a shared global resource, is an old dream. The Convention on the Law of the Sea is the constitution of the ocean. It establishes a system of different ocean zones along with rules governing usage rights and obligations to protect and preserve them, and provides an institutional framework. In addition to international organizations responsible for individual industries, like the International Maritime Organization for shipping or the International Seabed Authority for deep-sea mining, there are many regional ocean protection agreements and action plans involving more than countries. Regions work together to prevent ocean pollution or to promote the protection of biodiversity through ocean protection zones. Regional fishery organizations and agreements attempt to ensure the sustainable exploitation of fisheries. This image is licensed under Creative Commons License. Nevertheless, ocean governance, the system for the management and sustainable use of the ocean, is insufficient. The institutional frameworks, including diverse agreements regarding shipping, fishing, whaling, mining, and ocean protection, are fragmentary. There is too little international agreement, consensus, and cooperation. Furthermore, agreed-upon rules and goals are often not implemented, or not implemented effectively. For example, we are far from achieving the goal of designating 10 percent of the ocean as natural protection areas by There are too few sanctioning mechanisms for addressing failure to comply with agreements. New hope – SDG 14, a sustainability goal for the ocean A significant opportunity to adopt a more comprehensive approach to ocean protection is connected to the Agenda for Sustainable Development, which was ratified in by the United Nations. The protection and the sustainable development of the oceans, seas, and marine resources are addressed in their own goal, Sustainable Development Goal SDG The seven sub-goals of SDG 14 are aimed at preventing ocean pollution, protecting the oceanic ecosystem, ending overfishing, and combating the effects of ocean acidification. Illegal, unreported, and unregulated IUU fishing should also be stopped. Suggestions for and concrete steps toward achieving the goals of SDG 14 have not been enough so far. Analogous to the climate agreement, countries should report measures taken to reach SDG 14 to a centrally managed registry. This will produce transparency and long-term auditability. Additionally, inter-industry and regional cooperation on ocean and resource preservation issues must be strengthened. Regular reevaluations of the goals could strengthen this coherence and detect possible conflicts with other SDGs in order to promote integrated implementation. But the sustainability goals for the ocean still lack bite. There will be a first chance in June at the UN Ocean Conference, where participants are expected to agree upon concrete steps for implementing SDG Protection and sustainable use of the high seas There is a lack of comprehensive frameworks for the protection and sustainable exploitation of biodiversity in those areas of the ocean that lie beyond the national jurisdictions. A new agreement that will be concluded under the umbrella of the UNCLOS would close regulatory gaps, for example, for the protection and fair management of marine genetic resources, as well as for improving the area-based management of ocean protection zones. An international country-level conference will initiate the negotiation process in Deep-sea mining Deep-sea mining presents an additional challenge for oceanic governance. Exploration is still ongoing and the deep-sea seabed and the deep sea itself have hardly been studied scientifically. The mining of resources in areas beyond national jurisdictions has not yet begun. The environmental risks posed by mining have been estimated to be very high. Global environmental regulations for deep-sea mining are currently being developed. This brings up a fundamental ethical question: There is no need for these resources at present. The deep sea should be protected, researched and administered for the common good as part of the shared heritage of humanity. A no to deep-sea mining would be a signal that we are finally serious about protecting the ocean. Our oceans must become the focus of effective, binding international agreements. The UN and EU are exploring new approaches. Implementing ambitious SDGs for the ocean can strengthen cooperation on ocean protection and

support ideas for closing serious administrative gaps in ocean protection.

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*Australia and Canada have been at the forefront of efforts to operationalize integrated oceans and coastal management. Throughout the s both countries devoted considerable effort to developing strategies to give effect to international ocean management obligations.*

### Chapter 4 : Towards Principled Oceans Governance: Australian and Canadian Approaches and - Google E

*At the outset of this very welcome volume of Australian and Canadian contributions on the approaches of their respective governments towards principled oceans governance, the term 'governance' is defined as a continuing evolution towards increasingly participatory decision-making, involving a broader range of stakeholders than merely government agencies and departments.*