

Marcus Haward, *Governing Oceans in a Time of Change: Fishing for the Future?*

(Edward Elgar, Cheltenham), 2020, ISBN 9781788119351, hardbound, £70.00, 164 pp.

Recent events and developments linked to marine resource management illustrate its complex and multi-faceted nature. For example, the deadlock faced by the Inter-American Tropical Tuna Commission in December 2020 to adopt conservation and management measures for 2021, finally solved by a roll-over of measures from 2020, shows the impact of diverging political priorities, economic interests and decision-making procedures on the management and conservation actions taken by a regional fisheries body. Similarly, the anticipated impacts of Brexit on both British and European fisheries are intrinsically linked to international cooperation, national economic losses and benefits, and labour conditions on both sides of the negotiating table. The development of an instrument on fisheries subsidies by the World Trade Organization brings issues of sustainability and environmental protection within the work of a body normally addressing questions of economic and trade law, therefore embodying the necessity of regime interactions.

These examples show that, to address a topic as multi- and interdisciplinary as fisheries management, knowledge and methods go beyond scientific, policy or legal considerations taken individually, and must be rooted in the result of their bridging and interplay. *Governing Oceans in a Time of Change* by Marcus Haward embraces this reality. It is with this multi- and interdisciplinary angle that Haward frames his succinct, yet comprehensive analysis of the performance of regional fisheries management organisations (RFMOs), the leading bodies in fisheries management and conservation on the high seas. His analysis focuses on assessing the way in which selected fisheries management institutions and structures have so far reacted to and addressed the different pressures and stressors on fish populations, with a particular interest in the increased uncertainty stemming from the impacts of climate change.

Such a multi- and interdisciplinary angle is not surprising considering the background and expertise of the author. As a political scientist and governance scholar, Haward has written extensively on ocean and marine biodiversity governance, and environmental changes and policy.¹ Haward's work often raises reflections on the necessity for policy and science to understand one another

1 E.g., M Haward, 'Climate change and the Southern Ocean: The regime complex for regional governance' in PG Harris (ed), *Climate Change and Ocean Governance: Politics and Policy for Threatened Seas* (Cambridge University Press, Cambridge, 2017) 201–214; M Haward and T Griffiths, *Australia and the Antarctic Treaty System: 50 Years of Influence* (University of New South Wales Press Ltd, Sydney, 2011); MG Haward and JZ Vince, *Oceans Governance in the Twenty-first Century: Managing the Blue Planet* (Edward Elgar, Cheltenham, 2008).

in order to ensure relevant and appropriate decision-making. The present book is no exception: scientific explanations about fish species and biophysical processes underlie the explanation of policy decisions and the development of legal and regulatory instruments. The author also engages in historical overviews of different processes, further showing how instruments and institutions are shaped by the period in which they were created and/or developed. While many of his previous publications focused on the Australian context, this book goes beyond the southern hemisphere and also discusses fisheries in the North-East Atlantic, the Pacific and the Indian Oceans. As presented by the author himself, the book reflects the author's journey into research on regional fisheries management from the perspectives of political science, public policy, international relations and international law, and of collaborations with academics, practitioners and fishers (p. 8).

The succinct book is divided into eight chapters, including the conclusion.

Chapter 1 starts with an overview of the immense pressures on fish stocks and the challenges triggered by the impact of fishing on the marine environment. These concerns have been addressed by a wide variety of legally and non-legally binding instruments, which establish the institutional and regulatory structures for fisheries management. The overview sheds light on what the author refers to as 'a potential paradox' (p. 4) – despite commitments by the international community towards the sustainable management of fisheries, and despite the recognition of the cross-cutting nature of issues, how can we explain that global fisheries are still in crisis, and that RFMOs are subject to vehement criticism? To answer this question, the author submits, it is important to consider global fisheries as environmental and resources regimes, as a complex and dynamic system. Through this lens, the book offers a novel angle for a comparative analysis of RFMOs' effectiveness and performance. In this respect, the author makes clear that his aim is to reassess rather than reject the importance and role of RFMOs within the broader process of environmental and ocean governance.

An important part of Chapter 2 resides in an overview of the main instruments and institutions shaping the legal framework for the management of high seas fisheries. Second, the chapter addresses fisheries management in light of marine environmental protection and biodiversity conservation. Similarly to the argument put forward by Garcia, Rice and Charles in their 2014 edited volume on the governance of marine fisheries and biodiversity conservation,² Haward explains that since the 1970s, the growing development of marine

² S Garcia, J Rice and A Charles (eds), *Governance of Marine Fisheries and Biodiversity Conservation Interaction and Coevolution* (Wiley, New York, 2014).

environmental protection instruments at various scales has had many overlaps with fisheries governance. The chapter concludes by stating that challenges remain because of a lack of cooperation between States and conflicting interests between conservation and use.

Chapter 3 turns to consider the nature and functions of regional fisheries bodies with a focus on RFMOs. It also sets out the main element of the analytical framework chosen by the author, namely 'effectiveness'. Based on the work of Underdal,³ and Young and Levy,⁴ Haward defines effectiveness as 'the extent to which an instrument successfully performs the function or solves the problems that led to its establishment' (p. 55), and where '[e]ffective regimes cause changes in the behavior of actors, in the interests of actors, or in the policies and performance of institutions in ways that contribute to positive management of the targeted problems' (p. 55). Effectiveness can be affected by a series of internal factors, such as the structure of the organisation, or external factors, such as the presence of emerging challenges like climate change. The concept is further analysed through the lens of regimes, with a focus on 1. the interaction/interplay between instruments and institutions, and 2. regime dynamics, influenced by power and leadership.

As mentioned by the author, 'assessing the effectiveness and/or the performance of RFMOs requires elaboration of performance criteria and evaluation of practice against criteria' (p. 56). Whilst formal RFMO performance reviews have been conducted, these assessments are highly criticised for relying on a small core set of criteria. With this in mind, Haward presents various other studies that have assessed and evaluated RFMOs from different perspectives, using alternative assessment criteria. Despite their differences, Haward submits that common elements can be identified: the commitment of the organisation to the conservation and sustainability of stocks based on science, and cooperation with other bodies, especially bodies with a mandate related to marine environmental protection. Taking into consideration all factors that contribute to an overall assessment of effectiveness, the author suggests four variables to shape such assessment in a time of change: the capacity of the organisation; the coordination of its activities; the coherence between the objectives it seeks and its work; and its responsiveness to challenges. While the author justifies the choice of these criteria by saying that they 'complement and extend a focus on effectiveness and help assess performance of key

3 A Underdal, 'One question, two answers' in EM Miles, A Underdal, S Andresen, J Wettestad, JK Skaeseth and EM Carlin (eds), *Environmental Regime Effectiveness: Confronting Theory with Evidence* (MIT Press, Pittsburgh, 2002) 3–45.

4 OR Young and MA Levy, 'The effectiveness of international environmental regimes' in OR Young (ed), *The Effectiveness of International Environmental Regimes* (MIT Press, Pittsburgh, 1999) 1–32.

regimes' (p. 61), a more detailed explanation as to their added-value compared to existing assessment criteria would have been desirable. Indeed, the source of the selected four variables is unclear. Despite these methodological shortcomings, the chapter provides a detailed portrait of the importance of performance assessments to evaluate effectiveness, and sets the variables relied upon to measure the effectiveness of the RFMOs described and analysed in subsequent chapters.

Following this framework, the book explores fisheries management and marine environmental protection through three case studies. These chapters are mostly descriptive and, to some extent, conduct a critical analysis of selected regional organisations' weaknesses and shortcomings.

Chapter 4 covers the North-East Atlantic, a very dynamic region in terms of developments in fisheries management, and in many ways a pioneer for marine environmental protection. The chapter starts with a brief historical overview of the main RFMO in the region, the North-East Atlantic Fisheries Commission (NEAFC). It also discusses the influence of the International Council for the Exploration of the Sea (ICES), an important scientific forum providing scientific information to RFMOs in the region. Considering the presence of the European Union (EU) as a major actor in the region, the chapter also discusses the evolution of the EU Common Fisheries Policy and its impact on fisheries management in EU waters, but also on non-EU entities that have entered into fisheries related agreements with the EU. Chapter 4 further dedicates some attention to the protection of the marine environment in the region, mostly led by OSPAR. Yet, as fisheries are excluded from the mandate of OSPAR, and considering that the respective areas of NEAFC and OSPAR overlap, interplay between these organisations is necessary. Haward pays particular attention to the cross-sectoral cooperation and horizontal coordination developed by the two organisations. This cooperation, the author submits, contributes to shaping the regime complex and shows the importance of building interplay.

Chapter 5 covers tuna fisheries, with a focus on the Pacific and Indian Oceans. These regions have been chosen because of the importance of (tuna) fisheries for the economy of States in those regions, especially for Small Island Developing States (SIDS). The chapter first covers the Pacific region by describing the main fisheries management entities operating in its waters. The Western and Central Pacific Fisheries Commission (WCPFC) provides specific assistance for SIDS and focuses on the collaboration between distant waters fishing nations and coastal States to ensure long-term conservation of tuna stocks in the region. Its decision-making process is in general better driven than in other (tuna) RFMOs because there is generally more solidarity among States in the region. The Forum Fisheries Agency, pre-dating the establishment of the WCPFC, mostly provides support to States Parties for fisheries

management, development, and operations. The Secretariat of the Pacific Community, which focuses on both oceanic and coastal fisheries, holds both secretarial functions and scientific/data gathering functions. The Parties to the Nauru Agreement (PNA) mostly control the purse seine fishery in the region. For that purpose, it 'has been very successful in establishing the vessel day scheme that creates a limited number of fishing days within the entire PNA region' and where days 'are distributed among PNA members' (pp. 91–92). The PNA has also been successful in mobilising parties in ensuring a better use of resources. The discussion on the Pacific region ends with an overview of southern bluefin tuna fisheries and the responsible RFMO, the Commission for the Conservation of Southern Bluefin Tuna (CCSBT).

Chapter 5 then discusses the Indian Ocean, which is mostly characterised by semi-commercial artisanal fisheries by coastal States, while high seas stocks are mostly attracting distant waters players. It briefly presents the Indian Ocean Rim Association (IORA), characterised as a key multilateral forum that addresses several sea-related issues in the region, including fisheries management. It also examines the Indian Ocean Tuna Commission (IOTC) and its functions. The chapter concludes by reiterating that tuna fishing in the Pacific and Indian Oceans provide good examples of contemporary challenges faced by RFMOs. Considering the focus of the book on regime interaction, it would have been interesting if Chapter 5 had gone beyond a mainly descriptive function and elaborated on the political and legal impacts of the interactions (or absence thereof) between the different entities presented.

Chapter 6, for its part, discusses fisheries management in the Southern Ocean. From the outset, it underlines the unique environmental conditions of the region, and the nature of the management arrangements that reflect these conditions. In fact, the main body operating in the region, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), is often characterised as a hybrid entity addressing both fisheries management and environmental protection/conservation. After a description of the particular biophysical characteristics of the region, the chapter discusses in more detail the structure and functioning of CCAMLR, and its place within the Antarctic Treaty System (ATS). It also briefly raises the geopolitical difficulties linked to the uncertain and unresolved relationship between the ATS (and the governance mechanisms for the Antarctic region as a whole) and the United Nations Convention on the Law of the Sea. This chapter illustrates the pioneer role of CCAMLR through various examples. As described in the chapter, CCAMLR has shown its leadership role and has had an impact on other processes, including the development of a new legally binding instrument on biodiversity beyond national jurisdiction; the author indeed observes that it will be interesting to see how the processes will interact.

Following the assessment of external factors and internal interests in the selected regions, Chapter 7 embarks on an explanation of what makes performance assessment of RFMOs difficult. Building on statements and concepts presented in Chapter 3, the chapter raises the difficulty of establishing appropriate assessment criteria 'to first assess performance and then to track progress' (p. 130). In fact, the author submits that, to conduct 'a meaningful analysis' and to ensure that 'assessment can be carried out', assessment criteria 'should be measurable, precise, consistent, sensitive and simple' (ibid), and they should be both quantitative and qualitative, the latter being mostly relevant to assess environmental, socio-economic and governance elements. The chapter also reiterates the importance of performance review processes for RFMOs, because these processes raise awareness as to current management approaches and can trigger the revision of policy objectives.

The chapter then defines the four variables presented in Chapter 3 and described by the author as 'complement[ing] and extend[ing] a focus on effectiveness' (p. 61). Capacity represents the ability to make decisions, and the quality of the decisions. Coordination refers to the capacity of working together, so that different parts of the system do not frustrate one another. Coherence is defined as the interplay between the commitments undertaken, the specific implementation of objectives, and the impacts of this implementation. Coherence is also linked to the nature of the institutional arrangements, as well as capacity. Responsiveness is the ability of an organisation to address emergent issues and systemic/structural challenges. Strong leaders contribute to reaching good organisational responsiveness. These four variables complement the notion of effectiveness, which is often the only element relied upon to measure performance, and which has been very present in discussions about environmental governance.

These variables, the author submits, provide a way to link key drivers and influences to assessment criteria. This link is presented in the form of a table (p. 137), where each driver or influence is linked to a variable, which is then associated to a certain number of assessment criteria. However, an explanation is lacking as to how the author selected the drivers and influences (the reader can assume that the selection comes from common elements of selected RFMOs, but this hypothesis is not confirmed), and how the assessment criteria were linked to each variable. The variables and assessment criteria are then applied to four RFMOs (from the selected regions) in the form of a figure, which presents whether the assessment criteria are highly met, met, partially met or not met (p. 140). Yet, once again, an explanation is lacking as to how the author reaches the characterisation of RFMOs' performance assessment. It would have been beneficial for the reader to understand what led the author to conclude that, for example, access and allocation is highly met by the WCPFC,

met by NEAFC and partially met by the IOTC. Overall, the book could have benefitted from a more thorough systematic explanation of the way in which the conclusions and assessments presented by the author are reached. This could have been useful, for example, for researchers or policy-makers wishing to replicate the framework of analysis for other organisations or structures. These shortcomings leave the reader yearning for more, and unfortunately let the impact of this novel assessment framework fizzle out.

At the onset of the United Nations Decade on Ocean Science for Sustainable Development, aiming to strengthen the importance of science in supporting States' actions to sustainably manage the ocean, including its living resources, this book contributes to the dialogue between the different fields and disciplines that form and inform fisheries management. Despite its shortcomings, this publication remains a relevant reference for researchers and policy-makers wanting to reflect on recurring and emerging questions linked to fisheries management and governance in a time of change. This book in fact contributes to the growing body of literature on the multi-disciplinary nature of ocean governance. Whilst this book does not primarily conduct a legal analysis, the publication should appear on the reading list of legal scholars, students or practitioners who wish to better grasp the performance of RFMOs from a management and governance perspective, and to deepen their understanding of the effectiveness of (legal) regimes and their components. Readers new to the field will find in this book a detailed yet straightforward overview of international fisheries law and governance, the structure and functioning of RFMOs, as well as information on key fishing regions, which serves as a comprehensive introduction to the topic. For readers familiar with the topic, this book offers a novel angle on the analysis of RFMOs' effectiveness and performance, one that relies on variables and criteria that cover substantive, procedural and institutional aspects of governance. This is what distinguishes this book from other legal studies on fisheries management. While the author recognises that there is no 'one best way' for management and governance (p. 8), it is definitely the acknowledgement of the complex nature of fisheries that is the key for improved solutions and outcomes. This book participates in the exploration of the possible ways for fisheries organisations to address long-lasting challenges that are re-shaped in the time of change we find ourselves in.

Catherine Blanchard

Senior Research Associate, Netherlands Institute for the Law of the Sea (NILOS), Utrecht Centre for Oceans, Water and Sustainability Law (UCWOSL), Utrecht University, The Netherlands
c.blanchard@uu.nl