Foreword: polar oceans governance in an era of change

Bernie Funston

In the last ten years in particular, legal scholars have turned their attention to polar issues. This volume represents a very valuable contribution to the literature assembled by leading Canadian and Australian experts in the field. What we learn in these pages about Arctic and Antarctic legal regimes is highly relevant for national, regional and international policy-makers generally, not just those who have polar interests.

An important dimension of this publication is its comprehensive and forward-looking treatment of both polar regions. For newcomers to polar studies, there is often a tendency to draw analogies between these regions. For example, many recent commentators have put forward the superficially attractive proposition that the approach followed in the Antarctic Treaty System, with the Antarctic Treaty (1959) as its cornerstone, should be superimposed on the Arctic. The authors of this study have identified subtle as well as dramatic differences that make such an approach impractical, while at the same time drawing attention to important system-level connections between the Arctic and Antarctic. As Professors Stephens and VanderZwaag point out in the introductory chapter, ‘[e]nvironmental change … is now the dominant and shared characteristic of both regions, especially as climate change makes its effects felt’.

In addition to climate change, issues such as ocean acidification and transboundary pollution, coupled with pressures of globalization, including renewable and non-renewable resource demands, potential new shipping routes and tourism, have made polar regions, the Arctic especially, increasingly important factors in global geopolitics. In the words of Stephens and VanderZwaag: ‘Climate change and globalization pressures have placed the spotlight on the adequacy and adaptability of governance arrangements for managing human uses of and impacts on polar seas’. Fundamental ecosystem changes are already occurring in...
both polar regions in advance of development. To paraphrase Stephens and VanderZwaag, the dilemma for polar governance is that the main environmental pressures on these regions are exogenous, and while the main players are the dominant greenhouse gas emitters, they have been reluctant to use the polar platform to highlight the need for global climate change governance.

We have come to understand, in this aptly named period described as the ‘Anthropocene’, that climate change and other exogenous drivers of polar change are nothing less than broad-based symptoms of a burgeoning human population stressing the carrying capacity of the planet.

However, the solution is not simply to cut greenhouse gas emissions and wait for the planet to return to a status quo ante. Few, if any, countries of the world have ever assessed a current level of consumption and decided it is enough.\footnote{M. McIntyre, S. Murray and B. Funston, ‘If not growth, then what?’ (2012) 17(2) International Journal of Business Governance and Ethics 96–117.} Three pressures – more people, more consumption per capita and catch-up among the poor – could make the future world economy very much larger than it is now. World population, currently seven billion, is expected to grow to 10.1 billion by 2100. Achieving or retaining economic growth remains the main focus of almost every economy in the world.

Environmentally responsible regulation of developments that occur in the polar regions is only one dimension of the challenge facing rules-based systems. Even though they are at opposite ends of the earth, the polar regions teach us timely and critical lessons about highly dynamic global geopolitical and socio-economic systems. While the complexity of these issues can be daunting, a focused, multidisciplinary and integrated commitment to understanding and addressing the challenges will be necessary to have a reasonable prospect of success.\footnote{International Council for Science (ICSU), Earth System Science for Global Sustainability: The Grand Challenges (2010).}

For this reason, studies of polar law such as this one are invaluable. They help us properly situate the Arctic and Antarctic in the context of national, regional and global governance. It is this broad theme of interconnectedness that is a powerful and compelling part of the storyline of this well-researched, well-written, thought-provoking volume.

Bernie Funston
Chair, Canadian Polar Commission
Ottawa, Canada
August 2013