BOOK REVIEWS

The Poseidon Project: The Struggle to Govern the World's Oceans by David Bosco [OUP, Oxford, 2022, 256pp, ISBN: 9780190265649, £22.99 (h/bk)]

At the heart of the great and ongoing 'project' of the law of the sea lies a fundamental tension between the principles of sovereignty and freedom, which either enable or limit almost every ocean-based actor or activity in some way. David Bosco's book provides a lively overview of this ubiquitous issue, and will be of general interest to students, scholars and practitioners of the law of the sea and international law. The book focuses primarily on the 'freedom' of the seas which, as the title implies, is not an end in itself, but an organizing principle or philosophical construct that has long been invoked in the struggle to balance the needs and interests of different States conducting different activities in the ocean space. In this context, Bosco documents and illustrates the changing extent to which the principle of 'freedom' has actually been implemented in ocean governance frameworks over time, using vivid and varied examples.

The book is arranged in eight substantive chapters, book-ended by an introduction and conclusion, which narrate the evolution of ocean governance chronologically, against the backdrop of strategic, commercial, scientific, environmental and popular developments at the national, regional and global levels. The discussion ranges across centuries, continents and contexts, using anecdotes and examples to demonstrate the varying extent and application of the freedom of the seas—from the Rhodian sea law of 600 BC to Grotius's pivotal seventeenth-century treatise *Mare Liberum*, the heights of eighteenth- and nineteenth-century British maritime dominance and colonial expansion, the depths of World Wars I and II, the adoption of the 1982 *United Nations Convention on the Law of the Sea* (the 1982 Convention) and the emerging challenges to that framework from contemporary maritime powers.

By foregrounding the influence of practical, political and contextual considerations on the framework for ocean governance—and, in particular, the pivotal role of the dominant maritime powers in different periods—Bosco forces us to de-centre the role of international law and consider the 'principle' of freedom of the seas from a different perspective. From this vantage point, the freedom of the seas starts to look more like an adaptable 'policy' than an immutable 'principle', and the examples and anecdotes that Bosco provides help to reveal the underlying drivers of particular problems, the role of vested interests and existing power structures, and the tensions and contradictions in the legal framework that has evolved for the oceans. Importantly, this approach also shows how the freedom of the seas

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facilitated the colonizing objectives of the dominant maritime powers, enabling them to 'roam the world's oceans and exert their will' over new territories, resources and peoples, and 'pry open, dominate, and extract from non-Western societies' (60).

Beyond this interesting overview of the development of ocean governance, the substantive contention of the book is that the freedom of the seas has been eroded and dismantled over recent decades. Bosco argues that key elements of the doctrine have been lost or are fading (6), weakened by a contemporary 'hybrid' model of ocean governance which lacks the strength and 'coherent philosophical foundation' of the Grotian model for the freedom of the seas (245–7). The general thrust of this argument is uncontroversial: since the early twentieth century, the trajectory of the law of the sea has generally been away from freedom and toward governmental control. But judging the success of the contemporary law of the sea by reference to Grotian principles seems unrealistic and unnecessary, and is not strongly supported by either the broader arc or the detailed argument of the book. In particular, the Grotian model that Bosco evokes is based on two fundamental assumptions that have long since been overtaken by time and technology: that the oceans are not capable of domination, and that their resources are inexhaustible. The 'philosophical coherence' of Grotius's approach is also implicitly challenged by the examples recounted in the book, which show that the freedom of the seas has never been absolute (let alone philosophical), but rather exists on a continuum on which the relative extent of sovereignty and freedom oscillates over time, depending on the pragmatic needs and interests of dominant powers.

From the perspective of an international lawyer, the 'hybrid' model of ocean governance that has emerged since the middle of the last century is more coherent—and more nuanced—than the book suggests. In particular, the various maritime zones and passage regimes established in the 1982 Convention each reflect a specifically calibrated 'balance' between freedom and sovereignty designed to reflect the needs and interest of States, bearing in mind modern technology and practices. And at present, this legal framework is holding up, albeit under strain. So, while it is clear that the freedom of the seas is being tested by contemporary events—particularly as emerging maritime powers seek to assert their own priorities—this appears generally consistent with the historical trends presented in the book, and the utility of assessing the success of the modern law of the sea framework by reference to an outdated philosophy is unclear.

Philosophical models aside, this is an accessible book written in a compelling style, which will be an enjoyable read for both experts and general readers. By illustrating the key trends and transformations which have shaped the regulation of activities at sea, the book will help readers to appreciate the general history of ocean governance, and the way in which the principle of the freedom of the seas has waxed and waned over time to reflect the needs

and interests of dominant States, as well as the current tensions which are pulling at the threads of this principle. Beyond this, further evidence, analysis and (most of all) time is likely to be necessary before it can be determined whether the contemporary framework will endure, and whether it will prove up to the task of effectively balancing sovereignty and freedom in the continuing struggle to govern the world's oceans. Perhaps, like Poseidon himself, the freedom of the seas will ultimately turn out to be a 'capricious and inconstant guardian of the oceans' (4).

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Creditor Priority in European Bank Insolvency Law: Financial Stability and the Hierarchy of Claims by Sjur Swensen Ellingsæter [Hart Publishing, London, 2023, 280pp, ISBN: 9781509953653, £85.00 (h/bk)]

In 2023 the financial world witnessed a new round of failing banks that caught international attention, starting with Silicon Valley Bank (SVB), then Signature Bank, Credit Suisse in March and First Republic Bank in May. These new signs of turmoil led to the question of how the world should prepare for and react to financial crises. This timely book *Creditor Priority in European Bank Insolvency Law*, authored by Dr Sjur Swensen Ellingsæter, discusses bank insolvency law from the perspectives of creditor priority, with a comparative analysis of English, German and Norwegian Law.

The book raises three questions: first, to what extent is there a difference between European Union (EU) bank insolvency law and general bank insolvency law in terms of creditor priority? Secondly, what are the rationales that best explain the existence of creditor priority rules specific to bank failures? Thirdly, has the approach to creditor priority in bank insolvency law changed over time and, if so, how does this development fit with broader trends in banking regulation?

The first question is a positive one and is analysed by comparing the EU law requirements for creditor priority in bank insolvency and resolution with creditor priority under English, German and Norwegian general insolvency law, focusing on security interests as well as priority rules for unsecured creditors.

In respect of creditor priority, traditional English, German and Norwegian corporate insolvency law provide priority rules for secured creditors but not for unsecured creditors, with no special rules for banks. At the European level, the first attempts to harmonise creditor priority date back to the Settlement Finality Directive (SFD) and the Financial Collateral Directive

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