Book Review

Erika Techera and Natalie Klein

In contrast to marine mammals and particularly whales, sharks, ‘perhaps the most misunderstood of marine species’, as Professors Natalie Klein and Erika Techera state at the outset of their book, have come to the attention of the international community relatively recently. Revered by some, vilified by others, and commercially exploited in both consumptive and non-consumptive ways, sharks have been facing numerous threats, including unsustainable fishing practices, overfishing as targeted and non-targeted species/bycatch, habitat loss, pollution and climate change. A shift in public opinion and better scientific understanding of the value of sharks for the environment and ecosystems have led to the adoption of regulatory measures for their conservation at the international, regional and national level.

International Law of Sharks: Obstacles, Options and Opportunities is a timely and important contribution to international legal studies on protection and conservation of species. As the authors state at the outset, this book forms a case study with the view to contributing to the ‘literature of good environmental governance and regulatory approaches to the sustainable utilisation of marine living resources,’ advancing arguments for ‘holistic governance methods in pluralist regulatory environments’ (pp. 1–2).

In the first chapter, Techera and Klein make the ‘case for sharks’ and explain the diverse parameters and factors related to their conservation and management: scientific knowledge (and the need for more updated data), societal attitudes and approaches (stressing the awareness-raising role played by relevant non-governmental organisations (NGOs)), the (conflicting) values related to management and conservation of sharks (ranging from shark’s intrinsic value as part of life on earth and ecosystems to economic and socio-cultural values).
With respect to the legal framework, the authors acknowledge that whereas progress has been made and various legal frameworks and regimes deal with the conservation of sharks, the key problem is the ‘absence of a unifying framework and global ‘champion,’ with actions fragmented ‘across different jurisdictions and sectors’ (p. 16). The authors also identify various principles related to the conservation of species which are important for developing an effective legal regime for the conservation of sharks, such as holistic approaches, ecosystem-based management, interdisciplinarity, good governance, and sustainable development. They also stress the need to engage with regulatory theories and especially regulatory pluralism, which is a key theme in the authors’ approach for the development of an effective regime.

Chapter 2 provides an overview of the key international legal instruments and regimes which deal with the conservation and management of sharks and explore their strengths and weaknesses. The two subject-specific international instruments, the Sharks International Plan of Action for Conservation and Management of Sharks and the Sharks Memorandum of Understanding (MOU), have contributed to the conservation of sharks from various perspectives, including increase of data and engaging states in global efforts – even though their non-legally-binding nature leads to limited impact and slow (and reluctant) implementation by states. The Convention on International Trade in Endangered Species (CITES) has recently extended its coverage to further shark species, but the scope of protection is limited as it relates to trade of exploitable species, and there are enforcement difficulties. The Convention on the Conservation of Migratory Species of Wild Animals offers more comprehensive protection than CITES due to its broader scope of application. The last part of this chapter is devoted to the presentation of key environmental principles which are important for both decision-making and implementation of measures for the conservation and management of sharks: sustainable development and sustainable management, the precautionary principle, Environmental Impact Assessments, the ecosystem-based approach, and biodiversity protection. In this context, the authors acknowledge the complex regulatory landscape and the complications related to fragmentation.

Having identified the inadequacies and challenges of the current international legal regime, the authors explore a theoretical framework which can form the basis for an ‘outcomes-based’ approach to improve the effectiveness of the existing legal regime and to overcome problems related to fragmentation. Chapter 3 examines the concepts of good governance and sustainability, and governance and regulatory theories. The authors identify various principles which underpin these concepts and argue that a