



LAW OF THE SEA AND VULNERABLE PERSONS AND GROUPS



GABRIELA A. OANTA (ED.)

2019

EDITORIALE SCIENTIFICA

LAW OF THE SEA AND VULNERABLE PERSONS AND GROUPS

On the cover: Martin Dörtsch, Capodistria, Slovenia, Koper (2014).

The evolution of the law of the sea has exposed the vulnerable situation of certain persons and groups. This book seeks to address this evolution and the issues currently affecting vulnerable persons and groups in maritime environments, examining these situations from a legal perspective. To this end, it explores topics such as: human rights from a law of the sea perspective; failed states and the legal order for the seas and oceans; the case of child victims of human trafficking and forced labour; the specific situation of retired fishermen; the presence of women in the maritime sector and, in particular, in fishing; the situation of people who work in unscrupulous environments with regard to social rights, as is often the case with vessels flying flags of convenience or that do not comply with international standards; the migrant crisis at sea; vulnerable persons and groups from developing countries and small island and archipelagic states who face unique and specific challenges that the evolution of the law of the sea has only underscored, such as global warming, rising sea levels, or access to and sharing of the benefits arising from the use of marine genetic resources; the status of non-self-governing territories under contemporary law of the sea; and the fishing rights of indigenous peoples.

euro 16,00





**XUNTA
DE GALICIA**

PROPRIETÀ LETTERARIA RISERVATA

© Copyright 2019 Editoriale Scientifica s.r.l.
Via San Biagio dei Librai, 39 – 80138 Napoli
www.editorialescientifica.com – info@editorialescientifica.com

ISBN 978-88-9391-677-6

COMITATO SCIENTIFICO DI VALUTAZIONE

LOUIS BALMOND

Professeur à l'Université de Toulon

MIGUEL GARCÍA GARCÍA-REVILLO

*Profesor Titular de Derecho internacional público
de la Universidad de Cordoba*

PHILIPPE GAUTIER

*Professeur à l'Université Catholique de Louvain
Greffier de la Cour internationale de justice*

TULLIO TREVES

*Membro del Curatorium dell'Académie de droit international de La Haye
ex Giudice del Tribunale internazionale del diritto del mare*

COMITATO SCIENTIFICO

JAIME CABEZA PEREIRO
Universidad de Vigo

LAURA CARBALLO PIÑEIRO
Universidad de Santiago de Compostela y World Maritime University

RAFAEL CASADO RAIGÓN
Universidad de Córdoba

GIUSEPPE CATALDI
Università degli Studi di Napoli "L'Orientale"

ENRIQUE LÓPEZ VEIGA
Autoridad Portuaria de Vigo

NATHALIE ROS
Université François Rabelais de Tours

JOSÉ MANUEL SOBRINO HEREDIA
Universidade da Coruña

CONTENTS

<i>Preface</i>	9
GABRIELA A. OANTA	
<i>Notes on Contributors</i>	11
<i>Introduction</i>	15
GABRIELA A. OANTA	
1. <i>The Law of the Sea and Human Rights</i>	19
JOANA ABRISKETA URIARTE	
2. <i>The European Border and Coast Guard Agency (FRONTEX) and the Migration Crisis: Some Notes on the Law of the Sea and Human Rights</i>	43
MIGUEL ÁNGEL ACOSTA SÁNCHEZ	
3. <i>Vulnerability and Seafarers: The Impact of Cost Reductions on Maritime Safety and Welfare on Board Ships</i>	61
XOSÉ MANUEL CARRIL VÁZQUEZ	
4. <i>Challenges Faced by Developing Countries for Access to Marine Genetic Resources & Benefit Sharing</i>	79
LAURA MOVILLA PATEIRO	
5. <i>The Gender Perspective in International Law of the Sea and European Fisheries Law</i>	101
GABRIELA A. OANTA	
6. <i>Global Warming, Sea-Level Rise and Small Island and Archipelagic States: A Test for Climate Justice</i>	121
ANTONI PIGRAU	
7. <i>The Disruptive Effects of Failed States over the Legal Order of Seas and Oceans</i>	151
ÁNGEL J. RODRIGO	
8. <i>The Violation of Children's Rights at Sea: The Trafficking of Minors and Forced Labour as Examples</i>	171
BELÉN SÁNCHEZ RAMOS	

<i>9. Law of the Sea and Non-Self-Governing Territories</i>	193
JOSÉ MANUEL SOBRINO HEREDIA	
<i>10. The Law of the Sea and Retired Sea Workers in Spain</i>	215
ANDRÉS TRILLO GARCÍA	

Preface

The works collected in this book grew out of the talks given at the conference ‘Law of the Sea and Vulnerable Persons and Groups’, held at the Vigo Port Authority (Spain) on 24 May 2018. The conference was organized as part of the Jean Monnet Module ‘The EU’s Integrated Maritime Policy’ (574770-EPP-1-2016-1-ES-EPPJMO-MODULE), co-funded by the European Commission’s Erasmus+ Programme and coordinated at the University of A Coruña (Spain) by the author of this Preface. The conference was further made possible through the collaboration of the ‘Salvador de Madariaga’ University Institute for European Studies at the University of A Coruña, REDEXMAR (Network of Excellence on Maritime Legal Studies) and the Foundation-Innovation Centre for Maritime and Fishery Legal Studies (MarInnLeg).

This book addresses, in an analytical and critical way, the evolution of the law of the sea and the issues currently affecting vulnerable persons and groups in maritime environments, examining these situations from a legal perspective. To this end, it explores topics such as: human rights from a law of the sea perspective; failed States and the legal order for the seas and oceans; the case of child victims of human trafficking and forced labour; the specific situation of retired fishermen; the presence of women in the maritime sector and, in particular, in fishing; the situation of people who work in unscrupulous environments with regard to social rights, as is often the case with vessels flying flags of convenience or that do not comply with international standards; the migrant crisis at sea; vulnerable persons and groups from developing countries and small island and archipelagic states who face unique and specific challenges that the evolution of the law of the sea has only underscored, such as global warming, rising sea-levels, or access to and sharing of the benefits arising from the use of marine genetic resources; and the status of non-self-governing territories under contemporary international law of the sea.

This book is the English version of *El Derecho del mar y las personas y grupos vulnerables* (Bosch Editor, Barcelona, 2018. ISBN hard paper: 978-84-949123-9-9; ISBN digital: 978-84-949529-0-6). Now it is published in the framework of “Cahiers de l’Association International du Droit de la Mer” / “Papers of the International Association of the Law of the Sea” (AssIDMer) due to the sensitive interest that these issues have for a better understanding of the marine and maritime fields.

I would like to thank all the authors for generously sharing their knowledge on the topics as well as the members of the aforementioned conference’s scientific committee, who facilitated this initiative from the start and helped enable the scientific gathering, namely: Jaime Cabeza Pereiro (University of Vigo, Spain), Laura Carballo Piñeiro (World Maritime University, Sweden), Rafael Casado Raigón (University of Cordoba, Spain), Giuseppe Cataldi (Università degli Studi di Napoli ‘L’Orientale’, Italy), Enrique López Veiga (Vigo Port Authority, Spain), and

Nathalie Ros (Université François Rabelais de Tours, France). A great thank you to Kari Friedenson for the translation and linguistic revision of various chapters of the book. Finally, I am particularly grateful to Giuseppe Cataldi (President of the ASSIDMer), who has supported my editorial project from the very beginning, as well as to José Manuel Sobrino Heredia (University of A Coruña, Spain), to whom I would moreover like to thank his constant availability and his tireless efforts to promote a network for the maritime and fishery legal studies that are so necessary in a maritime community such as Galicia.

Gabriela A. Oanta
A Coruña, October 2019