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Book Reviews

Mark G. Weston

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LAW AND INTERNATIONAL RESOURCE CONFLICTS.¹ By *J.E.S. Fawcett*² and *Audrey Parry*.³ London: Oxford University Press. 1981. Pp. xiv, 354. £20.00.

The 1973 and 1980 "oil crises" demonstrated the burgeoning confrontation between resource-exporting and resource-importing countries. In *Law and International Resource Conflicts*, J.E.S. Fawcett and Audrey Parry show that this confrontation reflects the emerging interdependence among nations and explain how law offers solutions to these international economic conflicts. In this comprehensive work, the authors emphasize the law's changing nature, arguing that changes in the international political economy will increasingly affect international law (p. v). Fawcett and Parry analyze the conflicts that arise over access to and distribution of resources. Specific resource conflicts receiving extensive discussion are foreign investment, management of commodity trade, marine resources, oil, nuclear materials, and outer space.

Law and International Resource Conflicts begins by describing the characteristics of resource conflicts and the current law in this area. The authors acknowledge that international law, more than most other legal divisions, relies on "keeping one's word" for its success. But they assert that international law is not simply a collection of rules that nations may disregard at their convenience (pp. 6-8). A nation's lawmaking bodies establish the guidelines for its international agreements. Accordingly, internal economic and political pressures tend to restrain breaches of international agreements. These pressures, in turn, cause changes in the international environment. Fawcett and Parry argue that international law reflects these changes. Although rules of law suffer some inertia, dynamic international relations cause coincident changes in the international rules (pp. 7-9).

The "Foreign Investment" survey concentrates on the trend to-

1 This book culminates a study conducted by a working group of the Royal Institute of International Affairs, an unofficial body which promotes the scientific study of international questions. The authors participated in this group which drew its members from industry, government and the universities. The authors warn that "the views in this study are thus not attributable to any one particular source" (p. x).

2 President of the European Commission of Human Rights; Professor of International Law at King's College, London until retirement in 1980; part-time faculty member at the University of Notre Dame London Law Centre.

3 Barrister-at-law.

ward nationalization⁴ and Article 2 of the 1974 Charter of Economic Rights and Duties of States,⁵ a United Nations resolution providing that a nationalizing country's domestic law governs conflicts over a foreign company's compensation upon nationalization. This resolution encourages a nationalizing country to argue that past exploitation eliminates a company's right to compensation (p. 13). The authors assert that such widespread changes in political attitudes toward foreign investment have reduced the effectiveness of traditional international rules (p. 51). Fawcett and Parry discuss proposed solutions to foreign investment conflicts, including bilateral agreements between nations and insurance coverage, but they seem to favor guidelines rather than inflexible rules for settlement of these conflicts (pp. 45-51). Their preference for general guidelines reflects their belief that international rules should be adaptable to the changing international environment.

Producer organizations and cartels receive much discussion in the "Management of Commodity Trade" and "Oil" surveys. What is striking to Fawcett and Parry "is the scale of intergovernmental collaboration, generated since 1960, to resolve the conflicts of producer and consumer interests . . ." (p. 125). Attempts to moderate fluctuations in raw material prices have focused on multilateral agreements to limit "dumping"⁶ or promote open markets for the less developed countries' raw materials. But such agreements, like the General Agreement on Tariffs and Trade,⁷ have met with only limited success, usually because of each country's adherence to its own self-interests (pp. 73-79).

One notable exception has been the Organization of Petroleum Exporting Countries (OPEC). By limiting oil exports during the 1973 oil embargo, the OPEC nations affirmed their legal right to exert sovereignty over their domestic resources. This also showed the oil-consuming nations' inability to control the OPEC monopoly. Thus, the oil crisis illustrated both the power and the limit of domestic law (pp. 135-36). Fawcett and Parry argue, however, that even

4 Nationalization occurs when a state, through its ability to exert sovereignty over its territory, seizes a company's assets.

5 GA Resolution 328 (XXIX), 12 December 1974.

6 Dumping occurs when "products of one country are introduced into the commerce at less than the normal value of the product' . . ." (p. 35).

7 The General Agreement on Tariffs and Trade sets general standards and rules for international commerce including commodity trade. See S. GOLT, *THE GATT NEGOTIATIONS 1973-1979* (1978).

OPEC's success resulted more from Saudi Arabia's dominance than from a transcendent multinational agreement (p. 126).

The "Nuclear Materials," "Outer Space" and "Marine Resources" surveys cover modern resource conflicts due to technological advances. The authors argue that nations with nuclear weapons have obstructed the flow of nuclear technology to nations without nuclear weapons. Although this policy may be justified by the danger of nuclear materials, it also results in unfair competition and discrimination which is itself contrary to international law (pp. 153-54). Similarly, the technological gap between nations enables countries such as the United States and the U.S.S.R. to monopolize information garnered from satellites. Complaints have even arisen that television transmission from satellites will "infect . . . particular national cultures" (p. 155). Finally, technological advances have enabled nations to exploit the ocean floor. To protect their economic interests, certain countries have made territorial claims to the sea. These developments and increases in fishing, shipping and military conflicts forced the United Nations Conference on the Law of the Sea to abandon the traditional view that regarded the sea as limitless (p. 82). Fawcett and Parry contend that the principal—and most promising—forum for resolution of these emerging resource conflicts is the United Nations which, they say, has begun to acquire true legislative character (p. 166).

The authors also determined that most international resource conflicts involve both international law and domestic law as a dynamic process (p. 23). However, Fawcett and Parry do not presume that law is the only, or even the most important, factor in international resource conflicts. Political considerations often determine the consequences or existence of a conflict. Consequently, the relative emphasis on law or politics in a particular situation requires careful balancing (p. 24). The specific resource conflicts surveyed stress the existence of two law-forming processes: codification of specific rules and declaration of general principles. These and other recognized international legal structures, adapted and extended for widening human activities, provide the framework to resolve international resource conflicts (pp. 166-67).

For the contemporary reader, *Law and International Resource Conflicts* carefully organizes and explains the numerous resource controversies facing an increasingly interdependent international community. Supported by salient statistical annexes and relevant in-

ternational agreement texts, the work presents a detailed and comprehensive look at law's role in international economic policy.

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