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# *The International Law of Fisheries*

By  
DOUGLAS M. JOHNSTON

New Haven and London: Yale University Press. 1965  
Pp. xxiv, 554, \$12.50

The United Nations Conferences on the Law of the Sea, held in Geneva in 1958 and 1960, clearly revealed the conflicts between the national fishery interests of the various fishing nations. In order ever to hope to codify the law of the sea, these differences are going to have to be largely resolved. The underlying policy issues at state have to be clarified sufficiently for the individual nations to be able to reach a consensus on their own self-interests.

Any codification must satisfy the self-interest of the various countries individually and collectively. Thus, for the best use of the resources to be made, neither a dogmatic internationalist nor intractable nationalist point of view will provide all of the answers. There will have to be an economic balance between international and national interests. In some instances the fullest use of the resource will require the shared inclusive participation of the international community. In other instances, fullest use and maximum conservation will dictate exclusive national jurisdiction.

Mr. Johnston attempts to attack the international fisheries problems by clarifying the basic policies involved and thereby help resolve the differences in national positions. He uses the multi-disciplinary policy oriented approach formulated by Myres S. McDougal and Harold Lasswell since the fishery problems have important scientific and economic aspects as well as legal and diplomatic facets. He comprehensively studies the dominant values underlying the problems, and evaluates proposed solutions and alternatives.

Mr. Johnston argues that the answer to the question of who should exercise authority, be it inclusive or exclusive over the exploitation and conservation of fisheries should not be decided by the geographic location of the country alone, or merely by reference to the fact that the country that is claiming exclusive authority has exclusive authority over other uses, such as navigation or customs control. He submits that all relevant factors must also be taken into account before arrival at such a determination. Among those factors that must be considered is the economics of how the available supplies

of labor and capital can best be used for the exploitation and conservation of the fisheries. Also to be taken into account are the national security interests of a coastal nation and how they are or may be affected by foreign fishing or conservation patrol ships offshore. The impact of a decrease in the food supply of a nation consuming large quantities of fish and possible effects on the economy of the fishing industries of the nations concerned would be relevant in determining whether or not one nation should have exclusive competence to exploit and/or conserve fisheries, or whether this competence should be shared with the other nations of the world. Thus, this policy-oriented approach takes a broad view, and avoids a narrow legalistic analysis.

The author suggests that an order of priorities must be established in making the determination as to whether the authority over exploitation and conservation is to be exercised inclusively, exclusively, or with modifications. Priority consideration should be given to the resource itself, not the users, thus "nothing shall be tolerated that tends to impair the renewable food supply." In this regard, scientific data may be used to indicate guide lines for providing the maximum catch or the optimum sustainable yield. Such data might form the basis of a presumption as to who should assert authority over the fishery. Secondary criteria also should be considered, such as the economic alternatives and military security considerations involved.

Mr. Johnston is not a dogmatic internationalist. Although he establishes a presumption in favor of the widest possible sharing of resources such as fisheries which are physically sharable and renewable, this presumption can be rebutted by an individual nation's demonstrating that it has a special socio-economic interest that outweighs the presumption in favor of internationalization of the resource. This special interest principle may confer an exclusive privilege on one state and require all other nations to abstain from participation in the exploitation and conservation of a resource.

The policy-oriented approach as developed by Professors McDougal and Lasswell uses a systematic organization and terminology which at first makes it somewhat difficult to read. This will probably be the most frequent criticism of the book. However, the terminology is meaningful and precise, and the author's style is lucid. The first three chapters appear to be repetitious (The Process of Use, The Process of Claim, and the Process of De-

cision), but they are necessary to the comprehensive analysis that a policy-oriented study demands.

This book comprehensively examines the historical development of the existing international law of fisheries. But it does not stop there; It goes beyond an analysis of what "is" the law or practice and explores and recommends what it "should be."

This is a good book. No other book approaches the subject in this comprehensive way, and it therefore fills a gap in the published material on the subject.

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