

1980

Alternatives in Deepsea Mining

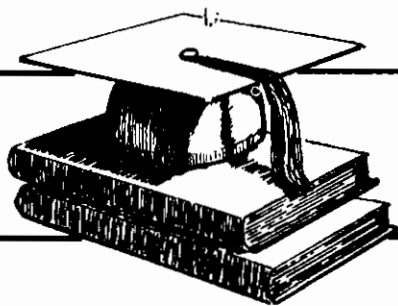
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PROFESSIONAL READING

BOOK REVIEWS

Allen, Scott and Craven, John P., eds. *Alternatives in Deepsea Mining*. Proceedings, University of Hawaii, Workshop, 11-14 December 1978. Honolulu: Law of the Sea Institute, 1979. 110pp.

That extraordinary being, the current edition of the law of the sea negotiations, is now 12 years old. After spending its first 6 years in United Nations Seabed Committees, this adolescent has weathered 6 further years in UNCLOS, the United Nations Conference on the Law of the Sea. For some who kept up with the negotiations in their early days, the recent stages of UNCLOS have often seemed remarkably futile, failing again and again to mature and to yield the new law of the sea treaty that was foreseen as the object of the exercise.

With one important exception, reading *Alternatives in Deepsea Mining* tends to confirm this perception of futility. The book contains the edited proceedings of a workshop held in December 1978 by the Law of the Sea Institute in Honolulu. The list of workshop participants includes some 35 representatives from the diplomatic community, the mining industry, the academic world and the legal profession. Most are American, but there are also participants from Australia, Cameroon, Canada, Japan, Sri Lanka and West Germany. The book also presents four individual papers that were either presented to the workshop or based on its subject matter.

The proceedings of the workshop paint a gloomy picture of at least the seabed aspects of UNCLOS. Often repeated is the fundamental and perhaps irreconcilable division between those that would have the seabed mined by the developed countries who can mine it, but who are already relatively more prosperous, and those that would have the seabed mined by or for the developing countries who are less prosperous, but who cannot, in fact, mine it. The topics of the proceedings are "simplification," the "system of exploitation," the "Assembly," the "Council," "technology transfer," the "review clause," and "dispute settlement," but too often the discussion will not be helpful to anyone not already familiar with these concepts and their context. This is not to say that the editing is at fault; the editing is done intelligently and makes a better whole of the proceedings than, I am sure, the proceedings made of themselves at the time. It is only that the debate begins and proceeds at a sophisticated level and is not for beginners. As for the advanced learner, the value of the proceedings will, I am afraid, diminish rapidly with time. The points raised are usually fine ones and so oriented to current issues that they will lose (and already to a degree have lost) their relevance.

The book's four papers, however, are likely to be of longer-lasting interest. Sri Lanka's Ambassador M.C.W. Pinto offers a "Statement" that makes a clear

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defense of the proposition so alien to American mining interests: "If you touch the nodules at the bottom of the sea, you touch my property. If you take them away, you take away my property." On the other side of things, Robert Krueger of Nossaman, Krueger & Marsh in Los Angeles argues in "A Current View of Deepsea Mining Issue" that the implementation of national systems of deepsea mining can, in fact, surmount a "storm of protest" from developing countries if the national systems are properly coordinated. Rudiger Wolfrum of the University of Bonn discusses the "Transfer of Technology," giving useful background on the development of the issue, as well as outlining present problems and possible resolutions.

Best of all is the paper, "Deep Ocean Mining: Interim Arrangements and Alternative Outcomes," by Douglas Johnston at Dalhousie University. It is the most reflective and the most general part of the book and is likely to be worth reading several years from now when much else of the tome is effectively dead letter. Johnston examines several perceptions of what UNCLOS is meant to be. As a "treaty-making exercise" UNCLOS, he recognizes, is unlikely to be successful: "Especially the unresolved issues in deep ocean mining are too numerous, too important and too deeply divisive—often the result of fundamentally divergent philosophies—to be papered over through a diplomatic miracle of concealment." As an exercise in "law reform," however, UNCLOS might be already viewed as a success, having already contributed to norms for "distributive justice" (i.e., more for the poor nations) and "universal democratic participatory procedures." Those looking at UNCLOS as a process of "legal development" would see a failure to achieve a treaty as a "missed opportunity," but one not necessarily fatal to the development of an ocean order based on customary international law.

Finally, from the standpoint of "ocean development and management" (often the perspective of the industrial and scientific communities), failure to produce a treaty "is a tolerable prospect provided that it does not produce unduly destabilizing consequences around the world." Johnston goes on to present a "case for simplification" that would serve as useful preface to the pages of the workshop's proceedings on that topic and to offer "three scenarios of reluctant consent" that could be interesting to match against law of the sea events as they actually unfold.

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Booth, Ken. *Strategy and Ethnocentrism*. New York: Holmes & Meier, 1979. 191pp.

Ken Booth has a rare clarity of vision and, ironically, that may prove to be a major problem for his readers. We may be so ethnocentrically sealed in that we have difficulty understanding his message. He gently reproves all of us who work in the strategic field or who think about it seriously, which must include nearly everyone. What he says is that much of what is written about strategy is mirror imaging, of which he gives few but very telling examples. If the book achieves its purpose, to raise consciousness, then it will benefit a far larger readership than the "sizable group of strategists" who profess that strategy is multicultural but who behave as if it is not.

What Booth so wisely says is not totally new. We have recognized, certainly since the 19th century, that we were programmed by our culture. But we seldom seem to believe it. Instead, we Americans have frequently depended upon inspired Europeans—Alexis de Tocqueville remains the most remarkable—to describe the patterns of our thought. (Sometimes we reciprocate brilliantly, too, let it be said. Barbara Tuchmann must have done some important consciousness raising for Euro-