

Book Proposal

WORLD ORDER AND THE LAW OF THE SEA

by

Elisabeth Mann Borgese

Professor

Department of Political Science

Dalhousie University

Halifax, N.S., Canada

Scope

The book is designed to provide a wider historical and philosophical perspective from which the new Law of the Sea emerges as an essential part of, and model for, a new international order. The book will be broadly interdisciplinary in character and will move from history and philosophy to economics, international law, international relations and organization. World order is conceived, not as a static goal but as an ongoing process, and, in the final analysis, as an outward projection of man's changing perception of himself. The book is based on a course I developed at Dalhousie University last year. I will use it as a text for future courses, and I hope it will be used by other Universities as well.

Length

300 pages

Writing time

The academic year 1981-82.

TABLE OF CONTENTS

INTRODUCTION

PART I: NEW PERCEPTIONS

Chapter I: the Lessons of World Federalism

Chapter II: The Baruch-Lilienthal Plan

Chapter III: The Schuman Plan

PART II: THE LAW OF THE SEA

Chapter IV: The Marine Revolution: New Uses
of the Oceans

Chapter V: The Third United Nations Conference
on the Law of the Sea

Chapter VI: The Draft Convention on the
Law of the Sea

PART III: WORLD ORDER ISSUES IN THE DRAFT CONVENTION

Chapter VII: The Common Heritage of Mankind

Chapter VIII: An International Resource
Management Institution

Chapter IX: Ocean Management and Development
Strategy

Chapter X: International Environmental
Law

Chapter XI: Mandatory Dispute Settlement

PART IV: CONSEQUENCES OF THE LAW OF THE SEA CONFERENCE

Chapter XII: The Role of the Seabed Authority
in the '80s and '90s

Chapter XIII: The Evolution of the U.N.
Family of Organizations

Chapter IV: Outer Space, Antarctica, Energy,
Food

Chapter XV: Conclusion: The Future of
International Organization

Note: All chapter headings and Part headings are pro-
visional working titles and may be changed.

SYNOPSIS

INTRODUCTION

The impact of utopian thinking on history will be examined. Three periods of world order studies are distinguished: a classical period, a romantic period, and a scientific period.

Various classical approaches to world order, from Antiquity through the nineteenth century, are reviewed, and their relevance to modern world order making is explored. The "romantic period" covers the world order studies during the late 1940s and 1950s responding to the challenge of nuclear world destruction. The "scientific period" of world order studies coincides with the efforts to build a New International Economic Order in the '60s and '70s. The documents of the Sixth and Seventh Special Session of the U.N. General Assembly, the Charter of Economic Rights and Duties of States, the plans for the first two Development Decades are briefly discussed. A succinct overview of studies and reports such as the RIO Report, the Report of the Brandt Commission, of the Olaf Palme Commission, etc., concludes the Introduction.

PART I

From the vantage point of the Law of the Sea negotiations, three efforts from the past are singled out for their particular contributions to current thinking: One of these was purely utopian; the other reached the arena of international negotiations, but was not realized; the third one has transformed the history of Europe.

The Chicago Preliminary Draft of a World Constitution, based on the assumption that there can be no peace without economic justice, is an early call for a New International Economic Order. It declares the "Elements of Life" -- Water, Land, Energy, and Atmosphere -- to be the common property of mankind and thereby anticipates the concept of the Common Heritage of Mankind. It elaborates interesting criteria for regionally based representation and voting in a world assembly. (Chapter I)

The Baruch-Lilienthal Plan provides the first pattern for an international resource management institution, owning and managing a resource from the mining stage through all stages of production and recycling. It also holds the lesson that new technologies, in particular, nuclear technologies, have basically transformed the concept of disarmament. Nuclear technology is a dual purpose technology par excellence: its destructive potential is as great as its development potential. Therefore, it cannot simply be prohibited: It must be managed for peaceful purposes. (Chapter II).

The Schuman Plan, originally designed as a method to keep Germany disarmed, demonstrates that international management of resources and industries is the most effective way to control an arms race and keep peace: Just as the Baruch Lilienthal Plan demonstrated that there can be no disarmament without international management of the resource. (Chapter III).

PART II.

This part describes the changes wrought by the "Marine Revolution," i.e., by the penetration of the industrial revolution into the oceans. It discusses the potential of aquaculture, of ocean mining, and of ocean energy for the new international economic order. (Chapter IV).

It then deals with the Law of the Sea and the antecedents leading to the Third United Nations Conference on the Law of the Sea. It describes the Maltese proposal of 1967; the adoption of the Declaration of Principles; the Seabed Disarmament Treaty; the development of the Conference with its conflicting trends and alignments. It describes the complexity of the negotiations and the peculiar group dynamism of the Conference (Chapter V). This Part ends with an analysis of the Draft Convention on the Law of the Sea (Chapter VI).

PART III

For various reasons, which are analysed, both North and South have been reluctant to identify the issues which are common to the new Law of the Sea and the new International Economic Order. Yet these issues exist, and they are central to both efforts. The World Order issues in the Draft Convention on the Law of the Sea are concentrated most heavily in Part XI, establishing the International Seabed Authority: Ocean mining and the establishment of a Seabed Authority fundamentally transform the traditional law of the sea and inevitably bring it into the sphere of the New International Economic Order. In establishing the Seabed Authority, one has to deal with issues such as commodity agreements and pricing of ocean minerals; production limitation; technology transfer; access to markets; a Code of Conduct for Multinational companies; and International Taxation. (Ch.VII&VIII)

World Order issues, however, exist in other parts of the Convention as well. The concept of the Exclusive Economic Zone adds a new dimension to development strategy and affects, in particular ways, the development of small island States and landlocked States. Shipping and international sea-borne trade are more explicitly covered by UNCTAD than by the Law of the Sea, but they do enter the scope of the Law of the Sea in various ways and are common concerns for the makers of a NIEO and of L.o.S. (Chapter IX). International environmental law and dispute settlement, finally, are other issues common to both areas (Chapters X and XI).

PART IV

There have been significant changes of perspective during the fourteen long years of preparation and negotiation. In the end, the Seabed Authority is not going to be what it had been planned to be. It may, nevertheless, play an extremely important

role in a number of ways.

This part discusses the potential role of the Seabed Authority in the 80s and 90s in four specific areas: International research and development; assistance to developing countries in the exploration of their offshore resources; monitoring and surveillance with regard to the provisions of the Seabed Disarmament Treaty; and the administration of Marine Parks in the international area to preserve and study the amazing forms of life discovered recently on the seabed. The Seabed Authority thus is seen as an institution enhancing simultaneously Development, disarmament, and the Environment (Chapter XII).

The Seabed Authority, representing a new form of international organization which may become a model for the future, will inevitably affect the functions and structures of other U.N. institutions and organizations dealing, in one way or another, with the oceans. The ongoing changes in the Intergovernmental Oceanographic Commission of UNESCO, the Committee on Fisheries of FAO, the Inter-Governmental Maritime consultative Organization are examined, and the potential of UNEP's Regional Seas Programme is discussed (Chapter XIII).

The consequences of the great sea change are not restricted to the oceans, however. The new approaches evolved at the Law of the Sea Conference can be applied to other areas of international cooperation. The concept of the Common Heritage of Mankind has already been transferred to Outer Space. The Antarctic Treaty is up for revision, and the Law of Antarctica and the law of the oceans intersect. International resource management institutions, pioneered by the Law of the Sea Conference, may eventually be established for the international management of energy and food. (Chapter XIV).

The book concludes with some considerations on the future of international organization.