

## BOOK REVIEW

## Conflict of Interests: International Law in a Divided World

BY ROSALYN HIGGINS. LONDON: THE BODLEY HEAD, 1965. 170 pp.

This book is a major achievement. Not only is it completely up to date in its treatment of current problems of international law, but the past history of the subject is illuminated. In the process, some tiresome myths are struck down. One of these is the legend that prior to the nineteenth century international law could not and did not apply to relations between Christian and non-Christian powers. Dr. Higgins rightly pays tribute to Professor Charles Alexandrowicz for demonstrating that "early relations between Christian and non-Christian in Asia were made on a footing of equality and were governed by international law" (p. 33). Further, there is the important point that "as international law was still at a formative stage in Europe at this time, intercourse with the Asian States contributed significantly to its development and content" (*ibid.*).

Primarily, the book is directed to the question of interests of States: on the one hand to the conflict of interests, as indicated in the very title of the book, and on the other hand to what is the common interest, regarded as facilitating the development of international law. Two vital questions are rhetorically posed: "Do agreed rules of law really govern relations between States which have few interests in common? And, even more important, do they really apply in situations where there is a conflict of interests?" (p. 8).

To answer these questions, the arrangement adopted is to deal in Part 1 with international law and the conflict of religious interests, in Part 2 with international law and the conflict of economic interests, and in Part 3 with international law and the conflict of political interests. Part 1 is largely historical. Part 2 deals mainly with the problems arising out of conflicts of interest between the developed and less-developed countries. The impact of the latter upon the international order and international law supplies a necessary corrective to the concept of bi-polarity; the less-developed countries represent a third force of some magnitude and influence. Dr. Higgins deals adequately with the issues involved in the protection of private foreign investments in less-developed capital-receiving countries, and in the relation of these countries to the General Agreement on Tariffs and Trade of 30 October 1947, GATT. Since her book went to press, there have however been two developments in 1965: (1) The submission to Governments on 18 March 1965 of the World Bank's Convention

on the Settlement of Investment Disputes, already signed by over 20 States (see pp. 71-2); (2) The Protocol of 8 February 1965 adding a new Part 4 to the General Agreement on Tariffs and Trade, involving new commitments for the purpose of encouraging exports from the less-developed countries (see pp. 84-5). Dr. Higgins' observations on the concentration of GATT upon the process of bargaining for tariff reductions will strike a chord in Australia, where it has long been felt that this should be mitigated by permitting the wider use of preferences to help non-industrialized countries. Part 2 includes also a very readable section on the Act of State Doctrine, and some comments, very much to the point, on the question of State succession to treaty obligations in relation to the self-determination of former colonial peoples (see pp. 74-6).

Part 3 contains a valuable treatment on the whole subject of the principles underlying the doctrine of "peaceful coexistence". It should be read with the critical observations by Sir Francis Vallat on "peaceful coexistence" in "International Law—a Forward Look" in the *Year Book of World Affairs, 1964* (pp. 249-58). In the reviewer's opinion, there is much to be said for the view expressed by Mr. Evan Luard<sup>[1]</sup> that there is a need to formalize and codify the principles of coexistence in relation to international order. This may or may not add much to the terms of the United Nations Charter, but the fact is that there are conflicting ideologies in the world today, and as Professor Kenneth Boulding has pointed out,<sup>[2]</sup> in the progress of time there may occur a mutual modification of inconsistent ideologies to the point where they become almost indistinguishable or, at least, can coexist without overt conflict, or such rival ideologies may lose their "enemy-centred" elements. Agreed principles of coexistence may assist these processes. It is certainly high time that the saga of bickering on the subject of coexistence should come to an end.

There is a great deal more in Dr. Higgins' book than the points above mentioned. She never dogmatizes, and where there are difficulties, exposes and faces them. The whole is written with refreshing clearness, and a genuine concern for a more favourable image of international law.

By this important contribution Dr. Higgins has added to the stature, as an international lawyer, she already possesses by virtue of her 1963 book, *The Development of International Law through the Political Organs of the United Nations*.

J. G. Starke.

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1 In *The Cold War. A Reappraisal* (London, 1965), of which he was editor.

2 *Conflict and Defense: a General Theory* (1962), pp. 282-8.