

## Suez 1956: International Crisis and the Role of Law

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**SUEZ 1956: INTERNATIONAL CRISIS AND THE ROLE OF LAW**  
by ROBERT R. BOWIE. New York: Oxford University Press. Appen-  
dices, footnotes, index. 1975. Pp. xix + 148. \$7.50 cloth.

*M. Cherif Bassiouni\**

The nationalization of the Universal Company of the Suez Canal by Egypt on July 26, 1956, was a most significant occurrence in contemporary international affairs because of the chain of events it triggered. The 1975 publication of this book attests to that fact as well as to the continued timeliness of the subject it covers. Indeed, the Suez Canal, which was closed in June 1967, has been cleared and officially reopened for navigation on June 6, 1975.

In response to the nationalization of the company, the Western world rose up against President Nasser of Egypt, whose challenge to their economic and strategic interests signaled the decline of Western imperialism in that part of the world. France and Great Britain's interests coincided with the Israeli interest in maintaining military supremacy over Egypt. As a result, France, Great Britain, and Israel conspired to attack Egypt—on October 29, 1956, the attack began. During the U.N. debates which followed, the U.S. and the U.S.S.R., in almost unprecedented united position against the tripartite aggression, co-sponsored a U.N. resolution on the withdrawal of France, England, and Israel, and the placing of the United Nations Emergency Force between Egypt and Israel. In April 1957, Egypt reopened the Suez Canal for navigation and has since remained in control of its operation.

The story of the Suez Canal may never end, because it is a vital strategic and economic passage linking the Red Sea and Indian Ocean with the Mediterranean. The fact that the Western world has the most to gain from the Canal partially explains the reason why most accounts of the events of 1956 published in the United States are biased in favor of Western interests.<sup>1</sup> This book, while accurate in its contents, is nevertheless not among the exceptions to that current. As an illustration of this fact, the book confuses several issues. Among these are nationalization of the

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1. E.g., H. FINER, DULLES OVER SUEZ (1964); Hostie, *Notes on the Inter-Statute of the Suez Canal*, 31 TUL. L. REV. 397 (1957); Gross, *Passage through the Suez Canal of Israel-Bound Cargo and Israeli Ships*, 51 AM. J. INT'L L. 530 (1957).

Suez Canal *company*, a company organized and subject to Egyptian company law, and Egypt's sovereign rights over the Canal proper, an artificial waterway dug exclusively in Egyptian territory.<sup>2</sup> Clearly, Egypt has certain international obligations with respect to the right of free and innocent passage through the Canal. However, Egypt's right to nationalize a domestic company is beyond question and should not be confused with Egypt's international obligations concerning navigational transit.

The nationalization of the Universal Company of the Suez Canal, an Egyptian company, is treated as if it were an international public body, which it clearly was not. Questions of management and control of the Canal's operation are confused with questions of transit rights and restrictions thereto.<sup>3</sup> Furthermore, the nationalization of the company is not treated as a simple act of a nationalization recognized under international law subject to adequate, just, and prompt compensation. Even then, historical facts relevant to nationalization and just compensation are omitted. Among such facts is the history of the company which had nineteen years remaining on its concession to operate this artificial waterway, which was dug by Egyptian labor at the cost of some one hundred thousand lives and with the financial support of Egypt amounting to nearly all the actual cost of the project.<sup>4</sup> Nevertheless, Egypt did not mitigate or reduce its compensation to company stockholders and did indeed declare at the time of the nationalization its willingness to pay the full market value of the nationalized shares of stock of the Suez Canal company and did so shortly thereafter.

Indeed the complete legality of the nationalization and the full and fair compensation to its stockholders which ensued should not only be so recognized, but it should be held out as a model of fairness. This has not happened, however, since political interests required that Egypt be made to appear as the villain.

The author follows the events of the time in the order in which they occurred. He also faithfully reiterates the arguments advanced by those who were paving the way for their subsequent acts. The failure to adequately comment on the political motives of such countries as France and England is a serious omission. Historical accuracy and critical analysis should have revealed what the world had almost twenty years to find out.

The author furthers arguments which have been made against Egypt

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2. Bassiouni, *The Nationalization of the Suez Canal and the Illicit Act in International Law*, 14 DEPAUL L. REV. 258 (1965).

3. See, e.g., R. BOWIE, SUEZ 1956: INTERNATIONAL CRISIS AND THE ROLE OF LAW 2-3 (1974) [hereinafter cited as BOWIE].

4. Bassiouni, *supra* note 2, at 269-71.

by confusing Egyptian economic concessions to the Suez Canal company with international legal obligations. The purported effect of this approach is to demonstrate that Egypt's economic concessions to the company's promoter, Ferdinand de Lesseps, and to the Suez Canal company proper, were in the nature of an international dedication of the Suez Canal. This was one of the legal strategies of the Western powers, who created in London between August and September 1956 a "user's club." The "users" sought recognition of an international right to control the Canal on the grounds that operational control was crucial to the exercise of their international right; namely, the right of free passage. Part of their plan was to show that Egypt's inability to manage or properly use the Canal would jeopardize the right of free passage, guaranteed under the 1881 Constantinople Convention, and thus warrant the take-over of the Canal by the "users." Professor Bowie fails to explain this plan whereby the "users" and the former Suez Canal company officials conspired with the Suez Canal pilots to leave Egypt. Their departure was to evidence Egypt's inability to operate the Canal, thus giving the "users" valid reasons to seize the Canal, under the pretext of fulfilling international obligations to insure free passage through the canal for the world. This effort failed, however, because Egyptian naval officers and civilian navigation pilots assumed the task, which they performed well, of leading vessels through the Canal.<sup>5</sup> The author of this book doesn't mention this plan which was crucial to the "users'" strategy of claiming the internationalization of the Canal and the control of its operation. Instead, he states: "How could the users ensure that Nasser would manage the Canal efficiently and not misuse its control to serve his political purposes."<sup>6</sup>

The subtitle of the book indicates its emphasis on the role of law in the resolution of this "crisis." In that respect, Egyptian efforts at a peaceful solution are accurately presented, but in the context of an attempt to extol the virtues of John Foster Dulles as the principle protagonist of a "peaceful settlement."<sup>7</sup> Considering Dulles' role in making the crisis by sponsoring the "user's club" and proposing an internationalization of the Canal which would, in fact, perpetuate foreign control of Egyptian territory and property, it is hardly to be commended. Dulles, however, deserves and is given due credit by the author, as is President Eisenhower, for their firm stand at the U.N. in condemning the actions of France,

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5. See K. LOVE, *SUEZ: THE TWICE FOUGHT OVER WAR* (1969); A. NUTTING, *NO END OF A LESSON* (1967); ROBERTSON, *CRISIS: THE INSIDE STORY OF THE SUEZ CONSPIRACY* (1965).

6. BOWIE at ix.

7. *Id.* at 35-47.

Great Britain and Israel, and causing their withdrawal from occupied Egyptian territory.

The book condemns Egypt for its denial of Israel's right to transit the Canal, but fails to present Egypt's arguments for the denial. The 1881 Constantinople Convention gives Egypt the right to refuse passage for defensive reasons, as do other international law principles.<sup>8</sup> However, even though Egypt's position is criticized on that issue, the author fails to mention that Great Britain did just that to Germany in World Wars I and II without as much as a whisper of protest by anyone. Further, the author completely ignores the context of Egypt's denial of navigation rights to Israeli vessels and Israeli-bound cargo; namely, the existence of a state of war between Egypt and Israel. The question of navigation rights deserved more than the scant treatment it received, for it is still a contemporary problem.

In his conclusion the author chides Israel for its aggression: "Despite the violations of Israel's rights, it was still hard to square its resort to force with the provisions of the Charter."<sup>9</sup> As to the aggression of France and Great Britain, the author concludes: "Their case for self-help was less clear [than Israel's]; they had not exhausted efforts for a peaceful solutions. . . ."<sup>10</sup> However what the author refers to as "Israel's rights" and France and England's "case for self-help" is far from convincing.

A noteworthy observation about this book concerns its sources of authority: throughout, there is only one reference to an Egyptian author<sup>11</sup> and few authors cited are sympathetic to the Egyptian position.<sup>12</sup> All other works cited are U.S. and British authors and governmental sources which are either unsympathetic to the Egyptian position or who condemn it. There are, however, several Israeli and pro-Israeli authors cited repeatedly.<sup>13</sup>

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8. See Khadduri, *Closure of the Suez Canal to Israeli Shipping*, 33 LAW & CONTEMP. PROB. 147 (1968); but see Gross, *supra* note 1.

9. BOWIE at 104.

10. *Id.*

11. M. EL-HEFANAOU, *LES PROBLÈMES CONTEMPORAINS POSÉS PAR LE CANAL DE SUEZ* (1951).

12. See LOVE, *supra* note 5; ROBERTSON, *supra* note 5; Khadduri, *supra* note 8.

13. E.g., FINER, *supra* note 1; see also BOWIE at 55, 59, 93 (Ben Gourion); BOWIE at 56 (Dayan); BOWIE at 56-57 (Bar-Zohar); BOWIE at 56-59 (Peres); BOWIE at 57 (Kimche).

14. See, e.g., Huang, *Some International and Legal Aspects of the Suez Canal Questions*, 51 AM. J. INT'L L. 277 (1957).

15. The author does however cite ROBERTSON, *supra* note 5; LOVE, *supra* note 5; NUTTING, *supra* note 5, whose insights are quite revealing. For a contrary position see FINER, *supra* note 1; EL-HEFANAOU, *supra* note 11; see also M. & S. BROMBERG, *SECRETS OF SUEZ* (1957) (discussing France's political motives).

The book offers a good chronology of the events and a concise statement of the Western position. The documents it contains are of great historical interest; however, there is no adequate presentation of the legal issues involved<sup>14</sup> and only a superficial political appraisal of the events recounted.<sup>15</sup> It would have otherwise been a welcome contribution.