

THE RED SEA AND THE GULF OF ADEN, by Ruth Lapidoth-Eschelbacher. The Hague: Martinus Nijhoff 1982, pp. xiv and 265, with 18 maps, \$65.00 (U.S.)

While Legal Adviser to the Israeli Foreign Office Dr. Lapidoth-Eschelbacher played a major role in the discussions concerning the drafting, interpretation and application of the Israel-Egypt Peace Treaty, which involved issues of freedom of navigation through the Suez Canal, the Gulf of Suez, the Strait of Tiran, the Red Sea, the Strait of Bab al-Mandeb and the Gulf of Aden. It is not surprising, therefore, that she was asked to write *The Red Sea and the Gulf of Aden*, number five in the series on International Straits of the World, published by Nijhoff on behalf of the University of Delaware's Center for the Study of Marine Policy.

The political significance of this area and the continuance of the Arab-Israeli conflict, or some aspects thereof, may well serve to emphasize that treaty law, in this case the yet-to-be ratified United Nations Convention on the Law of the Sea, has little substantive significance if the political interests of the parties affected thereby conflict with the legal regime that the document seeks to establish. The importance of such considerations is clear if one bears in mind that something over one-third of this monograph is devoted to the political setting. Not only is there the general problem of Arab-Israeli confrontation, but, in addition,

the littoral states of the Red Sea and the Gulf of Aden present a complex region of contrasting economies, political, and social life, exposed to frequent changes and strife. Most of the countries are desperately poor, but Saudi Arabia is fabulously rich. The political regimes range from the modern parliamentary democracy of Israel to the theocratic conservative monarchy of Saudi Arabia, and the underlying ideologies extending from radical Marxism-Leninism in South Yemen to scientific socialism in Ethiopia and Somalia, Arab socialism in Egypt, a mixed economy in Israel and capitalism in Saudi Arabia. The area is also culturally heterogeneous. Eight countries have a Muslim majority, though not all of the same branch, while the Ethiopians are more or less divided between Christians and Muslims and Israel has a Jewish majority. Egypt, Sudan, Ethiopia and Israel have substantial religious minorities. Ethnically six out of the ten states in question have an Arab majority. The Somalis prevail in Somalia; the Afars and Issas in Djibouti; the Jews in Israel; and Ethiopia is an ethnic mosaic (p. 89).

In addition to all this, the area is of major significance to the Great Powers, the interests at stake being "important lines of communication and regional political influence" (p. 98), with the Red Sea serving "in different degrees the navigational needs of both Eastern and Western navies as well as oil tankers" (*id.*, italics in original).

In so far as the law is concerned, the author is convinced that

there is no doubt that the Red Sea is part of the high seas. It may eventually be included in the exclusive economic zone of coastal states once that concept is generally accepted. No declaration, however, can turn it into a closed 'lake'. . . . Since the Gulf of Aqaba washes the coasts of four states, it is under international law subject to a regime of freedom of passage . . . [T]he gulf does not fulfil the conditions for the establishment of a historic title in favor of any particular state or states, and hence the right of passage should prevail. . . . The Gulf of Suez . . . is a bay with a narrow entrance and surrounded by a single state. *Prima facie*, the gulf fulfills the conditions of a national bay. Nevertheless, a right of passage through the gulf can be asserted by other states either because the gulf has ceased to be a bay due to the construction of the Suez Canal, or because passage through the gulf is a necessary corollary of the right of navigation through the canal. . . . (p. 187).

Similarly, the author contends that if Bab al-Mandeb became subject to littoral exclusive economic zones or even part of their territorial seas, it would still be subject to a right of "transit passage, which would include submerged passage of submarines and overflights" (p. 188). As to the Strait of Tiran, this "is wholly within the territorial sea of the coastal states, which under general international law would make it subject to non-suspendable innocent passage", a right which is underwritten in the Israel-Egypt Peace Treaty (*id.*).

Having pointed out the economic and other advantages of free passage in so far as the states of the region are concerned, the learned author considers that practical reasons militate in favour of freedom even during the no-peace, no-war situation that prevails in the region.

It may thus be hoped that mutual interests in security, commerce, and economic progress will help keep the Red Sea and Gulf of Aden open and that no state will try to close them to the shipping of others. There is, of course, the danger of acts of sabotage perpetrated by terrorists or insurgents, but this danger is not specific to the Red Sea region, and it must be hoped that none of the littoral states will support or tolerate such destructive activity (p. 189).

Equally important, but not mentioned by Dr. Lapidoth-Eschelbacher is the need for interstate cooperation in the prevention and suppression of 'private' terrorist acts. The recent example of cooperation between the Republic of Korea and the People's Republic of China in regard to the punishment of aerial hijackers lends some support to the hope that international concern in controlling terrorism may override political antagonisms.

L.C. Green  
L.L.B., L.L.D., F.R.S.C.  
University Professor  
The University of Alberta