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The Arabian Gulf

Ali A El-Hakim

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***THE MIDDLE EASTERN
STATES AND THE LAW
OF THE SEA***

THE MIDDLE EASTERN STATES AND THE LAW OF THE SEA

by

ALI. A. EL-HAKIM

LIC-ÉN-DROIT (BEIRUT), DIP. SHIPPING LAW;
LL.M. (LONDON), PH.D. (CANTAB)

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FOREWORD

The law governing the use, conservation and delimitation of the sea and its resources is today a major preoccupation of all governments, whether maritime or landlocked, for the use of the resources of the sea has in a relatively short time become a focus of the principal groupings, rivalries, power struggles, ambitions and ideals of a greatly enlarged international society of States. The United Nations Third Conference on the Law of the Sea has accordingly been very much more than a conference on the law of the sea. Dr El-Hakim's careful, sensitive and objective study of the attitudes of an important group of States towards these questions is therefore of more than ordinary importance; in addition, the very well researched studies of particular problems and issues provide a valuable store of source material for students of maritime legal questions and particularly of maritime boundary questions in any part of the world. It is with pleasure and confidence that I commend this book.

R. Y. Jennings

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A. El-Hakim
Cambridge
February 1978

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ABBREVIATIONS

A/AC.138/1 <i>et seq.</i> , A/AC. 138/SR.1 <i>et seq.</i> ;	
A/AC.138/SC.I (II) or (III)/L.1 <i>et seq.</i> ;	
A/AC.138/SC.I (II) or (III)/SR.1 <i>et seq.</i> ;	Documents and Summary Records of the UN Plenary Committee on the Peaceful Uses of the Sea Bed and the Ocean Floor beyond the Limits of National Jurisdiction and its three Sub committees
AALCC	Asian-African Legal Consultative Committee
A.J.I.L.	<i>American Journal of International Law</i>
A.S.C.L.	<i>Annual Survey of Commonwealth Law</i>
BIICL	British Institute of International and Comparative Law
B.Y.I.L.	<i>British Yearbook of International Law</i>
C.L.J.	<i>Cambridge Law Journal</i>
Cmd, Cmnd	Command Papers (United Kingdom)
Dept. of State Bull.	United States, Department of State <i>Bulletin</i>
FAO	Food and Agriculture Organisation
GAOR	United Nations, General Assembly, Official Records
Hague Recueil	<i>Recueil des Cours</i> , Académie de Droit International de la Haye
Har.I.L.J.	<i>Harvard International Law Journal</i>
H.C. Deb.	United Kingdom: Parliamentary Debates (Hansard) House of Commons Official Reports
H.L. Deb.	House of Lords Official Reports
ICNT	Informal Composite Negotiating Text
I.C.J.	International Court of Justice
I.C.L.Q.	<i>International and Comparative Law Quarterly</i>
ILC	International Law Commission
I.L.M.	<i>International Legal Materials</i>
IMCO	Intergovernmental Maritime Consultative Organisation
Indian J.I.L.	<i>Indian Journal of International Law</i>
Int. Conc.	International Conciliation
J. Mar. L. and Comm.	<i>Journal of Maritime Law and Commerce</i>
L.N.T.S.	League of Nations Treaty Series
Louisiana L. Rev.	<i>Louisiana Law Review</i>
LSCOR (1st)	First United Nations Conference on the Law of the Sea, Official Records
LSCOR (2nd)	Second United Nations Conference on the Law of the Sea, Official Records
LSCOR (3rd)	Third United Nations Conference on the Law of the Sea, Official Records
M.E.E.D.	<i>Middle East Economic Digest</i> (London)

ABBREVIATIONS

<i>M.E.E.S.</i>	<i>Middle East Economic Survey</i> (Beirut)
<i>M.L.R.</i>	<i>Modern Law Review</i>
<i>Netherlands I.L.Rev.</i>	<i>Netherlands International Law Review</i>
<i>Netherlands Y.I.L.</i>	<i>Netherlands Yearbook of International Law</i>
<i>N.R.L.</i>	<i>Natural Resources Lawyer</i>
<i>O.A.U.</i>	Organisation of African Unity
<i>Ocean Development</i>	<i>Ocean Development and International Law Journal</i>
OPEC	Organisation of Petroleum Exporting Countries
<i>R.E.D.I.</i>	<i>Revue Egyptienne de Droit International</i>
SCOR	United Nations, Security Council, Official Records
S.I.	Statutory Instrument (United Kingdom)
ST/LEG/Ser.B/1, B/2	United Nations Legislative Series, Laws and Regulations on the Regime of the High Seas, 1951, vols. I and II respectively
—B/6	United Nations Legislative Series, Laws and Regulations on the Regime of the Territorial Sea, 1957
—B/8	United Nations Legislative Series, Supplement to Regulations on the Regime of the High Seas (vols. I and II) and Laws Concerning the Nationality of Ships, 1959
—B/15	United Nations Legislative Series, National Legislation and Treaties relating to the Territorial Sea, the Contiguous Zone, the Continental Shelf, the High Seas and to Fishing and Conservation of the Living Resources of the Sea. 1970
—B/16	United Nations Legislative Series, National Legislation and Treatise Relating to the Law of the Sea, 1974
—B/18	United Nations Legislative Series, National Legislation and Treaties Relating to the Law of the Sea, 1976
—B/19	United Nations Legislative Series, National Legislation and Treaties Relating to the Law of the Sea (preliminary issue), 1978
U.K.T.S.	United Kingdom Treaty Series
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNITAR	United Nations Institute for Training and Research
U.N.T.S.	United Nations Treaty Series

INTRODUCTION

The sea covers 70·8 per cent of the earth's surface. Through the advances of science and technology the world community has become more aware of the urgency of establishing a generally agreed regime which would ensure that the sea and its vast resources are used and developed fairly, rationally and peacefully for the benefit of all mankind. The need for a radical reconsideration of the traditional law of the sea was emphasised by the decision of the Twenty-fifth Session of the General Assembly to convene in 1973, a comprehensive Third United Nations Conference on the Law of the Sea. So far, the conference has held seven sessions and has made substantial progress on most aspects, but it is clear that it will need further sessions to accomplish its task of adopting a convention dealing with all matters relating to the law of the sea.

The present work was motivated partly by these developments and partly by a feeling that the theme has not received sufficient attention. The Middle Eastern States covered in these pages include the State of Bahrain, the Arab Republic of Egypt, the United Arab Emirates, the Islamic Republic of Iran, the Republic of Iraq, the Hashemite Kingdom of Jordan, the State of Kuwait, the Republic of Lebanon, the Socialist People's Libyan Arab Jamahiriyyah, the Sultanate of Oman, the State of Qatar, the Kingdom of Saudi Arabia, the Democratic Republic of the Sudan, the Syrian Arab Republic, the Yemen Arab Republic and the People's Democratic Republic of Yemen.¹

The significance of the law of the sea to the Middle Eastern States hardly needs emphasis. Their coasts, enormous and diversified, embrace the heart of world communications. Continuous and uninterrupted, their shores start from the eastern Mediterranean and extend through the Suez Canal into the Red Sea. From the Red Sea they continue through the Straits of Bab el Mandeb, into the Gulf of Aden which opens into the Arabian Sea, and, touching the Indian Ocean, they run right through the Gulf of Oman, up to the Strait of Hormuz and the Arabian (Persian)

¹ For the purpose of brevity, short-form names will be used throughout. Thus the State of Bahrain will be referred to as Bahrain and the People's Democratic Republic of Yemen as Democratic Yemen. The term 'the Middle Eastern States' will be used henceforth to mean only the States named above.

INTRODUCTION

Gulf.² The continental shelf areas, together with the land territories, of the Middle Eastern States are reputed to contain between 50 and 75 per cent of the world's proved oil reserves. Thus for the oil-rich Middle Eastern States the sea is of vital importance to their economic and social progress. Besides, in coastal areas of many Middle Eastern States, especially those of the Arabian Gulf and the Red Sea, valuable fish resources and, in the case of the Red Sea, brine deposits, occur and need to be safeguarded and developed prudently. Again, their coasts are vulnerable to pollution, especially from oil, and need adequate protection against such dangers. Moreover, like most developing countries, the Middle Eastern States still lack the technology and the know-how necessary for the exploitation of sea resources and so require the co-operation and assistance of the appropriate United Nations Agencies and of the technologically advanced countries. Furthermore, while some States such as Saudi Arabia have considerable natural resources, others, such as Yemen, are more or less barren and, for that reason, have a paramount interest in the establishment of an international regime that would ensure that the natural resources of the sea bed beyond the limits of national jurisdiction are used and developed for the benefit of all mankind.

In brief, this work is an attempt to explore and analyse the practice and policies of the Middle Eastern States with regard to certain aspects of the international law of the sea. This is not, it must be stressed, a comprehensive treatment of all issues of the law of the sea. Some are treated briefly or completely omitted. The book falls into two main parts.

Part One deals with general practice and policies of the Middle Eastern States in the field of the international law of the sea. In Part Two special consideration is given to three specific regional issues, each of which is dealt with in a separate chapter.

Chapter I is devoted to an account and analysis of existing national claims to offshore jurisdiction, both as concerns the physical extent of the offshore area involved and the legal nature of the claim.

Chapter II is intended to provide some insight into the position which the Middle Eastern States are taking in the Third United Nations Conference on the Law of the Sea.

Chapter III is concerned with certain legal problems of offshore

² See Map 1. It is not intended to deal with the controversy regarding the use of 'Arabian' or 'Persian' Gulf. In a work largely concerned with Arab States, 'Arabian' seems more appropriate. However, the term 'Persian Gulf' as used in various quotations and documents relied upon in this book will remain unchanged.

INTRODUCTION

boundaries in the Arabian Gulf. It surveys and analyses those settled, and some outstanding problems regarding continental shelf boundaries and islands of disputed sovereignty in the Arabian Gulf.

The controversy surrounding the legal status of the Gulf of Aqaba and the Straits of Tiran as well as the rules governing the right of passage through them has interesting legal implications and warrants special consideration. Chapter IV is accordingly devoted to a study of certain aspects of this problem.

Recent exploration activities in the Red Sea deeps have shown its potentialities as a source of mineral resources, the commercial exploitability of which has already drawn the attention of the littoral States to such issues as offshore boundary delimitation and joint exploitation projects. Legal aspects of this problem are discussed in Chapter V.

In a final section, some general conclusions are attempted.

I have endeavoured to state the law in accordance with the sources available to me on 1 January 1978, though in some instances subsequent developments were also taken note of.

The notes to each chapter are on pp. 212–274.

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PART ONE

**GENERAL PRACTICE
AND POLICIES**