CHAPTER FOUR

THE PLACE OF INTERNATIONAL LAW IN BRITISH AND
AMERICAN FOREIGN POLICY BEHAVIOUR DURING THE
SUEZ CRISIS

In the previous chapter we looked at a scenario in which both competing sides sought to use force against the other and were unevenly matched in terms of relative power and where the actions of the competing sides in the conflict differed in terms of the degree of legality as understood in terms of a legal-illegal binary framework. A case study of the Suez crisis represents the second of the cases involving a scenario in which States are unevenly matched in terms of power and in which the preferred policy positions of the competing States differ in terms of the degree of legality. The case to be examined in this chapter involves a dispute between two States, one seeking to use force and the other opposing the use of force. Britain sought to use force against Egypt and aimed to convince the US to support, or at least not oppose, such action. The US opposed Britain’s intention to use force against Egypt, and aimed to prevent, or at least forestall, the possibility of force. Britain’s preferred policy position would more readily be deemed ‘illegal’ than that of the US. The US was relatively more powerful than Britain.

In this chapter I will begin with a brief background to the crisis over the Suez Canal. Following on from this historical overview, I will examine the historical record of the influence of international law on American and British foreign policy-making and implementation during the Suez crisis and then compare the empirical literature and its theoretical underpinnings with the historical record. Finally, I will look at the historical record from an ILI perspective and assess the empirical efficacy of an ILI perspective in understanding the relationship between international law and US and British State behaviour during the Suez crisis.
Background to the Crisis Over the Suez Canal

The role of the Suez Canal as an international waterway has a long history. Turning this small canal into a speedy and cheap passage from the Mediterranean to the Indian Ocean and beyond was the dream of Ferdinand de Lesseps, the son of the French Consul in Egypt at the beginning of the nineteenth century. On January 5, 1856 that dream started to become reality when the Universal Suez Canal Company, a public company committed to building the canal, published its statutes. The operation of the canal was governed by the 1888 Convention of Constantinople, which stipulated, among other things, the freedom of passage through the canal to all ships of all countries. Of the 400,000 shares that made up the company, de Lesseps had intended that slightly more than half were to be held by the French and the rest divided between Britain, the United States, Russia and Austria.1 At this time the British government under Palmerston was openly hostile towards de Lesseps' plans. The change in British attitude to the canal came with Disraeli's purchase of Kedive Ismail's shares.2 This was a prelude to British military action in 1882 in occupying Egypt - an occupation that continued until 1955. Despite an early cool reception to the canal by the then UK government, by 1949 Britain had the highest number of vessels and tonnage passing through the canal.3

The 1956 crisis over the Suez Canal occurred in a different geopolitical and legal context than when Ferdinand de Lesseps developed the Suez Canal. The post-WWII world saw the entry into force of the United Nations Charter that established the United Nations; the rise of anti-colonialism and subsequent nationalist movements across a number of regions in the world, including the Middle East; a Cold War of ideological rivalry between the new superpowers of the USSR and USA; and the birth of the Jewish state Israel in 1948 amidst hostile neighbouring Arab States. It was in this context that the Suez crisis occurred.

The construction of the High Dam at Aswan was of major political importance to Egyptian President Gamal Abdul Nasser, who had staked his political career on gaining a World Bank loan for building the dam. The dam would provide an overall stimulus to the economy, a cheap source of electric power and the provision of more cultivated land to feed the rising Egyptian population. The continuing power of Nasser was also riding on the success of the Aswan High Dam. Upon the request of the Egyptian Government, the United States in December 1955 joined the United Kingdom and the World Bank in an offer to assist the Egyptians in the construction of the dam on the Nile at Aswan. However, on July 19, 1956 the US withdrew its financial support for the dam, citing that: "Developments within the succeeding seven months have not been favourable to the success of the project, and the US government

---

2 Ibid., at 3. Disraeli bought 177,642 shares at a cost of four million pounds.
3 37.93% of the vessels and 36.73% of the gross tonnage belonged to the United Kingdom - the highest of all the States using the Suez Canal. See Ibid., at 6.