#### University of Colorado Law School

## Colorado Law Scholarly Commons

**Publications** 

Colorado Law Faculty Scholarship

1997

## **Book Review**

S. James Anaya University of Colorado Law School

Follow this and additional works at: https://scholar.law.colorado.edu/faculty-articles

Part of the Dispute Resolution and Arbitration Commons, International Humanitarian Law Commons, International Law Commons, and the Law and Politics Commons

#### **Citation Information**

S. James Anaya, *Book Review*, 91 Am. J. Int'l L. 566 (1997) (reviewing International Organizations and Ethnic Conflict (Milton J. Esman & Shibley Telhami eds., 1995)), available at http://scholar.law.colorado.edu/articles/851/.

#### Copyright Statement

Copyright protected. Use of materials from this collection beyond the exceptions provided for in the Fair Use and Educational Use clauses of the U.S. Copyright Law may violate federal law. Permission to publish or reproduce is required.

This Book Review is brought to you for free and open access by the Colorado Law Faculty Scholarship at Colorado Law Scholarly Commons. It has been accepted for inclusion in Publications by an authorized administrator of Colorado Law Scholarly Commons. For more information, please contact rebecca.ciota@colorado.edu.

# HEINONLINE

#### Citation:

S. James Anaya, International Organizations and Ethnic Conflict. Edited by Milton J. Esman and Shibley Telhami, 91 Am. J. Int'l L. (1997) Provided by: William A. Wise Law Library

Content downloaded/printed from HeinOnline

Fri Dec 1 13:08:41 2017

- -- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at http://heinonline.org/HOL/License
- -- The search text of this PDF is generated from uncorrected OCR text.
- -- To obtain permission to use this article beyond the scope of your HeinOnline license, please use:

## Copyright Information



Use QR Code reader to send PDF to your smartphone or tablet device

within my spheres of expertise. But the analysis is frequently inadequate regarding situations not squarely covered by existing principles. All too often, the authors do not help us to deal with voids created as the international community undertakes an expanding role in internal conflicts. Admittedly, these are exceedingly complex questions, and surely these authors cannot be expected to have all, or even most, of the answers. Yet some questions are not even posed, and thus this study too often leaves the reader searching for more.

RUTH E. GORDON Villanova University School of Law

International Organizations and Ethnic Conflict.
Edited by Milton J. Esman and Shibley Telhami. Ithaca, London: Cornell University Press, 1995. Pp. x, 326. \$47.50, cloth; \$17.95, paper.

Since the end of the Cold War, the imagery of a world increasingly fragmented along lines of ethnicity has taken shape in the literature of international relations. This imagery seems to have overpowered optimistic assessments of an emergent world order grounded in a multipolar system of states or a common humanistic ethos. International Organizations and Ethnic Conflicta collection of insightful essays edited by Milton J. Esman, Professor Emeritus of International Studies at Cornell University, and Shibley Telhami, Associate Professor of Government at Cornell—adds to the growing body of literature that takes ethnic conflict as one of the most pressing problems of the day and tries to unravel its causes or discern the path toward its demise.

A motivating assumption of this book is that, with the demise of the East-West rivalry that dominated world politics for decades, the world is undergoing fundamental change. Latent animosities that had been held in check by the ordering of power and political priorities during the Cold War have been unleashed or exacerbated. Ethnic conflict, which the editors describe as a "consequence of ethnic pluralism, the process of two or more ethnic communities under the same political authority" (p. 9), may arise when an ethnic community seeks to maintain its "distinctive culture marked by its own language or dialect and by sentiments of common origin, historical experience, or nationality; a common religion, belief system, and practices; racial differences; or a combination of these factors" (p. 10).

At the same time, the end of the Cold War has spawned opportunities for the kind of multilateral cooperation that had previously been but an unfulfilled blueprint in the charters of the United Nations and other international organizations. The international response to Iraq's invasion of Kuwait, for example, was an unprecedented use of UN auspices, notwithstanding the pervasive role of the United States in engineering that response. It contributed to rising expectations that international organizations could intervene constructively in conflict situations. The present volume seeks to analyze the extent to which, in light of existing norms and political conditions, international organizations composed of member states, such as the United Nations, the Organization of African Unity and the Arab League, can intervene in conflicts that are rooted in ethnic differences.1

In addition to the editors' introductory essay, the book includes eleven separately authored chapters grouped into four parts. Part I begins with Esman's survey of interventions by international organizations in conflicts in Israel, Cyprus, Sudan, South Africa and Namibia, all conflicts in which ethnicity is seen as an important factor. Subsequent chapters by Jack Donnelly and Raymond Hopkins develop theoretical perspectives for assessing the evolving role of international organizations in ethnic conflict, especially in comparison to the individual power of member states and the influence of local actors.

Detailed studies of two cases, Lebanon and Yugoslavia, form the heart of the book. The case study on Lebanon, in part II, begins with Samir Khalaf's exhaustive account of the relevant history and actors. Michael Hudson's essay then highlights the political dynamics of intervention from the standpoint of local actors, while Naomi Weinberger assesses multilateral peacekeeping efforts in Lebanon and their implications for future such interventions. V. P. Gagnon, Jr., introduces the case study of Yugoslavia in part III with an analysis of the historical forces leading to multiethnic turmoil in the 1980s. Next, in successive chapters, Susan Woodward and Ste-

<sup>&</sup>lt;sup>1</sup>The editors exclude from their analysis organizations formed to regulate relations between member and nonmember states, such as the North Atlantic Treaty Organization and the Organization of Petroleum Exporting Countries, which they consider alliances and outside the operational definition of "international organizations."

ven Burg evaluate the role of international organizations during the breakup of Yugoslavia and in subsequent conflicts involving its successor states, especially Bosnia-Herzegovina.

The final part of this volume comprises two chapters by Barry Preisler and Telhami. Preisler analyzes and draws lessons from the differences and similarities between the Lebanon and Yugoslavia cases. Telhami synthesizes the major themes of the preceding essays and ends with recommendations for further research.

In the face of a changing global political environment, this book questions whether international organizations can meet the growing demands for their involvement in the resolution of conflict, in particular conflict with an ethnic dimension. The answer resounding throughout this volume is that international organizations face substantial impediments in this regard, especially from the bedrock principle of state sovereignty, which upholds the primacy of a state's authority over all matters within its recognized territory. Absent the consent of the state concerned, intervention by an international organization or any other outside actor is presumptively impermissible. To varying degrees, several contributors discern a softening of the sovereignty norm in the face of world-order principles of peace and human rights. Events over the past several years appear to have established that sovereignty may be overridden in favor of intervention when there is a threat to international peace and order, when there is large-scale suffering by civilian populations, or when serious human rights violations occur. But none of the authors perceives the demise of the sovereignty norm as an operational premise of international relations.

Furthermore, whether or not an international organization may or should intervene to address ethnic conflict in certain circumstances does not answer the question of whether or not it will. One strain of analysis in this volume supports the conclusion that international intervention is now more likely because of the precedents of the past several years and the enhanced posture of human rights and other world-order principles. Another strain—the consensus view among the book's contributors—holds that the end of the Cold War has not brought about any fundamental transformation away from the state-centered system of international relations. To the extent there is change, it is incremental and not (at least yet) transformative, and the response an international organization may give

to a conflict situation remains heavily dependent on the interests of member states and the distribution of power among them. The case studies of Lebanon and Yugoslavia reinforce the understanding that the path of intervention, or nonintervention, by an international organization will generally track the interplay of interests and power among the relevant state actors.

Linked with considerations of the impacts of state interests on the functioning of international organizations is the issue of internal institutional capabilities. Several contributors point out that international organizations cannot act in a consistently principled or effective manner to address ethnic conflict because they do not have the internal mechanisms and resources to do so. The discussions of peacekeeping and peace enforcement efforts, for example, point out weaknesses in the United Nations that result from a lack of autonomous military forces, sources of income, and intelligence and other information-gathering capabilities. In large part, this is seen as a structural problem rooted in the lack of autonomy on the part of international organizations vis-à-vis member states. Prescriptions for remedying some weaknesses are offered by several contributors, but none holds out much hope that change will occur quickly or easily.

Overall, this volume presents an informative assessment of the role and capacities of international organizations in light of important events of the past several years. It includes a number of stimulating essays that address issues arising from the intersection of international organizations and the burgeoning rubric of ethnic conflict. However, one may question the book's focus on Yugoslavia and Lebanon as a means of addressing this nucleus of issues. In many ways, the two cases are extraordinary among conflicts in which ethnicity is a factor, both in their severity and in their geopolitical contexts. Much of the discussion of these cases could be expected to appear in a text on peacekeeping or peacemaking by international organizations in situations of violent, multifaceted conflict, rather than in a volume specifically concerned with international intervention in ethnic conflict. Further, the focus on Yugoslavia and Lebanon contributes to an emphasis on intervention involving military action. Other forms of intervention-such as good offices, monitoring, adjudicating or public condemnation, which might be appropriate in particular situationsare mentioned but not fully discussed. Nonetheless, as far as it goes, this book is well-done and will provide illuminating reading for those interested in the international dimensions of local conflict.

> S. JAMES ANAYA Indian Law Resource Center University of Iowa College of Law

Land and Maritime Zones of Peace in International Law. By Surya P. Subedi. Oxford: Clarendon Press, 1996. Pp. xlvi, 261. Index. \$75.

In 1971, the United Nations General Assembly declared the Indian Ocean a "Zone of Peace" (IOZP). Some fifteen years later, it acted in a similar fashion by urging member states to respect the South Atlantic as a "Zone of Peace and Cooperation" (ZOPC). Efforts to create comparable land zones include the 1971 declaration on the "Zone of Peace, Freedom and Neutrality" (ZOPFAN) by the Association of Southeast Asian Nations, Nepal's 1974 proposal that it be recognized as a zone of peace, and the Dalai Lama's call for acceptance of Tibet as one.

Land and Maritime Zones of Peace in International Law, by Hull University's Surya Subedi, examines this purported new genre of delimitation in an effort to ascertain its normative status and prescriptive effect under international law. Subedi perceptively identifies the key issues posed by such zones: Who can create a ZOP and how? Once created, what are the obligations of zonal and extrazonal states? Has state practice led to the emergence of the ZOP as customary international law? If not, what authority exists for the creation of one in either sovereign territory or that which is res communis? What is the relationship between such zones and current international law governing neutrality, demilitarization, self-defense, freedom of the seas, and use of the seas for peaceful purposes?

Subedi embarks on his study by exploring what are certainly the most legally contentious regimes, the maritime zones. The first of these, the IOZP, began as an effort by nonaligned states to close waters to Cold War confrontation. The ensuing General Assembly resolution called for consultations to arrest further military expansion in the Indian Ocean, eliminate military facilities, and dispose of weapons of mass destruction. It also embodied provisions in Article 2(4) of the UN Charter prohibiting the threat or use of force, but it sought to reassure seafaring nations by preserving the "right to free and unimpeded use of the zones" that was otherwise consistent with interna-

tional law. Subsequent meetings of the coastal states provided greater specificity, for example by suggesting that military exercises in the zone were forbidden.

Predictably, the IOZP was opposed by the major maritime powers-without regard to their Cold War rivalry. Foreshadowing similar cooperation at the Third United Nations Conference on the Law of the Sea, a commonality of interests in unfettered fleet operations led both the United States and the Soviet Union to oppose the zone. The legal bases for hostility to this new zonal concept varied. First, some states argued that neither a regional grouping of states nor the General Assembly was competent to create a legal regime that affected existing rights of other states, at least absent the consent of those states. Opponents of the zones also characterized them as contravening the right to peaceful usage and transit through the world's waters. These rights were said to contribute to international stability, not instability. Last, some countries asserted that the zones interfered with their right to self-defense under the UN Charter and customary law.

Brazil was the driving force behind the declaration in 1986 of a second zone, the ZOPC. As with the IOZP, it was the product of a General Assembly resolution. The resolution called upon members to respect the South Atlantic as a zone of peace, "especially through the reduction and eventual elimination of their military presence there, the non-introduction of nuclear weapons or other weapons of mass destruction and the non-extension into the region of rivalries and conflicts that are foreign to it." It also reiterated Article 2(4) prohibitions and professed to preserve peaceful freedom of navigation rights. Because its restrictions on military missions were less onerous, and perhaps because the South Atlantic was much less a region of superpower confrontation than the Indian Ocean, the ZOPC generated less antagonism than its predecessor. The criticisms it did attract tended to mirror those associated with the IOZP.

Although the IOZP and ZOPC proposals differ in certain respects, Subedi draws on them, as well as subsequent state practice, to offer what he believes are the ten elements of a zone of peace: (1) a ban on the expansion of military presence; (2) the elimination of military facilities; (3) the appropriate disposition of weapons of mass destruction and treatment of the area as a nuclear-weapons-free zone; (4) a prohibi-