

Stephens' text goes a long way in demonstrating the changing lay of the land. Indeed, perhaps it may be a harbinger of change to come.<sup>20</sup> Stephens shows that there is more going on in international environmental dispute settlement than even many keen observers of the subject of international environmental law might realise. His book is an impressive blend of not only jurisprudence and analytical insight, but also a realistic nuts and bolts explanation of institutional and systemic frameworks. Another reviewer has already opined that '[u]ndoubtedly, this book will become part of required reading for all those interested in international environmental law and adjudication'.<sup>21</sup> I could not agree more.

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### **The Role of International Law in Rebuilding Societies after Conflict**

*Brett Bowden, Hilary Charlesworth, and Jeremy Farrall (eds),  
(Cambridge University Press, New York, NY, 2009, pp 346)*

#### **Great Expectations — Or Is It Bleak House?**

As the title connotes, this book on international reconstruction and stabilization (R&S) efforts finds its voice in a collective sense of frustration and humility. Fortunately, the frustration is channeled into a civil discourse about how those interested in R&S might prepare for a more successful, and productive, future. By design, the book seeks to extract these refinements from a multi-faceted exploration of the role that international law has played, and may play, in R&S efforts.

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<sup>20</sup> I note, for example, that Oxford has just launched a new journal in 2010 entitled *Journal of International Dispute Settlement*. While issue 1 of volume 1 does not contain anything 'environmental', it is to be hoped that it soon will.

<sup>21</sup> S Sitaraman, [Book Review] 'Tim Stephens. 2009. *International Courts and Environmental Protection* (Cambridge, UK: Cambridge University Press)' (2009) 4 *The Review of International Organisations* 319, 324.

Though the essays dutifully refer to international law throughout, R&S field practitioners, like myself, may well be left tantalized, wishing to see more discussion of the latest lessons-learned from the front lines. At the same time, academicians may just as easily come away from the book substantially satisfied for its pointed illustrations of the shortcomings that typify elite actors and policymakers. Admittedly, the R&S field is new enough that it is a formidable challenge to coherently and pithily bridge the theoretical and the practical in a single text, but in contrast to some kindred encompassing texts, such as *Can Might Make Rights?*,<sup>1</sup> this book breaks sharply in the academic direction, eschewing for the most part a granular discussion of how legal professionals on the ground may creatively mobilize international law.

The majority of chapters draw heavily from the literature of international relations, political science, and history, and from within these disciplines, there is a decided tendency to marshal and discuss material that consider R&S operations as a function of a larger Western imperialist agenda. Consequently, the role of international law is examined at a high-level of abstraction in many sections. Theoreticians, such as Foucault, Machiavelli, or Schmitt, are ably summoned into the fray, and the practical poverty of Westphalian sovereignty in today's complex world is raised, skewered, and lamented accordingly.

This theoretical emphasis is particularly pronounced in the first three chapters of the book. In fact, it is not until the fourth chapter, authored by Editors Bowden and Charlesworth that the discussion begins to intensively grapple with specific provisions of international law that might positively guide the specific particulars of R&S operations. Reviewing the evolution of international law on what constitutes 'democracy', their chapter directly engages, considering Article 25 of the International Covenant on Civil and Political Rights and the Human Rights Committee's basic guidance on the same. What follows is a thoughtful explication of some of the uses, and misuses, of democracy as a guiding principle in R&S operations.

To point out the emphasis on theory is not to dismiss the theoretical as irrelevant or unhelpful, but rather it is to illustrate a fundamental tension between the aspirations embedded in the title and the text itself. At the theoretical level, there is indeed much to be gained in testing assumptions, paradigms, and approaches to interventions and occupations. However, important as this discourse may be, such emphasis must be carefully modulated if it is to remain moored in the practical realities facing the millions of people that it seeks to address and serve.

For instance, in Chapter 3, Danchin deconstructs the Iraqi occupation, laying out how various actors employed international law -in sometimes contradictory ways - to pursue political objectives. Not surprisingly, his analysis demonstrates that international law at the policy level was no panacea, or anything closely

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<sup>1</sup> Jane Stromseth, David Wippman, and Rosa Brooks, *Can Might Make Rights: Building the Rule of Law After Military Interventions* (Cambridge University Press, New York, NY, 2006, pp 428).

resembling a shortcut to rebuilding post-conflict Iraq. At the same time, this theoretical dialogue overlooks the role, and missed potential role, that international law actually played in the R&S process at the ground level. If the real expectations for international law *qua* change-agent are to be fully understood and employed effectively, they must be conceived, discussed, and pursued in a broad domain.

There is another side to the Iraqi ‘transformation’ story. Perhaps the most notable chapter in that story was that of a small group of concerned legal professionals who gathered in Baghdad in the midst of the ‘constitutional process’ to try and salvage the situation despite being painfully aware of the mistakes and pitfalls aptly described in Danchin’s chapter. An Australian international lawyer, and close colleague, Jonathan Morrow, was a key player on this team, and he has written eloquently about this lesser known sequence of events in the new book *Framing the State in Times of Transition: Case Studies in Constitution Making*.<sup>2</sup>

Today, at this granular level, a rich, quantity of material remains relatively untapped in scholarly and policy circles. These new materials describe international lawyers employing international law and its associated standards and guidance to R&S with common sense, seeking to promote transparent, culturally sensitive processes to reconcile competing interests and promote a lasting, prosperous peace. What would Iraq be like today if on the morning of July 31, 2005, the Chairman of the Iraqi Constitutional Committee, Sheikh Hamoudi, had been allowed to move forward with the legally permitted, culturally appropriate, and politically necessary, extension of the constitutional consultation and drafting process? What could he, working with the aforementioned team of Iraqi and foreign professionals, have been able to achieve? Of course, we will never know for certain because U.S. Ambassador Khalilzad and other misguided elites intervened to short-circuit the process, but the work and sacrifice of those who sought to make the best of the worst of situations should be given its due if expectations are to be fully understood and honored going forward.

The fact that elite power brokers and policymakers continue to make poor, counterproductive decisions is not earthshaking, nor is it the most interesting part of the increasingly sophisticated global discussion ahead. Significant investment has been made to cull lessons-learned from the recent decades of intense R&S engagement, and the practical guidance that has emerged deserves to be part and parcel of every current discussion. When the book embraces these lessons-learned and applies them to the latest developments in the field, it rises to this important challenge with aplomb. The Clark and Devereux chapters exploring implementation problems with the International Criminal Court and UN Peacekeepers are useful, direct, and forthright in documenting how the lessons of the past could and should permit new initiatives to move to the next level, but have yet to do so.

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<sup>2</sup> Jonathan Morrow, ‘Deconstituting Mesopotamia: Cutting a Deal on the Regionalization of Iraq’, in Laurel E Miller (ed), with Louis Aucoin, *Framing the State in Times of Transition: Case Studies in Constitution Making*, United States Institute of Peace, Washington, DC, 2010, 563–600.

Great expectations from international law have undoubtedly lead to great disappointments, but the gulf between high flung rhetoric about democracy and justice and practical programming designed to grapple with the tough challenges of R&S operations is being filled. At the center of this maelstrom, the United Nations Department of Peacekeeping Operations (UNDPKO) has made great strides in the last decade, increasingly focusing on more reflective, culturally-sensitive, and thoughtful approaches to R&S operations. Moreover, UNDPKO has done so on an objectively modest core budget. Knowledge of these best practices, policies, and guidance grows daily, but devastatingly slowly. The authors of this book have contributed significantly to accelerating and deepening our understanding of the larger challenges involved, but they do, with frequency, fail to note that, even if we do face a Dickensian Bleak House for the moment, the lights are on and a number of dedicated practitioners are at home. In their next instalment, this practitioner anxiously awaits with great expectations, for even more compelling tales of how the practitioners that inhabit this house can inspire and champion meaningful change for the unfortunate, and growing, number of individuals that must dwell in the trying R&S environments scattered around the world.

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<sup>3</sup> Any views expressed herein are solely those of Mr Carlson, and they do not necessarily reflect the position of the U S Department of State.