

## BOOK REVIEW

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*International Governance in War-torn Territories: Rule and Reconstruction.*  
By Richard Caplan. New York: Oxford University Press, 2005. pp. viii, 291. Index. \$99. 00, cloth.

## I

Since the end of the cold war, international governance has been taken place in numerous places such as Kosovo, East Timor, and Bosnia and Herzegovina. Although one can find similar kinds of such “(global / international) governance”<sup>1</sup> in international relations history, the most salient characteristic of current attempts at International Administration is the diversity of actors. The United Nations remains at the center of International Administration efforts but one can find different types of actor varying widely in size and capability.

International Administration (herein after IA) featured heavily in recent debates across the social sciences following a long period of neglect of the topic.<sup>2</sup> *International Governance of War-Torn Territories: Rule and Reconstruction* by Richard Caplan could also contribute to the development of the fields, especially in the context of practice: Caplan examines especially empirical facts very well. The purpose of his work is to contribute to understanding international governance in the so-called war-torn territories and, in practice, to “make it possible for governmental and nongovernmental bodies to play a more effective role in the rule and reconstruction of war-torn societies” (p. 15).

Caplan has been associated with academic institutions such as the Department of Politics and International Relations at the University of Reading and the Department of Politics

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<sup>1</sup> Caplan does not clearly define nor distinguish the critical term. I will point out it later. Here, it could be supplemented by following definition. Global governance means “the evolving system of (formal and informal) political coordination – across multiple levels from the local to the global – amongst public authorities (states and IGOs) and private agencies (NGOs and corporate actors) seeking to realize common purposes or resolve collective problems through the making and implementing of global or transnational norms, rules, programmes, and policies.” John Baylis and Steve Smith (ed.), *The Globalization of World Politics: An Introduction to International Relations*, Oxford University Press, 2005, p. 25.

<sup>2</sup> As a famous instance, Chesterman published his work in 2004 about international governance in which he insists the significance of accountability of administrative organizations for local people. Simon Chesterman, *You, the People: The United Nations, Transitional Administration, and State – Building*, New York: Oxford University Press, 2004.

and International Relations at the University of Oxford. The work develops his earlier paper, *A New Trusteeship? The International Administration of War-torn Territories* published by the International Institute for Strategic Studies (2002).

## II

In the introduction to his work, the author makes reference to the increasing involvement of the UN in IA, reflecting the emergence of a new concept of limited sovereignty. Based on this assumption, Caplan proposes three theses. First, "international administration constitutes a practice distinct in important respects from complex peacekeeping and post-conflict peace-building" (p. 12). He seeks to differentiate IA from peacekeeping, state- or nation-building and military occupation in their character and purposes. However, this seems to be an arbitrary distinction. PKOs and IAs are difficult to distinguish in practice because IA is usually understood as an umbrella term for activities in war-torn territories. Therefore, one can consider PKOs, disarmament, demobilization, and reintegration (DDR), truth commissions, and so forth as components of IA. Caplan's second thesis is that IA has mitigated the humanitarian crises in war-torn territories although there are still many challenges for IA to overcome (p. 13). The third thesis

is that the success of IA depends upon contextual factors rather than operational practices (ibid.). Having considered various historical examples of IA, Caplan concludes that contemporary IA, although diverse, share certain common characteristics, such as; multiplicity of actors due to the increase in international/regional organs, collapse of central authority, and changes in the role of the international community.<sup>3</sup> This conclusion seems correct as one can find many examples of failed states in the post cold war period resulting in a sharp increase in the use of the UN's powers for international peace and security under its Charter.

In Part 1, the author explains the five main functions of IA. In chapter 1, Caplan describes the primary functions of IA in maintaining public order and internal security; such as monitoring local law, training local police officers to ensure their activities compatible with international standards, restructuring local police forces, and carrying out the task of policing. These functions can be different in character depending upon the IA mandate. Furthermore, the establishment of effective public order by the IA may be hampered by such factors as a lack of police personnel and training. A further problem, as Caplan also points out, is the lack of fair judicial and penal institutions in war-torn territories. In general, the absence of an effective and fair judicial system is one of the main factors

<sup>3</sup> The examples of Kosovo and East Timor stand out; after the end of the conflicts, international administration bodies were established since there was no central authority to govern the area.

behind intra-state conflicts. However, the inhabitants of the affected states need justice after such conflicts because they have normally suffered human rights abuses. Thus, it is important to establish impartial judicial and penal institutions to mitigate tension in the society and satisfy the victims of the conflicts, even if only to a limited extent.

Chapter 2 deals with the second function of IA; i.e., that of aiding refugees and internally displaced persons (IDPs). In many cases, refugees cannot go back to the home countries with numerous reasons. Furthermore, even if refugees and IDPs are able to return home, it is difficult to achieve their re-integration into their home society. Finally, the author raises the question of whether the administrative bodies should encourage return of refugees or resettlement in locations other than places of origin; Caplan suggests that the answer to this question depends largely on political considerations (p. 85). As Caplan suggests, on the ground the resolution of refugee problems depends largely on the particular conditions of the case. In the absent of a comprehensive legal framework for refugees and IDPs, their fate depends on politics.

Chapter 3 considers the function of civil administration in IA. According to Caplan, civil administration can be divided into two functions; local capacity-building and political institution-building. Caplan suggests that it is necessary to create consulta-

tive mechanisms between the IA center and its employees and the local population in the outlying areas, which stakeholders play a significant role as a "sounding board" (p. 99). Furthermore, he focuses especially on capacity-building -which means "the development or enhancement of local administrative capacity and the eventual transfer of administrative responsibility" (p. 99). Capacity building necessarily requires a two stage process: first co-administration between inhabitants and employees of the IA then self-administration by inhabitants with international supervision. Caplan insists that capacity-building should progress in tandem with international civil administration. The problem, however, is that it is difficult to decide when IA should transfer responsibilities to the local authority. This transfer of power seems to depend upon respective situations as refugee problems.

Chapter 4 deals with *political* institution-building function. In the operation of IA, the administrative bodies must face frustration and complaints from local people. Elections are an important tool to ensure legitimacy of IA's activities that give local people an opportunity to participate in political institution-building. However, elections sometimes have a negative impact on the administration process such as exacerbating tensions or hampering national reconciliation.<sup>4</sup> Moreover, Caplan refers to democratization as the hallmark of political

<sup>4</sup> For instance, in Cambodia, an election was held with the support of the UN in 1997. After the election, popular frustration at the result led to violent incidents.

institution-building. Although some regard democratization as a new imperialism, Caplan rejects this interpretation since IA has sought to establish a civil society in which NGOs and local media could actively commit to the institution-building, thus giving democratization less of an imperialist character. There are several previous studies discussing the particular character of the current wave of democratization: however, Caplan considers these theories only briefly.<sup>5</sup> This section of the book would benefit from a deeper theoretical discussion.

In chapter 5, the author describes economic reconstruction and development. Again Caplan employs a two-fold division of the tasks of the IA; in this case physical reconstruction (infrastructure) and economic development (sustainable economic prosperity). Particularly, as regards the latter, the author argues that one needs to choose approach most applicable to each case. Although there are obstacles to economic development, IA has succeeded in regenerating growth by, for instance, re-establishing trade networks. On the one hand, Caplan also describes the darker side of the economy such as organized-crime. Such activities impair the process of economic regeneration but cannot be easily eradicated because of the close links between criminal networks and vested interests in the governed territory. However, Caplan simply raises this problem without making any concrete proposals to solve it.

In Part 2, the author discusses five key issues in the context of administering war-torn territories. The first chapter concerns the key issue of planning the operation. Here the main problems are the following; (i) inadequate and tardy planning by civilian organizations; (ii) limited financial resources for IA; (iii) staffing. In addition, Caplan suggests that both internal coordination within the IA and cooperation with local people are equally important in obtaining information.

In chapter 2, the exercise of executive authority is considered as the second key issue. This executive authority is necessary for international officials in order to achieve the goals of the IA, especially when they face opposition by the local people. Without the capability to enforce their order, IA operatives cannot complete their mission. Such power however may impair the development of autonomous local capacities, or may harm the legitimacy of the IA. According to the author, this dilemma can only be overcome by the progressive transfer of responsibility to the local authorities. However, the "progressive transfer" itself involves ambiguity because there is almost no standard laid down as to when an IA should progress to the next stage of administration.

Chapter 3 explains the third key issue, the accountability of the IA organs. "Accountability" means to hold public officials responsible for their

<sup>5</sup> For instance, see Gregory Fox and Brad Roth (ed.), *Democratic Governance and International Law*, Cambridge University Press, 2000.

actions and for the outcomes of those actions, and requires transparency of decision-making and effective mechanisms of enforcing sanctions (p. 197). This is related to the legitimacy of IA since such legitimacy partly comes from a fiduciary relationship embodied in accountability. IA faces the contradiction that they seek to foster democracy using undemocratic methods of administration. In order to overcome this problem, the author insists upon the significance of private mechanisms (local media and NGOs) although he also considers official mechanisms (reporting systems or ombudspersons) important. In spite of the existence of these mechanisms, Caplan argues that they have been largely ineffective and hence IA has been insufficiently accountable. This conclusion is widely supported in the related literature.<sup>6</sup>

The fourth key issue for IA, dealt with in chapter 4, is how the transfer of power to the local population is to be regulated and how to achieve the exit of the international authorities from conflict situations. Although several methods exist to complete the transfer of power, the author makes detailed statements mainly about the so-called follow-on arrangements. Follow on arrangements mean that regional organs perform the tasks of IA after it withdraws. In order to make the transition effective, the following factors have to be considered; a military component to maintain external security and territorial integrity; to

enhance the importance of regional considerations; and to foster an independent local economy. In closing, Caplan tries to assess how to measure IA's success. As yardsticks, he raises the following issues; (i) the return of IDPs; (ii) achievement of independence by the administered area; (iii) the IA's record by the end of its mandate and so forth. It is not clear from his argument that we can really judge the success of IA since it is essentially diverse and most plans and methods are influenced by the respective conditions of each territory. We ought to evaluate IA from a variety of different perspectives.

In chapter 5, the author discusses how to make IA more effective. He demonstrates that several factors have impaired IA's efficiency; (i) inadequate resources; (ii) the incapacity of organizations to cope with problems; (iii) slow and ineffective deployment of military personnel, civilian police, and well trained civilian specialists. A further impediment arises from the accountability issues surrounding IAs and the attendant political problems. If IA is not held accountable then the local people will not see the IA as legitimate.

As conclusions, the Caplan takes up several key factors to enhance the possibilities of success for IA. The first factor, *favorable objective conditions*, concerns the following issues; who fought whom in the war torn area; whether one can expect any significant help from outside states; and

<sup>6</sup> For instance, Chesterman insists the insufficiency of accountability of IA. Simon Chesterman, *op.cit.*

the attitude of regional powers. The second factor, *clarity and appeal of operational aims*, examines whether the aims of an operation are clearly defined, and whether they are attractive enough to gain support from the local population. The third factor is *the type of operation*. Caplan specifies two types: a supervisory operation and territorial administration with executive authority. Although the latter is more likely to be effective because of the wide discretion in the IA's executive power, it runs the risk of abuse of power. The final factor, *the structure of the operation*, considers the following elements to enhance effectiveness; (i) unified authority, (ii) strong coordination among parties, and (iii) a willingness by headquarters to delegate responsibility to the field. Finally, the author concludes that with a positive evaluation of IA, provided they are not unilateralist measures, unilateralist IA, Caplan proposes, cannot be a good solution for war-torn territories (p. 256). It is probably true that if the measures are unilateral, without accountability mechanisms, and are implemented undemocratically, IA seems unlikely

to succeed, due to the frustration of the local population. International administration must be at first for the people in such territories; therefore, it is impossible to gain success without support of the people.

### III

Finally, I would like to present my own critique of Caplan's argument.

A primary weakness of Caplan's monograph is that it seems to lack a coherent methodology. The author does not examine "theoretically" the concepts of sovereignty<sup>7</sup>, legitimacy<sup>8</sup> and governance - a major flaw in a work. Caplan rather seems to take a "historical approach". Due to the lack of methodology, it could be said that his work is essentially descriptive. His argument could be improved by a more thorough consideration of the political and legal aspects of the IA; e. g. whether giving the authority to the administrative bodies are *ultra vires* of the Security Council under Chapter VII of the UN Charter.<sup>9</sup> For instance, in the case of East Timor, there was no agreement from Indonesia when

<sup>7</sup> Bernhard Knoll examines the concept of sovereignty using "*imperium*" and "*dominium*" in the context of internationalized territories. Bernhard Knoll, 'United Nations Imperium: Horizontal and Vertical Transfer of Effective Control and the Concept of Residual Sovereignty in "Internationalized Territories"', *7 Austrian Review of International and European Law*, (2002) 3, at p. 52.

<sup>8</sup> Professor Thomas Franck uses legitimacy in two senses to examine whether there is a legitimate international system of rules and processes for the compliance of nations in context of international governance which tries to bring democratic institutions into the governed territory. Thomas Franck, 'Legitimacy and democratic entitlement', in (Gregory Fox and Brad Roth, ed.) *Democratic Governance and International Law op.cit.*

<sup>9</sup> Danesh Sarooshi considers this topic although he does not consider it specifically in the context of IA. Danesh Sarooshi, *The United Nations and The Development of Collective Security: The Delegation by the UN Security Council of its Chapter VII Powers*, Oxford University Press, 1999.

UNTAET began an administration after the end of the intra-state conflict. In addition, the author seeks to substantiate his argument through examining purely empirical evidence, especially in Part 1. Although it is important to review the previous and related facts, a “normative” framework is also necessary because, in most cases, the IA tries to establish the rule of law in the governed territory.

As a second major criticism, it may be suggested that the terms used in this book are ambiguous. It cannot be denied that Caplan’s definition of such vitally important terms as “international governance” and “international administration” is unclear. Furthermore, the term “war-torn” seems to imply inter-state conflict in spite of the fact that the author deals with territories in the aftermath of intra-state conflicts. In the science of international law, the term “war” means war between states. Therefore, the reader would be better served were Caplan to use the term “armed conflict” or “intra-state conflict”.

In addition to these lacunae in the overall argument, there are several flaws in the detail of the book.

First, it should be noted that the classification of the forms of international administration by the authors has to be reconsidered. Caplan takes Eastern Slavonia, Kosovo, and East Timor as examples of IA as “direct

governance”. However, the cases of Kosovo and East Timor should be regarded as exceptions since they completely replaced the government of the state, which can, according to Michael Bothe and Thilo Marauhn, be regarded as a traditional method of governance rather than emblematic of current types of international governance.<sup>10</sup>

Second, the author states in his discussion of war criminals in the section on public order in Part 1 that “international authorities need to adopt robust measures from the outset to weaken and eventually remove these individuals from society”; Caplan regards such people as a threat to individuals and communities and as an impediment to the psychological closure necessary for the nation to move beyond the traumas of its past (p. 66). However, this description does not consider the notion of “restorative justice”. From a restorative justice perspective, perpetrators of war crimes are an essential component of the “reconciliation” in a society.<sup>11</sup> States collapse precisely because the number of perpetrators reaches a critical mass - in post conflict situations, it is difficult to exclude them from the life of the nation. Furthermore, in long lasting conflicts, the both Sides commit atrocities and counter atrocities. In that situation, it is almost impossible to distinguish perpetrators from vic-

<sup>10</sup> Michael Bothe and Thilo Marauhn, ‘United Nations Administration of Kosovo and East Timor: Concept, Legality, and Limitations of Security Council - Mandated Trusteeship Administration’, in Christian Tomushat (ed.), *Kosovo and the International Community: A Legal Assessment*, Kluwer Law International, 2002.

<sup>11</sup> The effort to achieve the reconciliation in the society can be found in Argentina, East Timor, El Salvador, Chile, South Africa, and so forth.

tims or bystanders.

Thirdly, the author only deals with accountability issues to do with administrative bodies. However, not only the administration but NGOs and other institutions involved in the IA lack accountability. Professor August Reinisch has considered the issue of the accountability of these actors. According to Reinisch, transnational corporations and NGOs also should be accountable for their activities and their consequences, just as there have been some improvements in their accountability at a national level.<sup>12</sup> Since war-torn territories have no fixed judicial system, however, one cannot expect remedies at the national level of such territories. If so, we have to consider the lack of accountability mechanisms beyond simply that of the administrative bodies.

In closing I would like to suggest an alternative approach to the question of IA. IA has most frequently taken place after conflicts concerning self determination. Thus, a fuller analysis of IA could fruitfully begin with the theories and practice of self

determination in International Law.

#### IV

In spite of the criticisms raised in this review, Caplan's book is sure to contribute to the practice of international administration in certain areas. The book is particularly rich in information and findings of significance to the activities of such administration.

Especially, in his conclusion, the author gives us recommendation which will lead to effective IA in the future. This could be beneficial not only to analysts, but also to policy-makers.

In addition, the author convincingly proves that IA has made positive contributions to mitigate tension after the conflicts with numerous empirical facts.

Although some criticize IA regarding as imperialism, it cannot be denied the fact that IA has been successful to re-organize the war-torn territories as Caplan argues.

<sup>12</sup> August Reinisch, 'Governance Without Accountability?' in 44 *German Yearbook of International Law*, (2001), 270, at p. 306.