

New York University Journal of International Law & Politics  
Summer 2015

## Book Annotation

**\*916** POPULAR GOVERNANCE OF POST-CONFLICT RECONSTRUCTION: THE ROLE OF INTERNATIONAL LAW. BY MATTHEW SAUL. CAMBRIDGE, UNITED KINGDOM: CAMBRIDGE UNIVERSITY PRESS, 2014. PP. VII, 268. \$99.00 (HARDCOVER).

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The role of the citizenry in post-conflict states has been a highly debated area of law among academics in recent years. While legal scholars have analyzed how a population itself should be involved in the decision-making processes of post-conflict states in a number of different manners, Matthew Saul approaches the subject from an angle that has not been widely covered -- evaluating the role that *international law* can play with regards to domestic popular governance in post-conflict reconstruction situations. In *Popular Governance of Post-Conflict Reconstruction*, Saul asserts that the legitimacy and effectiveness of post-conflict reconstruction will be international in nature, but linked to the direct input of the citizenry as decision-makers. In addition, Saul posits that in order to produce overall benefits, the approach must be contextual to the situation in which the post-conflict government finds itself.

While Saul carefully avoids asserting that international entities should get more directly involved in overseeing the popular governance of post-conflict reconstruction, he argues effectively that recognizing and further developing the existing international legal framework in this area will be beneficial to post-conflict states. The fact that the framework is relatively loose or "light-touch" as he puts it, will allow for domestic flexibility in which post-conflict states can mold the international framework to their particular situation while taking advantage of best practices. While acknowledging that the principles put forth in his work are self-limiting in nature, it would be difficult to see how one would desire the international framework to go much further beyond this minimalistic approach, as Saul rightly recognizes that states need to have the flexibility to approach\*917 their post-conflict atmosphere from their unique perspectives and situations.

The book is well structured into four main parts. Part I provides the conceptual framework of post-conflict reconstruction and discusses the significance of the citizenry in developing a legitimate post-conflict government system. Part II explores relevant existing international law, including portions of the United Nations (U.N.) Charter, International Covenant on Civil and Political Rights (ICCPR), Universal Declaration of Human Rights, and Articles on Responsibility of States for Internationally Wrongful Acts to begin to evaluate how international law can be applied to popular governance in post-conflict situations. Part III consists of two case studies in post-conflict reconstruction, Sierra Leone and Afghanistan, and discusses how popular governance and international law has been applied to each situation. Regional variations in the law on popular governance are taken into account in each instance, which helps illuminate how the international framework may be flexible for different

situations. Finally, in Part IV, Saul synthesizes the various manners in which international instruments have been utilized in diverse situations, such as Sierra Leone and Afghanistan, and how this information can be utilized as a framework for future post-conflict states.

In evaluating the international law related to popular governance in post-conflict reconstruction, Saul begins with the law of state sovereignty and self-determination. While state sovereignty and self-determination are facially domestic by nature, a state can only truly gain these objectives in today's "flat" world through international recognition. Thus, paradoxically, legitimate domestic state sovereignty requires international acknowledgment. The inherent international recognition requirement signifies that no state is an island -- metaphorically, that is. Saul effectively argues that the existing international legal order leads states to comply with the internationally defined laws of state sovereignty and right to self-determination; as detailed, for example, in the U.N. Charter and other international charters, documents, and customs.

Saul delves more specifically into the human rights aspects of popular governance of post-conflict settings largely by evaluating the relevant requirements of the ICCPR. Saul argues that since the ICCPR has 168 states parties across all regions of the world, the treaty's applicability to post-conflict settings\*918 is particularly relevant. While what Saul says is true, at least twenty-five states have not ratified the ICCPR and several states have declared reservations, which means the ICCPR and all of its articles would not be universally applicable to all post-conflict settings. For the states to which the ICCPR would apply, Saul focuses on Article 25 (right of individuals to take part in public affairs, to vote and be elected, and to have equal access to public service in the country), Article 21 (freedom of assembly), and Article 22 (freedom of association), which indeed directly apply to the law of popular governance and the laws to which post-conflict states should adhere. He emphasizes that while these articles have limitation clauses, which allow for broad interpretations in defining the scope of each right, states parties should not be able to use recent conflict as a pretext in and of itself to justify derogation. Therefore, basic compliance -- at least in the "light-touch" approach that Saul is proposing -- should not be particularly hard to come by.

In choosing Sierra Leone and Afghanistan as the states to be evaluated, Saul selects two exceptionally contrasting situations. While Sierra Leone was indeed in a state of "fragile peace" at the beginning of its "post-conflict" period, the war was largely finished and stability followed rather quickly. In Afghanistan, however, the newly formed government was dealing with significant militant insurgency and U.S.-led external military activity for nearly a decade, which Saul describes as "post-conflict." Choosing these two case studies enables Saul to show how a basic international law framework could be of use to very different situations. That being said, providing two diverse situations still leaves much to be evaluated. Both could be seen as "developing" states and international aid was crucial for both states getting back on their feet. It would be interesting to see if the framework would change at all in a post-conflict setting of a more developed state that is largely self-sustaining.

Within the case studies of Sierra Leone and Afghanistan, Saul evaluates how three legal instruments in particular have been used to advance post-conflict popular governance: U.N. Security Council resolutions, peace agreements, and international aid agreements. Saul rightly argues that all three have great potential to be harnessed in producing popular governance accountability within a post-conflict state and emphasizes that outsiders should not utilize these instruments as a way to undermine fledgling governments. While a post-conflict government\*919 indeed will always be motivated to develop and reinforce its own authority, the government should be further incentivized to exercise its discretion to prioritize the interests of the citizenry.

The main concern with Saul's contentions in the book is the fact that the basic international framework he

asserts is undeniably -- and as admitted by Saul himself -- so minimalistic so as to allow for domestic flexibility, that one may question whether it has any practical purpose or use at all. Saul does an admirable job of assuaging this concern by effectively arguing that even a minimalistic international framework, including accountability to the international community and the respective state's existing international legal obligations, will motivate best practices and reduce abuses of authority by new governments through acknowledging obligations to their citizenry via international law. While Saul acknowledges that regional obligations may assist with the encouragement of popular governance in post-conflict reconstruction, such as the African [Banjul] Charter on Human and People's Rights of 1981, he could have been more persuasive if he had brought in a number of other instruments and evaluated how they would affect the post-conflict reconstruction setting in other regions.

Over the past few decades, international actors have become significantly more involved in post-conflict reconstruction. While many scholars have written on this issue, Saul enumerates several new and modest recommendations. The fact that the international legal framework of equality in decision-making, a mandate of elections, and the development of a public sphere aligns well with what many have deemed "best practices" might be reassuring to Saul, but it is important to recognize that "best practices" will not be universally accepted. Therefore, the international legal framework promoted by Saul, molded to particular contextual situations, will be the key.

Saul's work fits nicely into the broader scheme of international post-conflict law. While the book is not particularly revolutionary, it provides some straightforward guidelines and develops a framework that emphasizes that international law can indeed play a pivotal role with regards to popular governance in post-conflict reconstruction -- although it is self-limiting by its minimal "light-touch" nature. For this "light-touch" approach to work to perfection would require the respective government\***920** to always prioritize the needs of the population over self-interest, which Saul himself recognizes as impossible. However, a post-conflict government that is cognizant of the existing international legal framework for popular governance should help limit abuse and guide the new government in its early days.

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