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Announcements

Victoria University of Wellington Archival Collection Issue 7: Papers on International Law by Dr Guy Fiti Sinclair

The Archival Collection is an addition to the Victoria University of Wellington Legal Research Paper Series that has been under consideration for some time. Covid-19 has caused a slow-down in many areas of human activity. For scholarly publishing, the virus has meant that VUW's Legal Research Paper series has space for older work. We have brought forward the distribution of papers written by Victoria University of Wellington staff from earlier years. To maintain momentum, however, the collection will include recent papers where their topic matches the topic of an issue in the Archival Collection. All papers will remain fully searchable on the VUW pages of SSRN, by both [papers](#) and [authors](#).

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LEGAL SCHOLARSHIP NETWORK: LEGAL STUDIES RESEARCH PAPER SERIES VICTORIA UNIVERSITY OF WELLINGTON LEGAL RESEARCH PAPERS

"The International Civil Servant in Theory and Practice: Law, Morality, and Expertise"

Victoria University of Wellington Legal Research Paper No. 85/2020

GUY FITI SINCLAIR, Victoria University of Wellington School of Law

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What is the place of international civil servants in international law? How much do they contribute to making the legal norms and institutions that govern states? To what extent does law sustain and constrain their authority? These important and difficult questions are raised, directly and indirectly, by several recent works that examine the life and legacy of Dag Hammarskjöld, the second and arguably most influential Secretary-General of the United Nations. While serving in that capacity during the crucial years of 1953-1961, at the height of the Cold War and decolonization and perhaps the most formative period of UN history, Hammarskjöld was intimately involved in the formulation of several legal innovations that have since become staples of UN activity, including preventive diplomacy and peacekeeping. Yet he has also been accused, both during his lifetime and more recently, of expanding the authority of his own office to the detriment of democratic government. Reflecting on these works,

this review essay argues that the authority of international civil servants should be understood and analysed as operating through three distinct yet interconnected modalities of discourse and practice: legal, moral, and expert. By giving due attention to all three modalities, a more accurate picture may be formed of the conditions under which international civil servants are able to govern, and their relationship to international law. Moreover, a comprehensive account of the authority exercised by international civil servants must take account of how they respond to any tensions that may arise between their bases of authority, as well as their shifting relations with other 'global governors.'

"A Shifting Field of Battle: The United Nations and the Struggle Over Postcolonial Statehood"



Jochen von Bernstorff and Philipp Dann (eds), *The Battle for International Law in the Decolonization Era* (Oxford University Press 2018)
Victoria University of Wellington Legal Research Paper No. 86/2020

GUY FITI SINCLAIR, Victoria University of Wellington School of Law
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This draft chapter argues that decolonization effected a profound transformation in the legal structures and powers of the UN. The chapter traces a series of battles or struggles in the early UN, centred on the nature and functions of the postcolonial states, each of which resulted in innovations in the institutional framework and powers of the UN. In particular, the chapter focuses on three axes of struggle, in relation to the meaning of self-government, the values and practices of modern government, and the import of sovereign equality. These three axes of struggle eventually came together in the invention of a new institutional form, which has become the most visible 'face' of the UN today: the peacekeeping operation.

"'The Ghosts of Colonialism in Africa': Silences and Shortcomings in the ICJS 2005 Armed Activities Decision"



ILSA Journal of International & Comparative Law, Vol. 14, No. 1, 2007
Victoria University of Wellington Legal Research Paper No. 87/2020

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This article challenges the depiction of international law as having entirely detached itself from the racist worldview and theories that shaped its genesis. In considering the history of Western contact and influence in the Congo, it becomes apparent that international law has repeatedly excused or obscured the human suffering caused by the actions of Western powers in relation to the Congo and its peoples. In two key moments in that history — at the Berlin Conference in 1884-1885 and again in 1960 when United Nations (UN) peacekeepers forcibly intervened in the newly-independent state — international law and international lawyers provided ready justifications for Western interference in the Congo. In both instances, events central to the development of international law and institutions resulted in lasting calamity for the Congo. After reviewing the colonial and post-colonial history of the Congo, the article argues that the events surrounding the 2005 Armed Activities case, and the judgment of the International Court of Justice in that case, replicate and compound the historical connections between Western interests and international law in that country. Conspicuously absent from the Armed Activities judgment is any consideration of the complex events leading up to the particular conflict that was the subject of the Court's inquiry. In particular, the judgment makes no mention of the role of Western countries in creating the conditions for and sustaining that conflict. Going a step further, the article shows that international law and institutions are themselves to a degree culpable in the most recent series of catastrophes afflicted upon the Congo.



About this eJournal

Victoria University of Wellington Legal Research Papers Series primarily contains scholarly papers by members of the **Faculty of Law at Victoria University of Wellington**. Some issues collect a number of papers on a similar theme to form a suite of papers on a single topic. Others issues are general or distribute mainly recent work.

The Student/Alumni Series is a subseries of the Victoria University of Wellington Legal Research Paper Series. The subseries started in 2015 and publishes papers by students and alumni of Victoria University of Wellington, comprising primarily work for honours and postgraduate courses. Papers are collected into thematic or general issues.

The Victoria University of Wellington was founded in 1899 to mark the Diamond Jubilee of the reign of Queen Victoria of Great Britain and of the then British Empire. Law teaching started in 1900. The Law Faculty was formally constituted in 1907. The first dean was Richard Maclaurin (1870-1920), an eminent scholar of both law and mathematics. Maclaurin went on to lead the Massachusetts Institute of Technology as President in its formative years. Early professors included Sir John Salmond (1862-1924), still one of the Common Law's leading scholars. His texts on jurisprudence and torts have gone through many editions and remain in print.

Alumni include Sir Robin Cooke (1926-2006), one of the leading judges of the British Commonwealth. As Baron Cooke of Thorndon, he sat on over 100 appeals to the Appellate Committee of the House of Lords.

one of very few Commonwealth judges ever appointed to do so.

Since 1996 the Law School has occupied the Old Government Building in central Wellington. Designed by William Clayton and opened in 1876 to house New Zealand's then civil service, the building is a particularly fine example of Italianate neo-Renaissance style. Unusually among large colonial official buildings of the time it is constructed of wood, apart from chimneys and vaults.

The School is close to New Zealand's Parliament, courts, and the headquarters of government departments. Throughout Victoria's history, our law teachers have contributed actively to policy formation and to law reform. As a result, in addition to many scholarly articles and books, the Victoria SSRN pages include a number of official reports.

Victoria graduates approximately 230 LLB and LLB(Hons) students each year, and about 60 LLM students. The faculty has an increasing number of doctoral students. Ordinarily there are ten to twelve students engaged in PhD research.

Victoria University observes the British system of academic ranks. In North American terms, lecturers and senior lecturers are tenured doctrinal scholars, not legal writing teachers. A senior lecturer corresponds approximately to a North American associate professor in rank.

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