

Graduate School Review Competition

## Humanitarian Occupation by Gregory H. Fox. Cambridge: Cambridge University Press, 2008.

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Manuela Melandri\*

Gregory Fox's book *Humanitarian Occupation* analyses the cases of Bosnia, Eastern Slavonia, Kosovo and East Timor in aiming to make sense of international administration of territory – a phenomenon which has challenged traditional notions of state sovereignty and autonomy. The book makes an important and original contribution to existing scholarship by advancing a theory about the normative foundations of this practice. In an analysis of both the aims and the means of these projects, Fox starts by defining the temporary administration of territory by an international actor for the express purpose of creating a liberal, democratic order as 'humanitarian occupation' (p. 4). His main argument is that humanitarian occupation is a phenomenon of an exceptional character and of an irreducible collective nature. As such, it can be fully explained only through exceptional legal justifications which depart from traditional state-centric norms.

The book is structured to answer two questions: 'why have humanitarian occupations been undertaken', and 'what is the legal basis for doing so?' Contrary to most recent literature, Fox answers the first question by showing that humanitarian occupation reveals not only the existence of a strong normative commitment to democracy and human rights, but also a commitment to preserving existing states within existing borders (p. 117). To answer the second question, Fox sets forward a well-crafted in-depth discussion of the three legal rationales normally employed to justify humanitarian occupations: party consent, authorization by the Security Council under a Chapter VII mandate, and the international law of occupa-

tion. The most challenging aspect of this discussion is in whether international law poses any limitations on Security Council action, hence prohibiting it from passing a resolution which deprives a state of all control over its territory. In considering this issue, Fox explores and rejects the cases for possible limitations being posed by Article 24 of the UN Charter and by *jus cogens* norms. He argues instead that traditional state-centric norms and structures are unsuitable to regulate Security Council actions. In his view, practice of humanitarian occupation is revolutionary because the Security Council has undertaken new legislative functions to regulate it, and has done so in the name of collective security interests. For Fox, this is a welcome, new model of enforcement action that transcends existing legal categories) for the purpose to advance collective interests in creating liberal and self-sustaining states.

Fox's analysis is insightful and stimulates a much-needed discussion on how fundamental legal norms (such as the principle of self-determination) fare in relation to peace and security imperatives. His views on this matter, however, remain unconvincing. For instance, he does not define on what basis he considers *jus cogens* norms unsuitable to limit Security Council action because of their state-centric nature. It is also unclear how he would address the lack of accountability which characterizes Security Council action, against the special legislative powers he sees the Council invested with. Overall, Fox offers a thought-provoking, ingenious and innovative argument, the validity of which is for the next round of scholarship to challenge.

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\* Faculty of Laws, UCL