

## BOOK REVIEW

X. Yi-chong and P. Weller, *The Working World of International Organizations: Authority, Capacity, Legitimacy*, Oxford University Press, 2018, 258pp, ISBN 978-0-19-871949-6  
doi:10.1017/S0922156519000402

Writing in 1884, the Scottish international lawyer James Lorimer described an international government that should ‘belong . . . to all nations and to none’.<sup>1</sup> Lorimer’s paradox reflects a tension between the desirability of independence in an international organization and states’ want to extend their sovereignty to the organization, which the states brought into existence. This tension has informed the design of all international organizations.<sup>2</sup> The earliest secretariats were regularly placed under the supervision of the member states – belonging to ‘all’ – but the International Labour Organisation (ILO) shifted toward an independent secretariat with employees loyal to the organization – belonging to ‘none’.<sup>3</sup> Article 9 of the ILO Constitution created dual obligations: employees ‘shall not seek or receive instructions from any government or from any other authority external to the Organization’, and member states will ‘not to seek to influence [ILO staff] in the discharge of their responsibilities’.<sup>4</sup> Since 1945 many international organizations have adopted this approach,<sup>5</sup> perhaps most importantly the United Nations.<sup>6</sup>

This evolution is entirely appropriate. The international character of an international organization demands a degree of independence from its member states, but increased independence need not go hand-in-hand with reduced transparency. Such transparency is crucial to member states’ trust in the organization’s staff, and to the organization’s legitimacy in the eyes of the general public. Today, the activities of international organizations touch upon almost every sphere of life, yet average citizens’ opportunities to scrutinize international organizations’ activities remain limited.

Bearing this in mind, a second look at Lorimer’s paradox is warranted: an international organization should belong to all nations and to none. Although a ‘nation’ is more than its national government, existing scholarship on the law of international organizations nevertheless tends to assess the degree of *government* ownership of an organization.<sup>7</sup> In *The Working World of*

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<sup>1</sup>J. Lorimer, *The Institutes of the Law of Nations* (1884) (quoted in H. Schermers and N. Blokker, *International Institutional Law* (2011), at 1209, n. 2).

<sup>2</sup>Cf. Schermers and Blokker, *ibid.*, at para. 33 (‘The agreement to create an international organization must be concluded between at least two states.’)

<sup>3</sup>See *ibid.*, at para. 524.

<sup>4</sup>Constitution of the International Labour Organisation, 15 UNTS 40 (1919), Art. 9(4)–(5). Although the League of Nations took a similar approach to staff independence in practice, it did not codify this in its constituent document as it was in the ILO Constitution. See *The Covenant of the League of Nations*, (1919) 13 *AJIL Supp.* 128.

<sup>5</sup>See, e.g., Asian Infrastructure Investment Bank, Articles of Agreement (2015), Art. 31(2)–(3).

<sup>6</sup>Charter of the United Nations, 1 UNTS XVI (1945), Art. 100.

<sup>7</sup>See, e.g., P. Henley and N. Blokker, ‘The Group of 20: A Short Legal Anatomy from the Perspective of International Institutional Law’, (2013) 14 *Melbourne J. Int’l L.* 550, at 595.

*International Organizations*, however, Yi-chong and Weller argue that the classic, state-sovereignty-based conception of international organizations' actions is reductive and hampers one's ability to understand decision-making mechanics within an international organization. State governments create international organizations, but do not (and perhaps cannot) direct international organizations to act in a coherent way. In a very practical sense, then, international organizations do not 'belong' to their creators. Rather, international organizations act upon a complex set of internal relationships that ebb and flow depending on the time and the situation.

International organizations and the scholars who study them have produced few detailed analyses of international organizations' internal practice below the executive level. This is a significant gap, as one can only glean so much from the necessarily general rules laid down by an organization's constituent instrument and its publicly available rules of procedure. This opacity may bear part of the blame for recent expressions of disenfranchisement and discontent with the operations of international organizations.<sup>8</sup> Thankfully, Yi-chong and Weller have made a timely contribution to this important area.

Yi-chong and Weller's book embraces the importance of international organizations' internal operations in explaining their actions and decisions. There is a book profiling law in action, which, particularly when dealing with a longstanding organization, is as important for lawyers to understand as the black letter law found in a constituent instrument.<sup>9</sup> Strictly speaking, it is not 'international law' within the meaning of Article 38(1) of the ICJ Statute, but rather the practical interpretation and application of Article 38(1) sources, *inter alia*, by employees and state representatives. Yi-chong and Weller examine the interplay among three categories of actors – state representatives, heads of international organizations, and professional international civil servants. The importance of state representatives' practice is clear: longstanding, consistent practice of state representatives can modify an organization's rules of decision-making.<sup>10</sup> It is not settled whether organizational heads or international civil servants can similarly affect decision-making rules, but it is clear that employees' written and unwritten practices necessarily affect organizations' operations. A well-rounded understanding of the law governing international organizations thus requires an understanding of its day-to-day application and interpretation by international civil servants.

*The Working World of International Organizations* analyzes six international organizations – the Food and Agriculture Organization (FAO), the International Monetary Fund (IMF), the World Health Organization (WHO), the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO), and the World Bank.<sup>11</sup> Each organization selected is a universal, specialized organization.<sup>12</sup> Beyond that, differences abound. Staff sizes, systems of representation, range of activities, and decision-making procedures all vary widely.

The WTO stands out as by far the most recently-created of the six,<sup>13</sup> with the FAO, IMF, WHO, and World Bank all having been created in the 1940s and the WIPO having been created in 1967. The age of the organizations studied circumscribes the authors' conclusion that studies of international organizations that focus upon their constituent instruments 'may be mostly outdated',<sup>14</sup>

<sup>8</sup>See, e.g., Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, UN Doc. A/72/350 (2017) (concerning the need for greater freedom of information within the UN system).

<sup>9</sup>X. Yi-chong and P. Weller, *The Working World of International Organizations: Authority, Capacity, Legitimacy* (2018), at 234.

<sup>10</sup>See *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276*, Advisory Opinion of 21 June 1971, [1971] ICJ Rep. 16, at 22, para. 22.

<sup>11</sup>Yi-chong and Weller, *supra* note 8, at 2–3.

<sup>12</sup>On the difference between universal and closed organizations, see Schermers and Blokker, *supra* note 1, at paras. 52–7; on the distinction between special and general organizations, see *ibid.*, at paras. 63–4.

<sup>13</sup>Marrakesh Agreement Establishing the World Trade Organization, 1867 UNTS 154 (1994). Even this, however, was preceded by the Secretariat created by the original General Agreement on Tariffs and Trade (1947), which played a significant role in the Tokyo round of negotiations that produced the Marrakesh Agreement.

particularly with regard to recently-created international organizations, such as the Asian Infrastructure Investment Bank. Newer organizations may have adapted their constituent instruments to alter or remove provisions for which older organizations had to create internal workarounds; they also lack the ingrained institutional culture and temporal distance from their founding that characterize the six organizations profiled by Yi-chong and Weller.

Yi-chong and Weller profess to have selected 'representative and distinct' organizations which 'provide a range of data and insights'.<sup>15</sup> It could be said, however, that many groups of organizations would fit this description. In particular, future research extending to universal organizations outside of the UN system, to international courts, and to regional organizations in Africa, Asia, or Latin America, would provide a more complete understanding of the differences in international organizations' internal operations. Considering the far-reaching differences observed by Yi-chong and Weller in the operations of the IMF and World Bank,<sup>16</sup> despite both being Bretton Woods institutions headquartered across the street from one another in Washington, D.C., and the fact that representatives from countries with fewer resources often liaise with multiple institutions in the same city,<sup>17</sup> it would also be worthwhile to study what, if any, cross-pollination occurs among other international organizations headquartered near one another.

Similarly, Yi-chong and Weller's analysis of the chosen actors, though generally insightful and nuanced, leaves open an important avenue for further research: whereas considerable attention is paid to how heads of international organizations attain their position,<sup>18</sup> the book's profile of how professional international civil servants are hired is not as robust.<sup>19</sup> Yet, as international civil servants make up the bulk of the workforce, and the background of an organization's workforce inevitably influences the expectations and norms developed therein, this point warrants further examination. In particular, the cascade of socioeconomic barriers to entering the international civil service is a significant limiting factor for many otherwise qualified professionals. Yi-chong and Weller acknowledge academic pedigree requirements,<sup>20</sup> but fees associated with top global universities are often prohibitive. In a merit-based hiring system,<sup>21</sup> hiring personnel could also legitimately view prior experience in an international organization with favour. Yet, early professional experience at an international organization often takes the form of an unpaid internship in a city with a high cost of living – another significant socioeconomic barrier. At organizations other than those profiled, moreover, entry-level contracts for paid professionals can require relocation and be less than six months long, with renewal uncertain. Such limitations seem likely to impact an organization's working culture, and merit further examination.

Overall, Yi-chong and Weller's scholarship is an ambitious venture into under-studied fields; their comparative analysis of the selected organizations is a welcome addition to the corpus of international institutional law.<sup>22</sup> The interviews that underpin Yi-chong and Weller's analysis are especially noteworthy. The authors have spoken with persons at all levels of the organizations profiled, collecting and analysing empirical data regarding the importance of internal processes, formal and informal rules, expectations, and norms. The chapters on the individual actors, Chapters 2–4, are particularly rich with anecdotes and examples from practice, although illustrative quotations are found throughout the book. Such examples are often difficult to locate for

<sup>14</sup>Yi-chong and Weller, *supra* note 9, at 234.

<sup>15</sup>*Ibid.*, at 3.

<sup>16</sup>*Ibid.*, at 33–4.

<sup>17</sup>*Ibid.*, at 45.

<sup>18</sup>*Ibid.*, at 63–80.

<sup>19</sup>*Ibid.*, at 107–10.

<sup>20</sup>*Ibid.*, at 109.

<sup>21</sup>*Ibid.*, at 108.

<sup>22</sup>*Ibid.*, at 9–10; Yi-chong and Weller place the beginning of the study of international organizations as bureaucracies with M. Barnett and M. Finnemore, *Rules for the World* (2004).

persons who have not experienced international organizations' 'working world' firsthand, making the book's analysis particularly engaging.

Moreover, Yi-chong and Weller provide reason to be wary of extrapolating practical lessons from domestic administrative decision-making to the international context. Whereas, domestically, who decides often determines what is decided, and control over how a decision is made often determines what decision is made,<sup>23</sup> the authors conclude that international organizations' multi-constituent decision-making and the absence of a clear hierarchy in each case significantly complicates the picture.<sup>24</sup> The book, thus, challenges notions of coherence in international organizations' decision-making processes, and encourages the reader to seek multidimensional explanations for international organizations' behaviour, rather than simple legal or political explanations of cause and effect. Using Yi-chong and Weller's actor-centered analytical structure, one can glean further insight from existing research into international organizations. It is hoped that others will build upon *The Working World of International Organizations* through additional research concerning the individuals who design, negotiate, and implement the decisions of international organizations.

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<sup>23</sup>*Ibid.*, at 7.

<sup>24</sup>*Ibid.*, at 7, 230–7.

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