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Ana S. Trbovich. *A Legal Geography of Yugoslavia's Disintegration.* Oxford: Oxford University Press, 2008. xiv + 522 pp. $80.00 (cloth), ISBN 978-0-19-533343-5.

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The Disillusion of Yugoslavia: And the Beat Goes On

Ana S. Trbovich's *A Legal Geography of Yugoslavia's Disintegration* is a valuable intervention in the long running and, at times, torturous debate over the collapse of the former Yugoslavia. The book provides a richly detailed, if not exhaustive, interpretation of the legal constitutional landscape of the region and its history. The author's academic and political credentials, most recently as director of the Center for European Integration and Management of Public Administration at the University of Singidunum in Belgrade, as well as her service as assistant minister of International Economic Relations for the government of Serbia, is reflected in her extensive knowledge and experience in the intricacies and nuances of political decision making. Trbovich chronicles the complex national state administrative and political incarnations of Yugoslavia, focusing primarily on post-1914 Yugoslavia. To this end, she carefully maps out the complex legal and political terrain–the "legal geography"–of the former Yugoslavia. The evolution of Yugoslavia as a state is meticulously researched, evidenced in extensive footnotes and citations, including scholarly work, a host of relevant legal statutes, resolutions, and reports. The list of maps as well as an extensive bibliography containing primary and secondary sources are excellent resources for those interested in both international law and the Federal Republic of Yugoslavia (FRY).

The purpose of the book becomes clear early on, and that is to make a case for what the author argues was the complicity of the international community in the breakup of the former Yugoslavia and the illegal use of force in 1999 against the FRY by NATO forces. Most important though is Trbovich's analysis of what she argues is "an almost complete reversal" of international practice of respect for the territorial and constitutional integrity of sovereign states (p. 1). To this end, the author carefully lays out the legal, juridical, and constitutional grounds for intervention in the internal affairs of states by citing contexts where such action has been used not only legitimately but also in concert with international law and principles of sovereignty, as well as with respect for the integrity of state legal and constitutional structures. Trbovich begins her analysis with an examination of the problematic and selective interpretation of two pivotal international legal principles–self-determination and secession–and how, in the case of Yugoslavia, misguided assessments on the part of the international community led to the demise of Yugoslavia and the bloody wars of secession that followed. She demonstrates how policy decisions based on the protection of minority and human rights–ubiquitous and, some argue, hegemonic concepts for which there are no consensual definitions–undermine the credibility and force of international law. Thus, for example, when does a minority become a "people" deserving of the political right of self-determination? The dubious viability of particular (minority) rights regimes (and here the author cites the case of Kosovar Albanians) raises questions about the legality of claims for self-determination that often serve to undermine the integrity of a state's constitution. According to Trbovich, discussion and debate is better served by a focus on constitutional and legal provisions and precedents than by appeals to universal moral principles.

The author charts the historical development of the Yugoslav federation beginning in 1918 when Serbian, Croatian, and, to a lesser extent, Slovenian and other national movements were solidifying the ideological

foundations of what would later become demands for self-determination and, eventually, secession in 1991. Throughout the book, Yugoslav regimes after 1918 all receive positive valuation relative to those of other states in the region. This is attributed to a history of democratic governance and recognition of the rights of Yugoslavia's constituent nations. The histories of Kosovo i Metohija (the name enshrined in the Socialist Federal Republic of Yugoslavia constitution, dropped by Josip Broz Tito in 1974, and then reinstated by Slobodan Milošević in 1989), Croatia, Slovenia, and the other Yugoslav republics and provinces are examined with particular emphasis on the challenges they have posed to the legitimacy of Yugoslav federal administrative borders and to the state itself.[1] Among the historical examples the author uses to bolster her analysis, World War II comes under particular scrutiny as a period when Croatia aligned itself with the fascist Axis powers in 1941 and perpetrated atrocities against Serbs, Jews, and others. According to Trbovich, the actions of the fascist Ustasha state against Serbs amounted to genocide. While debates about the roles and responsibilities of Croats, Serbs, and others during this period, and charges of genocide and ethnic cleansing rage on, the author focuses mainly on the claim that Serbs were the primary victims of Croatian genocide. The fascist taint of Croatia during World War II is extended to the 1990s in reference to Croatia's offensive in Krayina (Krajina). The choice of language is significant: "Thus while Serbs are admonished for *expelling* Croats … the *cleansing* of numerous Serbs … occurred unnoticed" (p. 302, emphasis mine).

The tendency to present evidence to support one's arguments to the neglect of that which may cast doubt is not unusual in the scholarship on Yugoslavia, but it is somewhat troublesome given the lengths to which Trbovich has gone to present a comprehensive, extensively researched, and balanced perspective on the region and its history. For example, the omission of highly respected scholarship on Kosovo and Bosnia, such as Noel Malcolm's *Kosovo: A Short History* (1998) and *Bosnia: A Short History* (1994), and Julie Mertus's *Kosovo: How Myths and Truths Started a War* (1999) is curious at best, as is that on Serbia, such as Robert Thomas's *The Politics of Serbia in the 1990s* (1999), and Jasminka Udovički and James Ridgeway's *Burn This House: The Making and Unmaking of Yugoslavia* (2000). The book also, at times, betrays a certain degree of hostility toward Croats, claiming ultimately that the foundations of Croatia's grievances against Yugoslavia amount to historical revisionism. While few would deny the brutality of Croatia's WWII fascist past and their actions in Operations Storm and Flash, Trbovich seems compelled to exonerate Serbs of any wrongdoing, reflected in frequent allusions to the "conciliatory" nature and peaceful intentions of FRY and their continuous willingness to compromise (p. 298). For example, the Yugoslav National Army is deemed to have "acted only in self defence" in responding to the "illegal use of force by secessionists" (p. 283). Scant attention is devoted to the culpability of the Milošević regime and of Bosnian Serbs for the brutal war in Bosnia and Herzegovina (including the four-year siege of Sarajevo), the massacre at Srebrenica, the destruction of Vukovar, and, more generally, the central role of extreme nationalism during the 1990s. If the author's intention is to present a balanced argument that focuses mainly on the constitutional and legal grounds of intervention in the affairs of sovereign states, then greater care should have been taken to present an evenhanded treatment of all parties to the conflict. The use of value-laden terms, such as "pogrom" in relation to Serbs only, as well as accusations of ethnic cleansing and genocide against Albanians and Croats to the exclusion of Serbs, is deeply problematic and diminishes the persuasiveness of Trbovich's analysis, especially in the face of overwhelming evidence to the contrary (pp. 355, 406).

Trbovich's analysis of the events leading up to and during the NATO bombing of Belgrade represents more careful and balanced analysis of the role of international bodies in intervention. Although the author mainly identifies discrimination of Serbs at the hands of Albanians in Kosovo (even though the reverse is well documented), Trbovich makes a compelling case against the controversial series of decisions that led to NATO's air campaign against FRY in 1999. The rush to respond resulted not only in devastating consequences for those caught on the ground, but also serious repercussions for the process by which claims for self-determination are assessed and acted on by the international community. Trbovich makes a strong case for her assertion that NATO's actions in FRY have compromised the principles on which international laws and precedents concerning state sovereignty are built. For example, Trbovich invokes the rules of *ius ad bellum* (law governing the right to go to war) and *ius in bello* (conduct of war once it has begun) embedded in the UN Charter, to underscore her contention that NATO actions were a direct violation of the UN Security Council process to which it was accountable and that diplomatic initiatives to resolve the conflict peacefully were not exhausted. The justification that followed the NATO campaign–humanitarian intervention–

is thus flawed on both moral and legal grounds. Trbovich's argument is ever more urgent given the troubling spate of interventions by the West since 2001 in Iraq and Afghanistan and the looming threat of more to come. Her analysis confirms the critiques of many legal scholars who argue that debates concerning intervention in Kosovo or Bosnia and Herzegovina are increasingly difficult to evaluate, given that they often appeal to realist, relativist, and/or moral principles. Exceptions to prescriptive legal statutes and conventions, not to mention *realpolitik*, are becoming the norm in international affairs.

The final two chapters of the book thus provide some useful lessons for thinking about conditions under which international intervention is necessary and/or legitimate. Although in hindsight it is perhaps easy to say that the political fates of both Kosovo and Bosnia and Herzegovina remain precarious, Trbovich argues convincingly for the need for greater commitment to early diplomacy in reaching negotiated solutions and cautions against the increasingly problematic trend toward the enforcement of democratic governance and the compromising of territorial sovereignty. This, according to the author, ultimately represents an abrogation of our collective duty to respect the integrity of state constitutions, sovereignty, and international law. While readers may find some observations, analogies, and/or conclusions drawn by the author objectionable, her contribution to the debates over the uses and abuses of international treaties, and laws around intervention in the context of human and minority rights, is a welcome and necessary one.

Note

[1]. The transliteration of Serbian names to phonetic English will be confusing to those who, particularly in the past fifteen to twenty years, have grown accustomed to reading script (sometimes with diacritics) in the Roman alphabet. Thus, a commonly cited name such as Milošević appears as Miloshevich.

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