Throughout the history of international affairs and international law, one of the theoretical challenges has been to determine which comes first: the development of new ideas and a consensus that eventually translates into new international legal norms, or new international legal norms, which then create new norms and processes within the wider social context.

In her new book, Dr. Kirsti Samuels, an Oxford educated scholar and lawyer, who has over a decade of applied experience in the fields of peacebuilding and law, explores this theme – centering her discussion of the development of international policy and law on the question of how the international community responds to political violence in intra-state conflicts.

Over the past half a century, the field of international law has created clear legal norms regarding the legality of inter-state conflict, and developed a number of policies and mechanisms to manage, prevent, and deal with these challenges. Responses range from forceful military interventions to stop violence or support a cease-fire, to economic or arms sanctions on one or more countries, to UN Security Council relations, to diplomatic initiatives. While laws and the enforcement mechanisms to respond to violations may not always necessarily achieve their desired results, an ever-evolving body of international legal norms and policies has been developed.

Surprisingly, the existing international policies and legal code regarding the legality of intra-state political conflict are fairly underdeveloped. The question then arises: when armed actors take violent action to force changes in the political system within a state, how are these actions viewed through the prism of international legal norms and policy?

As Samuels comments, “The traditional position remains that civil conflict is largely beyond the reach of international law and neither legal nor illegal” (p. 12). Therefore, it is not clear if conducting civil conflict involves a significant breach of international law or not.

This ambiguity leads to a set of further questions: Should groups that undertake political violence to force changes in government be seen as legitimate actors, as illegal criminals? Or does the legality of their actions depend on the underlying motivations for their actions? For example, if a group representing a community begins a campaign of political violence due to their lack of access to political and economic power, is this a legitimate action? Should groups resisting authoritarian regimes that undertake political violence in the name of greater democracy be seen as legitimate? Who has the authority and power to decide on such issues? In addition, what is the relationship between evolving social norms, policies, and laws?
Moreover, how has the response of the international community to civil conflict developed, both in terms of policy and legal doctrine, in recent years? Although, for decades there has been a view held among many legal scholars and academics that states should not intervene in domestic civil conflicts due to the importance of state sovereignty, Samuels rightly indicates that there is a significant gap between the stated norms and international practice, as “Intervention in civil conflicts is widespread and consistent” (p. 19). Throughout the Cold War, the superpowers and others consistently intervened in civil conflicts through proxy wars, providing military support and training, economic embargoes and more. The UN also intervened in a number of civil conflicts through various measures. However, there has been no widespread or consistent policy response from the larger international community questioning the legitimacy of the use of political violence in civil conflicts.

This trend of intervening in civil conflicts has continued to strengthen today as the international community, through its institutions, is increasingly taking a stand against extreme political violence and coup d’états, with a corresponding move away from respect for state sovereignty in certain circumstances. Increasingly, the interventions are based on the principle that the Security Council “rejects the use of force to achieve a political outcome” (p. 109). Despite this increased practice of the international community, to date there has not been much systematic analysis of how international norms and policy have changed regarding civil conflicts, particularly regarding the legitimacy of the use of force in internal civil conflicts.

While the author focuses her analysis primarily on the emerging international norms and practice, she asserts that changes in norms and policies set the context for new laws to emerge. Instead of law coming from an abstract sphere, she discusses how laws emerge to a significant degree from developing norms. As Samuels explains, “…this book considers international law to be a sub-system of international politics, whereby, since both are in a state of continued evolution, as new issues arise in international politics, so international policy is reformulated and international law is slowly crystallized, and each reinforces the other” (P.6). The author suggests that there is an emerging norm of how the international community recognizes and responds to civil conflict involving extreme violence and in the future this is likely to lead to the creation of new legal norms.

In contextualizing her argument, the author focuses the bulk of her analysis on the role, decisions and policies of the UN Security Council in responding to 32 civil conflicts and coup d’états. In addition, she devotes a chapter to exploring the interventions of the international community in Sierra Leone, Cote d’Ivoire, and Liberia, particularly through regional organizations including the African Union and the Economic Community of West African States. Samuels is careful not to overstate the role of the Security Council or assume that that there is a single coherent norm emerging. She does explore UN Security Council Resolutions on a range of civil conflicts and finds that the Council is increasingly condemning and rejecting the use of force by parties in civil conflicts.

As she explains, her research reveals a strong trend that the Security Council “has consistently supported and applied a set of recognizable principles when dealing with political violence in the forms of civil conflicts or coups d’état” (p. 139). Moreover, the member states of the African Union have adopted the Lome Declaration, which states that unconstitutional changes will not be tolerated by the AU “(p.199). These emerging principles (while not consistent across all cases) include the following:

Rejecting Violence to Resolve Political Disputes

Rejecting Political Violence Against a Democratically Elected Government

An Obligation to Resolve Conflicts Peacefully

Rejecting Violence Against Civilians

Through her analysis, Samuels sees that these norms are increasingly being integrated into the responses of the international community and regional organizations and are an indication of an underlying change in
policy and norms. When coups happen, or groups seek to undertake violence to achieve political goals, there are increasingly strong responses from the international community in terms of condemning and questioning the use of violence as a means for political change.

While these responses have yet to be codified in new international laws regarding extreme civil violence, they are indicating a trend that is likely to move in that direction. As Samuels explains, “The practice of rejecting recourse to force for political aims is of a recent nature, but it is accompanied by normative changes in the perception of civil conflict. This practice provides crucial information of the direction of the evolution of this field and that suggest that all recourse to force in civil conflicts (other than in self-defence against illegal overthrow or violent oppression) is increasingly being rejected by the international community as a matter of international policy and may, in time, become prohibited under international law” (p.216). Of course, as Samuels indicates, the international community is often strongly influenced by political dynamics in their policy response to the conflicts they choose to become involved with.

This book makes a valuable contribution to peacebuilding and rule of law, and the under-researched area of how international policy and law is developing in relation to civil conflicts. The text should be an excellent addition for scholars and practitioners working at the intersection of the two fields regarding civil conflicts. However, I have a number of critiques of the text and several areas for future developments.

First, this book is based on Dr. Samuel’s dissertation and was published by a press that largely specializes in international law issues. Thus, the writing style and analysis is more suited for an international law audience. I personally would have appreciated a bit of rewriting to make the work more accessible to an audience of peacebuilding scholars and practitioners.

Second, although this book was published in 2007, there is not much discussion of the emerging Responsibility to Protect Doctrine. While this is a slightly different area than the nature of regime change in political civil violence, the emerging norms and practices around Protection could have provided a useful comparison to compare trends and challenges.

Third, although the author provides significant theoretical background regarding the relationship between norms, policies and laws, and discusses some of the methodological challenges in differentiating between these, there is no significant discussion of the research methodology or methods of analysis used in the text. Having an overview of the means of research and analysis, even in brief, would have made a contribution to the text. This may be because the text was written primarily for an international law audience.

Fourth, I would have liked to see a further expansion of regional organizations and case studies beyond Africa. Samuels does not provide a clear explanation for the choice of the more in-depth case studies and their geographic location. Perhaps this is something that could be done in future research, to explore how the Organization for Security and Cooperation in Europe or the Organization of American States is also dealing with these emerging norms and policies.

Finally, given the depth of practice that Samuels has in these areas from her direct field experience in Somalia, and many other conflict regions, the text could have benefited in several sections from some of her direct, on the ground, personal experiences.

Despite these critiques, I believe that academics and professionals will find her book a valuable contribution to the field.

About the Author

Dr. Craig Zelizer is the Associate Director of the MA program in Conflict Resolution within the Department of Government at Georgetown University. He serves on the Editorial Board of the Africa Peace and Conflict Journal, which was recently