

# Michigan Law Review

---

Volume 65 | Issue 7

---

1967

## Wainhouse: International Peace Observation-a History and Forecast

D. V. Sandifer  
*American University*

Follow this and additional works at: <https://repository.law.umich.edu/mlr>



Part of the [International Law Commons](#), [Legal History Commons](#), [Legal Writing and Research Commons](#), and the [Military, War, and Peace Commons](#)

---

### Recommended Citation

D. V. Sandifer, *Wainhouse: International Peace Observation-a History and Forecast*, 65 MICH. L. REV. 1527 (1967).

Available at: <https://repository.law.umich.edu/mlr/vol65/iss7/16>

This Book Reviews is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact [mlaw.repository@umich.edu](mailto:mlaw.repository@umich.edu).

---

INTERNATIONAL PEACE OBSERVATION—A HISTORY AND FORECAST.  
By *David W. Wainhouse* in association with *Bernhard G. Bechhoefer*,  
*John C. Dreier*, *Benjamin Gerig* and *Harry R. Turkel*. Baltimore:  
Johns Hopkins. 1966. Pp. 663. \$10.

This study is an indispensable source book for statesmen, both national and international, as well as students and others who are concerned with the peaceful adjustment or settlement of international disputes. It is truly a gold mine of both factual and analytical material concerning the "methods and procedures that have been tried since 1920 to prevent threatening situations anywhere in the world from developing into international conflict, or failing that, to circumscribe the conflict and prevent its spread." The authors have successfully combined a selectively comprehensive coverage of the facts with a systematic evaluation and analysis in terms of both current and future significance.

The study was undertaken under the auspices of the Washington Center for Foreign Policy Research of the Johns Hopkins University School of Advanced International Studies, on the instigation of the Arms Control and Disarmament Agency. It examines approximately seventy case histories of situations which involved some form of international peace observation. These cases can be divided into four categories: (1) twelve cases deal with the experience of the League of Nations in international peace observation; (2) thirty cases involve the peace observation activities of the Organization of American States [OAS]; (3) twenty-five cases were drawn from the experience of the United Nations; (4) three cases involve multi-national arrangements other than those named above. The study sets forth an historical and constitutional perspective for analyzing the activities of these institutions. Moreover, in each case study, the presentation encompasses the relevant historical and political developments, as well as the significant organizational, procedural, and technical aspects of the case, and an overall evaluation.

"Peace observation" is a generic term which denotes any form of action short of the use of force taken by an international organization

to deter, discourage, prevent, or bring about the termination of threatened or actual hostilities. "Thus the main objective in peace observation is not to impose but rather to interpose, not to enforce a solution but rather to bring about a cessation of hostilities and create an atmosphere in which temporary or permanent solution may be found" (p. 542). It is to be distinguished from "peace-keeping," which in turn is to be distinguished from collective action to maintain or enforce peace and security or to repel aggression. Peace observation may, however, involve the use of limited force to maintain the integrity of its own operations. The hallmark of peace observation is flexibility with respect to methods, resources, purposes, and functions. It may have other goals than the bringing about of a settlement, and its function may include mediation, conciliation, or arbitration—as is frequently the case in Latin America—but need not involve any of these. Given these characteristics, it is not surprising that peace observation has been the device most frequently employed by international political organizations to reduce tensions and pacify conflicts.

There are striking parallels in the experience and practice of the three major organizations covered in this study. With regard to the constitutional sources of the power to engage in peace observation activities, the trend has been in the case of each organization to rely upon the permissive rather than the mandatory powers of the competent organs. In the case of the League, the principal sources were articles 11 and 15 of the Covenant, rather than articles 10 and 16. The United Nations has drawn on chapters VI ("pacific settlement"), VIII ("regional arrangements"), and articles 11 and 12 (for the General Assembly), rather than chapter VII which is concerned with "threats to the peace, breaches of the peace and acts of aggression." Indeed, the authors point out that the United Nations Security Council has *never* used its powers under chapter VII to engage in peace observation. Moreover, it has only twice, in the Palestine and Korean cases, made a determination under article 39 that there was a threat to the peace, breach of the peace or act of aggression; such a determination is a necessary prerequisite to the taking of compulsory action short of force under articles 40 and 41. Thus, in all the cases with which the study is concerned, the ability to engage in peace observation has depended on the consent of the individual parties involved. Even in the Palestine case, the Security Council avoided relating its peace observation actions to chapter VII, while the Korean case involved the repulsion of aggression, not peace observation.

An additional source of peace observation powers in the United Nations has evolved out of the Secretary General's authority under articles 98 and 99 of the Charter. This basis for peace observation owes its existence principally to the initiative of Secretary-General

Hammarskjöld and to the broad interpretation which he gave to his powers. Hammarskjöld took the position that he had the power to carry out on-the-spot investigations on his own authority when such action was necessary to enable him to discharge his responsibilities under articles 98 and 99. The Secretary's missions could function in a manner tantamount to peace observation, though, of course, they "could not be used except by agreement of the parties to adjust the controversy" (pp. 219, 481). This procedure has been resorted to in both Southeast Asia and Yemen. It should be noted that this source of authority is peculiar to the United Nations, since the Secretary General of the OAS does not have the power to act in such a fashion, and neither did the Secretary General of the League.

The OAS has predominantly legitimated its peace observation activities through the use of procedures derived from the Inter-American Treaty of Reciprocal Assistance (Rio de Janeiro, 1947) and the Charter of Bogotá (1948). Article 3 of the Rio Treaty, which calls for active resistance by the parties to the treaty in the event of an attack on any American state, has never been invoked. "Even though several of the cases considered under the Rio Treaty have in fact involved armed conflict, the OAS Governments have preferred not to invoke the provision for automatic and immediate assistance, but to rely on article 6 which emphasizes prior consultation" (p. 90). Thus, primary reliance has been placed on peace observation procedures.

Over the years a wide variety of methods, procedures, and techniques for peace observation has been developed. The ingenuity, imagination, and tenacity reflected in the cumulative record of the seventy cases selected by the authors provide solid testimony to the political resourcefulness of international organizations, and their efficient and dedicated secretariats. This record indicates that the principal limitation on the effectiveness of peace observation is not technical but political. When well and faithfully supported by their member states, peace observation instrumentalities have achieved a surprising degree of effectiveness—not necessarily in bringing about settlements, but in the reduction of tensions, the prevention or termination of hostilities, and the establishment and maintenance of a state of order within which a settlement or adjustment might be achieved. "When the great powers on the League Council were in agreement on the action to take, the outcome was generally positive" (p. 80), although, of course, this was decreasingly true after 1930 when the great powers—Japan, Italy, Germany and Russia—began their aggressive actions. Similarly, "the adequate and well adapted machinery of the OAS, backed in most cases by both official and public opinion in Latin America and the United States, has turned in an effective and useful record" (p. 212). The success of the OAS must, of course, be qualified: "most of the cases examined have in-

volved the small countries of Central America and the Caribbean" (p. 206).

The United Nations has a less satisfactory "batting average," largely because it has been confronted with less tractable cases, and in addition has frequently been rendered immobile by the radical dichotomy in the policies of its most powerful members. Here again the problem is political, not technical, and the record is much more encouraging in cases actually involving peace observation than is generally realized. Again, the success has been in pacification, and not in settlement. With the exception of the period from 1950 to 1956, the UN peace observation machinery has been used extensively since 1946. The United Nations cases, taken as a whole, show a steady progress away from improvisation and toward established procedures and methods of operation. This higher frequency of use and increasingly well-defined methodology have thus furnished a useful background for planning more extensive and effective peace observation techniques (pp. 481, 485).

While the comprehensive and tightly depicted case studies in Part I are invaluable both to scholars and statesmen, perhaps the greater contribution of this study lies in the analytical and doctrinal framework provided in Part II under the rubric "Strengthening Peace Observation." The book devotes approximately one sixth of its 647 textual pages to this topic; in these pages the law and procedure of peace observation are laid out in a logical, systematic, and succinct manner. From a glance at chapter titles of Part II, the coverage appears to be complete: "Areas and Subject Matter," "Authority and Terms of Reference," "Cooperation of the Parties," "Chief Tasks," "Organization and Support," "Termination," "Relation to Mediation," "United Nations Efforts To Strengthen Peace Observation," "Future Character and Role of a United Nations Peace Observation Instrumentality."

Since this study was instigated by the Arms Control and Disarmament Administration, one might have expected a greater preoccupation with the disarmament aspects of peace observation; less than ten pages are devoted specifically to this subject (pp. 602-08). Nevertheless, much of the study's general analysis is helpful in dealing with the problems surrounding disarmament plans and projections. One specific point that the authors do make is that until 1962, when the United States presented its "Outline of Basic Provisions of a Treaty on General and Complete Disarmament in a Peaceful World," proposals for peace observation had never been included as a part of disarmament proposals. Since the 1962 proposals called for a Peace Observation Corps within the United Nations, the authors confined their discussion of the disarmament aspects of peace observation to the future character and role of arrangements made under the United Nations.

As indicated by such cases as Lebanon, Yemen, and Cyprus, there is an implicit accord among nations on the subject of improving the peace observation procedures of the United Nations. The problem is to relate the general progress in international peace observation to the specific developments in negotiations for arms control and disarmament. If the characteristics of the peace observation missions that have received wide support could be generalized, and then tied in with arms control and disarmament developments, an avenue might open for lessening political tensions and for translating implicit accord into express agreement. In any event, an agreement on strengthened peace observation procedures will be an essential element in any viable program of partial, or general and complete disarmament. The present study provides a clear delineation of the bases and framework for such strengthened peace observation machinery, and can thus serve the purposes of either international political stability or disarmament.

*D. V. Sandifer,  
Professor,  
School of International Service,  
American University*

---