Review

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The Oxford Companion to International Criminal Justice. Edited by Antonio Cassese. Oxford, New York: Oxford University Press, 2009. Pp. xxxiii, 1008. Index. $285, £130, cloth; $99, £45, paper.

It is impossible, in the space of a short review, to do justice to a book such as the *Oxford Companion to International Criminal Justice*. Twelve hundred pages long, written by 132 authors, and comprising 21 essays, 300 encyclopedia entries, and more than 330 case synopses, the book is, quite simply, the most ambitious edited work in the history of international criminal law (ICL). Fortunately, it is also the best.

The book itself is divided into three parts. Part A, the essay section, addresses "major problems of international criminal justice." Part B, the encyclopedic section, deals with "issues, institutions, and personalities" in ICL. Part C, the jurisprudential section, provides synopses of international and domestic cases, past and present, that have addressed individual responsibility for serious international crimes. Each part is valuable in its own right; indeed, each could easily have been published as a stand-alone volume. That all three parts are available in one book makes the *Oxford Companion* an essential addition to the library of anyone interested in ICL.

That is not to say, however, that the book is without flaws. On the contrary, two problems affect all three parts of the *Oxford Companion*. The first is conceptual: the book cannot seem to decide who its audience is—the educated public or ICL experts. In his introduction, Antonio Cassese, the book's principal editor, suggests an egalitarian answer: "It is designed to be used not only by international and criminal lawyers (both practitioners and academics) but also by anybody interested in the current developments of international justice" (p. vii). Unfortunately, the book falls well short of realizing its rather schizophrenic mandate: a significant number of essays, entries, and synopses are either too technical for even the knowledgeable layperson or too simple for the ICL expert.

The second problem is substantive: the book reveals a significant pro-prosecution bias. As discussed in more detail below, the essays, entries, and synopses pay far too little attention to defense issues and all too often avoid acknowledging when a particular case or issue has been subjected to serious scholarly criticism. In one sense, of course, neither lacuna is surprising: scholars have long noted that ICL is generally far more prosecution friendly than domestic criminal law.[1] It does not seem unfair, however, to expect a book of this ambition—and of this importance—to avoid presenting a sanitized version of ICL that overstates both its coherence and its fairness.

The authors of the 21 essays in part A read like a Who's Who of international criminal law: Jose Alvarez, M. Cherif Bassiouni, Christine Chinkin, Mirjan Damaška, George Fletcher, Gerhard Werle, and others. Many of the essays are exceptionally useful. For example, Dapo Akande's contribution, "Sources of International Criminal Law," manages to present a concise introduction to the subject that not only is comprehensive, but even manages to address some of the most difficult interpretive issues, such as the tension—unique to ICL—between the Vienna Convention of the Law of Treaties, which provides that ambiguous treaty provisions should be interpreted by reference to the treaty's *travaux préparatoires*, and the principle *in dubio pro reo*, which requires those ambiguities to be resolved in favor of the defendant. Claus Kreß's essay, "The International Criminal Court As a Turning Point in the History of International Criminal Justice," is similarly impressive, managing to cover, in a few short pages, everything from the centrality of the *nullum crimen sine lege* principle to the unique aspects of international criminal procedure. Such a wide-ranging essay could easily have been written too technically or too generally, but Kreß finds the perfect degree of specificity, pitching the discussion at a level that is both informative for laypersons and enlightening for ICL experts—a feat that, regrettably, some of the other essays fail to replicate.

Other essays are also worth singling out for praise. Damaška's contribution, "Problematic Features of International Criminal Procedure," addresses one of the most important, but all too

[1] *See, e.g.,* Darryl Robinson, *The Identity Crisis of International Criminal Law*, 21 LEIDEN J. INT'L L. 925, 927 (2008).

frequently overlooked, questions in international criminal justice: how to rank the "cornucopia of goals" (p. 179) that international criminal tribunals have set for themselves, such as deterrence, retribution, creating a historical record, and satisfying victims. As Damaška rightly points out, "If this sense of rank existed, acceptable terms of trade-offs among competing goals could be identified, and greater coherence achieved in decision-making" (p. 175). That essay is nicely complemented by Salvatore Zappalà's original "Judicial Activism v. Judicial Restraint in International Criminal Justice," which explores the tension that exists—and has always existed—in ICL between the need to interpret ICL progressively and the obligation to ensure that defendants receive fair trials. Finally, Göran Sluiter's essay, "Cooperation of States with International Criminal Tribunals," provides a systematic overview of the key issues in state-tribunal cooperation that is legally sophisticated yet written clearly enough for even a layperson to understand.

Praise notwithstanding, there are some notable problems with part A. Perhaps the most significant is that the essays do not seem to be arranged in any kind of discernible order. Why, for example, is Alvarez's "Alternatives to International Criminal Justice" in section I, while Cassese's "The Rationale for International Criminal Justice" is in section IV? Doesn't the reader—particularly the lay reader—need to know why international criminal justice exists before she considers alternatives to it? Similarly, why is Bassiouni's "International Criminal Justice in Historical Perspective," which is a foundational topic, relegated to Section IV instead of placed in Section I? And finally, doesn't logic dictate that Gerhard Werle's "General Principles of International Criminal Law," which deals primarily with individual criminal responsibility for international crimes, should come *after* Paola Gaeta's "International Criminalization of Prohibited Conduct"?

These are not minor quibbles. The essays in part A coexist uneasily with the encyclopedia entries in part B and the case synopses in part C; the reader never gets the sense that the three parts form a coherent, organic whole. To some extent, that simply reflects the very different structure of the essays, which are longer and more narrative than the entries and synopses. But the disjunction is only magnified by the somewhat disorganized nature of the essays, given that the entries and synopses are arranged much more systematically. Were the essays in part A ordered more naturally —as a comprehensive introduction to international criminal justice—the book would lose much of its schizophrenic character.

A few other problems with part A are also worth mentioning. First, the audience problem mentioned above afflicts the essays. A few are far too abstract and complex to be useful to the lay reader, such as Akande's essay and Bert Swart's skillful "Modes of International Criminal Liability." Others are very useful for the lay reader but not sophisticated enough to be of much interest to the ICL expert, such as the essays by Gaeta and Werle. Again, the book does not seem to know what it wants to be—a handy research tool for those who work in ICL or a sophisticated introduction to international criminal justice for those who don't.

Second, although the essays are admirably and appropriately concise, the concision of some essays leads either to misleading generalizations about ICL or assertions that are too conclusory to be useful. In the first category is Bassiouni's statement that both the Special Court for Sierra Leone (SCSL) and the Special Panels in East Timor "have been able to achieve some positive results" (p. 139). Lumping the SCSL and the Special Panels together obscures the fact that (as Bassiouni certainly knows) the former has been vastly more successful in combating impunity and providing fair trials than the latter.[2] In the second category is Andrea Bianchi's claim that, between individual versus state responsibility, "available defences may differ and may operate differently in the different context in which they are invoked" (p. 19). Which defenses—and how do they operate differently?

Third, there are some significant overlaps between essays. Werle's and Swart's contributions, for example, both discuss superior responsibility (Werle, p. 59; Swart, p. 88) and inchoate crimes

[2] *See, e.g.,* David Cohen, *"Hybrid" Justice in East Timor, Sierra Leone, and Cambodia: "Lessons Learned" and Prospects for the Future*, 43 STAN. J. INT'L L. 1, 6–23 (2007).

(Werle, pp. 59–60; Swart, p. 88). Similarly, although all three are excellent, Sluiter's essay, Bing Bing Jia's "The International Criminal Court and Third States," and Rob Cryer's "Means of Gathering Evidence and Arresting Suspects in Situations of States' Failure to Cooperate" all discuss the relationship between the ICC and third states. To be sure, each essay has a slightly different emphasis. Nevertheless, the reader would be far more likely to understand this important topic if the editors had coordinated the essays more carefully.

Fourth, there is at least one significant lacuna in part A's coverage of ICL: the international crimes themselves. Gaeta's useful essay discusses the gradual criminalization of war crimes, crimes against humanity, genocide, and aggression, but it does not focus on the current definitions of those crimes. Nor does any other essay discuss those definitions in any detail. That seems like a major oversight, given that part A contains essays on modes of participation (Swart), general principles of ICL (Werle), and ICL's procedural regime (Kreß, Damaška).

Fifth, and finally, the system of cross-references used in part A—and in the rest of the book—could be improved. Some cross-references are ambiguous, such as the reference in Bianchi's essay to "national v. international jurisdiction over international crimes" (p. 21) That is an essay in part A (which is actually entitled "International v. National Prosecution of International Crimes"), not an entry in part B—but there is no way to tell that from the reference itself. Other references are inconsistent. Alvarez's essay, for example, cross-references "universal jurisdiction" (p. 26) in one place and "universality principle" (p. 27) in another, while the entry for the "universality principle" in part B (p. 558) simply redirects the reader to the entry for "universal jurisdiction" (p. 555). The reader should not have to scurry around looking for the appropriate entry.

Part B is a monumental achievement—the first comprehensive presentation of the basic "issues, institutions, and personalities" in ICL. I predict that part B will prove to be the most popular section of the *Oxford Companion*, the first stop for researchers and practitioners trying to familiarize themselves with a particular area of ICL.

The vast majority of the 300 entries are first-rate, and many are simply stellar. Eve Le Haye's "Common Article 3" manages to detail—in less than 2000 words—the article's drafting history, basic provisions, judicial interpretation, and major criticisms. Göran Sluiter's "Evidence" is thorough and well organized, and seamlessly weaves together the rules of evidence applied by the tribunals and the judicial interpretation of those rules. Vanessa Thalman's "Rwandan Genocide Cases" is superb, not only presenting an elegant account of the specialized chambers' jurisdiction, substantive law, and procedure, but also—and unusually—acknowledging the numerous procedural problems with the trials. And Alex Zahar's "Superior Orders" presents a concise and sophisticated account of the development of the defense of superior orders, identifies the different versions of the defense currently applied by international tribunals, and discusses the important connection that exists between the defense and the related defenses of duress and mistake.

Like part A, however, part B is far from perfect. The primary problem, as mentioned above, is that a number of entries demonstrate a significant pro-prosecution bias. First, entries dedicated to defense issues are uniformly short and rudimentary, especially in comparison to prosecution-oriented entries. "Accused (Rights of)," for example, dedicates less than 1000 words to rights that have all too often been honored in the breach by international tribunals. It also spends more than a few of those words discussing the rights of victims and witnesses, despite the fact that part B contains a nearly 2000-word entry on "Victims' Participation in International Proceedings" and an approximately 1300-word entry on "Witness Protection." Similarly, "Counsel (Right to)," which is a constant issue at the tribunals, checks in at little more than 500 words—even shorter, revealingly, than "Code of Conduct for Defence Counsel"!

Second, a number of the entries concerning basic concepts in ICL downplay or completely ignore problems identified by courts and scholars. The best example in this regard is the entry for

"Joint Criminal Enterprise," one of the most controversial theories of liability in ICL. Despite being one of the longest entries in part B (nearly 4500 words), only 500 words are dedicated to criticisms of the concept. Some major criticisms are ignored entirely, such as whether the International Criminal Tribunal for the Former Yugoslavia was justified in holding that JCE was implicit in Article 7(1) of the ICTY Statute[3] and whether there is a customary basis for all of the forms of JCE, particularly JCE III.[4] Other criticisms are addressed but casually dismissed, such as the idea that JCE represents "guilty by association" and that JCE III's mens rea requirement is too low. The author's response to the latter criticism is particularly inadequate: instead of addressing why a defendant should be convicted as a principal perpetrator of an offense whose *actus reus* he did not commit and for which he lacked the necessary mens rea, the author simply asserts that critics of JCE III "mischaracterize" (p. 396) the mens rea of JCE III as recklessness instead of *dolus eventualis*. How that justifies JCE III is never explained—and is in any case a debatable proposition.[5]

Many other entries have flaws unrelated to a pro-prosecution bias. Some simply seem unnecessary, at least in their present form. The entries on "Cross-examination" and "Direct Examination," for example, limit their discussion of ICL to citing the relevant rules of procedure and evidence. They are also very basic, providing information that any relatively sophisticated layperson will already know.

Other entries make important doctrinal mistakes. The entry for "Murder" and the otherwise excellent entry for "Recklessness," for example, both claim that recklessness satisfies the Rome Statute's definition of murder. That is incorrect: Article 30(2)(b) requires knowledge of a consequence, not recklessness—as the entry on "Mens Rea" recognizes. Similarly, because the entry on "Kranzbühler, Otto," who defended Admiral Dönitz at the Nuremburg trial, is so short, it mistakenly claims that the lawyer "managed to introduce the '*tu quoque* principle' as a defence in favor of Dönitz." As scholars have recognized, Kranzbühler successfully challenged the existence of a customary rule prohibiting unrestricted submarine warfare; he did not argue *tu quoque*.[6]

Regrettably, the most deeply flawed entry in part B is also one of the most important: "Intent." The entry makes numerous mistakes concerning the common-law approach to intent—the result, no doubt, of the fact that the author does not come from a common-law system. He claims, for example, that "if a reasonable man, acting in the same conditions and possessing the same kind of knowledge, would have imagined those consequences, recklessness may be inferred" (p. 376). Not only does the common law categorically distinguish between intention and recklessness[7] (unlike many civilian systems, which include *dolus eventualis* as a form of intent),[8] the common law nearly always defines recklessness as requiring conscious awareness;[9] although English criminal law once provided for "inadvertent recklessness" such as the author describes, it has since almost completely returned to the subjective approach.[10] Similarly, and contrary to the author's assertion, there is no volitional element in the common law's approach to either oblique intent or knowledge.[11] It is also uncontroversial in the common law that a mistake of fact does not have to be reasonable to negative the mens rea of knowledge.[12]

[3] *See, e.g.,* ALEXANDER ZAHAR & GÖRAN SLUITER, INTERNATIONAL CRIMINAL LAW 226–27 (2008).

[4] *See, e.g.,* Steven Powles, *Joint Criminal Enterprise: Criminal Liability by Prosecutorial Ingenuity and Judicial Creativity?* 2 J. INT'L CRIM. JUST. 606, 615 (2004). JCE III refers to the "extended" form of joint criminal enterprise, which holds a defendant criminally responsible for unplanned crimes committed by a member of the JCE that the defendant foresaw might be committed.

[5] *See, e.g.,* GERHARD WERLE, PRINCIPLES OF INTERNATIONAL CRIMINAL LAW 115 (2005) (describing the mens rea of JCE III as recklessness).

[6] *See, e.g.,* Sienho Yee, *The Tu Quoque Argument As a Defence to International Crimes, Prosecution, or Punishment*, 3 CHINESE J. INT'L L. 87, 106 (2004).

[7] *See, e.g.,* GEORGE FLETCHER, RETHINKING CRIMINAL LAW 442 (2000).

[8] *Id.* at 445.

[9] *Id.* at 443.

[10] *See, e.g.*, ANDREW ASHWORTH, PRINCIPLES OF CRIMINAL LAW 183 (2d ed. 1995).

[11] *See, e.g.,* Fletcher, *supra* note 7, at 447.

[12] *See, e.g.,* JOSHUA DRESSLER, UNDERSTANDING CRIMINAL LAW 167 (4th ed. 2006).

A number of entries are accurate but contain significant omissions. "Crimes Against Humanity," for example, provides an excellent discussion of the jurisprudence of the International Military Tribunal and the ad hoc tribunals, but it ignores the many contributions the Nuremberg Military Tribunals made to the development of the crime —particularly concerning the nexus requirement[13]—and does not address the implications of the Rome Statute's requirement of a "State or organizational policy." Similarly, "Command Responsibility" rightly points out that the ICTY considers command responsibility to be a dereliction-of-duty offense, but fails to acknowledge that the Rome Statute considers command responsibility to be a mode of participation in the underlying crimes.[14] Indeed, the entry basically ignores the Rome Statute: it does not discuss Article 28's different mens rea requirements for military and civilian superiors, nor does it mention the article's causation requirement,[15] despite noting that no such requirement exists at the ICTY.

Other entries are fine individually but could be profitably combined into larger entries. There is no reason, for example, to separate "De Facto Command" from the general entry on "Command Responsibility." And is it really necessary to have different entries for "Armed Conflict," "International Armed Conflict," and "Internal Armed Conflict"? It would also have been better to name the latter "Non-international Armed Conflict," given that the International Court of Justice, the ICTY, and the U.S. Supreme Court in *Hamdan* have all held that noninternational armed conflict is a residual category that encompasses any armed conflict that is not of an international character.[16]

Other entries, by contrast, could be profitably separated. It makes no sense to address attempt, incitement, and solicitation in a general entry on inchoate crimes, for example, when the inchoate crimes of "Conspiracy" and "Instigation" are given separate entries. Similarly, concepts such as "Human Trafficking" and "Hostage Taking" are too complex, and too important, to be folded into a general entry on "Treaty-Based Crimes."

As with the essays in part A, some of the entries in part B are also needlessly duplicative. "Accused (Rights of)" covers the same ground as "Defendant (Rights of)." "Sentencing" is not substantially different than "Penalties." And the ICTY's decision in *Galić* figures in both "Terror, as found in *Galić*" and "Terrorism."

Finally, it is worth noting that part B also has a number of formatting problems. Some entry names are misleading, such as "Excuses and Justifications." Why an entry of that name, given that ICL has never systematically distinguished between the two[17] and that the Rome Statute (Article 31) refers, instead, to "grounds for excluding criminal responsibility"? Others entry names are inconsistent, particularly those that concern the ICTY and International Criminal Tribunal for Rwanda—for example, "ICTY and ICTR (Appellate Proceedings)"; "Pre-trial Judge (ICTY, ICTR)"; and "Detention (Ad Hoc International Tribunals)." And a few cross-references are confusing: "De Jure Command" sends the reader to "Superior Responsibility," but that entry simply directs the reader to "Command Responsibility"; "Motive" sends the reader to "Mens Rea," but there is no discussion of motive in that entry.

Part C is without question the most innovative part of the *Oxford Companion*. The 330 synopses cover a dazzling range of cases. Some are classics of the field—for example, *Dithmar and Boldt* (*LLandovery Castle* case); *Krupp*; *Eichmann*; *Tadić* and *Akayesu* (together); and *Rasul v. Bush*. Others, by contrast, will be unknown even to most ICL scholars—for example, *Bahâeddîn Şâkir Bey*, an Ottoman Empire case involving the forcible deportation of Armenians; *Harlan* (*Jud Süss* case), in which a domestic German Court considered

[13] *See, e.g.,* Telford Taylor, *Nuremberg Trials: War Crimes and International Law*, 450 INT'L CONCILIATION 243, 342–44 (1949).

[14] *See, e.g.,* ROBERT CRYER ET AL., AN INTRODUCTION TO INTERNATIONAL CRIMINAL LAW AND PROCEDURE 329 (2007).

[15] *See id.* at 328.

[16] *See, e.g.,* John P. Cerone, *Status of Detainees in Non-international Armed Conflict, and Their Protection in the Course of Criminal Proceedings: The Case of* Hamdan v. Rumsfeld, ASIL INSIGHTS, July 14, 2006, *at* http://www.asil.org/insights060714.cfm.

[17] *See, e.g.,* ANTONIO CASSESE, INTERNATIONAL CRIMINAL LAW 258 (2d ed. 2008).

whether an anti-Jewish propaganda film directed by one of Germany's most famous directors was a crime against humanity; and *Nulyarimma v. Thompson*, a recent Australian case in which arrest warrants were sought for government officials allegedly responsible for genocide of aboriginals.[18] Nor is part C limited to criminal cases: the synopses include important decisions by, among others, the Inter-American Court of Human Rights, the UN Human Rights Committee, and U.S. courts applying the Alien Torts Claim Act, such as *Sosa v. Alvarez-Machain*.

There is, in short, something for everyone in part C. Unfortunately, that is also one of the part's weaknesses. In general, the synopses seem aimed squarely at ICL experts—it is difficult to imagine laypersons finding concise synopses of obscure World War I and World War II cases especially interesting. Indeed, what makes those synopses so useful for the ICL expert is their legal focus: a scholar interested in perfidy, for example, will be intrigued to learn that the Nigerian Supreme court decided in *Nwaoga* to "extend the rule of customary international law prohibiting perfidy in international armed conflict to non-international armed conflicts" (p. 856). The average layperson, however, will find the legally dense synopsis of *Nwaoga* to be nearly incomprehensible.

The synopses of seminal cases, by contrast, suffer the opposite problem. They are, almost without exception, very skillfully written—no small task, given that some of the decisions are hundreds of pages long. But they are relatively general and are typically limited to noting the facts of the case, summarizing the decisions of the trial and appeals chambers, and then very briefly flagging the case's "major legal issues" (see, for example, pp. 715–16). Such synopses will be very helpful to law students and laypersons interested in learning about a particular case, but it is an open question whether they will hold much interest for ICL experts.

It is also worth noting that the synopses, like the encyclopedia entries, all too often ignore or downplay problems with the decision in question—particularly if it was issued by the ICTY or ICTR. (The most critical synopsis in part C, and rightfully so, is Nehal Bhuta's entry for *Dujail*, decided by the Iraqi High Tribunal.) There are, to be sure, exceptions: the *Aleksovski* synopsis criticizes the ICTY appeals chamber's willingness to increase the severity of a defendant's sentence *sua sponte*, and the *Blaškić Subpoena Proceedings* synopsis argues that the appeals judgment was much too deferential to state sovereignty. By and large, however, ICTY and ICTR entries are heavily sanitized. The *Tadić* synopsis, one of the longest entries in part C, discusses the appeals chamber's customary analysis of the three forms of JCE in detail, yet—like "Joint Criminal Enterprise" in part B—fails to acknowledge the intense scholarly criticism of that analysis, particularly concerning JCE III.[19] The *Jelisić* synopsis never mentions the appeals chamber's insistence that genocide can be committed by a "lone *genocidaire*," much less that its position has been criticized by scholars—including by Cassese himself in the "Genocide" entry—and rejected by the drafters of the ICC's Elements of Crimes.[20] The *Furundzija* synopsis does not mention that the appeals chamber's admittedly progressive holding that rape includes forcible oral sex is highly questionable, given that many ICL scholars believe such an expansive definition cannot be considered a general principle of criminal law.[21] And perhaps most dramatically, the *Nahimana* synopsis simply ignores the appeals chamber's shameful reopening of the ICTR's proceedings against Jean-Bosco Barayagwiza, which was motivated solely by a desire to appease the Rwandan government.[22]

There are also some other, less serious, problems with part C. Some entries lack precision. *Alstötter* (*Justice* trial), for example, should have mentioned that the Tribunal's elimination of the nexus requirement for crimes against humanity

[18] The case is not alphabetized correctly, for some reason. It should come before "Nuremberg Trials" (p. 856).

[19] Perhaps not surprisingly, the two entries were written by the same author.

[20] *See* CRYER ET AL., *supra* note 14, at 177.

[21] *See, e.g.,* ZAHAR & SLUITER, *supra* note 3, at 129–30.

[22] *See, e.g.,* William A. Schabas, Case Report: Barayagwiza v. Prosecutor (Decision, and Decision (Prosecutor's Request for Review or Reconsideration)), 94 AJIL 563, 567–68 (2000).

was dicta because prewar crimes against German nationals were not charged in the Indictment, and that both of the Nuremberg Military Tribunal cases in which such crimes *were* charged—*Flick* and *von Weizsäcker* (*Ministries* case)—reached the opposite conclusion.[23] Other entries are simply mistaken: contrary to the assertion in the *Tesch* (*Zyklon B* case) synopsis, for example, the Rome Statute does not adopt the principle, embraced by the decision, that "persons can be held criminally liable for knowingly providing the means of commission of an international crime." Article 25(3)(c) of the Rome Statute requires the assistance be given "[f]or the *purpose* of facilitating the commission" of a crime.

Finally, it is questionable whether ongoing cases should be included in the book. Although doing so increases the book's comprehensiveness, it also means that it was at least partially outdated the minute it arrived in bookstores. The synopsis for *Lubanga Dyilo*, for example, concludes by pointing out that the "future of the proceedings and the chance of holding a trial will depend on the decision of the AC" (p. 799). As we now know, the appeals chamber has issued its decision, and the trial is already under way.

The *Oxford Companion* is far from perfect: it is uncertain who its audience is; it does not take defense issues seriously enough; and it presents an overly sanitized version of ICL. It also has a number of minor formatting issues that detract from its usability. Ultimately, though, those are minor quibbles—by any standard, the book is a magisterial achievement. And there will no doubt be future editions, most likely many of them: given how rapidly ICL continues to develop, the need for this book will only grow over time.

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[23] *See* TELFORD TAYLOR, FINAL REPORT TO THE SECRETARY OF THE ARMY ON THE NUERNBERG WAR CRIMES TRIALS UNDER CONTROL COUNCIL LAW NO. 10, at 108 (1949).

Contested Statehood: Kosovo's Struggle for Independence. By Marc Weller. Oxford, New York: Oxford University Press, 2009. Pp. xxviii, 321. Index. $90, £40.

Escaping the Self-Determination Trap. By Marc Weller. Leiden, Boston: Martinus Nijhoff Publishers, 2008. Pp. 224. $74, €50.

Contested Statehood: Kosovo's Struggle for Independence and *Escaping the Self-Determination Trap*, along with a closely related, edited volume (*Settling Self-Determination Disputes: Complex Power Sharing in Theory and Practice*) that is not formally reviewed here,[1] address issues that are among the most complex and perplexing international legal and political conundrums to have (re)surfaced since the end of the Cold War. The author, Marc Weller, is reader of international law and international relations at the University of Cambridge and director of the Cambridge-Carnegie Project on the Settlement of Self-Determination Conflicts. For many years, he was director of the European Centre for Minority Issues (based in Flensberg, Germany). These volumes reflect his depth of practical experience and theoretical knowledge.

The more recent of the two books, *Contested Statehood*, offers a detailed chronological account of Kosovo's path to its current uncertain status,[2] focusing on the negotiations that attempted to identify a solution acceptable to both Pristina and Belgrade between 1991 and February 2008, when Kosovo's unilaterally declared independence. Though many of the documents on which the narrative relies are available elsewhere,[3] this volume sets forth a useful and readable analysis of those negotiations.

[1] SETTLING SELF-DETERMINATION DISPUTES: COMPLEX POWER SHARING IN THEORY AND PRACTICE (Marc Weller & Barbara Metzger eds., 2008).

[2] As of January 2010, Kosovo had been recognized as independent by sixty-five states, including most of its European neighbors, but not by Serbia, Spain, or several major powers, including Brazil, China, India, Nigeria, and Russia.

[3] *See* THE CRISIS IN KOSOVO 1989–1999: FROM THE DISSOLUTION OF YUGOSLAVIA TO RAMBOUILLET AND THE OUTBREAK OF HOSTILITIES (Marc Weller ed., 1999).