with other states. Specifically, Argentina's World Bank development status is similar to that of other states within the general population and also the specific subset of awards rendered against the states. Notably, with the exception of two cases—one case against the Czech Republic when it was a high-income respondent and another case against Ecuador when it was a lower-middle–income respondent—when the awards were made, all of the T16 awards were made against upper-middle–income countries. In other words, while Argentina may be unusual in its claims deriving from a financial crisis, it generally *does* share its development status with other states that have received the short end of the investment arbitration stick. Moreover, Argentina, like other upper-middle–income states, has also won cases. These similarities form a basis for suggesting that Argentina's disputes can be used to make valid inferences about the overall population.

A third, hybrid narrative balances these two previous perspectives. Under this view, Argentina should be appreciated within its unique context, but inferences related to the remainder of the population must be made with caution and with recognition that inferences may not hold true in the future. This assessment requires simultaneous appreciation of the limitations of the macrolevel inferences and respect for the unique microexperience of Argentina. Put another way, it will be critical to address, or at least control for, a possible "Argentina effect." As the population of investment treaty awards continues to expand, time will tell whether the Argentine cases are a representative example of the system's functionality or a proverbial blip that is tied to unique and nonreplicable economic, political, and historic circumstances or some combination thereof.

In the interim, Alvarez's use of the Argentine cases to explore the unique reflexive insights—both that public law has for international investment law and that investment law has for public law—provides considerable, and compelling, food for thought. As the intersection of competing public law regimes continues to expand, including areas related to the environment, labor law, criminal law, and human rights, Alvarez's insights should form a baseline for future analysis of the investment treaty regime. As he reminds us in his closing comments, international investment law is not alone in finding new value by crossing scholarly divides when evaluating complex social, political, economic, and legal phenomena.

SUSAN D. FRANCK
Washington and Lee University School of Law

International Civil Tribunals and Armed Conflict. By Michael J. Matheson. Leiden, Boston: Martinus Nijhoff Publishers, 2012. Pp. xv, 382. Index. $185.

This book is a remarkable analysis of the decisions of international civil tribunals—notably the International Court of Justice (ICJ) and arbitral tribunals—with respect to both the legality of recent armed conflicts and the legality of actions during those conflicts. Professor Michael Matheson of the George Washington University Law School participated as a lawyer for the U.S. State Department in some of these legal proceedings, but he has, in the judgment of this reviewer, dealt with them here instead from an academic perspective. This timely book presents a fine summary and analysis of the decisions and awards of these international civil tribunals. It should be of high value to all who want to keep current with developments in the international law relevant to armed conflict.

During the 1960s and 1970s when this reviewer was deeply involved as a lawyer for the United States in the application and development of the laws of war, our focus was first on our efforts to promote better compliance with these laws by our armed forces and those of our allies and then, with more difficulty and less success, by our adversaries. On the basis of that experience, we turned to efforts to improve the laws, including new provisions that might improve compliance, through the negotiation of new agreements. Those efforts led to the adoption of Geneva Protocols I and II in 1977. However, we certainly never anticipated that international civil litigation and arbitration would be likely to play any significant role in interpreting or affecting compliance with the law. Nevertheless, as Matheson describes, the three decades beginning in the 1980s have shown a significant and valuable addition of relevant decisions or

awards by such international civil tribunals. Consequently, the decisions of these tribunals during the past thirty years are important and need to be known by all those who are concerned with the laws applicable to armed conflicts.

Matheson uses the opening chapters (chapters 1–3) to describe not only the problems faced by international civil tribunals as they deal with such sensitive issues but also the largely limited and ineffectual role that such tribunals played prior to the 1980s and their more extensive role during the modern-day period. His experience at the State Department is reflected in his analyses of these decisions. In particular, he describes the special challenges facing these tribunals:

> All of this means that international tribunals must act with care, being mindful of their limitations and the inherent restrictions of the judicial process. At the same time, they must make every possible effort to work in a way that meets the urgent and demanding character of armed conflict, and to produce decisions that take full account of the realities of war and the essential interests of states. This tension between the character of the judicial process and the demands of armed conflict is a basic theme that will recur throughout this book. (P. 12)

Matheson deals with the problems faced by these tribunals in a logical manner. Chapters 4–9 consider the process of deciding issues involving armed conflict. His study shows that the ICJ has faced problems due to jurisdictional restrictions and admissibility rules that have made its task more difficult in some cases than that faced by arbitral tribunals. Of special interest is his examination in chapters 7 and 8 of the processes of determining facts and adjudicating the law in the different types of tribunals. Matheson makes some useful suggestions, particularly with respect to the ICJ's processes. As this reviewer was a member of the Eritrea-Ethiopia Claims Commission (EECC), it may be appropriate to note with gratitude Matheson's conclusion on the EECC's work:"It seems to have made good use of the various forms of evidence and testimony available to it, and to have made a real effort to resolve factual issues directly and pragmatically" (p. 182).

In chapter 10 on the legality of a resort to force, Matheson articulates clearly the relevant findings and explains his reservations with respect to several ICJ findings, including those related to anticipatory self-defense and humanitarian intervention. While this reviewer largely shares his concerns, those findings will likely remain controversial. Findings of legality or illegality of the use of armed force are, inevitably, politically charged, at least until long after the event.

Chapter 11 on the law of armed conflict contains much valuable information related to the relevant holdings and some potentially important conclusions, especially about the customary law status of provisions of Geneva Protocol I of 1977. Matheson focuses both on that question because at least one very important state, the United States, is not yet a party to Geneva Protocol I, and on the related question of the extent to which those provisions also apply to noninternational armed conflicts. In dealing with the ICJ's 1996 advisory opinion on nuclear weapons,[1] Matheson carefully points out the caveats, exceptions, and general lack of clarity of that opinion.

Chapter 12 provides some limited, but useful, guidance with respect to other legal norms, including the status of treaties during armed conflicts, as does chapter 13 on territorial status, the right of secession, including the Kosovo case,[2] and the law with respect to occupied territory, including a summary of relevant decisions by the EECC. Both the ICJ in the *Wall* case[3] and the EECC confirmed that annexation of occupied territory is unlawful.

This book, by itself, certainly does not give definitive answers to the legal questions that arise during armed conflict, but it does direct the reader to some of the most relevant and significant developments in the laws of war during the past thirty years. That so many of those developments were decisions by international civil tribunals, rather than by negotiated treaty revisions, is surprising.

[1] Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 ICJ REP. 226 (July 8).

[2] Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, 2010 ICJ No. 141 (July 22).

[3] Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 ICJ REP. 136 (July 9).

That there were so many of them is also surprising to this reviewer. That this book helps to make them accessible is quite important, and anyone interested in the law of armed conflict will welcome this guide to and analysis of those recent decisions.

GEORGE H. ALDRICH
Of the Board of Editors

The Vienna Conventions on the Law of Treaties: A Commentary. Edited by Olivier Corten and Pierre Klein. Oxford, New York: Oxford University Press, 2011. 2 vols. Pp. lxxxiii, 2071. Index. $750.

The Vienna Conventions on the Law of Treaties: A Commentary (*Commentary*) is a revised English version of *Les Conventions de Vienne sur le droit des traités: Commentaire article par article* (*Commentaire*) and reflects developments that occurred since the publication of the original French version in 2006. Edited by Professors Olivier Corten and Pierre Klein of the International Law Center of the Université Libre de Bruxelles, both versions contain commentaries on each article of the Vienna Conventions on the Law of Treaties (Vienna Conventions).[1] Most of the 80 contributors to the first edition agreed to participate in the English version and provided updated and edited versions of their original commentaries. Where the original authors were not in a position to do so, new authors carried the project forward, resulting in 102 total contributors to the *Commentary*. There are 176 commentaries in the *Commentary*: 2 for the preambles, 85 for the 1969 Convention, 86 for the 1986 Convention, 2 for the annexes, and 1 for the declaration on the prohibition of coercion from the Final Act of the 1969 Conference. The *Commentary* under review is the fourth commentary on the Vienna Conventions.[2]

As noted in the preface, the article-by-article commentaries for the Vienna Conventions have been presented in as uniform a manner as possible. Each commentary is organized into parts, beginning with the text of the relevant article. It is followed by an outline of the contents of that commentary. A bibliography relating to the articles of the 1969 Convention and, to a lesser extent, those in the 1986 Convention typically follows and contains the leading English, French, and German sources and often those in other languages as well. A section on the article's object and purpose and possible customary international law status is also included; the section often indicates where the article is discussed in the relevant annual reports of the International Law Commission (ILC). Specific problems of interpretation relating to the article are then considered. Where appropriate, the commentary concludes with an evaluation of the article and its connection to the other articles of the Vienna Conventions. The sources on which the contributors draw include the work of the ILC, the proceedings of the Vienna Conferences on the Law of Treaties, and the practice subsequent to the adoption of the Conventions, covering applicable case law.

The unprecedented growth of treaty making over the last four decades and the establishment by states of international tribunals with jurisdiction to decide certain disputes that were unlikely to have been brought before the International Court of Justice (ICJ) have resulted in a much larger body of treaty law cases than existed in 1969. The most important cases are discussed in the commentaries on the articles to which they relate.

The need for the *Commentary* can perhaps best be demonstrated by comparing it to the length of and the number of cases cited in the commentaries prepared by the ILC on the draft articles of the 1969 and 1986 Conventions. The combined ILC commentaries total 157 pages in the 1966 and 1982 *Yearbooks of the International Law Commission*.[3] Those in the *Commentary* comprise 1867

[1] Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1969, 1155 UNTS 331; Vienna Convention on the Law of Treaties Between States and International Organizations or Between International Organizations, *opened for signature* Mar. 21, 1986, 25 ILM 543 (1986) (not yet in force).

[2] In addition to the original 2006 French version, the others are MARK E. VILLIGER, COMMENTARY ON THE 1969 VIENNA CONVENTION ON THE LAW OF TREATIES (2009), and VIENNA CONVENTION ON THE LAW OF TREATIES: A COMMENTARY (Oliver Dörr & Kirsten Schmalenbach eds., 2012).

[3] Yearbooks of the International Law Commission are available online at http://untreaty.un.org/ilc/publications/yearbooks/yearbooks.htm.