

This is a book that convincingly defines global health law as an emerging legal field. For that reason alone, it is a truly landmark achievement. In addition, the book provides a scholarly, rigorous and comprehensive analysis of the main components of global health law. The book also succeeds in bringing together the disciplines of public global health, international law, medical law and ethics, and political science. It can be said without exaggeration that this book will be indispensable for all those who wish to push the conceptual boundaries of global health further. Because of its embedded mobilizing call, it will also serve as a necessary blueprint for those who wish to contribute to the improvement of health for individuals worldwide.

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State Responsibility: The General Part by JAMES CRAWFORD [Cambridge University Press, Cambridge, 2014, 825pp, ISBN 9781107477780, £34.99 (p/bk)]

State responsibility is one of those foundational doctrines that give shape to international law. It provides a conceptual framework through which inadmissible behaviours are constructed, captured and acknowledged while also providing international law with means of responding to those behaviours which it deems unacceptable. In that sense, state responsibility is a screen onto which standards concerning what is permissible at the international level are projected, whilst it is also a platform from which respect for those standards can be defended. Needless to say, such a twofold functional view of State responsibility results from certain choices made by international lawyers, as well as the socio-historical circumstances in which such choices were made. It will not come as a surprise, then, that there have been many changes over time concerning the way in which State responsibility has been conceptualized, as well as regarding the function it is intended to perform. It is obviously impossible to trace and establish precisely the conceptual and functional developments which have influenced the development of the law of State responsibility over the last centuries. Indeed, international lawyers have little material at their disposal from which to reconstruct the history of State responsibility, for they have inherited only a few fragments of thought which they are bound to read and interpret anachronistically—that is, through the cognitive categories of their times. The imprecise and anachronistic readings to which international lawyers are condemned when they think about the agents and socio-historical factors that have informed (and led to) the creation of the contemporary doctrine of State responsibility do not, however, prevent there being an awareness of these parameters. On the contrary, contemporary international legal scholarship requires it.

This helps us appreciate where and how James Crawford's *State Responsibility: The General Part* (hereafter *SRGP*) stands apart from traditional treatises on foundational doctrines of international law. Indeed, this impressive work not only constitutes the most authoritative and extensive treatise on the rules and practices pertaining to State responsibility; it also provides some welcome new insights concerning both the agents and the socio-historical context that helped shape the contemporary doctrine of State responsibility. If anything, *SRGP* is much more than a 'black letter law' presentation of the state-of-the-art. It gives readers—be they practitioners or researchers—insights into the (agenda behind) conceptual and paradigmatic choices that informed the coalescence of State responsibility as presented in *SRGP*. The author's awareness of the impact of socio-historical contexts on the design of doctrines is at its best when he defends the rise of the doctrine of responsibility as an autonomous legal category, arguing that it should be seen as a product of the post-World War I world. In this respect, he argues that State responsibility is not a bargain between States but a 'jural construction'. Its design must be understood as a 'response to the ruinous world of the Great War' as well as 'a recall of the practice of responsibility as applied

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in the last decades of the nineteenth century, from the Alabama arbitration to the Venezuela claims and the two Hague peace conferences' (26).

Crawford also, and simultaneously, provides the reader with an unprecedented glimpse of the agenda and conceptual choices which he himself sought to promote during his time as the International Law Commission's (ILC) Special Rapporteur. Indeed, Crawford's conceptual choices proved very influential in shaping (and completing the codification) of the contemporary doctrine of State responsibility but what is of particular interest here is what the book shows concerning Crawford's thoughts about the work of his predecessors, and what parts of this heritage were to be salvaged. In that sense, it can be read as a 'synthesis' of those conceptual and functional elements of the law of responsibility that best support the author's vision of the doctrine. In this respect, it is noteworthy that section 2.1 of Part I speaks about the 'modern synthesis' when presenting the ILC codification process.

Does the author still need to defend his vision of State responsibility? After all, his influence on the codification process, on the judicial practice as well as on the scholarship concerning responsibility is unequalled. And yet codification processes—especially of secondary rules of international law—should be seen as a dialectic and mutually reinforcing exchange between private scholarly reflection and public deliberative institutional dynamics which is geared towards legitimacy and acceptance. This means that the completion of a set of articles like the Articles on the Responsibility of States for Internationally Wrongful Acts (hereafter ARSIWA) does not terminate the codification process; it only confers upon the codified rules the authority necessary for their global acceptance by law-applying authorities. This book can itself be understood as another step in the dialectical process of seeking to stabilize the doctrine of State responsibility around the model adopted by the ILC. It is the capstone of Crawford's two decades of efforts to persuade governmental and academic audiences.

Since this book adds the final touch to its author's own approach to State responsibility, it is no coincidence that its structure and overall conceptual framework reflects the choices which underpin the ARSIWA. Indeed, even a quick glance shows that the book espouses the ARSIWA's paradigmatic distinctions between unlawfulness and wrongfulness and between determination of responsibility and the content of responsibility. In the same vein, it vindicates the claim that there is a unitary regime of responsibility, which informed the codification exercises of the ILC, by approaching questions of responsibility of international organizations from the vantage point of collective and ancillary responsibility (Part IV). It is as if the regime of the responsibility of States, and that of the responsibility of international organizations and of their member States for acts of the international organizations were part of a common regime. The consolidated nature of the regime is also reflected in the author's choosing to demonstrate the resilience of this conceptualization of the doctrine before going on to consider new phenomena—such as questions of shared responsibility (see Chapter 10 (325–8) and Chapter 12 (395–430)).

At the same time, Crawford might have taken the opportunity to continue to press the case for approaches and interpretations which he was unable to persuade the ILC to adopt, such as the famous controversy concerning the entitlement of non-injured States to take countermeasures in the general interest, provided they could at least demonstrate a universal legal injury. Given the opposition to this in the ILC, Crawford was only able to secure the inclusion of a saving clause, thus leaving the matter to further developments in international legal scholarship and practice. The Commentary to the saving clause tends to buttress the entitlement of non-injured States to take countermeasures in the general interest. It is, then, interesting that this book does not seek to engage with that debate any further, subject to the question of the ability of injured States to call for assistance to seek redress for the breach (704). It limits itself to recalling the positions in the debate on Article 54 (704–5). Indeed, it even seems to support the rationale of the saving clause, thereby backing away from the support for countermeasures in the general interest found in the Commentary (706). Perhaps the author has come to terms with the impossibility of imposing the idea of countermeasures in the general interest and retreated from the veiled activism that infused the Commentary.

Such restraint should not be regretted, since it contributes to this being an authoritative account of the doctrine of State responsibility. It is accomplished with brilliance and not only reflects the author's knowledge of the agents and socio-historical forces that influenced codification processes, but also of what it takes to persuade an audience to accept one's understanding of a doctrine. There is no doubt that this exhaustive, precise and rigorous exposé of all the dimensions of the doctrine will establish itself as a form of 'holy writ' of State responsibility.

Two further aspects might be mentioned. The first concerns the rich historical overview provided by *SRGP*. In this respect, it is somewhat startling that Dionisio Anzilotti is not given a more prominent role, since he is usually considered to be the great mastermind behind the contemporary doctrine of State responsibility (as a result of Ago's extensive reliance on his work). Crawford takes a more nuanced approach, tracing the distinction between the breach of a substantive rule and responsibility back to Wheaton—whose paradigmatic choices left an important imprint on the contemporary doctrine of responsibility (20–1). In the same vein, Crawford claims that it is Heffter's *Droit International Public de L'Europe* (1857) that puts forward the notion of wrongful act (*fait illicite*) for the first time (21). Anzilotti is, then, seen at best as continuing the work of these predecessors, his main contribution being to elevate State responsibility into a distinct field and to distinguish between natural causality and normative causality (attribution) (23). Crawford seems to go as far as claiming that the work of Eagleton surpasses that of Anzilotti (24). Such a departure from the mainstream understanding of the cardinal influence of Anzilotti is certainly refreshing. This treatment of the Italian master however remains question-begging. Indeed, it reinforces the idea that Crawford sees the ARSIWA as synthesizing a variety of heritages rather than having a clear linear paternity and a limited number of forebears.

Despite being one of the authors of this regime, Crawford has no qualms about confronting the criticisms that have been levelled against it (85–92). It is, however, astonishing that the account of the scholarly criticisms made of the regime fail to include the most well-known—and probably the most compelling—objections that were raised against them. Thus nothing is said of Philip Allott's famous argument that the paradigmatic choices behind the ARSIWA affirm rather than constrain power and provide a convenient veil behind which a morally responsible person can take shelter.¹ Similarly there is no consideration of Vaughan Lowe's objection against the idea of 'precluding wrongfulness'.² It is not that the choices made in the ARSIWA should themselves have been revisited, but the opportunity might have been taken to finally and conclusively address these key criticisms of them, a task which remains unaddressed.

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Judicial Decision-Making in a Globalised World: A Comparative Analysis of the Changing Practices of Western Highest Courts by ELAINE MAK [Hart Publishing, Oxford, 2013, 290pp, ISBN 978-1-84946-554-0, £45 (h/bk)]

So many constraints apply to the use of comparative legal materials in the judicial decision-making process that a recurrent question for academics and judges alike is whether judges should use them at all. Mak's comparative study suggests that research of foreign legal materials takes place in all of the highest courts examined in France, the Netherlands, Canada and in the United States. The only valid question is therefore *how* foreign law (in the broad sense of binding and non-binding foreign legal sources) can be used in the decision-making of the highest courts. Can judges do more than

¹ P Allott, 'State Responsibility and the Unmaking of International Law' (1988) 29 *HarvIntLJ* 1–26.

² V Lowe, 'Precluding Wrongfulness or Responsibility: A Plea for Excuses' (1999) 10 *EJIL* 405–11.

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