role in such legal recognition, the bodies before which such recognition should occur, or, most importantly, about the nature and content of the rights that flow from such recognition.

I. In offering a conclusion to the work the authors suggest that there are five emerging principles in terms of responding to ethnopolitical challenges. These are identified as:

II. States and civil society should recognise and promote the rights of minorities;

III. Democratic institutions and power-sharing are the best means for protecting group rights;

VI. Conflicts over self-determination are best settled by negotiations for autonomy within existing States;

V. International actors should protect minority rights and promote settlement of ethnopolitical wars;

VI. International actors may use coercive means to stop civil wars and mass killing of civilians.

It is difficult to disagree with any of these statements though the authors have not adequately discussed why or from where they believe these principles to be emerging. Also, as is clearly the case with principle III, these statements remain difficult to implement and thus remain questionable as a mechanism to stem ethnic conflict. Overall this work is thought provoking for the manner in which it presents ideas and principles. However, it fails to convince on the crucial issue that it is possible to express an overarching theory that links various global ethnic conflicts, or that a mechanism that addresses these has been presented. To an international lawyer interested in the issue of ethnic conflict this work presents one possible explanation of the dynamics of such conflict, however, the definitive tone adopted by the authors, and the bold assertions made, diminish the utility of the work. The topics for discussion given at the end of the chapters are useful but sometimes too focussed on the theories in the text rather than construed wider so as to approach the substantive content of ethnic conflict, how it occurs and the manner in which it may be stemmed.

Hans Köchler, Global Justice or Global Revenge? International Criminal Justice at the Crossroads, Springer-Verlag, Wien/New York, 2003, 454 pages, € 39

Sergey Sayapin*

The timely and comprehensive examination by Prof. Dr. *Hans Köchler* of the contemporary evolution of international criminal justice, from the post-World War II Nuremberg and Tokyo trials through to the establishment of the permanent International Criminal Court, stands out for its thorough legal analysis and historical veracity. The author, who himself was nominated by the United Nations Secretary-General as an international observer at the Lockerbie Trial (May 2000 – January 2001), adds an impressive portion of empirical legal knowledge to his comprehensive theoretical presentation of international criminal law and procedure.

The volume under review is structured in three parts and seventeen chapters. Part I ("The developing idea and practice of international criminal justice in the context of state sovereignty and individual responsibility", pp. 9-267) introduces the reader to the author's vision of challenges that international criminal law as a 'working tool' faces today. Indeed, the author's individual (and sensibly critical) conception of positive international law is observable throughout the volume. Chapters 1–4 outline some major features of the international community of States – the sovereign equality of States, the absence of an 'international separation of powers' *stricto sensu* – and examine their effect on the exercise of (criminal) justice at the international level. At the centre of the author's attention is the evolving concept of *universal jurisdiction* as a true, probably exclusive, indicator of the community of States' willingness to put an end to the impunity of persons responsible for the commission of international crimes.

In Chapters 5 and 6, the author turns to the problem of 'victors' justice'. He quotes Sir *H. Lauterpacht* who, as the Nuremberg Trial was forthcoming, warned the Allied Powers to treat the defeated enemy "in accordance with established rules and principles of the law of nations", so as to avoid the impression that justice is simply "a vindictive measure of the victor resolved to apply retroactively" (p. 149).[1] The author finds that both the Nuremberg and Tokyo Tribunals failed to meet genuinely the fair trial requirements, as they "(a) exercised jurisdiction over [...] crimes on the basis of selectivity; (b) operated under 'emergency procedures' that would not have met even the minimum requirements of any national legal system at the time; (c) were composed on the basis not of impartiality, but of representation of victorious countries; and (d) did not provide for the elementary right of appeal" (pp. 149–50). Generally, such a critical vison of 'accepted' normative postulates does not confine itself to Part I alone: Throughout the volume, the author seems wishing consciously to 'shatter readers' estasblished attitudes towards stereotypes embodied in international law and politics; he suggests, again and again, an 'authored understanding' of applicable positive law.

Further, Prof. *Köchler* shares his strong concern over the legitimacy of the International Criminal Tribunals for the Former Yugoslavia and Rwanda. In his opinion, both Courts' political and legal characteristics do not allow them to exercise a fair hearing of cases; the Courts' evident link to the power politics (in the form of the national interests of the most powerful members of the UN Security Council) determines not only their setup but also, at least indirectly, the conduct of the proceedings (p. 166). The author's alarm as to the nature and functioning mode of these *ad hoc* tribunals is made clear in his *Memorandum on the Indictment of the President of the Federal Republic of Yugoslavia, the President of the Republic of Serbia and Other Officials of Yugoslavia by the International War Crimes Tribunal for the Former Yugoslavia* (1999), which is reprinted in the Annex (pp. 351–386), together with two other relevant documents.

In turn, Prof. *Köchler* emphasises the status of the International Criminal Court as one of "an independent entity established by intergovernmental agreement in the form of an international treaty" (p. 208). Knowing that the Rome Statute of the International Criminal Court still provides for a "structural relationship with the United Nations",[2]

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1 H. Lauterpacht, "The Law of Nations and the Punishment of War Crimes", (1944) 21 *British Yearbook of International Law* 80.

2 See especially Articles 13(b) (Exercise of jurisdiction), 16 (Deferral of investigation or prosecution) and 87(7) (Requests for cooperation).

the author wishes this new Court to be able to implement the concept of universal jurisdiction in a "meaningful and at the same time efficient way" (p. 208), so as to avoid its precursors' shortcomings.

In Part II, Prof. *Köchler* discusses the concept of humanitarian intervention in the context of modern power politics. Again, this latter keyword seems to be decisive for his argumentation: while the United Nations Charter' banned the *unilateral* threat or use of force in international relations (Article 2(4)), it reintroduced "through the back door" a normative loophole for using the military force collectively, – depending on the exercise of 'special rights' of the Security Council's permanent members. The author warns (or reminds?) of a likely use of these rights in a discriminatory manner – against 'foes' from the competing camp but not against friends or allies from one's own. In the end, the author asserts that the UN Charter was arguably meant to 'eternalise' the power balance of 1945 (pp. 283–285).

However, with the disintegration of the Soviet power bloc, the world found itself having only one superpower, and the 19th century concept of 'humanitarian intervention' came back into play. No longer was rivalled ideological domination complemented by unparalleled political hegemony: in a framework of unchallenged global rule, the hegemonial power became capable of acting as a judge in its own cause (p. 292). The author further debates what he calls the revival of the *bellum justum* doctrine (synonymous to the humanitarian intervention doctrine), with a special focus on the 1999 Kosovo war and the beginning of the war against Iraq in spring 2003 (pp. 293–299).

Part II concludes on a rather pessimistic note: the current state of power politics renders obsolete whatever has been achieved in terms of the international rule of law since the beginning of the 20th century. Should this mean 'the end of international law'?!

Part III ("The United Nations, the international rule of law and terrorism") draws on the legal and sociological complexity of fighting international terrorism, with a particular focus of the world Organisation's contribution to this effort. As was the case with the international institutions referred to above, the author at first considers the United Nations in the contemporary global power constellation (pp. 321–323). Contrary to the preceding chapters' critical conclusions, he mentions here that the current unipolar power structure has some *advantages* for the international rule of law, too: "The basic advantage lies in a new and much wider margin of action for the United Nations Organization in the field of international peace and security. Because of the *de facto* lack of opposition to the leading power [...] the main executive organ of the United Nations has been able to deal with threats to international security in several regions of the world more effectively" (p. 322). Indeed, terrorism, whose destructive potential (and, consequently, direct relationship to the Security Council's field of responsibility) nobody doubts, has been the decade-old subject of the United Nations' codification efforts and measures (pp. 335–340). However, quite soon – when discussing the difficult definitions of terrorism – Prof. *Köchler*, once again, asks himself an 'unresolved' question which, in one form or another, appears throughout the volume: "Who has the „power of definition?" (p. 344). The chapter concludes by setting forth conditions for a consistent anti-terrorist policy of the United Nations (pp. 345–349).

A quick reading of the volume's table of contents (as well as of this review) might produce a first misleading impression that the selection of seemingly disjointed topics (universal jurisdiction, humanitarian intervention, terrorism) was somehow arbitrary. But there certainly *is* a thread that links the suggested themes substantially: all three phenomena operate, dialectically, in the (battle)field of international relations and power politics in today's world. If the taste of a fruit has to improve, the soil must undergo a 'quality test'. Prof. *Köchler*, a fair and demanding expert, has produced an impressive set of *his* criteria.

Claire de Than and Edwin Shorts, International Criminal Law and Human Rights, Sweet & Maxwell Limited, London, 2003, 550 pages, € 54,30

Majbritt Lyck*

This book examines the relationship between international criminal law, international humanitarian law and international human rights.

Based mainly on both written international criminal law sources and recent judgements from international prosecuting institutions such as the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR) Part I of this book introduces some of the key concepts and basic principles in international criminal law. Chapter 1 provides a much needed clarification of the meaning of some of the core concepts that are used arbitrarily elsewhere in the international criminal law literature. Chapter 2 deals with the complex issue of States' prosecution of crimes of international dimensions. The chapter examines the five basic principles (territorial, nationality, protective, universality and passive personality principles) upon which a State may base its claim of national jurisdiction. The chapter also examines the international regulations regarding extradition. Chapter 3 deals with the equally complex question of when a State or its representatives can be prosecuted by the courts of another State without consenting to such legal actions.
For readers with no or very little prior knowledge of international criminal law Part I provides a useful introduction to some of the key concepts in international criminal law. Since many new and often quite complex concepts are introduced the inexperienced reader might benefit from re-reading especially parts of chapter 1 during the reading of the rest of the book. Inexperienced readers might also use this section as a future reference for the meaning of some of the key concepts in international criminal law. Readers with a considerable prior knowledge of international criminal law may choose to jump directly to part II.

Part II focuses on the four "old" clusters of international crimes; genocide, crimes against humanity, war crimes and torture and on the 'new' international crime; terrorism.

Chapters 4, 5, 6 and 7 provide a legal analysis of genocide, crimes against humanity, war crimes and torture respectively. Each chapter examines the relevant parts of

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