

James Crawford. ***The Creation of States in International Law***. Oxford: Oxford University Press, 2nd edition, 2006. Pp. 70. £80, €116.58 (hb). ISBN 0198260028.

The second edition of *The Creation of States in International Law* is a considerably expanded and updated version of the first edition, which was published in 1979. A great deal has happened in international law and international relations affecting the creation of states during this period of nearly 30 years. Events during this time – as well as the inclusion of material omitted from the first edition – have confirmed

for James Crawford that his original argument 'that the creation of States is a matter in principle governed by international law and not left to the discretion of individual States' (at v), is still correct.

There are four parts to the book. Part I concerns the concept of statehood in international law, and sets out Crawford's core arguments. Examples of the various modes of the creation of states in international law, such as secession and devolution, are presented in Part II. Part III examines the creation of states in international organizations, including mandates and non-self-governing territories and, finally, Part IV deals with issues of the commencement, continuity and extinction of states. In each Part there is extensive analysis, with references to the various literature, and very detailed examples from relevant situations around the world over time.

Indeed, it is this meticulous and detailed use of a vast array of situations that is a significant strength of the book and will make it the first reference point for anyone practising or researching in this and related areas. The depth of understanding of each situation, the ability to see the various aspects of each situation and to apply them to various legal arguments is impressive. This is assisted by the clear and helpful conclusions (sometimes very boldly stated) given at the end of each section. While there will not always be agreement with his conclusions, the author is not afraid to express his views about contentious situations such as Palestine and Taiwan (for both of which he concludes that they are not states and that the right of self-determination applies to their people).

Throughout the book the importance of international law is reinforced. He rejects the idea that recognition of an entity as a state should be a free choice of political leaders as that position would mean that 'the international status and rights of whole peoples and territories will seem to depend on arbitrary decisions and political contingencies' (at 19). Indeed, the longer view of international law – in contrast to the apparent immediacy of the demands of politics – is preferred in difficult

situations, such that 'it may be that international law's main contribution in such cases is to keep the issues on the agenda until circumstances change and a settlement becomes possible' (at 99). Crawford uses Namibia, Rhodesia, East Timor and the Baltic states as examples of this position. However, he also considers that 'international law is normativity in collision with history: if it is to be of any value it must give guidance to persons at the time of the events' (at 711), which could make more difficult a considered view of the application of international law in some difficult situations.

The author is not restrained by acceptance of traditional aspects of international law in this area, as he acknowledges that the Montevideo Convention criteria are outdated and 'hackneyed' (at 437), and do not assist in contemporary debates about statehood of entities. He rejects the analogy of the state as 'a sort of international corporation holding its territory and people as if they were property' (at 711). Instead he focuses on state independence as a prerequisite for statehood. In taking the position that an entity must demonstrate independence to be a state, he does tend to reinforce the idea that the consent of states, in the form of the consent by other states and of the government of the state where an entity is seeking statehood – even if such consent should be constrained by international legal parameters – is central to statehood. Whilst this argument may be widely accepted, he does not engage sufficiently with the criticisms about this approach, such that it accepts an exclusive role for states in deciding which entities appear to be most like existing states and so deserving of being acknowledged as 'states'.

Indeed, it is disappointing that Crawford does not engage more clearly with the many philosophical critiques of statehood, as he is clearly capable of doing so. Whilst he does show understanding of some alternative approaches (such as an acknowledgement of the artificiality of states (at 717), and the issues of identity and allegiance by people to or against the state (at 668)), these are infrequent and rarely explored in depth. He also avoids dealing with

the concept of sovereignty by arguing that it applies as a legal right or presumption only to territories accepted as states (at 115) and so cannot be a criterion for statehood. This tactic implies that there is only one form of sovereignty (being that of a state) that is of relevance to international law in this area. He thus sadly ignores a range of alternative views of sovereignty (such as peoples' sovereignty and shared sovereignty) that could have opened up new ways of viewing some situations.

As in any work of this scope there is room for different choices to be made. For example, it is not clear why internal issues of federations or why some intergovernmental bodies (Chapter 11) should be included in a work about the creation of states, why non-self-governing territories are not considered in detail until Chapter 14, and there is the occasional unnecessary repetition across and between chapters. In particular, the author makes a strong and cogent argument for ceasing the use of the very problematic idea of a 'failed state', yet he does not deal with this interesting issue until his conclusion (at 720–723); it could well be deserving of a section earlier in the book. However, these are minor issues in relation to the whole endeavour of the book.

Overall, this is a work of high-quality scholarship. It is detailed, closely argued and shows an author in command of his field. It is highly recommended to all international lawyers, international relations experts and others who have to deal with these situations.

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