the distributional effects of the current order, like Dani Rodrik[16] and Branco Milanović,[17] and historians of the modern economy, like Moyn, Quinn Slobodian,[18] and Adam Tooze,[19] have joined more popular chroniclers of current inequality, like J.D. Vance,[20] Alyssa Quart,[21] and Edward Luce,[22] in the pages of popular reviews and even some bestseller lists. And the calls to remedy the growing divide between rich and poor, capital and labor, the elite and the left-behind from within domestic policy,[23] human rights,[24] and international economic law[25] have been growing louder and more widespread. Figuring out how to reform these fields and their relationship to one another "is daunting in the extreme" (p. 220). "To date, a global welfare structure has only been imagined but never institutionalized" (*id.*). Reform will require breaking out of the intellectual and professional boxes or silos that we have so carefully built.[26] *Not Enough* helps us though start a new/old conversation about how we might think differently about social and material justice across those fields.

As edges of the current legal order has frayed, many have looked to history to try to make sense of what is happening. Oona Hathaway and Shapiro's book *The Internationalists*[27] looks to the birth of our current order and provides a historical pep talk. In their riveting, compelling story, law and lawyers matter; lawyers (the internationalists in question) succeeded in banning war. New problems have emerged, but lawyers can help solve them as well. Its history verges on hagiography. Adam Tooze's brilliant and nuanced *Crashed*,[28] covering the global history of the 2008 financial crisis and its aftermath, tells a story of well-meaning policymakers hemmed in by preconceptions, ideologies, and politics, doomed to fight immediate crises only to lose the longer-term economic war. It is history as tragedy. Moyn's book at times sounds like a tragedy too. He uses "grave" language to describe the death of ideas of equality and the rise of neoliberalism; some passages have an elegiac quality. But the book is better read as an attempt at redemption. It is history as imagination or potentiality. And the need for such imagination in a time of disaffection and anxiety will be the fuel of its ultimate popularity. As Moyn reminds us, "[m]any of our ancestors would have demanded more" (p. 213). Perhaps, we should too.

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[16] DANI RODRIK, STRAIGHT TALK ON TRADE: IDEAS FOR A SANE WORLD ECONOMY (2017).

[17] BRANKO MILANOVIĆ, GLOBAL INEQUALITY: A NEW APPROACH FOR THE AGE OF GLOBALIZATION (2016).

[18] QUINN SLOBODIAN, GLOBALISTS: THE END OF EMPIRE AND THE BIRTH OF NEOLIBERALISM (2018).

[19] ADAM TOOZE, CRASHED: HOW A DECADE OF FINANCIAL CRISES CHANGED THE WORLD (2018).

[20] J.D. VANCE, HILLBILLY ELEGY: A MEMOIR OF A FAMILY AND CULTURE IN CRISIS (2016).

[21] ALISSA QUART, SQUEEZED: WHY OUR FAMILIES CAN'T AFFORD AMERICA (2017).

[22] EDWARD LUCE, THE RETREAT OF WESTERN LIBERALISM (2017).

[23] MEHRSA BARADARAN, HOW THE OTHER HALF BANKS: EXCLUSION, EXPLOITATION, AND THE THREAT TO DEMOCRACY (2015).

[24] *See, e.g.*, Report of the Special Rapporteur on Extreme Poverty and Human Rights, UN Doc. A/HRC/29/31 (May 27, 2015).

[25] *See, e.g.*, Harlan Grant Cohen, *What Is International Trade Law for?*, 113 AJIL 326 (2019); Gregory Shaffer, *Retooling Trade Agreements for Social Inclusion*, 2019 ILL. L. REV. 1 (forthcoming 2019); Frank J. Garcia & Timothy Meyer, *Restoring Trade's Social Contract*, 116 MICH. L. REV. ONLINE 78 (2018).

[26] *See* Cohen, *supra* note 25, at 336–340.

[27] OONA HATHAWAY & SCOTT SHAPIRO, THE INTERNATIONALISTS: HOW A RADICAL PLAN TO OUTLAW WAR REMADE THE WORLD (2017).

[28] TOOZE, *supra* note 19.

The Crime of Aggression: A Commentary, Volumes 1 and 2. By Claus Kress and Stefan Barriga (eds.). Cambridge, United Kingdom: Cambridge University Press, 2016. Pp. xli, 1583. Index.

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The trial of twenty-two Nazi leaders by the International Military Tribunal at Nuremberg is often viewed, in popular imagination as well

as in certain corners of academia, as being a case about the horrors of the Holocaust. In many respects it was, but what is often lost is that the lead charge against the defendants focused not on crimes committed against civilians and soldiers but crimes against peace. Justice Jackson commenced his famous opening address at Nuremberg by stating that "[t]he privilege of opening the first trial in history for crimes against the peace of the world imposes a grave responsibility."[1] A year later, the court's judgment declared that "[t]o initiate a war of aggression is not only an international crime; it is the supreme international crime, differing only from other war crimes in that it contains within itself the accumulated evil of the whole" (p. 4).

Despite its vaulted status at Nuremberg, however, the crime of aggression was the one international crime that did not survive into the modern era, until recently. When the international criminal justice project was reborn in 1993 with the creation of the International Criminal Tribunal for the former Yugoslavia—the first international tribunal created after Nuremberg—the crime of aggression was absent from the list of crimes it could pursue. Nor did it figure in the statutes for the ad hoc tribunals for Rwanda, Sierra Leone, or Cambodia, created in the following years. In 1998, it was included in the Rome Statute of the International Criminal Court (ICC), but only as a placeholder: the statute specified that the court could not prosecute the crime until the states parties agreed on its definition. That happened in 2010, and following a protracted ratification process, the crime was activated on July 17, 2018.

Claus Kress, professor of criminal law and public international law and director of the Institute for International Peace and Security Law at the University of Cologne, and Stefan Barriga, the deputy permanent representative of the Principality of Liechtenstein to the United Nations, both of whom played significant roles in the process of defining and adopting the crime into the Rome Statute, have produced a magnificent two-volume commentary that runs for more than 1,500 pages and touches on virtually all aspects of the crime of aggression. It is an essential resource for anyone who engages with the crime: academics, policymakers, and ICC personnel.

The commentary draws on essays by many of the leading commentators and is superbly organized to address the various dimensions of the subject in a logical progression. It begins with chapters on important historical landmarks in the development of the crime: the failed prosecution of Kaiser Wilhelm II after World War I, the Nuremberg and Tokyo prosecutions, and the UN General Assembly's (UNGA) definition of the act of aggression in UNGA Resolution 3314 of December 14, 1974, which would later become the basis of the ICC's definition of the crime. The commentary then traces the engagement of international institutions with the concept of aggression—the UN Security Council, International Court of Justice, and International Law Commission—as well as negotiations leading to the adoption of the Rome Statute in 1998.

Then comes one of two central parts of the commentary: a series of chapters providing theoretical and doctrinal expositions and analyses of the crime. The crime's definition and elements, its jurisdictional triggers and limitations, and the ratification process for it to enter into force (now completed), all present a host of technical and complex legal questions. These chapters do a brilliant job of unpacking the elements of the crime and its doctrinal challenges and will be particularly useful to lawyers and commentators seeking to apply the provision to real-world events.

A lengthy part of the commentary then canvases national laws proscribing aggression from numerous jurisdictions across the world, followed by a survey of the positions of different states on the activation of the crime at the ICC. This latter set of chapters is particularly useful as it sets out many of the arguments deployed by states in favor and against the adoption of the crime. The chapters on the views of the

[1] Trial of the Major War Criminals Before the International Military Tribunal, Nuremberg, 14 November 1945–1 October 1946, Vol. 2 (Blue Set), at 97.

permanent members of the Security Council express, unsurprisingly, concerns about including the crime in the Rome Statute, and in particular the decision not to grant the Security Council exclusive power to decide whether an act of aggression has occurred. On the other side, the views of states like Germany and Brazil are more positive, though one wonders if the Brazil chapter would be written differently today.

The second core part of the commentary comes at the end of the two volumes and is a series of chapters presenting "scholarly reflections" on the crime of aggression. The chapters in this section are among the richest of the two volumes, which perhaps underscores the extent to which the crime remains an academic project at this stage, even as it has been formally activated at the ICC. Frédéric Mégret contributes "What Is the Specific Evil of Aggression" in which he explores the normative arguments supporting the crime. The chapter is surprising—in that many might take for granted the central importance of the crime of aggression—and illuminating: Professor Mégret unpacks how aggression aspires to protect the interests of states, peace, and human rights. With respect to the last, he concludes that "[i]nstead of crimes against humanity being seen as a part of aggression, it is aggression that should increasingly be seen as a crime against humanity" (p. 1445).

After exploring the normative underpinnings of the crime, it is useful to turn to the chapter by Claus Kress entitled "The State Conduct Element," by far the longest contribution in the commentary, which addresses many of the doctrinal and policy challenges to the crime. In particular, Professor Kress rigorously and methodically counters the fears that activating the crime at the ICC will force the court to adjudicate difficult legal questions surrounding the use of force by states. He shows that the statutory requirement that the prosecution prove a "manifest violation of the Charter of the U[nited] N[ations]," in which "character, gravity and scale" (p. 507) must be considered, will steer the prosecution and court away from gray areas in the law and will authorize prosecutions only of clear acts of aggression (p. 523). Professor Kress's impressive piece goes a long way to calming the anxieties of some states and commentators that activation of the crime of aggression will draw the ICC into inquiries for which it is ill-suited.

At the same time, Martii Koskenniemi counters with a powerful chapter entitled, "A Trap for the Innocent . . .," which builds on the famous quotation of British Foreign Minister Austen Chamberlain in 1927 that a definition of the crime of aggression would be "a trap for the innocent and a signpost for the guilty" (p. 1359). Professor Koskenniemi argues that the Court will invariably be drawn into what are, at bottom, political (and contested) questions about when the use of force is lawful and when it is not, leaving him dismissive of the notion that "reasonable international lawyers" will be "able to discriminate between cases of 'genuine doubt' and other cases" (p. 1380). Together, the chapters by Mégret, Kress, and Koskenniemi present different sides of a fundamental debate about law's role in this space and the ability of international criminal law to regulate state action.

In the end, the commentary leaves us with this central question to ponder: what exactly has been accomplished by the activation of the crime of aggression? In one respect, there is no question that it is an extraordinary achievement and the fulfillment of the legacy of Nuremberg. The chapter on Germany's views of the crime captures the hope for what this step means for the future: "[T]here is no doubt that, from now on, every act of aggression will be measured against the fact that there is a quite clearly defined crime of aggression and that perpetrators cannot count on impunity. This will have an enormous preventive effect" (p. 1152). And as the commentary amply shows, this accomplishment was the result of painstaking work and negotiations on the definition and terms of the crime, a rich subject for lawyers for years to come.

On the other hand, does aggression have much relevance beyond the dreamers and academics? The chapter on China's views ends on a more dispiriting note, concluding that "the amendments will have more symbolic meaning than actual effect" (p. 1140). And while

Professor Kress persuasively demonstrates that the crime of aggression will not pull the court into unresolvable political disputes, he also underscores the narrow force of the crime. The crime's definition and its constraining jurisdictional regime mean that it is unlikely that we will see an aggression prosecution anytime soon at the ICC. As a result, with regard to some of the most contentious issues surrounding the state use of force today—including humanitarian interventions and self-defense—the crime of aggression will have little relevance.

The material that is packed into this wonderful two-volume commentary shows how much there is to say on this subject, but what it all ultimately means remains uncertain. Is this the beginning, the middle, or the end of the story of the development of the crime of aggression? At Nuremberg, there was another crime born—crimes against humanity—that was similarly narrow in its first instantiation, but which later blossomed to become the central crime prosecuted by the ad hoc international criminal tribunals and the ICC. Will the crime of aggression similarly have an illustrious future after a modest beginning? Only time will tell.

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Global Lawmakers: International Organizations in the Crafting of World Markets. By Susan Block-Lieb and Terence C. Halliday. Cambridge, United Kingdom: Cambridge University Press, 2017. Pp xix, 456. Index. doi:10.1017/ajil.2019.2

"How law is made affects what law is made," asserts this ambitious and multi-layered new book by Susan Block-Lieb, professor of law and Cooper Family Chair in Urban Legal Issues at Fordham Law School, and Terence C. Halliday, research professor at the American Bar Foundation (p. 7). While the bare claim itself is unlikely to upend settled assumptions or provoke serious debate, the real contributions of the book emerge through the carefully observed case studies with which the authors illustrate the claim. The case studies gradually build up an empirically grounded, meticulously realized argument that individual lawmakers matter. When one allows facts to inform theory rather than the other way around, the authors show, what becomes clear is that individual lawmakers are not just governmental delegates, but a whole variety of professionals, industry association representatives, and others with some stake in the lawmaking process. These actors work not just through formal processes, but also through an array of informal ones. Most importantly, their presence matters to the content of the legal norms that take hold around the world.

The book thus carves a new place among a very small universe of empirically grounded analyses of international lawmaking, and an even smaller universe of accounts that focus on individual actors. It organizes these observations through the lens of social ecology theory, which, though unfamiliar to international legal theory, offers fascinating purchase on the question of how actors develop international legal orders. The book also contributes the first in-depth empirical analysis of the lawmaking work of the little-studied United Nations Commission on International Trade Law (UNCITRAL or Commission). After a brief note on content and method, this essay addresses these contributions in turn.

I. "ETHNOGRAPHY OF THE GLOBAL"

The "law" with which the book is principally concerned is international commercial law, or more specifically, the treaties and model laws that seek to "alter world commerce and domestic markets" by rendering uniform inefficiently patchworked domestic laws (p. 6). The "how" involves UNCITRAL's working methods, with case studies developed from the authors' first-hand observations over more than ten years of the Commission's work on insolvency, secured transactions, and international transport. The authors' methodology is principally qualitative, and their data are drawn from direct observations