BOOK REVIEW

Karel Wellens, *Remedies against International Organisations*, Cambridge University Press, 2002, ISBN 0 521 81249 6, £45.00 (US$70.00)

After the responsibility and accountability of international organizations became an issue of serious concern (often the decisive moment is located in the collapse of the International Tin Council) it has remained a topic of increasing interest. This concern expresses itself in a variety of ways. Popular attention has focused on international economic organizations (GATT/WTO, for one), the responsibility of which is called for through public protests. The inquiries into the responsibility of those involved in the failure by the UN to protect civilian populations in both Srebrenica and Rwanda demonstrate a slightly different side of the question. Through the applications by the Federal Republic of Yugoslavia against the Member States of NATO and the *Cumuraswamy* case, before the ICJ, the issue has definitely also entered the judicial realm. Among academics the issue of accountability is also dealt with through discussions on the human rights responsibilities of international organizations, and as a core element of the concept of constitutionalism. These are all examples of a high-profile character, but on an everyday basis too the need for remedies establishes itself, through more mundane incidents such as denial of complaint procedures for fired employees, or the occasional car accident. One expression of this increasing interest in the consequences of the activities of international organizations is also the work by the International Law Association (ILA) Committee on Accountability of International Organizations on the topic, the co-rapporteur of which is Karel Wellens.

The question Wellens sets out to explore in his book *Remedies Against International Organisations* is whether the present accountability regime is satisfactory. By focusing on the existence of, access to, and the outcome of political and legal remedial mechanisms, the task is to assess whether the mechanisms in place for implementing an accountability regime really work so as to effectively assure the accountability of international organizations. In doing this Wellens limits himself quite sharply, explicitly omitting questions of establishment of responsibility. Neither does he deal with questions of primary rules, infringement of which causes the accountability to arise. Interest is instead on providing an overview and review of the secondary rules that govern the accountability process. This is done in relation to members and non-members, staff, and non-state parties. His focus rests on intergovernmental organizations in
general – EC law is excluded. Mostly, however, the book is concerned with the
UN system (with peacekeeping operations being a frequently used example).

The book is divided into four main parts. The first of these deals with general
aspects of the need for remedies, different levels of accountability, access to
remedies, whom remedies should target, and the potential outcome of remedial
action. Here Wellens outlines some of the basic assumptions that guide his
reasoning in the rest of the book. One of these is the image of the international
organization as distinguished from states and the particularities that arise out
of this distinction with regard to the question of remedies. Wellens importantly
notes that organizations are on the one hand autonomous actors, with autonomy
being ensured, e.g., through immunities before national courts, while on the
other hand those organizations are composed of states. This dual character
gives rise to a whole range of special issues such as whether remedial action
could be instigated against members, problems of selectivity, and of `piercing
the organizational veil’. The solution to these questions will always have to
rest on a balancing act between these characteristics of organizations. Another
instance of balancing that Wellens identifies emerges from the inequality that
exists between non-state parties and the international organization. Such
balancing acts, Wellens claims, should be at the core of all debates on remedies
against organizations (25). Another central assumption, the outlines of which
are provided in this part, is that an effective regime of remedies will require
a combination of different mechanisms. This follows from the diversity of
potential parties seeking redress, the different kinds of accountability that can
be involved, and the character of the forum before which the remedial action has
been brought (54). As the individual case will prove decisive for the definition
of an effective remedy, no particular mechanism can be preferred in the abstract
as an overall solution (perhaps most clearly formulated at 170).

The second part of the book is concerned with procedural aspects of remedial
action. Here discussion is quite detailed as situations like `sub-contracting in the
absence of jurisdictional immunity in domestic law proceedings’ are dealt with.
The specific features of procedural aspects for member states, staff and private
claimants are all dealt with separately. This provides an overview of existing
mechanisms (or the lack thereof) by way of examples and through referring to
existing literature on the topic. One specific obstacle for non-state claimants is
singled out and dealt with separately. This is the issue of jurisdictional immunity
of organizations. Wellens shows special concern for the inadequate remedial
mechanisms of non-state actors. Immunities of organizations are singled out
as a decisive barrier to access to remedial action by such claimants and as a
cause for the inequality of power between the organization and non-state entities
(114). The third part, dealing with the substantive outcome of remedies, shares