

BOOK REVIEW

Eric David, *Éléments de Droit Pénal International et Européen* (Bruxelles: Bruylant, 2009), 1566 pp. €180.00 (Hardback) ISBN 978-2802726036

The publication of this book by a well-known master of international law and international humanitarian law is undoubtedly an important event. Important by the size, first, if you only look at the book itself, which consists of 1566 pages! You wonder: how could such a busy professor and practitioner produce such a volume? The rational explanation is provided in the foreword where Eric David explains that the book is the result of an accident that forced him to remain immobilized for some time, time which was utilized to convey on paper a richness of knowledge developed over many years of experience and teaching.

The title of the book in French is 'Éléments de droit pénal international et européen' and if it does not mean anything to an English reader, it does mean something to the French reader. The author chose not to use the wording 'droit international pénal', that is to say the author has deliberately chosen to insist on domestic legislation involving international matters. Hence, the book is supposed to be primarily dedicated to the study of the 'compétences pénales de l'Etat' — the criminal jurisdiction of states — and international judicial cooperation, including the issue of extradition. In actual fact, it also contains a very substantive account of the fast developing 'European criminal law' and half of the book concerns international crimes and international tribunals. On the 'droit pénal international' aspects, the book is, for the most part, fascinating. It covers a very large field and is full of useful details and references that cannot be found elsewhere, including some on national legislation and judgements. However, Belgian legislation is certainly privileged, sometimes to the detriment of other experiences and the

French public and other French speaking countries might therefore be disappointed. For instance, the very interesting part dedicated to universal jurisdiction mainly focuses on international law (including ICJ case law) and Belgian law, neglecting important developments in other countries such as France and Spain. Sometimes, also, one wonders whether the author has quoted the right decision at the right moment: for instance, at page 17, reference is made to a judgment adopted by a South African Court during the Apartheid against a person falling under the Terrorism Act (1962).

The section dedicated to 'droit international pénal' is also tremendously stimulating. In particular, French readers will be very happy to find for the first time in their native language a detailed presentation of the international tribunals and of their procedures. This part, however, suffers from certain lacunae and incoherence that, we hope, will be corrected in the next edition of the volume. The issues relating to 'individual criminal responsibility' are dealt with too rapidly in one sub-section (at 639 et seq.), whereas some other interesting elements are found scattered in other chapters (for instance, on war crimes, developments relating to complicity and to superior responsibility, at 1044 et seq.). The presentation and classification of international crimes is also occasionally rather misleading. The author chose to adopt a typology that does not reflect the statutes of the international criminal tribunals, including the ICC. Thus, genocide, crimes against humanity, war crimes and aggression are not distinguished from other international crimes not included in the jurisdiction of those international institutions. It is also questionable that one can classify crimes of war as crimes which are 'dedicated to the protection of the state'. And why, it must be asked, is there a special section, in the same chapter, on 'crimes against peace and security of humanity', which is the generic expression used by the ILC to cover all the crimes falling

5 under the jurisdiction of international tribunals? Despite those problems, it is certain that this impressive book by Professor Eric David is to be considered as an essential contribution to the study and dissemination of international criminal law in the French speaking world.

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