

FOREWORD

This year – 2010 – the First Review Conference of the Rome Statute of the International Criminal Court (ICC) will be held in Uganda. The Review Conference gives the State Parties to the Rome Statute the opportunity to propose and discuss amendments to the Statute, in order to enhance the work of the ICC. This important event draws renewed attention to the fact that international criminal law in general, and the Rome Statute in particular, are still very much in development.

While immense efforts have been made by international courts and tribunals, most specifically during the past 15 years, to build up a working international criminal justice system, it is apparent that international criminal law should be subject to additional thinking and practice, before it becomes an adequate and fully accepted body of law. Scholarly efforts concerning broader issues, such as the future of international criminal justice and the direction in which international criminal law should be steered, should be encouraged. Further research is also still needed in relation to specific substantive aspects of the law, so as to ensure the best possible foundation for future decisions that will have to be taken in cases before international – and national – courts.

In her book on command responsibility and its applicability to civilian superiors, Maria Nybondas intelligently explores an aspect of international criminal law that has preoccupied the minds of scholars and practitioners for years, not least since the start of the trials before the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. As the principle of command responsibility is now accepted in (many) national Penal Codes, as well as in the Rome Statute, the doctrine will remain a highly important subject in the field of international criminal law. Therefore, the appearance of this thought provoking book is very timely.

What immediately springs to mind when reading this study is that the author does not only analyse command responsibility as an accepted doctrine of international criminal law. She is also concerned with the fundamental question of war – how war can be governed by laws and more specifically how a principle, which is accepted practice by warriors, can be made compatible with presently applicable international criminal justice provisions. Her mission, in which she has succeeded, has been to put forward a thesis and well founded arguments to support the position that command responsibility in international law is, first and foremost, a doctrine applicable to military commanders. The doctrine can provide an effective tool in international and national criminal justice systems, provided that command responsibility is not considered as a wide net to catch the big (civilian) fish on charges of, for instance, the crime of genocide.

In order for the international criminal justice system to become an effective complement to the various national systems, it is of utmost importance that practitioners and academics, both at the international and the national level, are involved in the discussion as to how the law can be improved and the practice enhanced. This book is a useful contribution to that discussion. This study will also be of interest to military officers, not least because it contains an interesting chapter on the issue of command responsibility as a purely military concept. The reader will be reminded of the fact that even an accepted principle of international criminal law should be applied in a way that makes adherence to the rules, in the heat of a conflict, possible. International criminal law and the Rome Statute will become truly effective only when the law is accepted as the law.

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