

Grant Dawson and Sonia Farber, *Forcible Displacement Throughout the Ages: Towards an International Convention for the Prevention and Punishment of the Crime of Forcible Displacement* (Martinus Nijhoff Publishers, 2012) xvi, 198 pp. (Hardback) € 115 ISBN 9789004220546

A large strand of academic research on international law aims at finding simple fixes for complex problems. The value in this is unquestionable when real problems and efficient fixes are identified. The risk is, however, to ignore larger issues and to suggest simplistic solutions.

Grant Dawson's and Sonia Farber's book calls attention to an important set of questions related to forced migration. The authors should be commended for dealing in a single book with questions as diverse as the protection of refugees and internally displaced persons, regulations on development-induced displacement and resettlement, and the international criminal law addressing the crime of forcible displacement. This book includes an interesting overview of ten examples of forcible displacements ranging from the sack of Troy until the Three Gorges Dam, an aperçu of applicable humanitarian and human rights law and a thorough analysis of the jurisprudence of the International Criminal Tribunal for the former Yugoslavia (ICTY) on forced displacement. Less convincingly, it also includes desultory circumvolutions on the aggressive nature of the human (and the killing of the Neanderthals), a disconnected presentation of debates surrounding the reform of the 1951 Convention Relating to the Status of Refugees, and unimpressive references to the protection of humankind endangered by 'global anthropomorphic climate changes' [sic].¹

This book argues that 'it is necessary and timely for the international community to adopt an international instrument that provides a unified legal regime to govern forcible displacement that is flexible enough to encompass the crime in its many conformations'.² This highlights the solution, but the nature of the problem is not evident. As the authors show, international humanitarian law (during armed conflicts) and human rights law (at all times) largely contribute to a general prohibition of forcible displacement. This prohibition is confirmed and reinforced by soft-law instruments relating to specific forms of forcible displacement. Yet it is never a blanket prohibition: multilateral development banks, in particular, have developed complex regulations on development-induced displacement and resettlement. In international criminal law, forcible displacement can be punished as act of genocide and under the heading of either crimes against humanity or war crimes. At most, the authors highlight a risk of inconsistency in the construction of international criminal law by domestic courts and the insufficient deterrence of the International Criminal Court — issues that can hardly be considered as specific to circumstances of forcible displacement.

The authors do not question the political feasibility or the efficiency of the Proposed International Convention on the Prevention and Punishment of the Crime of Forcible Displacement. This instrument would criminalize any 'removal of one or more persons to another location by expulsion or other coercive acts, from an area in which that person or those persons is/are lawfully present, without grounds permitted under international law'.³ This, of

¹ G. Dawson and S. Farber, *Forcible Displacement Throughout the Ages: Towards an International Convention for the Prevention and Punishment of the Crime of Forcible Displacement* (Martinus Nijhoff Publishers, 2012), at 187.

² *Ibid.*, at 173 [sic].

³ See, Art. 2, Proposed Convention on the International on the Prevention and Punishment of the Crime of Forcible Displacement, in *ibid.*, at 178.

course, does not define what is ‘permitted under international law’. The same expression is used in the Rome Statute’s definition of ‘deportation or forcible transfer of population’ as an element of a crime against humanity, but, there, it refers to clear-cut and well-recognized rules under international humanitarian law; by contrast, the circumstances where ‘removal’ is allowed are sometimes quite blur. The reader comes to wonder whether international criminal law should be extended to forcible displacements that do not constitute acts of genocide, crimes against humanity or war crimes. Addressing human rights violations through international criminal law is a tempting yet sometimes dangerous solution. Unlike the Genocide Convention, the authors’ proposal does not extend to state responsibility. Yet, not all human rights violations can be conceived in terms of individual criminal liability: there might not be a sufficient individual involvement or intent. The authors’ suggestion of a special procedure to review state compliance with international criminal law is interesting, but there is no obvious reason why this part of the argument should be circumscribed to a crime of forcible displacement. All in all, the book calls our attention to an important legal issue, but the solution that it suggests are hardly convincing.

Benoît Mayer
PhD candidate, Faculty of Law,
National University of Singapore
bmayer@nus.edu.sg