

**Scalia, D. (2015). *Droit international de la détention. Des droits des prisonniers aux devoirs des Etats*. Basel: Helbing Lichtenhahn.**

A review by Vincent EECHAUDT\*

With his new *oeuvre*, '*droit international de la détention*', Damien Scalia has taken it upon himself to provide an overview of international standards on detention. The author does not wish to limit himself to a simple enumeration though, but equally expresses his intention to analyse said standards and further illustrate them<sup>1</sup>. This is not only a noble but also a dauntingly intensive work considering that in recent decades, the number of international standards and instruments regulating matters on and related to detention, has skyrocketed. One might call Damien's Scalia work a true Sisyphean task when one beholds the sheer number of international standards which try to regulate detention in even more detail. International prison law is moreover continuously evolving, due to existing instruments that get updated<sup>2</sup> or new penological insights or progressive case-law by the European Court of Human Rights. Indeed, there is hardly a lack of international standards on detention and that the challenge rather lies in the implementation and respect of these rules, which varies greatly from country to country and also depends on the judicial nature of a specific standard. While a certain number of these provisions can be legally enforced, the lion share needs to be transformed into national law before detainees may only dream of invoking them (see the difference between hard law and soft law, also referenced to as prison law versus prison policy). The dichotomy between international detention law and practice draws the attention to the added value of organisations such as the European Committee for the Prevention of Torture (CPT) and similar organisations. In addition, it is a continuous reminder that the ratification and implementation of the 2002 Optional Protocol to the Convention Against Torture (OPCAT) should be a priority concern of UN Member States. Such is also the case for Belgium, which has signed the protocol in 2005 but hasn't put it into practice just yet.

The book in itself consists of a unique and broad overview of international standards applicable to detention worldwide. It starts off with a synopsis of the relevant international and regional institutions and organisations and the conventions and recommendations that spring from their work and advocacy. This historical introduction is both relevant and to the point and thus avoids an unnecessary long elaboration. The subsequent chapters each discuss a specific theme (medical care in prisons, order and security, contacts with the outside world, torture and inhuman or degrading treatment, accommodation criteria, etc.) and reflect the obviously thorough research work the author has undertaken. The book thus gives an overview of the legal provisions found in different instruments, often accompanied with historical information, and points out the differences between regional or UN instruments. Particular situations, such as the detention of irregular migrants, are also touched upon. When appropriate, further reflection is made on international standards through sociological findings (e.g. Wacquant, Kaminski and Foucault). Damien Scalia lavishes seemingly effortlessly between the great number of international standards on detention. The book is well structured and the findings are written in a clear way with a fluent pen.

'*Droit international de la détention*' is a marvellous overview of the international law on detention, which has no up-to-date equivalent in French literature. As life in detention has many facets the

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<sup>1</sup> D. Scalia, *Droit international de la détention. Des droits des prisonniers aux devoirs des Etats*, Basel: Helbing Lichtenhahn 2015, p. 9.

<sup>2</sup> For more information on the UN Standard Minimum Rules for the Treatment of Prisoners, currently under revision, see <http://www.penalreform.org/priorities/global-advocacy/standard-minimum-rules>.

author has prioritised certain aspects (torture and inhuman or degrading treatment, overcrowding and health care in prison have received particular attention for example), while other dimensions such as discipline, work, education and religion have been less elaborated. The author urges the reader to open the book on the aspect of detention that carries away his interests as to understand the standards that govern it<sup>3</sup>. Damien Scalia does however not completely pull off his objective as some of the chapters mentioned previously are more of an introductory course on the subject as they lack some detail.

The publication is primarily directed at governments and government's officials, academics and practitioners<sup>4</sup>. While it is certainly useful to the first three groups, it is my opinion that the added value for the latter might be less obvious. The author manages to provide a relevant overview of international standards, a rather thorough 'catalogue of detainee's rights' so to say. It however lacks a hands-on approach and it might not be easy to see how it is to be used for an effective defence of a detainee or how to put said standards into practice in day-to-day life as good practices and comparisons are quite sparsely distributed. Be that as it may, this monograph should be very welcomed. The remarks set out do not prejudice the research undertaken: this is a book of reference and should be the first place to look when one is interested in detention conditions and the international standards that govern it, especially when doing academic research. The relevant and well-thought overview of international detention law the author provides might then be an impetus to delve deeper into a certain facet. Highly recommended.

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<sup>3</sup> D. Scalia, *Op. Cit.*, p. 9.

<sup>4</sup> *Ibid.*, p. 9.