Chapter Seven

International Organisations and International Human Rights Law: One Giant Leap for Humankind

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[A]n international organisation . . . is not a native, but nor is it a visitor from abroad. It comes from the invisible depths of outer space.1

International organisations are not aliens, despite the above comment by a senior judge. Yet they are often treated as strange, or even invisible, and hence outside much of the international legal system. Despite the significant growth of international organisations over the past century, some significant international legal decisions and the increasing literature about the law of international organisations,2 there are aspects of their activities that remain unclear in terms of their legal effect. In particular, the international legal responsibility of international organisations for violations of international human rights law is still contentious.

* Director of the British Institute of International and Comparative Law; Professor of International Law and Human Rights at the University of Nottingham. I am very grateful for the research work of Gwyneth Williams. It is my pleasure to be part of the volume in honour of Professor Colin Warbrick. He has been a wonderful example of an international lawyer who is unafraid to challenge current ways of thinking, of whatever philosophical persuasion. This chapter was completed in early 2008.

1 Per Lord Donaldson MR in Arab Monetary Fund v Hashim (No. 3) [1990] 2 All ER 769, at p. 775.

This chapter aims to consider the extent to which international organisations have international legal responsibilities under international human rights law. It will demonstrate the link between international legal personality rights with international legal responsibilities, and then examine the extent of those responsibilities of international organisations in regard to human rights. It is evident that international organisations have for many years acted in ways that impact very negatively on human rights in a range of their activities, from peace-keeping and refugee action, to economic assistance. Yet, mainly due to the nature of an international legal system, which is essentially State-focused especially within international human rights law, there has been no coherent response to this impact of international organisations on human rights in terms of international legal responsibility.

In this chapter, the term ‘international organisation’ (or ‘organization’) is used to refer to intergovernmental organisations with the following characteristics:

(a) its membership must be composed of States and/or other international organisations;
(b) it must be established by treaty;
(c) it must have an autonomous will distinct from that of its members and be vested with legal personality; and
(d) it must be capable of adopting norms addressed to its members.

Others expand on these characteristics of an international organisation, such as the need to possess a constitution and have organs separate from its member States. The examples that will be used here in relation to international human rights law will generally relate to those international organisations that have a global membership, such as the United Nations (UN) and its agencies, and the major international financial institutions, being the World Bank and International Monetary Fund (IMF), with some occasional reflection in relation

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4 See Article 2 (1) (i) of the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, 1986.


7 See discussion of the link of the UN with the International Monetary Fund (IMF) and