Book Review

Maurizio Ragazzi (ed.)
Responsibility of International Organizations: Essays in Memory of Sir Ian Brownlie
(Leiden, Martinus Nijhoff, 2013)

Academic research is increasingly subjected to design and steering. On some level, this makes sense: funding agencies want to see results and get their money’s worth, and publishers too are keen to get a return on their investment. And yet, sometimes it pays just to enlist a bunch of good people and let them do what they are good at: with the right mix of people, the end result can be very good indeed, as the book under review testifies.

Editor Maurizio Ragazzi, a former Senior Counsel at the World Bank and perhaps best known academically for his work on erga omnes obligations,1 approached a number of international lawyers to write on the responsibility of international organizations just when the International Law Commission (‘ILC’) was finishing its project on the topic, and their only instruction was to limit themselves to some 5000 words. Admittedly, the resulting collection could have failed miserably; but fortunately, and in large part because Ragazzi approached the right people in a felicitous mix of scholars and practitioners, Responsibility of International Organizations has become a very useful volume on an important topic, coming as close to a ‘state of the art’ as could legitimately have been expected.

The imposed limit of 5000 words could have resulted in superficiality and shallowness; and, needless to say, one or two of the contributions do not escape this description. The good news however is that it also prevented authors from going deeply into the exegesis of the ILC’s recently adopted articles, a text which has seen little practical application, thus preventing them from indulging

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1 See Maurizio Ragazzi, The Concept of International Obligations Erga Omnes (Clarendon Press, Oxford, 1997). This work is a revised doctoral thesis written under supervision of Sir Ian Brownlie, which helps explain why the current volume is dedicated to Sir Ian’s memory.
in speculation based on grammar and syntax rather than practice or real life concerns.

The 34 contributions are grouped under four headings, with five pieces devoted to whether the ILC’s work represents codification of progressive development; nine papers dedicated to assessing the ILC’s working method, in particular its borrowing from the articles on state responsibility adopted a decade earlier; another nine contributions from particular perspectives (in particular from various organizations); and a final eleven articles on responsibility and member States, counter-measures, and issues related to the use of force by international organizations.

Several common threads arise from the various contributions. Some of these will be obvious. Thus, given the fact that there simply was not all that much underlying practice, the ILC articles lack a firm mooring in practice, and are not expected to become overly influential or crystallize into customary international law. That said, it is also to be expected that the articles will assume some prominence simply by default: in the absence of any other authoritative source material, anyone talking about international organizations will sooner or later come to refer to the Articles on the Responsibility of International Organizations (‘ARIO’). It is no coincidence that the ARI0 have already been referred to before domestic courts and the European Court of Human Rights: not because the ARI0 are brilliant and on target, but simply because there is little else to refer to.2 If the proof of the pudding is often said to be in the eating, here the pudding and the eating are inseparable.

Another common theme, and again no surprise for those who have followed the discussions even from considerable distance, is the lament that organizations differ substantively in their structures and in particular in their operations, and thus a one-size-fits-all regime simply will not work. As a result, many of the contributions place great emphasis on Article 64, the lex specialis provision: it is precisely this provision, so the general opinion holds, that allows for more tailor-made solutions covering the unique features and characteristics of individual organizations.

That said, while the lament concerning the one-size-fits-all starting point makes eminent sense, it does so in a way that is not all that relevant. It is, admittedly, the case that the European Union (‘EU’) has little in common with UNICEF, or that the World Bank’s activities have little in common with those of the European University Institute, or that the Organization of Islamic

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