BOOK REVIEW


Having myself worked on a doctoral thesis on the topic of powers of organizations for some time (too much time, as my supervisor would say), I was delighted when Sarooshi’s book was published. There is not too much conceptualising work on powers of organizations around to begin with, and Sarooshi’s book assured me that I was not alone with an interest in such a task. I got even more enthusiastic when I first opened up the book, and found in the very first pages thoughts about the “contested” character of legal concepts and the idea that legal notions essentially express certain values. This indicated a rejection of an overly formal image of law that earlier conceptualising attempts have displayed – an idea that has inspired me as well.¹

Sarooshi’s interest in what he calls “sovereign powers” of organizations concerns different kinds of conferrals of powers on organizations and the legal circumstances that attach to these conferrals. The goal is to gain conceptual clarity on how conferrals of powers work, on the differences between different types of conferrals, and on the consequences that conferrals have – for example, regarding the issue of responsibility. The question at the heart of it all is “what sovereign values should international organizations seek to achieve and use when they exercise sovereign powers” (p. 2). The problem is that values may come to conflict. This occurs when the sovereign powers that an organization exercises do not coincide with the values of a member (or members). In such a case, it becomes important that states have avenues for contesting the conferral.

The book basically consists of three parts. The main issue in chapters 1 and 2 is defining the concept of “sovereignty”. Here Sarooshi sets forth his idea of organizations as fora for contestation of national conceptions of sovereignty. The entire book is built around this idea. Sarooshi clearly wants to reject an overly formal conception of sovereignty. The contents of the concept, he observes, cannot be grasped through a focus on legal provisions and obligations. Instead,

¹ Some very early and tentative reflections on one of the concepts which I deal with in the doctoral thesis can be found in Viljam Engström, “Implied Powers of International Organizations: On the Character of a Legal Doctrine”, in XIV Finnish Yearbook of International Law 2003, 129-157.
he starts off his analysis of the concept with the nowadays so popular image (at least among legal writers) of “contested concepts” in order to demonstrate that there can be no abstract content to the sovereignty notion. Sovereignty essentially expresses certain values (such as freedom, autonomy, and equality). This insight has two consequences. On the one hand, it means that the idea of a shared definition of sovereignty becomes problematic. On the other hand, the “contested” character is also the beauty of the concept, as it means that a broad range of values can be captured in the use of it. This also leads Sarooshi to conclude that although cooperation in organizations might seem to contradict the idea of safeguarding national sovereignty, the notion is nevertheless viable and can serve as an argument through which both members and the organization can present their claims.

From this it naturally follows that the sovereignty notion can come to express conflicting claims. Contradiction is even likely, as the concept is subject to constant redefinition. Such conflicts, for example, concern issues of what powers government (or an organization) is to exercise, and how. These questions, Sarooshi claims, are at the heart of discussions on the nature of sovereignty at both the national and the international levels. These debates on and challenges to meanings of the concept are what he calls the contestation of sovereignty. Sarooshi pictures organizations as performing an important function in that they serve as a forum for contesting conceptions of sovereignty. Organizations can, in this respect, even perform a function “transcendental to the state”. Whether the “sovereign values” of organizations are contested in practice depends on both formal preconditions (available avenues for contesting the organization) and on practical capacities (powerful states have better chances of succeeding). Above all, it depends on the character of the conferral by which powers are attributed to the organization.

This leads to the main body of the book (chapters 3-6), which contains a typology of three categories. These categories – agency relationships, delegations of powers, and transfers of powers – serve to express a difference in the degree to which states have conferred powers on organizations. The distinction that the typology takes hold of is the revocability of powers, and thus the degree of state control that can be exercised upon the conferral of powers (or in other words, the concurrent or exclusive character of the powers). The general argument is that whereas states at one end of the spectrum basically are in control and powers are concurrent, at the other end powers generally are irrevocable.

In the case of agency, the consensual basis of the legal relationship between the state and the agent means that the relationship is revocable. A state can decide at any time whether the agent should continue to act on its behalf. Interestingly,