BOOK REVIEW

The Links between the Responsibility of International Organizations and the Quest towards a More Reasonable and Humane International Legal System

José Manuel Cortés Martín, *Las Organizaciones Internacionales: Codificación y Desarrollo Progresivo de su Responsabilidad Internacional* [International Organizations: Codification and Progressive Development of their International Responsibility] (Instituto Andaluz de Administración Pública, Spain, 2008)

The subject of the regulation of the responsibility of international organizations arouses the interest of scholars and practitioners nowadays, as demonstrated by the works of the International Law Commission and numerous articles and books devoted to its study. This attention is warranted: the fact that international organizations are important players in the world society and have the potential to affect the protection of international legal goods merits attention in order to regulate their conduct. Otherwise, just as law has an expressive function and can impact on the modification of attitudes of non-state actors, absence of regulation and acknowledgment of their liability may seem to endorse misdeeds attributable to them because, as has been acknowledged in international case-law, impunity fosters repetition of violations.

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2) See Case of the “Mapiripán Massacre” v. Colombia, 15 September 2005, Inter-American Court of Human Rights, para. 238.
Moreover, from a practical standpoint, a legal system in which the position of individuals is central, something necessary once we realize that individuals may be directly or indirectly affected by norms addressed at other actors, cannot endorse a deficient system where the secondary rules on the responsibility of international organizations are unclear, something that besides being contrary to the horizontal effects of human rights law would run counter to the foreseeability and predictability requirements that are so dear to a legal system. A second issue is connected with this: whether secondary rules are clear or not, the impossibility of bringing claims against international organizations may lead to situations in which victims of unlawful acts or omissions attributable to these non-state actors are unable to have remedies or to further the clarification of responsibility norms.

Even though, as Andrew Clapham points out, the lack of procedures by means of which obligations can be enforced does not in itself reveal the inexistence of such obligations, their design is essential in order to further the rule of law and increase the likelihood of enforcing the duties of international organizations because, in the opinion of Harold Koh, negative incentives are mechanisms that may influence norm compliance. In fact, the possibility of the European Union acceding to the European Convention on Human Rights and Fundamental Freedoms answers to this social necessity and arises from the necessity of addressing the factual possibility of violations being traced to international organizations.


5) See Andrew Clapham, Human Rights Obligations of Non-State Actors (Oxford University Press, 2006), pp. 74–75
