Spanish Literature in the Fields of Public and Private International Law, European Community Law, International Relations and Related Matters, 2009

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PUBLIC INTERNATIONAL LAW AND RELATED MATTERS

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1. Monographs, Essays, Treaties and Handbooks


CASADO RAIGÓN, R., La formación histórica del derecho internacional, [Historical Formation of International Law], Copisterías Don Folio, S.L., Córdoba, 2009, 70 p.

The subject of the regulation of the responsibility of International Organizations (hereinafter, IOs) arouses the interest of scholars and practitioners nowadays, as demonstrated by the works of the Commission of International Law and numerous articles dealing with it. In spite of its undeniable importance and actuality, a book devoted to the responsibility of these actors could risk being too simplistic if its scope is limited to a mere repetition of what the Commission is considering currently. However, this is not the case with the book written by professor José Manuel Cortés.

Certainly, José M. Cortés tackles a very complicated field by taking into account the goals and purposes to be pursued by a regulation on the responsibility of International Organizations and not ignoring the many contentious issues it encompasses. This being said, one of the greatest strengths of the book being reviewed is that, to my mind, far from being a mere compilation it is an analytic work that addresses what I consider are four pillars that sustain the whole edifice of the responsibility of International Organizations. Such foundations are:

First of all, José Manuel Cortés explicitly acknowledges that in the international legal field there is currently a policy and legal trend aimed at holding the various actors who violate international law accountable. The author sustains this idea by referring to the recent evolution of international criminal law, for instance, and the idea of effectively deterring breaches to international norms, which are to be clearly labeled as such even when they are not committed by States, the traditional actors of international law. Most interestingly, regarding this, is the mention in some parts of the book of the idea of some other authors according to which international legal personality is ultimately a doctrinal notion that ought to fulfill a pedagogic purpose, which means that it cannot prove to be a hindrance to the eradication of impunity, which is a goal in the aforementioned trend towards accountability of offenders, irrespective of whether they are State or non-state actors.

The distinction between the previous two categories of actors leads us to the second foundation of the accountability of international organizations that is taken into account in the book being reviewed: it must be acknowledged that the draft norms on the responsibility of States for wrongful acts must be kept in mind as an example when analyzing how the regulation of the responsibility of international organizations can be regulated. However, according to the author, while in general terms and in some cases this may be so, there are specificities and particular features of the nature of the entities that International Organizations are, which demand for specialized and differentiated norms that somehow resemble but deviate from the rules on the responsibility of States, which are useful merely as a methodological example on the future rules on the responsibility of Organizations, although it is also important to establish completely new rules that attend to the nature of International Organizations, whose design was not necessary or appropriate for regulating actors with different features, i.e. States.

I cannot but subscribe to this analysis as well. In fact, the notion of *lex specialis* is long established in international law, and in the same way as the draft articles on the responsibility of States state that some branches of international law may have