

Book Review

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The United Nations Charter as a Legal Foundation

by: Miltiadis C. Sarigiannidis

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The first observation that is worth mentioning about the work of Dr. Sarigiannidis entitled *The United Nations Charter as a Legal Foundation* is that it is a monograph using elegantly the Greek language. Beyond this, it also reflects the overall culture of the author in all of its aspects. The quality of his education allows him both to evade the monolithic positivist analyses (which is a common path taken by many Greek and non-Greek authors) and to use it with competence and temperance in the structuring of his legal argumentation. Judging from the substance of this work, I would classify the author in the ‘sociological school’ of international law scholars; i.e., scientists who develop international law theory by taking into consideration, in addition to legal parameters, extra-legal aspects of a political and sociological nature.

Dr. Sarigiannidis’ monograph appears at a historical moment where major changes are taking place in the global political system. The demise of the communist bloc and the entry of most of the former socialist countries into the once rival camp, along with the relative weakening of the power of the Russian Federation (the core of the former USSR), together with the emergence of new actors (Brazil, China, and India among others), have started to produce a significant impact on the functioning of the international political and legal order. Although the classical decentralised nature of the international community had already undergone a certain degree of erosion well before the end of the ‘roaring’ ‘80s, centralisation of international decision making has been increasing over recent years, while the number of the basic actors of the international system (i.e., states that decisively influence the formation of the rules that govern the functioning of the international system) have multiplied. Likewise, the sources from which major international decisions emanate have been altered, through the addition of new centres of decision making, which, sometimes are more flexible than the traditional ones, and proved to be capable to incorporate new members without significant formalities. The G-8 and the G-20 serve as typical examples of such formations, where major issues like the international political economy are addressed, discussed, and sometimes resolved.

However, the traditional sources from which central political orientations emanate have not lost their primordial importance. The international, ecumenical and regional organisations are still the leading protagonists in collective decision making, and they

continue to have a direct impact on all major political issues of a primary concern of the international community. The panoply of mechanisms that they dispose (political and judicial), allows them to settle issues, which require, by their nature, formality and a certain degree of clarity and certainty, which testifies their acceptance by the international community.

This general picture I have just presented is the canvas on which Dr. Sarigiannidis has built his analyses in his extremely interesting monograph. It is a monograph that reiterates the obvious, namely that the UN Charter plays the role of a guarantor of the fundamental principles and values of the international community, and from that point of view, can be considered as an “equivalent to national constitutions” (p.260). The chapter entitled ‘A narrative about the organisation of the international society’ provides valuable historical information about the evolution of the international community towards centralisation and aptly describes its gradual transformation into a society bound by the rule of law. In the second chapter of his work ‘The Constitutional Nature of the Charter’, the UN Charter is compared to national constitutions and it bears the equivalent function of fundamental laws within states. The analysis is flexible, as the author provisionally accepts the *prima facie* resemblance of the international and domestic legal orders, and then he rescinds it, underlying the disparities between the conditions that govern on the one hand the national and on the other the international order. In the third chapter entitled ‘The UN Legal Personality’, the fourth ‘The UN Powers’ and finally the sixth ‘The UN and the Rule of Law’, the author moves to in depth analyses on specific aspects of the UN system. Although these chapters could stand individually as monographs, they contribute, as a whole, to the consolidation of the main argument. Mostly, they contribute to the clarification of the exact role of the UN, the centralisation of the international system, the allocation of basic responsibilities among the UN organs (General Assembly, Security Council and the International Court of Justice), which have organisational patterns that do not necessarily resemble domestic institutions, and they do not coincide with the traditional perception about the separation of powers. This does not mean that the author limits himself to a simple mapping of the current ‘state of affairs’; a choice that would have downgraded the impact of his work to the level of a *de lege lata* textbook. On the contrary, he enriches his analysis with critical observations and proposals revolving around the argument that there is a need of an increased role for the UN to serve more efficiently the application of international law, and the constitutionalisation of the international system on the basis of generally accepted values and principles.

There is no doubt that Dr. Sarigiannidis’ monograph is an important contribution to a literature that is continuously being enriched; a normal consequence of the rapid changes that are taking place in international law, and the law of international organisations. This field of study has been developed as the domain of an academic confrontation between eminent scholars of international law. Although Dr. Sarigiannidis is a newcomer in this academic arena, where sacred monsters of the doctrine of international law have already preempted the field, still, with the quality of his work, he succeeds to survive. Dr. Sarigiannidis manages the topic in his own way, and succeeds in aptly presenting his own choices for this wide, and sometimes chaotic subject, providing original conclusions and enriching the way we perceive the UN Charter. The only criticism that could possibly be exerted upon this monograph, is its thematic diffusion over a variety of topics; although these topics are relevant and necessary to the completion of the author’s

intellectual venture, they sometimes suffer the inevitable imperfection caused by their textual stacking; since as I have already noticed, each one of these topics could stand as an autonomous monographic work.

However, this critical observation does not alter the significance of the overall contribution of this monograph to the literature on international law and international organisation. Finally, the fact that Dr. Sarigiannidis' monograph relies upon exhaustive research, and the skilful use of a huge number of sources both in the main text and the footnotes (the latter contain a wealth of knowledge and personal thoughts that deserve to be studied as an integral part of the main text) is an aspect of this work that none should overlook.