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Frederic Mégret, Philip Alston (eds.), *The United Nations and Human Rights: A Critical Appraisal*, 2nd ed., Oxford University Press, Oxford: 2020, pp. 752

ISBN: 978-0-19-829837-3

Almost three decades have passed since the first edition of this volume.¹ To say that “a lot has changed since then” in the institutional framework of the United Nations’ (UN) human rights system would be an understatement. The first edition was published shortly before the Vienna World Conference on Human Rights (1993) and not long after significant political turmoil in Europe in the early 1990s. A major shift came with the replacement of the Commission on Human Rights with the Human Rights Council (HRC) in 2006, but the list of new developments in the universal system of human rights as of 2020, both in the normative and structural senses, is quite longer. The editors of the book were Philip Alston, a well-recognized expert in human rights law and currently a professor at New York University School of Law, and Frédéric Mégret, also a distinguished human rights law scholar, Co-director of Centre for Human Rights and Legal Pluralism and professor at the Faculty of Law, McGill University in Montreal. In the introduction to the book the editors admitted that the idea of a second edition had been in the air soon after the book was first published in the 1990s. This was reiterated by P. Alston during an on-line panel discussion promoting the second edition, organized by the Geneva Academy of International Humanitarian Law and Human Rights in October 2020.² Whatever the reasons for this time span between both editions, it is great to see such an in-depth and meticulous analysis of the UN human rights system, evaluated with expertise and up-to-date as of 2020. The list of authors of chapters in the second edition has changed almost completely, but the approach has remained the same: an analysis and critical evaluation of the UN human rights “regime” through institutional lenses.

Even for insiders, the variety of organs, committees, commissions and procedures functioning in the system might seem overwhelming. Thus the effort to critically analyse

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¹ P. Alston (ed.), *United Nations and Human Rights*, Oxford University Press, Oxford: 1992.

² The video of the event is available at: <https://youtu.be/TbVtXIaQTe8> (accessed 30 May 2021).

the institutional arrangements of the UN human rights system and draw conclusions should be greatly appreciated, especially because it has been done in such an orderly and clear fashion. In the introductory chapter P. Alston and F. Mégret provide a comprehensive reflection on the condition of the system, while highlighting tensions between human rights as a “project” and their institutionalization within the UN. They acknowledge that the system is sometimes accused of being too technocratic and politicised, but they encourage readers to take a broader view and not jump to conclusions. Understanding how human rights are tackled within the UN requires much more than just an overview of the competences of the major bodies with mandates in the human rights sphere. Alston and Mégret discuss the broad “trajectory” of human rights at the UN since the beginning of the organization, and bring to the readers’ attention the evolution of the institutional arrangements in subsequent decades. They also introduce the methodological framework, i.e. the criteria of evaluation and relevant benchmarks, which are presumed to guide the further chapters of the book.

The editors have retained the useful and long-established distinction between Charter-based and treaty-based organs. They note that while the former are typically considered as more inter-governmental and policy-oriented, and the latter as expert-focused and legal, these features sometimes blend together. One could even argue that some bodies do not fit into any of these categories. For instance, the special procedures (special rapporteurs and working groups) derive their mandates from the resolutions of the HRC, which itself was founded on the basis of a resolution of the UN General Assembly (60/251). While the UN Charter remains a pivotal point of reference in all the activities of the UN organs and entities, to argue that the special procedures of the HRC are Charter-based might however be a bit of an overstretch.

The first part includes four chapters on the human rights-related activities of the principal organs of the UN (the Security Council, the General Assembly, the Economic and Social Council, and the International Court of Justice). The Trusteeship Council was left out given its contemporary idle status. The second part is focused on subsidiary human rights organs and takes a closer look at the Human Rights Council, the Advisory Committee of the HRC, the Commission on the Status of Women, and the Permanent Forum of Indigenous Rights. Part III covers almost a half of the book (pp. 309-664) and systematically deals with the organs monitoring treaty compliance, i.e. the treaty committees, as well as the issue of the reform of the UN human rights treaty bodies system. The last part of the book includes two final chapters: on the High Commissioner for Human Rights; and the coordination of matters related with human rights within the UN system.

As regards the first part of the book it is noteworthy that a chapter on the Security Council was included, since more often than not the activities and agenda of this principal UN organ are commented upon solely through the prism of its tasks explicitly defined in the UN Charter, in particular the Council’s primary responsibility for the maintenance of international peace and security. The chapter, authored by F. Mégret, starts with an observation that “the Security Council may be the least obvious organ

within the United Nations to have a human rights role, yet it may also be one of those that can make a difference – both positive and negative – when it comes to upholding of human rights standards internationally” (p. 39). Be that as it may, there is no doubt that the role of the Security Council was duly included and examined in the context of the UN human rights system. The following chapters of the first part, dealing with the General Assembly, ECOSOC and the International Court of Justice, are also first-rate in that they provide a very informed analysis and overview of how human rights are present in these organs’ activities. For a reader interested in general international law, the chapter on the International Court of Justice and its human rights-related case law, authored by Bruno Simma, will be of particular interest.

The second part is entitled “Subsidiary human rights organs,” although that is not necessarily an official term used to denote all the bodies examined under this heading. This part starts with a chapter on the HRC, which is obviously central to the UN human rights system as such. The main mechanism of the HRC, i.e. the Universal Periodic Review, and the special procedures, are duly taken into account, although it could be argued that the latter would deserve a bit more space or even a separate chapter, given their multiplicity and roles. The chapters on the Advisory Committee to the HRC, the Commission on the Status of Women, and the Permanent Forum on Indigenous Issues provide many valuable insights. It should be noted however that there are several more subsidiary expert mechanisms of the HRC which were not included, such as the Forum on Business and Human Rights, the Forum on Minority Issues, or the Forum on Human Rights, Democracy and the Rule of Law.

It has been already mentioned that the third part of the book on the organs monitoring treaty compliance is voluminous as compared to the other parts, but this is fully understandable. Skipping any of the nine (or ten when including the Subcommittee for the Prevention of Torture) treaty committees would seem inapposite, and it is no surprise that this part takes every single committee on-board, starting with the oldest, i.e. the Committee on the Elimination of Racial Discrimination, and methodically analysing the activities of the others: the Human Rights Committee; the Committee on the Elimination of Discrimination Against Women; the Committee on Economic, Social and Cultural Rights; the Committee against Torture and the Subcommittee for the Prevention of Torture; the Committee on the Rights of the Child; the Committee on the Rights of Persons with Disabilities; the Committee on Enforced Disappearances; and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The discussion on whether the system needs that many human rights committees is a long one, and so is the debate on how to improve their functioning. These issues are taken up in the last chapter of part III, authored by S. Egan (pp. 645-664). The performance of treaty bodies has been constantly reviewed, both within the UN itself (cf. the reports of the Secretary General submitted in accordance with the General Assembly resolution 68/268) and by external stakeholders. Where these reviews and discussions on reform lead is a complex question and S. Egan concedes that there is no “silver

bullet” to solve the dilemmas around the UN treaty bodies system. One could add that as long as some modifications to the core human rights treaties are off the table (as seems to be the case), the scope of possible improvements to the system is quite restricted. And introducing amendments to the core UN human rights treaties appears to be a diplomatic and legal nightmare. But this does not mean that the situation is hopeless, since much can be done through changes not requiring amendments to the treaties. It remains to be seen however whether the UN member states and the UN itself are sufficiently determined to continue the debate on the reform of the treaty bodies and achieve some tangible results.

The last part of the book under review encompasses just two chapters under a *chapeau* of human rights governance: one on the role of the High Commissioner for Human Rights (A. Clapham) and the other on human rights co-ordination within the UN system (G. Minet). These are very important issues and both chapters facilitate insights into how the human rights agenda is streamlined and managed throughout the Organization.

P. Alston and F. Mégret observed that “there is a tendency for those assessing the UN’s human rights record to be either highly congratulatory or entirely dismissive. Many of those who work within the system tend to adopt the former approach and seem never to tire of citing its many institutional and procedural achievements as evidence that there has been great progress in terms of respect for human rights. (...) The opposite approach is sometimes adopted by critics” (p. 34). This observation duly reflects the *status quo* when it comes to evaluation of the UN human rights system. Judging by the number of mechanisms and procedures or the bulk of treaty and non-treaty standards, the system could be considered as a story of success. On the other hand, it is obvious that there have been and are many shortcomings, and the overall picture is far from being perfect. At the end of the day, it is the degree of states’ compliance with their human rights obligations, as well as the effectiveness of the monitoring and controlling mechanisms which could serve as more reliable indicators of “where we are” with respect to the UN human rights agenda.

What we learn from this book edited by P. Alston and F. Mégret is that the developments of the last thirty years were significant (if not revolutionary), and that many Charter-based and treaty-based organs used their mandates efficiently to move the cause forward. But there is certainly no reason to consider the UN human rights system as a flawless achievement of the Organization. Much effort has been put into introducing and maintaining the instruments of international monitoring and control as regards human rights obligations. However, the condition of the UN human rights system will inevitably depend on the degree of states’ commitment and their readiness to take their obligations seriously.