

mit dem nicht unproblematischen und immerhin im Untertitel der Untersuchung firmierenden Begriff des völkerrechtlichen »Standards«. Insgesamt aber handelt es sich um eine Arbeit, die nicht nur durch ihren Materialreichtum besticht, sondern obendrein eine sehr lesenswerte Einführung in Entwicklung und Stand des Wirtschaftsvölkerrechtes bietet.

Marco Núñez-Müller

Douglas Williams

The Specialized Agencies and the United Nations. The System in Crisis

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Recent progress of the United Nations Organization in some of the most delicate world conflicts – e. g. by gradually loosening ‘petrified’ positions between Iran and Iraq, Angola and South Africa, or, last but not least, between Morocco and the Saharan Arab Democratic Republic – receives and deserves broad respect. However, even considerable hope for lasting improvements does not provide full compensation for the fact that no final solution has been found for any of these very complicated issues, yet. Moreover, statements given in view of such positive developments in the area of peace and security, as striking as they may be, are without value, if they are torn out of the context of the overall crisis of the UN institutions. The latter is true, e. g., for the idea that the United States may now be willing to pay that share of their contributions to the budget of the United Nations and its specialized agencies, which they have withheld since 1985.

The malaise of the United Nations and its specialized agencies throughout their history has been the subject of the meetings of an informal study group of diplomats and lecturers in international relations in 1985 and 1986 at Dartington College, Devonshire. This study has been written on behalf of the group by one of its members and published in co-operation with the David Davies Memorial Institute of International Studies. It summarizes the reflections and views presented there, and it is aimed at contributing to the debate about the UN System.

Since the United Nations has developed, over the decades, to become not only a global, but an extremely complicated system, it is well worth the effort of the author to draw, at the outset, a rough scheme of the nineteen existing UN specialized agencies and their relationship to the organs of the United Nations. Three aspects reflect the value of his historical approach: Firstly, Williams points out that the origin of the system of specialized agencies dates back to 1865, 1873 and 1875, when the international organizations for telecommunication, meteorology and postal services were created to serve purely technical purposes. Thus two important characteristics of the UN specialized agencies, their functional objectives and their independent organizational structure, are both part of a tradi-

tion older than the two world organizations themselves. Secondly, it becomes clear that one of the main reasons the League of Nations did not contribute to the advancement of the functional organizations was that it concentrated its efforts mainly on major political issues. Due to this lack of effectiveness in international technical cooperation, the founding nations of the UN, in their effort to reconstruct the system of international organizations after World War II, defined the relationship between the main political organs of the United Nations and the UN specialized agencies, as a decentralized, polycentric one: a system characterized by the agencies' autonomy. They had learned that a centralized direction of the activities of all agencies on a global scale, as had been provided for in Article 24 of the League of Nations Covenant, would not promote functional co-operation and progress. Therefore, thirdly, the UN Economic and Social Council (ECOSOC) was formed, in Chapter X of the UN Charter, merely as a co-ordinating body with limited powers of supervision. In particular, the agencies, which are defined in Article 57 of the Charter, »shall be brought into relationship with the UN by virtue of agreements with the Economic and Social Council as prescribed in Article 63 of the Charter« as Article 57 further provides. Under these agreements, the agencies undertake to submit regular reports to ECOSOC (Article 64 UN Charter), to enact similar staff rules, to send representatives to each others' meetings and to exchange information. The autonomy of the specialized agencies is underlined by the fact that they are not bound by the resolutions of the General Assembly.¹

In his outline of the evolution of the modern specialized agencies, Williams also pays respect to the general functioning of the various agencies under the present system. By classifying the different organizations and distinguishing them from the organs and programmes related to ECOSOC, such as UNCTAD, UNDP, WFP, UNICEF, and UNEP, the author manages to give a broad overview over the specialized agencies without ignoring their distinct, partly contrasting features. The first group Williams calls »the Big Five« consists of the UNESCO, the FAO, the WHO, the ILO and the UNIDO and is characterized by a close link between their functions in the economic and social field and their political relevance. This makes them susceptible to internal controversies about the limits of their mandates and their competences. the so-called politicization. The second group, which was historically first and which resembles the original specialized agencies with functional purposes, includes, such organizations as the ITU, the IAEA and the IMO. The third group, finally, is formed by the »economic« or »Bretton Woods« organizations, although the latter name would be misleading in the case of the IFAD, which joined the IMF, the IBRD (with the IDA and the IFC) and the GATT in this group in 1977.

Well-equipped with insight into the historical roots of to-day's difficulties and the evolution of the existing system of co-ordination, the reader is introduced to the various at-

1 On the influence of the UN General Assembly on the specialized agencies cf. a very recent doctoral thesis by Rudolf von Hanstein, *Der Einfluß der Vereinten Nationen auf die Sonderorganisationen – Anspruch und Wirklichkeit*, which will be reviewed in one of the coming volumes of VRÜ.

tempts to reform the United Nations system. Neither the Study of the Capacity of the United Nations Development System of 1969 (Jackson Report) nor General Assembly Resolution 32/197 of 1977 (Restructuring Resolution) removed the widespread dissatisfaction about the lack of control of the UN bodies over the agencies. Whereas the Jackson Report went so far as to recommend *inter alia* that the UNDP should become the »hub« of the future system's development work, while ECOSOC should be strengthened to become a »one-world parliament«, the Restructuring Resolution proposed changes on a much smaller scale, as the revitalization of ECOSOC debates, the appointment of resident country co-ordinators, and the forming of an office of Director-General for Development and International Economic Co-operation at the UN headquarters. Williams' conclusion from these attempts is that system-wide reform is more difficult to realize than change within single organizations. Secondly, that the support of the capitals of the member nations is necessary for lasting changes.

One thought which follows from the evolution of the system should be added at this point: There have been good reasons for constructing a system of autonomous and specialized organizations, and their diversity does not only stand for ineffectiveness caused by overlapping activities, but also for separation of power through decentralization. If, today, it is true that the problems of the United Nations do not pertain to every part of the system, this also proves that the decentralization of the system is effective. Of course, there is little need today to take precautions against a monolithic world organization controlling all economic and political world affairs. Yet, nevertheless, it must be clear that not decentralization is the problem, but poor co-ordination of autonomous entities. The importance of the attitude of UN member governments towards fundamental and global changes, which Williams mentions, is stressed by a very recent example – which is, to some degree, far-fetched and differently structured: The community of nations called for an overall solution for the law of the sea, a package deal, but does not seem to be ready yet to accept the result with all its consequences. The reluctance of many nations to sign or, respectively, ratify the Montego Bay Convention of 1982 gives reason to doubt the sincerity of the frequent demands of governments for an overall reform in other areas of the international system.

Since the Bertrand Report on Reform of the United Nations was published at a late stage of this book, Williams reviews it only briefly. Bertrand's suggestions include *inter alia* the establishment of an Economic Security Council heading an »economic United Nations«, thus a slow transition towards a structure comparable to that of the European Community rather than that of the present UN Secretariat. Williams expects that those ideas would find little attention. Fortunately, he was wrong in this case: The report revitalized the discussion on a fundamental reform of the UN system. A group of financial experts, the »group of 18«, of which M. Bertrand was a member, has been entrusted with making proposals for system-wide reform (UN Doc. A/40/237 of 1985) and has submitted a list of 71 precise suggestions which do not require a revision of the UN Charter (A/41/49 of 1986). Presently, a Special Commission of the ECOSOC is continuing the stu-

dies of the »United Nations Intergovernmental Structure and Functions in the Economic and Social Fields« (E/1987/112). Bertrand's Report has often been cited, since, however mostly for his survey of the weaknesses of the UN system, not for his proposals: A revision of the Charter is, indeed, highly unrealistic at the present stage, and the council-commission structure he suggests for the UN is even criticized within the EC.

In spite of all these recent approaches to reform the UN system Williams could not foresee, the perspectives of the existing problems of the system he reviews are still valuable. As mentioned in the beginning, the withholding of the US contributions to the UN budget due to the Kassebaum Amendment and the Gramm-Rudman-Act of 1985, on the level of international law, have to be seen in the context of the system's defects. The Kassebaum Amendment intends to force the UN to introduce reform, especially to resort to weighted voting in budgetary matters. Indeed, as Appendix A of Williams' book clearly shows, the US contributions to the UN and the specialized agencies have been extensive in relative and absolute terms. It is for this reason that the success of the Secretary General in matters of international peace and security mentioned above, by itself, will not have any influence on the US position towards its budget contributions. However, the steps taken towards reform since the Bertrand Report has been published could easily be of relevance for efforts to change the attitude within the United States towards the United Nations Organization.

Another issue is important in the same respect: the »politicization« of the specialized agencies. To avoid misunderstanding, the author himself discusses the term, which is, indeed, misconceiving: Of course, the work of the agencies cannot be unpolitical, if only for the simple reason that no functional issue of general importance is without political relevance. However, the conflict focusses on the misuse of the mandates in excess of the agencies' competences and specialized purposes and also on the selective – or biased – concentration on certain political matters, partly in disregard of due process. To this issue the United States referred upon their withdrawal from the ILO in 1977 and from UNESCO in 1985. With Williams it may be doubted, whether the pressure inflicted upon the system by the use of financial clout is beneficial to the system or to the ideas it should promote. Indeed, severe cuts and savings of the organizations were necessary and many steps towards fundamental changes of the system's functioning have been taken. Yet, even if these improvements were not due to the creative and constructive approaches taken by the commissions and reports mentioned, but a result of the pressure created by the measures of the US government, the question still remains in which style of international co-operation such policy could be expected to result. Again, animosities and unjustified charges on both sides might overshadow necessary debates over the true issues, which involve all member states.

Last but not least, Williams does not forget to give a few examples of positive results of international co-operation through the United Nations system, especially on the economic field, to point out that the necessary reform is well worth the effort.

With respect to the members of the study group which has provided the basis for this

book, there is no doubt that experience and knowledge in and around the UN System were well represented. However, if the author calls the group international, this cannot mean the adequate representation of differing national and cultural views. Rather, the book has to be regarded as a Western approach to explain the situation of the world organization. As such, it is a valuable guide through the current system of the so-called »UN family«.

Ulf Marzik

Dieter Blumenwitz

Einführung in das anglo-amerikanische Recht

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Man mag es drehen und wenden: Ohne Grundkenntnisse im anglo-amerikanischen Recht kommt heute weder der forschende noch der praktizierende Internationalrechtler aus. Für die Qualität des Einstiegs, den Blumenwitz vermittelt, spricht die nunmehr dritte Auflage seiner kurz und kompakt gefaßten Einführung. Sie will weniger die materiell-rechtlichen als vielmehr die methodisch-handwerklichen Grundlagen des anglo-amerikanischen Rechtskreises vermitteln. Dies gelingt ihr ohne Zweifel, zumal sie mit weiterführenden und vertiefenden Hinweisen opulent bestückt ist. Gleichwohl ist auch etliches Wesentliche über Rechtshistorie und gegenwärtige Entwicklung des materiellen Rechts zu erfahren. Eine gewinnbringende Anschaffung.

Karl-Andreas Hernekamp

Kurt Rabl/Christoph Stoll/Manfred Vasold

From the U.S. Constitution to the Basic Law of the Federal Republic of Germany.

Von der amerikanischen Verfassung zum Grundgesetz der Bundesrepublik Deutschland

Verlag Moos & Partner, Gräfeling 1988; 200 S., DM 36,—

Geht man von dem Titel und dem kurzen Vorwort aus, könnte der Leser von diesem Buch eine Darstellung der geistesgeschichtlichen Entwicklung erwarten, die vor nun 200 Jahren zur amerikanischen Verfassung und vor bald 40 Jahren zum Grundgesetz der Bundesrepublik Deutschland geführt hat; eine Darstellung, bei der die gegenseitige, kontinent-übergreifende Einflußnahme im Vordergrund stehen würde. Dieser Erwartungshaltung wird es jedoch nicht gerecht. Bei näherer Betrachtung stellt man fest, daß es ihr auch gar nicht gerecht werden kann: Von den 200 Seiten werden allein 40 Seiten von