

The Illusion of Sovereignty or State-Making Devices of The Globalizing World

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Review of a monograph: Guy Fiti Sinclair. *To Reform the World: International Organizations and the Making of Modern States*. Oxford: Oxford University Press, 2017. 368 p.

Abstract: The book by Guy Fiti Sinclair is a highly professional and richly contextualized scientific research which analyzes the processes of expansion of powers exercised by international organizations under international law. Particular attention is devoted to the reasons which made this expansion possible and legitimate.

Sinclair views international organizations as the creatures, instruments and even originators of international law which incarnated and epitomized its transformative potential for the purposes of their expansion and development. Heterogeneous interests and ambiguous functions of the International Labour Organization, the UN, and the World Bank are inspected through the prism of their abilities to intervene in the name of international law and, at the same time, to subject themselves to its improving and modernizing influence.

The reviewed work comprehensively explores the state-making activities of full-fledged democracies and the ambivalent consequences of such modernization which usually deploys under the guise of transformative liberal ideology.

Key words: International organization, international relations, international law, state-making, sovereignty, modernization, state, the International Labour Organization, the UN, the World Bank

The redefinition of the world order and international relations we are witnessing today, the rapid transformation of basic political and legal concepts, and even vocabularies which we once used to describe the international relations raise an array of crucial questions. Whether state sovereignty which is traditionally regarded as an undeniable pillar of the statehood still matters in international relations and still encompasses such characteristics as independence, supreme power over a controlled territory and ability to govern internal and external affairs? Does rigorous enforce-

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ment of international law by the «full-fledged democracies» guarantee the justice and righteousness in international relations and spread around forces of modernization and prosperity without political, economic biases or preying on natural resources, and markets of each and every «equal partner» in the international dialogue? Do the international organizations which are created to promote peace, security, free trade, and core liberal values redefine and rewrite international law and its potential for the sake of international interventions, imperialist domination, and «legitimization» of one-sided representation of interests in the course of state-making activities?

There is every reason to believe that timely and thoughtful book by Guy Fiti Sinclair is one of the few richly contextualized and highly professional pieces of research which examines the expansion of powers exercised by international organizations under international law, including the ability to create this law and capabilities of military, financial, economic, political, social, and cultural interventions that effect directly and indirectly the lives of millions of people around the world (Alvarez 2005: 421).

The central research question which is addressed in Sinclair's book is how international organizations expansion «has come to be widely, if not universally, viewed as possible and legitimate in international law» (P.1). As the author aptly puts it at the very beginning of the book's introduction, «a major achievement of international law during the twentieth century was the creation and adaptation to changing world conditions of a vast number of international organizations» (P.1).

Developing this idea Sinclair emphasizes, that international organizations are important sites of struggle over the meaning of international law and its potential for creating a better world. Yet these same organizations have often ended up promoting forms of international intervention that resemble deep-rooted relationships of imperialist domination.

With the formal objective to reform and modernize the world for the better future, international organizations appropriate additional powers in strict accordance with international law and intervene into new arenas of activity. Moreover, «many international organizations have come to exercise legal powers that were neither specifically contemplated at the time of their creation nor explicitly mandated in their constituent instruments; and they have done so largely without formally amending those instruments» (P. 3).

The leitmotif of the book is revolving about three main themes:

1. International law with transformative or reformist potential directly entitles and authorizes international organizations to expand their powers and scope;
2. international organizations adapt and adjust their constituent instruments and activities to the requirements of international law in order to facilitate and legitimize their further growth and extension;
3. international organizations wield powers and authority that were not explicitly mandated by founding treaties without formal amendment of those treaties. By means of sophisticated interpretation of international law, different circumstances and conditions, under which international organizations have to perform their duties in order to

address urgent issues without undue delay, they manage to meet the norms and regulations of international law and demonstrate their adherence to the rule of law.

The main legal and political paradox here is that none of the points mentioned above poses a problem of *ultra vires* acts. Here are some of the quite objective and inevitable consequences:

- International organizations intervene in the name of international law and sometimes assume exclusive authority over particular institutes or even territories of the sovereign states (Stahn 2008: 46);
- International organizations expansion has come to be widely viewed as lawful and necessary for the progressive development of mechanisms of international cooperation (P. 3).

So, in this context, one of the main concerns of scientific research is to dissect the interdependent and mutually conditioned process of coexistence of international law, international organizations and powerful and omnipresent political actors. In this equation, international law shapes the activities and existence of international organizations; international organizations demonstrate a tangible effect on the international law and its main trends, and political beneficiaries orchestrate the whole process to derive their profits at the expense of any of the participants of these relations.

In his book, Sinclair undertakes a profound task of researching the extension and transformation of the activities of the International Labour Organization (ILO), the World Bank and the UN which were shaped mainly by the reformist agenda of the modern Western states and their ideology of liberal governance.

Outlining the methodology of his research Sinclair justly notes that inquiring into how international law has facilitated and legitimized international organizations expansion requires an exploration of its historical context, the interaction of legal and other kinds of expertise in that process, the forms of intervention that resulted, and the effects of those interventions (P. 6).

For this purpose, the author employs rich and diversified methodological instrumentarium. He uses sociological, historical and comparative analysis of conditions and circumstances that made the expansion of international organizations possible in particular cases; scrutinizes discursive and material practices of international organizations, the rationales and techniques of power they utilize in the context of the political and historical background of their operation.

Sinclair proficiently syncretizes conceptual and empirical research, social and political auditing of international law, and demonstrate high professional capabilities not only in collecting and analyzing various data but as well in interpretation of information revealed. This book may be also viewed as a good example of identificatory legal research which connects together trends of international law modification, circumstances which caused these processes and beneficiaries of a particular law or legal provisions.

Highlighting inbuilt gaps and ambiguities in the process of international organizations growth and expansion under the keen and tactful guidance of international law, Sinclair purposefully and reasonably narrows the scope of his research by studying the

three international organizations (the International Labour Organization, the World Bank and the UN) in the limited chronological framework.

Part I of the book covers the quarter century that followed the devastations of the First World War (1919-1945) and the interwar activities of the ILO. Precisely this period, according to the author's point of view, demonstrates in the best manner how ILO grew from the modest chapter on labour in the peace treaties concluded in Paris into an autonomous organization engaged in a wide range of activities directly and indirectly connected to labour.

Part II of the book covers the two decades immediately after the Second World War (1945-1964) and focuses on the problems of collective security scheme which «fell into desuetude as Cold War tensions led to frequent exercises of the permanent member veto power on the Security Council, while the sudden and unexpected dissolution of European colonial empires significantly reshaped the work of the UN and its specialized agencies in other ways» (P. 22). In this part of the book, the author places utmost importance to the emergence of UN peacekeeping operations which soon proved to be an instrument of both decolonization and state formation.

State formation over a period of 1944-2000 and the role of the World Bank in the process of «mediation» between the promotion of decolonization and self-determination, and harnessing political activism of Third World States are covered in Part III of the book.

As Sinclair states, together, the episodes detailed in his book offer a diachronic analysis of international organizations expansion during most of the twentieth century, a period of transition from a world of empires to one of the nation-states (P. 25).

The methodological approach identified by the author empowered him to stay impartial to different political issues, that bear mere emotional contour and do not impact the analysis itself.

Through the use of coherent argumentation, Sinclair demonstrates that reformist zeal of international law is often indistinguishable from its «civilizing mission», which has consistently supplied a pretext for imperialist actions in the encounter between different peoples and cultures (Anghie 2004: 112). Moreover, as author claims, «more critical commentators have suggested that international law is itself a «part of the problem»; that it has an in-built structure that inescapably reproduces an imperialist dynamic; and that it serves as an ideological mask for powerful states and capitalist interests» (P. 6).

One way or another, Janus-faced international law can operate as a tool of repression and coercion, as an autonomous apparatus for taming and restraining the repressive tendencies of governments or to be a responsive, adaptive, and purposive instrument of social welfare as Sinclair rightly argues developing analytics of law and power. It has been truly stated in the book that all these faces or ideal types of law may operate side-by-side or in various hybrid combinations at any one time (P. 9).

Law is not a mere blessing or boon to the society, it is in parallel a multifaceted instrument which inevitably shapes and directs different forms of power disregarding

their ideological platforms – whether it is liberalism or conservatism. The main concern here is in which interests the law operates (it is a matter of common knowledge that the law cannot be impartial or serve no interests at all) and, more importantly, who benefits from its application and enforcement. I strongly agree with Sinclair's statement that law is not a single, stable, and integrated ideology or «package» of ideas and beliefs; rather, its positive content is continually constructed and contested in an ongoing and disorderly process of social interaction. This conception of law recognizes that it can be, and often is, used as an instrument of domination. In the hands of powerful actors, it disguises, naturalizes, and legitimizes the interests of power through an array of authoritative symbols, metaphors, and narratives, and through multiple, repetitive, even daily practices that shape human consciousness and identity (P. 12).

We also must be aware, that application of the law to some extent makes legal meaning plural. Here is yet another pretext for international organizations' abilities to harness the potential of international law for their purposes without the need for amendments of constituent instruments and treaties.

It is no a secret that international organizations expansion is rationalized and «sponsored» by international law for the purpose of forming and reforming of modern states. In this sense, the major research question is to what extent sovereignty as a feature of any state and as a concept allows for the external powers through technical assistance, social programs, and other instruments to shape the state structure, ideology, and even consciousness and demands of the population of such «sovereign» states? In other words, what are the limits for the flexibility of sovereignty? Or, maybe, it is quite conceivable that when the statehood itself is molded in the course of «democratic» process of decolonization (or in the course of any other process with liberal connotations) the notion of sovereignty is just «not relevant» and «inapplicable». In this case, we face an issue when international community by the agency of international organizations create the Western-type state in one's own image and then «permits» this novel state to exercise so badly desired sovereignty, but to the extent, it doesn't infringe the predefined rules or practices. Otherwise, peacekeeping operations or humanitarian interventions will «help» this state to become «truly sovereign» according to the international community's point of view.

In this context, Sinclair's conclusion that liberal reform continually redefines what it means for a state to be «modern» is especially noteworthy. It can be extrapolated in a manner that state-making efforts will be constantly evolving under close observation and control of full-fledged democracies and in accordance with the most advantageous currents of their ideology.

Numerous brilliant findings and developments of Sinclair's work prove the plausibility and trustworthiness of the abovementioned assumptions and greatly contribute to the scientific value of the book.

Thus, analyzing the mission and mandate of the International Labor Organization, the author stresses that its primary objective – to effect social reform through law – entitled ILO officials to legitimize expansion of the organization through a combina-

tion of ideas and practices that linked the progressive reform of international labor standards with reform of the ILO itself (P. 38). The further pace of development resulted in a situation when «social conscience» of mankind, in reality, intruded into the internal policies of sovereign states and laws were interpreted as a mere means of social engineering. «The introduction and implementation of social insurance schemes by the ILO promoted a radical reconfiguration of relationships between states and their citizens, introducing new expectations of governmental intervention for the common good» (P. 66). Establishing the schemes like that demanded among other matters a bunch of concerted efforts that necessitated the erection of new bureaucratic apparatuses and further growth of the ILO itself.

So, we have an obvious dialectical pattern: intervention for the common good inevitably demanded the new forms of administration and these forms of administration demanded new functions and areas of responsibility for the perennially growing international institutions. ILO produced its own expansion while struggling for the common good and social insurance schemes emerged among other effective instruments that were able not only to improve labour conditions, but as well to reconfigure relationships between states and their citizens and, in such a way, they definitely eroded the meaning of sovereignty as a concept.

It is quite difficult to argue, whether these socially-oriented activities of the ILO amounted to the necessary assistance in the formation of true constitutionalism in the developing countries or it was an ill-disguised administration which severed hybrid interests of the historical West. One way or another, Sinclair's logic of reasoning demonstrates new possibilities to colonize decolonizing countries by means of such tools and instruments that are far more sophisticated than mere oppression or coercion which was exercised before. «To colonize decolonizing countries» by means of social and humanitarian interventions, administrative and technical assistance, social programs and supervision over the working environment and labour practices is a kind of disguised motto which highly probably could underpin heterogeneous interests of international organizations in general, and the interests of the ILO in particular.

The paradoxical issue here is that the aforementioned ILO's activities cannot be characterized as either good or bad. There is no and cannot be an unequivocal answer to such a complex issue. Within this framework, one of Sinclair's research merits is that he doesn't force unequivocal answers or conclusions where they are irrelevant or incongruous – he undertakes objective scientific analyses of the situation and describes heterogeneous outcomes and consequences.

The same «ambiguity of outcomes» can be found in the process of analyzing of the activities of the UN.

Sinclair justifiably argues, that «peacekeeping has become intimately identified with the core mission of the United Nations (UN), and is now seen as an inseparable part of its activities. Yet among international lawyers, there is virtual unanimity that those who negotiated and drafted the UN charter did not envisage the activi-

ties that later emerged in its practice under the rubric of «peacekeeping» (P. 113). As Boutros Boutros-Ghali – the sixth Secretary-General of the UN put it, «peace-keeping had to be «invented» by the UN – and the genius of the Charter could accommodate it»¹.

Peacekeeping operations are of vital importance in the modern world, as surely as the new concept of sovereignty which is known as the «responsibility to protect», recognized by more than 170 states, which participated in the sixtieth session of the General Assembly of the UN (Subochev 2016). But these new «inventions» maybe with full confidence conceived as double-edged weapons which can be pointed in a wrong direction in case of one-sided or biased interpretation of a particular political or economic situation. And ambivalence in interpretations is not such an incredible practice – it takes place almost on a daily basis and is yet another objective and inevitable consequence of dialectical patterns of international order and coexistence of heterogeneous interests and powers.

Even constitutions, as Sinclair notes, always have to be interpreted and applied, and in the process, they are overlaid with precedents and conventions which change them after a time into something very different from what anyone, with only the original text before him, could possibly have foreseen (P. 123). In a related vein, the General Assembly assumed the authority to take action directly where the Security Council – the main decision-making body of the UN – was prevented from doing so because of the prolific use of the veto. In this context Sinclair analyses the mechanisms and the reasons of «Acheson Plan», later known as «Uniting for Peace», according to which the Security Council was merely circumvented because it assertedly «was unable to exercise its primary responsibility for the maintenance of peace and security because of lack of unanimity of the permanent members» (P. 133). It would have been a valid excuse if «Acheson Plan» hadn't left out of the equation the point, that veto was used by the USSR and some other countries not just for fun, but to protect the vital interests of a number of countries, who didn't consider that peacekeeping operations in a particular moment would justify their name «peacekeeping» and would bring prosperity to those who really needed it.

The book reveals many interesting facts and patterns regarding illustrative peace-keeping operation in the Congo, where ONUC (The United Nations Operation in the Congo) became entangled in the multiple spheres of internal and international conflict afflicting the Congo, which has enabled Sinclair to generalize, that peacekeeping operations do not arise from a single cause or serve a single function.

The III part of Sinclair's book is a marvelous example of scientific analysis of the World Bank activities and contains a significant number of author's original conclusions regarding its projects, objectives, and substantiation of undertaken measures and procedures.

¹ Boutros-Ghali, B. Maintaining International Peace and Security: The United Nations as Forum and Focal Point - A Speech by Boutros Boutros-Ghali, Secretary-General of the United Nations, 16 Loy. L.A. Int'l & Comp. L. Rev. 1 (1993). P. 3. Available at: <https://digitalcommons.ilmu.edu/ilr/vol16/iss1/1> (accessed: 08.08.2019)

Noteworthy the author's highlighting of the corrupt practices which undercut the benefits of Bank-sponsored programs in many developing countries and which grabbed due attention only in 1995.

Quite apart from that author persuasively illustrates the fact, that very quickly after the end of the Cold War, the range of concerns addressed by the Bank widened through a variety of initiatives to embrace every conceivable aspect of social and economic development, including the apparently «political» issues of transparency, accountability, participation, corruption, and good governance generally. This «turn to governance» marks a moment at which the Bank's interventions became at once more all-encompassing and more capillary, seeking to shape and regulate the actions of states, populations, and individuals in ways both direct and indirect (P. 202). The philosophy of «development diplomacy» was, according to the author, one of the main instruments, which legitimized the World Bank's expansion and accommodated infiltration of its practices into the state-making activities.

Sinclair inspects numerous and ambivalent trends and factors which resulted in a situation that in many newly independent states outside Europe and North America, economic development became a political ideal, which aroused millions of citizens against their traditional poverty. The World Bank was happy to back these aspirations and «development diplomacy» intruded into new, unforeseeable before areas of responsibility. In this regard author usefully highlights the point that much of the Bank's growth was motivated by very specific conjunction of political circumstances. Even the World Bank's crusade against poverty which was a part of its proud history and compelling moral justification for the Bank's work shouldn't be interpreted only in the light of the struggle for more equitable international economic order. This crusade also had numerous implications and as Sinclair demonstrates, poverty and other interconnected issues such as overpopulation «provided an opening through which the World Bank could address the manifold relations between the state and society more generally» and the Bank's increasingly varied portfolio of projects aimed to modernize states through more capillary forms of intervention, too (P. 244). Moreover, over the course of time, the notion of «intervention» was substituted with more subtle «modernization» which, in its turn, became a driver of cultural, ideational and «socio-psychological» transformation. And this is one of the numerous ways of transforming intervention into the internal forces of progress and liberalization.

Sinclair also explains and substantiates, that the desire to modernize everything and everywhere which now appears as the process of globalization has its dark sides too. He is completely right arguing, that many of these dark sides appeared in the form of new (or newly noticed) transnational threats: environmental degradation, pollution, and climate change; organized criminal groups and terrorist networks and even in a «clash of civilizations» between the Judeo-Christian West and the Islamic East (P. 270).

Sinclair holds the view that law is deeply implicated in the structures and processes of international ordering and among his best and most vivid state-

ments is the following one: «My argument is that what makes international law effective is precisely this flexible, Janus-faced quality which it has developed in and through the activities of international organizations over the past century» (P. 292).

Overwatching the realities of the modern international relations, political trends, and reasoning, forms of championing and advocating of the heterogeneous and controversial interests, this bright and bold statement doesn't seem to be even the slightest exaggeration of the obvious facts.

From this perspective, Sinclair's book is one of the few truly honest pieces of research which greatly contributes to political and legal sciences.

Along with that, this fundamental work, as each and every creative writing is not free from some shortages and imperfections, which, in their turn, are of polemical character.

1. It seems obvious that widening of the chronological framework of the research till the present time (at least for the inspection of some of the eye-watering recent events and procedures) could have greatly enriched this work. The state sovereignty today has become even more a fragile concept in comparison with the recent history, and Sinclair's point of view on the issue is of big interest.

2. It is quite understandable, that Janus-faced quality which international law has developed, hasn't emerged from nowhere, as if out of the blue, and hasn't engendered legal and political consequences in a vacuum. That is why the scientific research of Sinclair lacks parallels and correlations between the growth of international organizations and specific, identifiable actors, who either inspired or animated this process (outside of the inspected international organizations) or benefited from it in any particular way. The book of Sinclair is a scientific research and not a criminal investigation but, nevertheless, more comprehensive analysis of political and financial actors associated with the patterns of development of the international organizations described, could have presented a more rounded picture of the disproportions in this sphere.

3. This book contains profound and highly professional research of state-making activities of international organizations, their influence on the sovereignty and statehood of numerous states. Nevertheless, the author doesn't reveal his position regarding the following obvious dilemma: what is more profitable and beneficial for the states in the «zone of influence» of international organizations – relative independence and self-sufficient determination of the political configuration of their countries or sacrificing their sovereignty for the sake of modernization and the benefits it promises? This is a complex and ambiguous question, but the context of Sinclair's work sometimes demands response for it.

4. There is every reason to believe that Sinclair unsealed modus operandi of numerous global political actors and their true face. Nevertheless, he pays scarce attention to generalization and classification of ways and means of political and legal manipulation.

Sinclair's research is a real storehouse of methods and devices of legal and political manipulation, but this precious factual information definitely needs further systematization and extrapolation.

Regardless of the polemical issues mentioned above, the book of Sinclair is an independent, creative, profound and challenging scientific research.

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