

INTRODUCTION

MASSIMO IOVANE* AND DANIELE AMOROSO**

1. The issue of the relationships between domestic and international legal orders has traditionally been subject to deep attention by Italian scholarship¹ and is particularly dear to the Editors of the Italian Yearbook of International Law,² whose Volumes have often hosted contributions dealing with it and every year include entire sections devoted to the latest updates on the implementation of international law in Italy.

In the last years, the emergence of new trends and problems has revived interest in this issue. Without claiming to be exhaustive, one may mention, in this respect, *i*) the relentless expansion of the material scope of contemporary international law, which has resulted in a progressive erosion of the areas falling within the domestic jurisdiction of States, multiplying – as a consequence – the “contacts” between municipal and international legal orders, as well as the influence of the latter on the former,³ even in countries notoriously jealous of their national sovereignty; *ii*) the

* Of the Board of Editors.

** Associate Editor; Coordinator of the Interest Group on “International Law in Domestic Legal Orders” of the Italian Society of International and European Union Law (SIDI).

¹ It would be clearly impossible to give a detailed account of the contribution of the Italian scholarship to study of this topic, which significantly starts with a milestone in international legal literature: ANZILOTTI, *Il diritto internazionale nei giudizi interni*, Milano, 1905. To have an intuitive (and necessarily partial) picture, one could have a glance at the monographic works devoted to this issue by some of the most representative Italian scholars: PERASSI, *La Costituzione italiana e l'ordinamento internazionale*, Milano, 1952; BARILE, *Diritto internazionale e diritto interno: rapporti fra sistemi omogenei ed eterogenei di norme giuridiche*, Milano, 1956; LA PERGOLA, *Costituzione e adattamento dell'ordinamento interno al diritto internazionale*, Milano, 1961; FERRARI BRAVO, *Diritto internazionale e diritto interno nella stipulazione dei trattati*, Napoli, 1964; GAJA, *Decisioni della Corte costituzionale in materia internazionale*, Milano, 1966; SACERDOTI, *L'efficacia del diritto delle Comunità europee nell'ordinamento giuridico italiano*, Milano, 1966; BERNARDINI, *Formazione delle norme internazionali e adattamento del diritto interno*, Pescara, 1973; SPERDUTI, *Le principe de souveraineté et le problème des rapports entre le droit international et le droit interne*, RCADI, Vol. 153, 1976-V, p. 319 ff.; CONDORELLI, *Il giudice italiano e i trattati internazionali. Gli accordi self-executing e non self-executing nell'ottica della giurisprudenza*, Padova, 1978; CASSESE, *Modern Constitutions and International Law*, RCADI, Vol. 192, 1985-III, p. 331 ff.; CONFORTI, *International Law and the Role of Domestic Legal Systems*, London, 1993; ARANGIO-RUIZ, “Dualism Revisited: International Law and Interindividual Law”, RDI, 2003, p. 909 ff.

² Suffices here to recall the attention paid to these problems by two of the founding fathers of the Yearbook, namely the late Benedetto Conforti and Luigi Ferrari Bravo.

³ To get an idea of the actual scope of this trend, one could browse the (increasingly rich) database “Oxford Reports on International Law in Domestic Courts” (available at: <<http://opil.oxlaw.com/home/oril>>).

multifarious use (and misuse) of international legal materials by domestic courts, aimed not only (and not necessarily) at ensuring compliance with international obligations, but also at filling normative gaps in national regulations or at attempting to shield highly controversial decisions from criticism; *iii*) the ongoing dialogue between international and domestic courts, which has more and more often assumed the overtones of an open contestation, fuelled by the clash between international prescriptions and national fundamental values or, maybe less dramatically, by different constructions of relevant international norms; *iv*) the proliferation of regional legal systems (modelled on the European Union), that are superordinate to domestic orders while remaining subject, at least in theory, to the authority of international law, which represents the ultimate source of their validity and efficacy.

Keeping that in mind, the Editors decided that the present Volume of the IYIL would have hosted a *Focus* on “International Law in Regional and Domestic Legal Systems”. This year’s *Focus*, however, differs from the previous ones in two important respects. First, a Call for papers was launched at the end of September 2016 in order to select the Authors to be invited to submit a contribution. The choice of this *modus operandi*, which constitutes a clear departure from our previous practice, is aimed at widening the impact of the Yearbook on national and international scholarly debate, by reaching new authors and, as an indirect consequence, new readers. In this regard, we may consider our initiative to be a success. The Call elicited a remarkable interest within the academic community, as evidenced by the submission of nearly 50 proposals, coming from all around the world, mostly by scholars who had not yet published on the IYIL. Secondly, the *Focus* was edited in cooperation with the Interest Group on “International Law in Domestic Legal Orders” of the Italian Society of International and European Union Law (SIDI). The constitution of Interest Groups is a recent (and very welcome) innovation, which testifies the dynamic approach of the SIDI to the study of international and EU law, and offered an excellent opportunity to intensify the already strong ties between the Society and the Yearbook. This cooperation with the Interest Group covered every stage of the preparation of the *Focus*, from the drafting of the Call to the peer-review of the papers, passing through the selection of the proposals. This turned out to be a very fruitful experiment, which we hope to replicate very soon in the future.

2. As we have said, the contributors to the present *Focus* were invited on the basis of the Call for papers. The object of their papers, therefore, was not commissioned by the Editors on the basis of a structure rigidly defined in advance. The choice was taken to leave the identification of the topics to be addressed to the initiative of the prospective authors. This also explains why certain topics or legal orders (most notably, the doctrine of “counter-limits” in Italy) were not included in the *Focus*, their undoubted importance notwithstanding. After all, the issue of the relationship between legal orders is so vast that any attempt to cover it in an exhaustive manner would have proved pretentious and doomed to fail.

Nevertheless, the articles forming the *Focus* may be coherently systematised into three groups dealing with themes of the utmost relevance for our purposes: the implementation of international law within non-mainstream national legal orders; the execution (and contestation) of international judicial decisions by domestic courts; and the interactions between international and regional legal orders.

3. The first cluster of contributions addresses the issue of the domestic implementation of international law within national legal systems, which are understudied – be it for linguistic hurdles or Western-centrism – by mainstream scholarship, namely Russia, India and Turkey.

Marochkin's contribution ("A Russian Approach to International Law in the Domestic Legal Order: Basics, Development and Perspectives") provides an extensive overview of the treatment of international sources of law within the Russian legal order. The starting point of his analysis is represented by Article 15(4) of the 1993 Constitution of the Russian Federation, which established – for the first time in the constitutional history of the country – the incorporation of "universally-recognized norms of international law and international treaties and agreements" in the Russian legal system, as well as – remarkably – the prevalence of treaty law over domestic (ordinary) law. Yet, as the Author correctly points out at the outset, "merely introducing the principle of openness to [international law] into a Constitution does not guarantee that it will be implemented". What is crucial, it is submitted, is how international law is dealt with *in practice* by Russian institutional actors, first and foremost by judicial bodies. And here we have the main merit of Marochkin's work, which is replete with the analysis of judgments and other judicial decisions mostly unknown to the IYIL's readership. The overall picture emerging therefrom adds some nuances to the idea – still entrenched among Western scholars – whereby the Russian legal order would be in fact closed to the international legal system. Indeed, Marochkin's analysis brings to the limelight a widespread willingness by Russian courts to apply international norms – an "internationalist" enthusiasm sometimes leading lower courts to issue decisions which are legally inaccurate, e.g. because they are based on treaties not yet entered into force or not applicable *ratione personae*. On the other hand, however, the Author does not fail to notice with concern a change in this positive attitude, especially by the Russian Constitutional Court, in the last few years. Reference is made, obviously, to the recent constitutional case law on the "impossibility to implement" the judgments by the European Court of Human Rights that are deemed contrary to the Constitution – a turn towards "erecting walls" to protect national sovereignty which makes harder, in the Author's view, the "path to the rule of law".

The analysis by Qurobayev and Turkut ("International Law in the Turkish Legal Order: Transnational Judicial Dialogue and the Turkish Constitutional Court"), on the other hand, is centred on the Turkish legal order. Their investigation differs from the previous one in that it examines the issue of the domestic implementation

of international law through the prism of judicial dialogue. This is done by paying particular regard to the practice of the Turkish Constitutional Court (TCC) – a field of research so far neglected in the legal literature. As the Authors well underline, the TCC constitutes a very interesting case study because of its peculiar role of “guardian of Kemalist ideology”, which is mainly carried out in the exercise of its (controversial) competence on the dissolution of political parties. After a general overview of the (uncertain) status of international law within the Turkish legal system, the article engages in a quantitative and qualitative analysis of the use by the TCC of international sources and of decisions by international and foreign courts. A first (and maybe not completely unexpected) result which emerges from this enquiry is that, while citations of international and foreign sources are rather scant, decisions by the TCC are replete with references to the European Convention of Human Rights (ECHR) and to the case law of the European Court of Human Rights (ECtHR). This trend – which is arguably related to the EU access process – leads the Authors to speak of an “Europeanisation” (as opposed to the “Internationalisation”) of Turkish law. On the other hand, however, the instrumental use of international law by the TCC is highlighted, and stigmatised, especially in the “party closure” cases, where the constitutional judges improperly relied on ECtHR’s precedents to justify the dissolution of a number of political parties (which was subsequently found to be in breach of the ECHR by the European Court itself!). All of this leads the Authors – quite understandably, indeed – to fairly pessimistic conclusions as to the status of international law and the advancement of judicial dialogue in the Turkish legal system.

The first cluster of contributions closes with a piece by Singh on the relationships between the Indian Executive and Parliament with regard to the conclusion and the implementation of international treaties (“International Treaties and the Indian Legal System: New Ways Ahead”). Relying on a thorough analysis of the relevant provisions of the Indian Constitution, he makes a strong case for a greater involvement of the Parliament both in the making of treaties and in their implementation. That notwithstanding, he is compelled to admit that Indian practice is still geared towards governmental unilateralism. As explained in the second part of the contribution, in the absence of a meaningful parliamentary intervention, Indian courts have been playing a key role in giving effect to international treaties, by moving from the *transformation doctrine*, whereby international treaties must be specifically “transformed” into municipal law in order to yield any effect in the domestic legal system, to the *incorporation doctrine*, which postulates that treaties automatically become part of the domestic legal order provided that they are not inconsistent with municipal law. Although praised for better ensuring the effectiveness of international law, this judicial practice is criticised by the author for being ultimately undemocratic. As the title suggests, the last part of the contribution is devoted to the “new ways ahead”. Notably, the Author analyses the recent proposal to set up a Department of International Obligations and Implementation (“DIOI”), with a specific competence in the negotiation and implementation of treaties. The

DIOI would be headed by an expert of international law, thus offering guarantees of independence and professional efficiency. Its establishment, according to Singh, would be pivotal to strengthening the role of Parliament by prompting and advising for its intervention when it is so required. Should the DIOI be actually established (and, as a consequence, should the Parliament take on its constitutional role in the realm of foreign affairs), the paper concludes, Indian courts could relinquish the incorporation doctrine, without undermining India's compliance with international obligations.

4. The following two articles tackle an issue that is currently in the spotlight, especially in the Italian scholarly debate, regarding the implementation and (even more) the contestation of international judicial decisions.

In his contribution ("The Interference of ICSID Provisional Measures with National Criminal Proceedings"), Zarra lingers upon the power of ICSID Tribunals to "meddle" in national proceedings through the issuance of provisional measures aimed at staying domestic criminal trials. While general in character, the article pays particular attention to the order on provisional measure handed down in the *Hydro* case, which seems to have lowered the threshold for issuing measures of this kind and, as a consequence, raised a number of problems concerning its implementation by both the recipient State (Albania) and a third State (United Kingdom) in the context of a related extradition proceedings. Significantly enough, while the order was not effected by Albanian authorities, which proved jealous of national sovereignty (allegedly intruded by the interim order), it was faithfully fulfilled by a UK court, notwithstanding the order was not directly binding upon it. This gives the Author the opportunity to discuss in depth the binding nature of ICSID provisional measures, the requirements for their adoption in relation to national criminal proceedings as well as, more importantly, the problems concerning their implementation at the domestic level.

Vagias' piece ("Revocation of Enduring Amnesties Vs. Principle of Legality: Jurisprudential Contestations Between the Inter-American Court of Human Rights and Domestic Courts") addresses a rather classical topic, the award of amnesties for international crimes, from a fresh perspective, by analysing the compatibility of their revocation, notoriously urged by human rights supervisory bodies (in the first place, the Inter-American Court of Human Rights, IACtHR), with the principle of legality in criminal law. Such an investigation is prompted by the fact that the Supreme Court of Uruguay recently opposed, precisely on these grounds, the revocation of an amnesty law deemed to be unlawful by the IACtHR. The latter's approach to this matter is hence subjected to severe criticism by the Author, who brings to the limelight the IACtHR's (legally unsubstantiated) penchant in favour of the right of the victims to judicial redress, to the detriment of the – equally worthy of protection – right of the accused not to undergo unfair, and ultimately vindictive, criminal proceedings. Should the IACtHR insist on this "human rights absolutism",

it is argued, its legitimacy in the eyes of the recipient States would be undermined and new cases of contestation by domestic courts would inevitably arise. In order to prevent such a painful split between domestic courts and the IACtHR, Vagias suggests that the latter should relinquish its *jurisprudence constante* on amnesty laws, by adopting a more nuanced, case-by-case approach, based on the need to balance the rights of the victim with those of the accused, taking into account – among other things – the duration of the amnesty, the requirements for legal certainty and the availability of evidence.

5. The third and last group of contributions shifts the focus from domestic legal orders, by providing some insights into the way international law is administered within the legal orders of regional organisations (the EU and the Andean Community), as well as on the *normative* influence the EU, as a powerful global actor, may exercise on its external relations.

The paper by Eva Kassoti (“Between Völkerrechtsfreundlichkeit and Realpolitik: The EU and Trade Agreements Covering Occupied Territories”) questions the self-portrayal of the European Union as a champion of international law by critically analysing its practice relating to the conclusion and implementation of trade agreements covering occupied territories. To this end, two case studies are examined and discussed in depth: Palestine and Western Sahara. In this connection, the Author shows how EU institutions, notwithstanding both territories are undisputedly occupied and governed in breach of the *jus cogens* principle of self-determination, fail to give full effect to the ensuing obligations of non-recognition and non-assistance. This is the result of an unfortunate mingling of the judicial timidity by the Court of Justice of the EU (notably, in the *Brita* and *Front Polisario* cases), the application of double-standards by the EU Commission (see the different treatment accorded to products coming from Palestine and Western Sahara) and misunderstandings by the EU Parliament’s legal service (as evidenced by the Opinion concerning the 2013 Fisheries Protocol with Morocco). This collection of contradictions and inconsistencies, according to Kassoti, unveils the Realpolitik hiding behind the “EU identity rhetoric as a promoter of global fundamental values”.

The issue of the relationship between the EU and the international legal order is tackled by Andrea Spagnolo from an unconventional and enticing perspective: that of the loan of organs between international organisations (“The Loan of Organs Between International Organizations as a “Normative Bridge”: Insights from Recent EU Practice”). While generally dealt with in relation to the law of responsibility, this practice – as convincingly argued by the Author – has also normative ramifications, to the extent that it sets up a normative connection between lending and borrowing institutions through which the former influences the latter by promoting respect for its own values (what Spagnolo calls “normative bridges”). This emerges quite clearly from the recent judgment by Court of Justice of

the EU in the *Ledra Advertising* case, concerning the loan of the EU Commission to the European Stability Mechanism (ESM), an international financial institution established on the initiative of some Members of the EU, but distinctive from the latter. Here, the Court affirmed that the EU Commission is bound by EU law – including the Charter of Fundamental Rights – even when it acts as an agent of the ESM, with the consequence that an unlawful behaviour by the Commission would expose the EU to an action for damages by the individual(s) whose rights have been violated. The problem arises, however, as to whether the action for damages under Article 340 of the Treaty on the Functioning of the European Union (TFEU) is the most suitable way to ensure the external promotion of EU values in the context of the loan of organs. Doubts are warranted, indeed, by the *ex-post* character of this remedy, as well as – more importantly – by the high threshold set by the Court in relation to the actions under Article 340 TFEU, which makes it particularly hard for claimants to succeed (as confirmed by the hasty dismissal of the merits of the damages claims in the *Ledra Advertising* case). This leads the Author to critically conclude that one thing is to build (normative) bridges; quite a completely different one is to cross them.

Finally, the contribution by Francesco Seatzu (“On the Unbearable Lightness of the Effects of Public International Law Within the Andean Legal System”) examines the normative weight of international law in a regional legal order which was shaped taking the EU as a model, that of the Andean Community (AC), by paying particular heed to the case law of the Andean Tribunal of Justice (ATJ). In this respect, it is noted that, despite the undisputable institutional mimesis, the ATJ seems to have followed the path drawn by the Court of Justice of the EU – which, with all its shortcomings, may still be described as open to international law – only to a limited extent. In the new millennium, indeed, the ATJ relinquished the “international law inclusive” approach, which characterised its earlier case law (especially in the 1990s), in favour of a fairly more restrictive attitude, featured by a marked closure towards sources of law lying outside the Andean normative system. This jurisprudential turn may be contested for a number of reasons, well highlighted by Seatzu. At the same time, it responds to a precise strategy of legal policy, that of upholding the autonomy and the integrity of AC law – an objective which, like it or not, is perceived as of primary importance by the ATJ.

6. In the light of the foregoing, it is possible to identify some trends, which help us better understand and frame the issue of the relationships between international, regional and domestic legal orders in contemporary practice.

In the first place, it should be noted that the inclusion in domestic constitutions of provisions concerning the incorporation of international law is generally linked to certain traumatic events of particular importance for a given national community. It may be the end of a particularly devastating international or civil war, the

fall of a dictatorial government, the acquisition of independence by a territory once subject to colonial or foreign domination. Oftentimes, the enactment of constitutional arrangements aimed at bolstering the domestic application of international law is not an isolated phenomenon, related to the evolution of a single legal order, but corresponds to the attitude of groups of politically similar or geographically contiguous States. In all these cases, one may detect a clear intention by the States concerned: to align themselves (and, as a consequence, their legal systems) with the ideals of international cooperation, by ensuring faithful compliance with their obligations towards other members of the international community.

Secondly, it is worth clarifying that the abovementioned ideals of international cooperation are not abstract concepts, but embody norms and principles that can be traced back to a precise political project. The smooth application of international law, in fact, may be seen as a function of the commitment of a given domestic order to the principle of legality, to the rule of law and, ultimately, to democratic values. In other terms, it may be deemed as a symptom of the healthy functioning of a democratic regime. In contrast, the prevalence of a nationalist approach, accompanied by frequent breaches of international norms, is generally indicative of a shift away from democratic values and an evolution in the autocratic sense. This phenomenon clearly emerges from Marochkin's article. The Author emphasises the profound difference existing between the Soviet Constitution(s) and the 1993 Constitution of the Russian Federation, on the subject of the domestic relevance of international law. The democratic ambition of the latter also manifested itself by strengthening the implementation of international norms and empowering judicial bodies with the authority to independently construe these norms. In this perspective, the question concerning the application of international law is intertwined with the role of domestic courts as impartial third parties defending the principle of legality even against the nationalist expectations of the governing elites.

Such a link between the judicial application of international law and respect for the rule of law is clearly outlined by the article of Qoraboyev and Turkut on the Turkish legal order, where the Authors explicitly recognise that domestic and international courts should pursue a common goal, namely the defense of the principle of legality through the constant implementation of international law. Accordingly, they strongly criticise the TCC's inclination to give priority to certain nationalist interests, such as the banning of political parties considered as a threat to national unity. This does not mean, however, that the prevalence sometimes accorded to domestic principles should be always stigmatised. There are cases, in fact, where the fulfillment of international obligations, even when they stem from judicial decisions, meets a legitimate limitation in the protection of national interests. When this occurs, domestic judges should make every effort to reconcile the two conflicting interests without neglecting the ideals of international cooperation referred above. The judicial tensions between domestic and international courts described in the contributions by Zarra and Vagias are good cases in point.

The idea whereby respect for international law would be a corollary of the democratic value of the rule of law also applies to the relationships between “universal” international norms (customary law or norms adopted within the framework of universal organisations such as the UN or the WTO) and regional sub-systems. This is apparent, for example, from Eva Kassoti’s work where the Author deplors that the EU has “fallen into the face of the obligation to promote the right to self-determination and the corollary obligation of non-recognition”. Similarly, Francesco Seatzu critically underlined the recent attitude by the Andean Tribunal of Justice to drastically reduce the normative weight of public international law within the Andean legal system. The concern shared by these Authors is that such a mismatch between regional and universal systems is likely to provoke uncertainty about the applicable law, endless litigations with non-Member States and a diminished trust in the ability of international law to govern the international community.

7. *Thirdly*, it should be noted that the smooth application of international law within domestic (and regional) legal systems does not concern solely the procedural aspects of the rule of law. It also relates to the substantive aspects of this principle, namely the protection of human rights and fundamental freedoms.⁴ This is a very significant development that emerges virtually from all the contributions published in the *Focus*. It seems that the whole discussion on the application of international law by national judges and its prevalence on domestic law basically revolves around a fundamental objective: to ensure the conformity of domestic law with international human rights standards and to strengthen, with an additional international guarantee, the fundamental rights already protected by national constitutions.⁵

Let us consider, for instance, the case of the Russian Federation, examined by Sergei Marochkin. Speaking of the way international law is introduced into the Russian legal order, the Author describes a number of judgments delivered by the Supreme Court and the Constitutional Court, which equate the prevalence of international treaties to the protection of universal human rights. In other words, compliance with international standards, in this case originating from treaties, represents a constitutional value to the extent that these standards are consistent with fundamental rights, in pursuance of a project which is shared by international and domestic law. This is epitomised in a ruling handed down by the Russian Constitutional Court in 2007, where the Court maintained that international prin-

⁴ The notion of human rights is obviously understood in broad terms, including collective rights such as peoples’ rights and those pertaining to environmental protection.

⁵ Of course, it is well possible that constitutional norms provide greater protection than that offered by international law. In this case, as also noted by some of the Authors who contributed to the *Focus*, such greater protection would operate as a limit to the domestic application of international law.

ciples protecting human dignity were directly applicable in a case concerning the respect of every individual's burial wishes. On the other hand, the Author points out other decisions where the judges' intention to disregard human rights resulted in the non-application of international standards. This confirms what we said above as to the fact that a violation of international law, especially in some areas, may cause a setback in the democratic evolution of a certain legal order.

In their discussion of the TCC's treatment of international law, Qoraboyev and Turkut expressly recognise that "[t]he focus on the international rule of law as the main goal of international law and the increasing entanglement of domestic legal orders with international law, creates expectations and assumptions as to the decisions of domestic courts" and that "the international rule of law is an objective shared both by the international community and its state constituencies". It is no coincidence that, in dealing with the description of the position of international law in the Turkish legal system, the Authors mostly discuss issues relating to the application of international human rights standards. In this respect, they consider the TCC's judgments that do not apply international law to safeguard nationalistic interests as expressions of an "imperfect democracy". The most striking cases in this regard concern actions aimed at dissolving political parties considered as a danger to Turkey's unity, in breach of the freedom of assembly and association. At the same time, however, they stress how it was precisely the (sometimes tough) confrontation between the TCC and the European Court of Human Rights that marked the stages of Turkey's democratization in the recent past.

A similar discourse applies when we pass to consider regional legal systems. The focus on the *substantial* prong of the rule of law certainly characterises also the contribution by Andrea Spagnolo, who demonstrates – in the light of the recent case law of the Court of Justice of the EU – that loaning of organs between the EU and other international organizations may represent "an important tool for the enhancement of human rights protection in the relations with other international organizations".

8. The *fourth* and final point we want to highlight concerns the techniques of implementation of international law within domestic legal systems. As is well-known, there is no uniformity in international practice on this point. It is true that this issue is normally governed by the constitutions of each State; but it is equally true that this formal discipline is often circumvented by the practice of constitutional bodies, in particular by executive power's interventions and case-by-case interpretations by courts. This is precisely what happened in Russia and Turkey, where the domestic status of international law has remained ambiguous despite the presence of constitutional provisions expressly addressing this issue. Even more interesting, in this respect, is the Indian case. In his article on international treaties in the Indian legal system, Vinai Kumar Singh notes that the Indian practice is characterised by a certain ambiguity, which is ultimately caused by a lack of co-

ordination between the Indian Legislature, Executive and Judiciary. With particular regard to the treaty-making power, he observes that, despite the constitutional provisions that divide this competence between legislative power and executive power, the latter continues to dominate the treaty-making arena, based on the idea that the “making of a treaty is an executive concern”. On the other hand, judges have shown a marked tendency to enforce international treaties even in the absence of specific laws implementing them. This resulted in a creeping marginalisation of the Parliament, which is in blatant contrast with the democratic principles that – as seen above – international law intends to promote in this historical phase.

