Towards Convergence in International Human Rights Law

Approaches of Regional and International Systems

Edited by
Carla M. Buckley
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Preface

International Tribunals and the Pursuance of Jurisprudential Harmonisation in Their Common Mission of Realisation of Justice

I

It is with satisfaction that I write this preface to the present book, *Towards Convergence in International Human Rights Law: Approaches of Regional and International Systems*. The book assembles essays by distinguished authors on a theme of much importance in our days. It was about time that concern with harmonisation took the place of the misguiding notion of 'fragmentation', which should never have been taken up by the United Nations International Law Commission one and a half decades ago; harmonisation, rather than disrupting 'fragmentation', serves the goal of progressive development of international law. Yet, as common sense is the least common of all senses, for a long time attention was unduly diverted to 'fragmentation'. Fortunately, with the initiative of the present book, common sense has prevailed. Harmonisation goes *pari passu* with the ongoing expansion of contemporary international law, as it ensues from the essays composing the present collective work.

One of the most significant illustrations of that expansion lies in the *corpus juris* of the international law of human rights. In view of the expansion of its normative realm, its harmonisation is to be pursued at hermeneutic as well as operative levels. In a course I delivered at The Hague Academy of International Law almost three decades ago, I deemed it fit to ponder that, in the domain of human rights protection, coordination has distinct meanings with regard to each mechanism employed. Thus, in respect of the system of *petitions or communications*, coordination seeks to avoid the conflict of competences, the undue duplication of procedures and the diverging interpretation of corresponding provisions of coexisting international instruments, on the part of the supervisory organs. In relation to the *reporting system*, coordination means the consolidation of uniform guidelines (concerning the form and contents and the standardisation of reports). And with regards to the system of *fact-finding or investigations* (missions of observation *in loco*), coordination aims at the regular exchange of information and reciprocal consultations between the supervisory organs.[1]

1 Cançado Trindade, 'Co-existence and Co-ordination of Mechanisms of International Protection of Human Rights (At Global and Regional Levels)' (1987) 202 *Recueil des Cours de l'Académie de Droit International de La Haye* 21.

In this domain, international law has been made use of in order to expand and strengthen the protection to be given to the alleged victims. The mechanisms of protection at global and regional levels are essentially *complementary* (rather than competing with each other). Clearly oriented towards the safeguarding of the victims, their gradual expansion, consolidation and strengthening have been to a large extent due to the adequate treatment of questions pertaining to their hermeneutics and operation. They have thus harmoniously enlarged the extent of protection to be accorded to the alleged victims. It is important that procedural techniques and presumptions keep on being applied systematically in favour of the alleged victims, bearing in mind ultimately the faithful realisation of the object and purpose of the treaties and instruments of protection of the human person. After all, the diversity of the means of protection is accompanied by their overriding identity of purpose and the conceptual unity of human rights.[2]

II

It is generally acknowledged today that we live in the era of international tribunals. The work of contemporary international tribunals can be properly appreciated from the perspective of the *justiciables* themselves. The reassuring multiplicity of contemporary international tribunals—a sign of our times—discloses the considerable advances achieved in the search for the realisation of the ideal of international justice. Each international tribunal has its jurisdiction grounded on a distinct treaty or international instrument, and has its own applicable law. Instead of hierarchy, there is here *complementarity* in their work, asserting and confirming the aptitude of contemporary international law to resolve the most distinct types of international disputes, at both *inter*-state and *intra*-state levels. Each tribunal is to give its effective contribution to the continuing evolution of international law in its quest for the realisation of international justice.

To this effect, the coordination and the dialogue among them are of great importance,[3] as in many aspects the activities of those tribunals are complementary. It should not pass unnoticed that the cases that reach international tribunals are but a minor part of the injustices and abuses committed against

2 Ibid. at 401–412.

3 See recently Cançado Trindade, *Os Tribunais Internacionais e a Realização da Justiça* (Renovar, 2015); and Cançado Trindade, *Los Tribunales Internacionales Contemporáneos y la Humanización del Derecho Internacional* (Ad-Hoc, 2013).

human beings all the time and everywhere. Thus, for those seeking justice, all international tribunals are endowed with importance, varying from case to case. The International Court of Justice (ICJ) retains its relevance for the inter-state *contentieux*, but for victims of violations of human rights the most important international tribunals are those of human rights, just as for relatives of those victimised by acts of genocide, crimes against humanity and war crimes, international criminal tribunals are the most important ones, parallel to the ICJ. For members of the crew of detained ships, the most important international tribunal is that of the law of the sea, in Hamburg. Each one has its importance, in the respective domains of their operation.

What ultimately matters is, in fact, the realisation of international justice. Within this larger framework, jurisprudential cross-fertilisation on human rights protection comes prominently to the fore.[4] The institutional and jurisprudential harmony among contemporary international tribunals can be achieved and preserved by means of the continuity of the dialogue in an atmosphere of mutual respect *inter se*. The UN Charter itself foresees the creation of new international tribunals, thus enlarging the possibilities of judicial settlement.[5] The multiplicity and coordination of international tribunals are reassuring, as it is always better to settle disputes on the basis of the rule of law, by means of judicial settlement. The realisation of justice at the international level is the common denominator that brings together international tribunals and orients their labour.

If one approaches the work of contemporary international tribunals from the correct perspective of the *justiciables* themselves,[6] one is brought closer to their common mission of the realisation of international justice, as already pointed out, at both *inter*-state and *intra*-state levels. From the standpoint of the needs of protection of the *justiciables*, each international tribunal retains its importance in a wider framework encompassing the most distinct situations to be adjudicated, in each respective domain of operation. Jurisprudential cross-fertilisation exerts, accordingly, a constructive function in the safeguard of the rights of the *justiciables*. The fact that contemporary international tribunals have kept on devoting attention to each other's decisions is indeed reassuring, as this fosters cohesion and the *unity of the law*. It is thus to be

4 See below.

5 Article 95 Charter of the United Nations.

6 Cançado Trindade, *Évolution du Droit international au droit des gens-L'accès des particuliers à la justice internationale: Le regard d'un juge* (Pédone, 2008); and Cançado Trindade, *El Acceso Directo del Individuo a los Tribunales Internacionales de Derechos Humanos* (Universidad de Deusto, 2001).

expected that contemporary international tribunals remain aware of the case law of each other, in their common mission of imparting justice in distinct domains of international law.

III

In effect, institutions are, ultimately, the persons who integrate or compose them, and international tribunals are no exception to that. There are judges who regard their function as being one of strict application of the law, of the legal text; and there are those who rightly believe that, in the interpretation itself, or even in the search, of the applicable law, there is space for creativity; each international tribunal is free to find the applicable law, independently of the arguments of the parties. The innovation and the progressive development of the international law are inescapable if we are prepared to act at the height of the challenges of our times. Contemporary international tribunals, working in a coordinated way, are gradually constructing a growing jurisprudential cross-fertilisation, particularly in so far as the protection of the human person is concerned, thus going in fact beyond dispute settlement on a case-by-case basis and displaying their awareness that, in their common mission, they are *to say what the law is* (*juris dictio*).

International tribunals have been disclosing their preparedness to resolve controversies in distinct domains of international law, concerning *all subjects* of international law (states, international organisations and individuals), at both *inter*-state and *intra*-state levels (for example, as to the former, the ICJ, and as to the latter, the international human rights tribunals and the international criminal tribunals), thus seeking to give their invaluable contribution to the progressive development of contemporary *jus gentium*. This brings to the fore the realisation of international justice at both *inter*-state and *intra*-state levels.

IV

May I just refer to a couple of illustrations to this effect, as several others can be found in the course of the present book. In so far as the basis of jurisdiction (in contentious matters) of international human rights tribunals is concerned, eloquent illustrations of the firm stand, by the European Court of Human Rights (ECtHR) and the Inter-American Court of Human Rights (IACtHR), in support of the integrity of the mechanisms of protection of the two respective

conventions on human rights, are afforded, for example, by the judgments of the ECtHR in the *Belilos v Switzerland*,[7] in *Loizidou v Turkey*[8] and in *Ilaşcu and Others v Moldova and Russia*,[9] as well as by the landmark decisions of the IACtHR in *Constitutional Court v Peru*,[10] *Ivcher Bronstein v Peru*[11] and *Constantine et al. v Trinidad and Tobago*.[12] The ECtHR and IACtHR have thus helped to secure compliance with the conventional obligations of protection of the states *vis-à-vis* all human beings under their respective jurisdictions.

Human rights treaties such as the European Convention on Human Rights and the American Convention on Human Rights have, in this way, by means of such interpretative interaction, reinforced each other mutually, to the ultimate benefit of the protected human beings. Interpretative interaction has in a way contributed to the universality of the conventional law on the protection of human rights. This has paved the way for a *uniform* interpretation of the basis of jurisdiction (in contentious matters) of international human rights tribunals (the ECtHR and the IACtHR), to which nowadays the recently established African Court on Human and Peoples' Rights is expected to give also its contribution.[13] Contemporary international tribunals, learning from each other's experience, have thus contributed jointly to the development of contemporary international law in distinct domains, thus discarding the false notion of so-called 'fragmentation' and upholding the *unity of the law*, in the exercise of their common mission of imparting justice.

May I also refer to the case of *Varnava and Others v Turkey*,[14] lodged with the ECtHR by 18 Cypriot nationals, which concerned the disappearance of persons after their detention by Turkish military forces in 1974 during the military operations carried out by the Turkish Army in Northern Cyprus in 1974. The Court rejected the respondent state's objections as to lack of temporal jurisdiction; it sustained that the fact that the persons (victims) were missing for over 34 years

7 Application No 10328/83, Merits and Just Satisfaction, 29 April 1988.

8 Application No 15318/89, Preliminary Objection, 23 March 1995.

9 Application No 48787/99, Admissibility, 4 July 2001.

10 IACtHR Series C 55 (1999).

11 IACtHR Series C 54 (1999).

12 IACtHR Series C 82 (2001).

13 See Cançado Trindade, 'Vers un droit international universel: La première réunion des trois Cours régionales des droits de l'homme', in *XXXVI Curso de Derecho Internacional Organizado por el Comité Jurídico Interamericano – 2009* (General Secretariat of the OAS, 2010) 103; and Weckel, 'La justice internationale et le soixantième anniversaire de la Déclaration Universelle des Droits de l'Homme' (2009) 113(1) *Revue générale de droit international public* 5.

14 Applications Nos 16064/90 et al., Merits and Just Satisfaction, 18 September 2009.

did not change the obligation of an effective investigation towards them. There was a *continuing* obligation of determination or disclosure of the whereabouts and the fate of the missing persons in the case. A noticeable feature of the ECtHR's judgment in *Varnava and Others* is its elaborate cross-referencing to the relevant or pertinent case law of the IACtHR, in particular the leading case *Blake v Guatemala*[15] and the case of the *Serrano Cruz Sisters v El Salvador*.[16]

In connection with such jurisprudential cross-fertilisation, the ECtHR issued in August 2012 a useful research tool, the first of the kind, namely its report on references to the Inter-American Court of Human Rights in the case law of the European Court of Human Rights. This is a most commendable initiative, showing its open-mindedness to the labour of its sister institution in the American continent, in the framework of the universality of human rights. This Report contains, in its first edition of August 2012, a table with a total of 25 cases where cross-references are made in any part of the Court's judgments (as to the facts or as to the law).[17]

The 25 judgments of the ECtHR listed therein refer not only to judgments of the IACtHR, but also to its advisory opinions, such as those on the *Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*[18] (evoked in the judgment of the Grand Chamber of the ECtHR in the case of *Öcalan v Turkey*)[19] and on the *Juridical Condition and Human Rights of the Child*[20] (quoted in the ECtHR's judgment in the case of *Konstantin Markin v Russia*).[21] Three other recent examples are provided by the

15 IACtHR Series C 27 (1996); and IACtHR Series C 36 (1998).

16 IACtHR Series C 118 (2004); and IACtHR Series C 120 (2005). For further cross-references to relevant or pertinent case law of the IACtHR, see also the ECtHR's judgments in *X and Others v Austria* Application No 19010/07, Merits and Just Satisfaction, 19 February 2013; *Savriddin Dzhurayev v Russia* Application No 71386/10, Merits and Just Satisfaction, 25 April 2013; and *Aslakhanova and Others v Russia* Applications Nos 2944/06 *et al.*, Merits and Just Satisfaction, 18 December 2012.

17 ECtHR, *Research Report: References to the Inter-American Court of Human Rights in the Case-Law of the European Court of Human Rights*, 2012, at 1–20.

18 OC-16/99, IACtHR Series A 16 (1999).

19 Application No 46221/99, Merits and Just Satisfaction, 12 May 2005.

20 OC-17/02, IACtHR Series A 17 (2002).

21 Application No 30078/06, Merits and Just Satisfaction, 22 March 2012. The IACtHR's judgment of 21 June 2002 in the *Case of Hilaire, Constantine and Benjamin et al. v Trinidad and Tobago* IACtHR Series C 94 (2002), concerning the death penalty, was referred to by the Grand Chamber of the ECtHR in two judgments: *Mamatkulov and Askarov v Turkey* Applications Nos 46827/99 and 46951/99, Merits and Just Satisfaction, 4 February 2005; and *Öcalan v Turkey*, *supra* n 19.

judgments of the ECtHR in *Portmann v Switzerland*[22] (with a cross-reference to the IACtHR's judgment in the case of *Maritza Urrutia v Guatemala*[23]), *Zontul v Greece*[24] (with a cross-reference to the IACtHR's judgment in the case of the *Miguel Castro Castro Prison v Peru*[25]) and *Babar Ahmad and Others v United Kingdom*[26] (with a cross-reference to the IACtHR's judgment in the case of *Montero Aranguren et al. (Detention Center of Catia) v Venezuela*[27]).

After the publication of that Report, the ECtHR has delivered its judgment of 27 May 2014 in the case of *Marguš v Croatia*,[28] where it observed that international tribunals have, in their judgments, 'held that amnesties are inadmissible when they are intended to prevent the investigation and punishment of those responsible for grave human rights violations or acts constituting crimes under international law'.[29] Such amnesties, the ECtHR added, undermining the state's duty to investigate and punish the perpetrators of 'grave breaches of fundamental human rights ... contravene irrevocable rights recognised by international human rights law'.[30] Before reaching this significant conclusion, the ECtHR quoted four paragraphs of the leading case—a decision to the same effect—of the jurisprudence of the IACtHR on the matter, namely its judgment of 14 March 2001 in the case of *Barrios Altos v Peru*.[31] Furthermore, the ECtHR quoted one paragraph of my own concurring opinion appended to the judgment of the IACtHR in the *Barrios Altos* case.[32] The two international tribunals thus share the understanding that those amnesties are incompatible with the provisions of the American and European Conventions on Human Rights.

V

This is, in my perception, a harmonious jurisprudential development at its best. In effect, a remarkable feature of the advances of public international law in the present domain is the granting of access to justice to individuals at

22 Application No 38455/06, Merits and Just Satisfaction, 11 October 2011.
23 IACtHR Series C 103 (2003).
24 Application No 12294/07, Merits and Just Satisfaction, 17 January 2012.
25 IACtHR Series C 160 (2006).
26 Applications Nos 24027/07 *et al.*, Merits and Just Satisfaction, 10 April 2012.
27 IACtHR Series C 150 (2006).
28 Application No 4455/10, Merits and Just Satisfaction, 27 May 2014.
29 Ibid. at para 135.
30 Ibid. at para 138.
31 Ibid. at para 60 (IACtHR Series C 75 (2001)).
32 *Marguš v Croatia*, ibid. at para 60.

the international level, in the framework of the contemporary phenomenon of the expansion of international personality (and capacity) and jurisdiction. This has propitiated a better understanding of the wide dimension of the right of access to justice, *lato sensu*.[33] Human beings appear as subjects (not only 'actors'), both *active* (before international human rights tribunals) and *passive* (before international criminal tribunals), of international law. The present day expansion of international jurisdiction increases the number of the *justiciables* at international level (in face of the multiplicity of contemporary international tribunals), with the concomitant expansion of both international personality and international responsibility.

The handling, for example, by the International Criminal Court (ICC) of the case of *Prosecutor v Thomas Lubanga Dyilo* (situation in the Democratic Republic of Congo) was marked from the start by the attention dispensed by the ICC to the relevant case law of international human rights tribunals. This was so from the decision of its Pre-Trial Chamber I,[34] which contained cross-references to pertinent decisions of the IACtHR (*Ivcher Bronstein v Peru*)[35] and the ECtHR (*Soering v United Kingdom*[36] and *Mamatkulov and Askarov v Turkey*)[37]. As to the identification of victims for purposes of reparations, the ICC (Pre-Trial Chamber I) further referred, in the same judgment in the *Lubanga* case, to the judgments of the IACtHR in the case of *Aloeboetoe et al., v Suriname*[38] and in the case of the *Plan de Sánchez Massacre v Guatemala*.[39]

Again on evidentiary matters, the ICC, still in the same judgment, referred to the case law of the ICJ (case of the *Armed Activities on the Territory of the Congo*[40]), as well as of the *ad hoc* International Criminal Tribunal for the Former Yugoslavia (ICTY) (case, *inter alia*, of *Delalić et al.*[41]). Subsequently,

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33 See Cançado Trindade, *Le Droit international pour la personne humaine* (Pédone, 2012); Cançado Trindade, *The Access of Individuals to International Justice* (OUP, 2011); and Cançado Trindade, *El Derecho de Acceso a la Justicia en Su Amplia Dimensión*, 2nd edn (Librotecnia, 2012).

34 *Prosecutor v Thomas Lubanga Dyilo* Confirmation of Charges, ICC-01/04-01/06-803 (2007).

35 IACtHR Series C 74 (2001).

36 Application No 14038/88, Merits and Just Satisfaction, 7 July 1989.

37 *Supra* n 21.

38 IACtHR Series C 15 (1993).

39 IACtHR Series C 116 (2004).

40 *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo v Uganda*) Merits, Judgment, ICJ Reports 2005, 168.

41 *Prosecutor v Delalić et al.* Decision on Admissibility of Evidence, IT-96-21 (1998); *Prosecutor v Delalić et al.* Trial Judgment, IT-96-21 (1998); and *Prosecutor v Delalić et al.* Appeal Judgement, IT-96-21-A (2001).

the ICC, in its decision (Trial Chamber I) of 7 August 2012 establishing the principles and procedures to be applied to reparations in the same case of *Thomas Lubanga Dyilo*, again referred to the pertinent case law of international human rights tribunals.[42] When it came to its treatment of specific issues concerning reparations, the Trial Chamber I of the ICC has, to a far greater extent, made express cross-references to the relevant case law of the IACtHR in particular.

Thus, as to the beneficiaries of reparations, the ICC has referred, for example, to the judgment of the IACtHR in the case of *Aloeboetoe et al. v Suriname*.[43] As to the scope of reparations, the ICC has observed that '[i]ndividual and collective reparations are not mutually exclusive, and they may be awarded concurrently', and referred, in this respect, to the judgment of the IACtHR in the case of the *Moiwana Community v Suriname*.[44] As to the award of compensation, the ICC has referred to a series of decisions of both the IACtHR and the ECtHR.[45]

As to the rehabilitation of the victims, the ICC has referred to the decisions of the IACtHR in the cycle of cases of massacres, such as, for example, the IACtHR judgments of 15 September 2005 in the case of the *'Mapiripán Massacre' v Colombia*, and of 19 November 2004 in the case of the *Plan de Sánchez Massacre v Guatemala*.[46] As to other modalities of reparations, the ICC has evoked the IACtHR decisions, for example, in the same case of the *Plan de Sánchez Massacre*, as well as in the cases of *Juan Humberto Sánchez v Honduras* and *Tibi v Ecuador*.[47]

Reference can be made to other examples of jurisprudential cross-fertilisation pertaining to the protection of human rights in cases concerning collective victims. In the case of the *Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) v Kenya*, for

42 *Prosecutor v Thomas Lubanga Dyilo* Decision establishing the principles and procedures to be applied to reparations, ICC-01/04-01/06 (2012) at paras 21, 86–87 and 98.

43 Ibid. at para 195, n 386 (*Aloeboetoe et al. v Suriname*, *supra* n 38).

44 Ibid. at para 220, n 406 (*Case of the Moiwana Community v Suriname* IACtHR Series C 124 (2005)).

45 Ibid. at paras 229–230.

46 Ibid. at para 233, n 422 (*Case of the 'Mapiripán Massacre' v Colombia* IACtHR Series C 134 (2005); and *Case of the Plan de Sánchez Massacre v Guatemala*, *supra* n 39). For a recent study of the international adjudication by the IACtHR of this cycle of cases of massacres, see Cançado Trindade, *State Responsibility in Cases of Massacres: Contemporary Advances in International Justice* (Netherlands Institute of Human Rights, 2011).

47 Ibid. at para 237, n 426 (*Case of Juan Humberto Sánchez v Honduras* IACtHR Series C 99 (2003); and *Case of Tibi v Ecuador* IACtHR Series C 114 (2004)).

example, the African Commission on Human and Peoples' Rights ruled that the eviction of the Endorois indigenous people from their traditional land (for tourism development) was in breach of the African Charter on Human and Peoples' Rights.[48] To reach its decision, the African Commission drew parallels with the judgment of the IACtHR in the leading case of the *Mayagna (Sumo) Awas Tingni Community v Nicaragua*;[49] it further made cross-references to the judgments of the IACtHR in the cases of the *Moiwana Community v Suriname*,[50] *Yakye Axa Indigenous Community v Paraguay*,[51] *Sawhoyamaxa Indigenous Community v Paraguay*[52] and *Saramaka People v Suriname*.[53] The African Commission was of the view that it was incumbent upon the respondent state to bear the responsibility for 'creating conditions favourable to a people's development', which, in that case, it 'did not adequately provide for the Endorois'.[54]

VI

As for the ICJ, in the case of *Ahmadou Sadio Diallo (Guinea v Democratic Republic of the Congo)*,[55] in the course of the proceedings as to the merits (written and oral phases), it became clear from the arguments of the contending parties themselves that the case pertained in fact to the protection of human rights. For the first time in its history, the ICJ established violations of two human rights treaties—namely the UN Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights—as a consequence of the detentions of A.S. Diallo in the Democratic Republic of Congo and of his expulsion from the country. Also for the first time in its history, the ICJ expressly recognised the relevant case law of the ECtHR and the IACtHR.[56]

48 276/03, 25 November 2009.

49 IACtHR Series C 79 (2001).

50 *Supra* n 44.

51 IACtHR Series C 125 (2005).

52 IACtHR Series C 146 (2006).

53 IACtHR Series C 172 (2007).

54 *Centre for Minority Rights Development (Kenya) and Minority Rights Group (on behalf of Endorois Welfare Council) v Kenya*, *supra* n 48 at para 298.

55 Merits, Judgment, ICJ Reports 2010, 639. The case was originally submitted by Guinea in the exercise of discretionary (inter-state) diplomatic protection.

56 Ibid. at para 68.

In pursuance of this unprecedented trend, inaugurated in its judgment of 2010 on the merits in the case of *Ahmadou Sadio Diallo*, the ICJ, in its subsequent judgment of 19 June 2012 on reparations in the same case of *Ahmadou Sadio Diallo*,[57] has again referred to the pertinent case law of other international tribunals, such as, for example, the ECtHR and the IACtHR, the International Tribunal for the Law of the Sea (ITLOS) and the Iran—United States Claims Tribunal. Thus, in respect of compensation for non-material damage, the ICJ has referred to the judgment of the IACtHR in the case of *Cantoral Benavides v Peru*,[58] as well as to the judgment of the ECtHR (Grand Chamber) in the case of *Al-Jedda v United Kingdom*.[59] Likewise, in respect of compensation for material damage, the ICJ has further referred to recent decisions of the ECtHR and the IACtHR.

There are many other aspects of jurisprudential cross-fertilisation which require particular attention for the progressive development of international law. For example, in the ICJ, in my separate opinion appended to the judgment in the case relating to the *Obligation to Prosecute or Extradite* (*Belgium v Senegal*),[60] I have referred to the IACtHR as well as the *ad hoc* International Criminal Tribunal for the Former Yugoslavia (ICTY) as 'the two contemporary international tribunals which have most contributed so far to the jurisprudential construction of the absolute prohibition of torture, in the realm of *jus cogens*'.[61]

In the course of 2013, the ICJ joined other institutions based at The Hague in their commemorations of the centenary of the Peace Palace at The Hague, and convened a colloquy on 23 September 2013 on 'A Century of International Justice and Prospects for the Future'. The opening panel, in the form of a dialogue between judges, consisted of two addresses,[62] which focused, *inter alia*,

57 *Ahmadou Sadio Diallo* (*Guinea v Democratic Republic of the Congo*) Compensation, Judgment, ICJ Reports 2012, 324.

58 IACtHR Series C 88 (2001).

59 Application No 27021/08, Merits and Just Satisfaction, 7 July 2011.

60 ICJ Reports 2012, 487.

61 Ibid. at para 88. See Cançado Trindade, '*Jus Cogens*: The Determination and the Gradual Expansion of Its Material Content in Contemporary International Case-Law', in *XXXV Curso de Derecho Internacional Organizado por el Comité Jurídico Interamericano – 2008* (General Secretariat of the OAS, 2009) 3.

62 Respectively by Judge Cançado Trindade (International Court of Justice; Former President of the Inter-American Court of Human Rights) and Judge Dean Spielmann (President of the European Court of Human Rights): see Cançado Trindade, 'A Century of International Justice and Prospects for the Future', in Cançado Trindade and Spielmann, *A Century of International Justice and Prospects for the Future/Retrospective d'un siècle de*

on recent trends in jurisprudential cross-fertilisation, singling out their merits. They stressed the importance of jurisprudential cross-fertilisation not only for their respective international tribunals, but for the harmonious evolution of contemporary international case law in general. It clearly ensues there from that the fact that international tribunals have distinct jurisdictions in no way hinders jurisprudential cross-fertilisation: on the contrary, it calls for it.

International tribunals can learn from each other's experience and each give their own contribution to the evolution of contemporary international law in distinct domains, discarding the false notion of 'fragmentation'; they thus secure the *unity of the law*, in the exercise of their common mission of imparting justice. The present book of essays on harmonisation of international human rights law in the practice of international courts and tribunals gives a timely contribution to the understanding and promotion of jurisprudential harmonisation, thus enriching legal bibliography on a theme that is of much topicality and relevance, to the benefit of jurists of succeeding generations.

The Hague, 25 July 2015

Antônio Augusto CANÇADO TRINDADE

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justice internationale et perspectives d'avenir (Wolf Legal Publishers, 2013) at 20–22 and 26; and Spielmann, 'Rétrospective d'un siècle de justice internationale et perspectives d'avenir', at 36 and 40–44.