UNIVERSITY OF BRASILIA

FACULTY OF LAW

DOCTORAL STUDIES

The Law of International Organizations (1945-1964)

A study of the development and the autonomization of the discipline in France, the United Kingdom and the United States

A thesis submitted to the University of Brasilia for the Degree of Doutor em Direito (Doctor of Laws)

by

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March, 2020

THE LAW OF INTERNATIONAL ORGANIZATIONS (1945-1964)

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Thesis – Doutor em Direito (Doctor of Laws) – University of Brasilia

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Acknowledgments

I would like to thank my advisor, Professor George Galindo, whose trust on me is constantly tested by my tendency to procrastinate and by my unfortunate indecisiveness, two characteristics that must certainly put his patience to the test. In spite of my shortcomings, he has always been a calm, gentle and wise guide, incentivizing me to pursue my interests, to keep my curiosity alive and to enjoy life.

I also express my gratitude to all of the members of the examination board, Professors Marcus Faro, Inez Lopes, João Roriz and Paula Almeida, who have promptly answered my invitation and who have, on very short notice, examined my writing.

I would like to thank my work colleagues, who have helped me during the final months of writing. Whenever I needed some time to concentrate or to put my thoughts in order, never did I hear a complaint, but always words of encouragement. I would also like to thank Barbara for many years of genuine affection.

I am very lucky to have benefited from the unwavering support of my family to pursue my doctoral studies. Gilberto, Cristina, Ricardo, Elza and Laura, thank you for your patience and love, even during the days where my fretfulness and impatience are especially difficult to tolerate. For as much as sometimes I do take everything for granted, I am deeply and sincerely indebted for your support.

Last but not least, I would also like to dedicate this thesis my late grandmother Alcinia, unforgettable example of fortitude, correctness and dedication. I hope someday to be like you.

ABSTRACT. The thesis purports to explain the emergence of the law of international organizations as a specialized field of research in the context of the first two decades of the postwar period, ranging from 1945 to 1964. The process of emergence is divided in two different components: development and autonomization. Development stands for the substantive element of the process, meaning the multiplication of writings on topics pertaining to the discipline and an enhanced academic interest on these topics. Autonomization stands for the formal element of the process, meaning the gradual consolidation of the discipline as a specialized field, furnished with its own perspective and topics and separate from other disciplines. A comparative study of journals, curricula and textbooks in France, the United States and the United Kingdom provides the background on how different university environments and specialized communities influenced the configuration of the discipline and helps to explain the current features and biases of the law of international organizations. Unlike other international legal disciplines, the law of international organizations does not emerge out of a process of differentiation from general international law. Instead, it gains its own identity from a gradual approximation to general international law, when topics pertaining to the multidisciplinary study of international organization (or the organization of the world) are examined under a strictly legal perspective.

KEYWORDS. International Law, History of International Law, International Organizations, Law of International Organizations, Postwar, United States, France, United Kingdom.

RESUMO. A tese propõe explicar a emergência do direito das organizações internacionais como um campo independente de estudo durante as duas primeiras décadas do pós-guerra, entre os anos de 1945 e 1964. O processo de emergência é dividido em dois eixos: desenvolvimento e autonomização. O desenvolvimento se refere ao eixo material, pelo qual há a multiplicação de escritos sobre temas relevantes para a disciplina e o aumento de interesse nessa produção acadêmica. A autonomização se refere ao eixo formal, pelo qual a disciplina gradualmente adquire identidade própria, definindo-se as fronteiras com outras disciplinas e os temas e perspectivas relevantes para seu estudo. O estudo comparado de periódicos, currículos e manuais na França, nos Estados Unidos e no Reino Unido permite-nos identificar as influências provenientes dos diferentes ambientes universitários e círculos de especialistas, de modo a explicar as compreensões e os vieses que marcam o estudo do direito das organizações internacionais. Ao contrário de outras disciplinas de direito internacional, o direito das organizações internacionais não surge de uma ramificação do direito internacional geral. Em vez disso, ele ganha identidade ao se aproximar do direito internacional geral, a partir do momento em que estudos multidisciplinares sobre organização internacional (ou organização do mundo) passam a ser tratados sob um olhar exclusivamente jurídico.

PALAVRAS-CHAVE. Direito Internacional, História do Direito Internacional, Organizações Internacionais, Direito das Organizações Internacionais, Pós-Guerra, Estados Unidos, França, Reino Unido.

Summary

Introduction

Studying the history of the law of international organizations in times of Brexit, commercial conflicts, nationalist backlash and populist politics seems an unpromising initiative. After all, these are testing times to our common capacity to tackle global problems through international institutions, an ability constantly put into question by some global leaders, as demonstrated by the tiresome rhetoric of national "absolute rights" being mentioned at the opening addresses to the General Assembly in 2019.

In spite of the adverse context, studies on the intellectual history of the law of international organizations have multiplied in the last three decades, going far beyond the common introductory explanations on the historical development of international institutions that are included in the most popular textbooks on the law of international organizations.

The basic historical narratives on the development of international institutions usually follow the same path[1]. It all starts with the Central Commission for the Navigation of the Rhine, the first international institution to be created, in 1815, and proceeds to the International Telecommunication Union, the first institution with a universal character. It then advances to the first usage of the expression "international organization" by James Lorimer, during the late 1800s, in an attempt to describe the need for further centralization of international authority[2]. Further reference is made to the Treaty of Versailles as the first legal instrument to utilize the expression "international organization" to refer to the institutions that were to be created by the victorious powers and their allies[3]. The League of Nations and the International Labor Organization are then presented as the opening acts in a process where international organizations are becoming, which has one main act: the creation of the United Nations and its

[1] This is valid in general, except for the case of Jan Klabbers' textbooks, which include a general outline of the first writings on the law of international organizations, as it will be presented in sequence.
[2] For an in-depth assessment of Lorimer's writings, refer to: SIMPSON, Gerry. James Lorimer and the Character of Sovereigns: The Institutes as 21st Century Treatise. *The European Journal of International Law* (2016) 27:2, 431-446.
[3] POTTER, Pitman. Origin of the Term International Organization. *The American Journal of International Law* (1945) 39:4, 803-806.

specialized agencies. The operational difficulties within the Cold War are then mentioned, in contrast to the promising context for cooperation after the fall of the Communist bloc. Depending on the topics mentioned in the textbook, this story includes a series of parallel scripts: regional integration, international criminal law or the international protection of human rights.

The new approach, properly referred to as the history of the law of international organizations, instead of focusing on the history of the creation and multiplication of international organizations, deals with the intellectual and institutional conditions that led to the consolidation of the discipline.

The history of the law of international organizations

The critical analysis of the historical development of international organization studies among international lawyers was inaugurated by David Kennedy´s 1987 article *The Move to Institutions*[4], which situated the common discourse on the development of international institutions as a strategic variation between the ideas of break (institutions are necessary to control an existing crisis), movement (institutions organize and promote common goals) and repetition (institutions remind us of the gloomy past and assert that stability depends on the full exercise of their functions). The creation of the League of Nations is indicated as the essential moment where international law shifted from a pre-institutionalized form to its current one, abandoning pure-breed voluntarism and embracing regulation. The move to institutions, as such, represented a change in the common structure of legal discourses, where the ideas of stability and cooperation trumped some of the traditional concepts of the discipline.

David Kennedy´s original essay was followed by David Bederman´s 1996 article *The Souls of International Organizations*[5], which represents the first attempt to deal directly with the intellectual history of the law of international organizations, understanding the

[4] KENNEDY, David. The Move to Institutions. *Cardoso Law Review* (1987) 8:5, 841-988.
[5] BEDERMAN, David. The Souls of International Organizations: Legal Personality and the Lighthouse at Cape Spartel. *Virginia Journal of International Law* (1995-1996), 6, 275-377.

conceptual influences that led to the emergence of the discipline. The article focuses on retracing the origins of a specific legal discourse, explaining how the idea of legal personality of international organizations depended on the combination of *common law* and *civil law* considerations. As exemplified by a legal opinion given during the interwar years on the *International Commission of Cape Spartel Lighthouse*, jurists would combine practical customary notions of function to legal theories on agency developed during the late 19th century in Germany in order to tackle questions of authority, governance and external relations of international unions and commissions. According to David Bederman, these controversies would only come to an end decades later, with the *dictum* of the *Reparations* Case, which firmly asserted a conciliatory doctrine that led to the recognition of the legal personality of international organizations, limiting their powers and privileges to functional grounds[6].

More recently, since the late 2000s, José Enrique Álvarez, Anne Peters and Jan Klabbers have been at the forefront of the historical research on the law of international organizations, having published a series of articles and chapters on the topic, which comprise the basic bibliography on the field.

José Enrique Álvarez, in *International Organizations: Then and Now*[7], complements the original diagnoses of David Kennedy and David Bederman, by evincing that international organizations had impacted the sources of international law and the forms of international obligation. "Whether prompted by the functionalist needs of their members or the desires of their bureaucrats"[8], international organizations were institutionalizing legal regimes, with specific normative principles and dispute-settlement mechanisms. New negotiating techniques, semi-binding rules, participation of NGOs, the mushrooming of subsidiary organs and the substitution of diplomacy by expert regulation also impacted the basic tenet of state consent as the basis of international law. The more international organizations (and even some subsidiary

[6] *Ibid*, p. 357.
[7] ÁLVAREZ, José Enrique. International Organizations: Then and Now. *The American Journal of International Law* (2006) 100:2, 324-347.
[8] *Ibid*, p. 328.

organs) became unconstrained by their functions and by the will of their member states, the less the parameters of the law of international organizations remained clear.

Moreover, in Professor Álvarez's opinion, the law of international organizations was also challenged by new phenomena, such as the unparalled relevance of some Conferences and Meeting of the Parties (COPs and MOPs) and the creation of informal groupings and transnational networks with some degree of rule-making authority[9]. Those unpredicted developments unveil the problems with the discourse of unshakeable progress that stems from the "move to institutions"[10]. It has become quite clear that the proliferation of legal actors and the centralization of certain activities at the international level do not necessarily promote the public good. The answer to this challenge represents the main split in the current studies of international organizations, opposing the reformist discourse of traditional liberal internationalists to the skepticism of international lawyers who embraced critical perspectives[11].

In her 2011 chapter *Le cheminement historique des organisations internationales*[12], Anne Peters studied the discourses that justified the establishment of international organizations up until 1945, as well as the ideological and material facts underlying these actions. The tension between technical and democratic tendencies is brought to light, it being evinced that the theory of the "spillover effect" had already been proposed by some of the first liberal internationalists as a conciliatory attempt. An extensive literature on the League of Nations and the International Labor Organization is indicated by Professor Peters, with special reference to interwar debates.

As a matter of fact, if the preceding authors have written some important contributions to the history of the study of international organizations, it is Professor Jan Klabbers who probably stands as the foremost author in the history of the law of international

[9] *Ibid*, pp. 334-335.
[10] This is also the main point pressed in: KLABBERS, Jan. The Changing Image of International Organizations. In: COICAUD, Jean-Marc; HEISKANEN, Veijo. *The legitimacy of international organizations.* New York/Tokyo: United Nations University Press, 2001, pp. 221-255.
[11] ÁLVAREZ, José Enrique. International Organizations: Then and Now. *The American Journal of International Law* (2006) 100:2, p. 347.
[12] PETERS, Anne. Le Cheminement Historique des Organisations Internationales: entre Téchnocratie et Démocratie. In: CHETAIL, Vincent; DUPUY, Pierre-Marie. *The Roots of International Law: Les fondements du droit international – Liber amicorum Peter Haggenmacher*. Leiden: Brill, 2011, pp. 487-530.

organizations. In the first place, his treatise on the law of international organizations departs from the common (and limited) historical description of the mushrooming of international organizations, incorporating some remarks on the evolution of the academic discipline. Moreover, in a series of writings, he portrays the development and demise of functionalism as the main paradigm of the law of international organizations and presents some of the most important moments in the emergence of the discipline. His critical appraisals on the shortcomings of functionalism and on some of the oft ignored topics of the law of international organizations also provide us with important subsidies to understand the ideological leanings of the law of international organizations.

In his 2015 article *The Transformation of International Organizations Law*[13], Jan Klabbers briefly presents some different perspectives adopted in writings on the history of international organization and then proceeds to a detailed examination of the long history of functionalism, in his opinion the basic theoretical assumption of the law of international organizations. As he points out, functionalism has been at the heart of most writings on the law of international organization, as a legitimizing discourse on the need for delegating authority to international institutions, justifying why states should create international organizations. However, this normative notion, as a means to naturalize the progressive nature of international organizations, is detrimental to the understanding of the limits under which these institutions ought to operate as well as to the promotion of a coherent regime of responsibility and accountability.

In his historical outlook, functionalism stems from the progressivist tendencies of the nineteenth century on the rational administration of social needs that led to the establishment of diverse mechanisms of global cooperation, such as international commissions, technical international unions and private international associations of a professional or humanitarian character. After a first attempt by Georg Jellinek to provide a proper legal expression to the idea, by means of the notion of legal entities created

[13] KLABBERS, Jan. The Transformation of International Organizations Law. *The European Journal of International Law* (2015) 26:1, 10-82. For an insightful critique of some of the weaknesses of the narrative of continuity and decadence by Jan Klabbers, refer to: DUXBURY, Alisson. Is International Institutional Law Transforming? *EJIL: Talk!* 19 August 2015 (Electronic Resource). Available at: <https://www.ejiltalk.org/is-international-institutional-law-transforming/>.

with an "administrative objective" (*Verwaltungszweck*), the concept was developed by Paul Reinsch, who spoke of international unions as institutions that were endowed with limited and specific welfare functions, by means of a formal delegation from member states. Francis Sayre, in sequence, turned the concept into an even more abstract one, by removing the idea of a welfare function, and replacing it with any function that was intended to be undertaken by a collective means, and not by the action of a single state. In sequence, Jan Klabbers indicates that the concept was embraced, without further academic elaboration, by the Permanent Court of International Justice and, later on, by the International Court of Justice, to explain the powers and capacities of international organizations. According to him, it was only during the late 1950s and early 1960s that the topic received some degree of academic elaboration on the first specific writings on the law of international organizations. He also suggests that the first textbooks of the discipline were written in the 1960s, with Derek Bowett's *The Law of International Institutions* being the first textbook in English and Ignaz Seidl-Hohenveldern's *Das Recht der internationalen Organisationen einschliesslich der supranationalen Gemeinschaften* being the first textbook in German, both of which had functionalist leanings.

On this extended hiatus, that separated Sayre's contribution from the postwar academic development of the discipline, Jan Klabbers gives the following assessment:

> It is rather striking that between 1919 (the publication of Sayre's Experiments) and the second half of the 1950s, few general legal studies appear. This absence oozes the sentiment, formulated as such by Schermers in 1972, that a separate discipline of the law of international organizations could hardly be said to exist. Instead, each organization consists in a universe of itself and functions as a 'separate unit of the international community'. While many studies of specific, discrete organizations saw the light, most of all concerning the UN, general literature was rare indeed. It only burst open, so to speak, in the late 1950s and early 1960s, quickly followed by the first English-language textbooks[14].

In *Theorizing International Organizations*[15], he adds that the discipline is not too fond of nor rich in theorizing, being developed "in piecemeal fashion" as a series of responses

[14] Ibid, p. 49.
[15] KLABBERS, Jan. Theorizing International Organizations. In: ORFORD, Anne; HOFFMANN, Florian. *The Oxford Handbook of the Theory of International Law.* Oxford: Oxford University Press, 2016, pp. 618-634.

to practical problems, with classic studies being written by practitioners, especially since the late 1950s. Apart from these practical leanings, he mentions that excessive focus is placed on questions regarding the relations between the international organization and its member states, with the internal dynamics of the organizations, as well as its relations with "the world around it" being largely ignored by most writers[16].

Another important participant in the recent writings on the history of international organizations has been Professor Bhupinder Chimni, who has provided an anti-colonial critique to the subject. In his 2004 article *International Institutions Today: An Imperial Global State in the Making*[17], Professor Chimni argues that economic decision-making has been relocated from the national to the international level, where a neoliberal agenda dictates the reconfiguration of the principle of sovereignty, which is conditioned to certain criteria of governance and financial stability. According to his interpretation, international organizations are dominated by a transnational capitalist class, formed by the main owners of the global means of production who have Third World elites as their junior partners and supported by a burgeoning global middle class, and which aims to conceal, through the discourse of sovereign equality and cooperation, the illusion that sovereign states still matter, instead of the leading role of transnational networks[18].

Moreover, in his 2016 chapter to the *Oxford Handbook of International Organizations*, Professor Chimni presented a series of alternative histories on international organizations, dividing them between a mainstream history and critical perspectives[19]. Among these alternatives, he mentions that "a history can be told of the emergence and development of the law of international organizations in the 1960s reflecting the need to clarify their legal status and growing complexity of their functions"[20]. In this context, Derek Bowett's 1963 textbook *The Law of International Institutions* is mentioned as the first treatise on the topic. Among the critical perspectives, Chimni's indication of TWAIL

[16] *Ibid*, pp. 619-621.
[17] CHIMNI, Bhupinder. International Institutions Today: An Imperial Global State in the Making. *The European Journal of International Law* (2004) 15:1, 1-37.
[18] Ibid, pp. 4-6.
[19] CHIMNI, Bhupinder. International Organizations, 1945-present. In: COGAN, Jacob; HURD, Ian; JOHNSTONE, Ian (eds.). *The Oxford Handbook of International Organizations.* Oxford: Oxford University Press, 2016, pp. 113-130.
[20] *Ibid*, p. 114.

and Marxist critiques seem especially interesting, as they situate the post-1945 context of international organizations as a neocolonial project under the hegemony of the United States or as a means to further safeguard the aforementioned transnational capitalist class from an international revolution.

Even more recently, Guy Fiti Sinclair published *To Reform the World*[21], an extensively researched book that examined the internal functioning of the International Labor Organization, the United Nations and the World Bank Group and explained the moves taken by their high officials to reinforce the powers of the organizations and to push forward the idea of governance reform that would mold national policies. The impact of the book is quite evident, having earned by unanimous decision the 2018 Book Prize bestowed to the most original and informative contribution to the study of international law by the European Society of International Law. Not only is the book of unquestionable quality, but it also represents the first systematic attempt to treat the history of the law of international organizations in book-form.

The main objective of the book is to evince how international organizations have expanded their powers through processes of discourse, practice and interpretation, rather than formally amending their constituent instruments, and how these reinforced powers ("IO expansion") have also influenced and conditioned the configuration of national policies. Two legal imageries are emphasized by the author as especially useful to promote and naturalize the idea of IO expansion: the metaphor of constitutional growth through implied powers, and the discourse on the independence and technical expertise of international civil servants.

Instead of academic theorization, his focus is set on exploring the ways in which legal doctrine, particularly the law of international organizations, advances at the "everyday discursive level", by problem-solving and strategic thinking on the part of international civil servants. As the author affirms:

[21] SINCLAIR, Guy Fiti. *To Reform the World: International Organizations and the Making of Modern States.* Oxford: Oxford University Press, 2017.

> The book gives particular attention to the myriad ways that law – defined broadly to include legal doctrines, discourses, institutions, instruments and techniques – figures in the area of overlap between these two domains. (…) By focusing primarily on the thought and action of pragmatic problem-solvers working in and around international organizations, and only secondarily on the more systematic jurisprudential writings of the leading publicists, the book surveys a wider vista of international legal practice than is usually considered[22].

A short survey on the first writings on the law of international organizations is presented by Professor Sinclair in his textbook, who stresses the roles played by Georg Schwarzenberger and Wilfred Jenks in shaping the academic field and indicates that Paul Reuter's 1955 *Institutions Internationales* represents the first textbook of the discipline, albeit still failing to distinguish between private and public institutions, as Derek Bowett's 1963 textbook would duly achieve[23].

Since the preparation of his award-winning book, Professor Sinclair has been an active and prolific writer, having published a series of high-level articles on the history of the law of international organizations. One of these recent articles, published during the writing of the thesis, intends to provide a postcolonial genealogy to the law of international organizations, equating the emergence of the discipline to the postwar wave of decolonization.

In *Towards a Postcolonial Genealogy of International Organizations Law* [24], Professor Sinclair advances two basic arguments: first, that the emergence of the law of international organizations was in line with a shift in social imaginary, from a world of empires to a world of nation-states; second, that international organizations law was not created solely by European actors, being marked by the agency of peripheral actors. According to his interpretation, a common definition of the subject-matter of the law of international organizations was only possible after a specific meaning was attributed to the notion of international organization, separating it from non-governmental organizations, private associations and other hybrid bodies, a process that only took

[22] *Ibid*, p. 11.
[23] *Ibid*, pp. 190-191.
[24] SINCLAIR, Guy Fiti. Towards a Postcolonial Genealogy of International Organizations Law. *Leiden Journal of International Law* (2018) 31:4, 841-869.

place "during the war, and especially in the years immediately afterwards"[25], as stock-taking on the inevitable postwar arrangements led to an effort to compare the previous experiences and design new institutions. Clarence Wilfred Jenks' 1945 article *Some Constitutional Problems of International Organizations*[26] is cited as the first outline of this new branch of international law, with further accretion by the advisory opinions of the International Court of Justice and the institutional practice within the United Nations. Moreover, he lists a series of commentaries on particular organizations that were written by non-Western jurists and that contributed to the development of the discipline, allowing the writing of "broad introductions" such as that of Professor Derek Bowett[27]. The postcolonial imaginary, at last, is linked to the apolitical description of the emergence of international organizations, as a "*via media* between international anarchy and world unification through imperial conquest"[28], capable of preserving the sovereign equality of each and every country – including the newly independent ones – without sacrificing international cooperation.

The object of the thesis and its delimitation

In the present thesis, I intend to complement some of the views previously indicated, as well as test some of the hypotheses already discussed therein, by providing yet another perspective on the emergence of the law of international organizations. Instead of examining the formative years of the interwar period, as David Bederman has very aptly done, my focus is to advance the study of the academic development of the law of international organizations in its most prolific – and still undeservingly neglected – moment. If it is normal to hear or read that the study of international organizations was greatly reinforced during the immediate postwar years, by the time of the creation of the United Nations and of the mushrooming of international organizations, little attention is given to what effectively happened in the academic and professional

[25] *Ibid*, p. 850.
[26] JENKS, Clarence Wilfred. Some Constitutional Problems of International Organizations, *British Yearbook of International Law* (1945) 22, 11-72.
[27] SINCLAIR, Guy Fiti. Towards a Postcolonial Genealogy of International Organizations Law. *Leiden Journal of International Law* (2018) 31:4, p. 861.
[28] *Ibid*, p. 864.

contexts of the immediate postwar decades regarding the law of international organizations. If Guy Fiti Sinclair's award-winning book already provides us with very consistent accounts of the internal functioning of international organizations in this period, and his recent article provides critical insights on the ideological context underlying the emergence of the discipline, I intend to set my sights on other arenas, which are still relatively unexplored – namely, teaching and research.

For reasons of convenience, I have limited my analysis to the particular context of journals, textbooks, courses and institutions located in France, the United States and the United Kingdom, based on an initial – and somewhat elitist – assumption that the foremost Western powers had a leading role in the emergence of the discipline[29]. Since the two textbooks that are commonly mentioned in histories of the law of international organizations as their earliest examples (Paul Reuter´s *Institutions Internationales* and Derek Bowett´s *The Law of International Institutions*) could also be associated to these national backgrounds, the initial assumption seemed to have an even stronger footing. Finally, considering that the thesis represents an initial approach to an extremely complex topic, another pragmatic reason existed for the delimitation, the mention to more mainstream contexts, with widely available books and journals, representing a "safe choice" on the part of the author.

Because of this deliberate delimitation, I will not examine textbooks or coursebooks written in languages different from English and French, even though they could be important for a global history of the formative years of the discipline. Two works may exemplify some of these alternative research paths if one intends to expand the investigation and examine other national traditions on the law of international organizations. First, Professor Arnold Tammes' 1951 book *Hoofdstukken van Internationale Organisatie* ("Chapters on International Organization"), written in Dutch, a book that is regularly quoted by Professor Henry Schermers and that is singled out by Professor Jan Klabbers as an early study of the subject. Second, Professor Angelo Piero

[29] The difficult relations that the Soviet Union maintained with international organizations, founded on suspicion and oscillating support, are well established. For some examples, refer to: PRINCE, Charles. The USSR and International Organizations. *The American Journal of International Law* (1942) 36:3, 425-445; GRZYBOWSKI, Kazimierz. International Organizations from the Soviet Point of View. *Law and Contemporary Problems* (1964) 29, 882-895.

Sereni's 1959 book *Le Organizzazioni Internazionali* ("International Organizations"), the second volume of his treatise *Diritto Internazionale* ("International Law"). Due to being an illiterate in Dutch, I cannot make a comment on Tammes' book nor on its relationship to general teaching of the law of international organizations in the Netherlands, apart from providing the evident ascertainment that it is quite precocious, only trailing one of the French coursebooks that I have identified and another Italian book mentioned in sequence. On the other hand, Sereni's book, which I am familiar with, is a great example of the traditional positivist perspective that pervaded the teaching of international law in Italy, effectively filtering the exposition of basic legal concepts regarding international organizations from political considerations, and presenting a structure that is quite more systematic than the one adopted in Bowett's pivotal 1963 textbook[30]. An even earlier Italian book, titled *Organizzazioni internazionali*, by Francisco Florio, is commended by Josef Kunz in a 1950 review to the American Journal of International Law[31]. The references provided by Professor Kunz, however, seem to be imprecise, probably referring to *La natura giuridica delle organizzazioni internazionali*, a short 1949 volume by Francesco Florio, Doctor in Laws and Political Science by the Universities of Milan and Palermo, who was then pursuing the Diploma of The Hague Academy of International Law[32]. For reasons still to be explored, linguistic imperialism being one of the probable explanatory elements, those contributions are nowadays[33] largely ignored by the mainstream of the law of international institutions.

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[30] In Sereni's textbook, no single international organization is separately described. Instead, those specific characteristics only appear throughout the book as practical examples that attest the adequacy of his general and formal framework. The book is structured in the following chapters: "*Chapter One* – The Methods and Forms of International Organization; *Chapter Two* – The Definition of International Organizations; *Chapter Three* – International Organizations as Voluntary Associations of International Legal Persons; *Chapter Four* – The International Character of the Voluntary Link Between the Members of the Organization; *Chapter Five* – International Organizations as Entities of a Permanent Nature; *Chapter Six* – International Organizations as a Means to Achieve the Common Goals of their Members; *Chapter Seven* – The Functions of International Organizations; *Chapter Eight* – The Internal Law of International Organizations; *Chapter Nine* – The Powers of International Organizations; *Chapter Ten* – The Organs of International Organizations" (SERENI, Angelo Piero. *Le Organizzazioni Internazionali.* Milan: Giuffrè, 1959, pp. vii-xii). Chapter Ten, in a similar fashion to the Draft Articles on the Responsibility of States and International Organizations, when referring to "organs", encompasses both the internal subdivisions and the agents of international organizations.

[31] KUNZ, Josef. Book review – Le Organizzazioni Internazionali. By Francisco Florio. *The American Journal of International Law* (1950) 44:4, 796-798.

[32] FLORIO, Francesco. *La natura giuridica delle organizzazioni internazionali.* Milan: Giuffrè, 1949.

[33] As the compilation of journal reviews showcases, in spite of the current neglect, Sereni's book seemed to have achieved some degree of prominence during the 1960s, as it was reviewed by the *British Yearbook*

The choice to focus on more than one national context, instead of restricting the examination to a single experience, is also a deliberate one. Even amidst the three Western big powers, which after World War II were supposed to have a relevant role in the conduction of international matters, national contexts may provide us with specificities which are important to get a fuller picture of the law of international organizations. By analyzing different experiences, one may identify the necessary conditions for the emergence of the discipline as it is now characterized. In retrospective, the choice to evaluate these three countries was extremely useful, as the differences between the university environment in France when compared to those of the United States and the United Kingdom provided important insights as to why and how the discipline could follow different development paths.

As Anthea Roberts has stressed in a series of recent writings, the application of the comparative method to international law (*comparative international law*) is an important tool to the identification of three different sets of information: practice necessary to the formation of customary law, interpretation and application of international law, and different approaches to international law[34]. In other words, contrasting different perceptions allows us to see the field through different eyes and to understand the different traditions influencing the emergence of the discipline, its norms and its concepts[35]. Moreover, evincing how experiences are conditioned by perception, predisposal and context is an important tool to demystify the universal, effectively allowing us to "provincialize"[36] dominant concepts and modes of thinking.

Apart from a geographical delimitation, it is important to stress that I have also adopted a chronological delimitation to the present study. Since it is often suggested that the law of international organizations is a postwar phenomenon, its textbooks and monographs burgeoning in the late 1950s/early 1960s, I have opted to restrict my analysis to the first

of International Law, the *Annuaire Français de Droit International* and the *American Journal of International Law* (Refer to Tables B, E and G in the annexes section).

[34] ROBERTS, Anthea; STEPHAN, Paul; VERDIER, Pierre-Hughes; VERSTEEG, Mila. Conceptualizing Comparative International Law. In: ROBERTS, Anthea; STEPHAN, Paul; VERDIER, Pierre-Hughes; VERSTEEG, Mila (eds.). *Comparative International Law.* Oxford: Oxford University Press, 2018, pp. 6-9.

[35] ROBERTS, Anthea. *Is International Law International?* Oxford: Oxford University Press, 2017, p. 34.

[36] For the work of reference on the topic, refer to CHAKRABARTY, Dipesh. *Provincializing Europe: Postcolonial Thought and Colonial Difference.* Princeton: Princeton University Press, 2008.

two decades of the postwar period, encompassing the courses, books, reviews and articles in a period that ranges from 1945 to 1964. The choice of the latter year is not fortuitous, since it represents the year Derek Bowett's *Law of International Institutions* underwent a first big reprinting[37] and the year that the first review of the book was published in an academic journal, as well as 1964 being the year of publication of Wolfgang Friedmann's *The Changing Structure of International Law*[38], an important book that popularized the concept of a modern "international law of cooperation" and that pictured a pivotal role to international organizations in the future of international law. This does not mean that the aforementioned time frame will be taken as an absolute. Some sporadic examinations will challenge these limits, mainly on the interest of providing some degree of contextualization to the writing.

The types of sources examined in the thesis and a note on methodology

To understand the configuration of a specific intellectual field, some alternative research paths are available. One may investigate its main actors, its shared purposes, its basic rules of action, its external pressures, its distribution of forces, its learned habits, among an almost infinite list of options[39]. Among a set of competing theories and different contexts, there are some pairs that fit quite snuggly, such as a neo-institutional analysis of an economic sector or the application of a habitus-field theory to the examination of some state bureaucracies.

When it comes to the study of academic fields, no clear pair is immediately identifiable[40]. One of the most famous alternatives is Bourdieu's field theory, which is especially useful

[37] The first two pressings of Bowett's textbook are: BOWETT, Derek. *The Law of International Institutions.* London: Stevens and Sons, 1963; BOWETT, Derek. *The Law of International Institutions.* London: Methuen, 1964.

[38] FRIEDMANN, Wolfgang. *The Changing Structure of International Law.* New York: Columbia University Press, 1964.

[39] For a general overview of different approaches to field theories, which provide different criteria for determining the relevance of these alternative paths, refer to: KLUTTZ, Daniel; FLIGSTEIN, Neil. Varieties of Sociological Field Theory. In: ABRUTYN, Seth. *Handbook of Contemporary Sociological Theory.* Basel: Springer, 2016, pp. 185-204.

[40] Some interesting studies on the consolidation of practical and academic disciplines have revolved around the history of ideas, such as the role of objectivity in professional history (NOVICK, Peter. *That Noble Dream. The "Objectivity Question" and the Americal Historical Profession.* Cambridge: Cambridge

to demonstrate the symbolic violence that constitutes the relationships between different classes, classes not being necessarily understood on strict Marxist terms but as the representation of an unequal accumulation of different types of (symbolic) capital that leads to social stratification in various spheres, arts and culture being his favored domains of research.

In *Homo Academicus*, Pierre Bourdieu undertook the task of applying his very brand of field theory to the examination of the French university context where he was inserted, a process he described as a "purging", since it allowed him to finally dedicate the same detached scrutiny that marked his analyses of other fields to understanding the historical and social conditions underlying his own academic activities[41]. The same characteristics of tension and violence permeate that specific study, the academic field being described by him as "a site of permanent rivalry", both between faculty members and between different faculties. The university environment, according to him, is marked by a process of consolidation of academic capital over time where "technical capital" is gradually replaced by "social capital" against the very idea of scientific reality, this process being notably reinforced by the "contamination of specifically scientific authority by the statutory authority", as heads of research and tenured professors are responsible for the allocation of positions and funds and usually distance themselves from direct research and teaching[42].

Because of the lack of documental sources that make the hierarchies and personal relations between university members clear, a central source for Pierre Bourdieu, I will not be adopting a full-on Bourdieusian perspective. Instead, some of his categories will be borrowed throughout the exposition, without a strict adherence to an analysis of the interaction of social forces at the micro-level. In the end, however, after having set all of the pieces in play, I'll articulate a Bourdiesian reading at the meso-level, interpreting the construction of the discipline as a competition between different models.

University Press, 1988) or the influence of liberal thinking in international relations (ASHWORTH, Lucian. *Creating International Studies. Angell, Mitrany and the Liberal Tradition.* Aldershot: Ashgate, 1999).

[41] BOURDIEU, Pierre. *Homo Academicus.* Translated by Peter Collier. Stanford: Stanford University Press, 1988, pp. xi-xiii.

[42] *Ibid*, pp. 36-127.

To begin with, the law of international organizations will be treated as an emerging "intellectual field", capable of producing and institutionalizing its own "cultural unconscious" with "internal legitimizing authority". As the discipline configured a developing field during the time frame examined in the thesis, the process of "methodological autonomization"[43] of the law of international organizations will also be duly examined, in a fashion that it allows us to situate the discipline in the larger context of world studies.

As Bourdieu explains, the historicization of an intellectual field represents a useful tool for denaturalizing some of its truths, as the process of autonomization is not devoid of particular enabling conditions:

> To recall that the intellectual field as an autonomous system or claiming to be so, is the result of a historical process of autonomization and internal differentiation, is to justify the methodological autonomization that authorizes the search for the specific logic of the relations established within this system and which constitute it as such; it also means dispelling illusions born of familiarity by demonstrating that since it is the product of history this system cannot be dissociated from the historical and social conditions under which it was established and, thereby, condemning any attempt to consider propositions arising from a synchronic study of a state of the field as essential, transhistoric and transcultural truths. Once the historic and social conditions which make possible the existence of an intellectual field are known – which at the same time define the limits of validity of a study of a state of this field – then this study takes on its full meaning, because it can encompass the concrete totality of the relations which constitute the intellectual field as a system[44].

While Bourdieu's sociological theory allows us to understand the intellectual field as a dynamic system of forces, rules and actors, under the opposing forces of reproduction and transformation[45] and to denaturalize its fundamental concepts as unchanging codes, the historicization of the field puts into perspective the different conditions that influenced its formation, establishing its criteria of "legitimacy", "merit" or "taste". In

[43] BOURDIEU, Pierre. Intellectual field and creative project. *Social Science Information* (1969) 8:2, pp. 89-90.
[44] *Ibid*, p. 95.
[45] WEBB, Jen; SCHIRATO, Tony; DANAHER, Geoff. *Understanding Bourdieu.* Crows Nest: Allen & Unwin, 2002, pp. 23-24.

other words, a more thorough understanding of the limits of the intellectual field (and of the authorized capital within it) is only provided when the conditions of its autonomization are brought to light.

The historical investigation will be mainly conducted by means of contextual analysis, one of the variants of intellectual history, which emphasizes the role of reconstructing shared assumptions and language systems in order to illuminate the conditions that underlied the production, rejection and replication of specific discourses[46].

As Professor William Fisher suggests, history-making in the aftermath of linguistic turn is, by itself, inevitably perspectival, so that "what", "where" and "how" to look at the past seem to be inseparable questions. A pragmatist approach is suggested by the author, where the different variants are tested according to the objectives that one pursues. Contextualism is depicted as an effective tool to reenact past experiences, explain why events transpired as they did and reveal suppressed alternatives[47], objectives that greatly align with the present research. Its main weaknesses, according to the author, are related to pursuing general laws of history, looking for yardsticks to present policies and exposing injustices, objectives that, albeit relevant, are not directly pursued by the thesis.

Moreover, the choice of a contextual approach is also more coherent with Bourdieu´s field theory, particularly in what concerns his idea of *habitus* as the individual development of dispositions through the internalization of socio-cultural tendencies and rules, which stands in contrast to a purely structural reading of society and history[48], regaining some degree of importance to the idea of agency and individual intention and rejecting the objective/subjective dichotomy, since structures and actions simultaneously influence one another[49].

[46] FISHER III, William. Texts and Contexts: The Application to American Legal History of the Methodologies of Intellectual History. *Stanford Law Review* (1997) 49:5, pp. 1068-1069.
[47] *Ibid*, pp. 1086-1109.
[48] WEBB, Jen; SCHIRATO, Tony; DANAHER, Geoff. *Understanding Bourdieu.* Crows Nest: Allen & Unwin, 2002, p. 15.
[49] BOURDIEU, Pierre. *La noblesse d'État. Grandes écoles et esprit de corps*. Paris: Les Éditions de Minuit, 1989, p. 7.

Apart from this short methodological forewarning, it is important to indicate the different types of sources that will be taken into consideration when examining the emergence of the law of international institutions in France, the United States and the United Kingdom.

Ole Waever, in studying the historical patterns of the emergence of the discipline of International Relations, indicated three main types of sources for his research: textbooks, curricula and journals[50], each with different roles. While curricula and textbooks were important to put into perspective how newcomers are introduced to the discipline, and what the specialists identify as the most essential topics that synthesize their disciplines, journals represented fundamental *loci* for defining the intellectual field, as they function as selective spaces where the interaction is limited to specialists.

Paul Vogt reinforces the latter point, by emphasizing the specific configuration of academic journals as repositories of specialized opinions, which positions them as the most trustworthy sources to identify the most qualified authors and oeuvres in the eyes of the specialists themselves[51], instead of an abstract notion of importance that may be grounded on subjective criteria.

The study of most of these sources is still underdeveloped in international law. Only the analyses of the different configurations and roles of international law textbooks in different academic traditions[52] are relatively well-established. On the contrary, the study of international law journals still "remains in its infancy"[53], as Professor Ignacio de

[50] WAEVER, Ole. The Sociology of a Not So International Discipline: American and European Developments in International Relations. *International Organization* (1998) 52:4, 686-697.
[51] VOGT, Paul. Identifying Scholarly and Intellectual Communities: A Note on French Philosophy, 1900-1939. *History and Theory* (1982) 21:2, p. 268.
[52] The European Journal of International Law had a special number dedicated to the topic in 2000, where the participants of the *Colloquium on International Law Textbooks in England, France and* Germany, held at the University of Leeds, published their contributions. Within the section, there are articles by Anthony Carty, Colin Warbrick, Patrick Capps, Siegfried Schieder and Mathias Schmoeckel. The closing article, by Anthony Carty, compares the different ideological traditions of state and nations in shaping international law textbooks in Germany and France: CARTY, Anthony. Convergences and Divergences in European International Law Traditions. *The European Journal of International Law* (2000) 11:3, 713-732.
[53] DE LA RASILLA, Ignacio. A Very Short History of International Law Journals (1869-2018). *The European Journal of International Law* (2018) 29:1, p. 138.

la Rasilla has recently argued, a diagnosis that may also be adequately extended to curriculum studies[54].

Instead of tracing the origin of the academic discipline to a single event or a single text or of commenting on the special role played by an internationalist, my examination will focus on the study of contexts and processes[55], since the consolidation of academic fields generally happens by accretion instead of rupture, and since establishing too narrow a focus may end up in fragmentary results, as the discipline may have emerged in different speeds or forms in diverse national contexts.

In order to provide a more encompassing study, if necessarily less detailed than a study limited to a single type of sources, I have chosen to examine all the three sources mentioned by Ole Waever, coursebooks and curricula being examined as a manifestation of the teaching environment, and journals being studied as the domain of the specialists.

This broad examination purports to combine the best pieces of information that may be extracted from each context. Since teaching looks for the rational and organized presentation of the discipline, it is reasonable to expect that it includes the most interesting sources for an investigation of the formal configuration of the academic field. Since the domain of the specialists is less preoccupied with structure and more worried about content, it is reasonable to expect that it includes the most promising sources for an assessment of the idea of merit within the discipline. The emergence of the discipline, therefore, is better studied on the accounts of form (autonomization) and substance

[54] Despite the lack of such studies in the history of international law, curriculum studies have already become a well-established area in educational history, at least since the 1960s. For a general overview of these researches, refer to: BAKER, Bernadette. The History of Curriculum or Curriculum of History? What is the Field and Who Gets to Play on It? *Curriculum Studies* (1996) 4:1, 105-117. On the possibility of comparative curriculum studies, refer to: KIM, Young Chun. Transnational Curriculum Studies: Reconceptualization Discourse in South Korea. *Curriculum Inquiry* (2010) 20:4, 531-554.

[55] In the thesis, I will not adopt a strict separation between a history of thought and the investigation of the social identity and the institutional life of authors. On the contrary, biographical and institutional questions will be taken into consideration in the examination of different social contexts – the university environment and the domain of specialists. For a proposal to reinforce the departure of intellectual history from the pervading influence of social history, refer to: WICKBERG, Daniel. Intellectual History vs. the Social History of Intellectuals. *Rethinking History* (2001) 5:3, 383-395.

(development) by a combined study of the three different sources suggested by Ole Weaver.

The examination of these sources will be undertaken in different degrees of proximity. While journals and textbooks will be the object of first-hand examination, the curricula will be studied by dint of the secondary sources, since no archival research was undertaken directly in the relevant institutions. For the writing of the thesis, the most relevant international law journals in each country have been selected for examination: the *American Journal of International Law*, the *British Yearbook of International Law* and the *Annuaire français de droit international.* Considering that the latter was first published during the 1950s, the *Revue internationale de droit comparé* was also briefly included in the examination, in order to provide a fuller picture of the French context.

By combining different sources to the examination of the emergence of the law of international organizations in these three different national contexts, I intend to investigate the development of the law of international organizations in these countries, both within university studies and within specialized discussions.

The structure of the thesis

The thesis traces the emergence of the law of international organizations as an independent intellectual field during the first two decades of the postwar period, examining how different ideas and actors interacted towards the establishment of its current independent format (autonomization) and the elaboration of its basic contents (development). As it is studied, taught and researched today, the law of international organizations is depicted as a purely legal discipline, free from political science or international politics considerations, revolving around the legal regime of international organizations according to general international law and encompassing only some limited elements of their internal discipline, mostly in a comparative fashion.

Chapter One provides a presentation of the *Reparations* Case, emphasizing its importance as the main mechanism of "legalization" – the configuration of the discipline in strictly legal terms, connected to general international law. If a vacuum did not exist

before the advisory opinion, as it will be briefly argued with reference to a series of interwar cases, the *dictum* represented an essential point of reference. Among the multiple set of arguments already available to international lawyers, the International Court of Justice opted for two basic concepts, which would be at the center of the theoretical outline adopted by the first textbook on the law of international organizations: international legal personality and functional necessity.

Both concepts pushed forward the independent legal study of international organizations – the phenomenon of "legalization" mentioned on the title of the chapter – through different manners. On the one hand, the weak form of functionalism embraced by the court, which did not delve into an examination of the utility of the functions, but only stressed the need to promote their independent exercise, led to the abandonment of political considerations and helped legitimize the discipline as a practical means to promote welfare. On the other hand, the recognition of international legal personality as an abstract intermediary between the powers of the organization and the will of the member states solved the problem of independence and connected international organizations to quintessential questions of general international law.

Chapter Two turns to the university environment in France, the United Kingdom and the United States, presenting and discussing the first courses, curricula, textbooks and coursebooks on the subject. Different perspectives of specialization emerge in the examination of these environments. The creation of the first courses on *international organizations* or *the law of international organizations* in the United States and the United Kingdom signaled a favorable environment for differentiation from the more traditional studies of international organization (without an 's'), whereas Derek Bowett's 1963 textbook *The Law of International Institutions* finally consolidated an outline for the new discipline. On the contrary, in France, the existence of a centralized university curriculum, which combined law and political science studies and adopted the teaching of *institutions internationales* as a general outlook of international law and international relations, gave preference to a generalist perspective. In spite of some attempts from French IR thinkers to separate international politics from international law, a hybrid

perspective was dominant in France, where the study of international organizations remained close to the model of international organization (without an 's').

Some other characteristics are singled out as opposing the French university environment to the British and American ones. The pervading influence of administrative law in France repelled the adoption of the weak form of functionalism in the country, consolidating a strong form of functionalism, centered on the idea of enhancing international public services. Because of that, the core legal idea of the international legal personality of international organizations, set by the *Reparations* Case, was much less influential in France, many coursebooks having the idea of the exercise of welfare functions as its central concept, capable of encompassing private or public, formal or informal actors. Questions of institutional design, much less influential among the more and more "legalized" views of British and American writers, were central to their French counterparts.

Chapter Three abandons the university environment and proceeds to the domain of the specialists, by means of a study of the main academic journals of international law in France, the United Kingdom and the United States. An examination of the main authors of the *American Journal of International Law*, the *British Yearbook of International Law* and the *Annuaire français de droit international* suggests that there existed very different and mostly endogenous communities, with few overlaps. Most authors published in a single country, a transnational community of specialists appearing to be non-existent during the time frame studied in the thesis. Those communities, moreover, had distinct configurations. While the main authors of the *Annuaire* were very young practitioners and scholars, the *Journal* was still dominated by prestigious interwar scholars, most of whom had been teachers of international organization (without an 's'). The *Yearbook*, on the other hand, had a balanced composition, its main authors being experienced practitioners and some young and promising scholars.

In spite of this separation, where invisible frontiers restricted participation, a study of the book reviews published in these journals evinces that the members of these different communities were influenced by a set of common works of reference. Forty-five books related to the topic of the law of international organizations were reviewed

by different journals, most of them dealing with topics of a proper "technical" legal nature, written by practitioners, with a tendency for steady growth and frequency of publication. This transnational network of ideas was reinforced by the identification of clusters of articles, where authors from these different communities tackled common problems. The notion of merit within the academic discipline was being gradually consolidated by the formation of a network of ideas, fostering substantive development.

In the end, some tentative conclusions are presented, summarizing and complementing the partial conclusions of each specific chapter. According to this view, the development of the law of international organizations, on its substantive level, takes place mainly as a process of accretion, where the publication of Derek Bowett's textbook is less of a cause for the emergence of the field and more of its symptom. On the formal level, however, Derek Bowett´s contribution seems to have played an extremely relevant role in the autonomization of the discipline. By profiting from the enabling conditions in the university environment and the domain of the specialists in the United Kingdom, his contribution would influence the boundaries of the discipline.

A Bourdieusian critique is presented in the end, strengthening the idea that the push for specialization was equated to the best strategy available for the British academic community, in contrast to hybrid perspectives that still found some ground in France and in the United States. I also argue that the omissions and exclusions stemming from Derek Bowett´s exposé have been perpetuated in the structure of the discipline of the law of international organizations, it being useful to reenact some abandoned alternatives in order to compensate for some of the blind spots.

An important denominational concern: distinguishing international organization (without an 's') and international organizations (with an 's')

Before advancing to the first chapter of thesis, one important caveat is necessary. For a full understanding of the topics discussed in sequence, especially when mentioning the idea of autonomization, it is essential to establish the difference between two concepts that sometimes overlap, but represent dissimilar ideas: the concept of international

organization (without an 's') and the concept of international organizations (with an 's'), which are commonly mistaken nowadays[56]. While the first concept refers to a whole set of projects for world order, the second concept represents only one alternative among many, referring to a specific institutional solution that appeared during the nineteenth century, only being properly consolidated during the twentieth century.

The project to organize the world against the background of anarchical states is much older than the alternative we commonly attribute to it nowadays, with international organizations – with an 's' – acting as the main cogs of cooperation in an interdependent world[57]. The organization of the world – international organization without an 's'[58]– is already at the forefront of some of the pioneer projects to promote peace during the eighteenth century, such as *Zum ewigen Frieden: ein philosophischer Entwurf*, Emmanuel Kant's 1795 booklet of notable – albeit delayed – academic appeal, and *Abrégé du Projet de Paix Perpétuelle en Europe*, a useful summary of Abbé de Saint-Pierre's seven great discourses and other articles published in 1729[59].

Organizing for peace, as many other projects from the Enlightenment, was depicted as a rational – and hence necessary – measure to tackle violent and expansionist passions that impaired the freedom and life of individuals. Even before the triumph of the great liberal revolutions, in a world of kings, queens, lords and barons, perpetual peace projects pushed forward the ideals of mandatory arbitration, duties of neutrality,

[56] For an examination of the decline of studies of international organization (without an ´s´) refer to: ROCHESTER, J. Martin. The Rise and Fall of International Organization as a Field of Study. *International Organization* (1986), 40:4, 777-813.

[57] The phenomenon of the multiplication of international organizations and the growing control of international politics through such institutions has come to be called the "bureaucratization of world politics", with a dash of criticism over its real democratic usefulness, by Martha Finnemore and Michael Barnett. Take for example: FINNEMORE, Martha; BARNETT, Michael. *Rules for the World: International Organizations in Global Politics.* Ithaca: Cornell University Press, 2004; FINNEMORE, Martha; BARNETT, Michael. The Politics, Power and Pathologies of International Organizations. *International Organization* (1999), 53:4, 699-732.

[58] Another working definition for international organization is presented by Wolfgang Friedmann, who describes it as "the institutionalization of human purposes of international concern" (FRIEDMANN, Wolfgang. *The Changing Structure of International Law.* New York: Columbia University Press, 1964, p. 275).

[59] On the many projects on perpetual peace, ranging from a limited union of sovereign kings to a worldwide assembly of cosmopolitan citizens, refer to ARCHIBUGI, Daniele. Models of international organization in perpetual peace projects. *Review of International Studies* (1992), 18, 295-317. For another brief exposé on the first projects of international organization, refer to: LEDERMANN, László. *Les Précurseurs de l'Organisation Internationale.* Neuchatel: Editions de la Baconnière, 1945.

defensive alliances, respect to the sanctity of treaties and the development of basic international rules on the treatment of foreigners[60] - a whole set of ideas that together would constitute the study of international organization (without an 's').

After the rupture of the long peace of the 19th century, a time in which the stability of the congressional model seemed to aver the advent of peace in Europe and to make academic reflection on the organization of the world less necessary[61], this field of study regained traction. From the early decades of the 20th century on, international organization (without an 's') became a prominent research subject by political scientists, international lawyers and the first representatives of the emerging field of international relations. As it spread across the boundaries of different epistemic communities, international organization studies received different names: international government, international administration, cooperation for mankind, world unity, among others[62].

After the trauma of World War I, the negative effects of war having been demonstrated, the idea that the world could be rationally reorganized was in line with a liberal internationalist *ethos* that saw international administration as a tool to world peace and welfare. By molding the "public mind" – in Norman Angell´s expression[63] – against national violent passions and in favor of stronger co-operation, international institutions

[60] On the cosmopolitan and legal leanings of these pioneering projects, refer to PIZZETTI, Silvia Maria. La costruzione della pace e di una società internazionale nell'Europa moderna fra *jus gentium* e cosmopolitismo (secoli XVI-XVIII). In: LEVATI, Stefano; MERIGGI, Marco. *Con la ragione e col cuore. Studi dedicati a Carlo Capra.* Milan: FrancoAngeli, 2008, pp. 209-241.

[61] Hence, most studies on the organization of the world during the nineteenth century tend to focus on the role of expanding Western civilization, assuming the unity of Europe and projecting its results on less advanced peoples. Hence, the books by some of the founders of the *Institut de Droit International* on the various " foreign questions" to be tackled, such as Gustave-Rolin Jaequemyns' *Le Droit International et la Question d'Orient* (Ghent: Revue de Droit International, 1876) and Albert de la Pradelle's *La question chinoise* (Revue Générale de Droit International Public (1901) 8, 272-340) . The Pan-American and Latin American projects, on the other hand, allow us to portray the nineteenth century in a different light, by combining the usual imperialist undertones to fresh peripheral perspectives. The literature on "International Law in the Americas" is on the rise, as portrayed by oeuvres such as Arnulf Becker Lorca's *Mestizo International Law: A Global Intellectual History (1842-1933)* (Cambridge: Cambridge University Press, 2014), Juan Pablo Scarfi's *The Hidden History of International Law in the Americas* (Oxford: Oxford University Press, 2017) and Liliana Obregón's forthcoming book *Creole Interventions in International Law: Andrés Bello, Carlos Calvo and Alejandro Álvarez (1830-1960)*.

[62] For an extensive list of more than two thousand publications on international organization, mostly published from 1900 to 1943, refer to AUFRICHT, Hans. *War, Peace and Reconstruction: a Classical Bibliography.* New York: Commission to Study the Organization of Peace, 1943.

[63] ANGELL, Norman. *The Public Mind*. New York: E.P. Dutton and Company, 1927. For an analysis of Angell´s interwar thought, refer to: ASHWORTH, Lucian. *Creating International Studies: Angell, Mitrany and the Liberal Tradition.* New York: Routledge, 2017, pp. 60-72.

were an essential tool against the prevailing anarchy of the international system. Amidst the different mechanisms of international organization (without an ´s´), the creation of institutions directly at the international level would receive increased attention.

The beginning of the 20th century was especially important both to the scientific study of international organization (without an 's') and to the emergence of the first studies of international organizations (with an 's'). During the 1900s and 1910s, political scientists and lawyers started to take notice of the rise of institutions created by states to exert activities traditionally reserved to national governments directly at the international level. Public international unions (or international organs) were cooperative mechanisms, equipped with permanent secretariats, established for the advancement of industry, commerce and science, hence greatly contributing to international organization (without an ´s´). Paul Reinsch, a bachelor of laws who would later dedicate himself to the study and teaching of political science at the University of Wisconsin, wrote *Public International Unions* in 1911[64], and Francis Bowe Sayre, a Harvard law professor, wrote *Experiments in International Administration* in 1919[65].

The innovative quality of the analyses of Paul Reinsch and Francis Bowe Sayre had not much to do with the repercussions that both works directly had on their contemporaries, which seem to be minimal[66]. Instead, they were important because they were very much representative of a new type of research that soon would become the main staple of a new field of study: that of international organizations (with an 's'). In place of pursuing ultimate projects to promote peace, these books represented an attempt to understand the institutional changes already in motion in the international realm and to identify the common elements among these initiatives that could provide clarity to a scientific understanding of international cooperation[67].

[64] REINSCH, Paul. *Public International Unions: Their Work and Organization – A Study in International Administrative Law*. Boston: Ginn and Company, 1911.
[65] SAYRE, Francis Bowe. *Experiments in International Administration*. New York: Harper & Brothers, 1919.
[66] In this sense, Brian Schmidt mentions that Reinsch's 1911 book "has gone almost completely unnoticed". SCHMIDT, Brian. Paul S. Reinsch and the Study of Imperialism and Internationalism. In: LONG, David; SCHMIDT, Brian. *Imperialism and Internationalism in the Discipline of International Relations.* Albany: State University of New York Press, 2005, p. 66.
[67] It is important to emphasize, as many studies have recently done, that the views on international cooperation back in the time were such that colonial instruments and international unions usually

By describing the general and specific characteristics of international institutions, Sayre and Reinsch promoted the study of international organizations (with an 's'), isolating those institutionalized organs of international cooperation from other mechanisms of international relations that remained under the umbrella of international organization (without an 's').

It is by reference to these different perspectives, then, that we must understand these different expressions back in the early postwar years, in order not to fall into the trap of anachronism[68] when examining books and other writings. If nowadays the idea of international organization (without an 's') has lost most of its allure[69], a relic of past times that is only mentioned in historic studies or, bizarrely enough, in the title of the most impactful journal of international affairs (International Organization – IO), this does not mean that it was not relevant in other times, as in the time frame examined in the thesis. The growing specialization of the study of international organizations (with an 's') in contrast to the study of international organization (without an 's') represents an important background to the present research.

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occupied the same footing, being recognized as alternative techniques when facing different situations (*e.g.* KLABBERS, Jan. The Emergence of Functionalism in International Institutional Law: Colonial Inspirations. *The European Journal of International Law* (2014) 25:3, 645-675; ANGHIE, Antony. Colonialism and the Birth of International Institutions: Sovereignty, Economy, and the Mandate System of the League of Nations. *New York University Journal* of *International* Law *and Politics* (2001-2002) 34:3, 513-634). For some authors, the colonial project still underlies most postwar institutions, such as the United Nations and its specialized agencies, as well as the Bretton Woods institutions (*e.g.* MAZOWER, Mark. *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations.* Princeton: Princeton University Press, 2009; DUFFIELD, Mark; HEWITT, Vernon (eds). *Empire, Development & Colonialism: The Past in the Present.* Cape Town: Boydell & Brewer, 2009; CRAVEN, Matthew. What Happened to Unequal Treaties? The Continuities of Informal Empire. *Nordic Journal of International Law* (2005) 74, 335-382; WEITZ, Eric. From the Vienna to the Paris System: International Politics and the Entangled Histories of Human Rights, Forced Deportations, and Civilizing Missions. *The American Historical Review* (2008) 111:5, 1313-1343). Hence, under this interpretation, international unions and international organizations could also be understood as "colonial legal technologies", an expression that is adopted and developed by Professor Antony Anghie (for a brief overview, refer to ANGHIE, Antony. *Imperialism, Sovereignty and the Making of International Law*. Cambridge: Cambridge University Press, 2005, p. 107).

[68] For discussions on the role of anachronism in international legal studies, refer to: GALINDO, George. Splitting Twail? *Windsor Yearbook of Access to Justice* (2017) 33:3, pp. 44-48. For a challenge on the utility of anachronism as a historical concept, refer to: LUZZI, Joseph. The Rhetoric of Anachronism. *Comparative Literature* (2009) 61:1, 69-84.

[69] A relatively recent example of an article written under this perspective is identified in: GALLAROTTI, Giulio. The Limits of International Organization: Systematic Failure in the Management of International Relations. *International Organization* (1991) 45:2, 183-220.

Chapter One. "Legalizing" the field: the role of the *Reparations* Case in consolidating some of the basic concepts of the discipline and providing an authoritative precedent

The importance of the *Reparations* Case to the law of international organizations must not be played down or taken lightly. Being called upon for the first time to examine the rights and duties of an international organization before third states, the International Court of Justice had to go beyond the interpretation of the constituent instruments and examine the capacities of the United Nations before general international law. In the *dictum*, the second advisory opinion delivered by the new World Court, it took a markedly different position from the timid incursions of the Permanent Court of International Justice, and finally landed a heavy blow on traditional perspectives that denied international legal personality to entities different from states.

The unequivocal pronouncement of the most important international tribunal on the issue of the legal personality of international organizations under international law represented an important moment in international law. Conservative authors had to reform their textbooks and a sequence of comments on the decision and articles on its repercussions were published in international law journals.

Examining the *Reparations* Case, therefore, is an important part of understanding the formation of the law of international organizations. In this chapter, I will sketch a brief examination of the case, under three different initiatives. First, I will present some important precedents to the recognition of the legal personality of international organizations and to the capacities of international organizations since the 1920s, in order to dispel the illusion that the advisory opinion was delivered in a vacuum. Second, I will comment the advisory opinion and summarize its most important findings on the international legal personality of international organizations. Third, I will comment how the advisory opinion adapted the functional approach to the legal analysis of international organizations, a theory first developed in the context of political science, by dint of its desensitization – an idea described as a weak form of functionalism.

1.1. The evolving practice in national courts and public international unions during the interwar years

The groundbreaking advisory opinion on the *Reparations* Case was not delivered out of thin air. Problems related to the legal nature of international institutions, which demanded some degree of analysis on their capacity to acquire and exert rights, were not unknown before the *dictum*. Under the weight of reality, national and international legal practitioners were already facing the kind of questions tackled by the ICJ, decades before 1949.

The groundwork had been laid during the interwar years for the members of the International Court of Justice to finally break the cage of the exclusive international legal personality of states, still the dominant perspective up until 1949. If the Permanent Court of International Justice had already contributed to rattle the cage, by providing some important insights on the functional character of international organizations and their relative independence from state parties, other less heralded contributions came from the practice of international unions and national courts.

In this section, I will make a brief presentation of some of these contributions. Instead of thoroughly examining the theory of legal personality in international law during the late 1800s and early 1900s, a task already performed by the brilliant analyses of Professor David Bederman in his groundbreaking article *The Souls of International Organizations*[70], I will only focus on a series of important judgments and opinions delivered by national courts and legal advisors during the interwar years. As I intend to portray, when facing questions of competences, immunity from domestic jurisdiction and conflict of laws[71], the aforementioned actors had to tackle some important questions on the international legal personality of international organizations, putting into perspective some of the elements that would also appear in the advisory opinion delivered by the International Court of Justice.

[70] BEDERMAN, David. The Souls of International Organizations: Legal Personality and the Lighthouse at Cape Spartel. *Virginia Journal of International Law* (1995-1996), 6, 275-377.

[71] For an interesting study on the construction of the regime of international immunities since the early 1800s, refer to VAN ALEBEEK, Rosanne. Domestic Courts as Agents of Development of International Immunity Rules. *Leiden Journal of International Law* (2013) 26:3, 559-578.

Before advancing to the brief historical survey previously sketched, a caveat is necessary. In no sense do I suggest an incremental perspective in my study, in order to build a narrative of progress. As already outlined before, retrieving past experiences only aims at evincing that many of the arguments adopted by the International Court of Justice were already available to legal practitioners. Instead of drawing lines, my effort in this brief survey is to look for scattered and recidivist points. There are two good reasons for this modest choice. First, because different problems demand different answers, in such a way that a late experience is not necessarily more meaningful than a previous one, especially so when examining cases and other practical questions. Second, because decoding the doctrinal and practical influences that underlie the reasoning of the International Court of Justice is a process that demands detailed and specific documental and biographical investigation – which is not the focus of my thesis –, since the court only includes very scant references or footnotes on their judgments.

1.1.1. The 1929 Opinion on Cape Spartel Lighthouse

The 1929 *Opinion on the Juristic Character of the International Commission of Cape Spartel Lighthouse*, given by Giuseppe Marchegiano, the legal advisor to the Tangier Zone, and published in English in the 1931 volume of the *American Journal of International Law*[72] provides us with an interesting and valuable starting point to the interwar decisions and opinions on the immunities and applicable law to international organizations. The Cape Spartel Lighthouse and its legal opinion were well-known among postwar international organizations specialists, being the object of a cheerful remark from Arthur Henry Robertson, Director of Human Rights of the Council of Europe, who, after mentioning the case, added that "though, as regards the last named [the Cape Spartel Lighthouse], none of us knew where it was"[73].

After a series of important shipwrecks at the Strait of Gibraltar[74], the United States, Morocco, Spain, France, Italy, the United Kingdom, the Netherlands, Portugal, Austria-

[72] MARCHEGIANO, Giuseppe. The Juristic Character of the International Commission of Cape Spartel Lighthouse. *The American Journal of International Law* (1931) 25:2, 339-347. When referring to excerpts of the opinion, I will quote this specific English translation published by the AJIL.
[73] ROBERTSON, Arthur Henry. *The Law of International Institutions in Europe.* Manchester: Manchester University Press, 1961, p. 2
[74] For a brief history of the events that led to the establishment of the organization: STUART, Graham. The International Lighthouse at Cape Spartel. *The American Journal of International Law* (1930) 24:4, 770-776.

Hungary and Sweden/Norway established the International Commission of Cape Spartel Lighthouse in Tangier. The international institution, established by the 1865 Tangier Convention, was comprised of representatives of the contracting parties and had been entrusted with the superior direction and administration of a lighthouse, to be built under shared expenses and to remain responsible for signaling the African side of the strait of Gibraltar to all nations. According to Article 1 of the treaty, the Moroccan government retained full sovereignty over the territory, but was prohibited from interfering in the functioning of the lighthouse[75].

A series of events, however, would put a strain on the existing mechanism. In order to solve territorial disputes between France, Spain and the United Kingdom, an internationalized zone was set in Tangier by the 1923 International Zone Statute[76]. However, disputes between colonial powers did not subside. Since 1926, France was insisting on assuming control of the lighthouse by indirect means. In a concerted action alongside the Mendoub (the representative of the Moroccan government in Tangier), it proposed that further renovations be undertaken independently from the previous approval of the Commission, only being defeated by the joint opposition of the commissioners of Italy and the United States[77]. In 1928, the same French-Mendoub alliance tried to debunk the International Commission of Cape Spartel Lighthouse's independence by demanding that procurement of goods be preceded by contracts with Moroccan Zonal Administrators, who would previously authorize the entry and exit of goods and ratify all dealings. In light of this specific situation, a legal opinion on the status of the Commission was sought, posing the questions of whether the Commission

[75] "Article 1. His Majesty Sherifienne, having, in an interest of humanity, ordered the construction, at the expense of the Government of Morocco, of a lighthouse at Cape Spartel, consents to devolve, throughout the duration of the present convention, the superior direction and administration of this establishment on the representatives of the contracting Powers. It is well understood that this delegation does not import any encroachment on the rights, proprietary and of sovereignty, of the Sultan, whose flag alone shall be hoisted on the tower of the Pharos." Source: US Department of State. *Treaties and Other International Agreements of the United States of America 1776-1949 Compiled under the direction of Charles I. Bevans*. Washington, DC: Government Printing Office, 1969. Available at: <https://avalon.law.yale.edu/19th_century/usmu009.asp>.

[76] For a brief history of the Tangier Zone, refer to DEBATS, Jean-Pierre. Tanger, son statut, sa zone (1923-1956). *Horizons Maghrébins* (1996) 31-32, 17-23.

[77] BEDERMAN, David. The Souls of International Organizations: Legal Personality and the Lighthouse at Cape Spartel. *Virginia Journal of International Law* (1995-1996), pp. 306-309.

had a legal personality allowing it to make contracts independently and whether the Mixed Tribunals of Tangier had jurisdiction over its actions[78].

Marchegiano's remarkable 1929 opinion, as the acting legal officer to the Committee of Control of the International Zone of Tangier, borrowed from both private law analogies and the principle of effectiveness in order to construe the independent international legal personality of the international union. It is not only an inventive and well-argued piece, but also an endearing example of professional independence, as the particular interests of his employer did not affect Mr. Marchegiano when assessing the most adequate legal answers to the question.

The legal opinion is comprised of three parts, following three different questions that are answered sequentially[79]. In the first part, which comprises more than half of his opinion, Mr. Marchegiano examines what he calls the main problem "from the standpoint of public international law": whether the Commission has a juristic personality. In the second part, he proceeds to examine the main problem "under private international law": what laws are applicable to the juridical relations of the Commission. In the latter part, the presents his finding, "based on private international law", on which tribunal is apt to exercise jurisdiction over the Commission.

In the opening paragraphs of his opinion, Mr. Marchegiano already stated that the issue of the "existence of international personalities, other than states" was a controversial one under public international law, there being a doctrinal rift. According to him, the main issue opposing the different perspectives was one of framing. Those writers who contended that international personality was restricted to states assumed "the term 'international personalities' to be synonymous and equivalent to the term 'members of the international community'". Since states were the only existing members of such community, then they were the only legitimate holders of legal personality under public international law. On the contrary, other writers based themselves on a broader concept, stemming from legal theory, which allowed for the separation of legal

[78] Ibid, p. 331.

[79] MARCHEGIANO, Giuseppe. The Juristic Character of the International Commission of Cape Spartel Lighthouse. *The American Journal of International Law* (1931) 25:2, p. 339 (for the first question) and p. 344 (for the last two questions).

personality from the singular character of the state. According to the latter perspective, "we may consider as 'international persons' all those entities whose juridical situation is governed, whose rights and obligations are determined, and whose competency is extended or restricted, by public international law"[80].

Mr. Marchegiano justified the adoption of the broader perspective with a domestic analogy. In private law, international legal personality was extended to non-natural persons when collective interests were recognized as legitimate and autonomous. The creation of unions by treaties "for international purposes of a specific and independent character" should entail the same conclusion. In order to "demonstrate the presence, in this Commission, of the essential elements considered by jurists as necessary for the existence of an autonomous international organization", the proceeded with a two-tiered test. First, in order to prove that the Commission had a "recognized international competency", he demonstrated that the 1865 Tangier Convention conferred a mandate to the Commission to direct, administer and regulate the lighthouse, a "relevant international activity". Second, in order to prove the autonomy and independence from member states, he explained that the Commission was under a duty to fulfil its tasks without the individual interference of any state, even in the case of war, and that the parties could not suspend their contributions to the lighthouse even when they were participating in hostilities. Moreover, according to him, subsequent practice confirmed these findings. Even though the Tangier Zone drastically affected the political situation in the surroundings of the lighthouse, and diplomatic representatives were accredited simultaneously to exert their functions in the Committee of Control of the International Zone of Tangier and in the International Commission of Cape Spartel Lighthouse, the specific activities of each organ remained strictly separated[81].

The tautological character of the second perspective quoted by Mr. Marchegiano, which stated that one could identify international legal subjects as those entities that international law characterized as international legal subjects, without any other material or procedural qualification, is quite evident. However, as David Bederman

[80] Ibid, pp. 339-340.
[81] Ibid, pp. 340-341.

points out, it was not only the theoretical definition that mattered, but also the empirical tests applied by Mr. Marchegiano in order to prove his point. Both the idea of an "international competency" and the requirement of "autonomy" provided a way out in assembling clearer criteria for the international legal personality of international organizations[82].

And these criteria were not randomly selected. As Mr. Marchegiano explains, his examination of international organizations is akin to that of juristic persons under private law, where they have a patrimony and are constituted for a specific purpose, assuming an independent personality from its creators and being invested with rights and duties:

> Any juristic personality predicates an estate destined to be utilized for a definite and legitimate purpose and must be recognized in law. Now in the case before us, there is no doubt in regard to the existence of an estate under guardianship and administration, namely the lighthouse at Cape Spartel. This patrimony is destined to serve a purpose not only licit, but eminently humanitarian, that of promoting the safety of navigation. The organization created for the guardianship of this patrimony, for a purpose serving the general interest, is recognized by an international treaty, which is a source of juristic rights. It is evident that the life of the juristic organization, "the International Commission of Cape Spartel Lighthouse" is limited to the duration of the treaty.
>
> The Commission is, therefore, in our opinion, a juristic personality capable of being and of becoming actively and passively identified with rights. It enjoys the same rights and have the same capacities as physical persons, under the twofold reservation that: (1) these qualities are not contrary to the nature of things; (2) there exists no formal text limiting its capacity[83].

An interesting development in Marchegiano's thought, which inched closer to an institutional view was presented in his description of the competences of the organization. The idea that the capacities of international organizations could be presumed, only being debunked by the nature of things or by explicit derogations, may

[82] BEDERMAN, David. The Souls of International Organizations: Legal Personality and the Lighthouse at Cape Spartel. *Virginia Journal of International Law* (1995-1996), p. 336.
[83] MARCHEGIANO, Giuseppe. The Juristic Character of the International Commission of Cape Spartel Lighthouse. *The American Journal of International Law* (1931) 25:2, p. 343.

be seen as a prelude to some of the debates that would be unleashed later by the *Reparations* Case and the *Certain Expenses* Cases when delimiting the powers of international organizations.

After asserting that international organizations have legal personality according to public international law, and therefore may acquire and exert rights and duties, Mr. Marchegiano proceeded to the analysis of the second set of questions, which he considered to be of a private international law nature, on the applicable law and jurisdiction.

On the issue of the applicable law, Mr. Marchegiano was of the opinion that the situation of the International Commission of Cape Spartel Lighthouse was not as straightforward as that of the European Commission of the Danube or other international unions, whose constitutive instruments provided for extraterritoriality, a condition that entailed a separate and special regime, not subsumed to the national law of any member state. However, the argument took a wholly different spin from then on. Instead of interpreting the constitutive instrument to find a subliminal meaning or to investigate the drafting history of the 1865 Tangier Convention, Mr. Marchegiano established a new presumption, based on principles of international law. Whenever an international legal subject had its legal personality attributed by a treaty, it did not have the nationality of any of the member states, so that no specific national law was applicable to it, unless the covenant expressly said so. This was the case because submitting the organization to the law of any of its member states was equivalent to disregarding sovereign equality, since not all of them agreed to this condition, which depended on the general consent alike an amendment to the constitutive instrument. Moreover, to chose a specific domestic law when lacking a special motive was also to disregard the equality among states.

The same reasoning was applied to the issue of jurisdiction. Since the 1865 Tangier Convention did not indicate a specific national court as competent, the Commission could not be tried by any member state. In the absence of a clear mechanism for the settlement of disputes, Mr. Marchegiano adopted a pragmatic approach and suggested that he was “inclined to make the affirmation that any dispute (…) should be carried to

arbitration"[84]. He then recommended that all contracts concluded by the Commission included an arbitral clause under the rules of the Permanent Court of Arbitration, in order to avoid future problems on the determination of jurisdiction.

In light of the innovative arguments craftily assembled by Mr. Marchegiano, it is easy to see why the case drew so much attention from David Bederman as the first great example of a defense of the legal personality from the part of an international union, when no repertoire of practice was readily available[85]. The opinion on the International Commission of Cape Spartel Lighthouse is an extremely interesting and early example of the juggling of domestic analogies and general principles of international law in depicting the legal nature of international unions, decades before the *Reparations* Case. Moreover, the creative use of sovereign equality as a tool to reinforce the autonomy of international unions – and not to establish a restrictive interpretation of the constitutive instrument against them – also seemed to be years ahead of its time, decades before this method of interpretation was pronounced dead by Hersch Lauterpacht, who declared the victory of the principle of effectiveness over restrictive interpretation[86].

1.1.2. The 1931 Profili Case

Two years later, other important development to the legal regime of international organizations took place, once again related to Italian jurists, but on quite different circumstances. For the first time, a national court of the highest level would finally propose a set of rules for the identification of the independent *status* of an international institution and affirm the existence of a separate legal personality from that of its member states. In May 13, 1931, the *Corte di Cassazione*, in a case involving the International Institute of Agriculture and one of its employees, Mr. Profili, would declare that Italy had no jurisdiction over this public international union, because of its independence from its member states and their national laws[87].

[84] Ibid, p. 347.
[85] BEDERMAN, David. The Souls of International Organizations: Legal Personality and the Lighthouse at Cape Spartel. *Virginia Journal of International Law* (1995-1996), p. 278.
[86] LAUTERPACHT, Hersch. Restrictive Interpretation and the Principle of Effectiveness in the Interpretation of Treaties. *British Yearbook of International Law* (1949) 26, 48-85.
[87] The judgment was recorded by Gaetano Morelli in the *Il Foro Italiano* journal, whose version I have consulted when writing the present section. I have translated the excerpts directly into English, with the

The International Institute of Agriculture was created and headquartered in Rome, by force of the 1905 Rome Convention, convened by King Vittorio Emmanuele III and signed by forty member states, who would later on become seventy-seven, representing almost the entirety of the so-called "civilized world". The proposal for its creation originated from David Lubin, an American agriculturalist and politician, who, after getting to know in first hand the plight of farmers in California during the depression of the 1880s and 1890s[88], had already championed the idea of an international center for statistics and planning before fourteen Heads of State, until finding a sympathetic ear in the Italian monarch[89].

The opening articles of the 1905 Rome Convention stated that the International Institute of Agriculture had a "permanent" character and that it was "to be a governmental institution", "composed of a general assembly and a permanent committee". Later on, it made express reference to the exclusive competence of the organization to approve the expenditures and projects concerning "the organization and internal workings of the institute". It ensued that only "modifications of any nature involving an increase in expenditure or an enlargement of the functions of the institute" were due to "the approval of the adhering governments". The power to "appoint and remove the officials and employees of its office" was also conferred to the permanent committee[90].

The judgment of the *Corte di Cassazione* began by distinguishing two different types of International Administrative Unions: first, those linked to a state party, bound to establish it; second, those that remained autonomous and safe from the interference of any contracting state. According to the court, the constitutive instrument provided the relevant guidance to fitting the relevant institution into the correct type[91].

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original Italian text being included in footnotes. All errors in translation are, of course, my sole responsibility. MORELLI, Gaetano. Parte Prima: Giurisprudenza Civile e Commerciale. *Il Foro Italiano* (1931) 56, 1424-1432.

[88] PHILIPS, Ralph. *FAO: its origins, formation and evolution, 1945-1981.* Rome: FAO, 1981, pp. 3-4.

[89] AGRESTI, Olivia. *David Lubin: A Study in Practical Idealism.* Boston: Little, Brown & Co., 1922.

[90] The English translation of the treaty, as presented to the Senate of the United States of America for ratification, is available at: <https://www.loc.gov/law/help/us-treaties/bevans/m-ust000001-0436.pdf>.

[91] (*Original text in Italian*) "Di Unioni Internazionali Amministrative, la pratica internazionale conosce due categorie: per talune la organizzazione affidata ad uno degli Stati che son concorsi a costituirla, per altre la organizzazione rimane autonoma e chiusa alla ingerenza di qualsiasi Stato della Unione. Il Patto di Unione fornisce la guida per la discriminazione tra le due categorie."

According to the *Corte di Cassazione*, the Law of August 16, 1906, which had incorporated the 1905 Rome Convention to Italian law, fit the International Institute of Agriculture into the second type of International Administrative Unions. It provided for the creation of an independent organization, therefore rightly characterized as an international legal person, with the powers of self-organization and self-discipline. This autonomous nature set aside the application of rules of national law, either of a substantive or of a procedural nature, a conclusion that could only be refuted by the existence of a clear provision on the referral (*renvoi*) of the law of the union to national law. The internal law of the International Institute of Agriculture was, therefore, an autonomous legal order, which ought to be applied and interpreted without the undue interference of Italian law[92].

After establishing that the International Institute of Agriculture was an international union with distinct legal personality and an autonomous legal order, the *Corte di Cassazione* went on to consider the stage of development of the internal law of the organization regarding the settlement of labor disputes. Different unions adopted different schemes to the application of their own internal laws, ranging from the lack of specific procedures, through the adoption of political means, up to the creation of jurisdictional structures (the Administrative Tribunal of the League of Nations, recently created in 1927, being the sole pioneering example). The International Institute of Agriculture adopted the intermediate formula, with the provision for an appeal to the Permanent Committee, the executive organ of the union. Despite expressing a caveat

[92] (*Original text in Italian*) "Dunque trattasi di uma Unione autonoma, chiusa, nella sua vita interna, alla penetrazione del potere sovrano di qualsiasi Stato Unionista, salvo che essa stessa lo consenta. Com la migliore e più diffusa dottrina, questo Supremo Collegio ritiene che essa sia una persona giuridica internazionale. Come tale, il suo potere di autodeterminazione o di autonomia, che include quello di organizzarsi e di disciplinare i rapporti di organizzazione nel loro svolgimento normale ed anormale, elimina ogni ingerenza statale, ogni penetrazione di norme, sostanziali o processuali, dell'ordinamento statale. Tale penetrazione, quando di Unioni Internazionali Amministrative ad organizzazione autonoma si tratti, anche possibile se nel Patto di Unione o nei regolamenti interni si contenga rinvio, per integrazione, a norme di altro ordinamento. Ma nel caso in esame, nè nella Convenzione fondamentale, nè negli Statuti è traccia di simile rinvio. L'ordinamento particolare dell'Istituto deve bastare a se stesso, nelle sue norme sostanziali e nelle norme che disciplinano la realizzazione coattiva di questi rapporti della sua vita interna, com' è di quelli d'impiego. Le lacune del suo diritto sostanziale si colmano con i mezzi comuni ad ogni ordinamento giuridico autonomo, con la estensione analogica è colla identificazione, in una progressiva astrazione, dei principi generali o generalissimi di diritto. Le lacune che riguardano l'apprestazione di garanzie per la realizzazione dei rapporti, se anormalità si presenti nel loro svolgimento, rimangono tali; non si colmano arbitrariamente, se pure additino il bisogno, per l'ordinamente particolare, di adeguarsi al progresso degli ordinamenti più evoluti".

to the efficacy of this mechanism, the *Corte di Cassazione* recognized that the acceptance of the immunity of the staff and representatives, according to an international instrument ratified by Italy, as well as the recognition of the complete autonomy of the union, were sufficient conditions to acknowledge the lack of jurisdiction over the issue. In this sense, even the examination of the "form of the organization and its mechanisms of administrative justice" was not within the competence of Italian courts[93].

Therefore, in its 1931 decision, the *Corte di Cassazione* consolidated a two-tiered analysis for the test of the legal personality of international organizations, including a second element not present in many studies on public international unions. Apart from being established by treaty and having a permanent structure, it was necessary to attest some degree of independence from its member states, based on the powers and capacities attributed to the organization by the constitutive instrument. The requisite of

[93] (*Original text in Italian*) "La evoluzione delle garanzie va dal nulla, alla coazione privata, all'intervento dell'Autorità che si perfeziona gradatamente fino ad assumere le forme ed il contenuto della garanzia giurisdizionale. La evoluzione è ancor nettamente visibile nei rapporti di diritto pubblico con Enti pubblici, specialmente nei rapporti di impiego. L'Ordinamente giuridico particolare di una Unione Amministrativa Internazionale può ancora trovarsi in una delle fasi meno progredite. Tal'era la stessa Società delle Nazioni prima del 1927, quando le controversie originate dal rapporto di impiego, in difetto di un organo giurisdizionale per deciderle, avevano soltanto la garanzia del ricorso amministrativo: ma nel 1927 il Tribunale Amministrativo fu istituito, senza che nessuno abbia mai ritenuto potesse, prima della istituzione ed in difetto di un Tribunale Amministrativo, la giurisdizione di un qualsiasi Stato conoscere delle controversie originate dall'applicazione del rapporto di impiego. Tal'è ancora l'istituto internazionale di Agricoltura, meno per insensibilità a modellarsi sugli ordinamenti degli Stati più progrediti, che per prudenza di fronte a dubbi elevati circa la legittimità dell'ingerenza integrativa dei Tribunali Italiani nelle contrbversie suddette. Ma ogni dubbio del genere è svanito per concessione delle immunità diplomatiche ai delegati ed funzionari superiori dell'Istituto nell'esercizio di attività diplomatiche ai delegati ed ai funzionari superiori dell'Istituto nell'esercizio di attività connessa con le rispettive funzioni pubbliche (legge 20 giugno 1930, n. 1075) (...). Attualmente, il rapporto d'impiego presso l'Istituto Internazionale d'Agricoltura ha soltanto una difesa amministrativa, difetta forse di una vera difesa giurisdizionale. L'impiegato può soltanto presentare ricorso al Comitato permanente, che poi è lo stesso organo datore del provvedimento impugnato. Si può avere qualsiasi opinione circa la sufficienza di tale difesa nel contenzioso impiegatizio dell'Istituto; anche tenuto conto della elevata sensibilità del cospicuo organo dell'unione; comunque se è evidente il bisogno di un più progredito ordinamento, nulla autoriza l'intervento di una Sovranità esterna per esercitarvi il suo potere di giurisdizione, quando la iniziale, organizzazione contenziosa interna escluda la volontà dell'Istituto di accettare quella dello Stato che l'ospita.
Adunque il carattere dell'Istituto, la portata del Patto di Unione circa la sua completa autonomia (...) mettono in chiarissima luce il principio, che questa Corte adotta, secondo, cui, di fronte ai rapporti di impiego, che ricadono nella organizzazione interna di una Unione Internazionale, come l'Istituto internazionale d'Agricoltura, voluta dal Patto fondamentale perfettamente autonoma rispetto a tutti ed a ciascuno degli Stati Unionisti, esclusa la ingerenza della sovranità statale anche nella sua funzione giurisdizionale indipendentemente da ogni considerazione sulle forme di organizzazione e sugli istituti di giustizia amministrativa interna che la Unione stessa abbia saputo o voluto adottare".

autonomy, as we shall later see, was one of the most important elements proclaimed by the *Reparations* Case, and an essential element in future attempts to establish a legal concept of international organizations.

1.1.3. The 1935 Avenol Case

From 1928 to 1931, the French *Conseil d'État* examined a series of questions on the immunity from jurisdiction of international organizations. In the cases *In re Courmes* (1928), *In re Antin* (1928), *In re Lamborot* (1928), *In re Marthoud* (1929), *In re Godard* (1930) and *In re Dame Adrien* (1931), it held that French courts did not have jurisdiction over the Upper Silesia Plebiscite Commission and other international organs created by the Versailles System, in order to hear employment claims from their officers[94]. However, in contrast to the findings of the *Corte di Cassazione*, the *Conseil d'État* did not make an in-depth analysis of the question of international legal personality, sufficing for it the existence of an international instrument providing for the establishment of the international organ in order to affirm its immunity from national courts.

In 1935, however, an important case would be decided by a French court, related to the immunities of the staff of international organizations. In a case involving Joseph Avenol, then Secretary-General of the League of Nations, the *Juge de Paix de Paris* upheld a decision that had granted a lifelong pension to his ex-wife[95]. Avenol pleaded that, in the condition of the main official of the League of Nations, he benefited from the same immunities as those granted by the Covenant to the organization, profiting from diplomatic immunity before the courts of any member state, so that French courts had no jurisdiction over him.

Moreover, another important issue had to be taken into account. In the 1921 and 1926 *modi vivendi* concluded by the League of Nations and its host state, Switzerland[96],

[94] LAUTERPACHT, Hersch. *International Law Reports. Volume 6. Annual Digest of Public International Law Cases, 1931-1932.* London: Butterworth & Co: 1945, pp. 33-34.
[95] LAUTERPACHT, Hersch. *International Law Reports. Volume 8. Annual Digest of Public International Law Cases, 1935-1937.* London: Butterworth & Co: 1945, pp. 395-397.
[96] Hungdah Chiu systematizes the agreements concluded by the League of Nations in a brief historical survey. Apart from the aforementioned *modi vivendi*, the League of Nations only concluded treaties in three other circumstances. First, it concluded a series of agreements in 1946 and 1947 with the United Nations and some of the newly created specialized agencies regarding the transfer of its assets and debts. Second, it concluded a single agreement with the International Institute of Agriculture in 1925, at an

officers of the League of Nations were under two different degrees of immunity[97]. On the one hand, high-ranking personnel were extraterritorial and inviolable. Lower-ranking personnel (and all Swiss citizens, regardless of their position within the organization), on the other hand, were afforded immunity "for acts performed by them in their official capacity and within limits of their duties". As Secretary-General, Avenol's situation fit under the first set of immunities.

In an oft repeated finding, the court dismissed Avenol's pleadings and held that the Covenant did not intend to place the agents and officials of the League of Nations above the law, in such a way that they only benefitted from the aforesaid immunities in the exercise of their functions. A functional and a territorial limit was affirmed by the *Juge de Paix*, so that the staff of international organizations remained under the authority of national courts in private matters, not allowing them to freely "infringe the rights of their neighbors". The following translation is provided by Sir Hersch Lauterpacht:

> This Covenant proclaims nothing more and nothing less, without any possibility of civil or self-deception, than that the agent and official of the League of Nations enjoy in the exercise of their function at Geneva and in Switzerland where these functions are carried out, the privileges and immunities of international law recognized at Berne as belonging to the members of the diplomatic corps accredited to the Swiss Government[98].

Hence, in the *Avenol v. Avenol* Affair, the functional perspective was extended to encompass the regime of immunities granted to the staff of international organizations and to distinguish them from diplomatic immunities. Only when exercising the functions

attempt to reinforce cooperation between the organizations. The Council of The League only triggered Article 24 of the Covenant, to recognize the IIA as an advisory organ of the system of the League of Nations, in 1932. The Resolution is not taken into account by Mr. Chiu, but could be considered another international agreement (for more details on this, refer to TOLLARDO, Elisabetta. *Fascist Italy and the League of Nations, 1922-1937.* London: Palgrave Macmillan, 2016, pp. 33-37). Third, the Council of the League of Nations had to approve all minority treaties in order for the League to assume these obligations, in a practice equivalent to concluding a treaty with the States involved. (CHIU, Hungdah. *The Capacity of International Organizations to Conclude Treaties, and the Special Legal Aspects of the Treaties Concluded.* The Hague: Martinus Nijhoff, 1966, pp. 8-13).

[97] KLAUCHE, Fred Hubert. *The evolution of privileges and immunities granted to United Nations officials.* Thesis – Master of Arts, Department of Government, University of Arizona, 1964. Retrieved from the University of Arizona Virtual Library, pp. 18-28.

[98] LAUTERPACHT, Hersch. *International Law Reports. Volume 8. Annual Digest of Public International Law Cases, 1935-1937.* London: Butterworth & Co: 1945, p. 396.

conferred to them by the organization, would international officers be covered by immunities from suit. The reference to a territorial scope of these immunities by the *Juge de Paix* was elucidated by the analogy to the accreditation of diplomats, in order to indicate that immunities were also limited to the place where they exercised their functions and wherein they were recognized as officials of the international organization by the host government. In interpreting the territorial scope, one may also infer that the *Juge de Paix* considered the 1921 and 1926 *modi vivendi* to be irrelevant to the case, as strictly applicable to Switzerland.

Since Joseph Avenol had been ordered to pay alimony, a circumstance that had no relationship to the activities performed as Secretary-General of the League of Nations and that stemmed from his marital sphere, the *Juge de Paix* considered that he had no reasons to reconsider his previous finding. As a French citizen, Avenol was under the personal obligations set by the *Code Civil*, being liable to French courts irrespective of where he lived. By reading the regime of immunities based on their relationship to the exercise of the functions of the organization, the *Avenol* Case would put into evidence another discourse that would later appear in the R*eparations* Case.

1.1.4. The 1946 Ranallo Case

In November 1946, less than three years before the delivering of the advisory opinion on the *Reparations* Case, another important case on the immunity of international organizations was examined by a national court. The *Ranallo* Case was judged by a City Court of the State of New York, involving the "first judicial interpretation of the immunities of staff members of the United Nations (…) [and] the first judicial construction of the International Organization Immunities Act of December 29, 1945"[99]. Following the general lines of the *Avenol* Affair, a case expressly quoted by Judge Sol Rubin in his decision in *Ranallo*[100], the immunities of international civil servants would

[99] PREUSS, Lawrence. Immunity of Officers and Employees of the United Nations for Official Acts: The Ranallo Case. *The American Journal of International Law* (1947) 41:3, p. 555.

[100] Ibid, pp. 569-570. It is interesting to notice that, in spite of the quotation being a perfect fit, the *ratio decidendi* between the cases was dissimilar, a condition made evident by the differences in the facts underlying both cases. In *Avenol*, a family issue, of a personal character, was on trial, while in *Ranallo* the defendant was involved in a work-related activity (Ibid, pp. 570-571).

be the object of yet another caveat, by force of a stricter interpretation of the functions of an organization and of a series of considerations on public policy.

The facts underlying the case are straightforward. The defendant, William Ranallo[101], an American citizen, was an assistant to the Secretary-General of the United Nations, and, having exceeded the speed limit while driving Mr. Trygve Lie to a meeting with city officials on issues related to the United Nations, was summoned by the Westchester County to answer to an infraction charge. The legal adviser to the United Nations, Mr. Oscar Schacter, soon appeared in court and summoned the immunity from suit of Mr. Ranallo, since he was acting in an official capacity when committing the traffic infraction.

The *Ranallo* Case is interesting not only because of its unexpected developments, but also because of the circumstance that its pleadings were based on a domestic bill. The 1945 US Immunities Act represented one of the first attempts by a state to establish a general framework on the immunities of international organizations operating within its territory.

The establishing of the United Nations in American territory was an essential push to the enactment of the bill. As Lawrence Preuss explains, the Department of State, in consultations over the status of officers from the League of Nations, had already expressed that no privileges or immunities could be derived from customary international law, it being necessary to impart them in a treaty or in the municipal law of the United States[102]. The 1945 US Immunities Act would put this need into practice, extending to "public international organizations" to which the United States were a member a specific regime of rights and immunities.

[101] There is some degree of uncertainty on the surname of the defendant, a condition stemming from divergences in the registry of the City Court. While Lawrence Preuss mentions the *Ranallo* Case, Hersch Lauterpacht and August Reinisch, an expert in the law of international organizations, both mention the *Ranollo* Case. Because of that, it is important to emphasize that references to the case exist under both headings. A recent story from the official news outlet of the United Nations (www.un.int/fr/news/la-médaille-dag-hammarskjöld-présentée-au-fils-de-william-ranallo), published on 26 July 2016, uses the spelling originally mentioned by Lawrence Preuss, reinforcing his version of the facts.

[102] PREUSS, Lawrence. The International Organizations Immunities Act. *The American Journal of International Law* (1946) 40:2, p. 333.

A marked characteristic of the 1945 US Immunities Act is in line with the American tradition of attributing great emphasis to the role of the Executive Power in foreign policy and international relations[103]. Instead of setting some legal criteria on the legal personality of "public international organizations", the bill opted for a political formula. According to Article 1, only those organizations designated by an Executive order would benefit from the immunities and rights guaranteed in the Act. Moreover, the Executive had the prerogative to condition, limit or withdraw such guarantees "in light of the functions" of the organization concerned[104]. When properly designated, the organization had immunity from suit and could enter into contracts, acquire property or litigate in the United States.

Regarding the staff of these "public international organizations", the 1945 US Immunities Act established a common core of immunities to both nationals and non-nationals of the United States, related to acts performed in their official capacity[105]. It is the interpretation of this clause – included in Section 7(b) of the bill[106] – that constitutes the central issue of the *Ranallo* Case.

The City Court held that any decision on immunities must necessarily be preceded by a trial of the issues of fact, in order to assess if the defendant meets the specific conditions established in the 1945 US Immunities Act. The fact that the international organization, represented before the court by its Legal Adviser and by the Secretary-General himself, did affirm that Mr. Ranallo was exercising an official function was not a conclusive

[103] This is a common perception among analysts of international law and international relations in the United States. For instance, we may cite: NATHAN, James; OLIVER, James. *Foreign Policy-making and the American Political System.* Baltimore: Johns Hopkins University Press, 1994, pp. 238-239.

[104] PREUSS, Lawrence. The International Organizations Immunities Act. *The American Journal of International Law* (1946) 40:2, p. 335.

[105] Ibid, p. 337. The aforementioned immunity, however, was conditioned to reciprocity, in such a way that nationals of countries that did not afford the same set of immunities to American citizens were not protected by the 1945 US Immunities Act. Lawrence Preuss was highly critical of this condition, as it ignored the special position of international organiztions and international officials in the interest of community goals (Ibid, p. 339).

[106] International Organizations Immunities Act, December 9, 1945.
TITLE I (...)
SEC. 7. (b) Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned.

statement, as the bill did not confer to public international organizations the competence to judge such condition but transferred it to national authorities.

Traditionally, in cases involving the immunities of diplomats or other representatives of states, the American Judiciary had simply consulted the Department of State on the issues of previous registration in the diplomatic lists[107] and absence of public interest in the prosecution. If both answers were positive, the opinion of the Department of State became determinative[108] and the Court upheld the preliminary objection of immunity from suit. The recent Supreme Court ruling in *Republic of Mexico v. Hoffman* reinforced this position, as it held that no court could enlarge the interpretation of an immunity against the foreign policy set by the Government[109]. In the *Ranallo* Case, however, the United Nations decided not to resort to this mechanism and pressed ahead the argument of immunity from suit. The reasons behind this choice are still unclear, being Lawrence Preuss' hypothesis that public opinion was taken into consideration, as a series of traffic accidents in 1945 and 1946, involving the newly established staff members of the United Nations, was the object of strong criticism by the press.[110]

Without a determinative opinion from the Department of State, Judge Sol Rubin was unconstrained to assess the facts and examine if the situation fit into the requisite of "acts performed by them in their official capacity", established in Section 7(b) of the 1945 US Immunities Act. In the *Ranollo* decision, the City Court adopted a different perspective on the meaning of official acts, with restrictive consequences. Judge Sol Rubin gave two reasons to justify this modification. In the first place, he felt the need to differentiate between activities that were essential for the functions of the organization and activities that did not deal directly with the objectives pursued by the organization. In the second place, based on arguments of fairness and justice, he justified that

[107] For a qualification of this issue, in order to differentiate the effects of various lists of the Department of State, refer to BECKER, Joseph. The State Department White List and Diplomatic Immunity. *The American Journal of International Law* (1953) 47:4, 704-706.

[108] For the contemporary situation in English and North-American Courts, refer to: LYONS, A.B. Conclusiveness of the Foreign Office Certificate. *British Yearbook of International Law* (1946) 23, 240-281; LYONS, A.B. The Conclusiveness of the 'Suggestion' and Certificate of the American State Department. *British yearbook of Internationl Law* (1947) 24, 116-147.

[109] U.S. Supreme Court, *Republic of Mexico v. Hoffman*, 324 U.S. 30 (1945).

[110] PREUSS, Lawrence. Immunity of Officers and Employees of the United Nations for Official Acts: The Ranallo Case. *The American Journal of International Law* (1947) 41:3, pp. 557-565.

common activities should not be treated differently only because members of an international organization, and not average Americans, exercised them. By combining these arguments, he held that immunities could not be extended to activities normally attributed to the administrative or service staff:

> To recognize the existence of a general and unrestricted immunity from suit or prosecution on the part of the personnel of the United Nations, so long as the individual be performing in his official capacity, even though the individual's function has no relation to the importance or the success of the Organization's deliberation, is carrying the principle of immunity completely out of bounds. To establish such a principle would in effect create a large preferred class within our borders who would be immune to punishment on identical facts for which the average American would be subject to punishment. Any such theory does violence to and is repugnant to the American sense of fairness and justice and flouts the very basic principle of the United Nations itself, which in its preamble to its Charter affirms that it is created to give substance to the principle that the rights of all men and women are equal[111].

In order to reinforce his argument, Judge Sol Rubin also held that the comparison between diplomats and officials of public international organizations was ill suited, as the latter were not necessarily submitted to the jurisdiction of a national court. Therefore, to award to the latter the same degree of immunity of the former could mean placing them above the law:

> Furthermore, the establishment of such a rule of immunity would far exceed any effort heretofore undertaken in the intercourse between nations to recognize the principle of diplomatic immunity, for ambassadors and foreign ministers and members of their households, accredited to a specific nation and enjoying immunity from prosecution here under the provisions of Sec. 25 of the Penal Law, at least, theoretically, were subject to return to their own country for trial and punishment. The United Nations has no tribunal for trial and punishment of offenders among its personnel, and if blanket immunity were to be recognized as prevailing in this case, then one would have to come to the conclusion that such an offender could escape trial and punishment completely. Certainly no court of justice, and no people who believe in justice, would be prepared to endorse such a position.

[111] LAUTERPACHT, Hersch. *International Law Reports. Volume 13. Annual Digest of Public International Law Cases, 1946.* London: Butterworth & Co: 1951, p. 169.

> It is interesting to note that research discloses a similar attempt to escape punishment by one Avenol in the courts of the Republic of France in 1934, when he was being held to account for alleged failure to support his family, he then being the Secretary General of the ill-fated League of Nations. The judgment in that instance refused to accord the claimed immunity with the comment: "No one may claim to be immune from suit in 50 states. That is practically all the world. Such a privilege would be abhorrent to the fundamental idea of justice"[112].

If considerations of justice and equity demanded the restriction of immunities, so that only the main functions of the international organization comprised official acts, no specific meaning of these core functions had been presented in the decision. The reasoning of the City Court in this part is quite enigmatic, basing itself in half-affirmations and in an analogy to the immunities of the members of the American Congress[113]. In trying to decipher the arguments and the seemingly unkempt analogy, two other expressions used by Judge Sol Rubin seem especially important: the characterization of the United Nations as an "international legislative body" and the reference to the execution of the "deliberations of the United Nations".

The idea of equating the United Nations to the Legislative Congress of the international community was not unusual. The expression "international legislation" meaning the conclusion of multilateral treaties, especially of the law-making species, was already in vogue during the first decades of the 20th century[114], but gained great traction during the 1930s, with the publication of the first volumes of Manley O. Hudson's in-depth survey of multilateral treaties[115] and Frederick Dunn's proposal that the new mechanisms within the international system set in motion a peaceful change[116]. Political scientists and international lawyers were looking for ways to promote the creation of rules and regulations not only through conferences, but also through international organizations, as a review of Manley O. Hudson's *International Legislation* first volumes,

[112] Ibid, pp. 169-170.
[113] Ibid, pp. 170-171.
[114] BRUNNÉE, Jutta. International Legislation. *Max Planck Encyclopedia of Public International Law* – MPEPIL (Electronic Resource). Last Updated in October, 2010. Available at: <https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1429>
[115] HUDSON, Manley. *International Legislation. Volumes I-IV.* Washington: Carnegie Endowment for International Peace, 1931.
[116] DUNN, Frederick. *Peaceful Change: A Study of International Procedures.* New York: Council on Foreign Relations, 1937.

published in the *American Political Science Review*[117], made clear. In a famous article published in 1945, Wilfred Jenks announced *The Need for an International Legislative Drafting Bureau*[118], in order to promote a uniform language in law-making treaties and in the practice of international organizations.

Therefore, Judge's Sol Rubin image of the United Nations, an essential condition to understand his idea on the limits of its core functions, seems to be that of an international Legislative Power, so that only those activities linked to enacting or applying its deliberating capacities could be covered by immunities. Instead of investigating the constitutive instrument to identify the functions of the organizations, as other precedents had already done, he based his reasoning on a preconceived notion of what the organization was supposed to do. And by doing so, the *Ranallo* Case broke expectations on the limits of judicial interference.

The *Ranallo* Case is, after all, a great example on the fluid usage of the ideas of functional capacities and international legal personality, less than two years before the advisory opinion on the *Reparations* Case being delivered. In *Ranallo*, immunities were not understood as a right, but as a privilege of the officers of the United Nations, which ought to be reduced only to the very minimum. The structural deficits of the organization were also given center stage, being relevant to assess the limits of the delegation of international competences.

All in all, the reasoning of the *Ranallo* Case decision was not unanimously applauded, having been the subject of criticism by international lawyers. A narrow construction of the functions of an international organization would not be enough to guarantee its independence before the courts of its member states, going against the ideals that led

[117] "The industry rapidly changes with changes in technique and with new developments. The international society has responded to this need by the institution of recurrent conferences at which the experts recast the conventions in whole or in part, just as committees of Congress are constantly amending important legislation to keep it abreast of the times. The international organization has even developed to the point of having regulation resembling administrative regulations which can be changed, in some cases, by less than a majority of all the contracting states and in a very summary way." (CHAMBERLAIN, Joseph. Review of International Legislation, by Manley O. Hudson. *American Political Science Review* (1932) 26:4, 748-750).

[118] JENKS, Wilfred. The Need for an International Legislative Drafting Bureau. *The American Journal of International Law* (1945) 39:2, 163-179.

to the enactment of the US 1945 Immunities Act. As another article commenting on the case summarized:

> A chauffeur hired by the United Nations, assigned to drive the Secretary General of the United Nations, and driving him at the time of the alleged offense, would seem to be performing an official act within the meaning of the statute. The interpretation applied by the court does violence to the express wording of the statute and the intent of Congress. (...)
>
> That there have been and will be abuses of these privileges and immunities by officers and employees of international organizations can-not be doubted, but so necessary a rule must not be abandoned' because of the derelictions of a few. To hold otherwise is to set a precedent that conceivably might become an instrument of coercion toward the international organization, its officers, or employees, by the national state in which such organization functions[119].

The *Ranallo* Case also evinces an important characteristic of American legal practice on international organizations, in opposition to a more traditional European perspective. The influence of political science in shaping the writings on international organization (without an 's') was especially true in the United States. While the opinions and decisions given in Europe were based on legal theorization, the reasoning in American courts was more practical, taking into consideration elements of policy and equity. The presence of the *political question* doctrine[120] in the United States, with a strong deference to the Executive Power in matters foreign policy, meant that most judges were not used to delving into categories of international law when preparing their decisions. Even Judge Sol Rubin, who displayed great independence in assembling his arguments, mentioned some kind of reluctance regarding his own analysis, when criticizing the United Naitons representatives and declaring that a solution would have been easily achieved "if the granting of immunity were restricted to those cases where our own State Department certified that exemption"[121].

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[119] MCCOY, Donald. International Law - International Organizations Immunities Act - Immunity of Employees of United Nations. *North Carolina Law Review* (1947) 25:4, pp. 503-504.
[120] For an analysis on the usage, meaning and usefulness of the doctrine, refer to HENKIN, Louis. Is There a "Political Question" Doctrine? *Yale Law Journal* (1976) 85:5, 597-625.
[121] LAUTERPACHT, Hersch. *International Law Reports. Volume 13. Annual Digest of Public International Law Cases, 1946.* London: Butterworth & Co: 1951, p. 171.

1.1.5. An array of different and competing discourses among practitioners

The four selected cases previously presented in this section (the 1929 *Opinion on the Juristic Character of the International Commission of Cape Spartel Lighthouse*, the 1931 *Corte di Cassazione* Sentenza, the 1935 Affaire *Avenol* and the 1946 *Ranallo* Case) portray the legal questions faced by national courts and international experts when dealing with the subject of the powers and immunities of international organizations and their staff members. Analogies to private law, functional interpretations, policy recommendations, sovereign equality and the demands of independence before member states – a series of diffuse arguments influenced these decisions and demonstrated that there was not a bare cupboard for the establishment of a proper legal examination of the nature and powers of international organizations.

However, in spite of the available materials, a more systematic understanding of the legal nature and the powers of international organizations was still lacking. In this respect, the *Reparations* Case would prove to be a landmark. A firm *dictum* of the World Court on the legal personality and capacities of international organizations would provide international lawyers with a reliable general framework for understanding the status of international organizations under international law. The authority of the decision would soon prove determinant – most textbooks on the law of international organizations[122] would have the *Reparations* Case at their heart, as a sort of master key to unlocking the legal regime of international organizations.

In the next section, I will examine this landmark case. Profiting from the benefit of hindsight (and also from the important insights provided by a series of commentaries and reviews on the advisory opinion), I will comment on how the International Court of Justice not only had to answer some old questions, but also had to make a creative use of the materials already available, in addressing a new problem, still not tackled by national courts: the relation of international organizations to third states, not parties to their constitutive instruments, and the presentation of claims on behalf of their agents.

[122] This is more properly the case of English-speaking textbooks, as we shall further discuss in the next chapter, which presents a comparative study of the first courses, coursebooks and textbooks in the United States, the United Kingdom and France.

In this study, apart from examining the rationales underlying the advisory opinion on the *Reparations* Case, I will also examine its omissions, in order to evince another side of the decision, which was as productive to the development of the law of international organizations as the most evident one. If most authors perceive the advisory opinion as an adventurous expedition on a relatively uncertain field, it is also important to stress that it was not devoid of certain caution not to step on unknown landmines. And such caution resulted in a series of possible contradictions, which could be duly explored in different ways.

Because of what it said and of what it refrained from saying, the *Reparations* Case ended up not only providing answers, but also evincing new questions. These two sides of the advisory opinion were extremely important for the development of the law of international organizations, indicating the possible directions for future studies on the subject. The answers given by the *Reparations* Case would provide the basic structural elements for the teaching of the law of international organizations; the questions posed by it would be essential for the search of a systematic theory capable of providing more coherence to this structure, stimulating new research on the law of international organizations.

1.2. The *Reparations* Case and the discourse adopted by the International Court of Justice

In depicting the international legal personality of international organizations and its effect on third parties, the *Reparations* Case unchained the law of international organizations from its configuration as an art of interpreting the constitutive instrument and connected it to general international law. Differently from other cases previously decided by the Permanent Court of International Justice, a solution was not available merely by dint of the principle of effective interpretation of treaties, but demanded some degree of innovation. What would ensue would be the authoritative manifestation of an international court on some of the topics previously dealt by national courts and international legal practitioners, by identifying the basic elements that characterized an international organization. The comparative study of the internal law of public

international unions and international organizations, an element already made common since the early twentieth century, and already present in many monographs and articles in the 1930s and 1940s, would now be linked to analyses on the capacities of international organizations as a common legal regime.

Apart from providing a series of important answers, which connected the study of the law of international organizations to general international law, the *Reparations* Case (and later on the *Certain Expenses* case) also represented an important source of questions to international lawyers. Four contentious topics gained some traction in the wake of the *Reparations* Case: the status of the internal law of international organizations, the objective personality of international organizations, the implicit powers of international organizations as well as the legal status and immunities of international staff members. During the 1950s and 1960s important authors on the law of international organizations offered their views on these topics. Among these contributions, a Norwegian scholar and practitioner, Professor Finn Seyersted, then Director of the International Atomic Energy Agency, wrote two groundbreaking articles on the personality of international organizations published in 1964[123], proposing a new system for understanding the "internal" and the "external" law of international organizations and challenging some of the assumptions of the advisory opinion, especially its main tenet – the concept of "functional necessity"[124].

The award by the International Court of Justice not only pushed forward some of the basic tenets of the field – such as a functional reading of the powers and privileges and the recognition of the international legal personality of international organizations – but also contributed to the development of studies on "the legal relations between

[123] SEYERSTED, Finn. International Personality of Intergovernmental Organizations: Do their Capacities really depend upon their Constitutions? *Indian Journal of International Law* (1964) 4, 1-74; SEYERSTED, Finn. Is the International Personality of Intergovernmental Organizations Valid vis-à-vis Non-members? *Indian Journal of International Law* (1964), 233-268.

[124] Apart from analysing the different perspectives on the powers and functions of international organizations and explaining the relevance of the doctrine of implied powers to the expansion of general international law, Professor Cançado Trindade also provides an extensive list of writing on the topic, many of them from the 1950s and 1960s. Refer to: TRINDADE, Antônio Augusto Cançado. *International Law for Humankind. Towards a New Jus Gentium.* The Hague: Martinus Nijhoff, 2010, pp. 185-190.

international organizations and their staffs"[125], since its most controversial sub-question dealt with the right to present claims in respect of "an agent of the United Nations".

1.2.1. A summary of the case: oral and written submissions and reasoning of the court

The facts that preceded the request for an advisory opinion were the assassination, by Zionist paramilitary groups, of various agents who were under the command of the United Nations for the supervision of the partition plan under the United Nations Palestine Commission[126]. Among these officials, there was a high-ranking officer, Count Folk Bernadotte, who worked as the United Nations Mediator for Palestine, hence effectively functioning as an organ of the United Nations, and was murdered in 17 September 1948 while exercising his official duties.

In light of these events, the question as to how the United Nations should proceed was brought before the Sixth Committee of the General Assembly. It undertook the examination of this issue for eleven consecutive meetings. During the discussions, representatives of the member states proposed different strategies to be adopted by the organization: for some of them, an opinion of the court was useful to legitimate any action brought by the organization; for others, it was a necessary step to dispel serious doubts over the powers of the organization; another group suggested that it would suffice if the General Assembly should edit a recommendation authorizing the Secretary-General to demand reparation; at last, some members indicated the law was not ripe to recognize these capacities, so that the organization should abstain from any action and should simply urge the states of nationality to exercise the prerogative of diplomatic protection on behalf of its agents[127]. In the end, the Sixth Committee voted a draft resolution, based on a Belgian proposal, suggesting that an advisory opinion be requested to the International Court of Justice on the powers and competences of the

[125] JENKS, Clarence Wilfred. The Scope of International Law. *British Yearbook of International Law* (1954) 31, pp. 17-18.

[126] A brief listing of the officials and events is available at the Procès-Verbaux of the case, as the representative of the UN Secretary-General, Dr. Ivan Kerno, briefly reinstated the particular cases (INTERNATIONAL COURT OF JUSTICE. *Verbatim Record 1949*. Pleadings, Public Sittings held at the Peace Palace, The Hague, on March 7th, 8th and 9th and April 11th, 1949, the President, M. Basdevant, presiding, pp. 53-54)

[127] *Ibid*, pp. 60-62.

United Nations[128] and submitted it to the General Assembly, where it was promptly upheld.

The Resolution of December, 3rd was communicated by the Secretary-General to the International Court of Justice, triggering the consultative procedure. The questions submitted by the General Assembly to the court were the following:

> 1. In the event of an agent of the United Nations in the performance of his duties suffering injury in circumstances involving the responsibility of a State, has the United Nations, as an Organization, the capacity to bring an international claim against the responsible *de jure* or *de facto* government with a view to obtaining the reparation due in respect of the damage caused (a) to the United Nations, (b) to the victim or to persons entitled through him?
>
> 2. In the event of an affirmative reply on point 1(b), how is action by the United Nations to be reconciled with such rights as may be possessed by the State of which the victim is a national?[129]

The representatives of some member states presented written statements to the International Court of Justice. The most sensitive question summoned by these representatives was that of the capacity of the organization to bring a claim on behalf of its agents, since it could feasibly affect a sovereign prerogative. Various governments emphasized, on the one side, that the United Nations should always invite the state of the nationality to take part in the proceedings unless a special agreement was celebrated with the state[130] or, on the other side, that the international organization had an independent title to defend its agents based on the special link of responsibility under the Charter[131] or based on the protection of international public service[132], notwithstanding the rights of other parties. The government of the United States suggested an intermediate solution, only conferring subsidiary powers to the United

[128] LIANG, Yuen-Li. Reparation for Injuries Suffered in the Service of the United Nations. *American Journal of International Law* (1949) 43:3, pp. 462-466.
[129] INTERNATIONAL COURT OF JUSTICE. *Request for advisory opinion* (including the dossier of documents transmitted to the Court pursuant to article 65, paragraph 2 of the Statute), p. 9.
[130] That was the case of the written statements of India and China (*Ibid*, pp. 12-13).
[131] This was the position of the written statement of the United Kingdom (*Ibid*, p. 37).
[132] This was the position of the written statement of France (*Ibid*, p. 15).

Nations, so that it could only present autonomous claims on the behalf of its stateless agents[133].

In its oral pleadings, the French government, represented by Professor Charles Chaumont, Legal Adviser to the Ministry of Foreign Affairs, developed the idea originally presented on its written statement, suggesting that there existed two different titles for justifying international claims on behalf of individuals. First, there was the traditional mechanism of diplomatic protection, based on the idea of the protection of foreigners, and hence linked to the legal concept of nationality. Second, there was the mechanism of functional protection, based on the special duty to secure the development of certain specially protected activities, and hence linked to the legal concept of international function (*fonction internationale*)[134]. As states afforded some especially relevant functions to the organization, it should be capable of defending its officers from undue interferences.

In the opinion of the representative of the United Kingdom, Sir Gerald Fitzmaurice, later to occupy a chair at the International Court of Justice, the French pleading was technically incorrect. It also happened that states could claim damages for foreigners in its service (a situation that most commonly happened with consuls), but this only encompassed the possibility to plead direct damages, as the function, and not the person who exercised it, was the true protected object. Because of that, it was only possible to present an international claim based on the actual damages suffered by the international legal person, not on the damages eventually caused to its agents. The personal damages would only, at best, serve as a matter of proof. Hence, "the simple

[133] *Ibid*, p. 22

[134] (*Original text in French*): "Il résulte des précédents développements que les dommages subis para un agent des Nations Unies du fait d 'un État peuvent poser un double problèe de responsabilité. D'une part, l'agent peut être considéré en sa qualité d'étranger et les règles sur le traitement des étrangers et la protection due aux étrangers ont pu être violées. D'autre part, l'agent peut être considéré sous l'aspect de sa fonction internationale et les règles sur le respect du service public international ont pu être méconnues. Dans le premier cas, l'État national est compétent pour agir par l'exercice de la protection diplomatique, et il peut seul le faire. Dans le second, c'est l'Organisation internationale qui peut seule protéger le service public international. Ainsi, un même dommage peut provoquer des réclamations émanant de deux autorités distinctes, deux compétences internationales sont donc susceptibles de jouer touchant le même fait." (INTERNATIONAL COURT OF JUSTICE. *Verbatim Record 1949*. Pleadings, Public Sittings held at the Peace Palace, The Hague, on March 7th, 8th and 9th and April 11th, 1949, the President, M. Basdevant, presiding, p. 108).

relationship of master and servant (…) would not, *per se*, enable the Organization to make a claim on behalf of the injured party or his dependents"[135].

If the aforementioned line of reasoning seemed to suggest that the United Kingdom would recommend that item 'b' of the first question referred for an advisory opinion be answered on the negative, it was not the case. As Gerald Fitzmaurice indicates, the figure of "international allegiance", extracted from the idea of an "exclusive international responsibility" found in article 100 of the UN Charter[136], could go beyond the simple relationship of master and servant and function as a substitute for the idea of nationality. In all matters concerning the activities of the organization, national allegiance would be displaced by its international counterpart. When both allegiances were at stake, the English representative resorted to an analogy to the regime of dual nationality, indicating that the ensuing conflicts be solved by the definition of rules of priority. Considering that the United Nations were formed by an important share of the international community, he suggested that the idea of a "master nationality" be replaced by a presumption in favor of prioritizing the claim presented by the international organization, and not by the state of the nationality. The independence of the organization also justified the modification of an exception that existed in the regime of dual nationality, an international claim for damages being duly presented on behalf of the agent even against the state of his or her nationality[137].

Two great novelties marked the *Reparations* Case. Firstly, it was the first time that an international court could examine the possibility of an international organ to present a claim on behalf of international agents. If the situation was not unparalleled in history, the previous case involving a similar situation did not effectively establish a

[135] *Ibid*, pp. 122-123.
[136] "Article 100. 1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. 2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities."
[137] INTERNATIONAL COURT OF JUSTICE. *Verbatim Record 1949*. Pleadings, Public Sittings held at the Peace Palace, The Hague, on March 7th, 8th and 9th and April 11th, 1949, the President, M. Basdevant, presiding, pp. 123-130.

precedent[138]. In 1923, Enrico Tellini, an Italian General, was sent on a mission by the League of Nations to investigate the border dispute between Greece and Albania. He was killed in service while approaching the disputed border, on the outskirts of the Greek City of Ioannina. After the incident, the Conference of Ambassadors presented a request to Greece postulating the investigation of the facts and the punishment of the perpetrators[139]. The Italian government, however, soon characterized the episode as a vilification of national honor and demanded heavy compensation on the part of Greece as well as the immediate and summary execution of all perpetrators. After the negative answer of the Greek government, the Italian government issued an ultimatum. The elevated tensions led to the Corfu incident. Legal discussions promptly subsided.

Secondly, another great novelty brought before the Court in the *Reparations* Case was the need to examine the relationship of the organization with non-members, a condition that demanded an analysis that went beyond the mere interpretation of the constitutive treaty, since the third party could not be forced to abide by it.

The assassinations of the United Nations agents occurred in a territory not under the sovereignty of any member state, but under the *de facto* control of Jewish officials, who acted as liaisons to the operations of the organization and were responsible for the protection of the mission. The creation of the State of Israel had been proclaimed by the provisional government days before the UN-backed armistice, but its recognition was still limited and circumscribed[140]. It was a case of not only having to assess the relationship of the organization with a non-member, but also of having to deal with a third party whose statehood was still doubtful. In order to dispel all of the doubts concerning the case, the General Assembly made an express effort to include in the first question presented to the International Court of Justice a reference to the relations of the organization with both *de facto* or *de jure* governments.

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[138] WRIGHT, Quincy. Responsibility for Injuries to United Nations Officials. *American Journal of International Law* (1949) 43:1, pp. 101-102.

[139] PRZETACZNIK, Franciszek. *Protection of Officials of Foreign States According to International Law*. The Hague: Martinus Nijhoff, 1983, p. 104; EAGLETON, Clyde. *The Responsibility of States in International Law*. New York: New York University Press, 1928, pp. 187-188.

[140] WRIGHT, Quincy. Responsibility for Injuries to United Nations Officials. *American Journal of International Law* (1949) 43:1, pp. 99-100.

Therefore, in order to establish the right to present a claim before a third party and to resort to international dispute settlement, the court had to undertake an analysis before general international law. The pleadings of the representative of the Secretary-General reinforced the singular nature of the case:

> In essence, our position at this point is that the United Nations, in addition to its rights under the Charter or express international agreement, possesses those substantive rights of general international law which are necessary and proper for the exercise of its functions. We are aware that this position may have an appearance of novelty and perhaps boldness, but it is novel only because the problem of the practical implications of the personality of an international organization arises here for the first time. We submit that this view is wholly in accordance with the needs of the modern international community, and with the progressive development of the international legal order. (…)
>
> The essential point in our contention before the Court now is that the United Nations unquestionably has the right to insist, under international law, vis-à-vis a State, whether that State be a member or a non-member, that its agents be given the protection necessary for the performance of the functions of the Organization.[141]

The advisory opinion on the case, registered in the docket of the International Court of Justice as *Reparations for Injuries Suffered in the Service of the United Nations*, in short the *Reparations* Case (also the *Bernadotte* Case or the *Injuries* Case), was given in 11 April 1949. The opinion starts with a short presentation of the questions prepared by the General Assembly, followed by a series of interpretive and procedural forewarnings, which preceded the opinion on the merits. Among them, two were especially important for understanding the full outcome of the case: (i) the expression "agents" would be interpreted on its widest sense, comprising "any person who, whether a paid official or not, and whether permanently employed or not, has been charged by an organ of the Organization with carrying out, or helping to carry out, one of its functions", an option that would be expressly criticized by the Brazilian judge; (ii) the examination of the questions on the capacity of the United Nations to present claims against the responsible government would be split in two parts, as to first examine the situation of

[141] *Ibid*, pp. 76-77.

claims against member states and only later advance to the question of claims against non-member states[142].

Having presented these forewarnings, the International Court of Justice proceeded to the examination of the matter in five steps, which may be summarized by five different questions: first, whether the United Nations were recognized as having legal personality under international law; second, whether the United Nations had the competence to bring an international claim against a member state for the reparation of direct damages; third, whether this competence also encompassed claims for the reparation of damages on behalf of its agents; fourth, whether the United Nations could also bring claims against non-member states; fifth, whether and how this competence could be reconciled with the rights of interested states to present an international claim. The reasoning of the court on each step will be presented hereinafter.

The question of the international legal personality of the United Nations[143] was initiated with the consideration that legal capacities may only be exercised by entities capable of acquiring rights and availing themselves of obligations incumbent upon others actors, a notion that involves the recognition of international legal personality. Legal personality, it was explained, did not suppose that a single category of subjects exist, their nature and rights being possibly varied, according to "the needs of the community". The development of international law reflected the requirements of international life, which were marked by enhanced cooperation. It was mentioned that "the Charter has not been content to make the Organization created by it merely a centre 'for harmonizing the actions of nations in the attainment of these common ends' (Article 1, para. 4)" – a reference that serves to detach the United Nations from the comparison to an international conference, as some had intended it to be. On the contrary, the Court indicated that its drafters equipped it with independent organs and endowed it with multiple functions that were only discharged through the bestowing of international legal personality.

[142] INTERNATIONAL COURT OF JUSTICE. *Reparations for Injuries Suffered in the Service of the United Nations, Advisory Opinion: I.C.J. Reports 1949,* p. 177.
[143] *Ibid*, pp. 177-179.

Some indications were mentioned to confirm that the organization operated in "a position in certain respects in detachment from its members", such as the recognition of immunities and privileges, the prerogative of the General Assembly to make recommendations to member states, the duty of member states to carry out the decisions of the Security Council and the practice to impart the organization with the power to conclude agreements (the so-called "indicia of personality").

Hence, international legal personality derived from an inductive approach, based on the functions and rights enjoyed by the organization and on the need to perform them both fully and independently. The paragraphs that concluded the first part of the advisory opinion, affirming the international legal personality of the United Nations and distinguishing the organization from a state or a super-state, constitute its most often quoted excerpt:

> In the opinion of the Court, the Organization was intended to exercise and enjoy, and is in fact exercising and enjoying, functions and rights which can only be explained on the basis of the possession of a large measure of international personality and the capacity to operate upon an international plane. It is at present the supreme type of international organization, and it could not carry out the intentions of its founders if it was devoid of international personality. It must be acknowledged that its Members, by entrusting certain functions to it, with the attendant duties and responsibilities, have clothed it with the competence required to enable those functions to be effectively discharged.
>
> Accordingly, the Court has come to the conclusion that the Organization is an international person. This is not the same thing as saying that it is a State, which it certainly is not, or that its legal personality and rights and duties are the same as those of a State. Still less is it the same thing as saying that it is "a super-State", whatever that expression may mean. It does not even imply that all its rights and duties must be upon the international plane, any more than all the rights and duties of a State must be upon that plane. What it does mean is that it is a subject of international law and capable of possessing international rights and duties, and that it has capacity to maintain its rights by bringing international claims[144].

[144] *Ibid,* p. 179.

The affirmation of the legal personality of the United Nations was a ground-breaking one, representing a much braver assertion than ever made by the Permanent Court of international Justice, a more conservative tribunal that emphasized the need to circumscribe its manifestations regarding international institutions to a simple matter of interpreting the specific constitutive instrument[145]. Not surprisingly, in his 1958 book *The Development of International Law by the International Court*, Hersch Lauterpacht characterized the decision as one of the most important instances of the progressive development of international law and lauded the *dictum* for its "doctrinal boldness and the clarity of its unanimous pronouncement", placing it as "the most important decision of the Court" regarding international legal personality and the structure of the international community[146].

The second question is the object of a very short analysis by the Court. After having established that the United Nations were endowed with legal personality according to international law and having distinguished it from that of states, the Court concluded that the set of capacities of the organization depended "upon its purposes and functions as specified or implied in its constituent documents and developed in practice"[147]. Since safeguarding the interests, properties and assets of the organization from damages caused by breaches of international obligations was essential for efficiently discharging its functions (the idea of "functional necessity"), and that one could not possibly consider the substitution of the organization by all its members when presenting a common claim on behalf of the organization as a workable arrangement, then the capacity to present claims on behalf of damages caused directly to the organization was unavoidable[148].

On the contrary, the answer to third question, concerning the capacity to bring a claim on behalf of the agents of the organization, was not a straightforward one. Its

[145] KWIECIEŃ, Roman. The Permanent Court of International Justice and the Constitutional Dimension of International Law: From Expectations to Reality. *In*: TAMS, Christian; FITZMAURICE, Malgosia. *Legacies of the Permanent Court of International Justice*. Leiden/Boston: Martinus Nijhoff, 2013, p. 366.
[146] LAUTERPACHT, Hersch. *The Development of International Law by the International Court.* Cambridge: Cambridge University Press, 2000, pp. 176-177.
[147] INTERNATIONAL COURT OF JUSTICE. *Reparations for Injuries Suffered in the Service of the United Nations, Advisory Opinion: I.C.J. Reports 1949*, p. 180.
[148] *Ibid*, pp. 180-181.

contentious nature was evinced by the fact that, differently from the previous issues, it was only decided by a majority (of eleven to four), and not by a unanimous vote. At the outset, the court dismissed diplomatic protection, based on nationality, as the only grounds to justify a claim on behalf of individuals. However, it did not go as far as the British proposal, in suggesting an "international allegiance". The Court expressly rejected this argument, by affirming that it was not possible, "by a strained use of the concept of allegiance, to assimilate the legal bond which exists, under Article 100 of the Charter, (…) to the bond of nationality existing between a State and its nationals"[149].

Since no express provision existed in the Charter, the International Court of Justice once again suggested a functional test[150]: do the functions of the organization demand the capacity "to afford its agents the limited protection that would consist in the bringing of a claim on their behalf for reparation for damage suffered in such circumstances"[151]? According to the court, since the activities performed by the agents many times involved unusual dangers and touched on sensitive issues, the national state might not be willing to exercise diplomatic protection on their behalf. And not only this, but the need to convince the state to exercise diplomatic protection could also jeopardize the independence of the international agent. Providing them with the protection of the organization, therefore, was essential to preserve the "efficient and independent performance of these missions"[152].

It is important to stress that the court did not purport to present a human rights defense, emphasizing the dignity and security of international officials. On the contrary, the Court made it clear that the protection of the agents was an indispensable condition for the performance of the functions of the organization, not an end in itself. Presenting international claims on behalf of its agents reinforced the effectiveness of the functions

[149] *Ibid*, p. 182.
[150] The functional test is aptly summarized by the Court in the following excerpt: "Under international law, the Organization must be deemed to have those powers which, though not expressly provided in the Charter, are conferred upon it by necessary implication. as being essential to the performance of its duties" (*Ibid*, p. 182). According to the Court, this principle had already been applied by the Permanent Court of International Justice in the advisory opinion on the *Competence of the ILO to Regulate Incidentally the Personal Work of the Employer.* This affirmation is expressly countered by Judge Badawi Pasha in his dissenting opinion.
[151] *Ibid*, p. 182.
[152] *Ibid*, p. 183.

exercised by the organization, therefore complying with the functional test. It is under these considerations that the court came to the conclusion that the exercise of international claims on behalf of its agents was an own right of the organization, which it entitled “functional protection”:

> Upon examination of the character of the functions entrusted to the Organization and of the nature of the missions of its agents, it becomes clear that the capacity of the Organization to exercise a measure of functional protection of its agents arises by necessary intendment out of the Charter.
>
> The obligations entered into by States to enable the agents of the Organization to perform their duties are undertaken not in the interest of the agents, but in that of the Organization. When it claims redress for a breach of these obligations, the Organization is invoking its own right, the right that the obligations due to it should be respected. On this ground, it asks for reparation of the injury suffered, for "it is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form"; as was stated by the Permanent Court in its Judgment No. 8 of July 26th, 1927 (Series A., No. 9, p. 21). In claiming reparation based on the injury suffered by its agent, the Organization does not represent the agent, but is asserting its own right, the right to secure respect for undertakings entered into towards the Organization[153].

The fourth question examined by the court, on the possibility to bring a claim against non-member states, was not the object of dissents, in spite of its relatively innovative character. It is the briefest segment of the opinion, with all arguments being condensed in a single paragraph. Against the notion that only member states had assumed an obligation before the organization, the International Court of Justice presented the concept of objective international personality, which was linked to the existence of the United Nations in international law not depending on specific acts of recognition. This argument was very loosely coupled to the consideration that an expressive part of the international community was behind the establishment of objective personality, in a vague *dictum* that still engenders considerable doubts:

> On this point, the Court's opinion is that fifty States, representing the vast majority of the members of the international community, had the power, in conformity with

[153] *Ibid*, p. 184.

> international law, to bring into being an entity possessing objective international personality, and not merely personality recognized by them alone, together with capacity to bring international claims[154].

The last question, regarding the relationship between the claims of states and international organizations, did not entice the court towards progressive development of the law as much as the previous ones. The reply started with the admission that no specific rule of law assigned priority to any category of claims, so that all interested parties needed to "find solutions inspired by goodwill and common sense"[155]. However, some degree of innovation also existed therein, as the suggestion presented by the representative of the United Kingdom was promptly accepted by the court, it being indicated that, since the claims of the United Nations were based upon the functions exercised by its agents and not upon their nationality, there was no need to refrain from acting against the state of the nationality. In spite of the court not assuming many risks on this issue, the question proved to be controversial, as it was only upheld by a majority of ten votes against five.

Judges Alejandro Álvarez and Philadelpho Azevedo gave concurring opinions to the advisory opinion. The Chilean Judge lauded the opinion of the court, emphasizing that it proclaimed a new precept of international law and represented a responsible instance of progressive development of the law according to its general principles[156]. The Brazilian Judge, on the other hand, explained that he agreed with the findings in general, but suggested that the court should have gone further in establishing different rules when international claims purported to claim reparations on behalf of different types of international agents: officials, experts or representatives[157].

Judge Green Hackworth, in a dissenting opinion, expressed his disagreement with the idea of functional protection. For him, the doctrine of implied powers could only be applied to expand the powers of the organization in relation to those privileges and immunities that were strictly necessary for the performance of the functions of the

[154] *Ibid*, p. 185.
[155] *Ibid*, p. 186.
[156] *Ibid*, pp. 190-192.
[157] *Ibid,* pp. 193-195.

organization, never for the personal benefit of the agents of the organizations themselves. To adopt such an extensive concept of implied powers was to ignore that the general rule in the law of international organizations was that of delegated and enumerated powers, a condition that derived from the principle of sovereignty and from the possibility that complementary agreements be concluded by the member states to confer new powers upon the organization. In his view, the practical considerations summoned by the court, in the sense that foreign governments could refrain from exercising diplomatic protection or that the independence of the international agent might be jeopardized by the need to rely on the protection of his state were irrelevant and placed "a rather low estimate upon the employee´s sense of fidelity"[158].

In his dissenting opinion, Judge Abdel Hamid Badawi Pasha also stressed that the court was wrong in admitting the possibility of an international organization bringing a claim on behalf of its agents. According to him, the court created a general abstract solution in the idea of functional protection, without sufficient support in general principles of law or in practice. The existence, in the oral and written statements of governments, of multiple alternative grounds to justify the possibility of bringing such a claim reinforced the lack of a well-established practice to authorize the court to declare the existence of such an implicit power. Finally, he criticized the interpretation of Article 100 of the UN Charter and the reference to Opinion No. 13 of the Permanent Court of International Justice. First, because Article 100 of the UN Charter did not function as a source of obligations towards member states and third states, but only as a rule of conduct directed to the agents themselves, who should not imperil their allegiance towards the international organization. Second, because Opinion No. 13 of the Permanent Court of International Justice did not establish a general principle, but only dealt with the interpretation of "the intention of the Parties as to Part XIII of the Treaty of Versailles"[159].

The last – and briefest – dissenting opinion, presented by Judge Sergei Krylov, reaffirmed the arguments of Judges Hackworth and Badawi Pasha and considered that the court

[158] *Ibid*, pp. 196-204.
[159] *Ibid*, pp. 205-216.

had wandered too far in admitting as law a rule that only existed *de lege ferenda*. Functional protection could not be inferred from the constitutive instruments and ought to be established by a general convention or various bilateral agreements concluded between the United Nations and the respective states.

1.2.2. The basic legal notions consolidated by the advisory opinion

Two fundamental concepts for the law of international organizations were established by the *dictum* of the International Court of Justice: the idea of international legal personality of international organizations as a means to consolidate their independence from member states and their capacity to acquire rights and duties under international law, and the idea of functional necessity as the justification and measure for the capacities that international organizations could claim to possess.

The authoritative affirmation of the independent legal personality of the United Nations by the International Court of Justice could dispel some uncertainties that still lingered as late as 1948, the year that preceded the advisory opinion, as Charles Fenwick suggested in his treatise that one could best describe both the League of Nations and the United Nations as examples of loose confederations[160]. By expressly including international organizations in the selective catalogue of international legal persons, it pushed the treatises on international law to rethink their structures, it now being unavoidable to include, if only very cursorily and briefly, some reference to international organizations. Legal personality would also function as a common denominator for the establishment of an analogy to states[161], it being possible to discuss if international organizations ought to exercise the same prerogatives that were associated to the main traditional actors of international society.

If the idea of international legal personality would act as a rapprochement to states, the International Court of Justice coupled it to another idea that would distinguish international organizations from any reference to superstates on the making. Functional

[160] FENWICK, Charles. *International Law.* 3rd ed. New York: Appleton-Century-Crofts, 1948, pp. 181-182.
[161] For a recent stimulating book, which purports to justify the application of rules of customary international law to international organizations by dint of the analogy to states, refer to: BORDIN, Fernando Lusa. *The Analogy between States and International Organizations.* Cambridge: Cambridge University Press, 2019.

necessity, as applied by the International Court of Justice, represented the criteria for the attribution of capacities to international organizations, their legal personality only encompassing those rights that were justified under a functional basis[162].

Functional necessity, however, was not only a limiting concept, serving also as an enabling idea. After all, it was based on functional necessity that the International Court of Justice extended the obligation by member states not to impair the activities of an international organization that they had agreed to establish and recognized the need for international organizations to acquire a series of external powers, independently from the substitution by its member states. Functional necessity, therefore, could even go as far as affect the relations of an organization with third parties.

The idea that international legal personality and international capacities interact in a way that "each implies the other" was suggested by Clive Parry in an article written to the British Yearbook of International Law right after the delivery of the advisory opinion[163] and summarizes the combination of the arguments advanced by the International Court of Justice. Since the international legal personality of international organizations did not have the same precise criteria as that of statehood, the Court found it necessary to identify the legal personality of the organization with reference to the capacities effectively exercised by it (the indicia of personality). After international legal personality had been established, however, the question of capacities remained relevant, since personality under international law was extended to international organizations in a limited form, not including the same bundle of rights as that of states. It was now time to invert the question, in order to identify if the organization had "the sort of personality to include a specific capacity", a test that was conducted by means of functional necessity.

[162] Based on this construction, some authors have advanced the idea of functional legal personality (or legal personality on a funcitonal basis), many times with an interest to enlarge even further the catalogue of international legal persons. For an example, refer to: WORSTER, William. Relative International Legal Personality of Non-State Actors. *Brooklyn Journal of International Law* (2016) 42:1, 207-273.
[163] PARRY, Clive. The Treaty-Making Power of the United Nations. *British Yearbook of International Law* (1949) 26, 108-149.

1.3. The *Reparations* Case as a trigger to the development of the law of international organizations

By consolidating basic legal concepts, the *Reparations* Case outlined the structure of the discipline, which would later be reproduced in the teaching of the law of international organizations. Instead of tracing the regimes of immunities, responsibilities and competences to the will of the member-states, an intermediate consideration had now become imperative. States would still exercise their will in creating an independent organization. However, after creation, the functions incorporated in the constitutive instrument would be exercised by the newly constituted international person. Common institutional questions could now be traced back to the legal personality of the organization, from which it derived the powers and capacities under international law, based on the limits of "functional necessity". As it will be explained later, this argumentative structure, centered on the need to preserve the independence and the efficacy of the organization, is adopted by Professor Derek Bowett in part four of his textbook, setting up a structure that would be reproduced by later textbooks on the law of international organizations[164].

The affirmation that international organizations could have legal personality according to international law was a groundbreaking one. According to Catherine Brölmann, from 1949 on, due to the influence of the advisory opinion, international law discussions (and textbooks) on international organizations would be rephrased in accordance with the language of international legal personality, capacities and powers[165].

By treating the constitutive treaty merely as a point of departure, which would be duly complemented by considerations stemming from general international law, the *Reparations* Case represented a stimulus to a general study of international organizations, far from the most common model that dominated the academic environment of the study of international organizations up until the 1940s: commentaries on specific international institutions. Because of this new tendency, the

[164] See, for instance: KLABBERS, Jan. *An Introduction to International Organizations Law.* Third Edition. Cambridge: Cambridge University Press, 2015, pp. 46-53; SCHERMERS, Henry; BLOKKER, Niels. *International Institutional Law.* 4th ed. Leiden: Martinus Nijhoff, 2003, pp. 987-991.
[165] BRÖLMANN, Catherine. *The Institutional Veil in Public International Law: International Organizations and the Law of Treaties.* Oxford: Hart Publishing, 2007, pp. 78-82.

descriptive tradition, inaugurated by the early writings on international unions, would undergo a series of changes, so as to expand its horizons towards the inclusion of normative and systematic elements.

When studying international organizations, it became important not only to understand their internal functioning, but also to think of their competences[166], responsibilities[167], immunities[168], among others. Common institutes such as diplomatic protection[169], recognition[170] and succession[171], typically restricted to states, could now also be discussed in relation to international organizations.

Apart from consolidating the language of legal personality as an important element in the study of international organizations, a circumstance that attracted the incidence of general international law to the field, the *Reparations* Case also had another important contribution to the promotion of the law of international organizations. The reasoning that was followed by the Court, which established the functional necessity of the organization as the measure of their legal capacities, represented a "legalization" of functional theory, attributing legal consequences to a notion originally developed to explain how welfare was better served by the development of specialized institutions around technical functions. From them on, thinking in functional terms would become the mainstream in the study of the law of international organizations.

The advisory opinion of the International Court of Justice would import functionalism from the realm of international organization (without an 's'), where it represented a theory on how to enhance international cooperation, to the realm of the law of international organizations, where it justified the attribution of powers and privileges to

[166] For a seminal article on the topic, refer to: PARRY, Clive. The Treaty-Making Power of the United Nations. *British Yearbook of International Law* (1949) 26, 108-149.
[167] For a seminal article on the topic, refer to: SEYERSTED, Finn. United Nations Forces: Some Legal Problems. *British Yearbook of International Law* (1961) 37, 351-475.
[168] For a seminal article on the topic, refer to: QUOC DINH, Nguyen. Les privilèges et immunités des organisations internationales d'après les jurisprudences nationales depuis 1945. *Annuaire français de droit international* (1957) 3, 262-304.
[169] For a seminal article on the topic, refer to: RITTER, Jean-Pierre. La protection diplomatique à l'égard d'une organisation internationale. *Annuaire français de droit international* (1962) 8, 427-256.
[170] For a seminal article on the topic, refer to: ROSENNE, Shabtai. Recognition of States by the United Nations. *British Yearbook of International Law* (1949) 26, 437-447.
[171] For a seminal article on the topic, refer to: HAHN, Hugo. Continuity in the Law of International Organization. *Duke Law Journal* (1962) 11:4, 522-557.

international organizations (with an ´s´). And by doing so, it would reject some of the tenets of functionalism that were incompatible with a positive and constructive image of international law.

The idea of organizing the world under functional lines had first been developed under the impulse of the creation of the first universal international unions, but only was the object of proper theorization during the 1930s. This systematization was performed by functional theory, a perspective developed by David Mitrany during the 1930s and 1940s, but with roots to the liberal internationalism of the late 19th century.

According to this view, previous attempts at world organization, particularly in the case of the League of Nations, had failed because they remained linked to an outdated tradition of rights, based on formal written pacts that established fixed divisions of authority, instead of following a tradition of services. The tradition of rights could claim to exercise an adequate role in the nineteenth century, when the limits of state powers were still uncertain and where the sphere of the individual had to be protected from intrusion by means of permanent and fixed rules. On the contrary, the prevailing notion of the twentieth century was the idea of "social reform" (or welfare), as the satisfaction of needs proved to be the most important political question once negative rights were already well entrenched. Instead of assigning competences in a fixed manner, the necessity of the time was to coordinate the social scope of authority, by means of practical goals to be delivered through common action. In David Mitrany's words,

> A constitutional pact could do little more than lay down certain elementary rights and duties for the members of the new community. The community itself will acquire a living body not through a written act of faith, but through active organic development. Yet there is no fundamental dispute as to general principles and ultimate aims. The only question is which way is the more immediately practicable and promising (…)[172]

If functional theory represented a positive turn for international organizations, since it intended to debunk the federal model from international organization (without an 's'),

[172] MITRANY, David. *A Working Peace System.* London: The Royal Institute of International Affairs, 1943, p. 10.

it was also a mostly counter-legalistic theory, generally distrustful of the role of law, preferring technical solutions to normative ones. As Lucian Ashworth has constantly emphasized, Mitrany's thought represented a pragmatic solution in a world governed by realist precepts, it being the case of replacing a normative-idealist approach by a need-oriented strategy[173].

The same anti-rights reasoning is evinced by the argumentation of Harrop Freeman, an Associate Professor of Law in Cornell University, who described the need to conduct the newly-created United Nations under functional tenets, ignoring the legalist allure of constitution-making, and only recognizing the role of international lawyers as that of ensuring the implementation of functions:

> When nations seek to draw up a constitution as the first step in association, they invariably raise questions of voting, withdrawal, financial support, and veto. Any plan must, at best, be a compromise. For the nations do not yet know all of the issues on which action may be taken and they must attempt to protect themselves against the "hypothetical imponderable" – which in fact never happens. Not so functionally, where the cooperators feel a common need and know the limits of inquiry.
>
> Further, the functional method is likely to bring to the solution of a problem the most capable and interested persons. Lawyers will re-formulate international law, and tradesmen and bankers will foster an international bank or trade association[174].

Moreover, it is important to emphasize that Mitrany's main project was to remove social and economic planning activities from national authorities, as they tended to emphasize national competition, a condition that inevitably led to war, and to place these activities at the international level. The mechanism through which international planning would happen was not of foremost importance to him, international non-governmental organizations possibly playing a similar role to their governmental peers[175].

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[173] ASHWORTH, Lucian. David Mitrany on the international anarchy. A lost work of classical realism? *Journal of International Political Theory* (2017) 13:3, 311-324.

[174] FREEMAN, Harrop. The United Nations Organization and International Law. *Cornell Law Quarterly* (1946) 31:3, pp. 271-272.

[175] DE WILDE, Jaap. *Saved from Oblivion: Interdependence Theory in the First Half of the 20th Century: A Study on the Causality Between War and Complex Interdependence*. Aldershot: Darthmouth, 1991, pp. 199-201.

Apart from Mitrany's functional theory, another brand of functionalism would be developed some decades later, mainly aimed at justifying the process of European integration, which began by the coordination of technical functions but intended to later evolve into a quasi-federal structure. The systematization of this perspective and its fundamental notion of a "spill-over effect" would happen during the 1960s, Ernst Haas developing the basic concepts of neofunctionalism[176].

Functionalism being a polysemic concept[177], it is important to bring to light the characteristics of the specific brand embraced by the International Court of Justice. As a notion borrowed from political science, it was natural that the fit could be somewhat imperfect. The legal idea of "functional necessity", as articulated in the advisory opinion, represented a weak form of functionalism, devoid of major considerations on the substantive content of the functions exercise by international organizations. What united international organizations under a single group was the procedure of their creation and the independent exercise of international functions, not their contribution to world administration.

Positioning functionalism at the heart of the law of international organizations supposed a circumvention of the questions on the relevance of law to the promotion of welfare, situating international lawyers at the end of the chain, with the mission to ensure the full execution of the pre-ordered functions of international organizations through legal technique. The legal discourse on functionalism became a tool for ratifying the execution of technical functions, excluding a thorough examination of the real impacts of these functions on welfare. International lawyers could consider to be contributing to the promotion of welfare, even if its true meaning remained unclear.

The examination of the reasoning of the International Court of Justice evinces a desensitization of the idea of functions in legal discourse, where "substance" (how relevant these functions are to the world community) is replaced by "form" (how independently the exercise of these functions is). Not once did the Court discuss which

[176] For its inaugural text, refer to: HAAS, Ernst. International Integration: the European and the Universal Process. *International Organization* (1961) 15:3, 366-392.
[177] BOISSON DE CHAZOURNES, Laurence. Functionalism! Functionalism! Do I Look Like Functionalism? *The European Journal of International Law* (2016) 26:4, 951-956.

were the precise functions exercised by the United Nations, apart from simply recognizing it as the "supreme international organization", with "general membership".

The lack of major substantive considerations puts international lawyers many times in an uncomfortable position of naïveté, Jan Klabbers arguing that even the offering of private services of processing and expelling migrants to individual states might be subsumed undet this desensitized notion of function, in an elegant critique of the International Organization for Migration[178].

If the *Reparations* Case represents a triumph of functionalism, necessary functions trumping the literal interpretation of the functions expressly attributed by the constitutive treaty, the *Certain Expenses* Case would test the boundaries of the theory, by suggesting that an activity ought not to be considered *ultra vires* "when the Organization takes action which warrants the assertion that it was appropriate for the fulfilment of one of the stated purposes"[179], a *dictum* that is usually associated to the idea of inherent powers[180]. By recognizing a universe of powers that could be acquired in practice, inherent powers represented a strong challenge to the relevance of the will of the member-states, consolidated in the initial limits of the delegation of competences by the constitutive instrument, reinforcing the enabling idea of functions[181].

Finally, apart from a properly legal role, the incorporation of functionalism to the law of international organizations also played an important legitimating role. By contributing to the promotion of functions, even if not properly examining what really supported them, international lawyers could sustain their commitment to global progress. Borrowing Thomas Skouteris' categories on the idea of progress, the functional

[178] KLABBERS, Jan. Notes on the ideology of international organizations law: The International Organization for Migration, state-making, and the market for migration. *Leiden Journal of International Law* (2019) 32, 383-400.
[179] INTERNATIONAL COURT OF JUSTICE. *Certain Expenses of the United Nations* (Article 17, paragraph 2, of the Charter). Advisory Opinion of 20 July 1962: I.C.J. Reports, 1962, p. 168.
[180] For an early development of theory of inherent powers, published one year before the advisory opinion, refer to SEYERSTED, Finn. United Nations Forces: Some Legal Problems. *British Yearbook of International Law* (1961) 37, pp. 455-456. The point is further developed by BEKKER, Peter. *The Legal Position of Intergovernmental Organizations: a Functional Necessity Analysis of their Legal Status and Immunities.* Leiden: Martinus Nijhoff, 1994, pp. 68-69.
[181] This perspective is also embraced by Judge Cançado Trindade (TRINDADE, Antônio Augusto Cançado. *The Construction of a Humanized International Law.* Leiden: Brill, 2015, pp. 1867-1868).

perspective provided international lawyers with a scientific explanation for international organizations as both "progress within international law" (international organizations as a solution to the institutional problem of international law) and as "international law as progress" (international organizations being the foremost legal technique for the promotion of welfare)[182]. A functionalist reading of the history of international law would soon ensue, with Wolfgang Friedmann's *the Changing Structure of International Law* imagining a world where the exclusion from participation in international organizations represents the main alternative to solving the problem of sanction in international law, as states would not dare be excluded from functional structures of cooperation[183].

By putting international organizations on the map of general international law, the *Reparations* Case would serve as an important stimulus to the consolidation of the law of international organizations. The authority of the advisory opinion and the discourse advanced by it would foster the autonomization of the discipline, as a means of construing a strictly legal discourse, devoid of political considerations. This circumstance will be further elaborated in the next chapter, where its impact on the teaching environment of the United States and the United Kingdom will be evinced, the advisory opinion becoming a central element of the first textbook written in English on the law of international organizations.

[182] SKOUTERIS, Thomas. *The Notion of Progress in International Law.* The Hague: T.M.C. Asser Press, 2010, p. 8. For an insightful analysis of Skouteris´ book, refer to: GALINDO, George. Progressing in International Law – Review Essay. *Melbourne Journal of International Law* (2010) 11:2, 515-529.
[183] FRIEDMANN, Wolfgang. *The Changing Structure of International Law.* New York: Columbia University Press, 1964, pp. 369-370.

Chapter Two. On teaching the law of international organizations: an examination of the first courses, coursebooks and textbooks in universities in the United States, the United Kingdom and France

2.1. Institutional autonomy in the United Kingdom and the United States, the first courses on the law of international organizations and the first specialized textbook

The late 1940s and early 1950s marked a period of institutional renovation in British and American universities. War planning and other governmental activities had deprived these institutions from their researchers and teachers. The remaining staff operated under adverse conditions during wartime[184], undertaking a series of simultaneous activities. After the war, the need to occupy the vacant positions and the influx of new foreign minds led to the renovation of university programs.

The teaching of public law in the United Kingdom and the United States gained substantial traction during the postwar years, in contrast to the classical curriculum that emphasized private law. Governmental intervention in daily life was more and more considered an inevitable reality, to be taken seriously by lawyers. Many lawyers, having served as administrators or public officials under the war effort, were well aware of this. A 1950 article by Professor David Hughes Parry, a prominent Professor of English Law at the LSE and the University of London, symbolized this shift in interest, by indicating the

[184] A summary of Barry Nicholas´ activities as a reader in law in Oxford during the war exemplify these overwhelming conditions: "Oxford was full of over-flowing, and Principal Stallybrass had made Brasenose the strongest law college in the university. Barry´s distinguished senior colleague, Humphrey Waldock, did not return from his war service to his Brasenose law fellowship. He accepted the Chichele Chair of Public International Law which was attached to All Souls. Ronald Maudsley was elected to succeed him but did not come at once. Barry therefore had eighty-four undergraduate lawyers to look after. Even after Maudsley arrived, he was teaching six hours every weekday, four in the morning and two, after games, before dinner, and four hours on Saturday mornings. He has some help from weekenders, but he himself covered all three undergraduate Roman Law courses, Contract, Legal History, Jurisprudence and sometimes International Law. To this has to be added the burden of regular University lectures. He was made All Souls Reader in Roman Law in 1948. The Readership was held concurrently with his Fellowship at Brasenose. Its effect was to raise his salary, at the cost of a considerably larger burden of lectures. (…) To this picture of unremitting toil must be added the almost total absence of secretarial assistance and technology that did not go beyond a typewriter and stencil. Moreover, colleges make demands which go far beyond teaching. They expect administrative and pastoral work to be done with no flaws and fuss, and at this time they still insisted that Fellows dine in Hall and stay on to dessert. Nobody ever heard Barry complain of this load, even in retrospect". (BIRKS, Peter. John Kieran Barry Moylan Nicholas, 1919-2002. *Proceedings of the British Academy* (2004) 124, p. 225.)

need, in a modern society, to promote the study of public law, especially in the fields of constitutional law and international law, since these subjects traditionally played second fiddle to private law and common law studies[185].

As Laura Kalman explains, with reference to the experience in Yale:

> An increased number of offerings in public and international law also reflected the growing concern with social policy. This emphasis grew out of the realists' interest in social reform and out of American liberals´ increasing interest in social justice beginning with the New Deal. In 1937-38, the law school had offered two courses on constitutional law, two courses on the public control of business, administrative law, municipal corporations, two courses on taxation, and one course on international law. If the curriculum had not been reoriented toward better representation of the poor ten years later, it did now include four courses in international law and nineteen in public law. The new focus on social sciences and social policy in the casebooks, then, was echoed in the curriculum[186].

In 1948, a series of meetings were organized by the American Association of Law Schools to examine and promote the study of international and comparative law, funded by the Carnegie Endowment. The survey of the state of the teaching of international law painted a similar picture to the the developments previously mentioned. From 1938 to 1948, the number of law schools that offered courses on international law had almost doubled, being comprised at the latter date of a group of thirty institutions, complemented by an expressive group of twenty-seven law schools that intended to promptly adopt the same academic offering[187].

The study of international organizations profited from this new focus. While "international institutions" or "international organization" had already been included in political science curricula of British and American institutions[188] since the interwar

[185] PARRY, David Hughes. The place of constitutional law and international law in legal education. *Canadian Bar Review* (1950) 28:2, 189-196.
[186] KALMAN, Laura. *Legal Realism at Yale, 1927-1960.* Chapel Hill: University of North Carolina Press, 1986, p. 229.
[187] THAYER, Philip. The Teaching of International and Comparative Law. *Journal of Legal Education* (1949) 1:3, p. 449.
[188] The teaching of political science in the United States as an independent degree started with the creation of Johns Hopkins´ Political Science Association in 1877 and Columbia´s School of Political Science in 1880. These initiatives were pushed forward by Professors Hebert Baxter Adams and James W. Burgess,

years[189], a separate course in law schools on "international institutions" or on the "law of international institutions" only became widespread on both sides of the Atlantic at the aftermath of World War II[190].

The 1952-1953 and 1954-1955 Calendars of the London School of Economics and Political Science finally included express references to an optional undergraduate course on the "*Law of International Institutions*"[191], taught by David H. N. Johnson, then a reader in international law, who would later become a prominent figure in air law alongside his LSE colleague, Professor Bin Cheng. The lack of a specific coursebook on the subject was revealed by the recommended bibliography, which only provided the initiating student with articles and books on specific organizations and excerpts from textbooks on international law. Similar curricula were present in the Universities of Manchester and Cambridge. In 1951, Georg Schwarzenberger also mentioned a special seminar on the "*Law of International Institutions*" in the University of London[192]. Since the early 1950s, courses on similar topics to the law of international organizations were being established in England.

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who had completed their doctoral studies in Germany under the influence of Bluntschli´s *Staatswissenschaft*, and wanted to institute the scientific and specialized study of statecraft in the United States. (FARR, James. Political Science. In: PORTER, Theodore; ROSS, Dorothy (eds.). *The Cambridge History of Science. Vol. 7 – The Modern Social Sciences.* Cambridge: Cambridge University Press, 2003, pp. 307-309). In the United Kingdom, the first political science degrees were established one decade later (at the University of Wales, the University of Aberystwyth and the University of Cardiff) and the academic study of political science was significantly promoted within the London School of Economics and Political Science, founded in 1895 (CRAIG, John. The emergence of politics as a taught discipline at universities in the United Kingdom. *The British Journal of Politics and International Relations* (2019). Research article – electronic resource – pp. 5-7. Available at: <https://journals.sagepub.com/doi/pdf/10.1177/1369148119873081>).

[189] For a detailed assessment of the main writings on "international organization" during the interwar years, as well as the teaching of the discipline, refer to: YALEM, Ronald. The Study of International Organization, 1920-1965; A Survey of the Literature. *Background* (1966) 10:1, 1-56.

[190] A mention by Clarence Wilfred Jenks, in a 1954 article, that among international lawyers "it is not uncommon to dismiss it as a branch of political science", illustrates the pervading effect of this division (JENKS, Clarence Wilfred. The Scope of International Law. *British Yearbook of International Law* (1954) 31, p. 14).

[191] LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE. *The Calendar of the London School of Economics and Political Science (University of London), 1952-53.* London: LSE, 1952, p. 251; LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE. *The Calendar of the London School of Economics and Political Science (University of London), 1954-55.* London: LSE, 1954, pp. 267-268.

[192] SCHWARZENBERGER, Georg. On Teaching International Law. *International Law Quarterly* (1951) 4:3, p. 302.

Two surveys from the American Society of International Law – the first one written in cooperation the American Political Science Association in 1962 and the second one by itself in 1964 – provide a clearer picture of the situation in the United States. An inquiry was sent to political science departments and law schools regarding the teaching of international law at the undergraduate and graduate levels. Based on the information gathered by the association, the study concluded that the teaching of international law and international relations in the United States during the postwar years was imparted both by political science departments and law faculties, with undergraduate chairs on "international law", "international organizations", "world order" or "international law and organization" being present in almost all American universities since the early 1950s[193]. This was the case of the law schools at Harvard and Yale, whose 1953-1954 programs already included courses on international organizations[194].

The idea to include the study of international organizations in the general teaching of international law had also gained great momentum after the war, a tendency that had first appeared before an independent chair on international organizations or the law of international organizations was available, during the interwar years. Hence, a chapter on international organizations was already present in most postwar international law textbooks. Short mentions of universal international organizations and of the promotion of peace through international arbitrations and courts were almost omnipresent[195]. In Georg Schwarzenberger´s *A Manual of International Law*, a book written as a resource for students of international law, a chapter was dedicated to "*The Law of International*

[193] KIRGIS, Frederick. *The American Society of International Law's First Century: 1906-2006*. Leiden: Martinus Nijhoff, 2006, pp. 305-307.
[194] KALMAN, Laura. *Legal Realism at Yale, 1927-1960.* Chapel Hill: University of North Carolina Press, 1986.
[195] In this sense, it is interesting to indicate the main criticism waged in a 1948 review article of Alf Ross' extremely sophisticated, but highly theoretical, *A Text-Book of International Law*, by Leslie Green, Professor at University College London: "International law is becoming more and more concerned with international institutions, their purposes, and the law governing them, but in this text-book there is very little mention of this rich field of legal research and activity. The I.L.O. is dealt with in less than a page, and nowhere is there any mention to the U.N.R.R.A. or Bretton Woods, while, although occasional reference is made to the United Nations and its Council and Assembly, there is no discussion of the League of Nations or of the United Nations" (GREEN, Leslie. Review: A Text-Book of International Law by Alf Ross. *The Western Political Quarterly* (1948) 1:3, 346-348).

Institutions" as a main topic of study[196], with references to a series of suggested readings and basic questions[197].

Even the most traditional and conservative textbooks had begun to contemplate some minor references to international organizations, as the fifth edition of Lassa Oppenheim´s classic *International Law: a Treatise*, the best-selling textbook worldwide, included a small paragraph titled "(§ 116a) State Equality and International Organization"[198], mentioning the League of Nations. Edited after the war, the sixth edition already had an entire section dedicated to "the legal organization of the international community"[199], presenting the general principles of international organization and a brief survey on the United Nations[200]. Josef Kunz confirmed this perception in a 1959 article, in which he affirmed that there was a contemporary tendency "to divide a treatise on international law into two great parts, general international law and international organization"[201], adding that many general courses in American law schools also adapted to this new structure, being rebranded as "international law and international organization".

The study of international organizations had not only already become a usual topic of the teaching of international law, but also gained traction as a separate course during the late 1950s, it becoming a usual discipline in undergraduate curricula. In England, more so than in the United States, "the law of international institutions" or "the law of international organizations" were common courses at the undergraduate level in the most distinguished universities.

The 1962 and 1964 studies from the American Society of International Law pointed out another tendency, based on the comparison of the data gathered in law schools and

[196] SCHWARZENBERGER, Georg. *A Manual of International Law.* 2nd ed. London: Stevens & Sons Ltd, 1950, pp. 107-129.
[197] *Ibid*, pp. 304-329.
[198] OPPENHEIM, Lassa. *International Law: a treatise. Vol. I: Peace*. 5th ed. Ed. by H. Lauterpacht. New York/London: Longmans, Green & Co, 1937.
[199] OPPENHEIM, Lassa. *International Law: a treatise. Vol. I: Peace.* 6th ed. Ed. by H. Lauterpacht. New York/London: Longmans, Green & Co, 1947.
[200] JONES, John Mervyn. [Book Review] International Law, Vol. 1 – Peace. By L. Oppenheim. *Cambridge Law Journal* (1948) 10:1, 132-133.
[201] KUNZ, Josef. The Systematic Problem of the Science of International Law. *American Journal of International Law* (1959) 53:2, p. 381.

political science departments. While graduate studies in international law and international organizations were less and less popular in political science departments, law schools had more and more LLM and PhD courses that included these subjects. In 1964, the year of the last survey, 22 law schools in the United States already offered "international organizations" as a graduate path[202].

The state of graduate studies in the United Kingdom was similar to the one in the United States. Courses on international organizations became more and more common during the 1960s, with the University of London having the oldest LLM in the Law of International Institutions anywhere, having being established in 1949[203].

In an extensively researched article, based on data from seven of the eight most important doctoral courses in law in the United States, Gail Hupper concluded that the years that ensued World War II were marked by a dichotomy in graduate legal studies: on the one hand, most graduate courses were devalued as a "sign of academic achievement" by American lawyers – who emphasized a more practical formation and became less common among faculty members; on the other hand, there was "an explosion of interest in international legal studies" and a growing community of foreign students in American universities[204].

Amidst the influence of the civil rights movement, the boom in litigation against state agencies and commercial firms, the mushrooming of public offices and the obligatory institution of law clinics, the role of graduate studies was put into question by domestic American teachers and students.[205] On the contrary, the leading role of the United States in the postwar world order, the growing influx of investments in peace and development studies by private sponsors, such as the Ford Foundation and the Carnegie Endowment, and the growth of regionalism all positioned American universities as an

[202] KIRGIS, Frederick. *The American Society of International Law's First Century: 1906-2006*. Leiden: Martinus Nijhoff, 2006, p. 306.
[203] SCHWARZENBERGER, Georg. On Teaching International Law. *International Law Quarterly* (1951) 4:3, pp. 304-306.
[204] HUPPER, Gail. Educational Ambivalence: The Rise of a Foreign-Student Doctorate in Law. *New England Law Review* (2015) 49, 319-448.
[205] For a brief overview of the cultural environment of legal teaching in postwar America, refer to: UROFSKY, Melvin. History of American Law, Great Depression to 1968. *In*: HALL, Kermit (ed.). *The Oxford Companion to American Law. Vol. I.* Oxford: Oxford University Press, 2002, pp. 389-391.

extremely attractive prospect to graduate foreign students.[206] This tendency reinforced the promotion of international studies, among which stood many international law courses and its specializations.

Other important stimulus was the brain drain that favored the United States and the United Kingdom during the previous two decades. With the uncertain situation in continental Europe, especially dangerous to ethnical and cultural groups under official persecution, many promising or well-established scholars emigrated from their home countries and occupied teaching and research positions in British and American universities in the 1930s and 1940s. The new group of academic émigrés also played a supporting role in the promotion of international legal studies, in the development of academic research and in the admission of international students.

The first attempt to adopt a textbook for the teaching of the law of international organizations was imported from abroad. Paul Reuter´s coursebook *Institutions Internationales* had been used in French Law Schools since 1955, and was translated three years later into English[207]. This attempt, however, did not go as expected. In spite of its significant success in France, it did not attract great attention in the United Kingdom nor in the United States. Apart from the first pressings in 1958, Paul Reuter´s translation would only be once more printed, in 1961, by a single New York publisher[208]. The coursebook was not used in many British and American law faculties.

Professor Percy Corbett, from Yale, Virginia and McGill University, wrote an indicting review of Paul Reuter´s book[209], starting with a dry opening phrase that set the tone of his analysis: “this is a disappointing book”. Other excerpts reflected the harsh words picked by the reviewer to display his displeasure with the structure and the content of the book, transcribed in their entirety not to compromise their style:

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[206] HUPPER, Gail. Educational Ambivalence: The Rise of a Foreign-Student Doctorate in Law. *New England Law Review* (2015) 49, pp. 348-352.
[207] REUTER, Paul. *International Institutions.* Translated by J.M. Chapman. London: Allen & Unwin, 1958; REUTER, Paul. *International Institutions.* Translated by J.M. Chapman. New York: Rinehart and Company, 1958.
[208] REUTER, Paul. *International institutions.* Translated by J.M. Chapman. New York: Praeger, 1961.
[209] CORBETT, Percy. Review: International Institutions, by Paul Reuter. *India Quarterly* (1959) 15:3, 295-297.

> The brief foreword, plus the position and reputation of the author, leads one to expect a new and profound sociological approach to the special problems of law and organization in an aggregate of 'sovereign states' In fact, the sociological explanation, like the historical introduction, turns out to be too sketchy either to intrigue the beginner or to challenge the expert. True, the author admittedly attempts nothing more than an elementary essay; but even an elementary textbook must meet the tests of carefully substantiated, unambiguous, and revealing statements together with a good measure of originality in the selection and presentation of material. (…)
>
> True, the author eventually warns us (p. 152) that this is not 'a theoretical treatise on international law; but why then permit oneself dogmatic statements on legal theory or points of law? (…)
>
> These queries could be extended. But perhaps enough has been said to explain why this book is not here recommended wither to the teacher or to the student.

In general, according to this interpretation, the supposed lack of method in Professor Reuter´s exposé had a negative impact on the reception of his textbook among British and American international lawyers. Unlike the French academic context, law schools in Great Britain and the United States had a more legalistic underpinning, structured around the study of cases, sources and digests of diplomatic practices. Under English-speaking legal realism, studying the law was mostly understanding what the courts and legal texts said, not what social realities supposedly dictated. Except for some newly-created joint degrees, and for the specific research interests that were being developed in New Haven and Columbia, law readers and professors did not intend to mingle questions of international law with those of international politics. As it were written, *International Institutions* seemed to English-speaking authors to stand midway between a social/political analysis and a legal textbook, and its hybrid leanings were not in line with the expectations that prevailed in British and American institutions[210].

Reviews from political science journals, on the other hand, were not as openly negative as the ones coming from legal circles. In general, the book was presented in a positive light, as a useful, if still incomplete, introductory text to international law and

[210] LINDBLOM, Charles. Political Science in the 1940s and 1950s. *Daedalus – Proceedings of the American Academy of Arts & Sciences* (1997) 126:1, p. 227.

organization, with a general outlook on the structure of international society and detailed comments on the global tendency of regional organization[211].

By examining the structure of Reuter´s coursebook, which includes a long sociological introduction, followed by sections on the nature of the international system and on the structural functions of international organs, treaties and dispute settlement mechanisms, one cannot but identify many similarities to the interwar literature on international organization (without an 's'), international government and international administration written by political scientists in the United Kingdom and the United States. One example is Pitman Potter´s *An introduction to the study of international organization*, whose structure is pretty close to that of Paul Reuter´s book – starting with an exposé on the origin and nature of the modern state-system, advancing to an examination of the traditional practice of inter-state diplomacy, later systematizing the new role played by treaties and arbitration, presenting afterwards summaries on the existing institutions and conferences and concluding with some pages on international federal organization.[212]

During the 1950s and the early 1960s, a series of books on international organization (without an 's') were still being written by political scientists, being utilized as teaching materials in undergraduate courses in British and American universities to political science students. Among those, one textbook was especially successful[213]. Professor Stephen Goodspeed, a lecturer at the University of California[214], published in 1959 *The*

[211] MANDER, Linden. [Book Reviews] International Institutions. By Paul Reuter. *Political Research Quarterly* (1959) 12:3, 875-876; ARONEANU, Eugène. [Book Notes] International Institutions. By Paul Reuter. Translated by J. M. Chapman. *American Political Science Review* (1959) 53:3, 877.

[212] POTTER, Pitman. *An introduction to the study of international organization.* New York: The Century Co., 1922.

[213] For some positive reviews, refer to the following reviews, by Professors from the University of Washington and Oxford, respectively: BRADDICK, Henderson. [Book Review] Stephen S. Goodspeed. The Nature and Function of International Organization. *The Annals of the American Academy of Political and Social Science* (1960) 327:1, 144-145; LOVEDAY, Alexander. The Nature and Function of International Organization. By Stephen S. Goodspeed. *International Affairs* (1959) 35:4, 458-459. Professor Loveday, an expert in international organizations and former League of Nations' officer, refers to the book as "by far the most comprehensive study of the U.N. family and other inter-governmental organizations that has yet appeared".

[214] Professor Goodspeed had been a lecturer at the University of California after returning from his duties under the US Navy during the war. The 1949 Catalogue of Courses of the University of California is available, indicating the following summary on his course on International Organization, taught to majors in political science: "The development of the idea of international organization. The establishment of the

Nature and Function of International Organization, printed and distributed in the United States and in the United Kingdom by Oxford University Press. By focusing on institutional and procedural deficits coupled to suggestions on priority areas and models, the book exemplified the new path to be taken by the teaching of international organization (without an ´s´) by political scientists, not only as a descriptive effort, but also as an attempt to enhance the structures of international government. An alternative was provided by Herbert George Nicholas´ *The United Nations as a Political Institution*[215], also published simultaneously in the United States and in the United Kingdom in 1959, a book that purported to examine and explain the processes and the politics of the organization with resort to the techniques more commonly associated to the study of domestic politics[216]. Lastly, another extremely successful textbook used in undergraduate political science courses, albeit more historically inclined[217] than prone to a detailed description of the structure and functioning of specific organizations as the books previously mentioned, was Inis Claude´s *Swords into Plowshares*[218], first published in 1956, and still influential in the studies of the history of international organization.

The failure of Professor Reuter's translation in British and American law schools and its success in French *Facultés de Droit* put into perspective the difference in these academic environments. While applied social sciences were still being taught in France as a singular unit, due to multiple reasons such as an overarching sociological influence and a centralized university curriculum that during the 1950s and 1960s still combined the teaching of law and politics, the same was not true in the United States and the United Kingdom. Professor Morton Horwitz, in the classic series *The Transformation of*

League of Nations; formation and problems of the United Nations and other agencies of international cooperation". (UNIVERSITY OF CALIFORNIA. *Register, 1948-1949*. *Vol. I*. Berkeley/Los Angeles: University of California Press, 1949, p. 158.)

[215] NICHOLAS, Herbert George. *The United Nations as a Political Institution.* New York/London: Oxford University Press, 1959.

[216] GOODRICH, Leland. [Book Review] The United Nations as a Political Institution. By H.G. Nicholas. *American Journal of International Law* (1960) 54:3, p. 710.

[217] POTTER, Pitman. [Book Review] Swords into Plowshares. The Problems and Progress of International Organization. By Inis Claude, Jr. *American Journal of International Law* (1957) 51:4, 849-850; ROBERTS, Henry. Capsule Review – Swords into Plowshares. By Inis L. Claude, Jr. *Foreign Affairs*, October 1956.

[218] CLAUDE Jr, Inis. *Swords into Plowshares: The Problems and Progress of International Organization.* New York: Random House, 1956.

American Law, explains that academic specialization represented a major tendency in the United States after World War II, as "academic thought sought to repress politics by devoting its energies to form instead of substance and to technical accomplishment at the expense of social or political insight". The morality of process substituted the focus on ideology, as the role of politics was seen under a negative light in comparison to the certainty of scientific knowledge[219]. A separation of the study of law from other social sciences only got stronger in the postwar years. If different faculties could study the same topics, their research programs were strikingly dissimilar.

While perfectly useful to the undergraduate teaching of political science, where a vast selection of competing textbooks were at the disposal of the student, Paul Reuter's *Institutions Internationales* could not develop empathy to teachers and students in British and American law schools. The existence of a well-established *doxa*[220], in Bourdieu's terminology, that identified legal studies as a politically neutral activity and that restricted the meaning of an adequate teaching to the explanation of the official sources of law, with special emphasis being given to the presentation of the case law since the very first academic year[221], denied any cultural value to Paul Reuter's textbook within the setting of law schools.

If the publication of the first textbook on the law of international organizations would take longer to materialize, at least attempts to refine the breadth and the definition of the law of international organizations appeared since the late 1940s, the decade in which the terminology had also been first used.

The blistering development of the discipline was evident, as one of its main promoters, Clarence Wilfred Jenks, spoke interchangeably of a "comparative law of the constitutions of international organizations"[222] or of a "law of international

[219] HORWITZ, Morton. *The Transformation of American Law, 1870-1960: the crisis of legal orthodoxy.* Oxford: Oxford University Press, 1992, pp. 253-258.
[220] For the concept of doxa, as internalized arbitrariness, refer to: DEER, Cécile. Chapter 7 - Doxa. In: GRENFELL, Michael (ed.). *Pierre Bourdieu – Key Concepts.* Durham: Acumen Publishing, 2008, pp. 119-130.
[221] SUTHERLAND, Arthur. La Formation du Juriste Américain. *Revue internationale de droit comparé* (1957) 9:3, 550-561.
[222] JENKS, Clarence Wilfred. Some Constitutional Problems of International Organizations. *British Yearbook of International Law* (1945) 22, p. 11.

institutions"[223] in his 1945 articles, but, as early as 1948-1949, another important author, Georg Schwarzenberger, indicated that the law of international institutions was a proper "branch of international law"[224], as well as a promising field of research for which it had "opened out a wide vista" and "which may appeal more to pragmatic minds, especially the minds of those who hold the purse strings"[225].

In his *Manual of International Law*, Georg Schwarzenberger tried to provide more clarity to the field by listing three basic legal principles applicable to all international organizations and essential for the study of the "law of international institutions": (i) treaty-based capacities, (ii) institutional *kompetenz-kompetenz* and (iii) preferential rights over member states when exercising any of the delegated competences[226]. The articulation of these principles would set the basic material pieces for any elaborate theoretical constructions on the field[227].

Another important issue was to situate the law of international organizations amidst the other disciplines of international law. A common strategy, in this context, was to characterize the law of international organizations in contrast to general international law, but also to suggest its gradual detachment from particular international law. According to this view, the law of international organizations represented the most prominent part of particular international law[228], as it harnessed international law with

[223] JENKS, Clarence Wilfred. The Legal Personality of International Organizations. *British Yearbook of International Law* (1945) 22, p, 271.
[224] SCHWARZENBERGER, Georg. *International law as Applied by International Courts and Tribunals.* 1976. *Volume I: General Principles.* London: Stevens & Sons, 1949, p. 282.
[225] SCHWARZENBERGER, Georg. The Province and Standards of International Economic Law. *International Law Quarterly* (1948) 2, pp. 404-405.
[226] SCHWARZENBERGER, Georg. *A Manual of International Law.* 2nd ed. London: Stevens & Sons Ltd, 1950, pp. 107-108.
[227] Almost three decades later, Georg Schwarzenberger would develop even further this set of principles, in a highly doctrinal textbook on the law of international organizations. *International Constitutional Law*, the third volume of his 1976 textbook, would not focus on the description of international institutions, but on the structuration of the law of international organizations based on the case law available from international, national and administrative courts (SCHWARZENBERGER, Georg. *International law as Applied by International Courts and Tribunals. Volume III – International Constitutional Law.* London: Stevens & Sons, 1976).
[228] The argument, hence, could go both ways, to justify the inclusion or exclusion of the topic from international law treatises. Most textbooks were already incorporating the law of international organizations as an essential complement to general international law due to the development of international society. However, a stricter view still existed, as in the case of Daniel O'Connell's *International Law*, which refrained from analyzing any question that strayed outside of the "common law

an institutional structure that was not possible to achieve merely by means of its most basic customary rules. From bilateral treaties to multilateral treaties to international organization, the mechanisms of cooperation evolved, organizing international society. Josef Kunz presents this idea in concise terms:

> General international law is, up to now, a primitive law lacking special organs. Particular international law may - although it need not - create special international organs. It constitutes, therefore, a way to develop primitive international law into a more advanced "organized" international legal order. Hence, the great emphasis on international organization."[229]

This separation between particular and general, however, had inevitable grey areas, especially when it came to the study of the law of international organizations, as Josef Kunz duly mentioned in an insightful editorial comment written some years later on the recent developments on the study of international law. First, because it was impossible to teach the law of international organizations without some previous knowledge of general international law. Second, because the law of international organizations had reshaped some basic notions of general international law, as the UN Charter had completely revamped the system of the use of force, the peaceful settlement of disputes had been altered by international courts and the criteria for legal personality and capacities had to be reformed in light of the recognition that international organizations were also subjects of international law. Third, because international organizations were also expanding the activities traditionally associated to international law, especially amidst the creation of the first supra-national organizations[230].

In 1961, Arthur Henry Robertson, an officer of the Council of Europe who would later occupy teaching positions in Paris and Manchester, wrote *The Law of International Institutions in Europe*, the first book of the Melland Schill Lectures in International Law, a grant administered by the University of Manchester. In a short introductory section

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of international law" (REUTER, Paul. D.P. O'Connell, International Law [note bibliographique]. *Revue internationale de droit comparé* (1966) 18:1, 322-323).

[229] KUNZ, Josef. General International Law and the Law of International Organizations. *American Journal of International Law* (1953) 47:3, p. 457.

[230] KUNZ, Josef. The Systematic Problem of the Science of International Law. *American Journal of International Law* (1959) 25:2, pp. 382-383.

titled *The Law of International Institutions*, he provided the following definition of the subject, also commenting on its relationship to other international law topics:

> When I began my studies of international law twenty-five years ago, this subject quite simply did not exist. The textbooks and casebooks of the time were devoted almost entirely to substantive questions of international law, conceived of as the law governing the relations between states. The recognition of states, the acquisition of territory, jurisdiction over territorial waters, the law of treaties, the settlement of disputes, the law of neutrality, these and similar subjects were our principal concern, as students, and it was to them that the vast bulk of the treatises on international law were devoted. These subjects corresponded, in a certain sense, on the international plane, to the law of persons, the law of real property, the law of contract and the law of tort in municipal law. They dealt with relations between international persons, in the same way private law deals with relations between natural persons. But in municipal law we do not only study relations between persons and rights affecting property; an important part of our legal education is devoted to the study of the institutions on which our whole legal system is based – the Parliament, the Courts, the relations between the Executive, the Legislature and the Judiciary, the division of responsibility between the central and local authorities – all, indeed, that is encompassed within the scope of constitutional law.
>
> But if constitutional law is a fascinating subject as the reflection of our national institutions, the same is now true of that branch of international law which deals with our international institutions. (…)
>
> The law of international institutions – which might be termed 'international constitutional law' – is the branch of international law which relates to the structure and functions of international organisations, and it has developed tremendously in recent years just as the number of organisations has increased[231].

Arthur Henry Robertson´s book did not really deliver in the end what it first promised. Apart from an extremely brief explanation of the structure of European institutions, the book never did focus on the organizations themselves, but was mostly dedicated to the study of the protection of human rights in Europe, a condition that foreshadowed the main subject of his teaching career and that established him as an influential writer in

[231] ROBERTSON, Arthur Henry. *The Law of International Institutions in Europe.* Manchester: Manchester University Press, 1961, pp. 1-3.

another breeding field – human rights law[232]. In no case, therefore, it may be considered as a relevant exposé to the development of the contents of the law of international organizations. However, his short explanation on the special nature of the law of international organizations as "the branch of international law which relates to the structure and functions of international organizations" stands as one of the first systematic attempts at defining this field of study, striving to evince its relationship to other topics of international law[233].

The usage of the expression *international constitutional law* as a synonym to the *law of international organizations* was a relatively new phenomenon amidst the need to provide some identity to the discipline, and had the clear intention to promote its study as the singularly most important field of international law. Robertson's usage of the expression expanded on the previous appearance of the terminology in an article by Professor Manley Ottmer Hudson during the 1930s, where it had a less inclusive meaning, to describe the set of rules that solved the problems arising from the functioning of international bodies[234]. While Arthur Henry Robertson's expression advocated a promising idea – a network of international organizations as an overarching structure of international society –, it seemed mostly far-fetched[235]. In most international law writings, the constitutional analogy remained restricted to the study

[232] For instance, refer to the author´s most famous book: ROBERTSON, Arthur Henry. *Human Rights in the World.* Manchester: Manchester University Press, 1972. In 1982, the book was reformulated. It has since then been updated with the support of Professor John Graham Merrills.

[233] Another important reasoning presented by Arthur Henry Robertson in the introductory section of his book was explanation of the different mindsets that oriented universal international organizations and regional ones, on the basis of the opposed ideas of functional progress and federal integration. This differentiation, already sketched in the brief presentation of David Mitrany´s functional theory, would also serve as a means to explain the gradual detachment of European law from the law of international organizations.

[234] The constitutional idea in Manley O. Hudson, therefore, referred only to the idea of allocating competences and solving conflicts of authority. Refer to: HUDSON, Manley Ottmer. Advisory Opinions: Contributions of the Permanent Court of International Justice to the Development of International Law. *Proceedings of the American Society of International Law at its Annual Meeting* (1930) 24, p. 63.

[235] By being far-fetched, I want to indicate not only the inexistence of material support, but also the fact that international constitutionalism was mostly a strange concept to international lawyers during the immediate postwar years. Impracticability, however, has never been a true limit to the advancement of the constitutionalist discourse, which is marked by a normative nature. As George Galindo explains, the idea of a never-ending process, where unity and world order constitute promises of a better future, is behind most proposals of international constitutionalization (GALINDO, George. Constitutionalism Forever. *Finnish Yearbook of International Law* (2010) 21, pp. 149-155).

of the constituent instruments of each international organization, therefore restricted to a specific institutional structure[236], unlike the proposed general concept[237].

The expression *international constitutional law*[238] had been first introduced by Franz von Holtzendorff in the late 1800s and was then made popular by other German international lawyers, such as Alfred Verdross[239], who, in order to build a monist theory with the primacy of international law, identified some core rules of international law that stood for its constitutional norms[240]. The same idea was embraced by Italians authors, influenced by the transplantation of legal positivism[241]. During the 1990s, when the Cold War was over, the expression was retrieved by German scholarship in the context of great expectations surrounding the United Nations[242]. In France, the idea of a *droit constitutionnel international* only had small influence[243], mainly as a tool to characterize the direct effect of international norms over individuals, administrative law (through the notion of public services) being the main source of analogy, as it will be shown in the next section. Because of the scattered and ill-defined meaning of international constitutionalism and due to the fact that it did not seem to reflect the

[236] Clyde Eagleton provides us an example of a discourse applying the analogy to constitutional law to the interpretation of the constituent instruments of the organization. In is editorial comment *Palestine and the Constitutional Law of the United Nations*, his reference to a "constitutional law of the United Nations" intends to encompass those provisions of the UN Charter that distribute competences, either conferring powers to the organization or limiting its powers (EAGLETON, Clyde. Palestine and the Constitutional Law of the United Nations. *American Journal of International Law* (1948) 42:2, 397-399).

[237] Another instance of the usage of the expression "international constitutional law" as a synonym to the "law of international institutions" is that of: GORDON, Edward. The World Court and the Interpretation of Constitutive Treaties: Some Observations on the Development of International Constitutional Law. *The American Journal of International Law* (1965) 59:4, 794-833.

[238] For an overview of the different constitutional approaches to international law, refer to: SCHWÖBEL, Christine. Organic Global Constitutionalism. *Leiden Journal of International Law* (2010) 23:3, 529-553.

[239] KLEINLEIN, Thomas. Alfred Verdross as a Founding Father of International Constitutionalism? *Göttingen Journal of International Law* (2012) 4:2, 385-416; O´DONOGHUE, Aoife. Alfred Verdross and the Contemporary Constitutionalization Debate. *Oxford Journal of Legal Studies* (2012) 32:4, 799-822.

[240] OPSAHL, Torkel. An "International Constitutional Law"? *The International and Comparative Law Quarterly* (1961) 10:4, pp. 761-763.

[241] For instance, refer to: ZICCARDI, Piero. *La Costituzione dell´ordinamento Internazionale.* Milan: Giuffrè, 1943.

[242] FASSBENDER, Bardo. The United Nations Charter as Constitution of the International Community. *Columbia Journal of Transnational Law* (1998) 36:3, 529-619.

[243] The most notable French lawyers to use the expression were Georges Scelle and Boris Mirkine-Guetzévich, albeit in different senses. For Scelle. For Mirkine-Guetzévich, the expression referred to constitutional rules that affected the conduction international relations and international rules that dealt with themes traditionally associated to international law. For examples of writings from these authors, refer to: MIRKINE-GUETZÉVICH, Boris. *Droit constitutionnel international.* Paris: Sirey, 1933. SCELLE, Georges. Le droit constitutionnel international. *In*: CARRÉ DE MALBERG, Raymond. *Mélanges R. Carré de Malberg.* Paris: Sirey, 1933, 501-515.

institutional reality of international law, Torkel Opsahl, in a 1961 study, concluded that the verbal confusion of the expression *international constitutional law* far outweighed its advantages[244], unlike the case of a reference to "the law of international institutions"[245].

Depicting the law of international organizations as international constitutional law represented, therefore, an attempt to advance the normative project of institutionalizing international law, a discipline still tainted by primitivity to the eyes of many lawyers, as well as positioning international organizations in a privileged position in this process. According to this view, international organizations, as the organs of international society, would provide it with a more elevated degree of organization and rationality[246]. However, even among the supporters of constitutionalism, for as much as they believed in constitutionalizing world society, the idea that international organizations would be the only (or major) conductors of this process was a minority position[247]. The synonymity proposed by Arthur Henry Robertson did not find many supporters.

Another constitutional analogy, however, proved to be much more useful, and was adopted by many writers on the law of international organizations. Instead of circumscribing the constitutional discourse to the examination of a single constitutive instrument, or to equate it with the discipline as a whole, one could also use it as a lens

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[244] OPSAHL, Torkel. An "International Constitutional Law"? *The International and Comparative Law Quarterly* (1961) 10:4, p. 784.

[245] *Ibid*, p. 768 (note 34).

[246] In this sense, under Arthur Henry Robertson's view, two equivalences may be established when composing the analogy to domestic constitutionalism – international community as the equivalent to the nation, and international organizations as the equivalents to states. For a reading of international constitutionalism as a project of exclusion through uniformization, refer to: GALINDO, George. Constitutionalism Forever. *Finnish Yearbook of International Law* (2010) 21, pp. 156-160.

[247] Contemporary readings of international constitutional law embrace this idea and take a step-by-step logic, as Thomas Kleinlein and Anne Peters summarize: "The notion "international constitutional law" refers to norms of public international law with a constitutional character or function. Thus understood, international constitutional law can be divided into three broad subcategories: (1) fundamental norms which serve a constitutional function for the international legal system at large, (2) norms which serve as constitutions of international organizations or regimes, and (3) norms which have taken over or reinforce constitutional functions of domestic law." (KLEINLEIN, Thomas; PETERS, Anne. International Constitutional Law. *Oxford Bibliographies.* Last Modified 22 February 2018 (Electronic Resource). Available at: <https://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0039.xml>.)

for the study of the discipline. As an alternative to establishing an exact synonym, it became much more common to speak of an *international constitutional law* as the core of the law of international organizations, the domestic analogy establishing different hierarchies and focuses within the discipline. Behind this classification stood an intention to promote the scientific study of the law of international organizations, identifying its limits and establishing a hierarchy among different topics. The constitutional law of international organizations would stay at the top of the newly-created disciplinary hierarchy.

Clarence Wilfred Jenks, in a 1954 article, divided the law of international organizations in four distinct branches: the constitutional law of international organizations; the parliamentary law of international organizations, the administrative law of international organizations and the law governing the mutual relations of international organizations. The constitutional law covered the legal status, structure, competence, powers, as well as the interpretation and modification of the basic texts and practices of international organizations. The parliamentary law encompassed the methods of work and the voting procedures of international organizations. The administrative law included budgetary questions and the relationships with staff members, as well as the hot topic of immunities and privileges. The law governing the mutual relations, the youngest of all branches, referred to the instruments, practices and the case law on inter-organizational law, that is, the relations of co-operation and restraint between different international organizations – a field that was supposed to gain special importance with the multiplication of international organizations, the creation of regional organizations and the establishment of the UN system.[248] While the parliamentary law and the law governing the mutual relations did not establish themselves as popular research topics, being mostly taken care of by political scientists, the references to the administrative law or to the constitutional law of international organizations were extensively adopted to mirror their internal and external relations – them being equated respectively to the internal law and the external law of international organizations. Therefore, the law of

[248] JENKS, Clarence Wilfred. The Scope of International Law. *British Yearbook of International Law* (1954) 31, pp. 15-19.

international organizations would represent the legal discipline responsible for studying the relations of international organizations, both external and internal in nature.

In order to tackle the topics of the administrative and the constitutional law of international organizations, Jenks planned to write a series of three books entitled *The Law of International Institutions*. His 1961 and 1962 books, *International Immunities*[249] and *The Proper Law of International Organisations*[250] were written under this initiative. While the first book has a self-explanatory object, the second one deals with the internal law of the international organization, its personal law and its private relations with external actors, encompassing "the principles and precedents at present governing the law applicable to the legal relations and transactions of international organisations both with their officials, employees and agent and with third parties"[251]. The expression "proper law", which gave name to his book, represented the need for progressive development, as many topics on the law of international organizations remained *de lege ferenda*, without principles and rules *de lege lata*, assimilated into the general body of international law[252]. The third volume, titled *Corporate Personality for International Purposes*, which would deal with more fundamental questions on the legal capacity of international organizations[253], was not published.

While the first two books are invaluable sources for advanced students and practitioners, they only cover a small part of the discipline, ignoring the majority of the topics for undergraduate teaching, such as the constitutional law of international organizations. This task, however, would be accomplished as early as one year after the publication of the second volume of Jenks´ series.

The first textbook on the law of international organizations written in English would not be prepared by a tenured professor or an experienced international officer, but by a young scholar, still in his late 30s. Less than three years after becoming a lecturer in law

[249] JENKS, Clarence Wilfred. *International Immunities.* London/New York: Stevens & Sons/Oceana Publications, 1961.
[250] JENKS, Clarence Wilfred. *The Proper Law of International Organisations.* London/New York: Stevens & Sons/Oceana Publications, 1962.
[251] *Ibid*, p. xxxiv.
[252] *Ibid*, pp. 259-261
[253] *Ibid*, p. xv.

in Cambridge, having recently returned from a three-year stint as a United Nations Legal Officer at the International Law Commission, Derek Bowett, later an occupant of Cambridge's prized Whewell Chair in International Law, published *The Law of International Institutions*[254] in 1963, as an introductory textbook to guide undergraduate law students.

Professor Bowett´s book was the object of a series of glowing reviews following its publication[255] and was successively reedited by the author himself up until 1982, being later updated by Professors Philippe Sands and Pierre Klein from 2001 on. It remained the sole textbook specifically dedicated to the law of international organizations in English up until the publication of Henry Schermers´ twin set *International Institutional Law* in 1972[256], nowadays the most reedited textbook on the subject because of its impressive breadth and detail (which places it as an important tool to students also at the graduate level).

The basic structure of *The Law of International Institutions* was retained up until its fifth edition, from 2001. After a historical introduction on the evolution of international organizations, starting from the public international unions of the nineteenth century, the book is structured in three parts, dealing respectively with global institutions (the League of Nations and the United Nations system), regional institutions (organizations from Europe, America, Asia and Africa) and judicial institutions (the International Court of Justice, the Permanent Court of Arbitration, regional courts and administrative tribunals). The fourth and final part, named "Common Institutional Problems" represents the truly innovative part of his book, presenting a series of essential topics on the law international organizations that demanded the further study of lawyers, such

[254] BOWETT, Derek. *The Law of International Institutions.* London: Stevens and Sons, 1963.
[255] CHENG, Bin. [Review of Books] The Law of International Institutions. By D.W. Bowett. *The British Yearbook of International Law* (1964) 40, 392-394; BRONWLIE, Ian. Book Review. The Law of International Institutions. By D.W. Bowett. *Journal of the Society of Public Teachers of Law* (1964) 8:1, 50; AKEHURST, Michael. Review: 'The Law of International Institutions', by D. W. Bowett. *Cambridge Law Journal* (1946) 22:1, 142-144; ROBERTSON, Arthur Henry. Book review. The Law if International Institutions, by D.W. Bowett. *International and Comparative Law Quarterly* (1964) 13:3, 1108-1110; SCHERMERS, H.G. [Boekbesprekingen] D.W. Bowett, The Law of International Institutions. *Netherlands International Law Review* (1964) 11:3, 280; FRANCK, Thomas. Book Review of Derek W. Bowett, The Law of International Institutions. *Harvard Law Review* (1964) 77:8, 1565-1568.
[256] SCHERMERS, Henry; BLOKKER, Niels. *International Institutional Law. Vols. I-II.* Leiden: A.W. Sijthoff, 1972.

as voting procedures, legal personality, international responsibility and the extent of powers and capacities of organs and organizations.

Starting from the preface to the first edition[257], Professor Bowett presents the reasons behind the preparation of the textbook, explaining that:

> There is no branch of international law which, since the end of the Second World War, has seen an expansion of the kind which has occurred in the law of international organisations. Many writers have directed their attention to this relatively new, and rapidly developing field and the extent of my indebtedness to them will be readily apparent to any reader. There did not exist, however, at least in the English language, any suitable introductory textbook comparable to those in general international law from which the law student might get an overall view of the field before turning to the numerous commentaries on particular organisations or to the monographs on special topics.
>
> In trying to teach the law of international organisations to University students I became convinced of the necessity for a general, introductory textbook, and this not solely for the benefit of the student, but also for the benefit of the teacher who was forced to spend many hours explaining relatively simple facts (although not always easily accessible to the student) when this could well have been done by one textbook, thus allowing the teacher to proceed to the more interesting and more complex aspects of the subject. The present textbook is an attempt to fill that need. It is directed primarily, but not exclusively, to the law student[258].

In an interview for Cambridge's Squire Law Library, Professor Bowett added that he had already started his book before arriving in Cambridge, when he still held a position as a reader of international law in Manchester, writing by himself. Because of that, he did not start the textbook under request of the Institute of World Affairs; on the contrary, his initiative was only later embraced by the institution, who undertook to help him to publish the finished manuscript.

[257] Professor Bin Cheng's review is very percipient on this point: "The book has been written as an introductory work. As the author says in his Preface, one of the prime objects of the book is to relieve the teacher of the subject of the need of spending hours to explain relatively simple, though not always easily accessible, facts to the students, thus allowing him more time to deal with more interesting and more complex problems." CHENG, Bin. [Review of Books] The Law of International Institutions. By D.W. Bowett. *The British Yearbook of International Law* (1964) 40, 393.

[258] BOWETT, Derek. *The Law of International Institutions.* London: Stevens and Sons, 1963, p. xi.

In the aforementioned interview, he reinforced that his main stimulus in writing the textbook was to provide his students with some background on the basic structural elements of the most important international organizations, since he "got bored with teaching the routine stuff", especially "the description of the organisations"[259]. Lest the classes on the law of international organizations became excessively detailed-oriented or descriptive, a general textbook would be recommended to the students, who could study the basic details before the sessions. Classes would then be focused on more interesting discussions, such as those presented by the workings of specific organizations, as well as by the aforementioned common institutional problems.

The shift from a merely descriptive focus to a scientific study is clear in part four of *The Law of International Institutions*, almost seventy pages long, which the author describes as "the most ambitious part of the book"[260]. It is divided in two parts: chapter 11, titled "International Personality", and Chapter 12, titled "The Impact of International Organisations on the Doctrine of Sovereign Equality of States", in a sequence that greatly mirrored the academic partition of the discipline in two different nucleus: a constitutional law of international organizations and an administrative law of international organizations.

In Chapter 11, Professor Bowett tackles the question of the international legal personality of international organizations. Once the doubts are dispelled, the legal personality of international organizations is the starting point from which he deduces their powers, the law governing their activities, as well as their privileges and immunities. To begin with, he explains that "by 1945 considerable controversy existed over whether public international organisations could be regarded as possessing legal personality"[261], citing the discussions that pervaded the 1926 League of Nations *modus vivendi*, the constituent charter of the Bank for International Settlement, the claims by the International Commission for the Cape Spartel Lighthouse and the drafting of the

[259] DINGLE, Leslie; BATES, Daniel. *Conversations with Professor Sir Derek Bowett*. Third Interview: Sir Derek's published works, mainly his books (1963-97). 16 March 2007. (Electronic Resource). Available at: <https://www.squire.law.cam.ac.uk/sites/www.law.cam.ac.uk/files/images/www.squire.law.cam.ac.uk/legacy/Media/Eminent%20Scholars%20Archive%20Transcripts/bowett%20INTERVIEW%203.pdf>.
[260] BOWETT, Derek. *The Law of International Institutions.* London: Stevens and Sons, 1963, p. xii.
[261] *Ibid*, p. 273.

UN Charter. For further reference, Clarence Jenks´ 1945 article on the legal personality of international organizations, published in the *British Yearbook of International Law* is indicated by Professor Bowett. In contrast to these uncertainties, the *Reparations* Case is presented as an answer "authoritatively given by the I.C.J."[262]. At least in what concerned the United Nations, the legal personality of the organization being considered indispensable for the fulfilment of its functions and a series of capacities (the obligations of its members to fulfil its recommendations, the privileges provided for in the Charter and the treaty-making power in practice) was summoned as evidence of this condition. A functional reading of legal personality is then presented by the author, with reference to the danger of circularity being credited to Clive Parry´s 1949 article in the *British Yearbook of International Law.* Professor Bowett writes that:

> The danger is, therefore, that one might be tempted to deduce, say, a general treaty-making power, from the very fact of personality, even though personality is itself deduced from a specific treaty-making power: in other words, one becomes involved in a circular argument unless great care is taken to restrict implied powers to those which may reasonably be deduced from the purposes and functions of the organisation in question. Therefore the test is a functional one; reference to the functions and powers of the organisation exercised on the international plane, and not to the abstract and variable notion of personality, will alone give guidance on what powers may properly be implied.
>
> Whilst, therefore, specific acknowledgment of the possession of international personality is extremely rare, it is permissible to assume that most organisations created by a multilateral inter-governmental agreement will, so far as they are endowed with functions on the international plane, possess some measures of international personality in addition to the personality within the systems of municipal law of the members which all the agreements on privileges and immunities (and often the basic constitutions) provide for[263].

Bowett proceeds then to an examination of the consequences that flow from the international legal personality of international organizations. Some interesting opinions are manifested regarding the silence of the constitutive instrument. For Derek Bowett, the recognition of an implicit treaty-making power should not be taken lightly, practice

[262] *Ibid*, p. 274.
[263] *Ibid*, p. 275.

showing, in the case of trusteeship agreements, that ratification by a plenary organ ought to constitute the preferred path[264].

As for privileges and immunities, a part that relies heavily on Jenks´ 1961 book, Bowett indicates a tendency to restrict them to the practice of official acts, albeit yet not under the guise of customary international law. When no specific agreement exists, the subsidiary rule is that whenever the host country acceded to the activities of the organization, it be considered under a good faith obligation to confer functional immunities and privileges[265]. More specific questions regarding the immunities of the headquarters and varied agents, the situation of international armed forces, the choice of law and jurisdiction in contracts celebrated by international organizations and the succession of international organizations are examined in the textbook[266].

In Chapter 12, it is presented how unanimity, seen as a natural consequence of sovereign equality in nineteenth-century international conferences, was being "evaded by different techniques of membership, representation, voting and the like"[267]. The role of the provisions of the constitutive instrument is emphasized therein, so that non-state members may be allowed to take part in the organization and that specific conditions and restrictions for voting be imposed. Questions not answered by the instruments were also tackled by the author, who mentioned practical cases and quoted a series of monographs and articles. At this point, the author sided with the opinion that the right to withdraw might not be prevented because of a simple omission in the instrument, differently from the right to expel a member, a condition which, in his opinion, should always be provided for expressly. The author noticed a tendency for "the gradual breakdown of the monopoly once enjoyed by States in representation in international organisations"[268], be it by the multiplication of associate members, by the creation of organs without diplomatic representation, or by the reinforcement of the role of the international staff. The question of weighted voting, with majority voting replacing unanimity in almost all postwar institutions, is also taken as further proof of the need

[264] *Ibid*, pp. 279-280.
[265] *Ibid,* p. 283-284.
[266] *Ibid,* pp. 284-310.
[267] *Ibid*, p. 311.
[268] *Ibid*, p. 321.

not to stray too far in deducting the consequences of sovereign equality. The budgetary problem is pointed out as an example on "how very far the principle of equality of States is from affording a workable solution"[269], identical apportionment being evidently out of the question for covering the expenses of most organizations. An interesting analysis of the *Expenses* Case closes the chapter[270], evincing that the International Court of Justice had conferred even larger powers to the United Nations, without providing a clear reference as to which provision of the UN Charter or subsequent practice authorized the interpretation that the recommendations of the organization on the apportionment of costs be binding. The ending of the textbook was an expressive way to indicate that future developments were expected, perhaps even in some still unexplored and unexpected avenues.

In every section of part four, Professor Bowett mentions at least one recent article from the *British Yearbook of International Law*, the *American Journal of International Law*, the *Annuaire Français de Droit International* or the *Collected Courses of The Hague Academy*, a condition that reinforces his self-proclaimed indebtedness to the lawyers who had already directed their attention to the field and also showcases the relative degree of development of the writings on the subject. If a textbook in English was not still available to undergraduate students up until 1963, it did not mean that the law of international organizations was a wasteland, a field devoid of previous research. On the contrary, it only shows that university teaching was not probably the most fertile ground for the substantive development of the discipline, as its academic elaboration was mainly undertaken by articles in learned journals and some specific books, amidst specialized circles and specialized publications.

In other words, Bowett's textbook seems to be less of a cause of the substantive development of the discipline and more of a symptom of this process. The emergence of the law of international organizations was an ongoing process that had not started in the 1960s, but found its apex on the decade. This idea will be further developed in the following chapter, which examines the writings on the law of international organizations

[269] *Ibid*, p. 336.
[270] *Ibid*, pp. 339-340.

in some of the most relevant scholarly and professional journals up until 1964, when the first positive reviews on Bowett's textbook were still being published in the aforementioned academic journals. Instead of acting as a starting element, Bowett's contribution was especially useful in shaping how the specialization of the academic discipline took place, as it inaugurated a model of explanation, listed the main topics of the law of international organizations and filtered out some redundant issues.

In the 2001 preface to the fifth edition, the first one to be updated by different writers (Professors Klein and Sands) and the last one to be examined by the author, Professor Bowett once again repeated, in clear words, that his self-conscious intention when first writing his textbook was to occupy a vacant niche and provide a clear explanation to students, not missing the pioneering status of his own textbook by the time of its publication, but still referring to a preexisting discipline, with the following mention:

> It gives me great satisfaction to see the publication of this new, fifth edition, prepared by Professors Philippe Sands and Pierre Klein. So much has changed since the last edition in 1982, that it needed both enthusiasm and knowledge of a high-order to up-date a general textbook on this vast, rapidly growing topic: and, happily, the two new editors possess both qualities.
>
> When I prepared the first edition in 1962, I noted the lack of textbooks on the subject to guide the student. That position no longer holds, but the need for a clear exposition of the many, many new developments remains (…).[271]

A cross-examination of the prefaces to the first and fifth editions of *The Law of International Institutions* demonstrates that Professor Bowett knew and took pride of the fact that his book presented a significant novelty in English scholarship, as the first textbook on the law of international organizations, but also evinces that it was abundantly clear to him that he was not inventing a new field of study or providing an innovative perspective. While aware of the important role that his book could play in the teaching of the subject, he was mindful of presenting well-established topics, relying

[271] SANDS, Philippe; KLEIN, Pierre. *Bowett´s Law of International Institutions*. 6th ed. London: Sweet & Maxwell, 2009, p. vii.

on the authority of authorized sources, only very rarely pressing forward arguments *de lege ferenda*.

The greatest ingenuity in Derek Bowett's textbook, therefore, was to provide a tentative format to the teaching of the law of international organization, establishing a set of topics and an order of presentation that would later be reproduced in most textbooks. The idea of functional legal personality plays a structural role in his textbook, serving as the element of cohesion to all of the other legal categories to be sequentially discovered, and also to the explanations concerning why some organizations have certain powers and duties that others do not have. The reference to the *Reparations* Case right at the opening of part four of this textbook reinforces the idea that the advisory opinion had a "legitimating effect" to the discipline, as it represented a definitive statement *de lege lata* from which one could derive the basic characteristics of international organizations under the lens of general international law.

Apart from drawing up a general structure for teaching, which should first introduce students to the general questions of the constitutional law of international organizations, revolving around the concepts of legal personality and functions, and then proceeding to the examination of common (and only basic) topics of the internal law of international organizations, Derek Bowett´s book made its mark in defining the scope of the subject. Topics such as treaty law and peaceful settlement of disputes[272], which were also encompassed by textbooks on international organization, international government and international administration, and occupied an important part of Paul Reuter´s textbook, would not be included in later treatises on the law of international organizations, these topics being ascribed to the study of the general part of international law.

Another interesting characteristic of Professor Bowett´s textbook is that it cannot be traced back to any institutional project geared towards the consolidation of the discipline. Instead, it is a piece of independent writing that put together a series of previously disperse writings, matching a clear and direct language to a structure that

[272] Few years before Bowett´s textbook, these topics were still included in Schwarzenbrger´s 1957 edition of his *Manual* under the heading *The Law of International Institutions*.

combined the traditional descriptive model to a series of considerations of general international law. In this, the first English textbook was significantly different to the French ones, which presented a conscious and premeditated effort to introduce official coursebooks by renowned international lawyers, written in essay form, in response to an academic reform of law schools. Being the fruit of an *assemblage*, the structure of Bowett's textbook perpetuated some of the incongruences and questions that derived from practice, in a different fashion from other more philosophically-inclined attempts to press a coherent structure on the discipline.

As it will be presented in sequence, a series of characteristics associated to the French academic environment led to a wholly different evolution of the teaching of international organizations in law schools in that country. In a much less dynamic intellectual field, marked by the weight of governmental intervention and tradition, some old tendencies tended to get reproduced over the time, while new forces tended to be repelled. This, in its turn, affected the configuration of the teaching materials – instead of the independent, well-delimited, pragmatic and positivistic character of Derek Bowett's textbook, French coursebooks could be characterized as institutional, open-ended, doctrinal and multidisciplinary, in a similar fashion to the tradition of studies on international organization (without an 's').

2.2. International law, international politics, administrative law: hybridism in French courses and coursebooks on international institutions

As the previous examination of the reception of Professor Reuter´s coursebook in the United States and the United Kingdom has hinted at, French university teaching on international organizations took a different route from the British and American cases. For both traditional and circumstantial conditions, French coursebooks in international organizations did not become manuals on the law international organizations of a strictly positivist nature, remaining attached to sociological or political conceptions. The structure of France´s faculties of humanities, the teaching curriculum at the undergraduate level, the analogy to administrative law and the influence of the sociological doctrine of law: all of these elements played their part on the structuring of

a hybrid perspective – textbooks on international organizations that were directed not only to international lawyers, but also to political scientists and IR researchers. In French textbooks, the legal aspects of the law of international organizations were not set aside from political and social considerations, autonomization not being aspired to.

The academic study of international organizations in France in the postwar period dates back to the post-graduate seminars of Professor Charles Marie Chaumont at the Paris Institute of Political Studies (*Sciences-Po*), whose transcriptions and notes were assembled in short *Organisations internationales* coursebooks since 1949[273], reprinted periodically. Professor Chaumont, a pupil of Jules Basdevant, had been a member of the French delegation during the San Francisco Conference in 1945, and, one year before that, had just started a long academic career, occupying teaching positions in international law in universities in Paris and Nancy and working as the Secretary to the Curatorium of The Hague Academy. During the 1970s, he gained prominence with the application of the dialectical method to international law, a way to depict international norms as social facts, whose creation could only be explained by legal sociology[274].

Written before the systematization of his version of the dialectical method, Professor Chaumont's 1949 book still had the leanings of a general manual on international law and politics rather than a textbook on the law of international organizations. If the reader was presented with short surveys on the constitutive instruments, structure and workings of important international organizations (with special focus on the functioning of the UN system and its agencies), characteristics that we currently associate to the study of the law of international organizations, the focus was that of an introductory text to students of law and political science, encompassing elements as distinct as a

[273] CHAUMONT, Charles. *Les organisations internationales.* Paris: Presses universitaires d'Institut d´Études Politiques, 1949.

[274] CHAUMONT, Charles. Cours general de droit international public. *Collected Courses of The Hague Academy of International Law*, Volume 129 (1970), pp. 335-527; CHAUMONT, Charles. Méthode d'analyse du droit international. *Revue Belge de Droit International* (1975) 1, 38-46, and CHAUMONT, Charles. L'ambivalence des concepts essentiels du droit international. In: MAKARCZYK, Jerzy. *Essays in International Law in Honour of Judge Manfred Lachs*. The Hague: Martinus Nijhoff, 1984, pp. 55-64.
For recent appraisals of Charles Chaumont's legal perspectives, refer to: JOUANNET, Emmanuelle Tourme. Charles Chaumont's Third-World International Legal Theory. In: DANN, Phillipp; VON BERNSTORFF, Jochen. *The Battle for International Law: South-North Perspectives on the Decolonization Era.* Oxford: Oxford University Press, 2019, pp. 358-382, and MOUTON, Jean-Denis; SIERPINSKI, Batyah. La pensée juridique de Charles Chaumont. *Civitas Europa* (2015) 35, 197-223.

general theory of the state and government and a sociological reading of international society. His description of international organizations as public services for the common interest, whose constitutive treaties established links between the various agencies of the member states, as a sort of a condominium of civil servants[275], evinced his ties to a sociological perspective, devoting only minor interest to discussions on the legal personality of international organizations under international law, on the powers of such organizations or on their privileges and immunities, and focusing instead on their servicing role in "international political society".

The links of Professor Chaumont's study of international organizations to the French sociological tradition became even clearer one year later, in 1950. In a chapter published in a homage to Georges Scelle[276], he further developed his conception of international organizations as public services. His argument may be systematized in three parts. First, he adopted a functional reading of the creation of international organizations. In his opinion, international public services had the same source as national ones, responding to the collective need for organizing institutions capable of providing goods of general interest, demanding interstate cooperation[277].

In sequence, Professor Chaumont affirmed the principle of the unity of legal science, meaning that artificial boundaries established between different legal disciplines cannot persist in the face of reality, since no law is created for law itself. Legal categories transcended arbitrary boundaries and were applied in response to societal demands.

[275] TÉNÉKIDES, Georges. Régimes internes et Organisation internationale. *Collected Courses of The Hague Academy of International Law*, Volume 110 (1963), pp. 357-358.

[276] CHAUMONT, Charles. Perspectives d'une théorie du service public à l'usage du droit international contemporain. In: *La technique et les principes du droit public. Études en l´honneur de Georges Scelle.* Paris: LGDJ, 1950, pp. 115-178.

[277] (*Original text in* French): "En tout cas, l'apparition d´un service public dans la société international procède du même phénomène sociologique que cette apparition à l´intérieur d´un Etat: elle procède de la nécessité qui est ressentie, à un moment donné, par les Gouvernants, de faire échapper au régime des intérêts particuliers, une entreprise dans laquelle la presence d´un intérêt general est jugée par ces Gouvernants, à la suite d´un fort courant psychologie collective, particulièrement intense.
Ainsi l´existence, la possibilité même des services publics internationaux. Le premier élément est um élément objectif: c´est la présence d´un intérêt general. (…) Le deuxième élément est un élément subjectif, en ce sens qu´il se forme, quoique reflétant le plus souvent une nécessité collective dans la conscience des dirigeants internationaux: c´est le sentiment que la presence d´un intérêt dépassant le cadre étatique justifie, voire même exige la creation d´une institution international." (*Ibid*, pp. 120-121).

International law, as much as national law, was not a pure system, absorbing influences and borrowing categories that already proved useful in similar contexts[278].

In light of this principle, he presented his final argument. Since the conditions of international and national law were evolving in similar lines when it came to public service, national law could be applied by analogy to international law[279]. Hence, he outlined a proposal to borrow the categories of French administrative law to his analysis of international organizations under a general theory of public service (*théorie générale du service public*), divided into public establishments (*établissements publics internationaux*), public concessions (*concessions de service public*) and private companies of general interest (*entreprises privées d´intérêt général*)[280].

The idea of depicting international organizations as administrative structures of the international realm, subject to a developing discipline called *Droit international administratif* was already well-established among some prominent lawyers, as

[278] (*Original text in French*): "Si l´on ne reconnait pas l´identité de technique du Droit interne et du Droit international, c´est que l´on a du Droit une notion arbitrairement métaphysique, dans laquelle le Droit a une certaine transcendence par rapport à la collectivité à laquelle il s´applique. En fait, le Droit est une exigence émanée de cette collectivité. On retrouve nécessairement du Droit dans toutes les collectivités humaines. Et ce n´est pas parce qu´une frontière, souvent purement artificielle, sépare des collectivités que celles-ci changent de nature et n´obéissent plus à leurs exigences fondamentales. (…)
Au surplus, il y a longtemps que tous les juristes sont d´accord sur l´utilité des catégories juridiques, à condition qu´elles conservent une certaine souplesse, se transformant au rythme de la vie sociale et ne s´érigent pas en dogmatique. Toutes les branches du Droit interne se sont developpées par l´usage des categories. Le Droit international, même dans sa forme la plus classique, a fait de même. Et, par exemple, la catégorie du traité ou convention a servi d´une manière aussi complète que, *mutatis mutandis*, le catégorie du contrat en Droit privé. (...)
L´existence de catégories, dans um ordre juridique déterminé, ne dépend pas uniquement des données de la législation positive de cet ordre: ele est avant tout le fruit de l´évolution sociale et des nécessités de l´adaptation du Droit à cette évolution. C´est dire que, quelles que soit les modalités d´application de telle ou telle catégorie dans un ordre interne, et les caractères originaux que cette application peut revêtir dans cet ordre, on ne doit pas en conclure que cette catégorie ne peut trouver d´application dans un autre ordre. En d´autres termes, une conséquence inévitable du principe de l´identité de technique de tous les ordres juridiques, c´est la possibilite du transfert d´une catégorie d´un ordre juridique à un autre". (*Ibid*, pp. 116-118).

[279] (*Original text in French*): "Les conquêtes du Droit International sont successives et partielles. Si donc, sur certains points, le droit positif est parvenu à un stade vraiment institutionnel, c'est-à-dire, par reference aux categories juridiques du Droit Public, à la creation d´établissements publics internationaux, sur d´autres points, il s´agit plutôt d úne tendance qui se dessine, d´une preformation qui s´opère. Cette tendance et cette preformation prennent elles-mêmes des aspects multiples, qui, eux aussi tant les exigences de la technique juridique sont uniforme) peuvent se schématiser dan les categories que connâit le Droit Interne". (*Ibid*, p. 124)

[280] *Ibid*, p. 129.

Professors Paul Négulesco[281] and Michel-Athanase Dendias[282], who also tried to apply domestic analogies to the study of international organizations in their Hague Courses and had been studying international institutions in their chairs in Administrative Law in Bucharest and Salonica, respectively[283]. Hence, the definition of a "*service public international*" given by the latter was that of an organ created by a group of states to administer a technical activity demanded by the "permanent needs of the international public", under no specific sovereignty, but under the joint command of the ensemble of its creators, with a similar structure to that of a private association constituted under domestic law[284]. Administrative law provided the first background for the study of international organizations in France, instead of international law and politics.

During the 1950s, an external factor pressed for the creation of a textbook on international organizations directed to law students. The March 1954 reform of the university curriculum on "Law and Political Sciences" (*Sciences juridiques et politiques*) included a new subject on the first course year. Apart from the traditional teachings on social, judicial, political and financial institutions (*institutions judiciaires, sociales, politiques et financières*), a new topic would be also taught starting in 1955. A course on international institutions (*institutions internationales*) was created, but no clear

[281] NÉGULESCO, Paul. Principes du Droit international administratif. *Collected Courses of The Hague Academy of International Law*, Volume 51 (1935), pp. 583-690.
[282] DENDIAS, Michel. Les principaux services internationaux administratifs. *Collected Courses of The Hague Academy of International Law*, Volume 65 (1938), pp. 247-355.
[283] Hence, it is interesting to notice that the first contributions to the study of international administration written in French were made by scholars from Eastern Europe, educated in France, whose countries were subjected to forms of international authority (in Greece: the International Financial Control during the 1890s and the minority regime during the 1920s and 1930s / in Romania: the adhesion to the European Commission of the Danube in 1878 and the international administration of its bonds during the 1910s and 1920s).
[284] (*Original text in French*): "Les services internationaux administratifs ont avec les services nationaux beucoup de points communs. On aurait pu donner du service international adminsitratif une définition qui rapelle celle du service national, la voici: c'est um organisme, plus ou moins technique, qui tend à satisfaire des besoins, surtout stables et permanents, du public international, et qui dépend, même indirectenet et à titre de simple surveillance, soit d'un groupe d'Etats unis entre eux par tel ou tel rapport juridique, soit de la Société des Nations, entendue comme organisme international administratif central. (...) Mais, à la difference de ce qui a lieu en droit interne, on ne sauit prétende qui les services internationaux dépendent ni de la souveraineté de la Société des Nations, puisque cet organisme n'est pas un super-Etat, ni de la souveraineté de plusiers Etats, puisque l'exercise d'une souveiraneté exclut l'exercise d'une autre. De moment que les Etats sont tombés d'accord pour créer un pareil service, celui-ci, faisant partie de l'administration internationale, appartient au groupement des Etats associés pris comme tel, de même qu'une association du droit interne appartient à ses membres pris dans leur ensemble et rien qu'à cet ensemble." (*Ibid*, pp. 261-262).

indication of its minimum contents or of its pedagogic goals was provided[285]. As it was common practice in France, a coursebook for the teaching of the new discipline would be commissioned to a tenured professor.

Paul Reuter, Full Professor of International Law at the University of Paris, undertook the task of writing the first coursebook. In 1955, *Institutions Internationales*, based on his class notes, was published[286]. Already an established figure in the study of European integration, having taught in 1952 a famous course on the *Schuman Plan* in The Hague Academy of International Law, Reuter's interests in sociology and international politics were evident in his oeuvre. These interests were aligned to those of Professor Chaumont, but, on the general, the approaches they chose on their respective coursebooks greatly differed. In Professor Reuter's book, the study of international institutions was not equated to the presentation of public and private international unions. On the contrary, it was meant to be a systematic study of the international sphere, encompassing the traditions, structures, organizations and rules of international society – all of those elements interpreted as different institutions[287]. Because of that, Reuter's concept of an "international institution" was closer to the traditional sociological concept of a "social institution"[288], a notion that during the late 1970s and early 1980s would also be incorporated to the mainstream of international relations through regime theory. His most famous contribution to the study of international organizations, a specific type of institutions, repeated in many textbooks up until today, is his threefold classification according to objectives, powers and membership[289].

Other important aspect of Paul Reuter´s coursebook was the consideration that international society was not limited only to the relations between states, they being only one specific dimension of other inter-individual and inter-group relations (*relations primaires et secondaires*). Men, as social creatures, organized themselves in different

[285] ROUSSEAU, Charles. Institutions Internationales (compte-rendu). *Revue française de science politique* (1956) 6:2, 415-417.
[286] REUTER, Paul. *Institutions internationales.* Paris: Presses universitaires de France, 1955.
[287] *Ibid*, pp. 6-9.
[288] For a contemporary overview of the sociological concept of social institutions, refer to LEE, Leon. Institutions and Ideas in Social Change. *The American Journal of Economics and Sociology* (1959) 18:2, 127-138.
[289] REUTER, Paul. *Institutions internationales.* 3rd ed. Paris: Thémis, 1962, pp. 187-201.

groups, so that their realm of social activities could not be restricted to a single entity, as some contemporary views on the all-encompassing nature of the state intended to portray[290].

As Professor Jean Combacau indicated in the Avant-Propos to the 1980 reedition of the coursebook, now renamed *Institutions et relations internationales* after yet another reform of the university curriculum applied by the *Facultés de Droit* during the 1970s, Professor Reuter's intention had always been to present a "general view of international life" (*une vue générale sur la vie internationale*), with the institutional question being only one – albeit the central one – subject of the manual[291]. Therefore, international organizations were only one part of his coursebook, among many others.

Moreover, Professor Reuter's closeness to the European experience[292] greatly affected his "general view of international life", providing it with an evolutionary overview. Large consideration is given in his coursebooks to economic integration[293], the main question presented in the concluding chapter since the original, 1955 edition, and the apex of international cooperation under his model. The federalist ideal, where States would come to form a greater, supranational structure, is not missing. And his expectations on European integration could be traced back even further. His interpretation of the meaning of a "supranational" order, the expression adopted by Article 9 of the 1951 Treaty of Paris, establishing the European Coal and Steel Community, was described in an article written in the same year as an indication of future developments to come in the realm of international organization, towards a better world order[294]. In his 1952 Hague Lecture, long consideration is given to the different elements of the supranational

[290] *Ibid*, pp. 10-11.
[291] REUTER, Paul; COMBACAU, Jean. *Institutions et relations internationales.* Paris: Presses universitaires de France, 1980, pp. 19-20.
[292] Notably, it was Professor Reuter who proposed the terminology "Communities" to be adopted by European institutions, as an attempt to position them as a sui generis system, unlike any other in international law (VAUCHEZ, Antoine. *Brokering Europe: Euro-Lawyers and the Making of a Transnational Polity.* Cambridge: Cambridge University Press, 2015, p. 75.).
[293] For instance, in his review, Professor Linden Mander contrasts Reuter's remarkable examination of European integration to the abrupt and limited description of the United Nations. MANDER, Linden. [Book Reviews] International Institutions. By Paul Reuter. *Political Research Quarterly* (1959) 12:3, 875-876.
[294] REUTER, Paul. La conception du pouvoir politique dans le Plan Schuman. *Revue française de Science politique* (1951) 1:3, 256-276.

authority exercised by the ECSC – direct effect over individuals, independence from national control and transfer of power of action[295].

European integration would remain an essential topic in all coursebooks on *institutions internationales* written in France. In the first place, this could be easily explained by the essential role that the European project played in French foreign and internal politics[296]. In the second place, the topic got even more relevant after the July 1962 Reform of the law curriculum, which reinforced the study of international law in the *Facultés de Droit* by means of the creation of a new university course, taught to fourth-year students entitled *Organisations européennes*[297].

One year after the first publication of Reuter's *Institutions Internationales*, another coursebook would be edited by Claude-Albert Colliard, Full Professor in Grenoble[298]. Following a similar structure to its sister-book, it was comprised of a first chapter, of a preliminary character, which presented a general background on international law, especially targeted to its main audience, first-course students[299]; followed by another one on the historical evolution of international law and international institutions. The last chapter finally touched on the topics of powers, staff and structure of international institutions, characterized by the author as attempts on international organization (*les tentatives d´organisation internationale*)[300].

In 1957, Henri Tassin Adam, a staff member of the Secretariat of the Council of Europe, reclaimed Professor Chaumont's nomenclature in a book on international organizations, titled *Les établissements publics internationaux*[301]. His study was expanded in 1965 with the publication of the two-volume *Les organismes internationaux spécialisés*, the second tome including a large selection of cases and legal materials – treaties, protocols,

[295] REUTER, Paul. Le Plan Schuman. *Collected Courses of The Hague Academy of International Law*, Volume 81 (1952), pp. 543-548.
[296] For a detailed analysis of the French interests and debates on the construction of the European Communities, refer to: PARSONS, Craig. *A Certain Idea of Europe.* Ithaca: Cornell University Press, 1999.
[297] Enseignement et congrès. *Annuaire français de droit international* (1962) 8, p. 1234.
[298] COLLIARD, Claude-Albert. *Institutions internationales.* Paris: Dalloz, 1956.
[299] THOMSON, David. Review: Institutions Internationales. By Claude-Albert Colliard. *International Affairs* (1957) 33:1, 85-86.
[300] GROSSER, Alfred. Colliard (Claude-Albert) – Institutions internationales (compte-rendu). *Revue française de science politique* (1956) 6:4, 931-932.
[301] ADAM, Henri Tassin. *Les établissements publics internationaux*. Paris: LGDJ, 1957.

resolutions, regulations and decisions[302] - and the first tome being composed under an inductive reasoning based on practice. It was organized in eleven chapters – definition, internationalization, institutionalization, harmonization, constitution, composition, organization, legislation, jurisdiction, commercial questions, budget, immunities, and extinction – mimicking the study of the life of an international organization according to chronological phases, ranging from "birth" to "death".

Interestingly enough, in spite of the book having a much closer structure to a textbook of a positivist mold[303], starting by a definitional effort of the main legal concept, followed by the assessment of the powers and capacities and concluding with a list of unresolved legal problems, it did not achieve the same level of success of its predecessors. The number of reeditions from each book proves this condition. While Reuter's and Colliard's textbooks remained very popular in France until very recently, with successive reeditions up until the 1990s, Adam's book was complemented three more times by the author up to a fifth tome[304], but did not receive reprints nor many quotations. For as much as he tried to promote his book in France, it was not adopted by universities.

Wolfgang Friedmann, in a review article written to the *American Journal of International Law*, after praising the breadth of Henri Tassin Adam's 1965 book, gave his opinion on why the author's analyses did not hold strong. Indeed, by transplanting into international law in a literal fashion some categories that were commonly adopted in French administrative law, his definition brought important problems. Apart from the traditional requisites of an international status, a specific function, a degree of autonomy and a permanent structure, the author added a fifth condition for the emergence of an *établissement public*, which did not contemplate many international organizations: the provision of goods or services directly to individuals or the regulation

[302] ADAM, Henri Tassin. *Les organismes internationaux spécialisés: contribution à la Théorie Générale des Établissements publics internationaux.* Paris: LGDJ, 1965.
[303] MARQUE, J.N. Les organismes internationaux spécialisés, contribution à la théorie générale des Etablissements publics internationaux [note bibliographique]. *Revue internationale de droit comparé* (1966) 18:3, 749-750.
[304] EISEMANN, Pierre-Michel. H.T. Adam, Les organismes internationaux spécialisés, contribution à la théorie générale des Etablissements publics internationaux, tome V [notes bibliographiques]. *Annuaire français de droit international* (1992) 38, 1217.

of public domains[305]. Hence, most international organizations dealing with inter-state interests or providing direct assistance to governments were excluded from his interesting and thorough analysis, the most notable omission being the United Nations. The reviewer's disappointment is manifest on this point, lauding the book but indicating the author's choice as a missed opportunity to consolidate an important treatise:

> It is regrettable that Professor Adam has completely ignored Professor Paul Reuter's fundamental analysis and classification of "Institutions Internationales". Of the many criteria available: financial autonomy, juridical status, functional purposes, etc., he has selected only one, the direct link between the organization and private legal subjects without government participation.
>
> Subject to this serious and self-imposed limitation, this work is an important contribution to the growing science of public international organizations, and the functional approach to the international law of co-operation, which is one of the main hopes of our generation[306].

Therefore, if Henri Tassin Adam's oeuvre could have represented a sort of "missing link", signaling a rapprochement between French and English-language textbooks, it ended up at an uncomfortable crossroads. On the one hand, it was not French enough so as to include political and sociological perspectives necessary for the full understanding of international life. On the other hand, it was not English enough as it was based on a classification provided by French administrative law and remained excessively focused on the idea of a public service.

During the late 1950s and early 1960s two short introductory textbooks were published on the topic of international organizations. *Les organisations internationales*, by Pierre Gerbet[307], and *Les institutions internationales et* transnationales, by Fernand L'Huillier[308], were first printed, respectively, in 1958 and 1961. Both books, written by historians who taught at the *Faculté des Lettres* and gave post-graduate seminars on

[305] FRIEDMANN, Wolfgang. [Book review] Les Organismes Internationaux Spècialisès. Contribution à la Thèorie Générale des Établissements Publics Internationaux. 2 vols. By H. T. Adam. *American Journal of International Law* (1966) 60:3, 606-608.
[306] *Ibid,* pp. 607-608.
[307] GERBET, Pierre. *Les organisations internationales*. Paris: Presses universitaires de France, 1958.
[308] L'HUILLIER, Fernand. *Les institutions internationales et transnationales*. Paris: Presses universitaires de France, 1961.

political science, however, were not directed to law students, but to a different public. In the case of Pierre Gerbet's book, it intended to be an introductory text with accessible language to the general public, as its structure and its insertion in the "*Que sais-je?*" editorial collection demonstrate. Fernand L'Huillier's book, on the other hand, was mostly directed to undergraduate students at the *Facultés des Lettres*, being included in the "*Bibliothèque de la science politique*" series.

Neither books provided a thorough legal examination of international organizations, focusing instead on describing the structure of most important international institutions and on providing a general historical overview of the forces of international interdependence and cooperation. Moreover, both books had an extensive notion of "institutions" or "organizations", including even private associations and other actors such as political parties and religious communities. If these books are not particularly relevant to the evolution of the study of the law of international organizations, they support a perception, which will be further developed in this subchapter – the idea that the interdisciplinary study of international politics, international law and international organizations was also conducted in the *Facultés des Lettres*.

It was during the early 1970s that the most impressive coursebook on *institutions internationales* written in French came to be published. Michel Virally's *L'organisation mondiale*[309], advances a proposal to bring the theories of the state and the theories on the organization of the world closer[310], so that political science and law could cooperate in the study and development of international institutions. Amidst these overarching interests, a detailed exposé of the United Nations system and an orderly survey on the structure, composition and functions of international organizations are presented to readers[311]. Virally's cultural refinement and ability to navigate through sociological, political and legal considerations is made evident by his analyses of the practical effects of decision-making in international organizations[312]. Far from looking like a traditional

[309] VIRALLY, Michel. *L'organisation mondiale.* Paris: Armand Colin, 1972.
[310] FLORENNE, Yves. "L'Organisation mondiale", de Michel Virally (compte-rendu). *Le Monde Diplomatique* (Feb. 1973), p. 20.
[311] MERLE, Marcel. Virally, Michel – L'organisation internationale (compte-rendu). *Revue française de science politique* (1974) 24:2, 269-272.
[312] VIÑUALES, Jorge. 'The Secret of Tomorrow': International Organization through the Eyes of Michel Virally. *The European Journal of International Law* (2012) 23:2, pp. 552-554.

legal textbook, it attempts to outline the problems and prospects faced by the international system in practice, offering us the best elements that the hybrid perspective had to offer.

From Charles Marie Chaumont to Michel Virally, almost two and a half decades later, most coursebooks and textbooks in France on international organizations, to be used by lawyers in their university studies at the undergraduate level, still remained distinctly broad and open-ended, pervaded with historical and sociological influences, when compared to their English-language counterparts.

An analysis of the main textbooks and coursebooks written during the 1940s, 1950s and 1960s evinces that hybridism was the key element of the French doctrine in the study of topics pertaining to the law of international organizations. Instead of composing textbooks in the positivist mold, based on the systematization of the law of international organizations as a separate discipline, free from political considerations, French coursebooks and textbooks on international organizations continued to combine analyses on law, international politics and sociology. In this, they differed from the textbooks that appeared in English beginning on the 1960s, which intended to isolate the legal study of international organizations from other influences.

This kind of hybridism, however, did not necessarily contemplate specialized articles dealing with specific issues on the law of international organizations under a strictly legal perspective, which were as common in French learned journals as they were in the United States and in Great Britain, as the next chapter will demonstrate.

Why, then, did French legal scholarship not follow the same path as its English-language counterparts regarding the coursebooks and textbooks on the law of international organizations during the 1960s? Why did French coursebooks prefer a hybrid perspective? Why did not autonomization take place in France? Two different sets of explanations may be summoned to justify these differences: the common curriculum and intellectual contacts of international law and international relations in French universities as well as the influence of French administrative law.

The academic environment in France, not as affected by the realist split that influenced the teaching of international relations as that of the United Kingdom and the United States[313], did not separate the study of international law from that of international politics. The long tradition of focusing on diplomatic history and international law as the most important sources for understanding international politics was not affected by the crisis of the 1940s and 1950s, the French IR academy remaining a relatively endogenous system, only absorbing influences from the English-speaking IR community through specific research institutions.

A longstanding French tradition of diplomatic history, linked to the formation of civil servants and archival research, covered the first incursions in international politics in France in the late 1800s[314]. It all started with Albert Sorel, a lawyer and historian, who had a short-lived experience as a member of the diplomatic service of the *Quai d´Orsay* in the years between the Austro-Prussian War and the Franco-Prussian War. He revolutionized the writing of diplomatic history in the country by adopting two different approaches: the research of recent or ongoing foreign events, in an early practice of the history of the present (*l´histoire du temps présent*), and the identification of underlying tendencies in French foreign policy that could be equated to normative laws. At the heart of his research lay the concept of national interest (*intérêt national*), developed by Sorel in his study of the role of the French Republic as an element of progress and balance in Europe, the extensive and well-researched, nine-volume magnum opus *L´Europe et la Révolution française*[315].

The transition from diplomatic history to the history of international relations was undertaken by Pierre Renouvin[316], whose life was heavily marked by the events of World

[313] WAEVER, Ole. The Sociology of a Not So International Discipline: American and European Developments in International Relations. *International Organization* (1998) 52:4, p. 708.
[314] FRANK, Robert. L´historigraphie des relations internationales: des "écoles" nationales. In: FRANK, Robert (org.). *Pour l´histoire des relations internationales.* Paris: Presses universitaires de France, 2012, pp. 5-40.
[315] For an interesting analysis, refer to BARIÉTY, Jacques. Albert Sorel: l´Europe et la Révolution française, 1885-1904. In: BARIÉTY, Jacques (org.). *1889: Centenaire de la Révolution française.* Brussels: Peter Lang, 1992, pp. 129-144.
[316] SOUTOU, Georges. L´histoire des RI. In: BALZACQ, Thierry; RAMEL, Frédéric. *Traité de relations internationales.* Paris: Presses de SciencesPo, 2013, pp. 781-794. The short survey on Renouvin´s life is based on two sources: DUROSELLE, Jean-Baptiste. Pierre Renouvin (1893-1974). *Revue d´histoire modern et contemporaine* (1975) 22:4, 497-507; and SCOT, Marie. Portrait – 1893-1974: Pierre Renouvin. *Portraits*

War I. Severely wounded while serving the French Army in 1916 and 1917, and still a young history professor, he was named in 1920 the first director of the War History Library (*Bibliothèque d´Histoire de la Guerre*) by the Minister of Education, André Honnorat. From then on, his academic career took off, with the editorship of the *Revue d´Histoire de la Guerre mondiale*, the presidency of the *Société d´Histoire de la Guerre mondiale* and the publication of the groundbreaking *Les origines immédiates de la Guerre*.

In 1931, the year he became Full Professor of History at Sorbonne, he exposed some of his ideas on the limits of diplomatic history as practiced in France in a short comment on his current project of assembling and publishing the diplomatic archives of the Third Republic. According to him, the views of chancelleries were important historical sources, but still provided a narrow perspective on foreign policy. More than narrating the facts presented in telegrams and dispatches, historians needed to understand the intentions of the men behind them and the different forces that acted the international realm - national and economic interests, which were characterized by him as *forces profondes*.[317]

Based on this reading of material and moral forces acting as the steering wheels behind international events, Pierre Renouvin developed the study on the history of international relations, by combining elements from political science and history, and releasing researchers from the limited sources and techniques of diplomatic history. Archival sources remained at the heart of historiography, but should not comprise its whole object. Already in 1935, he founded the Institute for the History of International Relations (*Institute d´histoire des relations internationales - IHRIC*) in Sorbonne, the epicenter of the new perspective, and the main counterpoint to the dominance of the *Annales* school. In 1953, he published the first volume of *Histoire des relations internationales*, whose abridged version, combined with notes from his seminars, would

SciencesPo (Electronic Resource). Available at: <https://www.sciencespo.fr/stories/#!/fr/portrait/34/pierre-renouvin/>.

[317] RENOUVIN, Pierre. La publication des documents diplomatiques français (1871-1914). *Revue historique* (1931), 166:2, 266-273.

become the extremely popular *Introduction à l´histoire des relations internationales*, published in 1964 alongside his Sorbonne pupil Jean-Baptiste Duroselle.

Jean-Baptiste Duroselle´s took up the mantle of his tutor in not only developing the study of the history of international relations, but also in determining what the study of international relations was meant to be. Being drawn to the foreign policy of the United States[318] and to the recent wave of quantitative and policy studies in North-American political science[319], he introduced the concept of "decision-making" (*le processus de décision*) in the study of the history of international relations and retrieved Sorel´s idea of the *intérêt national*. Unlike Pierre Renouvin´s attempt to link historical analysis to diffuse and longstanding social forces, Jean-Baptiste Duroselle retrieved an actor-based concept[320], more in line with traditional diplomatic history, in an attempt to provide focus to the research and not to confound the history of international relations with sociology. Already in their joint 1964 contribution, in a long methodological exposé, more focus was given to the actions of States as the central actors of international relations, a condition expressly affirmed right at the opening page of the book[321].

However, unlike Pierre Renouvin´s interest in promoting the topic of international politics under the authority of the *Facultés des Lettres*, as a research focus of history courses, Jean-Baptiste Duroselle had a much more ambitious idea: to consolidate a separate study of international relations in France, claiming exclusive authority over discussions on international politics. This new academic discipline would be especially useful in purging the negative influence of lawyers, who continued to exert great influence on the study of international politics in the *Facultés de Droit*.

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[318] DUROSELLE, Jean-Baptiste. *De Wilson à Roosevelt: Politique extérieure des États-Unis, 1913-1945.* Paris: Armand Colin, 1960.

[319] DEGROS, Maurice. Pierre Renouvin et Jean-Baptiste Duroselle, Introduction à l´histoire des relations internationales, 1964 (compte-rendu). *Revue d´histoire moderne & contemporaine* (1965) 12:2, 153-154. For a short survey on the contemporary tendencies of political science studies in the United States, refer to LINDBLOM, Charles. Political Science in the 1940s and 1950s. *Daedalus – Proceedings of the American Academy of Arts & Sciences* (1997) 126:1, 225-252.

[320] This condition would be further reinforced in his magna opus, where he refers to two approaches – the *State as Actor Approach* and the *Individual as Actor Approach*: DUROSELLE, Jean-Baptiste. *Tout empire périra. Une vision théorique des relations internationales.* Paris: Publications de la Sorbonne, 1981.

[321] RENOUVIN, Pierre; DUROSELLE, Jean-Baptiste. *Introduction à l´histoire des relations internationales.* Paris: Armand Colin, 1964, p. 1.

Jean-Baptiste Duroselle's main thoughts on the study of international relations were already systematized in a 1952 article published in the *Revue française de science politique*[322]. According to him, international relations, by a general tendency becoming an independent scientific field, could not be understood as a merely descriptive attempt nor was it characterized by immutable laws. On the contrary, its study entailed identifying the fundamental factors (*les données fondamentales*) that determined the probable outcomes of foreign policy and international life, distinguishing them from the merely accidental or temporary ones (*les données accidentelles où ephémères*).

Throughout his prognosis of the essential developments needed to promote the study of international relations, special emphasis is given to the role of history, an important tool to determine the duration of international phenomena, which in turn provided an essential indicium for recognizing *les données fondamentales*. When Jean-Baptiste Duroselle lists the other academic subjects to which independent international relations studies should resort, one clear omission may be noticed – in no moment is international law mentioned, except as a negative influence of a speculative nature[323]. A veiled criticism to the study of the international realm in Law Schools is presented some pages ahead, as one may notice from the following excerpt on how not to study the development of international society:

> Certainly, every researcher has the right to hold his own ideas on the ideal moral configuration of international society, as well as the right to express these ideas. However, he ought not to confound this ideas as a theory properly said. [324]

Apart from his academic role in the development of a history of international relations, Jean-Baptiste Duroselle had an important role in the establishment of the first research programs in international relations in France. Unlike his predecessor, who established the IHRIC under financing from the university, and with clear institutional subordination

[322] DUROSELLE, Jean-Baptiste. L´étude des relations internationales: objet, méthode, perspectives. *Revue française de Science politique* (1952) 2:4, 676-701.
[323] While geography and sociology are listed as important supports alongside history, other subtopics from economics, psychology, anthropology and linguistics are cited. Lastly, constitutional, administrative and private law are mentioned as auxiliary subjects to understand national constraints. *Ibid*, p. 695.
[324] (Original text in French): "Bien sûr, tout chercheur a le droit d'avoir ses idées sur l'idéal moral auquel la Société internationale devrait se conformer et il a le droit de les exprimer, mais il ne doit pas le mêler à la théorie ele-même". *Ibid,* p. 697.

to the *Faculté des Lettres*, Professor Duroselle had strong ties to research institutions in the United States, and intended to promote the model of independent research centers in France under the financing of the Rockefeller Foundation.

As Nicolas Guilhot describes in *The French Connection*[325], Jean-Baptiste Duroselle's relationship with Professors Waldemar Gurian and Kenneth Thompson and with other members from the *Committee on International Relations* was an important bridge for the communication of realist ideas on international relations to the academic environment in France. With the funding of the Rockefeller Foundation, researchers were hired and scholarships were awarded, in an initial process of institutionalization that would not be completed until the end of the 1960s.

The idea to push forward an autonomous study of international relations was not strictly technical. Jean-Baptiste Duroselle's project was in line with that of the Rockefeller Foundation, strongly linked to the Council on Foreign Relations[326], that intended to reduce the influence of a legalist reading of the international system, with minor importance being bestowed to international law. By organizing the new institutions and awarding himself the role of "evaluator" and "intellectual director" of many projects that were submitted to funding, Professor Duroselle could also direct the researches towards his main interests: historical and political studies of international relations. Two works exemplify this editorial line: the funding of the collection *Histoire des Idées Politiques*, organized by Jean Touchard, in 1959, and the publication of *Paix et guerre entre les nations*, by Raymond Aron, in 1962[327].

Professor Duroselle's idea, hence, was to detach the study of international politics and international relations from the *Facultés de Droit*, as it had traditionally happened in

[325] GUILHOT, Nicolas. "The French Connection" Élements pour une histoire des relations internationales. *Revue française de science politique* (2017) 67:1, 43-67.
[326] For and even more detailed study on the role of the Rockefeller Foundation and of the Council on Foreign Relations in structuring IR studies: GUILHOT, Nicholas. *The Invention of International Relations Theory: Realism, the Rockefeller Foundation, and the 1954 Conference on Theory.* New York: Columbia University Press, 2011. For a recent article on the subject, refer to: SCHMIDT, Brian. The Need for Theory: International Relations and the Council on Foreign Relations Study Group on the Theory of International Relations, 1953-1954. *The International History Review* (2019) (Electronic Resource). Available at: <https://www.tandfonline.com/doi/abs/10.1080/07075332.2019.1646780>.
[327] GUILHOT, Nicolas. "The French Connection" Élements pour une histoire des relations internationales. *Revue française de science politique* (2017) 67:1, p. 61.

France. By promoting the adoption of scientific models and the multiplication of research, he expected that the successful examples of these institutions be reproduced in courses at all university levels, leading to a reform of the curriculum that would finally separate law from politics. As Nicholas Guilhot explains:

> The concentration of the study of international relations in research institutions in the aftermath of World War II is a true novelty. Under the cover of dragging the study of international out from its pre-scientific stage, a social and ideological project is aimed at: the 'theory' that one is looking to formulate actually functions as a weapon to the 'realist' approach, it intending to limit the influence of practitioners linked to international organizations as well as to debunk perspectives grounded in international law.[328]

The model of independent institutes, however, still had a limited influence in the general scenario of academic activities in the country, its effects remaining restricted to postgraduate research. During the 1940s and 1950s, the teaching of international relations in France remained circumscribed to courses and centers in the *Facultés des Lettres* and *Facultés de Droit*, as research topics of diplomatic history, international law and political science. In a comparative survey on the university teaching of international relations organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and published in 1954, Professors Jean-Jacques Chevallier and Jean-Pierre Vernant indicated that no specific degree in international relations or international politics was available in France, with the former believing in a natural development of independent teaching starting from the creation of new institutes in some universities, as expected by Professor Duroselle, and the latter denying the possibility of change at least in the medium term[329].

The March 1954 Reform, which provided for the obligatory teaching of *institutions internationales* in law schools, published one month after the UNESCO report, seemed

[328] *(Original text in French):* "Le recentrement des RI sur les institutions de recherche au lendemain de la seconde guerre mondiale constitue donc une véritable nouveauté. Sous couvert d'arracher les RI à leur stade préscientifique, c'est en réalité toute une architecture sociale et idéologique qui est visée: la `théorie` cherchant alors à s'ennocer est d'abord une arme de guerre au service d'une approche 'réaliste' qui entend limiter l émprise des practiciens liés aux organisations internationales et s'opposer à toute perspective fondée sur le droit international". *Ibid,* p. 48.

[329] MANNING, Charles. *The University Teaching of Social Sciences – International Relations.* Geneva, UNESCO, 1954, pp. 54-55.

to confirm Professor Vernant's perception. As it happened, no independent path of study was established to international relations in first and second degrees, and law professors reinforced their authority in systematizing the first coursebooks and textbooks that would introduce young university students to the subject. Courses on international institutions functioned as an umbrella for a series of different topics, international organizations remaining only one specific theme among many others.

This condition was highlighted by Professor Suzanne Basdevant, who came to the following list of topics after consulting faculty members on what formed the basic contents of the new courses on international institutions: (i) the explanation of the basic political, economic and social conditions underlying the legal institutions of international life; (ii) the historical origins and the transformations of international life; (iii) the legal structure and practical functioning of international organizations, as well as the role they played in everyday life[330].

Therefore, at the very least during the late 1950s, the two academic disciplines that monopolized the study of international topics in French universities were history and law, the first examining the current transformations of the world and the second looking for a more thorough understanding of the workings of inter-state relations and international institutions as well as their role in international life[331]. For as much as some scholars admired their American IR counterparts for the emphasis on methodological

[330] (*Original text in French*): "D´une enquête menée auprès de ceux qui ont assuré cet enseignement il ésulte que torois préoccupations ont dominé : 1) donner une place à l´exposé des conditions politiques, économiques et sociales qui sont la base des institutions juridiques de la vie internationale ; 2) attirer l´attention sur l´origine historique et les transformations de celles-ci; 3) initier non seulement à la structure juridique, mais au fonctionnement et à la place dans la vie internationale contemporaine des diverses organisations internationales" (BASTID, Suzanne ; VIGNES, Daniel-Henri. Enseignement et Congrès. *Annuaire français de droit international* (1956) 2, p. 981).

[331] (*Original text in French*): "En France, les deux disciplines qui se partagent depuis longtemps l´étude des realtions internationales sont l ´histoire et le droit. Pour les historiens, la situation est claire, et M. Renouvin a donné récemment une definition nette et precise de ce que l´on peut attendre d´une spécialité qui vient de donner son son nom à une collection d´ouvrages: 'L´étude des relations internationales ne se propose ni d´établir des 'lois historiques' ni de donner des leçons: elle se borne à essayer de comprendre le jeu complexe des causes qui ont amené les grandes transformations du monde'. (…) Les 'publicistes internationaux' de leur côté, ont étudié l´ensemble des aspects juridiques des relations internationales, qu´il s´agisse des rapports entre Etats ou des institutions internationales. Mais l´objet du jurist est limité. Mieux: sa discipline a besoin, pour ne pas se perdre dans un certain verbalisme, de l ápport d´autres spécialités". GROSSER, Alfred. L´étude des relations internationales, spécialité américaine? *Revue française de science politique* (1956) 6:3, pp. 634-635.

autonomy[332], no equal assertion of academic independence happened in France, such as the one that led to the split in North-American journals or to the separation of university programs. The creation, in 1956, of doctoral studies in political sciences (*troisième cycle en science politique*) as well as the establishment, in 1952, of the *Centre d´études des relations internationales* (CERI), associated to *SciencesPo*, marked a push in interest in international relations studies in postgraduate research. However, from the first institutional thrusts up until the formation of a separate discipline, a series of obstacles remained in place, mainly regarded to the specialization of the personnel and to the rejection of normative methodological principles[333]. Specialization remained limited to doctoral studies, with undergraduate teaching remaining linked to the idea of grasping the full range of social sciences.

The idea that the study of international relations in France was not still sufficiently autonomous so as to form its own discipline, remaining under the influences of international law and diplomatic history, would still linger for many decades. Marcel Merle, writing one year after the publication of the 1982 *Godelier Report*, which examined the current state of the teaching of social sciences in France, provided a discouraging diagnosis of the study of international relations[334]. According to him, two conditions hampered the French academy in comparison to the great development of IR studies in the United States: an excessive emphasis on descriptive studies and an open rejection of any form of theorization. Quoting excerpts from the historian Jean-Baptiste Duroselle and the lawyer Claude-Albert Colliard that apparently disqualified the construction of great models as against the need to stay true to portraying international reality, Marcel Merle concluded that IR studies in France still lacked their own "*problématique*", in the sense of a proper methodological framework, and that current university courses only reinforced this issue. Stanley Hoffmann, in a 1977 article presented to the American Academy of Arts & Sciences, reached the same set of

[332] (*Original text in French*): "Ce qui, à notre sens, est le plus intéressant, le plus fécond, chez les specialistes américains d´<<International Relations>>, c´est la definition d´objectifs de recherches et, dans une moindre mesure, l´élaboration des méthodes qui permettent d´atteindre ces objectifs". *Ibid,* p. 650.
[333] For a set of similar problems in the context of other social sciences, refer to HEILBRON, Johan. Pionniers par défaut? Les débuts de la recherche au Centre d´études sociologiques (1946-1960). *Revue française de sociologie* (1991) 32:3, 365-379.
[334] MERLE, Marcel. Sur la "problématique" de l´étude des relations internationales en France. *Revue française de Science politique* (1983) 33:3, 403-427.

conclusions[335]. Generalism in French social sciences affected the whole range of academic disciplines.

According to Jörg Friedrichs, in another study on the topic, it was only during the 1960s that international relations took their first steps towards the construction of a proper academic identity in French university studies and research, but did not achieve its purpose even by the end of the decade. Apart from the inclusion of courses on international relations in the postgraduate curriculum of political science, another event took place in the aforementioned decade as a starting point for the discipline. The publication of Raymond Aron's *Paix et guerre entre les nations* in 1962, the first major book on international relations written in France, with the proposal for setting a historical sociology of international relations, based on strategic considerations by states[336], positioned research in line with the basic tenets of realism and pointed out the way forward for a properly French perspective of international relations.

Raymond Aron´s role in French IR studies was that of an outsider looking in, whose original contributions stirred up the camp and promoted independent research on international politics. Instead of following the regular *cursus honorum* in French universities towards a Full Professorship, Raymond Aron was a young *lycée* teacher mildly engaged to the socialist movement, whose career path did not indicate any tour de force that would consolidate him as the most well-known French writer in international relations. His first contributions on international politics came rather fortuitously when living in Germany from 1930 to 1933. Having been hired to write a series of articles to the *Europe* magazine[337] as a correspondent, he focused his interests on the rise of the national socialist movement in Germany, depicting its dangers and analyzing its social, economic and political bases. After fighting for the French army and fleeing to England during the German occupation of France, journalism presented yet

[335] HOFFMANN, Stanley. An American Social Science: International Relations. *Daedalus – Proceedings of the American Academy of Arts & Sciences* (1977) 106:3, 41-60.
[336] FRIEDRICHS, Jörg. International Relations Theory in France. *Journal of International Relations and Development* (2001) 4:2, pp. 123-124.
[337] For a study of Aron´s early career, refer to SIRINELLI, Jean-François. Raymond Aron avant Raymond Aron (1923-1933). *Vingtième Siècle – Revue d´histoire* (1984) 2, 15-30.

another opportunity for Aron, who worked in London as the deputy editor of *La France Libre*, writing under the rather unadorned pseudonym 'René Avord'[338].

During the 1950s, back from England, Raymond Aron finally inserted himself amidst the main academic circles in France, teaching economics and sociology at *SciencesPo* and at the *École nationale d'administration*. In 1955, he rejoined Sorbonne as full professor of sociology, where he intended to conduct his research on the topic of industrial civilization[339]. In 1956, Jean-Baptiste Duroselle forcefully brought him back to the study of international politics as both co-chaired a seminar on "the search for a theory of international relations" to the doctoral students in political science[340].

In 1967, following Jean-Baptiste Duroselle's initiative, Raymond Aron wrote another article on the study of international relations to the *Revue française de science politique*, the main academic journal of the CERI. In "What is an international relations theory?"[341], he retrieved some of the points already made at the *Paix et guerre entre les nations*, in summarizing the main line of reasoning in his book. Professor Aron begins by presenting two different attempts to define international relations as a subject of research: either by adopting a negative approach – that delimits its frontiers – or a positive approach – that indicates a main concept, around which the field revolves. According to him, *Paix et guerre entre les nations* adopted the latter approach, by considering that the specificity of international relations is the lack of an institutional structure at the international system, where the use of force is both legal and legitimate[342].

In Raymond Aron's reading, international relations studies intend to predict and make sense of the actions of states, based on the perceptions that they may get from within the international system. This effort, according to him, is only properly tackled by a

[338] DRAKE, David. Raymond Aron and La France Libre (June 1940-September 1944). In: KELLY, Debra; CORNICK, Martyn (eds.). *A history of the French in London: liberty, equality, opportunity.* London: Institute of Historical Research – University of London, 2013, pp. 373-390.
[339] STEWART, Iain. *Raymond Aron and Liberal Thought in the Twentieth Century.* Cambridge: Cambridge University Press, 2019, p. 136.
[340] GUILHOT, Nicolas. "The French Connection" Élements pour une histoire des relations internationales. *Revue française de science politique* (2017) 67:1, p. 59.
[341] ARON, Raymond. Qu'est-ce qu'une théorie des relations internationales? *Revue française de science politique* (1967) 17:5, 837-861.
[342] *Ibid,* pp. 843-845.

combination of historical and sociological methods, which form his "historical sociology of international relations". History, on the one hand, serves the understanding of conjunctures, providing the necessary elements to understand the current configuration of the international system. Sociology, on the other hand, provides researchers with the necessary tools to identify patterns and regularities within a specific international system, providing the bits and pieces for the construction of predictive models, such as the idea of a "rational peace amidst the zero-sum nuclear game"[343]. By alternating between the historical framework and the sociological fine-tuning, one could try to understand how States behave in the international system, unconstrained by the weak legal bonds of an idealistic international law that could never overcome the force of the state of nature.

Between Jean-Baptiste Duroselle, the "scientific entrepreneur", and Raymond Aron, the "true theoretician"[344], the study of international relations in France began to take shape during the early 1960s, in the context of independent institutions and of the *Doctorat en Science politique*. However, for all the huffing-and-puffing taking shape in closed circles and small research institutions, the hybrid teaching of international politics to university students, still majorly based on a sociological tradition of liberal internationalism, remained predominantly under the authority of lawyers and historians at the *Facultés de Droit* and *Facultés des Lettres.*

Jörg Friedrichs also adds that, in spite of the gradual absorption of a "realist leaning" in France, this influence was not enough to detach the study of international organizations from the mainstream study of international relations. In other words, even when IR specialization advanced, the realist split was not so considerable so as to ignore some common interests and topics shared with legal studies. On account of these overlaps, he argues that, even during the 1970s, international relations studies "continued to borrow theoretical wisdom from the established academic backgrounds of International

[343] *Ibid*, pp. 852-858.

[344] (*Original text in French*): "Si Jean-Baptiste Duroselle est l'entrepreneur scientifique à l'origine des RI autour du CERI, Raymond Aron fait figure de véritable théoricien de la matière. Somme de l'état des débats et imposant effort de théorisation générale, *Paix et guerre entre les nations* reste aujourd'hui un ouvrage de référence em France". GUILHOT, Nicolas. "The French Connection" Élements pour une histoire des relations internationales. *Revue française de science politique* (2017) 67:1, p. 59

Law and Diplomatic History"[345], notably on their surveys of international institutions and international history[346].

Therefore, unlike the example of the United States and the United Kingdom, the role of international organizations was not forgotten under this new realist perspective, portrayed by Monsieur Aron as the "historical sociology of international relations". If Raymond Aron had only given minor attention to international organizations, one of his pupils would try to fit the research of international organizations in the study of international relations. Under Marcel Merle, an international lawyer by formation who began his teaching career in Caen and Bordeaux with chairs on international law, constitutional law and political science, and who worked as educational expert of the French government at the United Nations[347], a new perspective would be proposed for the study of the historical sociology of international relations, accounting for all transboundary flows and transnational actors[348]. As soon as 1963, with *La vie internationale*[349], his broad conception of the study of international relations would be presented[350], providing yet another alternative for the chair on *institutions internationales* in law schools. The text was further developed in 1974 with the much more systematic *Sociologie des relations internationales*[351], quite possibly the first attempt at making sense of the French tradition of international relations.

The idea of international life (*vie internationale*) at the heart of international society, comprised not only of official acts of states, but also by transnational contacts and other inter-individual relations, provides a common thread through the study of international politics and international law in France. This same exact idea is present in jurists like Paul

[345] FRIEDRICHS, Jörg. International Relations Theory in France. *Journal of International Relations and Development* (2001) 4:2, p. 119.
[346] *Ibid*, p. 122.
[347] MALHERBE, Marc. *La Faculté de Droit de Bordeaux (1870-1970)*. Bordeaux: Presses universitaires de Bordeaux, 1996, pp. 382-383.
[348] FRIEDRICHS, Jörg. International Relations Theory in France. *Journal of International Relations and Development* (2001) 4:2, p. 126.
[349] MERLE, Marcel. *La vie internationale.* Paris: Armand Colin, 1963.
[350] BASTID, Suzanne. Merle, Marcel - La vie internationale (compte-rendu). *Revue française de science politique* (1965) 15:4, 786-787.
[351] MERLE, Marcel. *Sociologie des relations internationales.* Paris: Dalloz, 1974.

Reuter, Michel Virally and Marcel Merle as well as historians such as Pierre Renouvin[352]. Even Jean-Baptiste Duroselle, who emphasized the study of the acts of the state as a methodological focus for the history of international relations, did not ignore the existence of this parallel realm, as he identified foreign policy and trans-individual relations as the two different components of the foreign element[353]. This condition also influenced the study of international organizations, as a positivist state-centric approach was not adopted as the dominant one, even in the coursebooks adopted by the *Facultés de Droit*. Important French lawyers could simultaneously wear many hats, contributing to the study of international politics, history and law, even all at once. Suzanne Basdevant exemplifies this possibility, having taught two postgraduate sessions in 1954-1955, one on the political role of Europe in the United Nations and the other on the general principles of international law[354].

The strong sociological tradition of international law in France, associated to the over-arching influence of Émile Durkheim, and manifested in the writings of Nicolas Politis and George Scelle during the interwar years[355], stood in clear contrast to the idea of the autonomy of international law as a purely normative science. This influenced the teaching of international law and international politics in France as well as the writing of

[352] FRANK, Robert. Penser la complexité: l´histoire des relations internationales. In: BEAUVOIS, Yves; BLONDEL, Cécile (eds.). *Qu´est-ce que´on ne sait pas en histoire?* Villeneuve d´Ascq: Presses Universitaires du Septentrion, 1998, pp. 103-116.

[353] The different levels of analysis in Jean-Baptiste Duroselle *magna opus* are well summarized in Jacques Freymond's review. (*Original text in French*): "Voyons maintenant les étapes de sa demonstration. Les composantes tout d'abord. 'Relations internationales', precise J.-B. Duroselle, englobe la 'politique' (étrangère, extérieure, international) – autrement dit le *State as Actor Approach* – et 'les relations de caractère privé, … la vie internationale' – autrement dit le *Individual as Actor Approach*. Cette définition le conduit, après une incursion rapide dans l'anthropologie, à la définition du concept encore mal étudié d'<<étranger>>, don't il considère qu'il s'est unifié avec le temps, puis à un essai de typologie de l'<<étranger>>, qui debouche sur une nécessaire référence à la relation entre politique étrangère et politique interne. Vient ensuite une analyse du rôle des groupes de toutes dimensions, agissant à divers niveaux qui, d'une manière ou d'une autre, sont impliqués dans le processus de decision. A cette étape déjà, J.-B. Duroselle met l'accent sur les 'groupes réels' qui assurent le relais entre les aspirations et les volontés de puissance des individus et les actions des Etats, des communautés intermédiaires et des communautés 'plurinationales'". FREYMOND, Jacques. Tout empire périra. Une vision théorique des relations internationales [compte-rendu]. *Politique étrangère* (1981) 46:3, p. 723.

[354] L'enseignement du Droit international public en France. *Annuaire français de droit international* (1955) 1, 816-818.

[355] For a brief overview on the writings of Scelle and Politis, refer to: KOLB, Robert. Politis and Sociological Jurisprudence of Inter-War International Law. *The European Journal of International Law*, (2012) 23:1, 233–241; THIERRY, Hubert. The Thought of George Scelle. *The European Journal of International Law* (1990) 1:1, 193-209.

the respective textbooks and coursebooks to be used in law schools. As Antonio Truyol y Sierra comments, the study of international law and international relations under the sociological perspective were both dictated by the same goal, which made the disciplines relatively interdependent and gave them a series of overlapping topics: that goal being to understand international society as it is.[356] Hybridism was not an unnatural condition, but an expected one in France, with many sources serving to the teaching of varied social sciences indistinctly.

In adding to this perception, Ole Waever concluded that studies in international politics in France remained linked to the explanation of reality, and not to the development of theories or paradigms, sticking either to the training and recruitment of top civil servants, to historical studies or to the knowledge of international law[357]. Being still constrained to certain institutes, the realist paradigm did not displace the more traditional teaching in the *Facultés de Droit*. Hence, a multidisciplinary approach to the study of international organizations in legal circles remained largely unchallenged for this whole period, resting on an empirical basis, but still under no clear tendency for autonomization. Because of the configuration of the university degrees and curricula, the study of international politics was not set aside from the realm of international law – and so the teaching of international organizations in law schools remained under the influence of these different spotlights.

The idea of hybridism, which was a distinctive mark of undergraduate teaching in the *Facultés de Droit*, must not be narrowly interpreted so as to suggest that no specialized study of the law of international organizations existed anywhere in France. That was

[356] (Original text in French) : « Pour tout un secteur de la doctrine, dans lequel nous nous rangeons, l'objet de la sociologie du droit international coïncide largement avec celui de la *théorie des relations internationales.* On ne saurait en effet concevoir celle-ci (à moins de renoncer à lui donner des assises propres et la diluer, comme il arrive souvent dans les manuels – pour la plupart américains – publiés sous ce titre, dans une masse hétérogène de connaissances simplement juxtaposées) que comme une *sociologie de la vie internationale,* une théorie de la réalité internationale sous ses multiples aspects, une étude de sa structure et des facteurs qui concourent à la configurer et à la transformer. » TRUYOL Y SIERRA, Antonio. Genèse et structure de la société internationale. *Collected Courses of The Hague Academy of International Law*, Volume 96 (1959), pp. 560-561.

[357] WAEVER, Ole. The Sociology of a Not So International Discipline: American and European Developments in International Relations. *International Organization* (1998) 52:4, p. 707.

certainly not the case in postgraduate teaching and research[358]. Over time, the study of the law of international organizations gained prominence amidst doctoral studies in France. After Professor Chaumont having selected *Les organisations internationales* as the topic of his 1949 doctoral lessons in public international law, other law professors did the same. The doctoral offerings from 1954 to 1957, published in the *Annuaire français de droit international*, evince this condition. In the 1954-1955 academic year a wide range of topics may be identified: Professors Paul Reuter and Charles Chaumont offered "International Organizations" (*Les organisations internationales*) at the University of Paris and *SciencesPo;* Professors Émile Giraud, Maxime Chrétien and Antonio Truyol y Sierra offered "Reform of the United Nations" (*La réforme de l´O.N.U.*), "Fiscal immunities of diplomatic agents and international organizations" (*Les immunités fiscales des agents diplomatiques et des Organisations internationales*) and "The spiritual foundations of international community" (*Les fondements spirituels d´une communauté universelle des peuples*) at *IHEI* Paris; Professor Paul Reuter offered "European Institutions since 1945" (*Les institutions européennes depuis 1945*) at Sciences Po; and Professors Suzanne Basdevant and Roger Seydoux offered "The role of Europe in the United Nations" (*Le role de l´Europe aux Nations Unies*) and "The political development of NATO" (*Le développement politique de l´O.T.A.N.*) at the University of Nancy[359]. In the 1955-1956 academic year, six courses in total were completely dedicated to topics related to international organizations, with Professor Michel Virally offering "General Theory of International Organizations" (*Théorie générale des organisations internationales*) at the University of Strasbourg[360]. In the 1956-1957 academic year, the number of courses had already doubled and Professor Alain Plantey

[358] As an example of this condition, Professor Jean Salmon's 1957 doctoral thesis at the University of Paris, later published as a book, was not only highly technical but also included a specific reference to the law of international organizations ("le droit des organisations internationales") as a promising new field of specialization (SALMON, Jean. Le Rôle des Organisations Internationales en Matière de Prêts et d'Emprunts: Problèmes Juridiques. London: Stevens & Sons, 1958, p. 1). In his 1956 article to the *Annuaire*, Michel Virally also mentions the fact that recommendations figured as a general institution of the "law of international organization" ("une institution générale du droit de l'organisation internationale") (VIRALLY, Michel. La valeur juridique des recommandations des organisations internationales. *Annuaire français de droit international* (1956) 2, p. 67).

[359] L'enseignement du Droit international Public en France. *Annuaire français de droit international* (1955) 1, 816-818.

[360] BASTID, Suzanne ; VIGNES, Daniel-Henri. Enseignement et Congrès. *Annuaire français de droit international* (1956) 2, 981-990.

first offered his course on "International Public Services" (*Les services publics internationaux*)[361]. The enhanced academic autonomy of professors at the *troisième cycle* allowed for some developments outside of the outlook of the generalist.

If the number of offerings was substantial by 1957, another change would soon impact the postgraduate teaching concerning international organizations. The June 1959 Reform of Doctoral Studies had an essential role in pushing the study of international organizations in France even further, as a special course (*cours spécial sur les organisations internationales*) was inaugurated as an optional offering in all postgraduate paths in public law, complementing the compulsory course on public international law, and opening up new spaces for teaching[362]. Monographs on many specialized topics of the law of international organizations would soon ensue.

In contrast with undergraduate studies, the usage of coursebooks was not common at the doctoral level. Apart from Professor Chaumont´s 1949 book, the only other class notes available to students were those of Professor Paul Reuter's 1955-1956 doctoral course *Les organisations internationales*[363], which, however, was not officially edited, not even being included in bibliographical compilations. All in all, a broader range of materials, linked to different subtopics, were used in higher teaching, not being directly condensed in a single systematic text.

Apart from the impact of international politics and sociology, there is a clear influence of administrative law in the early studies of the law of international organizations in France, as already displayed by the study of the first textbooks written in the country. Unlike their English-speaking counterparts, whose legal systems did not have a strong tradition in the subject[364], administrative law occupied an important position in French

[361] BASTID, Suzanne ; GARAGNON, Jean ; SOTO, Jean de. Enseignement et congrès. *Annuaire français de droit international* (1957) 3, 991-999.
[362] BASTID, Suzanne; BARDONNET, Daniel. Enseignements et Congrès. *Annuaire français de droit internationali* (1959) 5, p. 1054.
[363] L'enseignement du Droit international Public en France. *Annuaire français de droit international* (1955) 1, p. 816.
[364] Administrative law was only being introduced as a separate legal discipline in the United States and in the United Kingdom during the 1910s, almost one hundred years after the first textbooks in administrative law were written in France. For a brief overview of these first attempts, refer to HARRIMAN, Edward. The Development of Administrative Law in the United States. *Yale Law Journal* (1916) 25:8, 658-665.

public law, being the foremost subject in law schools in the country, and provided a series of legal categories capable of portraying different phenomena of cooperation. Extension by analogy was a common strategy to the study of international organizations since the 1930s, a characteristic that would remain in vogue up until the 1960s.

Identifying international law with administrative law was a usual element in French scholarship, based on the idea that both disciplines stood for the most important branches of public law to regulate and limit the powers of government - the former regarding the external relations of the state and the latter the domestic relations of the state. Unlike the traditional common law suspicion regarding *droit administratif* and the *contentieux administratif* [365], the idea of an international administration under specific judicial and legal controls rapidly took hold of French international lawyers, as soon as during the 1930s, and especially during the 1950s. As Prosper Weil puts it:

> Administrative Law is public law, a law affecting sovereignty; and therefore it is not surprising that there is more than one feature common to it and International Law. One might even say that Administrative Law is the other face of International Law: one is aimed at restricting the internal sovereignty, the other tries to discipline the external sovereignty of the State. The progress of Administrative Law has certainly been more rapid than that of International Law, but this is due to the fact that, in the internal legal order, the concentration of the power in the hands of the state has spared Administrative Law the No. 1 problem of International Law, *viz*., that of the dispersal of power among numerous sovereignties. With this difference admitted, many of the difficulties encountered by modern International Law have been equally evident in the short but rich history of Administrative Law[366].

The academic intersection that came to shape *droit international administratif* was especially productive in France. Apart from Prosper Weil, a renowned international arbiter and judge, who began his career as an administrative lawyer, other important French administrative lawyers also got involved with the law of international

[365] For Dicey's critique of administrative law and defense of the rule of law as the basis of responsbility of the state and citizens alike, refer to: BERTHÉLÉMY, Henry. Comparaison des principes du droit administratif français aux pratiques administratives des pays anglo-saxons. *Revue critique de législation et de jurisprudence* (1931) 51, 59-70; DICEY, Albert. Droit administratif in French Modern Law. *Law Quarterly Review* (1901) 18, 302-318.

[366] WEIL, Prosper. The Strength and Weakness of French Administrative Law. *Cambridge Law Journal* (1965) 23:2, p. 243.

organizations, more notably so since the 1950s, as they saw it proper to help design the instruments of European integration[367]. It was the case of André de Laubadère, author of one of the most important administrative law textbooks in the country[368], who not only wrote extensively about the European Coal and Steel Community, but also gave a course in The Hague Academy of International Law on the administrative courts of the European Communities[369].

The idea of international organizations as providers of public services of an international character still remains largely popular in the country, as it is demonstrated by current textbooks such as *Fonction Publique Internationale* by Professor Alain Plantey, which states in its opening pages that "in a growing number of cases, international administration provides public services to States"[370].

Moreover, administrative law also represented an important entryway to the first monographic text written in France on a subject related to the law of international organizations. Suzanne Basdevant, later known as "Madame Bastid" after her husband Paul[371], was the first woman ever approved at the *concours d'agrégation de droit public* and quickly became a well-reputed Professor of International Law in Lyon and Paris, also acting as the mastermind behind the creation of the *Annuaire français de droit international* and presiding the United Nations Administrative Tribunal for almost three

[367] "It is often said that the French system of judicial control of the Administration is one of the best existing today. The French have no difficulty in believing this, and although Common Law jurists have long been influenced by Dicey, who wrote at a time when Administrative Law was different from that which we know today, they, also, are becoming aware of the merits of the work of the French *Conseil d'Etat:* Professor Hamson is in no small way responsible for this change of attitude. Moreover, the adoption of the French Administrative Law techniques by the European Communities and their introduction, albeit hesitantly, into the Law of International Organisations have also contributed towards increasing its reputation." (*Ibid*, p. 242). For the bibliography of Charles Hamson, Professor of Comparative Law at Cambridge, refer to DAVID, René. "C.J. Hamson (1905-1987)". *Revue internationale de droit comparé* (1988) 40:1, 168-170.

[368] DE LAUBADÈRE, André. *Traité de droit administratif*. Paris: Librairie générale de droit et de jurisprudence, 1963.

[369] DE LAUBADÈRE, André. Traits généraux du contentieux administratif des Communautés Européennes. *Collected Courses of The Hague Academy of International Law*, Volume 111 (1964), pp. 561-600.

[370] (*Original text in French*): "Dans un nombre croissant de cas, l'administration internationale assure des services publics pour le compte des États". PLANTEY, Alain; LORIOT, François. *Fonction Publique Internationale: Organisations mondiales et européennes.* Paris: CNRS Éditions, 2005, p. 9.

[371] A series of misquotes is born out of this. As it happened under more traditional publishers, women were still addressed by their husbands´ names, especially so when these men occupied prominent public positions. Hence, it is not rare to find in some of her publications the reference to the author as "Mme. Paul Bastid".

decades[372]. Her doctoral thesis, defended in 1930 and published one year later, represented an innovative perspective on the law of international organizations, tackling the issue of the rights, duties and legal regime of international civil servants[373].

Les fonctionnaires internationaux, her 1931 book, followed the French tradition of characterizing international organizations as public services, but directed its focus to the study of the legal regime of the staff members. Instead of examining specific treaties, and considering that each international instance was autonomous, a general theory was presented, dealing with questions of examination and selection, immunities, rights, duties, dispute settlement, social insurance and pensions[374]. The ideal concept of an international civil service presented by her, as "a group of civil servants under the authority of no single state, but under the orders of the international community", would reverberate in variegated academic circles, being further developed by a series of articles and books in the following decades[375].

Suzanne Basdevant's 1931 book is especially important[376] as it anticipates some important aspects that would be systematized by Professor Reuter two decades later. If the ideas of functions and common interests play a central role in her theory of international organization, and the links to administrative law are already evinced in the preface written by her thesis supervisor, the great administrative lawyer and law of the

[372] PELLET, Alain. Suzanne Bastid (1906-1995). *Galerie des internationalistes francophones de la Société française pour le droit international – Sfdi* (Electronic Resource). Available at: <http://www.sfdi.org/internationalistes/bastid/>. For another short biography, refer to: LAFON, Jacqueline. Suzanne Bastid-Basdevant (1906-). In: SALOKAR, Rebecca Mae; VOLCANSEK, Mary (eds.). *Women in Law – A Bio-bibliographical sourcebook.* London: Greenwood Press, 1996, pp. 34-37.

[373] BASDEVANT, Suzanne. *Les Fonctionnaires Internationaux.* Paris: Sirey, 1931.

[374] This perspective is clearly signaled in the opening paragraph of the *avant-propos* (*Original text in French*): « Les discussions récentes relatives à l'organisation du Sécretariat de la Société des Nations, du Bureau International du Travail et du Greffe de la Cour permanente de Justice internationale ont attiré l'attention sur la constituion des organismes internationaux et sur la situation de leur personnel. (...) On s'est rendu compte que les solutions qu'il importait de donner étaient commandées par des idées d'un caractère général, par des notions liées non seulement à l'existence de l'administration de la S.D.N. mais issues de la conception même d'administration internationale». (*Ibid*, p. 2).

[375] For a general outlook of the theme, refer to: NEWMAN, Edward. The International Civil Service: Still a Viable Concept? *Global Society* (2007) 21:3, 429-447. For some important texts on the subject, refer to: SCOTT, Francis Reginald. The World's Civil Service. *International Conciliation* (1954) 496, 257-320; LANGROD, Georges. *The International Civil Service: its Origins, its Nature, its Evolution.* New York: Sythoff-Leydon, 1963.

[376] Professor Suzanne Basdevant's book had the added distinction of being one of the very few books ever quoted in a decision of the International Court of Justice, being mentioned by Judge Azevedo in his concurring opinion in the *Reparations* Case.

sea specialist Professor Gilbert Gidel[377], Professor Suzanne Basdevant does not fall into the same kind of problems that Henri Tassin Adam confronted by embracing a narrow reading in his *Les établissements internationaux*. Apart from distinguishing international organizations from other forms of cooperation that were not disciplined by international law, such as private international associations, she identified many different roles to be exercised by international organizations, which could not be limited to the provision of material needs directly to individuals. Her classification of international organizations according to their objectives is especially rich, being comprised of an extensive list: scientific goals, economic interests, public health, administration, multiple goals, justice and post-conflict reconstruction[378].

Professor Suzanne Basdevant took great care in providing examples to support her categories, and to explain why a domestic category is being borrowed to the international sphere. The definition of an international civil servant, around which the book revolves, was only provided after the conclusion of a large exposé that intended to identify the characteristics that differentiated them from employees under the authority of a national government and from other international agents that did not exercise permanent or exclusive functions[379].

In 1952, two years before the 1954 reform of the Law curriculum, Professor Suzanne Basdevant also included in her undergraduate teaching program in international law (*droit des gens*) the topic of international organizations. Her class notes, already compiled in a book conveniently titled *Droit des Gens,* received a complement on the same year: a third fascicle, dealing with the newly included topic. The 1952 supplement was formed by an explanation on the growing importance of multilateral treaties and included a description of the most important efforts in international organization, they being the United Nations and the new attempts in regional integration[380]. In 1956, its contents were set in line with the 1954 reform. Her *Cours d'institutions internationales*

[377] BASDEVANT, Suzanne. *Les Fonctionnaires Internationaux.* Paris: Sirey, 1931, p. ii.
[378] *Ibid*, pp. 54-62.
[379] (*Original text in French*): "Est fonctionnaire international tout individu chargé par les représentants de plusiers Etats ou par un organisme agissant en leur nom, à la suite d'un accord interétatique et sous le controle des uns ou de l'autre, d'exercer, en étant soumis à des règles juridiques spéciales, d'une façon continue et exclusive des fonctions dans l'intérêt de l'ensemble des Etats en question" (*Ibid,* p. 53).
[380] BASTID, Suzanne. *Droit des Gens – Fascicule III*. Paris: Imprimerie Les Cours de Droit, 1953.

had a similar organization to the 1952 supplement, but dealt with these topics in much greater length[381]. Her book, however, did not achieve the same degree of popularity as those of Paul Reuter and Claude-Albert Colliard, coursebooks that were later printed and published by some of the biggest French law editors (Thémis and Dalloz), that were translated to other languages and that were reviewed in French international law journals.

French scholarship, with its emphasis on understanding the structure of international organizations, reinforced by common reference to administrative law analogies, had a distinct focus on the study of the topics commonly associated by English writers to the internal law of international organizations. One cannot but ignore the contributions of French authors to the development of a taxonomy of international organizations and to the systematic study of the different roles exercised by international agents, experts and representatives[382]. Unlike British textbooks, French writings were much more detailed when it came to describing the internal law of international organizations.

The emphasis on the topics of international agents, immunities and privileges in French writings on the law of international organizations is evident. Under the heading "General Theory of International Organizations" (Théorie Générale des Organisations Internationales), the *Annuaire Français de Droit International* published every year a selection of books, articles and chapters linked to common legal issues pertaining different international organizations. Up until 1964, almost forty percent of the writings listed by the journal (68 out of 182) were linked to the topics of international agents, immunities and privileges[383].

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[381] BASTID, Suzanne. *Cours d'institutions internationals – Licence: 1ère annnée.* Paris: Imprimerie les Cours de Droit, 1956.

[382] Hence, by the end of the 1950s, while no book was exclusively dedicated to the legal regime of the international civil service or international officers in English, an extensive offer already existed in French, with writings by Suzanne Basdevant, Mohammed Bedjaoui, Émile Giraud and Tien-Chen Young.

[383] The articles from which these numbers are extracted are the following ones: LEMASURIER, Jeanne. Bibliographie systématique des ouvrages et articles relatifs au droit international public publiés en langue française. *Annuaire français de droit international* (1955) 1, p. 799; LEMASURIER, Jeanne. Bibliographie systématique des ouvrages et articles relatifs au droit international public publiés en langue française. *Annuaire français de droit international* (1956) 2, pp. 958-959; LEMASURIER, Jeanne. Bibliographie systématique des ouvrages et articles relatifs au droit international public publiés en langue française. *Annuaire français de droit international* (1957) 3, pp. 954-955; LEMASURIER, Jeanne. Bibliographie systématique des ouvrages et articles relatifs au droit international public publiés en langue française.

The influence of administrative law also had its effects on the study of the legal personality of international organizations. While the *Reparations* Case represented a true Copernican shift to international lawyers in the United States and in the United Kingdom, providing a general key to link the law of international organizations to general international law, its impact was less noticeable when examining the French textbooks from the 1950s and 1960s[384]. The issue of international legal personality remained a marginal one on French textbooks, even after the 1949 *dictum*, its legal existence being presupposed in view of the functions exercised by international organizations in the international community. The centerpieces of French textbooks remained the classification of organizations and the questions of institutional design, personal immunities and international administration. In most cases, differently from the narrower interpretation of an "international organization" in the United Kingdom and the United States, the concept of "international institutions", adopted in French textbooks, was far broader, absorbing not only public intergovernmental organizations, but also private organizations, and at times, also other transnational groups and informal associations. As long as they had some role to play in the promotion of international life, these institutions could represent relevant objects of study.

Moreover, the influence of administrative law also manifested itself in matters of institutional design. The foremost representative of this perspective was Professor Georges Langrod, who gave a course on *Droit Administratif Comparé* (Comparative Administrative Law) during the 1950s at the Université de la Sarre, where he

Annuaire français de droit international (1958) 4, pp. 951-952; DREYFUS, Simone; LEONNET, Jean. Bibliographie systématique des ouvrages et articles relatifs au droit international public publiés en langue française. *Annuaire français de droit international* (1959) 5, pp. 1014-1015; DREYFUS, Simone; BARALE, Jean. Bibliographie systématique de langue française. *Annuaire français de droit international* (1960) 6, p. 1184; DREYFUS, Simone. Bibliographie systématique de langue française. *Annuaire français de droit international* (1961) 7, pp. 1115-1116; GUYOMAR, Geneviève. Bibliographie analytique de langue française. *Annuaire français de droit international* (1962) 8, pp. 1179-1180; GUYOMAR, Geneviève. Bibliographie analytique de langue française. *Annuaire français de droit international* (1963) 9, pp. 1190-1191; GUYOMAR, Geneviève. Bibliographie analytique de langue française. *Annuaire français de droit international* (1964) 10, pp. 1101-1102.

[384] In this sense, Suzanne Basdevant only refers to the decision in two short separate excerpts, which are used to reinforce her interpretation of the Charter. BASTID, Suzanne. *Droit des Gens – Fascicule III*. Paris: Imprimerie Les Cours de Droit, 1953, p. 288 and pp. 317-318.

incorporated questions on the improvement of international administration through a series of administrative reforms and staff regulations[385].

In this sense, the administrative law influence on the French perspective also represented less of a rupture to the interwar writings on international organization (without an ´s´) than their English-language counterparts. Instead of emphasizing the legal differences of public international unions, the interwar approach tended to examine these institutions in the context of other intergovernmental and transnational networks, as common actors that could interact positively in favor of international life[386]. Even in its highly legalized strands, like that of Professor Andrea Rapisardi-Mirabelli[387], the study of international unions did not prioritize the concept of international legal personality, it merely being one of the alternatives to the configuration of these entities[388].

All in all, we may conclude that the teaching of the law of international organizations in French universities did not embrace autonomization the way British and American law schools did. In a environment that favored general studies, marked by the common study of international law and international politics, and conditioned to the overarching influences of sociology and administrative law, hybridity was a predominant condition that also characterized French coursebooks on international organizations. Differently from Derek Bowett's 1963 textbook, which ended up "clearing the field" from political and moral influences or from contents that were attached to other areas of international law, French coursebooks, from Chaumont to Virally, did not adopt a similar filtering. On the contrary, due to the formation of an academic consensus over the need to encompass an expressive scope of topics for the adequate teaching of *Institutions*

[385] LANGROD, Georges. Les problèmes fondamentaux de la fonction publique internationale. *International Review of Administrative Sciences* (1953) 19:1, 9-111.
[386] This is the case of Francis Sayre, Paul Reinsch and Pitman Potter, among others. The relevant criterion, in this context, seemed to be the exercise of activities of a public interest, it being described by Norman Hill as the conferral of "powers of control over matters of administrative interest" (HILL, Norman. *International administration.* New York/London: McGraw-Hill, 1931, p. 143).
[387] RAPISARDI-MIRABELLI, Andrea. Théorie générale des Unions internationales. *Collected Courses of The Hague Academy of International Law*, Volume 7 (1925), pp. 341-393.
[388] Professor Rapisardi-Mirabelli's Hague Course is unfortunately still largely ignored by most writers and researchers of the law of international organizations, in spite of it possibly being the most interesting and systematic legal analysis of international unions during the interwar years.

internationales, those coursebooks ended up doubling down as a general introduction to international law and international relations.

2.3. Institutional autonomy and formal autonomization: identifying different paths through international organization (without an 's') and international organizations (with an 's') in university teaching

The comparison between the different national contexts evinces that the consolidation of the law of international organizations in university teaching did not follow a single track in different university environments. The contrast between, on the one side, autonomy in the United States and the United Kingdom and, on the other side, centralization in France, led to different models of teaching, reflected on the opposed configurations of their respective coursebooks and textbooks.

While the teaching of *institutions internationales* in French universities did not distance itself from traditional perspectives on international organization (without an 's') – a general science for understanding the changes in international life –, in the United Kingdom and in the United States the tendency for academic specialization was compatible with the emergence of the law of international organizations as a separate discipline, further distancing the topics being studied in Law Schools from those being studied in Political Science Faculties.

Even after the creation of the first doctoral courses in political sciences in France in 1956, international politics remained distinctively linked to the study of law. As Pierre Gerbet explains, in a commentary on the specialized works on the United Nations and other international organizations published from 1943 to 1961, very few doctoral students in political sciences decided to take up investigations on international organizations, the researches and publications on the field, on almost every topic, remaining under the chief influence of lawyers (*l'apanage des juristes*)[389]. The nascent project to separate the study of international politics from the study of international law, undertaken by some

[389] GERBET, Pierre. Le système des Nations Unies: État des travaux. *Revue française de Science politique* (1963) 13:2, 467-494.

of the first French IR theorists and spearheaded by Jean-Baptiste Duroselle, would take some decades to bloom.

Apart from the influence of the centralized university curriculum, both the overarching influence of a sociological perspective of law and the existence of strong ties that connected the study of international institutions to administrative law made the university environment in France less receptive to the formation of a separate discipline, the teaching of *institutions internationales* remaining close to traditional studies on international organization (without an ´s´).

Therefore, one may convincingly argue that the French university environment was not very concerned with autonomization, a necessary condition for the consolidation of the law of international organizations as a separate academic discipline. The attempt to import this kind of ideas from abroad, mainly at the hands of Duroselle and Aron, who wanted to separate well-entrenched fields, did not took place in a prompt manner. Fritz Ringer describes the process of academic autonomization in the following terms:

> The intellectual field is influenced by the concerns and conflicts of the larger society, but its logic is its own. Thus any influence upon the field from without is refracted by the structure of the field itself. (…). The emergence and maturation of an academic discipline is a process of autonomization, although even a mature discipline may traverse periods of epistemological or social crisis in which its receptivity to broader social and cultural influences may be increased[390].

The different characteristics of the university environment are reflected in the specific configuration of the most popular books written in French and in English during the first postwar decades: Paul Reuter's *Institutions Internationales* and Derek Bowett's *The Law of International Institutions.* While the former remained linked to a series of topics traditionally associated to the idea of international organization (without an 's'), such as multilateral treaties and peaceful settlement of disputes, also including a chapter

[390] RINGER, Fritz. The Intellectual Field. Intellectual History, and the Sociology of Knowledge. *Theory and Society* (1990) 19:3, p. 271.

concerning the theory of the state, the latter directed its focus only to the examination of questions that directly affected international organizations (with an 's').

On the one hand, apart from removing some "echoes", Derek Bowett's textbook made an important contribution to the emergence of the law of international organizations as a means of organizing the discipline. The structure adopted in chapters 11 and 12 of the textbook, beginning with the presentation of the constitutional law of international organizations and advancing to the administrative law of international organizations, provided students and lecturers with a rational exposé, whose legitimacy was enhanced by an opening reference to the authority of the *Reparations* Case.

On the other hand, the structure adopted in Derek Bowett's textbook largely ignored interesting questions related to the institutional design and the internal law of international organizations, restricting itself to some general considerations on administrative questions. No single mention was included on the legal regime of international civil servants, a topic that received great attention and elaboration from French authors.

The special emphasis on understanding the workings of international organizations, instilled by the tradition of administrative law in France, also pushed the studies of international institutions into adopting a *strong* brand of functionalism, instead of the *weak* form of functionalism consolidated by the *Reparations* Case. This path had a direct influence on the configuration of most textbooks in the country. Instead of emphasizing the formal aspects that differentiated international organizations (as organizations created by states under international law and constituted by independent organs) from other initiatives in international organization (without an 's'), most French authors preferred to conduct a general study of different types of international arrangements, of a public or private nature, as long as they played a relevant role amidst international public functions (*la fonction publique international*).

In this sense, the French perspective had some distinguishing features from their American and British counterparts, which would translate into a different structure of their specific textbooks and coursebooks. Due to the influence of administrative law,

French coursebooks paid much greater attention to the internal functioning of international organizations. Due to the influence of sociology and politics, French coursebooks still emphasized the political role played by these institutions in the international community.

Derek Bowett's textbook, differently from French coursebooks, would undergo a process of "legalization", following the path dictated by the *Reparations* Case. By removing from its framework topics and perspectives that were commonly associated to the study of international organization (without an 's'), it could separate itself from previous writings that incorporated political and social perspectives and that delved into questions of arbitration and diplomacy. Under the duopoly of legal personality and functions, the study of international organizations would be conducted in relation to the topics associated to the constitutional law of international organizations (legal status, structure, competence, powers, as well as the interpretation and modification of the constitutive instrument), with immunities being the only topic of the administrative law of international organizations to receive greater explanation.

In spite of the impact of Derek Bowett's textbook on promoting the study of the law of international institutions in the United Kingdom and in the United States, it is important to understand the limits of its innovative character, which referred chiefly to formal questions. Two circumstances support this caveat. First, as it has been attested in the chapter, the teaching of the law of international institutions was relatively well-established at the undergraduate and graduate levels in the United States and in the United Kingdom since the early 1950s, a decade before the publication of the textbook. Second, as Derek Bowett insisted, and the extensive referencing demonstrated, the topics included in his textbook were largely supported by previous academic writings in journals and monographs. By appropriating different materials and filtering out some "unnecessary questions", Bowett contributed to the emergence of the discipline mainly through the role of a systematizer. If the *Law of international organizations* was being taught since 1949 in the University of London, with a series of courses ensuing in the early 1950s in the UK and the US, Derek Bowett's model greatly influenced how to better understand the discipline.

Instead of revolutionizing the field by the presentation of original substantive content, Derek Bowett's contribution was essential to the delimitation of the framework of the discipline. Both the format of his textbook and the topics selected by him would become the norm in the teaching of the law of international organizations, being reproduced in the foremost textbooks written in English and published in the following decades (Schermers and Blokker, White, Amerasinghe, Klabbers[391]). The shortcomings of his perspective would also be reproduced by most authors, with minor attention being paid to the internal law of international organizations and to a study of the effective impact of international organizations on the promotion of welfare, topics whose teaching remains underdeveloped up until today.

Therefore, by shaping what could be said, instead of directly determining what was said, Derek Bowett's textbook had an important role in the configuration of the teaching of the law of international organizations. If the discipline had already been present in university curricula in the United Kingdom and in the United States as early as 1949, his vision would greatly influence what it meant to teach and study the law of international organizations. By putting into practice the idea of autonomization and establishing a clear framework, his contribution would set up the boundaries of the discipline and reinforce its sense of identity.

The comparative study of the curricula and textbooks evinces that France was a "late player" on the autonomous discipline of the law of international organizations, a condition that is further reinforced by an extrapolation of the time frame of the thesis, as the first textbooks on the law of international organizations written in French were only published during the 1980s and 1990s. René-Jean Dupuy´s *Manuel sur les organisations internationales*[392], a collection of specific contributions by a line-up of experts, was first published in 1988, while two short textbooks named *Droit des organisations internationales*, one by Daniel Dormoy[393], and the other by Jean-Marc Sorel[394], were published in 1995 and 1997, respectively. It was only in 2013 that another

[391] Once again, Seyersted's textbook is not mentioned in the list because of its singular format.
[392] DUPUY, René-Jean (ed.). *Manuel sur les organisations internationales.* The Hague: Martinus Nijhoff, 1988.
[393] DORMOY, Daniel. *Droit des organisations internationales.* Paris : Dalloz, 1995.
[394] SOREL, Jean-Marc. *Droit des organisations internationales.* Lyon: L´Hermès, 1997.

more detailed textbook, by Professors Sorel and Lagrange[395], could provide an alternative to René-Jean Dupuy´s compilation[396]. With a delay of almost two decades since the first publication of Henry Schermers´ textbook, it was natural that French textbooks would reach a less prominent insertion in the novel academic field, a condition that still holds true, as these textbooks are not generally utilized outside of France.

If the university environment suggests a late emergence of the law of international organizations in France, this did not mean that in other contexts the situation was similar. Having already analyzed the first two types of sources initially indicated in the introduction (curricula and textbooks), it is time to proceed to the examination of the latter (academic journals), in order to scrutinize if, among specialists and specialized opinions, the emergence of the discipline followed similar paths in these different national contexts.

[395] SOREL, Jean-Marc; LAGRANGE, Evelyne (ed.). *Traité de droit des organisations internationales.* Paris: LGDJ, 2013.

[396] The authors were well aware of the lack, for a long time, of a global volume on the law of international organizations written in French, as they expressly mentioned this condition in the opening pages of their textbook (WELLENS, Karel. Evelyne Lagrange et Jean-Marc Sorel (dir.), Traité de droit des organisations internationales, 2013 [compte-rendu]. *Annuaire français de droit international* (2013) 59, 678-680).

Chapter Three. A community of specialists? An examination of the main international law journals in the United States, the United Kingdom and France

Having examined the university teaching of the law of international organizations through a study of the curricula, coursebooks and textbooks utilized in France, the United States and the United Kingdom, it is now time to proceed to the examination of a different set of sources, so as to understand the configuration of the intellectual field among its specialists in these different countries.

Departing from the university context, and adding to the provisional conclusions already sketched in the previous chapter, this section will focus on the examination of the most prominent international law journals in France, the United Kingdom and the United States. As it has already been indicated in the introduction, the idea behind the examination of these journals is to adopt the "specialists' look", it being understood as the validation of the most important contributions and the most current topics by the specialists themselves.

By looking at journals, which do not intend to provide a general overview of the discipline, but to focus on relevant topics, one may get a different perspective on the emergence of the discipline. Instead of looking at a set of alternative end products, as textbooks intend to be, one looks at complex scrapbooks, formed by a compilation of specific contributions, sometimes of a contradictory character, in the form of learned journals, where substance usually trumps considerations on form.

Three representative academic journals were for selected for analysis: the *American Journal of International Law*, the *Annuaire Français de Droit International* and the *British Yearbook of International Law*, with some brief mentions to the *Revue International de Droit Comparé*. After a short introduction on the configuration of these journals during the time frame of the thesis, I will proceed to a cross-examination of their reviews and articles. By looking at whom was writing, what was written and what was read by the specialists, a more detailed image of the emergence of the discipline is expected.

3.1. Who is writing: the main authors of the academic and professional journals

3.1.1. The *American Journal of International Law* and the predominance of the academic element

The *American Journal of International Law*, a quarterly publication starting in 1907, has been the leading international law journal in the world for some decades, being originally edited by the American Society of International Law one year after its establishment[397]. Envisioned by Elihu Root as a means to explain national state practice in international legal matters[398], it came to greatly expand its horizons over time, especially during the Presidency of James Brown Scott, from 1929 to 1939.

Since the early postwar years, the American Society of International Law had promptly engaged in questions of international organization, establishing a Committee on Study of Legal Problems of the United Nations, chaired by Professor Clyde Eagleton, and even sending a representative to the first session of the General Assembly of the United Nations. Statistically, from 1946 to 1951, the United Nations represented the single most debated issue in the *Journal*[399]. The situation in the meetings of the Society was similar, the United Nations being the main topic of the 1947 meeting and its relation with regional arrangements for world security being the main topic of the 1950 meeting[400].

In line with this idea, a specific section was created in 1949 under the title "Notes on Legal Questions Concerning the United Nations", being assigned to Yuen-Li Liang, a former Chinese representative at the League of Nations who now acted as Secretary of the International Law Commission and Director of the Codification Division of the United Nations Secretariat[401]. In 1954, the publication of the section was interrupted, in consequence of a suggestion made by Clyde Eagleton in 1953 that the functioning of the

[397] For a brief history of the first fifty years of the American Society of Internaitonal Law, refer to: FINCH, George. The American Society of International Law. *The American Journal of International Law* (1956) 50:2, 293-312.
[398] DE LA RASILLA, Ignacio. A Very Short History of International Law Journals (1869-2018). *The European Journal of International Law* (2018) 29:1, pp. 146-147.
[399] KIRGIS, Frederick. *The American Society of International Law's First Century: 1906-2006*. Leiden: Martinus Nijhoff, 2006, p. 216.
[400] Ibid, pp. 199-201.
[401] Ibid, p. 219.

United Nations be regularly debated in plenary meetings, their findings being translated into articles to be published in the opening pages of the *Journal.*

In the very same year of 1953, Philip Jessup gave a prophetical discourse in the annual meeting of the American Society of International Law, stating that the profile of the members of the Society was changing, it becoming more and more specialized, against the presence of members who also had some background in political science institutions[402], himself included. Based on Philip Jessup´s assessment, Frederick Kirgis argued in his history of the Society that:

> The fifties were a time in the Society of rising influence of the lawyers and diminishing influence of "pure" political scientists. To be sure, some of the lawyers – notably those of the Yale school – were heavily influenced by the social sciences and worked closely with social scientists, but aside from Harold Lasswell and a few others, the up and coming social scientists were moving their intellectual bases to scholarly associations not primarily "legal."[403]

Philip Jessup's interpretation of the changes in membership and participation, however, did not reflect immediately on the publications of the *Journal.* An examination of the profile of the main authors who published articles and comments on topics related to the law of international organizations in the *American Journal of International Law* suggests that there remained important continuities to the interwar period.

The main contributors to the journal were the aforementioned Yuen-Li Liang, with his annual contribution on the practical legal questions faced by the United Nations, as well as Professors Josef Kunz, Pitman Potter, Clyde Eagleton, Charles Fenwick, Herbert Briggs, Philip Jessup and Leo Gross, no other author having published more than two contributions in the period. Professors Kunz, Potter, Eagleton, Fenwick, Briggs and Jessup had already been longtime members of the American Society of International Law and regular reviewers in the *Journal*. Leo Gross, the youngest in the group, had only recently begun to teach in America, one year before the end of the war, but already had

[402] JESSUP, Philip. International Law in 1953 A.D. *Proceedings of the American Society of Internaitonal Law at its Annual Meeting* (1953) 47, 8-15.
[403] KIRGIS, Frederick. *The American Society of International Law's First Century: 1906-2006*. Leiden: Martinus Nijhoff, 2006, p. 250.

an extensive catalogue of publications before that. From 1931 to 1935, he was a regular contributor in German-language academic journals. Starting in 1935, he had begun to publish articles and chapters in English, while working as an assistant to Professor Hersch Lauterpacht. In general, these authors were, even during the interwar years, established scholars, occupying relevant positions in the American Society of International Law.

Another characteristic united most of these authors. Josef Kunz, Charles Fenwick, Herbert Briggs, Philip Jessup, Pitman Potter and Leo Gross had all taught courses both in law and political science in American universities, instilling these interests in most of their contributions to the *Journal*. Without sacrificing the quality of their legal analyses, they tended to formulate prognoses on the development of the law (arguments *de lege ferenda*) while also presenting political problems regarding the application of certain legal positions, departing from a "pure law" perspective[404].

One possible reason for this concentration between established scholars had much to do with an institutional policy of the *American Journal of International Law*, which gave preference to contributions from its editors, even establishing a minimum quota, the publication of articles by external authors composing only the minority of contributions[405]. This is reinforced by the fact that most of the contributions on topics related to the law of international organizations were written in the editorial comments section of the *Journal*, where the concentration of articles by the editors was even more representative.

It was only during the 1960s that the structure of the *American Journal of International Law* would begin to change. After the appointment of Chris Merillat to the position of Executive Director of the Society in the middle of important funding problems, a

[404] In this context, Josef Kunz would write a series of critiques against the isolation between international law and international politics, arguing that the realist theory that dominated the study of international relations empoverished both fields (KUNZ, Josef. Swing of the Pendulum: from Overestimation to Underestimation of International Law. *The American Journal of International Law* (1950) 44:1, 135-140; KUNZ, Josef. The United Nations and the Rule of Law. *The American Journal of International Law* (1952) 46:3, 504-508). He would later be followed by Myres McDougal, a rising star in the journal since the mid-1950s (MCDOUGAL, Myres. The Realist Theory in Pyrrhic Victory. *The American Journal of International Law* (1955) 49:3, 376-378).

[405] KIRGIS, Frederick. *The American Society of International Law's First Century: 1906-2006*. Leiden: Martinus Nijhoff, 2006, p. 253.

technical administration was adopted[406], in order to promote membership in the Society and sales of the *Journal*. One of the measures espoused to enlarge readership was the reduction of the concentration of contributions among the editors, the presence of multiple specialists becoming more noticeable among the articles and comments published from 1961 on. This choice is reinforced by Table D[407], which only includes among the articles and comments on topics related to the law of international organizations from 1961 to 1964 a single piece by one of the previously mentioned main authors: Philip Jessup´s 1964 article *Diversity and Uniformity in the Law of Nations*[408].

Chris Merillat also embraced the idea to promote the study of the new emerging fields of international law, especially in the areas of space law, financial law and development aid, by creating a specific board entrusted with the task of research and development[409]. This change of focus was given practical expression by a large donation he obtained to the Society in 1961 from the Ford Foundation, the grant being conditioned to specific projects in foreign investment and development law, air and space law, international legal problems in federal states, questions on arms control and disarmament and the promotion of the teaching of international law[410].

For most of the period studied, at least up until 1961, the *American Journal of International Law* remained a relatively endogenous journal, formed by a core of editors who published a considerable part of its pieces. These editors, in general well-established scholars with links to the American Society of International Law predating to the interwar period and with dual experience in law and political science, tended to write contributions of a more philosophical, political or general character. The majority of the specialized contributions stemmed from a group of specialists that contributed to the *Journal* on an occasional basis, without a long-term connection to it.

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[406] ANDERSEN, Elizabeth. In Memoriam: Chris Merillat. *Proceedings of the American Society of Internaitonal Law at its Annual Meeting* (2011) 105, 609.
[407] Refer to Table D (Articles and Comments published in the ´American Journal of International Law´ between 1945 and 1964).
[408] JESSUP, Philip. Diversity and Uniformity in the Law of Nations. *The American Journal of International Law* (1964) 58:2, 341-358.
[409] KIRGIS, Frederick. *The American Society of International Law's First Century: 1906-2006*. Leiden: Martinus Nijhoff, 2006, 287-288.
[410] *Ibid*, pp. 285-286.

3.1.2. The *British Yearbook of International Law*: between practitioners and young Cambridge scholars

In spite of it also being a traditional and well-established journal of international law, published since 1920[411], the authors who contributed with articles and notes on topics related to the law of international organizations to the *British Yearbook of International Law* represented a much younger group in comparison to that of the *American Journal of International Law.* Differently from its American counterpart, and except for the case of Clarence Wilfred Jenks, no other author in the *Yearbook* did have a great number of contributions during the interwar years, there existing a considerable rupture brought by a new wave of authors.

An examination of the profile of the authors who published in the *Yearbook*[412] indicates that the main contributors to the journal were the doyen Clarence Wilfred Jenks, with seven published articles, followed by James Edmund Fawcett, with four published articles. Eight authors published two articles: Arthur Henry Robertson, Clive Parry, Edvard Hambro, Francis Vallat, Michael Brandon, Michael James Hardy, Robert Yewdall Jennings and Stephen Schwebel.

One element is notable as a common trait of the authors previously listed: Clarence Wilfred Jenks, James Edmund Fawcett, Arthur Henry Robertson, Edvard Hambro, Michael Brandon and Michael James Hardy were all practitioners who worked for international organizations. Francis Vallat was also a practitioner, but at the national level, having worked as an assistant legal adviser to the British Foreign Office since 1945, succeeding Gerald Fitzmaurice as chief legal advisor in 1960. Stephen Schwebel had a diverse background, with private practice as an attorney from 1954 to 1959, followed by a brief teaching stint in Cambridge from 1959 to 1961 and later acting as assistant advisor to the State Department of the United States from 1961 to 1966.

Another clear tendency is that a series of young Cambridge scholars, who would later become great figures in international law, became regular contributors to the *British*

[411] DE LA RASILLA, Ignacio. A Very Short History of International Law Journals (1869-2018). *The European Journal of International Law* (2018) 29:1, p. 150.
[412] Refer to Graph D (Articles published in the British Yearbook of International Law (Table A) according to the author) in the annexes section.

Yearbook of International Law during this time. Clive Parry, Robert Yewdall Jennings and Stephen Schwebel, as well as Derek Bowett, an up-and-coming figure, had all been graduate students in Cambridge with some professional experience in international organizations and contributed to a series of articles on various topics, also becoming regular reviewers of the journal. Among these scholars, only Clive Parry would not develop a strong career as a practitioner, remaining attached to teaching positions in Cambridge through the whole period. Still, one cannot deny his importance to the practice of international law, as he was the main editor of *The Consolidated Treaty Series*, the main global publication of international bilateral and multilateral acts.

The existence of so many young Cambridge graduates as active contributors to the study of the law of international organizations was not fortuitous. The University of Cambridge, since the late 1800s, had become the foremost center of reference for the study of international law in the United Kingdom, with the renowned Whewell Chair being occupied by John Westlake, in 1888, and then Lassa Oppenheim in 1908. During the interwar years, other two great internationalists donned this chair: Lord Alfred McNair, in 1933, and Hersch Lauterpacht, in 1938. During the 1940s and 1950s, Professor Lauterpacht was, in the words of Stephen Schwebel, "widely regarded as the leading public international lawyer in the world", attracting students from all over the globe to the institution, as it was his case, as a young Harvard graduate with great interest in international law, actively linked to student movements in support of the United Nations[413].

During the postwar years, the central position awarded to international law was evident in the programs and examinations of Cambridge, unlike the situation in its more traditional counterpart, the University of Oxford. In 1947, after the latest law course reforms in both institutions, papers on private and public international law remained

[413] KREISLER, Harry. *Reflections on a Career in International Law. Conversation with Stephen M. Schwebel, Judge of the International Court of Justice*. 22 January 1990. (Electronic Resource). Available at: <globetrotter.berkeley.edu/conversations/Schwebel/schwebel-con0.html>; DINGLE, Leslie; BATES, Daniel. A C*onversation with Judge Stephen M. Schwebel*. 13 May 2009. (Electronic Resource). Available at: <https://www.squire.law.cam.ac.uk/sites/www.law.cam.ac.uk/files/images/www.squire.law.cam.ac.uk/legacy/Media/Eminent%20Scholars%20Archive%20Transcripts/schwebel_transcript_may_2009.pdf>.

optional in Oxford[414]. Conversely, public international law was the only obligatory paper for two or three-year Law Tripos at Cambridge and remained a major topic of research in graduate diplomas[415]. The particular emphasis given to international law in Cambridge was the object of criticism by Henry Arthur Hollond, Professor of English Law, who thought that more attention should be given to subjects that involved the actual practice of barristers, just as other British universities had preferred to do:

> I have no prejudice against this subject, but I object to the compulsion of students to give to it, against their will, time which is badly needed for a well-rounded study of English law. I do indeed think it important that there should be an increase in the number of able Englishmen expert in International Law. But the fact that there is a dearth of such experts, although the study of the subject has long been compulsory for Cambridge Law students, shows how ineffective compulsion is. Some believe that the diffusion of knowledge of the technical rules of International Law creates an atmosphere favourable to international cooperation. I consider that this belief is fallacious, but that it is desirable to pay heed to it, lest the University should appear in an antisocial light at this stage in the world's history. Be that as it may, it was without doubt tactically necessary to concede the demand made on behalf of International Law[416].

Interestingly enough, in spite of the common Cambridge connection of many contributors to the *British Yearbook of International Law* – apart from Parry, Jennings, Schwebel and Bowett also including Clarence Wilfred Jenks, Michael Brandon, Michael James Hardy and Francis Vallat as former students – their own university journal was not an especially productive vehicle for the advancement of the law of international organizations. *Cambridge Law Journal*, the longest running university law journal in the United Kingdom, being edited since 1921, did not include a single article on topics related to the law of international organizations from 1945 to 1964[417]. This may be partly

[414] For a brief survey of the structure of law examinations in Oxford under the interwar and the post programs, refer to: LAWSON, Frederick Henry. Changes in the Law Courses at Oxford. *Journal of the Society of Public Teachers of Law* (1947) 1:2, 112-113. International law, in both situations, was an optional paper, with a small number of adepts.
[415] HOLLOND, Henry Arthur. The Revision of Courses of Legal Study at Cambridge. *Journal of the Society of Public Teachers of Law* (1947) 1:2, 105-111.
[416] *Ibid*, p. 108.
[417] Because of the lack of articles, no table was included in the annexes section presenting this information, differently from the case of the reviews published in the journal.

explained by the configuration of the board of editors of the journal from 1945 to 1964, which only included one International Law specialist, Professor Hersch Lauterpacht, for two very brief stints (Member of the Editorial Board of the 1949 volume and Member of the Editorial Committee of the 1954 volume). Conversely, the group of editors was easily dominated by English Law Professors, Lecturers and Readers, with Sir Percy Winfield, Henry Arthur Hollond, Stanley John Bailey and Glanville Williams, successive occupants of the Rouse Ball Professorship of English Law at Cambridge, having a prominent role in the journal.

As regards the reviews published in the journal, one may notice a distinct tendency, with two clusters of reviews (1945-1949 and 1962-1964) on books that touched on the topic of the law of international organizations[418]. And each cluster, formed by five reviews each, had a major contributor. From 1945 to 1949, three of the book reviews were written by Professor Hersch Lauterpacht, Whewell Professor of International Law. Only the reviews on Professor Martin Hill´s books were not written by him, the first one lacking any reference to the reviewer´s identity and the last one being written by Oxford´s Joyce Gutteridge. From 1962 to 1964, three of the book reviews were written by Derek Bowett, then a young Cambridge Lecturer who was concluding his textbook on the law of international organizations. Only two reviews, one on Bowett's very own book, *The Law of International Institutions*, and the other on Clarence Wilfred Jenks´ *The Proper Law of International Organizations*, were not written by Derek Bowett, but by Professor Kurt Lipstein and a young doctoral student by the name of Michael Akehurst. During the whole length of the 1950s, in spite of some prominent international lawyers forming the group of reviewers in the journal (Hersch Lauterpacht, Robert Jennings, John Mervyn Jones, Frederick Alexander Mann, Elihu Lauterpacht, Clive Parry and Kurt Lipstein), there were no reviews on any books on the topic. No clear continuity nor any institutional research focus could be traced in the university law journal, the law of international organizations remaining more of an individual undertaking of specific faculty members.

[418] Refer to Table C (Reviews published in the ´Cambridge Law Journal´ between 1945 and 1964) in the annexes section.

The Cambridge bias of most English specialists who wrote on the law of international organizations, therefore, if representing an interesting common trait, does not seem to be explained by an institutional project, but instead a simple tendency stemming from the position occupied by the institution, as the main center for international law studies in the country.

More notable than these common origins, on the contrary, was the presence of so many practitioners as authors in the journal, they contributing to the majority of the articles published in the *British Yearbook of International Law*, in sharp contrast to the prevalence of experienced professors in the *American Journal of International Law.* While the older generation still dominated the latter, a newer generation had already carved out an important space in the former, making for a way more stable transition.

3.1.3. The *Annuaire Français de Droit International* as a journal of young researchers, professors and specialists

Right from the start, the *Annuaire français de droit international* dedicated special attention to the law of international organizations. Apart from the publication of comments on the decisions given by the administrative courts of international organizations, two special sections were created: one named "United Nations and General International Organizations" ("Nations Unies et organisations internationales générales"), under the supervision of Georges Fischer, and the other named "European Organization" ("Organisation de l´Europe"), under the supervision of Daniel-Henri Vignes, editors of the journal.

The opening articles to both sections presented similar remarks on the general approaches that would be prioritized by the editors. As George Fischer's[419] and Daniel-

[419] (*Original text in French*) : "Il existe un nombre croissant de publications officielles ou non, qui permettent de suivre régulièrement les travax de l´O.N.U. et des Institutions spécialisées. La méthode suivi par nous sera différente de celle utilisée par la plupart de ces publications. Cette rubrique ne se présente pas sous la forme d´un compte rendu descriptif couvrant un grand nombre de faits et d´événements. Elle comporte des notes consacrées à des questions choisies en fonction de l´actualité, de leur importance et de leur intêrét au point de vue du droit international public. Ces notes seront conçues de façon à contribuer à l´étude méthodique des problèmes juridiques propres aux organisations internationales à vocation universelle" (FISCHER, Georges. Nations Unies et organisations internationales générales (liminaire). *Annuaire français de droit international* (1955), 1, 329).

Henri Vignes'[420] comments evince, the main idea behind their sections was not to provide a detailed description of international institutions, but to publish specialized contributions that promoted the systematic study of the main legal problems faced by international organizations in practice. The only exception to this general approach would refer to the first two editions of the *Annuaire*, which would dedicate its pages to general descriptions of the newest European and universal institutions[421], written by the editors themselves and by René Mankiewicz, an officer of the Legal Bureau of the International Civil Aviation Organization[422]. Soon after those basic outlines on the new institutions were presented, the publication of specialized contributions on practical problems would ensue and remain the sole focus.

Apart from sharing the same objective – to establish the *Annuaire* as an authoritative source of study for practitioners –, some personal trajectories and professional interests united Daniel-Henri Vignes and Georges Fischer. When examining the biography of the two editors, three common elements are noticeable: the links to international organizations, the teaching and research at the postgraduate level and a buddying interest in the ideal of economic cooperation. Starting with the former, by the time the *Annuaire* was created, in 1955, Daniel-Henri Vignes was a substitute lecturer of international law at the Bruges *Collège d´Europe*, a postgraduate institution funded by the European Communities with special focus on European Studies, which purported to be the privileged space for the education of high-ranking officials of the new "European public space"[423]. In 1959, he would become a legal officer to the European Communities, achieving the rank of chief legal advisor in 1970. During the 1980s, he directed the Development Aid Operations of the Commission of the European Communities. Seven

[420] (*Original text in French*) : "La méthode suivie dans cette chronique sera en général la même que pour les autres organisations intrenationales: des questions juridiques spéciales seront étudiees de façon approfondie." (VIGNES, Daniel-Henri. Organisation de l´Europe (liminaire). *Annuaire français de droit international* (1955), 1, 424).

[421] (Original text in French): "Toutefois, il a fallu tenir compte du développement constant de ces institutions européennes qui n´en sont qu´au début de leur fonctionnement et dont les mécanismes présentent souvent de grandes nouveautés. Dans cette phase, il convient plutôt de décrire les constitutions que de chercher à systématiser une pratique encore fragmentaire" (*Idem*).

[422] Refer to Table E (Articles published in the 'Annuaire français de droit international' between 1955 and 1964) in the annexes section.

[423] SCHNABEL, Virginie. Élites européennes en formation. Les étudiants du «Collège de Bruges» et leurs études. *Politix: Revue des sciences sociales du politique* (1998) 43, 33-52.

years his senior, Georges Fischer´s trajectory followed a different direction. Before the creation of the *Annuaire*, he had long coordinated the economic and social department of the World Federation of Trade Unions ("Fédération syndicale mondiale") and acted as its representative to the Economic and Social Council of the United Nations. By 1955, he had already migrated to a different career, being a senior researcher (*maître de recherche*) at the National Council of Scientific Research ("Conseil national de la recherche scientifique")[424]. Two years later, he would become one the main architects, alongside Professor Henri Laugier, behind the establishment of the Institute of Social and Economic Development Studies[425], a public research institute dedicated to questions of international cooperation and welfare, especially focused on promoting economic and social development among third world countries.

If both editors responsible for the sections on international organizations were interested in combining research to practice, this was also the case of the chief editor of the *Annuaire*, Professor Suzanne Basdevant. It was she who in 1953, after returning from a session of the United Nations Administrative Tribunal, had first proposed the idea of establishing a journal to a group of former graduates of The Hague Academy of International Law, among which stood Daniel-Henri Vignes and Georges Fischer. An outline of the sections of the *Annuaire* was concluded one year later, with important spaces being allotted to the practice of the French foreign office, to international decisions and arbitrations and to questions involving international organizations. According to their plan, specialized comments and articles should rapidly outgrow the tendency to present general essays, mirroring the preference of the editors for practical studies, against the traditional emphasis of the French academic environment.

In fact, this plan was generally followed, as more than one third of the authors who contributed to the first ten editions of the journal were mainly characterized as practitioners[426]. To complement this pragmatic spirit, the *Annuaire* tended to include

[424] Section bibliographique. *Annuaire Européen* (1957) 3, pp. 477-478.
[425] MORAZÉ, Charles. À L´IEDES: Georges Fischer [compte-rendu]. *Revue tiers monde* (1974) 15:58, 413-414. Some of the basic ideas that they intended to promote through the new institution may be extracted from the following joint article: FISCHER, Georges; LAUGIER, Henri. Pour une Université internationale au service des pays sous-développés. *Revue tiers monde* (1960) 1:1, 17-26.
[426] BASTID BURDEAU, Geneviève; VIGNES, Daniel-Henri. Souvenirs: L'Annuaire a cinquante ans. *Annuaire français de droit international* (2005) 51, 23-26. According to the authors, from 189 contributors to the

much shorter contributions than its counterparts. Moreover, the *Chroniques* section (international organizations, international decisions and domestic practice) normally took up over two thirds of the pages of the *Annuaire*, in contrast to the more dogmatic *Etudes* section.

These characteristics greatly set apart the *Annuaire français de droit international* from the oldest French academic journal in the area of international law, the *Revue générale de droit international public*. While the former had a multiple and diverse composition, received support from a public research institution (the National Council of Scientific Research not only gave institutional support to the journal, but also financed the first volumes) and intended to have a practical orientation, the latter was established under the direction of experienced professors, with great influence of a private editorial group[427], and focused on publishing contributions of an academic nature. The law of international organizations being a relatively new field of study, it had a more relevant reception in the young academic journal, more so when its chief editor had special interest in the discipline.

In general, during the time frame studied in the thesis, contributions linked to the theory and practice of international organizations occupied almost half of the pages of the journal. Because of this, in a period of ten years, the *Annuaire français de droit international* published more articles and notes on topics regarding the law of international organizations than the *British Yearbook of International Law* and the *American Journal of International Law* had done in twice as many years.

By examining the profile of the authors who published articles in the *Annuaire*[428], it is possible to notice the existence of great diversity, with more than sixty different authors having published articles in the period ranging from 1955 to 1964. In general, the

journal from 1955 to 1964, 104 were mainly characterized as university lecturers, while 76 were mainly characterized as practitioners. For the complete list of authors, refer to the *Tables Décennales 1955-1964* of the AFDI: GUYOMAR, Geneviève. Index des noms d'auteurs. *Annuaire français de droit internationale* (1964) Tables Décennales 1955-1964, 5-27. Available at: <https://www.persee.fr/issue/afdi_0066-3085_1964_tab_10_1>.

[427] Ausguste Pedone, from *Éditions Pedone*, masterminded the creation of the journal.

[428] Refer to Graphs F and G (Articles published in the Annuaire français de droit international (Table F) according to the author) in the annexes section.

recentness of the journal was reflected on the age of its main contributors. Apart from the natural concentration of articles by Daniel-Henri Vignes, Georges Fischer and René Mankiewicz, young editors who organized the special sections on global and regional organizations, as well as the appearance of a series of contributions by Alexandre-Charles Kiss, a doctoral student of Professor Suzanne Basdevant who worked as a researcher in the National Council of Scientific Research and helped Mr. Vignes to oversee the section on "European Organization", the main contributors to the journal were also quite young, being born between 1918 and 1933. David Ruzié, Jean Salmon, Michel Virally, René-Jean Dupuy, Marc-André Eissen, Marcel Merle and Hans Wiebringhaus, the only authors to have published more than two articles in the journal, represented a group formed by professors in their late-thirties to early-forties (Michel Virally, René-Jean Dupuy and Marcel Merle) and some young practitioners in their late-twenties to late-thirties (Hans Wiebringhaus, Jean Salmon, David Ruzié and Marc-André Eissen) by the time of the publication of their articles.

3.1.4. A cross-examination of the main authors of the journals

The examination of the *American Journal of International Law,* the *British Yearbook of International Law* and the *Annuaire français de droit international* indicated that there existed great differences between them. Each national community of specialists had its own specific configuration, with a group of main authors ranging from well-established scholars in their sixties in the United States to a group of young practitioners still in their early thirties in France. As a general rule, the publications in these journals remained endogenous, with the formation of different national groups, it being inadequate to conclude that there existed a transnational community of specialists in the field of the law of international organizations between 1945 and 1964. Just as the situation of the university environment, learned journals were heavily conditioned by a series of circumstances, such as publishing guidelines and academic objectives.

A cross-examination of the three journals reinforces the sense of separation between national communities, as there were only six authors who published articles on topics related to the law of international organizations in more than one of those periodicals. They were Clarence Wilfred Jenks, Ingrid Detter, Manfred Lachs, Michael James Hardy,

Oscar Schacter and Yuen-Li Liang. Except for the isolated case of Ingrid Detter, who back then was still a doctoral student and coincidentally published her first articles in renowned journals, but would soon become a renowned barrister and professor, all of the other authors were mostly well reputed international law practitioners. Manfred Lachs, the future world court judge, worked in Poland's Foreign Office. Michael James Hardy, Oscar Schacter and Yuen-Li Liang were legal officers or advisors at the United Nations. Clarence Wilfred Jenks, the most productive writer in the law of international organizations, was the chief legal advisor of the International Labor Organization, soon becoming its Assistant Secretary-General.

Therefore, if some sort of movement between different journals existed, it was extremely limited, the small channels being occupied by a small list of top-level practitioners, professors remaining generally attached to their own academic communities. If interesting to suggest that certain agents probably had a higher capacity of influence, the findings of this section do not allow us to affirm that a transnational community was under formation, contributions in learned journals remaining mostly circumscribed to specific groups of authors.

A comparison of the configuration of these national communities of specialists tends to mirror some of the findings of the previous chapter, hinting at why the first textbooks on the law of international organizations had been published in the United Kingdom, and not in the United States, and also indicating that France was indeed bound to a late development of the discipline.

As it has been outlined, the main authors of articles that dealt with topics related to the law of international organizations in the *American Journal of International Law* were mostly experienced professors of an advanced age, who had links to the study and teaching of the hybrid discipline of international organization (without an 's') and who had already contributed with their most important writings[429]. These authors still manifested in their writings (even in academic journals) political and legal perspectives

[429] Except for Philip Jessup, whose booklet *Transnational Law*, published in 1956, would suggest a multidisciplinar approach to public and private international law, also absorbing questions of policy and welfare.

and remained disinterested in a supposed need for autonomization. Topics such as power politics[430], world government[431] and international organization[432] still remained usual among their contributions.

On the contrary, the main authors in the *British Yearbook of International Law* formed a strong group with practical leanings, combining experienced practitioners and young scholars with interest in practice. Many of the main authors in these group had already written (or would write) important books on the law of international organizations, as in the case of Clarence Wilfred Jenks, Arthur Henry Robertson and Michael James Hardy.

The absence of a core of young prominent American teachers specialized in international organizations would reinforce the concentration of influential texts among British specialists, whose textbooks would also be utilized in the United States. This tendency remains true up until today, the main English-language textbooks on the law of international organizations being written by Northern European (Schermers and Blokker, Seyersted, Klabbers) or by British-educated authors (Bowett, White, Amerashinghe).

In the case of the *Annuaire français de droit international*, it is interesting to refer first to some omissions. All of the writers of coursebooks on *institutions internationales* were either characterized as minor authors (Paul Reuter, Charles Chaumont, Claude-Albert Colliard) or did not contribute at all to the journal (Henri Tassin Adam). Professor Suzanne Bastid, who was the chief editor of the *Annuaire*, only wrote a single contribution on the law of international organizations, dedicating herself mainly to commentaries of international decisions and book reviews.

The situation in France, therefore, was diametrically opposed to that of the United States. While there did exist a promising group of specialists interested in promoting researches on the law of international organizations, the structure of the academic

[430] BRIGGS, Herbert. Power Politics and International Organization. *The American Journal of International Law* (1945) 39:4, 664-679.
[431] EAGLETON, Clyde. The Demand for World Government. *The American Journal of International Law* (1946) 40:2, 390-394.
[432] POTTER, Pitman. Liberal and Totalitarian Attitudes Concerning International Law and Organization. *The American Journal of International Law* (1951) 40:2, 327-329.

context was refractory to the development of a specialized discipline. This group of young scholars was becoming more and more productive, but would only come to publish influential textbooks in the ensuing decades. Only during the 1980s would a process of formal autonomization take place in the study of the discipline in France.

The comparison of the different specialized communities reinforces some of the findings of the previous chapter and provides some clues on the differentiation between the American and the British contexts. Autonomization, a process that meant the differentiation of the law of international organizations from political and social perspectives, would be promoted mostly by a community of practically-oriented specialists in the United Kingdom, a task that would be spearheaded by Derek Bowett's textbook.

3.2. What do they read: the existence of common sources of consultation and influential texts to practitioners and researchers

If traversing the frontiers of these national communities of specialists was an uncommon achievement, there mostly existing separate networks of specialists, this did not mean that ideas could not adequately circulate. Differently from the study of articles and comments, an examination of the book reviews of these journals suggests that there existed a considerable amount of influential texts, with the capacity to cross borders, establishing a common repertoire to practitioners, researchers and professors of the field, in different countries.

In other words, if a global community of specialists may not be deduced from academic journals, a study of the review sections, on the contrary, reinforces the gradual consolidation of a transnational network of ideas. As it is possible to conclude from a cross-examination of the journals, some important monographic and general texts could transpose frontiers, simultaneously influencing the practitioners, students and researchers of these three countries.

Instead of presupposing the influential nature of certain texts, based on a transcendental notion of quality, I have applied an objective measure to the

ascertainment of their influence, following Paul Vogt's methodological suggestion to use the viewpoint of the specialists as the proper lens of analysis[433].

The criterion utilized to reach the listing of influential books was the existence of review articles by journals from these different countries. Amidst the books that were reviewed in the *American Journal of International Law*[434], the *British Yearbook of International Law*[435], the *Annuaire Français de Droit International*[436] and the *Revue International de Droit Comparé*[437] between 1945 and 1964, a list of forty-five common books may be retrieved[438], representing almost a fifth of all the books reviewed by these journals dealing with topics that had some connection to the field of the law of international organizations. Since less than half of the books received by each journal ended up being reviewed, this significant convergence, represented by forty-five books, seems to conform to an emergent idea of merit, in the eyes of the editors of these journals, also complying with Bourdieu's idea of an "internal legitimizing authority".

Because of the reception of the selected oeuvres among learned journals, one may suppose that the list presents a set of influential texts to the study of the law of international organizations. The list is mostly composed of specialized writings on specific international organizations or monographic books on particular topics, providing great impact on the development of the substantive contents of the discipline. This representative sample will be examined hereinafter in order to evince some of the main characteristics of the writings of the discipline. These specific characteristics will be presented in a series of graphics below, which I hope will serve as useful illustrations

[433] VOGT, Paul. Identifying Scholarly and Intellectual Communities: A Note on French Philosophy, 1900-1939. *History and Theory* (1982) 21:2, 267-278.
[434] Refer to Table E (Reviews published in the ´American Journal of International Law´ between 1945 and 1964) in the annexes section.
[435] Refer to Table B (Reviews published in the 'British Yearbook of International Law' between 1945 and 1964) in the annexes section.
[436] Refer to Table G (Reviews published in the 'Annuaire français de droit international' between 1955 and 1964) in the annexes section.
[437] Refer to Table J (Reviews published in the "Revue internationale de droit comparé" between 1949 and 1964) in the annexes section.
[438] Refer to Table L (Reviews published in academic journals of multiple countries between 1945 and 1964) in the annexes section.

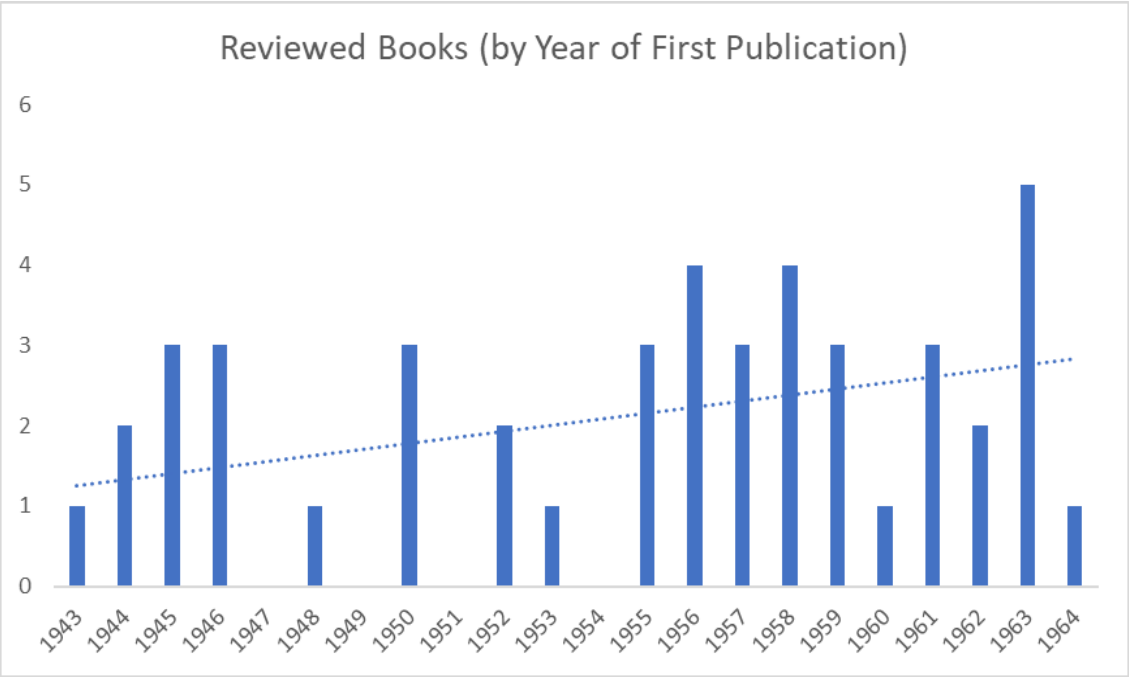
to point out both what united and what differentiated the most relevant writings in the first two decades of the postwar years.

Before advancing to the analysis of some common (and distinguishing) features of these books, it is interesting to notice that none of the French coursebooks mentioned in the last chapter was the object of multiple reviews, except for Henri Tassin Adam's *Les établissements publics internationaux*, the most technically inclined of the group, with mixed opinions. Derek Bowett's textbook, on the contrary, was the object of a positive book review by all of the four journals, the review article of the *American Journal of International Law* being published with the delay of one year in relation to the time frame of the thesis, in 1965[439]. This circumstance is in line with the findings presented in the last chapter, further reinforcing the idea that the French coursebooks, dependent on the specific configuration of the law curriculum in the country and directed to the teaching of undergraduate students in the context of a hybrid discipline, did not achieve great popularity in the United States or in the United Kingdom – be it in the university environment, be it in professional circles. Despite its introductory character, Derek Bowett's textbook, by adopting a more pragmatic structure and systematizing a series of previous writings, could very well serve the professional community of the three countries.

3.2.1. An examination of the representative books

Advancing to data analysis, a first possible line of examination refers to a classification of these representative books based on the year of their first publication. The data consolidated in 'Table L' points out to a concentration of representative studies during the formative years of the United Nations, followed by some sparse writings during the late 1940s and early 1950s, followed by a steady and reasonably more dense stream of representative publications beginning on the mid 1950s. Transposing this data to a graph, one may see the formation of these separate clusters of books in Graph H:

[439] GROSS, Leo. [Book review] The Law of International Institutions. By D.W. Bowett. *The American Journal of International Law* (1965) 59:2, 419-420.



Graph H (Books reviewed (Table L) according to the year of first publication)

If one removes from the previous list those books of a theoretical, normative or historical character[440], which make up a great part of the writings of the 1940s, only conserving those oeuvres of a strictly technical character (Table M), the division between a first period of sparse contributions and a second period of constant production becomes even clearer, with the possibility to give special emphasis to the period starting in the mid-fifties, where a great number of representative texts appeared.

This circumstance is revealed by Graph I, almost two-thirds of the relevant books (23) being concentrated in its right-hand side, between 1955 and 1963, in a continuous sequence, in contrast to the disperse one-third of the relevant books (12) published between 1945 and 1954, in line with Jan Klabbers' hypothesis that the relevance of the

[440] The ten books removed from the list are, by ascending year of publication: Piero Ziccardi´s *La Costituzione dell´Ordinamento Internazionale*; James Brierly´s *The Outlook for International Law*; Paul Guggenheim´s *L´Organisation de la Société Internationale*; Andrè Salomon´s *Le Préambule de la Charte*; Chamberlain, Jessup, Lande and Lissitzyn´s *International Organization; Philip Jessup´s Transnational Law*; Inis Claude´s *Swords into Plowshares*; Charles de Visscher´s *Théories et Réalités en Droit International Public*; Clarence Wilfred Jenks´ *The Common Law of Mankind* and Wolfgang Friedmann´s *The Changing Structure of International Law.* For the final list, refer to Table M (Reviews published in academic journals of multiple countries between 1945 and 1964, including only writings of a technical nature) in the annexes section.

study of the law of international organizations was especially noticeable during the mid to late 1950s[441], as far as books and monographs of a representative nature are concerned:

Graph I (Books reviewed (Table M) according to the year of first publication)

Apart from the identification of a tendency for continuous production starting in the mid-1950s, both graphics suggest – albeit not conclusively – that that the multiplication of the specialized writings of the law of international organizations took place as a process of gradual accretion, instead of a process of immediate rupture. Over time, more and more relevant texts were being produced, evincing either a qualitative increase of the works of specialists or a growing interest in writings of the discipline.

The gradual accretion of representative books on topics related to the law of international organizations suggests that international law specialists were more and more attentive to the discipline as a relevant object of study, a tendency that reinforces the idea that the discipline was undergoing some degree of substantive development, as a proper public of authors and readers was being formed.

[441] Refer to KLABBERS, Jan. The Transformation of International Organizations Law. *The European Journal of International Law* (2015) 26:1, p. 49.

If Graphs H and I are not necessarily linked to the idea of an autonomization of the discipline, a process that entails the adoption of a different mindset on what is inside and what is outside of the academic field, they suggest a growing interest on a series of topics that would later come to be associated to the proper study of the law of international organizations. For this reason, they amount to advances on the substantive side (development) but not necessarily on the formal side of the discipline (autonomization).

Another interesting topic of analysis refers to the activities exercised by the authors of these representative books, in order to draw their professional profiles as either that of professors, practitioners or both and to evaluate if there existed some sort of common characteristics that could influence them to take up the investigation of topics related to the law of international organizations.

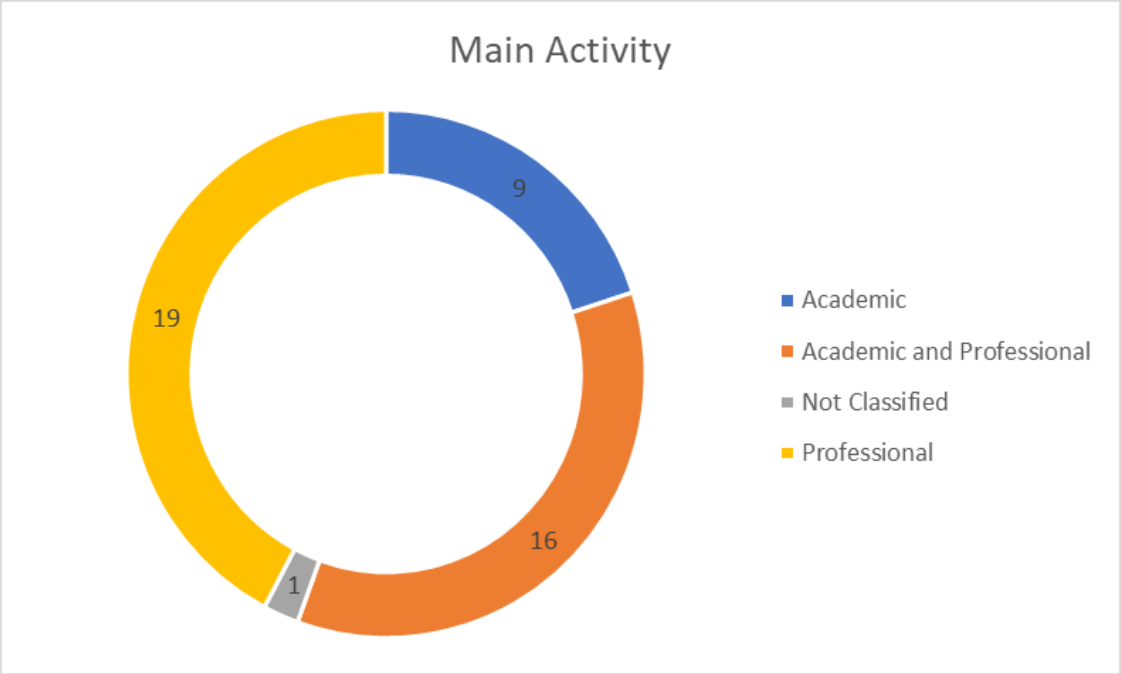
This analysis may be used to either support or question another of Jan Klabbers' hypotheses, which states that the early writings on the law of international organizations were mostly the work of practitioners, not the product of scholar reflection[442].

In order to insert the authors into one of the three categories, I have set a minimum threshold of five years' activity. The "Academic" category includes those authors who have taught at the university level as lecturers or professors for at least five years. The "Professional" category includes those authors who have worked either as consuls, diplomats, legal advisors, international judges, international arbiters, officers of international organizations or members of international commissions for at least five years. The "Academic and Professional" category refers to authors who fit both criteria. One author could not be adequately classified, due to some uncertainties over his biographical information[443].

[442] Refer to KLABBERS, Jan. Theorizing International Organizations. In: ORFORD, Anne; HOFFMANN, Florian. *The Oxford Handbook of the Theory of International Law.* Oxford: Oxford University Press, 2016, p. 618.

[443] The "Not Classified" item refers to Pierre Brugière. The inconsistencies found when researching his biography do not ensure that the minimum aspects of the thresholds were duly respected.

Graph J presents the data in relation to the extensive list of books (Table L):

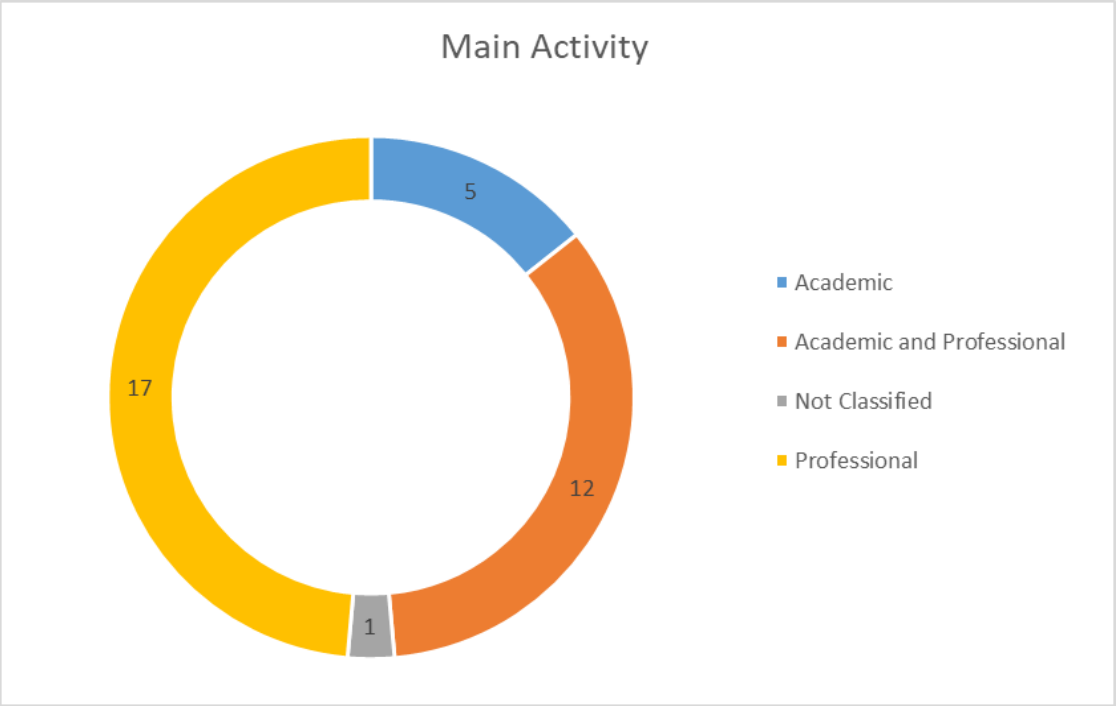


Graph J (Books reviewed (Table L) according to the main activity of their writers)

The division of authors based on their main activity reveals some clear tendencies. Almost eighty percent of the writers of these representative books had some degree of professional experience in practical international law activities, in contrast to some fifty-five percent of them having some degree of experience in university teaching. Considering those authors that only had professional experience in one of the fields (practice or teaching), pure practitioners represented more than double the number of pure professors.

If once again those historical, normative and theoretical oeuvres are excluded so that only writings of a strictly technical character remain (Table M), practitioners become an even more illustrative group. Pure professionals come to represent almost fifty percent of all writings, more than three times the percentage of pure professors. By uniting both groups of practitioners, one gets to eighty-three percent of all authors.

Graph K presents the concentration of authors according to their main activity in relation to the list of books of a technical nature (Table M):

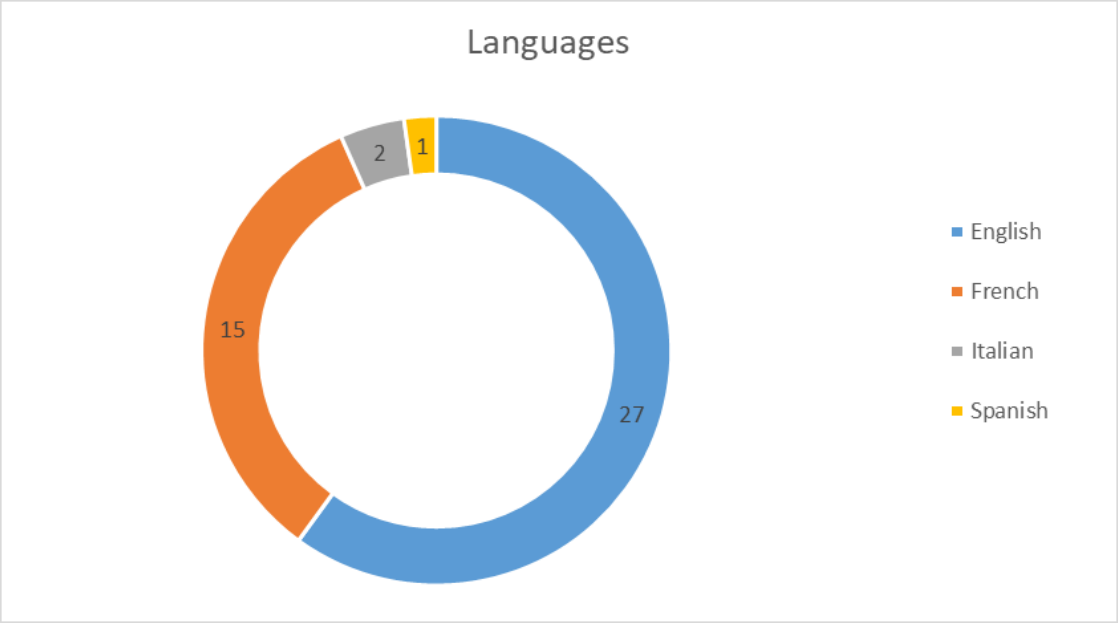


Graph K (Books reviewed (Table M) according to the main activity of their writers)

The last aspect examined refers to the question of language. The presence of many reviews of books written in French both in the United Kingdom and in the United States – as well as that of many books written in English in France – evinces that, in spite of the single language policy acting as a barrier to publication in these journals, this did not mean an absolute closure when it came to their audiences. French authors could reach out to a public of specialists comprised of English speakers, just as the opposite was also true, English language books being commonly available to French specialists. Articles in a single language contrasted with reviews of books written in many languages. The presence of polyglots among the most productive reviewers of these journals (Clyde Eagleton, Josef Kunz and Oliver Lissitzyn in the *AJIL*, Georges Fischer, Suzanne Basdevant and Daniel-Henri Vignes in the *AFDI*, David Johnson, Hersch Lauterpacht and Kurt Lipstein in the *BYIL*) also unlocked the possibility of books in languages as diverse as Russian, Polish, Czech, German, Swedish, Portuguese, Spanish, Italian, French and English being reviewed.

In spite of the existence of some degree of multilingual openness, reviews on languages different from English and French only represented a minor group in these journals. There was a strong tendency for bilingualism, with books in these two languages being indistinctly reviewed in the four learned journals examined in this section.

Among the forty-five books examined in this section, which deal with topics related to the law of international organizations, the concentration in these two languages is evident, one third being written in French and almost two thirds in English. Two books were written in Italian and a single book was written in Spanish, them representing, as a group, less than seven percent of the sample.



Graph L (Books reviewed (Table L) according to their language)

The bilingual nature of the learned community is perfectly exemplified by the conferral of academic prizes. One such example is the 1955 *Carnegie Endowment Prize on International Organization*[444]. From the four selected books and manuscripts, two were written in French and the other two in English. The diverse composition of the great jury further attests this condition, as it was formed by an American practitioner (Mr. Harding Bancroft, from the International Labor Organization), a Swiss scholar (Mr. Jacques Freymond, from the Graduate Institute of International and Development Studies), a

[444] An advertisement of the prize was published at the back matter of *Politique étrangère* (1955) 20:5.

Belgian scholar and practitioner (Mr. Georges Kaeckenbeeck, former professor, diplomat, arbiter and judge and current Secretary-General of the International Authority for the Ruhr), an Indian diplomat (Mr. Samar Sen, General-Consul in Geneva) and a British practitioner (Mr. Eric Wyndham-White, Executive Secretary of the General Agreement on Tariffs and Trade).

Another element that reinforced the idea of a network of ideas was the presence of chains of referencing. An unwritten practice existed (as it still does today) to include references to previous articles published in the same journal, which reinforced the idea of an institutional identity and brought further attention to previous contributions. T

Apart from internal referencing, it was quite common for the journals to make external references to one another, establishing connections between their own networks of ideas. Apart from the references included in the articles, the review section of these journals also helped to establish some sort of transversal dialogues, as it was usual for the journals to review one another, with brief presentations of its most important articles being accompanied by short biographical notes of their authors. The most notable example of this is the *American Journal of International Law*, which consistently included in its review sections a summary of the last published volumes of the *British Yearbook of International Law, the Annuaire Français de Droit International*, the *Annuaire de l'Institut de Droit International* and the *Collected Courses of The Hague Academy of International Law*.

Yet another important symptom of the gradual reinforcement of the legal practice on the law of international organizations was the publication of collected materials, which also gained traction during the postwar period. Apart from the publication of commentaries to the United Nations Charter during the 1940s and early 1950s, such as those by Hans Kelsen[445], by Alf Ross[446], by Leland Goodrich and Edvard Hambro[447] and

[445] KELSEN, Hans. *The Law of the United Nations: a Critical Analysis of Its Fundamental Problems.* New York: Praeger, 1951.
[446] ROSS, Alf. *Constitution of the United Nations: Analysis of Structure and Function*. New York: Rinehart and Company, 1950.
[447] GOODRICH, Leland; HAMBRO, Edvard. *Charter of the United Nations: commentary and documents*. Boston: World Peace Foundations, 1946.

by Norman Bentwich and Martin Andrew[448], a series of periodical publications were presented to specialists on the field.

Three different sources of collected materials may be mentioned. First, starting in 1948, the *Yearbook of International Organizations* (soon followed by the French version *Annuaire des organisations internationales*), a selection organized annually by the Union of International Associations, provided practitioners with a great range of materials from universal and regional international organizations, as well as non-governmental organizations. During the 1950s, another important source of information became available. After the approval of Resolution A/RES/796(VIII) by the General Assembly, the Secretary-General proceeded to the publication of the *Repertory of Practice of United Nations Organs*, updated by periodical supplements. In the 1960s, it would be paired with the *United Nations Juridical Yearbook*, prepared under a more didactic structure. Lastly, some publishing companies also began to provide national and international public officers with compilations of legal instruments for daily practice, such as Amos Peaslee's *International Governmental Organizations*[449] and Louis Sohn´s *Cases and Materials on United Nations Law*[450], authoritative documentary sources that included summaries, texts, notices, membership tables, suggested bibliographies and commentaries and would be reedited up until the 1980s.

If an examination of the articles and book reviews in academic journals cannot properly show a transnational network of specialists, it is at least useful to evince the formation of a transnational network of ideas, which suggests the globalization of the interested audience. The identification of a set of works of reference on topics related to the study of international organizations, gradually acquiring prominence over the 1950s, as well as the multiplication of collected materials, suggest that the discipline was gaining popularity at the time, there existing some demand for further research on the law of international organizations.

[448] BENTWICH, Norman; ANDREW, Martin. *A Commentary on the Charter of the United Nations.* New York: Macmillan Publishing, 1950.
[449] PEASLEE, Amos. *International Governmental Organizations.* 2 vols. The Hague: Martinus Nijhoff, 1956.
[450] SOHN, Louis. *Cases and Materials on United Nations Law.* London: Stevens & Sons, 1956.

3.3. How do they write and think: the evolution of common topics and competing ideas in articles from different journals

Apart from providing an illustration of the main authors of each learned journal, a cross-examination of the articles and comments on topics related to the law of international organizations may provide us with an illustration of the most pressing debates on the field. If some topics remained popular throughout the whole period, such as the questions of the privileges and immunities of the agents of international organizations[451], the treaty-making power of international organizations[452] or the revision of constitutive instruments[453], other questions were stimulated by specific situations faced in practice, producing true research clusters, with contributions from different journals. The substantive development of the topics of the discipline, as the last subchapter has suggested, happened through simultaneous processes, unlike the autonomization of the discipline, which was highly influenced by particular academic contexts.

Some of the practical issues that pushed forward the study of the law of international organizations from 1945 to 1964 will be briefly presented, in order to illustrate how common or opposing argumentative lines could be identified between the writings from

[451] For some examples, refer to: JENKS, Clarence Wilfred. The Relationship of International Organizations to Municipal Law and Their Privileges and Immunities. *British Yearbook of International Law* (1945) 22, 249-251; KUNZ, Josef. Privileges and Immunities of International Organizations. *The American Journal of International Law* (1947) 41:4, 828-862; PREUSS, Lawrence. Immunity of Officers and Employees of the United Nations for Official Acts. The Ranallo Case. *The American Journal of International Law* (1947) 41:3, 555-578; BRANDON, Michael. The Legal Status of the Premises of the United Nations. *British Yearbook of International Law* (1951) 28, 90-113; FISCHER, Georges. Privilèges et immunités. *Annuaire français de droit international* (1955) 1, 385-392; QUOC DINH, Nguyen. Les privilèges et immunités des organisations internationales d'après les jurisprudences nationales depuis 1945. *Annuaire français de droit international* (1957) 3, 262-304; KIRDAL, Üner. The International Administrative Service (OPEX): Provision of Operational, Executive and Administrative Personnel. *British Yearbook of International Law* (1962) 38, 407-421.

[452] For some examples, refer to: FISCHER, Georges. L'Accord entre l'Organisation des Nations Unies et l'Agence internationale de l'Energie atomique. *Annuaire français de droit international* (1957) 3, 375-383; GOLSONG, Héribert ; KISS, Alexandre-Charles. Les accords entre le Conseil de l'Europe et d'autres organisations intergouvernementales. *Annuaire français de droit international* (1958) 4, 477-492; DETTER, Ingrid. The Organs of International Organizations Exercising their Treaty-Making Power. *British Yearbook of International Law* (1962) 38, 421-444.

[453] For some examples, refer to: SCHWELB, Egon. The Amending Procedure of Constitutions of International Organizations. *British Yearbook of International Law* (1954) 31, 49-95; LACHS, Manfred. Les conventions multilatérales et les organisations internationales contemporaines. *Annuaire français de droit international* (1956) 2, 334-342; LAMBERS, Hans Jürgen. Les clauses de révision des Traités instituant les Communautés Européennes. *Annuaire français de droit international* (1961) 7, 593-631.

different journals. A tentative list of topics will be presented in sequence, some representative articles being indicated to explain the state of the academic discussions in the delimited timeframe. An examination of these contributions will be organized under two headings: first, the relationship to the sources of international law; second, the relationship to the law of international responsibility.

3.3.1. International organizations and the sources of international law

3.3.1.1. The binding force of the recommendations of international organizations

Amidst a doctrine of sources that was still limited to the references of article 38 of the Statute of the International Court, there was need to assess the legal nature of other important instruments: the recommendations of international organizations. The opening article of the 1948 *British Yearbook of International Law*, by Frank Blaine Sloan, a member of the Legal Department to the United Nations Secretariat, would be an important point of departure to foster discussions on the topic[454]. In a well-researched article, which includes references to a vast repertoire of practices from the United Nations, the League of Nations, the Organization of American States and the International Labor Organization, the author examined the binding force of recommendations of the General Assembly (and also very briefly of the Security Council) of the United Nations[455]. Two situations were singled out as constituting the sphere of binding recommendations: the enumerated powers under the Charter of the United Nations and the recommendations directed to subsidiary organs[456]. When facing the controversial question of General Assembly's recommendations on the maintenance of peace, the author concluded that practice had still not consolidated a special authority and that one could not foresee a customary rule *in statu nascendi* that could lead to such development. A brief exposé on the Security Council ensued, with the conclusion that binding recommendations existed not only under Chapter VII of the Charter (Action with respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression),

[454] SLOAN, Blaine. The Binding Force of a Recommendation of the General Assembly of the United Nations. *British Yearbook of International Law* (1948) 25, 1-33.
[455] The author also relies heavily on the first commentary to the UN Charter: GOODRICH, Leland; HAMBRO, Edvard. *Charter of the United Nations: commentary and documents*. Boston: World Peace Foundations, 1946.
[456] *Ibid*, pp. 3-6.

but also under Chapter VI (Pacific Settlement of Disputes). Despite denying the binding character to most instances of General Assembly recommendations, the author lauded their growing role as a means of developing international law, especially in view of the multiplication of declaratory recommendations on principles of international law and on the promotion of human rights[457].

In the same year, an article by Hans Kelsen published in *The International Law Quarterly*[458] presented a more detailed analysis of the Security Council recommendations issued under Chapters VI and VII of the Charter. Based on the wording of article 25 of the Charter, which provides for the obligation of member states to accept and carry out the "decisions" of the Security Council, Kelsen refuted the idea that the drafters intended to encompass every resolution adopted by the organ, but pointed out that the Security Council was authorized to confer binding effect even to recommendations issued under one of the articles of Chapter VI of the Charter[459]. The only limit to this competence, in his opinion, was that the Security Council could not "create new law in the relation between the contesting parties", it being a power that was not even "conferred upon the principal judicial organ of the United Nations, the International Court of Justice"[460].

The advent of the 1950 *Uniting for Peace* Resolution – A/RES/377(V), which attributed some degree of bindingness to the recommendations issued by the General Assembly on the topics of peace and security whenever the Security Council failed to discharge its responsibilities, brought more attention to the topic. Some commentaries on the

[457] *Ibid*, pp. 31-33.
[458] KELSEN, Hans. The Settlement of Disputes by the Security Council. *The International Law Quarter* (1948) 2:2, 173-213.
[459] In an article from 1946, Clyde Eagleton examined the procedural aspects of Chapter VI, presenting the *travaux préparatoires* and the practical questions faced by the Security Council. He does not provide a clear-cut answer on the topic of bindingness of the recommendations, but seemed to suggest that articles 34 to 38 only provide for a suggestion on the part of the organ (EAGLETON, Clyde. The Jurisdiction of the Security Council over Disputes. *The American Journal of International Law* (1946) 40:3, 513-533). Gerald Fitzmaurice, in a 1956 article, commented that recommendations under Chapter VI of the Charter, unlike those under Chapter VII, "are not of an enforcement character" (FITZMAURICE, Gerald. The Foundations of the Authority of International Law and the Problem of Enforcement. *Modern Law Review* (1956) 19:1, 1-13).
[460] KELSEN, Hans. The Settlement of Disputes by the Security Council. *The International Law Quarterly* (1948) 2:2, pp. 212-213.

resolution ensued, evincing the expansion of the powers of the General Assembly, its recommendations departing from a mainly political effect[461].

More systematic studies followed the lead, considering the problem from the standpoint of any international organization, and not only the United Nations. The analysis of the binding force of the acts of international organizations was the object of Marcel Merle's 1958 article *Le pouvoir réglementaire*[462], which described the progressive shift in international law from the "conventional technique", based on treaties, to the "regulatory technique", based on recommendations of international organizations. According to him, the main difference between these models had to do with the direct or indirect executory force of the international instrument. While treaties depended on specific procedures of ratification by each contracting state, recommendations of international organizations were immediately applicable to member states, based on the previous delegation by the constitutive instrument or other treaty-based commitment. Although based on a delegation, recommendations ought not to be considered as a contractual source of international law – on the contrary, they represented unilateral acts of the organization, which could be opposed to certain member states even against their will. The binding force of recommendations derived from a previous delegation by the member states, but they were proper acts of the organization. They represented a revolutionary technique since they allowed for the collective and consensual elaboration of rules, unlike the traditional conventional technique, which relied on self-limitation[463].

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[461] WOOLSEY, L.J. The "Uniting for Peace" Resolution of the United Nations. *The American Journal of International Law* (1951) 45:1, 129-137; GOODRICH, Leland. Expanding Role of the General Assembly: The Maintenance of International Peace and Security. *International Conciliation* (1951) 29, 231-281; VALLAT, Francis. The General Assembly and the Security Council of the United Nations. *British Yearbook of International Law* (1952) 29, pp. 94-100; ANDRASSY, Juraj. Uniting for Peace. *The American Journal of International Law* (1956) 50:3, 563-582. Louis Sohn, despite defending the legality of the *Uniting for Peace* Resolution, insisted that any action ordered by it would have the nature of a simple recommendation, authorizing member states to take action but not binding them (SOHN, Louis. Authority of the United Nations to Establish and Maintain a Permanent United Nations Force. *The American Journal of Internaitonal Law* (1958) 52:2, pp. 231-235).

[462] MERLE, Marcel. Le pouvoir réglementaire. *Annuaire français de droit international* (1958) 4, 341-360.

[463] (*Original text in French*): "À côté des conventions, qui demeurent dominées par la technique contractuelle, les règlements apparaissent comme des actes règles unilatéraux susceptibles d'être imposés — sous réserve de certains aménagements — aux États par les organisations internationales. A partir du moment où les États ont consenti une délégation de compétence initiale, c'est une véritable législation — au sens plein que ce terme revêt en droit interne — qui émane des institutions

Michel Virally, in *La valeur juridique des recommandations des organisations internationales*[464], sophisticated the examination of bindingness, by distinguishing between three different types of recommendations, according to its addressees: internal recommendations, directed to another organ of the organization, recommendations to member states and recommendations to third parties. For internal recommendations, one ought to consider the relationship between the relevant organs: when a hierarchical relationship exists, the recommendation is binding, except for the cases when exclusive attributions are conferred to the subordinate organ, and not to its superior counterpart. As for recommendations to member states, he argued that the text of the constitutive instrument assumes special significance to understand the relationship between the institution and its parties, it usually being the case that such recommendations give content to a conventional obligation (indirect bindingness), but not become obligatory on their own[465]. Regarding recommendations to third parties, Professor Virally pointed out that they must generally be understood as simple propositions, which may be voluntary respected or not by its addresses. The sole exception to this case refers to the United Nations, whose ample and indivisible institutional functions are not compatible with the strict limits of the "conventional technique", it being necessary to extend the obligation to promote peace and security to all states in the world, and not only those that partake in its daily activities[466].

internationales. Sans doute, cette réglementation demeure-t-elle théoriquement inférieure à l'activité conventionnelle puisqu'elle ne peut intervenir qu'à partir d'un texte préétabli ou sur la base d'une délégation formelle de compétence. Mais la technique de l'élaboration réglementaire est beaucoup plus perfectionnée que celle du traité. La souveraineté subit ici un assaut décisif; elle se résout en une série de compétences qui permettent seulement aux États de participer à l'élaboration collective de décisions auxquelles ils ne pourront plus se soustraire" (*Ibid*, p. 360).

[464] VIRALLY, Michel. La valeur juridique des recommandations des organisations internationales. *Annuaire français de droit international* (1956) 2, 66-96.

[465] *Ibid*, p. 83.

[466] (*Original text in French*): "Il en va un peu différemment lorsqu'il s'agit d'une recommandation émanant des Nations Unies, c'est-à-dire d'une organisation politique à vocation mondiale. La société fondée par les Nations Unies ne réunit comme membres actifs que les États signataires de la Charte de San Francisco ou qui ont été admis par la suite conformément à la procédure fixée à l'art. 4. Et on sait combien peut être difficile cette admission. Il n'en reste pas moins que les buts qu'elle se propose présentent un caractère universaliste qui ne peut être nié. La paix et la sécurité internationales ne sont pas divisibles, comme l'histoire l'a montré. (...) L'organisation se trouvera donc fondée, sur la base des articles précités, à attendre des États non membres qu'ils assument en matière de paix et de sécurité internationale les mêmes obligations que les membres et à conférer la même valeur juridique à ses recommandations, que leurs destinataires fassent ou non partie des Nations Unies." (*Ibid*, pp. 91-92). As one may notice, Michel Virally's construction is quite close to the idea of an "objective regime", a doctrinal concept that intends

3.3.1.2. The nature of the internal law of international organizations

A further development of the discussions on the effect of the practice of international organizations on the sources of international law referred to the legal nature of the internal law of international organizations. The topic, which already had some doctrinal allure, was kindled by a series of three advisory opinions delivered by the International Court of Justice on the topic of the effects and procedures of the rulings by administrative tribunals and other internal organs[467].

Lazar Focsaneanu, in the oft quoted article *Le droit interne de l'Organisation des Nations Unies*[468], published in the 1957 edition of the *Annuaire français de droit international*, tackled the question of the legal nature of the internal law of international organizations, presenting three different perspectives on the topic and their respective criticisms[469]. The first perspective, associated to Professor Dionisio Anzilotti, considered the internal law of internal organizations to be a specific category of treaties, since only indirectly concluded by states, on the basis of a previous delegation of capacities to international institutions. This perspective, however, was opposed by Professor Focsaneanu as it ignored the existence of a separate will on the part of international organizations, going against the recognition of its independent legal personality by the International Court of Justice. The second perspective, associated to Professor Suzanne Bastid, extended the boundaries of traditional international law to include the internal law of international organizations, due to practical considerations of hierarchy and to

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to explain why third parties must necessarily abide by some specific treaty regimes, especially of a territorial nature, since they establish *erga omnes* obligations that are imperiled by non-general membership. For a short presentation of the concept, refer to: SIMMA, Bruno. The Antarctic Treaty as a Treaty Providing for an Objective Regime. *Cornell International Law Journal* (1986) 19:2, 189-209.

[467] The cases in question are: INTERNATIONAL COURT OF JUSTICE. *Effect of awards of compensation made by the U. N. Administrative Tribunal*, Advisory Opinion of July 13th, 1954: I.C.J. Reports 1954, p. 47; INTERNATIONAL COURT OF JUSTICE. *Admissibility of hearings of petitioners by the Committee on South West Africa*, Advisory Opinion of June 1st, 1956: I.C.J. Reports 1956, p. 23; INTERNATIONAL COURT OF JUSTICE. *Judgements of the Administrative Tribunal of the I.L.O. upon complaints made against the U.N.E.S.C.O.*, Advisory Opinion of October 23rd, 1956: I.C.J. Reports 1956, p. 77.

[468] The article is one of the twenty-three works mentioned by *Rapporteur* Giorgio Gaja in his *Third Report on the Responsibility of International Organizations* before the International Law Commission (2005), being also mentioned in important texts of the law of international organizations such as Henry Schermers and Niels Blokker (*International Institutional Law: Unity within Diversity*), Michel Virally (*Le droit international en devenir*), Allain Pellet (*Les fondements juridiques internationaux du droit communautaire*) and Antonio Augusto Cançado Trindade (*Foundations of international law: the role and importance of its basic principles*).

[469] FOCSANEANU, Lazar. Le droit interne de l´Organisation des Nations Unies. *Annuaire français de droit international* (1957) 3, pp. 321-326.

the possibility of international rules exerting direct effect over individuals. This perspective, however, was strongly criticized since it only encompassed the relations between the institution and its agents, and ignored the fact that many of those rules were of a private nature, risking the very coherence of public international law. The third perspective, with which Professor Focsaneanu sided, was associated to Professor Paul Reuter, considering that the internal law of international organizations constituted a series of autonomous legal systems, alike domestic legal orders.

In order to support his choice, Professor Focsaneanu resorted to a series of different arguments. Firstly, he claimed that the interpretation of the internal law of international organizations should not be conducted under a strict functionalist perspective, an institutionalist overview also being necessary. By recovering the teachings of Maurice Hauriou, Otto von Gierke and Franz Von Liszt[470], he argued that the act of institution/foundation was also one of delegation, since the creation of a new autonomous entity necessarily and logically required the power to regulate its internal workings. The constitutive instrument of an international organization, therefore, retained a hybrid character, simultaneously representing a contractual commitment between the parties before international law (a treaty) and also representing the foremost source of the internal law of the organization (a constitution)[471]. Other sources that complemented the constitutive instrument were institutional practice and regulations, which occupied in the internal law of international organizations a similar position to custom and laws within national legal systems. In this new context, where both states and international organizations could have their very own legal orders, the author proposed a new *summa divisio*, capable of replacing the old domestic/international dichotomy, the global legal order now being comprised of international law and the internal law of international legal persons.

A similar approach to the legal nature of the internal law of international organizations would later on be the object of a contribution of the Belgian Professor Phillipe Cahier, who published *Le droit interne des organisations internationales* in the 1963 volume of

[470] *Ibid*, pp. 319-321 and 324-325.
[471] *Ibid*, pp. 326-328.

the *Revue générale de droit international public*[472], an article that also defended the independence of the internal law of international organizations from international law, without the same refinement of Professor Focsaneanu's contribution.

A practical application of these considerations is exemplified by Jean-Pierre Ritter's 1962 article *La protection diplomatique à l'égard d'une organisation internationale*[473]. Explaining the pervading doubts over the adequacy of the analogy between the domestic legal order and the internal law of the international organization[474] and the possible consequences from each perspective, the author refrained from taking one of the sides. If this omission did not allow the reader to distinguish whether a simple violation of the internal law of an international organization authorized the state to act on behalf of its nationals, or if it was necessary to identify the violation of an obligation stemming from a proper (and unquestionable) international law rule, the author at least found a middle ground between the opposing perspectives. To this effect, he argued that, due to the dual nature of the constitutive instrument, it may be possible to find a direct damage to the state of the nationality, if the action or omission in question impacted a commitment assumed before the state parties[475]. When the case came to the presentation of a diplomatic protection claim, he argued that the common procedural requisites, such as the previous exhaustion of internal remedies, ought to be properly fulfilled, internal remedies being understood as every administrative, judicial or arbitral means that may lead to a practical solution and that is accepted by the organization[476].

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[472] CAHIER, Phillipe. Le droit interne des organisations internationales. *Revue générale de droit international public* (1963) 67, 563-602.

[473] RITTER, Jean-Pierre. La protection diplomatique à l'égard d'une organisation internationale. *Annuaire français de droit international* (1957) 8, 427-456.

[474] (Original text in French): "Un Etat ne peut donc sur le plan des relations internationales invoquer le droit interne d'un autre Etat. Le même principe vaut-il du droit interne d'une organisation internationale ou faut-il considérer au contraire que, les normes du système juridique d'une organisation faisant partie du droit international, leur violation justifie une action de droit des gens?" (*Ibid*, p. 350).

[475] *Ibid*, pp. 452-454.

[476] (*Original text in French*): "toute procédure judiciale, arbitrale ou administrative qui aboutit à statuer sur sa demande d'indemnité et à laquelle l'organisation internationale accepte de se soumettre". (I*bid*, p. 454).

3.3.2. The powers and responsibility of international organizations

Three other events provided great stimulus to academic and professional journals, this time on the topic of the powers and responsibility of international organizations: the Korea War, the establishment of the United Nations Emergency Force (UNEF) in 1956 as a response to the Suez Crisis and of the United Nations Operation in the Congo (UNOC) in 1960 as a response to the conflicts deflagrated by the declaration of independence represented pioneering attempts by the organization in the area of peacekeeping, organized by the Secretary-General. Practical questions on the legality of the missions, the responsibility of the troops and administrators, the limits of interference in internal matters and the funding of the operations soon were discussed on learned journals, being partially examined by the International Court of Justice in 1962.

Unlike the situation in the 1950 Korea intervention[477], both the UNEF and the UNOC were operations under the control and overview of the United Nations[478], being established as subsidiary organs of the General Assembly and the Security Council, respectively, and also funded by the organization[479]. Foreign army members were put at the disposal of the organization to work under its command, achieving international status while exercising their functions.

Louis Sohn analyzed the establishment of the United Nations Emergency Force in a 1958 article, arguing that the creation of a permanent international force was an utmost necessity, the existence of provisional arrangements of troops through bilateral treaties with member states being an imperfect solution, especially when established under the General Assembly or the Secretary-General, since the regime of immunities and

[477] For an analysis of the operation, refer to: WRIGHT, Quincy. Collective Security in the Light of the Korean Experience. *Proceedings of the American Society of International Law at its Annual Meeting* (1951) 45, 165-182.

[478] After the situation in Korea, the American Society of International Law convened a meeting to discuss the applicability of the laws of war to enforcement action by the United Nations (KIRGIS, Frederick. *The American Society of International Law's First Century: 1906-2006*. Leiden: Martinus Nijhoff, 2006, p.225). The discussions are briefly summarized by Richard Baxter, who provides his opinion on the issue: BAXTER, Richard. The Role of Law in Modern War. *Proceedings of the American Society of Internaitonal Law at its Annual Meeting* (1953) 47, 90-98.

[479] For some discussions on the limits of the delegation of powers, in defense of intervention exclusively under the command of the United Nations, refer to: WRIGHT, Quincy. The Legality of Intervention under the United Nations Charter. *Proceedings of the American Society of International Law at its Annual Meeting* (1957) 51, 79-90.

privileges could not be fully extended to these soldiers and the formation of the subsidiary organs by national contingents was perhaps incompatible with the provisions of the Charter[480]. In other article, after commenting on resistances to the creation of the permanent international force, Charles Chaumont summarized the common characteristics that would mark the practice of peacekeeping operations by the United Nations[481], constituted under an authorization different from the direct use of force based on article 42 of the Charter: agreement of the interested state, powers limited according to the necessary and least intrusive means, existence of a clear peace plan, voluntary contribution of troops by member states[482]. The capacity of the Secretary-General to command these operations was further elaborated by Michel Virally[483].

The main doubts over the legality of the UNEF were due to the application of the *Uniting for Peace* Resolution, a controversial resolution by the Security Council, which attracted a series of studies over its validity[484]. The foremost legal defense of the validity of the resolution had already been masterfully performed by Hans Kelsen in a 1951 article that concluded that the mechanism of recommending enforcement action through the General Assembly was not incompatible with the Charter, if possibly departing from the original intention of its drafters.[485]

In spite of its establishment being considerably less controversial than that of the United Nations Emergency Force, since duly authorized by a Security Council Resolution, the Congo Operation faced a series of difficult operational questions. The existence of domestic and external pressures over the country caused the operation to face a series of problems in their relations with the Congolese central government, threading a fine

[480] SOHN, Louis. Authority of the United Nations to Establish and Maintain a Permanent United Nations Force. *The American Journal of Internaitonal Law* (1958) 52:2, 229-240.
[481] The idea that peacekeeping operations occupied a hybrid position in the Charter, halfway between peaceful and forceful settlements, in a sort of "Chapter Six and a Half", was first proposed by Secretary-General Hammarskjold himself, being the object of further legal refinement in: BOWETT, Derek. *United Nations Forces: a Legal Study.* New York: Praeger, 1962.
[482] CHAUMONT, Charles. La situation juridique des Etats membres à l'égard de la force d'urgence des Nations Unies. *Annuaire français de droit international* (1958) 4, 399-440.
[483] VIRALLY, Michel. Le rôle politique du Secrétaire Général des Nations Unies. *Annuaire français de droit international* (1958) 4, 360-399.
[484] Among the articles already mentioned in the last section, refer especially to ANDRASSY, Juraj. Uniting for Peace. *The American Journal of International Law* (1956) 50:3, 563-582.
[485] KELSEN, Hans. Is the Acheson Plan Constitutional? *The Western Political Quarterly* (1950) 3:4, 512-527.

line over the issue of intervention on domestic matters, which were presented and discussed by E.M. Miller in the opening article of the *American Journal of International Law* in 1961[486].

After a request to repress secessionists in the Katanga region by the central government was denied by Secretary-General, who had followed the policy of not interfering in any way in the conflict between rival groups, help was directly sought with the Soviet Union, who provided weapons to the official troops, under the justification that the presence of some remaining Belgian troops in the Congo represented a grave breach of its independence. As some rogue members of the Congolese army begun to violently repress opposing groups, civilian populations were being exterminated, and Dag Hammarskjold came around on his previous decision. The temporary disarming of Congolese military units was ordered, with an escalation in numbers of the ONUC forces. Amidst this chaotic situation, a power struggle existed between members of the central government, the Prime Minister and the Chief of State dismissing one another. Since no authority could be properly deemed to speak on behalf of the country, the United Nations Command suspended all communications and flights in the country, expecting to force the opposing parties to negotiate.

This temporary freezing, however, greatly benefited President Kasa-Vubu, who partnered with army commander Mobutu. Representatives from Poland and the Soviet Union, who supported Prime Minister Lumumba, criticized the latest UN actions as some sort of mission creep, since the ONUC originally only had a mandate to maintain peace and act in self-defense, and blocked further resolutions by the Security Council. On September 20, 1960, an emergency meeting of the General Assembly was convened under the *Uniting for Peace* Resolution, an Advisory Committee on the Congo being established to oversee the operation.

The question of whether the United Nations had or not unduly interfered in domestic matters against its constitutional obligations presented some important divergences. In E.M. Miller's opinion, the United Nations had acted in accordance with the Charter, by

[486] MILLER, E.M. Legal Aspects of the United Nations Action in the Congo. *The American Journal of International Law* (1961) 55:1, 1-28.

only proposing an agreement to the warring parties (and not imposing it), while ensuring that no negative spillover effect would exist relative to international peace, through the exercise of internal police functions[487]. The question was presented by Alan Karabus in the April 1961 Meeting of the American Society of International Law, a difference between "subversive intervention" and "community action" being defended by most members[488]. Nathaniel Nathanson, on the other hand, manifested some doubts on the legality of the measure[489].

Questions on the responsibility of the United Nations for the actions of its troops also multiplied. In Hans Kelsen's 1951 article, he had argued that one could only consider as effective "units of the United Nations" those troops placed at its disposal by means of a binding decision, not by a simple recommendation[490], a construction that could possibly differentiate the Korea, the Suez and the Congo situations, in order to only consider the direct responsibility of the organization for breaches of international obligations in the last operation, as it was the only one convened by the Security Council.

Finn Seyersted, in a book-like article published in the *British Yearbook of International Law*[491], analyzed the question of the responsibility of the United Nations during use of force operations, as regarding not only the military personnel, but also civilians and observers. Based on an assessment of the extent of command and control of the United Nations over each agent, he concluded that the Suez and Congo operations were constituted by proper United Nations forces. On the contrary, based on the resolutions and agreements concluded before and during the conflict, he depicted the Korea

[487] *Ibid*, pp. 24-28.
[488] KARABUS, Alan. United Nations Activities in the Congo. *Proceedings of the American Society of International Law at Its Annual Meeting* (1961) 55, 30-40.
[489] NATHANSON, Nathaniel. Constitutional Crisis at the United Nations: The Price of Peace Keeping, II: The Development of Administrative Standards. *University of Chicago Law Review* (1966) 33:2, 249-313.
[490] "Only armed forces which are placed at the disposal of an organ of the United Nations competent to dispose of these forces by decisions binding upon the Members may be considered as a 'unit of the United Nations'." (KELSEN, Hans. Is the Acheson Plan Constitutional? *The Western Political Quarterly* (1950) 3:4, 526).
[491] SEYERSTED, Finn. United Nations Forces – Some Legal Problems. *British Yearbook of International Law* (1961) 37, 351-475.

operation as an intergovernmental force, under the primary command of the United States, not attracting the responsibility of the United Nations[492].

Another important development to the law of international organizations at the aftermath of these United Nations operations referred to the International Court of Justice's advisory opinion on the *Certain Expenses* Case. Before discussing the question of funding, the Court briefly examined the extent of the powers of the General Assembly, in contrast to the primary competences of the Security Council. As Hubert Thierry explained, although the Court refrained from affirming the legality of these missions, it directly dismissed the thesis of the Soviet Union that these operations represented enforcement action by coercive means under Chapter VII of the Charter and situating the operations among the general measures recommended for the peaceful adjustment of an international situation[493].

When proceeding to the examination of the budgetary question, the International Court of Justice distanced itself from further analyzing the distribution of competences within the organization, by laying down that "if the action was taken by the wrong organ, it was irregular as a matter of that internal structure, but this would not necessarily mean that the expense incurred was not an expense of the organization"[494]. The sole criterion adopted by the Court to examine the legality of the financial resolutions thereinafter was the compatibility of the expenses with the objectives of the organization. As Leo

[492] "In *Korea*, the position was entirely different. The Force was established and operated by the United States Government, by which the Commander was appointed and dismissed, and to which he was responsible. He and the other members of the Force remained purely national officials and had neither the rights nor the duties of international officials. The United States Government was also responsible for the external relations of the Force as a whole. The costs were paid by each participating Government in respect of its contingent. The United Nations thus had no legal powers over or in respect of the Force. (...) The main relationship of the United Nations to the Force was as follows. The international force was established on the recommendation of the United Nations. It reported to the Organization (through the United States Government) and was as a matter of fact operated in accordance with the major policy recommendations of the Organization. (...) The Force and the Command bore the name of the United Nations and used its flag. (...) These relations, it is submitted, are not sufficient to establish the United Nations as bearer of the rights and duties in respect of the Force, either alone, or concurrently with the United States or other Governments. The terminology used, whatever its intention may have been, cannot give the Force a status which is not supported by the actual position." (Ibid, pp. 430-431).

[493] THIERRY, Hubert. L'avis consultatif de la Cour internationale de Justice sur certaines dépenses des Nations-Unies. *Annuaire français de droit international* (1962) 8, 247-276.

[494] INTERNATIONAL COURT OF JUSTICE. *Certain expenses of the United Nations* (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C.J. Reports 1962, p. 168.

Gross argued, the maximalist approach adopted by the court, which separated internal questions from the external competences of the international organization, had the negative effect of betraying the institutional mechanisms of the Charter, any expenses being possibly authorized by a two-thirds decision of the General Assembly[495].

The adoption of the *ultra vires* theory by the International Court of Justice, in order to justify the possibility of acts incompatible with the internal law of the organization to yield external effects, further strengthened the debates on the responsibility of international organizations, the advisory opinion being currently quoted as a means of reinforcing the sphere of attribution to international organizations[496].

3.4. The gradual emergence of the discipline and the unequal rhythms of autonomization

Contrarily to what I originally expected when starting my research, the study of the main academic and professional journals in France, the United Kingdom and the United States does not allow us to identify the existence of a transnational network of specialists, capable of influencing the development of the discipline in a top-down fashion, from the international to the national level. Academic journals remained relatively endogenous systems, with their own set of authors, being oriented by different publishing strategies.

Very few authors could publish in more than one journal. Only a small group of practitioners escaped these constraints, effectively navigating through different national communities. The foremost example is Clarence Wilfred Jenks, undoubtedly the most productive specialist on the law of international organizations at the time, who had articles and chapters published in academic journals in the United Kingdom, the

[495] GROSS, Leo. Expenses of the United Nations for Peace-Keeping Operations: The Advisory Opinion of the International Court of Justice. *International Organization* (1963) 17:1, 1-35. For other budgetary discussion, refer to : SALMON, Jean. L´emprunt de 200 millions de dollars de l´Organisation des Nations Unies. *Annuaire français de droit international* (1962) 8, 556-575.

[496] KLEIN, Pierre. The Attribution of Acts to International Organizations. In: CRAWFORD, James; PELLET, Alain; OLLESON, Simon (eds.). *The Law of International Responsibility.* Oxford: Oxford University Press, 2010, pp. 304-306.

United States, Canada, Denmark, France, Germany, India, Singapore, the Netherlands, Greece, Switzerland and Japan[497].

However, if there was not much of a flux of persons, the study of these journals singles out the existence of a considerable flux of ideas, which constituted a true network of ideas based on common works of reference and on the multiplication of collected materials. This suggests that the process of construction of the contents of the discipline could be better described by processes of cross-fertilizing (or cross-fertilization)[498] or even transplantation[499], taking into consideration the influence of different contexts, than by the idea of an overarching community of practitioners, as some studies propose.

The cross-examination of the review articles suggests that those interested in the law of international organizations could refer to a set of shared readings, which reached a large audience of specialists. Most of these pieces were written by practitioners, with a tendency for representative writings to multiply starting in the mid-1950s. A relevant degree of bilingualism also marked these writings, with an undifferentiated reception of books written in English or in French.

A specific analysis of the different communities, moreover, stands as an interesting complement to the study of the university environment presented in the preceding chapter. Pragmatism in the United Kingdom, tradition in the United States and late entry in France all suggested different positions taken by these specialists in shaping the still noninstitutionalized transnational academic field of the law of international

[497] EISENBERG, Jaci. Jenks, Clarence Wilfred. In: REINALDA, Bob; KILLE, Kent; EISENBERG, Jaci (eds.). *IOBIO: Biographical Dictionary of Secretaries-General of International Organizations.* (Electronic Resource). Last Updated in February, 2006. Available at: <www.ru.nl/fm/iobio>.

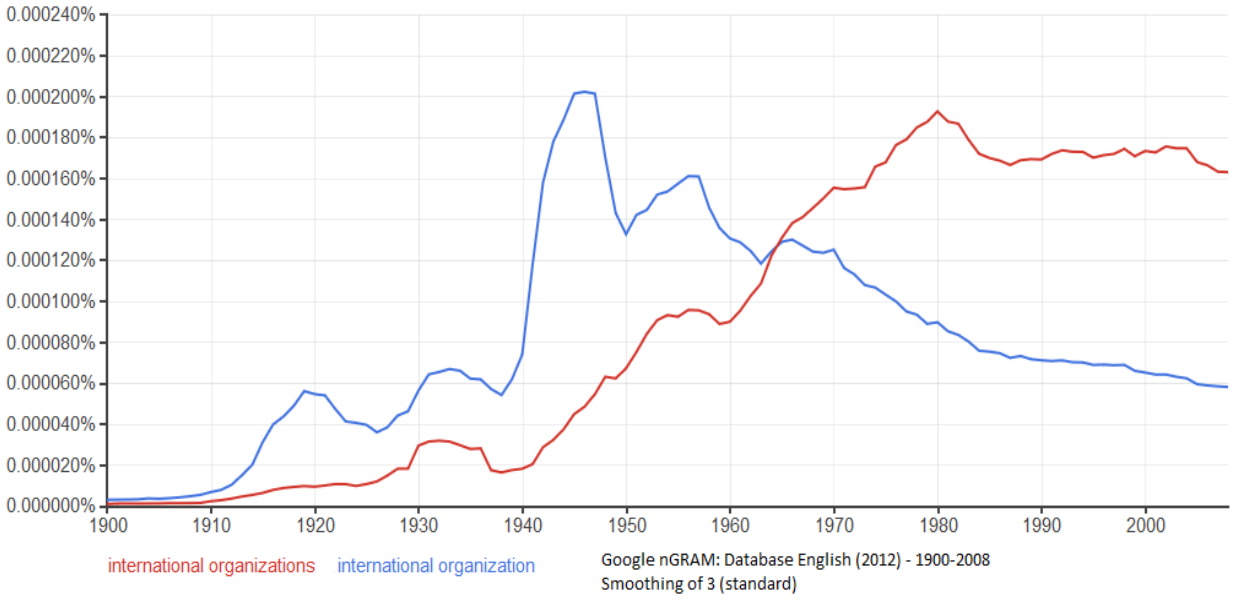
[498] For examples of the application of this genetical concept to international law studies, refer to: SANDS, Philippe. Treaty, Custom and the Cross-fertilization of International Law. *Yale Human rights and Development Law Journal* (1998) 1:1, 85-105; DELMAS-MARTY, Mireille. The Contribution of Comparative Law to a Pluralist Conception of International Criminal Law. *Journal of International Criminal Justice* (2003) 1:1, 13–25; LINDERFALK, Ulf. Cross-fertilization in international law. *Nordic Journal of International Law* (2015) 84:3, 428-455.

[499] The seminal work in this topic is WATSON, Alan. *Legal transplants: an approach to comparative law*. Charlottesville: University Press of Virginia, 1974. For the differentiation between his theory of legal transplants and the dynamic model of legal formants, based on diferente types of agency, refer to: WATSON, Alan. From Legal Transplants to Legal Formants. *The American Journal of Comparative Law* (1995) 43:3, 469-476.

organizations. The late emergence of the discipline in France is put into evidence, the *Annuaire* representing a great stimulus for the study of the law of international organizations in the country, a topic that occupied half of its pages from 1955 to 1964. The existence of an aged circle of specialists in the United States is interpreted as a source of resistance, in contrast to the situation of the United Kingdom, where experienced practitioners and young scholars were promoting publications on topics specifically related to the discipline. While most of the main authors in the United States were linked to the tradition of international organization (without an 's'), this was a much less noticeable phenomenon in the United Kingdom, whose main authors were either established legal practitioners or young scholars with some interest in practice.

Data from *Google nGram Viewer*, an engine that charts the frequency of words or expressions in a universe of printed sources, seem to reinforce the idea of gradual emergence, by indicating that studies on international organizations (with an 's') gained force, as a whole, on a continuous basis, from 1940 to 1980, as well as indicating the fall of studies on international organization (without an 's').

These data are chartered in Graph A, which refers to the progression of the usage of the expressions "international organization" (in blue) and "international organizations" (in red) in the corpus of books written in English:

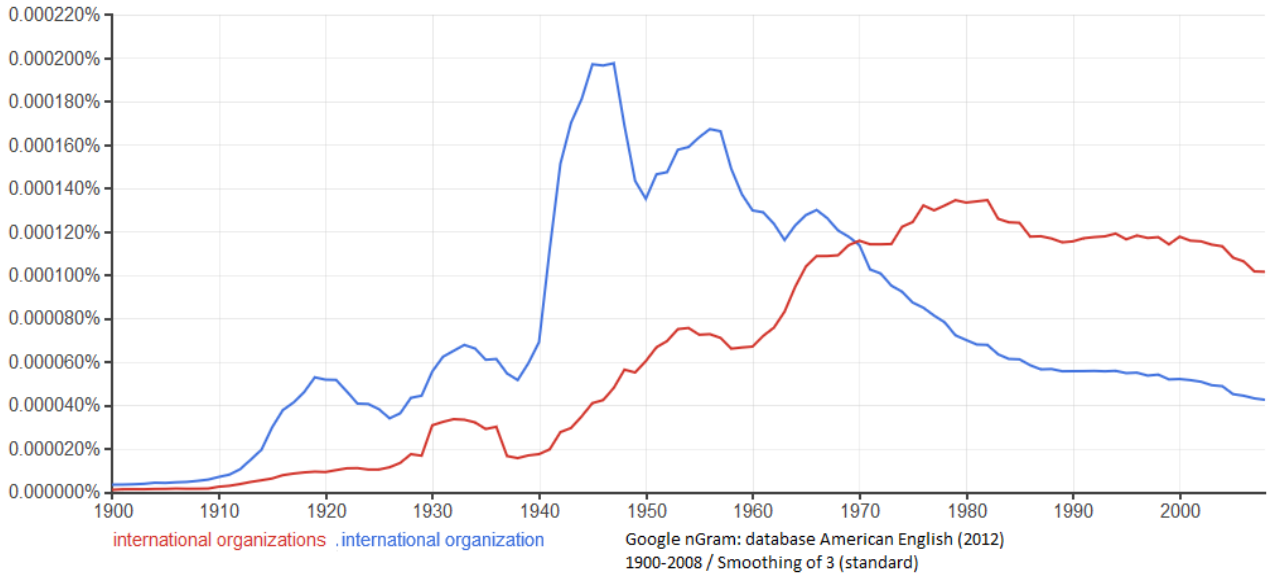


Graph A: Frequency of the Expressions "International Organization" and "International Organizations" in Books written in English from 1900 to 2008 (Google nGRAM Viewer)

By separating the corpuses of American English and British English books, apart from confirming the general tendency for the multiplication of studies on international organizations (with an 's') as a whole in the period ranging from 1940 to 1980, one may detect different influences relative to the discourses on international organization (without an 's'), in line with the previous outline of each community of specialists.

Regarding the American experience, a strong push in international organization (without an 's') discussions during the war is noticeable, the topic retaining great influence up until the early 1970s, when steady decline began. From the 1940s to 1970s, discourses on international organization (without an ´s´) still had an important frequency in the United States.

This is evinced by Graph B, which refers to the progression of the usage of the expressions "international organization" (in blue) and "international organizations" (in red) in the corpus of books written in American English:

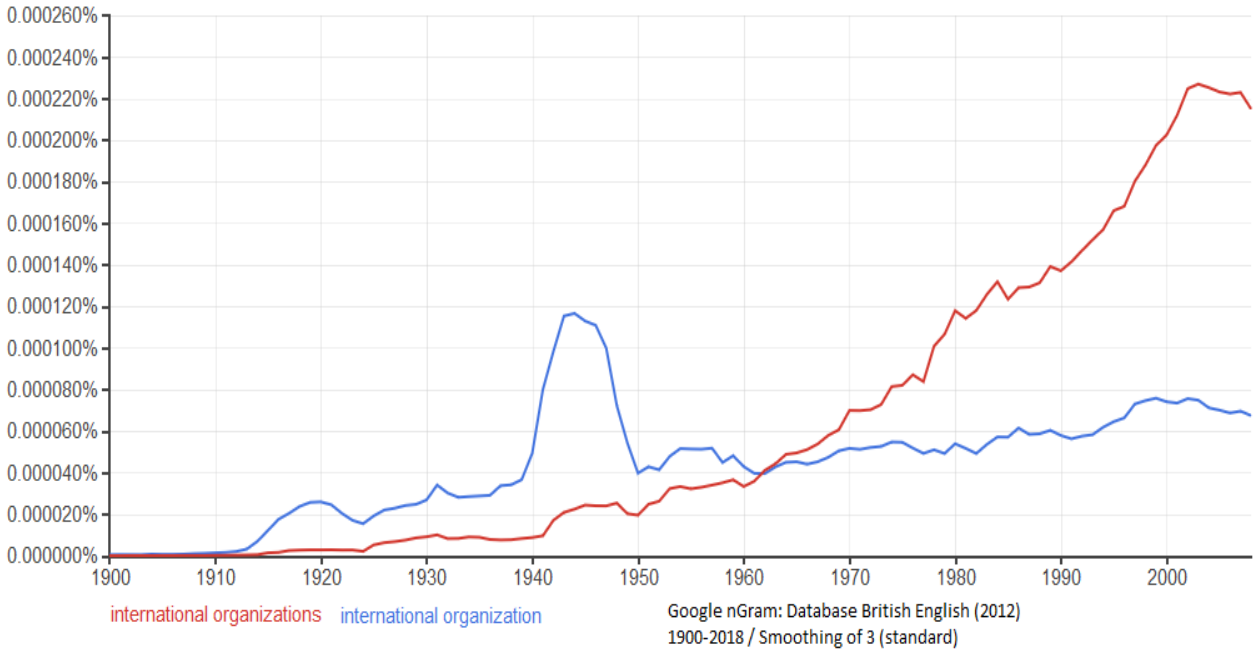


Graph B: Frequency of the Expressions "International Organization" and "International Organizations" in Books written in American English from 1900 to 2008 (Google nGRAM Viewer)

On the contrary, in the British case, one may notice that the influence of discourses on international organization (without an 's') was much more short-lived and less pronounced, coming to a strong regression after the United Nations were established and only reaching half of the maximum frequency (0.000120%) of its counterpart in the

United States (0.000200%). As early as the year 1950, studies on international organization (without an ´s´) had already lost most of their allure, only attaining a high level of representation for a single decade.

This is revealed by Graph C, which refers to the progression of the usage of the expressions “international organization” (in blue) and “international organizations” (in red) in the corpus of books written in British English:



Graph C: Frequency of the Expressions “International Organization” and “International Organizations” in Books written in British English from 1900 to 2008 (Google nGRAM Viewer)

Two contrasting conclusions may be extracted from this chapter. On the one side, the side of ideas, there existed a gradual development of a common vocabulary that was relevant to the study of the law of international organizations, a repertoire of relevant topics and books influencing specialists from different circles. As the collected data suggests, practitioners played a great part in the dispersion of ideas, as the most active writers of the representative books. On the other side, the side of people, there existed relatively independent and endogenous communities of specialists, which, in spite of not being insensitive to this set of common developments, were not marked by considerable transit. The groups that dominated each learned journal had different

configurations, ranging from a really young core of scholars and practitioners in France to a core of experienced professors in the United States.

In this situation, it is important to distinguish between the ideas of development and autonomization. While discussions on specific topics advanced in all countries and common works of reference existed and were available to all specialists, a general sense of what it meant to study and teach the law of international organizations developed differently in these national contexts. The study of the academic journals points out that there was growing interest in topics related to the law of international organizations everywhere, so that similar ideas and interests existed in different national communities. However, the process of autonomization, as explained when previously examining the university environment, seemed to follow different paths. While the substantive side of the discipline (development) advanced under a diffuse influence, through a network of ideas that was being absorbed and promoted by specialists of different communities, the formal side of the discipline (autonomization) followed a much more specific and well-defined path, centered on the United Kingdom.

By combining the examination of the distinct university environments to the identification of different communities of specialists, a more detailed diagnosis of the academic context in each country may be given, so as to elaborate on why the process of autonomization of the law of international organizations had at its center the United Kingdom, instead of the United States and France, under the influence of Derek Bowett´s textbook. Due to the sway of the university environment and the support of the community of specialists, the British context had favorable conditions for the emergence of the law of international organizations as an autonomous intellectual field.

Starting with France, it is relatively clear why the autonomization of the discipline only took place decades later. The peculiar configuration of the university environment in France has been extensively debated in the previous chapter, which indicated that a hybrid perspective, close to the idea of international organization (without an ‘s’), was dominant. The young age of the specialists who published in the *Annuaire français de droit international*, and who would later redefine the field in the country, reinforced the idea of a protracted emergence, which would only become true during the 1980s.

As for the United States, in spite of the similarities that approximated its university environment to that of the United Kingdom, the continuing influence of studies on international organization (without an 's') pushed back the tendency for autonomization. If American specialists were highly productive and had great impact on the discussion of specialized topics, positively impacting the substantive development of the discipline, the main authors of the *American Journal of International Law* were late-career professors with a strong background in political science and important links to the teaching of international organization (without an 's'). International organizations (with an 's') and international organization (with an 's') would remain ideas with a similar impact for some decades in the country. Therefore, if the means for autonomization were there, with the existence of separate courses and curricula, the actors possibly interested in this development were not there.

Lastly, in contrast to the other two situations, the British context was favorable to the early development of the discipline. The autonomy of its university environment, combined with a relevant community of specialists formed by practitioners and scholars with a common graduate background, and a rapid abandonment of the major influence of international organization (without an 's'): all of these circumstances would contribute to the law of international organizations becoming an autonomous discipline in the country on a much earlier date.

As early pioneers in defining what did pertain and what did not pertain to the proper study of the law of international organizations, British authors could also behave as rule-makers instead of rule-takers. The framework adopted in Derek Bowett's 1963 would greatly influence the future boundaries of the discipline, defining its main topics and also perpetuating its most important ommissions. How we understand the law of international organizations today has much to do with the choices and ideas consolidated during the process of autonomization of the discipline.

Conclusion. Some possible histories on the emergence of the law of international organizations and the need to reenact abandoned alternatives

The study of journals, curricula and textbooks in France, the United Kingdom and the United States provides us with a series of interesting insights on the (substantive) development and (formal) autonomization of the law of international organizations from 1945 to 1964.

As it has been pointed out, an academic discipline had first appeared in the university environments of the United States and the United Kingdom, with the inclusion of courses on the law of international organizations since the early postwar years. This represented a profoundly different reality from that of France, where the university curriculum established an obligatory course named *institutions internationales* for the law and political science joint degree, which ended up becoming an umbrella for topics of international law and international relations. During the 1970s, this practice was institutionalized when another reform aptly renamed the discipline *institutions et relations internationales*.

Outside of the university environment, among specialized circles, some different conditions existed. Topics related to the law of international organizations were not ignored by the academic journals in France, the United Kingdom and the United States from 1945 to 1964, there existing a considerable production in the *Annuaire français de droit international*, the *British Yearbook of International Law* and the *American Journal of International Law.* Therefore, if teaching in France still did encompass a specialized discipline, research and practice dealt with many specialized topics.

The specialized circles did not unite to form a transnational community of specialists. On the contrary, each circle tended to be a relatively endogenous structure, there only existing a limited number of authors who published in learned journals from different countries. The most important member of this group is Clarence Wilfred Jenks, the most

prolific writer of the discipline during its formative years, who published over twenty articles, books and chapters on the topic of the law of international organizations.

If most specialists did not traverse those frontiers, ideas did. A common repertoire of books and selected materials began to take shape, as the review sections of these journals demonstrate. These representative books were mainly written by practitioners, there existing a considerable number of texts both in English and in French. The growing number of collected materials also suggested the formation of a global audience.

Some real-life events, especially within the United Nations, also provided an impulse to the study of the discipline, as they were promptly examined by members of these different specialized circles. Some of the topics analyzed in different learned journals from 1945 to 1964 still configure contentious points and remain an important part of the researches on the law of international organizations, such as the responsibility of international organizations, the limits of the powers of international organizations, the bindingness of recommendations and other acts of international organizations, and the legal nature of the internal law of international organizations.

In this version of the history of the discipline, centered on the figure of substantive development, it is by accretion and gradual emergence, instead of rupture, that the law of international organizations comes to life. Along this process, textbooks do not have a constitutive impact, as a growing interest on topics related to the law of international organizations may be identified within learned journals, collected materials, commentaries on constitutive treaties and monographic writings. Instead, textbooks only systematized the main contributions of the field in a logical and organized fashion.

The role of textbooks is enhanced under the idea of formal autonomization. By selecting the main topics for study and teaching, as well as encouraging a strictly legal perspective of the law of international organizations, they helped to shape the boundaries of the academic field, sometimes with lasting effects to what is included and to what is excluded.

In this process of systematization, the existence of some basic legal concepts pronounced by the International Court of Justice provides a binding element, the

Reparations Case acting as the point of departure to most legal considerations and as the most important element of "legalization" within the discipline. The espousal of a weak form of functionalism separated welfare considerations from legal analysis. The enunciation of legal personality connected international organizations to general international law, hence promoting the study of topics linked to the constitutional law of international organizations.

According to this view, Derek Bowett's main merit, then, was to contribute to the development of the discipline by making sense of previously scattered materials, generated in a disperse fashion by practitioners and to select and present them in an organized fashion for the teaching of the law of international organizations. By following the path outlined by the *Reparations* Case in an examination of their powers, immunities and responsibility, he could also provide a rational representation for future developments.

Derek Bowett's model would then continue to spread to other contexts, promoting disciplinary identity under the idea of specialization. The law of international organizations would be separated from social and political influences that still existed under a hybrid perspective or under a tradition closer to the model of the study of international organization (without an 's').

This narrative, save for the need of some adjustments regarding the specificities of national experiences (both in the university environment and in the domain of the specialists), generally conforms to most of the hypotheses suggested by Professor Jan Klabbers in his assessment of the history of the law of international organizations. According to this view, the law of international organizations first emerged from the writings of practitioners, who promoted the study of specific topics, being later organized as a separate discipline by scholars. The thesis enhances the complexity of this narrative by indicating that the pioneering specialists did not form a transnational group, as his hypothesis seems to suggest, by emphasizing the role of Derek Bowett's textbook in shaping the structure and the boundaries of the discipline and by portraying the formal consolidation of the discipline as a process of autonomization from perspectives that were equated to the study of international organization (without an

´s´), instead of understanding that the discipline emerged out of a process of differentiation from general international law.

Another narrative, however, is possible. If one questions why some alternatives were abandoned along the way, who benefited the most from autonomization and which positions were occupied by different players, then a distinct – and critical – history of the development of the intellectual field may be presented. By taking the differences between the different national contexts seriously, one may understand why things happened as they did and what were the specific results of past choices and events.

By adopting a Bourdieusian perspective, one may depict the emergence of the discipline under the influence of the allocation of symbolic capital, where different actors were fighting for social recognition. Under this reading, the role of Derek Bowett and other specialists in the consolidation of the discipline as a purely legal and highly formalized one (autonomization as progressive legalization), amidst other possible alternatives, changes considerably. Instead of harmonization, one may speak of domination, in the sense of the prevailing actors dictating the rules of the intellectual field and suppressing spaces for transformation.

Bourdieu considers that every action has at its core some sort of lust for symbolic capital, the actors in the same field (and sometimes between different fields) fighting for the maximization of their subjective position, based on objective probabilistic conditions of how much they may achieve[500]. Therefore, any attempt at conquering symbolic capital is conducted by a series of "realistic adjustments", where the actor must adapt his discourse in order to maximize the potentiality for social recognition.

[500] "Thus power (that is, capital, social energy) governs the potentialities objectively offered to each player, her possibilites and impossibilities, her degrees of empowerment, of power-to-be, and at the same time her desire for power, which, being fundamentally realistics, is roughly adjusted to the agent's actual empowerment. Early and lasting insertion into a condition defined by a particular degree of power tends, through experience of the possibilities offered or denied by that condition, to institute durably in the body dispositions-to-be which are (tendentially) proportioned to these potentialities. (...) By discouraging aspirations oriented to unattainable goals, which are thereby defined as illegitimate pretensions, these calls to order tend to underline or anticipate the sanctions of necessity and to orientate aspirations towards more realistic goals, more compatible with the chances inscribed in the position occupied." (BOURDIEU, Pierre. *Pascalian Meditations.* Translated by Richard Nice. Stanford: Stanford University Press, 1997, p. 217).

One such move is called by him the "oracle effect"[501], commonly articulated in priestly discourse, but also extremely popular in the field of politics. By this move, the agent claims to be speaking in the name of a group or entity, repressing any overt sense of self-interest. The spokesperson, having diluted the own sense of personality, attributes a specific desire to the group or entity, as some kind of collective or transcendental endeavor.

Such kind of oracle effect is reasonably deduced from Derek Bowett's prefatory remarks. By claiming to be presenting a groundbreaking contribution, but proclaiming his indebtedness to the writers who had already "directed their attention to this relatively new field" before him, his discourse may be understood as an exercise of the oracle effect. By speaking in the stead of this group of writers, he simultaneously provides authority to his contribution as some sort of collective work and positions his textbook as the consolidation of the previous academic production. By ignoring other contributions to the field stemming from international organization (without an 's'), he also seems to insinuate that this is a field of specialists, who only now were beginning to free themselves from previous ties, and whose writings would culminate in his groundbreaking textbook.

Furthermore, Derek Bowett's reference to the advisory opinion of the International Court of Justice as the starting point for his articulation of concepts may be described in Bourdiesian terms as another strategy for maximizing social recognition: the appropriation of the symbolic capital of another actor that is accumulated through reproduction[502]. By associating himself to a powerful actor from the dominant fraction – the International Court of Justice – Derek Bowett borrowed the positive effects of its privileged situation, promoting his own position within the academic field.

[501] "It is in what I would call *the oracle effect*, thanks to which the spokesperson gives voice to the group in whose name he speaks, thereby speaking with all the authority of that elusive, absent phenomenon, that the function of priestly humility can best be seen: it is in abolishing himself completely in favour of God or the People that the priest turns himself into God or the People. (...) The oracle effect is a veritable *splitting of personality*: the individual personality, the ego, abolishes itself in favour of a transcendent moral person (...)." (BOURDIEU, Pierre. Language and Symbolic Power. Translated by Gino Raymond and Matthew Adamson. Cambridge: Harvard University Press, 1991, p. 211).

[502] BOURDIEU, Pierre. The Forms of Capital. In: Richardson, John (ed.). *Handbook of Theory and Research for the Sociology of Education*. Westport: Greenwood, 1986, pp. 241–58.

The reference to the advisory opinion also supports the option to construe a formalist theory of the law of international organizations, in contrast to the traditional perspective of international organization (without an 's'), still popular in the United States and close to the generalist model of teaching in France. By giving a central role to the ideas of legal personality and functional necessity, questions began to be answered on abstract terms. Progressive legalization also contrasted with other models of teaching that could be adopted in the discipline and which first appeared during the 1950s, such as transnational law perspectives[503], world order perspectives[504], power-based approaches to international law[505] or other alternative readings that emphasized the idea of an international rule of law[506].

As Pierre Bourdieu explains, competitions within the legal field are commonly downplayed by lawyers or sociologists, who tend to over-emphasize the idea of the self-referentiality of legal thought and to ignore questions about the actual self-representation of the legal system. Instead, disputes within law do not refer only to technical discussions over legality oor validity, but also encompass questions over what the law should be, which go beyond the principles usually related to "the internal dynamics of law"[507]. In other words, doctrinal and practical considerations of the role played by law in society should also be attributed to the legal field, and not be seen as questions external to it. Legalization, adopted as an option to exclude political and social considerations, is a relevant question to the study of the legal field.

The project to think of a separate law of international organizations, purged from contacts with international politics, political science and the larger study of international organization (without an 's') represented a set of preferences and choices, far from being the only natural – or available – option. By embracing formalization and

[503] A perspective mostly centered on Philip Jessup's and Wolfgang Friedmann's writings.
[504] A perspective mostly centered on Myres McDougal's and Harold Lasswell's writings.
[505] An approach mostly supported by Georg Schwarzenberger's writings.
[506] JENKS, Clarence Wilfred. *The Common Law of Mankind.* New York: Praeger, 1958. For an analysis of this oeuvre, refer to: SINCLAIR, Guy Fiti. The Common Law of Mankind: C. Wilfred Jenks' Constitutional Vision. *Jean Monnet Working Paper*, 3/16. Available at: <http://www.jeanmonnetprogram.org/wp-content/uploads/JMWP-03-Sinclair.pdf>.
[507] BOURDIEU, Pierre. The Force of Law: Toward a Sociology of the Juridical Field. *Hastings Law Journal* (1987) 38:5, 814-853.

legalization, the perspective of the specialists gained strength against the background of the generalists. By saying what properly pertained to the law of international organizations and what stood outside of it (as topics of political science, international relations or administration), the specialists exercised a constitutive role in building unwritten hierarchies and prohibitions in the discipline.

As Pierre Bourdieu suggests, even the most apolitical dimensions of academic disciplines, referring to their basic criteria and frameworks, as well as to their fundamental concepts, are liable to produce repressive effects. The establishment of a given form to an intellectual field comes with the innate consequences of imposing form (*mettre en forme*) and consolidating formalities (*mettre des formes*). Censorship, in his opinion, is simply the medium – or instrument – of form, the mechanism available to the dominant fraction to maintain the rules of reproduction of the intellectual field[508]. By dictating form, one also exercises power over what is legitimate or not.

In this context, among the different communities of specialists analyzed on the thesis, the community of specialists that was represented at the *British Yearbook of International Law* and that formed an important part of the British university environment was better positioned to enhance its social prestige from an autonomization of the law of international organizations under the idea of progressive legalization[509]. Formed by experienced practitioners and a young generation of scholars with links to international organizations and benefiting from an autonomous university context, it could organize its courses and materials according to the previous demands.

In other words, the favorable conditions in the United Kingdom, both in respect to the university environment and to the community of specialists, functioned as a fertile context for the autonomization of the discipline and the consequent appearance of

[508] BOURDIEU, Pierre. *The Political Ontology of Martin Heidegger*. Translated by Peter Collier. Stanford: Stanford University Press, 1991, pp. 70-87.

[509] Anthony Carty suggests that the tendency for "legalization" was also developing in the teaching of international law, by the abandonment of great theoretical models during the postwar years, in favor of the adoption of a "practitioners' approach", resting strictly on the exposition of legal sources (CARTY, Anthony. Why Theory? The Implications for International Law Teaching. In: British Institute of International and Comparative Law (ed.). *Theory and International Law: An Introduction*. London: BIICL, 1991, pp. 73-104.)

Derek Bowett's contribution. In spite of his 1963 textbook not being traced to a specific institutional project, his individual work would hardly emerge and become successful in another social context. The great influence of practitioners, the minor impact of the study of international organization (without an 's') and the autonomy in university teaching were important conditions that dictated the positive probabilistic conditions for his individual undertaking.

In France, on the contrary, the university environment was largely unfavorable to this kind of autonomization, hybridity remaining the prevailing condition due to the centralized curriculum of law and political science and to the overarching influence of a sociological tradition of legal studies. Attempts to separate international law from international politics in university teaching remained unfruitful, being restricted to researches in specialized institutions and postgraduate studies.

In the United States, in spite of the university environment being favorable, the prevalence of an older generation of generalists, with links to political science and international organization (without an 's') did not suggest the same development. The postwar tendency for specialization that existed in American universities was not shared by the main authors of the *American Journal of International Law,* who remained attached to the perspective of general studies. For them, the emergence of a highly specialized law of international organizations was not a favorable development, since they still represented the field of international organization (without an 's'), which was being suppressed both from political science institutions (since political science was becoming synonymous with internal politics) and from law faculties (where common courses on social sciences were diminishing).

The way Derek Bowett made his move[510] in articulating and amplifying the existing symbolic capital to the consolidation of an autonomous intellectual field had lasting effects on the discipline. With the benefit of hindsight, some of the foremost choices

[510] The analogy to a playing field, where actors make moves for symbolic capital based on a feel for the game that is oriented by probable outcomes, was elaborated in: BOURDIEU, Pierre; WACQUANT, Loïc. *An Invitation to Reflexive Sociology.* Cambridge: Polity Press, 1992, p. 16.

articulated in his textbook have greatly influenced the current configuration of the study of the law of international organizations.

First, the promotion of the idea of a purely legal discipline, where political and social considerations would not be included, reinforced the role of specialists and practitioners within the discipline against the rejection of generalists who studied international organization (without an 's'). The main set of references included in Derek Bowett's book confirm this intention, as they are mostly limited to monographic oeuvres (on specific topics or specific organizations), articles from learned journals and commentaries on the Charter and the Covenant, not mentioning the traditional writings on international organization (without an 's'). A dialogue of the deaf would come to characterize studies on the law of international organizations when facing contributions from other fields, such as political science and international relations.

Second, the central reference to the *Reparations* Case also had a structural effect on the discipline. By siding with the weak form of functionalism adopted by the International Court of Justice, a perspective which refrained from a thorough examination of internal functions, Derek Bowett's framework would not be conducive to topics such as the coordination of international organizations[511]. By adopting a formalist understanding of the idea of functions, it would also remain averse to the French perspective of *services publics*, which developed over time a more humanized perspective centered on participation and satisfaction.

Third, considering the different lines of study suggested by Clarence Wilfred Jenks in his first outline of the discipline[512] (constitutional law, parliamentary law, administrative law, cooperation law), Derek Bowett's analysis would only encompass the administrative and the constitutional law of international organizations, giving great prominence to the latter. Specialists on the law of international organizations would not

[511] JENKS, Clarence Wilfred. Co-ordination: a new problem of international organization. A preliminary survey of the law and practice of inter-organizational relationships. *Collected Courses of The Hague Academy of International Law*, Volume 77 (1950), pp. 151-303.
[512] JENKS, Clarence Wilfred. The Scope of International Law. *British Yearbook of International Law* (1954) 31, pp. 15-19.

pursue a coherent political and social role for international organizations, but only promote the unbridled development of their functions.

Most textbooks on the law of international organizations[513] perpetuate those characteristics in their structure. A general descriptive part usually presents a short account of common structures and a classification of organs and organizations. An analytic part, which constitutes the core of these textbooks, includes an examination of common topics of general international law as applied to international organizations (personality, powers, immunities, succession, representation, responsibility). An accessory part, mostly written in summarized form, is constituted by short presentations of problems in financing, voting, decision-making and membership. On the contrary, other alternative delimitations, providing considerable space to the internal functioning of international organizations or to the concrete welfare effects generated by international organizations have been largely cut out of the picture.

Ingrained in the discipline, these delimitations have come to the point of forming a kind of "cultural unconscious"[514], dictating what is and is not legitimate in the academic field, further conditioning its future developments. What we think and expect of the law of international organizations today (and of the contents that properly constitute it) had much to do with how the process of autonomization took place during its formative years, as it was back at that time that fundamental questions of form were consolidated. Autonomization is equally relevant for what is selects as for what it excludes, conditioning what is seen and what is forgotten.

What do these exclusions mean to the discipline nowadays? By overformalizing the legal image of international organizations, some challenges have appeared regarding the legitimacy of these institutions, which have not been properly tackled by specialists on the law of international organizations. A formal understanding of the

[513] Apart from Bowett's textbook, refer to the structure of Schermers', Klabbers' and White's textbook. Only Seyersted's posthumous textbook adopts a different configuration, due to his rejection of some of the basic functionalist tenets.
[514] Refer to: BOURDIEU, Pierre. Intellectual field and creative project. *Social Science Information* (1969) 8:2, pp. 112-118.

meaning of functions tends to leave this determination in the hands of the organizations themselves, the law of international organizations not providing clear and authoritative mechanisms or rules and endorsing whatever is done by international organizations[515]. In the absence of a substantive discussion of functions, some kind of mission creep also manifests itself against the rights of member states, as the efficacy of clauses of non-interference in internal matters is put to the test, a formalist reading tending to privilege the practices of international institutions against the rights of member states[516]. Moreover, by assuming that international organizations are bound to promote welfare, without properly examining how they effectively discharge their functions, international lawyers have come to adopt a "generally deferential approach to international organizations"[517]. Only very recently some first challenges to this submissive mindset have appeared[518], especially in light of scandals in the United Nations[519]. Lastly, it is quite strange to think that institutions as different as the Council of Europe and the Organization of Petroleum Exporting Countries may refer to a same ideal type, many international organizations not complying to our most common and basic perceptions of what stands for the global public good[520].

Reenacting the past and identifying some abandoned alternatives, as the thesis has striven to do, is a useful tool to achieve a better understanding of the problems that

[515] For a list of cases of retroactive endorsement of actions by the Security Council, most notably so the volte-face on Iraq, refer to: STAHN, Carsten. Enforcement of the Collective Will After Iraq. *The American Journal of International Law* (2003) 97:4, 804-823.

[516] For the case of the Greek conditionalities, refer to: KATSAROUMPAS, Ioannis. EU Bailout Conditionality as a De Facto Mode of Government. *Critical Quarterly for Legislation and Law* (2013) 96:4, 345-386. For the conditionalities imposed by the International Monetary Fund, refer to: LEE, Catherine. To Thine Ownself Be True: IMF Conditionality and Erosion of Economic Sovereignty in the Asian Financial Crisis. *University of Pennsylvania Journal of International Law* (2003) 24:4, 875-904.

[517] BOON, Kristen; MÉGRET, Frédéric. New Approaches to the Accountability of International Organizations. *International Organizations Law Review* (2019) 16:1, p. 1.

[518] BOON, Kristen. The United Nations as Good Samaritan: Immunity and Responsibility. *Chicago Journal of International Law* (2016) 16:2, 341-385; RASHKOW, Bruce. Remedies for Harm Caused by UN Peacekeepers. *AJIL Unbound* (2014) 108, 10-16.

[519] For a depiction of the UN cholera crisis in Haiti, refer to: HOUSTON, Adam. UNstoppable. *Health and Human Rights Journal* (2017) 19:1, 299-304. For the cases of sexual abuse and harassment, refer to: FREEDMAN, Rosa. UNaccountable: A New Approach to Peacekeepers and Sexual Abuse. *The European Journal of international Law* (2018) 29:3, 961-985.

[520] Refer to: KLABBERS, Jan. Notes on the ideology of international organizations law: The International Organization for Migration, state-making, and the market for migration. *Leiden Journal of International Law* (2019) 32, pp. 383-385.

currently confront the study of the law of international organizations, so that we do not become oblivious to what is excluded from mainstream perspectives.

The boundaries derived from the process of autonomization leave the discipline with significant blind spots. By excluding a strong form of functionalism, most studies on the law of international organizations have become excessively abstract, ignoring the impact of international organizations upon the promotion of global welfare and dismissing discussions on possible cooperative venues to enhance their joint capabilities. By privileging the constitutional law of international organizations, only giving minor attention to their administrative law, international lawyers have generally collaborated to the continuity of problems of transparency and accountability in these organizations, whose institutional design is only very rarely debated by specialists. By leaving administrative law analogies behind, the project to promote the rule of law within and through international organizations has only very recently come to be renovated. In light of all these issues, bringing back some perspectives of international organization (without an 's') into the study of the law of international organizations (with an 's') may be, after all, a promising path for the future of the discipline. The political and social sensitivities of the suppressed discourses could be useful tools to promote a less abstract, and more humanized view of the law of international organizations.

The existence of past alternatives capable of being reenacted, however, must not be associated to a fetishizing of the past, a practice that has been very capably and sufficiently repudiated[521]. Indeed, bringing the ideas of welfare and institutional design back into the legal study of international organizations entails the very real risks of technocracy[522] and empire[523]. If changing too much may be dangerous, changing

[521] For the critique of the notion of *Historia Magistra Vitae*, refer to: KOSELLECK, Reinhard. *Futures Past: On the Semantics of Historical Time.* New York: Columbia University Press, 2003, pp. 26-42.

[522] For a thorough examination of the perils of technocracy among the supporters of the strong brand of functionalism, refer to: STEFFEK, Jens. Tales of Function and Form: The Discursive Legitimation of International Technocracy. *Normative Orders Working Paper, 02/2011.* Available at: <https://d-nb.info/1043079866/34>.

[523] For a critique of the project of global administrative law, based on the idea of enhancing transparency and accountability in states and international organizations, refer to: KUO, Ming-Sung. Taming Governance with Legality? Critical Reflections upon Global Adminsitrative Law as Small-c Global Constitutionalism. *New York University Jurnal of International Law and Politics* (2011) 44, 55-102. For a summary of the main proposals of global administrative law regarding the need for changes on the

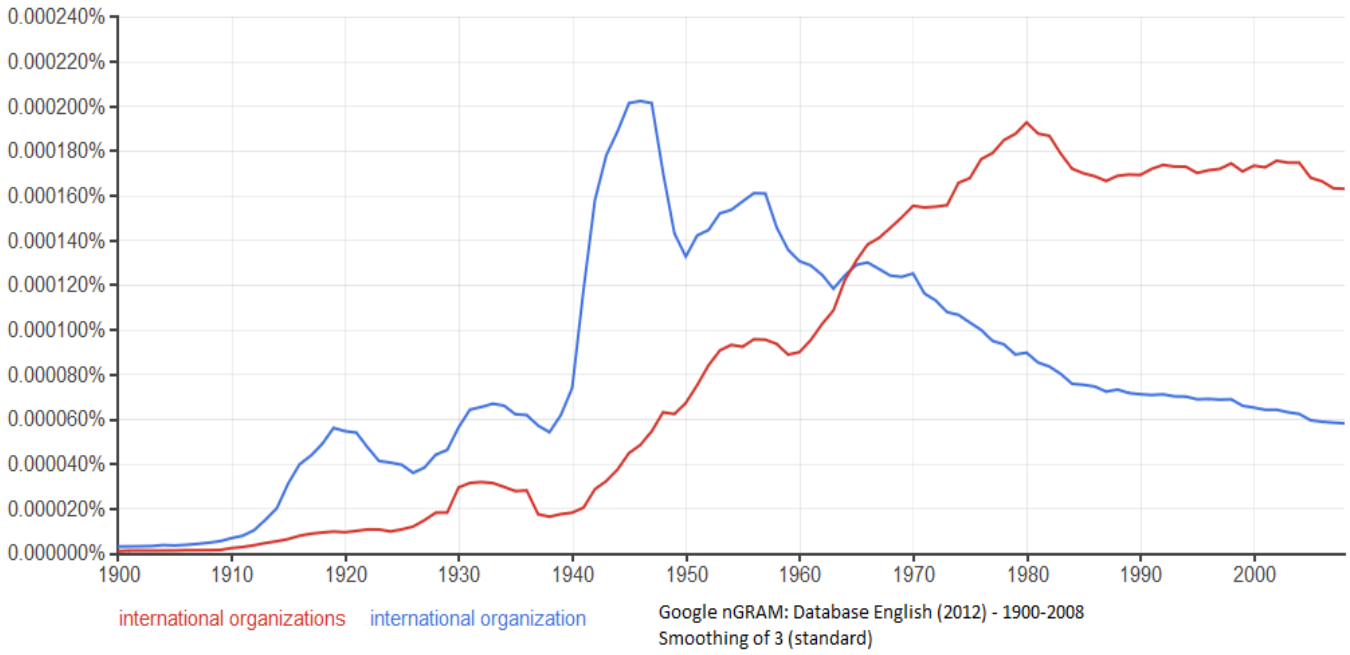
too little is still insufficient. Instead of simply setting aside the debates and letting things stay as they are, the most suitable way forward is to acknowledge the shortcomings of the formalist perspective of the law of international organizations and not to be afraid to challenge or question its boundaries or postulates[524]. Investigating, criticizing and debating not only the contents of the discipline, but also its structure, is an important step to acting as a responsible specialist.

standard concepts of the law of international organizations, refer to: KINGSBURY, Benedict; CASINI, Lorenzo. Global Administrative Law Dimensions of International Organizations Law. *International Organizations Law Review* (2009) 6, 319-358.

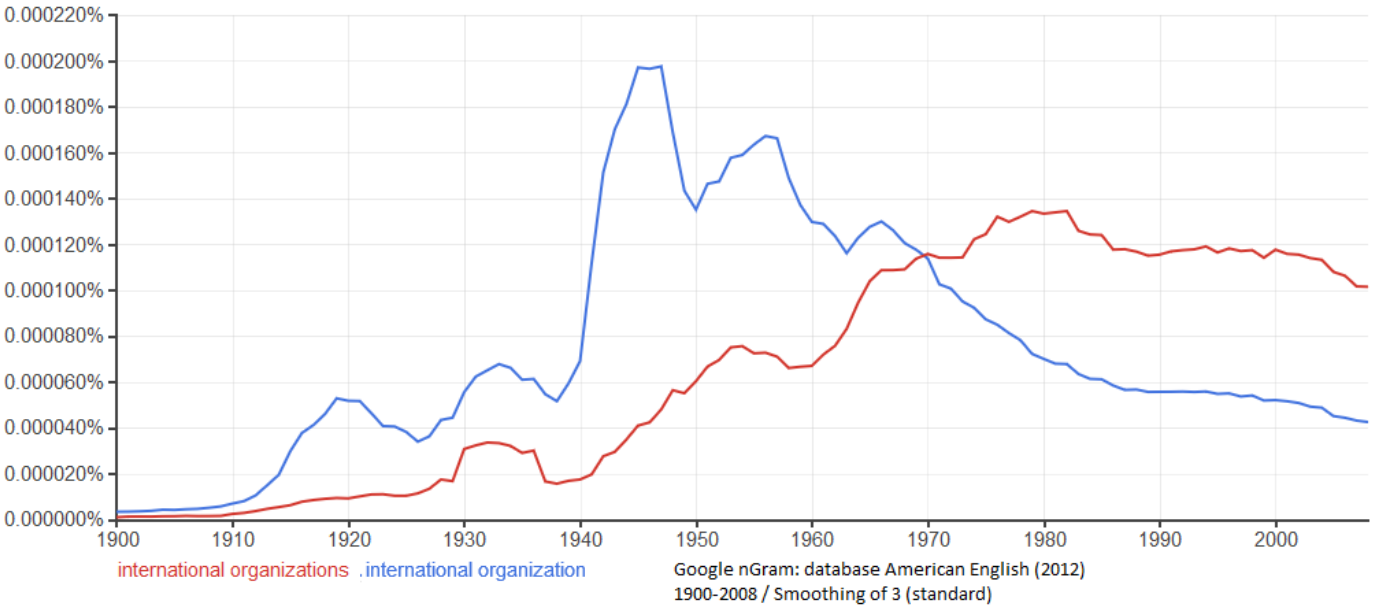
[524] For further insights on the perils of distancing law from progressive political values, and the dangers of succumbing to managerialism and expert rule, refer to Martti Koskenniemi, who advocates that international law be redeemed as a political project, capable of narrating regimes anew (KOSKENNIEMI, Martti. The Fate of Public International Law? Between Technique and Politics. *Modern Law Review* (2007) 70:1, 1-30).

Annexes

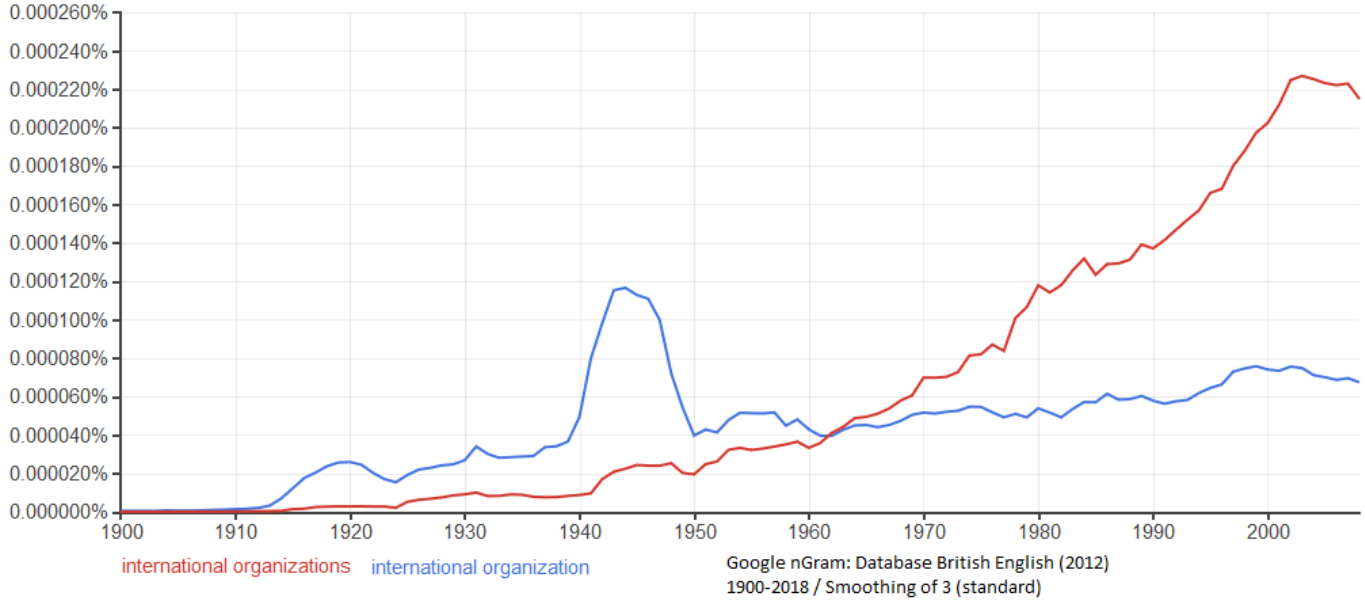
GRAPH A. Frequency of the Expressions "International Organization" and "International Organizations" in Books written in English from 1900 to 2008 (Google nGRAM)



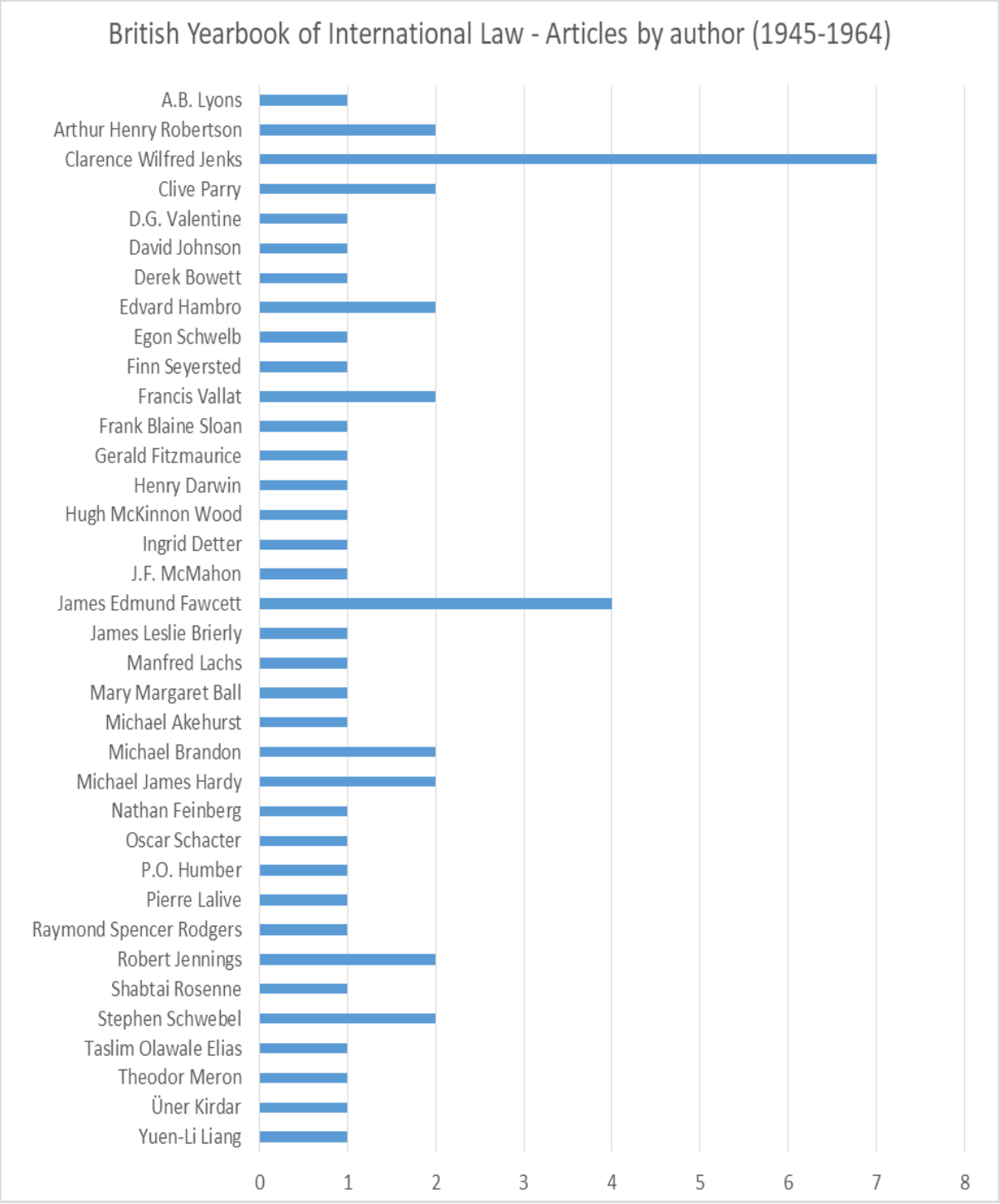
GRAPH B. Frequency of the Expressions "International Organization", "International Organizations", in Books written in American English from 1900 to 2008 (Google nGRAM)



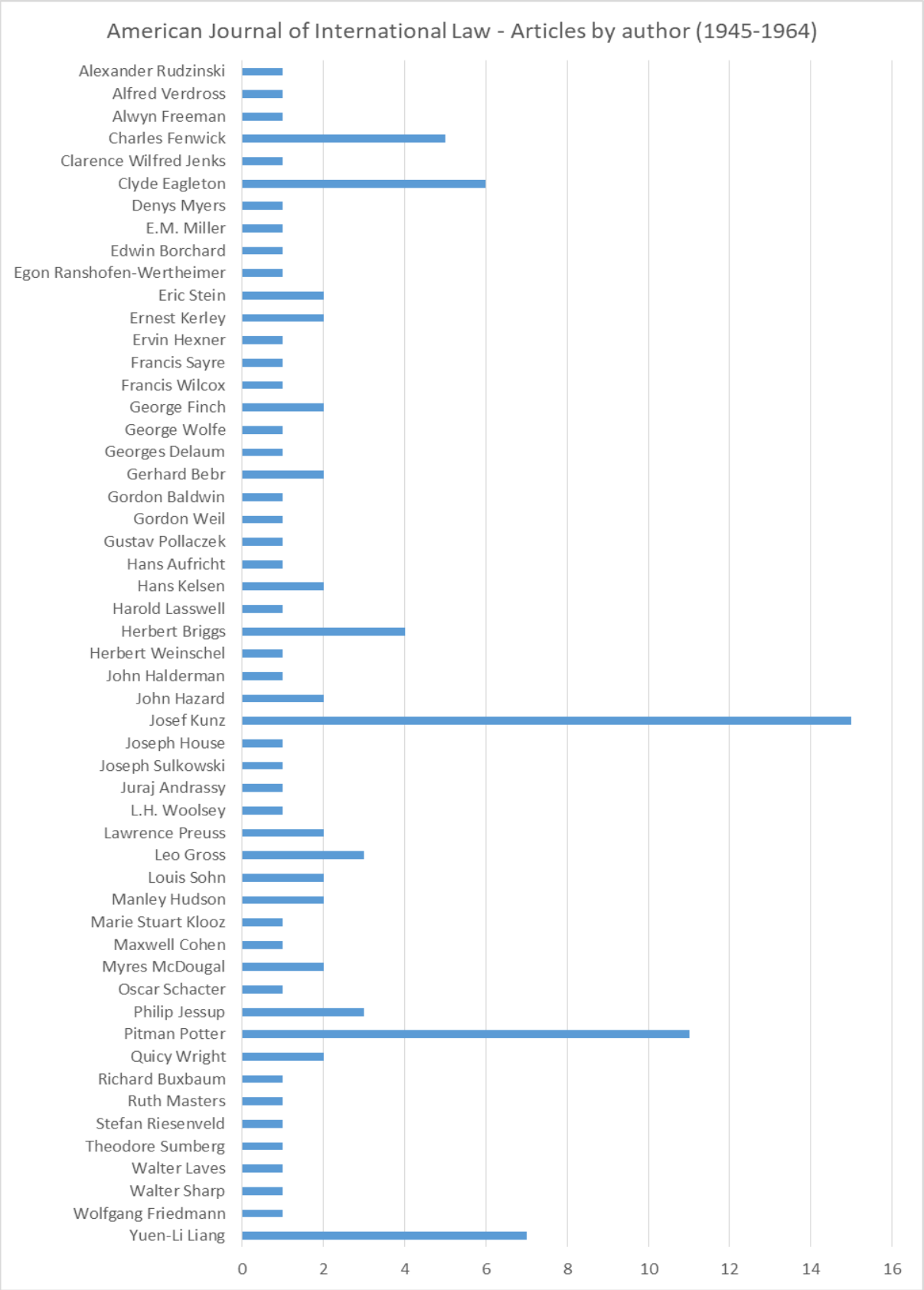
GRAPH C. Frequency of the Expressions "International Organization", "International Organizations", in Books written in British English from 1900 to 2008 (Google nGRAM)



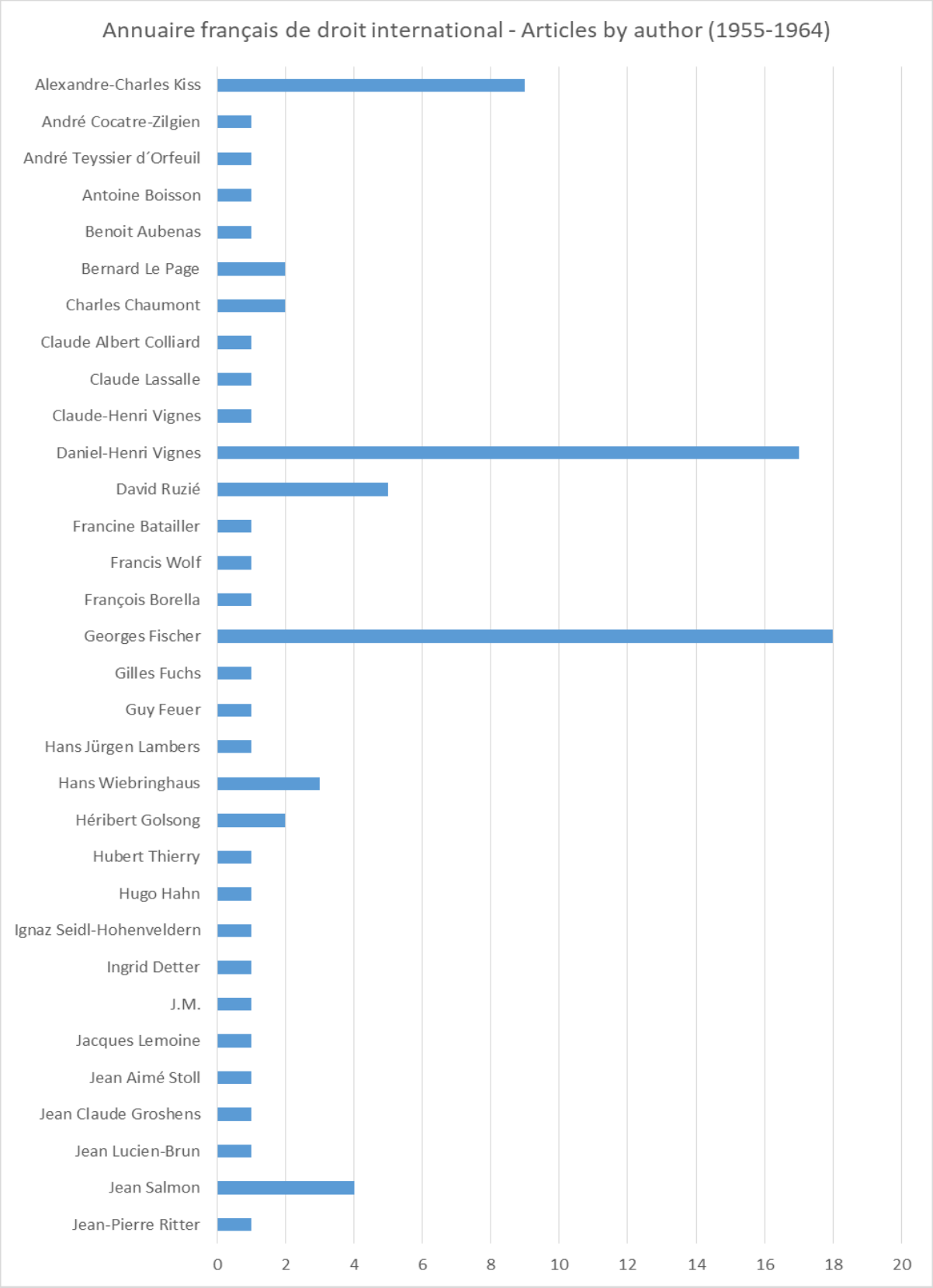
GRAPH D. Frequency graphic – Articles published in the British Yearbook of International Law (Table A) according to the author

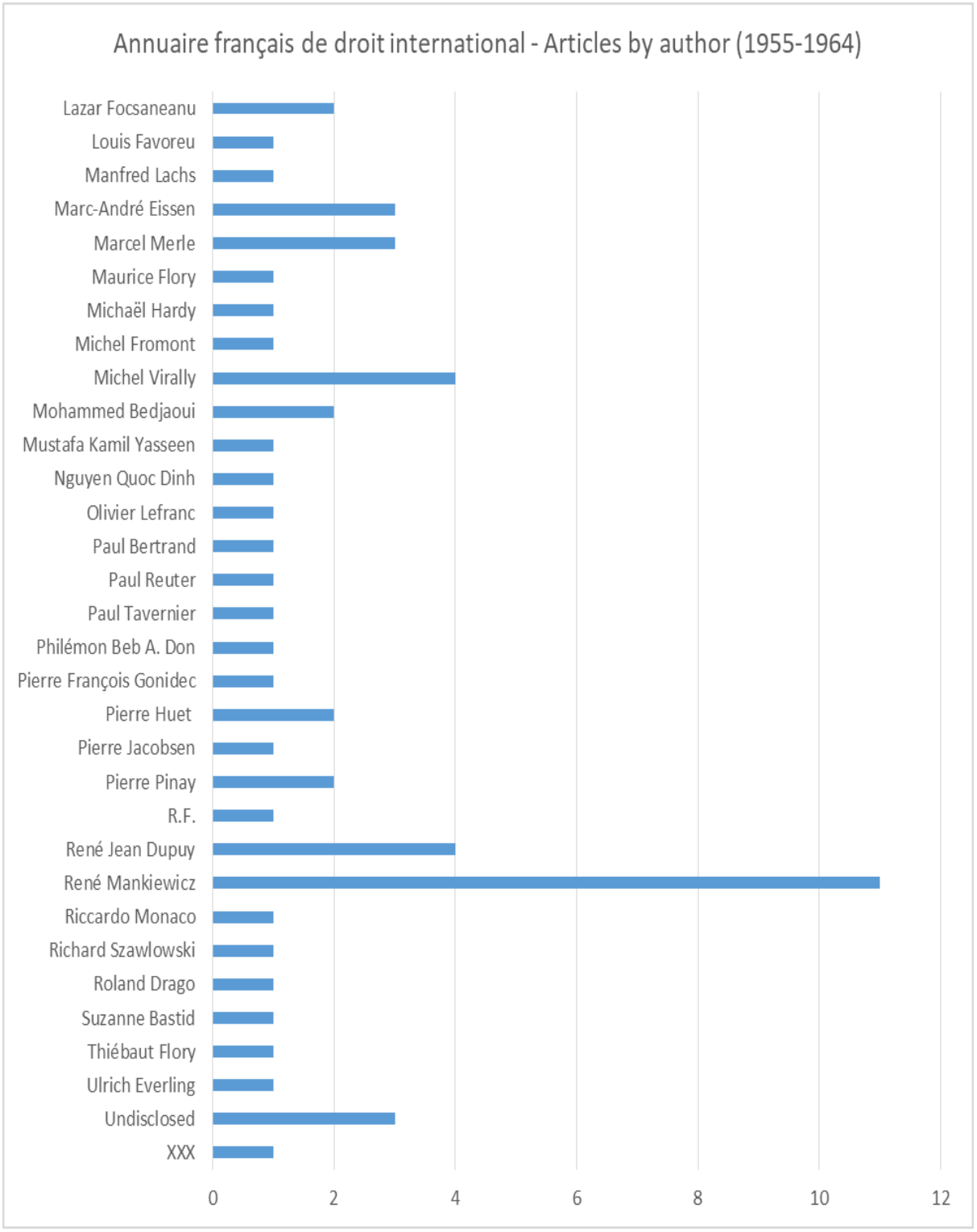


GRAPH E. Frequency graphic – Articles published in the American Journal of International Law (Table D) according to the author



GRAPHS F/G. Frequency graphics – Articles published in the Annuaire français de droit international (Table F) according to the author




Annuaire français de droit international - Articles by author (1955-1964)
Lazar Focsaneanu
Louis Favoreu
Manfred Lachs
Marc-André Eissen
Marcel Merle
Maurice Flory
Michaël Hardy
Michel Fromont
Michel Virally
Mohammed Bedjaoui
Mustafa Kamil Yasseen
Nguyen Quoc Dinh
Olivier Lefranc
Paul Bertrand
Paul Reuter
Paul Tavernier
Philémon Beb A. Don
Pierre François Gonidec
Pierre Huet
Pierre Jacobsen
Pierre Pinay
R.F.
René Jean Dupuy
René Mankiewicz
Riccardo Monaco
Richard Szawlowski
Roland Drago
Suzanne Bastid
Thiébaut Flory
Ulrich Everling
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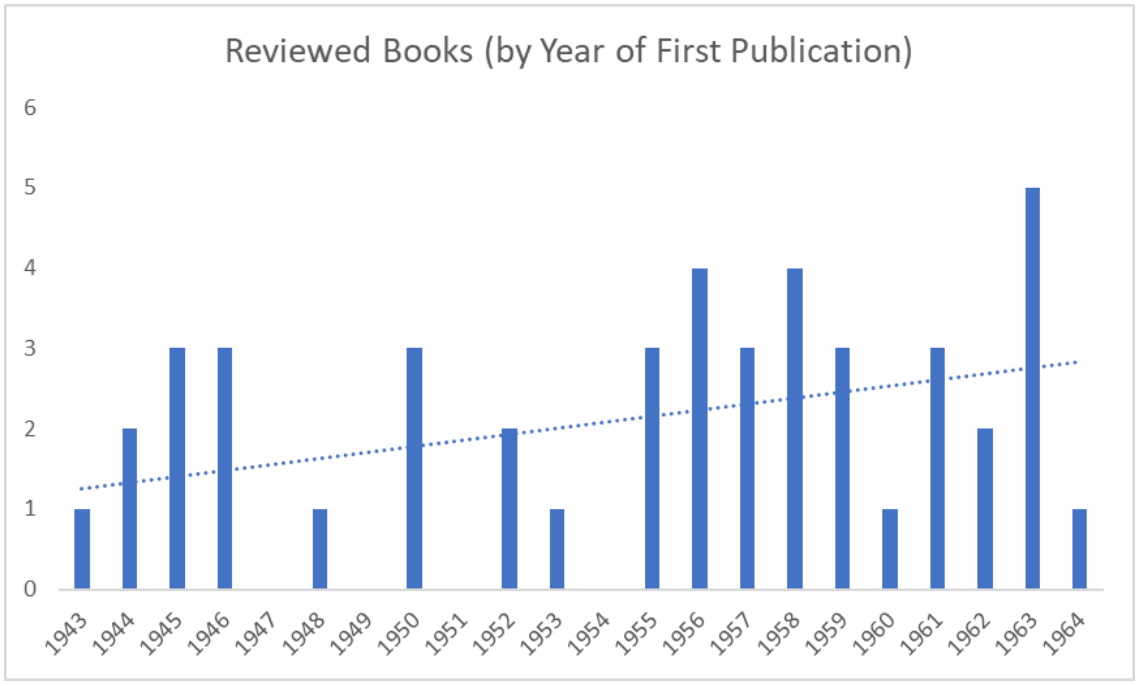
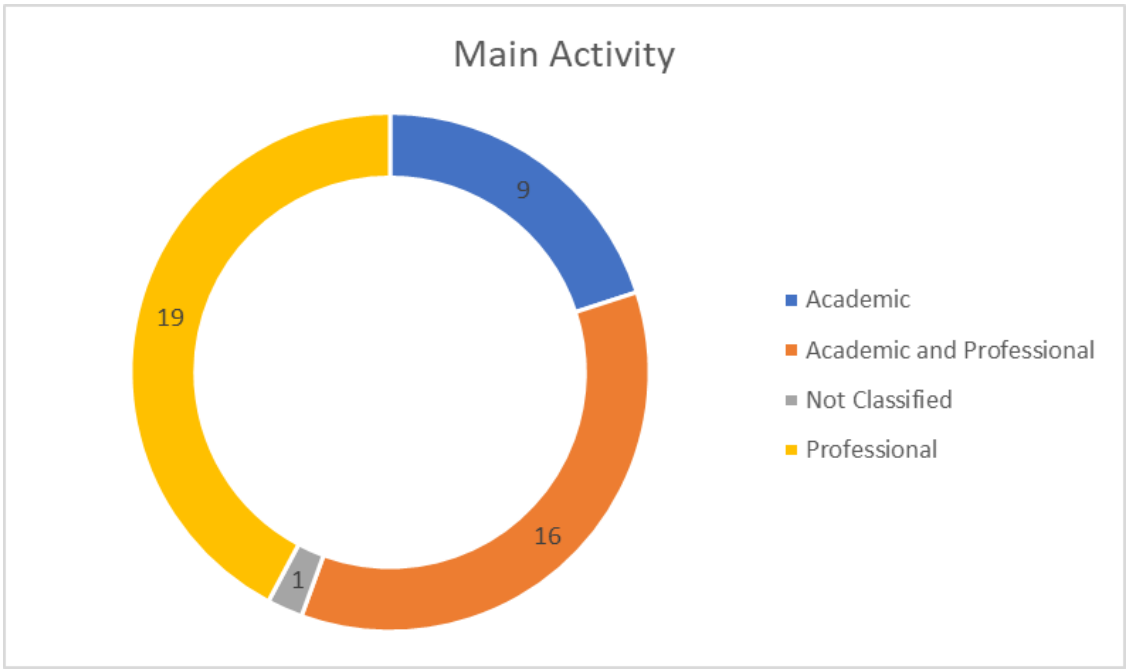
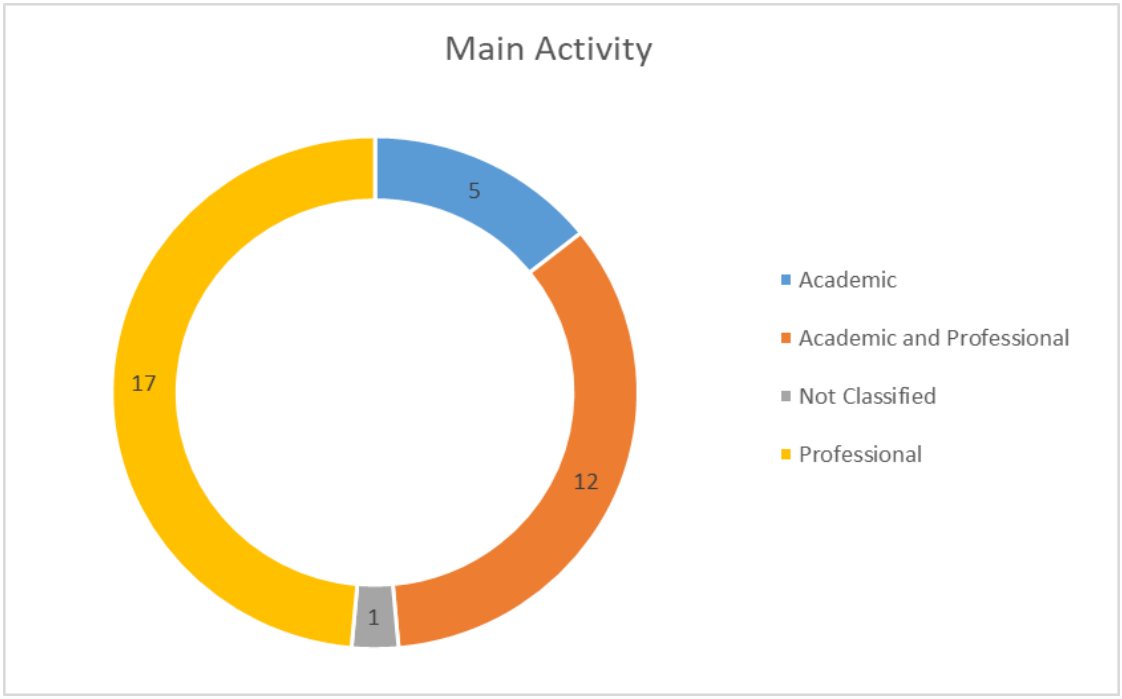
GRAPHS H/I. Frequency graphics - Books reviewed (Tables L and M) according to the year of first publication



GRAPHS J/K. Frequency graphics - Books reviewed (Tables L and M) according to the main activity of their writers





GRAPH L. Frequency graphic – Books reviewed (Table L) according to their language

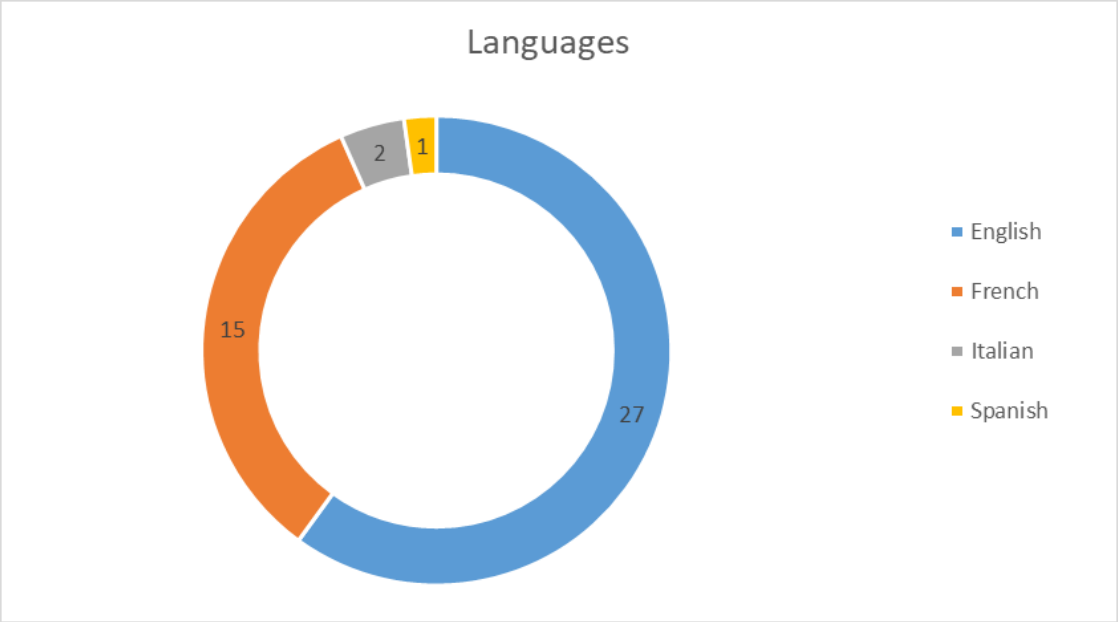


TABLE A. Articles and Notes published in the 'British Yearbook of International Law' between 1945 and 1964

BRITISH YEARBOOK OF INTERNATIONAL LAW (1945-1964) – ARTICLES AND NOTES		
1945	Clarence Wilfred Jenks	Some Constitutional Problems of International Organizations
1945	Clarence Wilfred Jenks	The Relationship of International Organizations to Municipal Law and Their Privileges and Immunities
1945	Clarence Wilfred Jenks	The Legal Personality of International Organizations
1946	Edvard Hambro	The Interpretation of the Charter of the United Nations
1946	James Leslie Brierly	The Covenant and the Charter
1946	Arthur Henry Robertson	Some Legal Problems of the UNRRA
1946	Clarence Wilfred Jenks	Constitutional Changes in the ILO
1946	Hugh McKinnon Wood	The Dissolution of the League of Nations
1947	Pierre Lalive	International Organization and Neutrality
1947	P.O. Humber	Admission to the United Nations

1947	Yuen-Li Liang	The Settlement of Disputes in the Security Council: The Yalta Voting Formula
1947	James Fawcett	The International Trade Organization
1948	Frank Blaine Sloan	The inding Force of a Recommendation of the General Assembly of the United Nations
1948	Oscar Schacter	The Development of International Law through the Legal Opinions of the United Nations Secretariat
1948	Edvard Hambro	Some observations on the Compulsory Jurisdiction of the International Court of Justice
1949	Clive Parry	The Treaty-Making Power of the United Nations
1949	Mary Margaret Ball	The Organization of American States and the Council of Europe
1949	Shabtai Rosenne	Recognition of States by the United Nations
1950	Clive Parry	The Legal Nature of the Trusteeship Agreements
1950	A.B. Lyons	Was the League of Nations a Charity?
1950	Michael Brandon	The United Nations "Laissez Passer"
1951	Clarence Wilfred Jenks	Co-ordination in International Organization: an Introductory Survey
1951	Michael Brandon	The Legal Status of the Premises of the United Nations
1951	Stephen Schwebel	The Origins and Development of Article 99 of the Charter
1951	Clarence Wilfred Jenks	The Protection of Freedom of Association by the International Labour Organization
1952	Gerald Fitzmaurice	The Law and Procedure of the International Court of Justice: International Organizations and Tribunals
1952	Francis Vallat	The General Assembly and the Security Council of the United Nations
1952	Arthur Henry Robertson	The European Political Community
1953	Stephen Schwebel	The International Character of the Secreatariat of the United Nations
1953	Robert Jennings	The Commonwealth and International Law
1954	Clarence Wilfred Jenks	The Scope of International Law
1954	Egon Schwelb	The Amending Procedure of Constitutions of International Organizations
1954	Francis Vallat	Voting in the General Assembly of the United Nations
1955 1956	David Johnson	The Effect of Resolutions of the General Assembly of the United Nations
1955 1956	Derek Bowett	Collective Self-Defence under the Charter of the United Nations
1957	James Edmund Fawcett	"Détournement de Pouvoir" by International Organizations
1958	Robert Jennings	The Progress of International Law
1958	Raymond Spencer Rodgers	The Headquarters Agreement of the International Atomic Energy Agency of 1 March 1958 at Vienna
1959	Manfred Lachs	Recognition and Modern Methods of International Co-operation
1960	D.G. Valentine	The Jurisdiction of the Court of Justice of the European Communities to Annul Executive Action

1960	Theodor Meron	The Question of the Composition of the Trusteeship Council
1960	James Edmund Fawcett	The Place of Law in an International Organization
1960	Henry Darwin	The European Free Trade Association
1961	Finn Seyersted	United Nations Forces: Some Legal Problems
1961	J.F. McMahon	The Court of the european Communities: Judicial Interpretation and International Organization
1961	Michael James Hardy	Claims by International Organizations in Respect of Injuries to their Agents
1962	Üner Kirdar	The International Administrative Service (OPEX): Provision of Operational, Executive and Administrative Personnel
1962	Ingrid Detter	The Organs of International Organizations Exercising their Treaty-Making Power
1963	Nathan Feinberg	Unilateral Withdrawal from na International Organization
1963	Michael Hardy	The United Nations and General Multilateral Treaties Concluded under the League of Nations
1964	James Edmund Fawcett	The International Monetary Fund and International Law
1964	Michael Akehurst	Unilateral Amendment of Conditions of Employment in International Organizations
1964	Taslim Olawale Elias	The Commission of Mediation, Conciliation and Arbitration of the African Union

*No 1955 Yearbook was published, but only a single 1955-1956 volume.

TABLE B. Reviews published in the 'British Yearbook of International Law' between 1945 and 1964

BRITISH YEARBOOK OF INTERNATIONAL LAW (1945-1964) – BOOK REVIEWS		
1945	Clarence Wilfred Jenks	The Headquarters of International Institutions. A Study of Their Locations and Status
1945	Paul Guggenheim	L'Organisation de la Société Internationale
1945	James Brierly	The Outlook for International Law
1945	Osborne Mance	International Transport and Communications; International Telecommunications; International Air Transport; International River and Canal Transport
1946	Georges Fischer	Les rapports entre l'Organisation inetrnationale du Travail et la Cour permanente de Justice internationale
1946	Martin Hill	The Economic and Financial Organization of the League of Nations: A Survey of Twenty-five Years' Experience
1946	Piero Ziccardi	La Costituzione dell´Ordinamento Internazionale
1946	Egon Ranshofen-Wertheimer	The International Secretariat
1946	Andrè Salomon	Le Préambule de la Charte: Base Idéologique de l'ONU
1947	Martin Hill	Immunities and Privileges of International Officials
1948	Wellington Koo Jr	Voting Procedures in International Political Organizations

1948	Andrè Salomon	L'ONU et la Paix
1948	Charles Fincham	Domestic Jurisdiction: The Exception of Domestic Jurisdiction as a Bar to Action by the League of Nations and the United Nations
1949	Hambro and Goodrich	The Charter of the United Nations: Commentary and Documents
1950	Bentwich and Martin	A Commentary on the Charter of the United Nations
1950	Eric Beckett	The North Atlantic Treaty, the Brussels Treaty and the Charter of the United Nations
1950	Hans Kelsen	The Law of the United Nations
1951	Eduardo Jiménez de Aréchaga	Voting and the Handling of Disputes in the Security Council
1951	Hans Kelsen	Recent Trends in the Law of the United Nations
1951	Sergei Krylov	Materials on the History of the Organization of the United Nations
1951	Stephen Schwebel	The Secretary-General of the United Nations. His Political Powers and Practices
1952	Georges Day	Le droit de veto dans l'Organisation des Nations Unies
1952	Pierre Brugière	'Droit de veto'. La Règle de l'unanimité des membres permanents au Conseil de Sécurité
1952	Paul Reuter	La Communauté européenne du charbon et de l'acier
1953	Charles Henry Alexandrowicz	International Economic Organizations
1955 1956	Charles de Visscher	Théories et Réalités en Droit Internationl Public. 2.ed.
1955 1956	Henry Mason	The European Coal and Steel Community: Experiment in Supranationality
1957	Arthur Henry Robertson	The Council of Europe: its Structure, Functions and Achievements
1957	Charmian Toussaint	The Trusteeship System of the United Nations
1958	Guy Feuer	Les Aspects Juridiques de l'Assistance Technique dans le Cadre des Nations unies et des Institutions spécialisées
1958	Nagendra Singh	Termination of Membership of International Organizations
1958	Clarence Wilfred Jenks	The International Protection of Trade Union Freedom
1959	Alejandro Álvarez	Le Droit International Nouveau
1959	Clarence Wilfred Jenks	The Common Law of Mankind
1959	Angelo Piero Sereni	Diritto Internazionale, vol. ii - Organizzazzione Internazionale
1959	Arthur Henry Robertson	European Institutions: Co-operation, Integration, Unification
1959	Philippe Cahier	Étude des accords de siège conclus entre les organisations internationales et les états où elles résident
1959	Jean Salmon	Le rôle des organisations internationales em matière de prêts et d'emprunts
1960	Bengt Broms	The Doctrine of Equality of States as Applied in International Organizations
1960	Angelo Piero Sereni	Diritto Internazionale, vol. ii - Le Organizzazioni Internazionali

1961	Badr Kasme	La Capacité de l'Organisation des Nations Unies de conclure des traités
1961	Jean Leca	Les téchniques de révision des conventions internationales
1961	Arthur Henry Robertson	The Law of International Institutions in Europe
1962	Sydney Bailey	The Secretariat of the United Nations
1962	Gerhard Bebr	Judicial Control of the European Communities
1962	Clarence Wilfred Jenks	The Proper Law of International Organisations
1962	McDougal and Feliciano	Law and Minimum World Public Order: The Legal Regulation of International Coercion
1962	Alessandro Migliazza	Il fenomeno dell' organizzazione e la comunità internazionale
1963	Gamal Attia	Les Forces armées des Nations Unies en Corée et au Moyen-Orient
1963	James Fawcett	The British Commonwealth in International Law
1963	Veli Pancari	De la Charte des Nations Unies à une meilleure organisation du monde
1963	Jean Siotis	Essai sur le secrétariat international
1963	Thomas and Thomas	The Organization of American States
1963	Clarence Wilfred Jenks	International Immunities
1964	Derek Bowett	The Law of International Institutions
1964	Wolfgang Friedmann	The Changing Structure of International Law
1964	Georges Langrod	The International Civil Service
1964	Rosalyn Higgins	The Development of International Law through the Political Organs of the United Nations
1964	Roger Pinto	Les Organisations européennes

*No 1955 Yearbook was published, but only a single 1955-1956 volume. The authors´ names, and not the reviewers´, are indicated in the table.

TABLE C. Reviews published in the ´Cambridge Law Journal´ between 1945 and 1964

CAMBRIDGE LAW JOURNAL (1945-1964) – BOOK REVIEWS		
1945	Secretariat of the League of Nations	Powers and Duties Attributed to the League of Nations by International Treaties
1946	Pablo de Azcárate	League of Nations and National Minorities: An Experiment
1946	Egon Ranshofen-Wertheimer	The International Secretariat: A Great Experiment in International Administration
1947	Martin Hill	Economic and Financial Organization of the League of Nations
1949	Martin Hill	Immunities and Privileges of International Officials: The Experience of the League of Nations

1962	Arthur Henry Robertson	The Law of International Institutions in Europe
1963	Clarence Wilfred Jenks	The Proper Law of International Organisations
1963	Gerhard Bebr	Judicial Control of the European Communities
1964	Derek Bowett	The Law of International Institutions
1964	Rosalyn Higgins	The Development of International Law through the Political Organs of the United Nations

*The authors´ names, and not the reviewers´, are indicated in the table.

TABLE D. Articles and Comments published in the ´American Journal of International Law´ between 1945 and 1964

AMERICAN JOURNAL OF INTERNATIONAL LAW (1945-1964) – ARTICLES AND COMMENTS

1945	Clarence Wilfred Jenks	The Need for an International Legislative Bureau
1945	Hans Kelsen	The Old and the New League: The Covenant and the Dumbarton Oaks Proposal
1945	Herbert Briggs	Power Politics and International Organization
1945	Theodore Sumberg	The Financial Experience of the UNRRA
1945	Ruth Masters	International Agencies in the Western Hemisphere
1945	Pitman Potter	The Dumbarton Oaks Experience Viewed Against Recent Experience in International Organization
1945	Pitman Potter	Voting Procedure in the Security Council
1945	Josef Kunz	The Inter-American Conference on Problems of War and Peace at Mexico City and the Problem of Reorganization of the Inter-American System
1945	Pitman Potter	The United Nations Charter and the Covenant of the League of Nations
1945	George Finch	The United Nations Charter
1945	Clyde Eagleton	International Law and the Charter of the United Nations
1945	Philip Jessup	Development of International Law by the United Nations
1945	Josef Kunz	The Inter-American System and the United Nations Organization
1945	Egon Ranshofen-Wertheimer	The Position of the Executive and Adminsitrative Heads of the United Nations International Organizations
1946	Louis Sohn	Multiple Representation in International Assemblies
1946	Lawrence Preuss	The Internaitonal Organization Immunities Act
1946	Clyde Eagleton	The Jurisdiction of the Security Council over Disputes
1946	Walter Laves and Francis Wilcox	The First Meeting of the General Assembly
1946	Gustav Pollaczek	The United States and Specialized Agencies
1946	Clyde Eagleton	The Demand for World Government

1946	Josef Kunz	The Legal Position of the Secretary General of the United Nations
1947	Walter Sharp	The New World Health Organization
1947	Lawrence Preuss	Immunity of Officers and Employees of the United Nations for Official Acts
1947	Josef Kunz	Privileges and Immunities of International Organizations
1947	Edwin Borchard	International Law and International Organization
1947	Manley Hudson	Encouragement of the Development of International Law by the United Nations
1947	Herbert Briggs	The United Nations and International Legislation
1948	Yuen-Li Liang	The General Assembly and the Progressive Development and Codificaiton of Intenrational law
1948	Francis Sayre	Legal problems Arising from the United nations Trusteeship System
1948	Denys Myers	Liquidaiton of League of Nations Functions
1948	George Wolfe	The States Directly Concerned: Article 79 of the United Nations Charter
1948	Josef Kunz	The Bogota Charter of the Organization of American States
1948	Hans Kelsen	Collective Security and Collective Self-Defense Under the Charter of the United Nations
1948	Clyde Eagleton	Palestine and the Constitutional Law of the United Nations
1948	Charles Fenwick	The Unanimity Rule in Inter-American Conferences
1949	Marie Stuart Klooz	The Role of the General Assembly of the United Nations in the Admission of Members
1949	Hans Aufricht	Principles and Practices of Recognition by International Organizations
1949	Yuen-Li Liang	Notes on Legal Questions Concerning the United Nations
1949	Alfred Verdross	On the Concept of International Law
1949	Quicy Wright	Responsibility for Injuries to United Nations Officials
1949	Pitman Potter	The Statute of the Council of Europe
1949	Quicy Wright	The Jural Personality of the United Nations
1949	Pitman Potter	The United Nations, 1945-1949
1949	Charles Fenwick	The Competence of the Council of the Organization of American States
1949	Herbert Briggs	Rebus Sic Stantibus Before the Security Council: The Anglo-Egyptian Question
1950	Yuen-Li Liang	Notes on Legal Questions Concerning the United Nations
1951	Joseph Sulkowski	Competence of the International Labor Organization Under the United Nations System
1951	Herbert Weinschel	The Doctrine of Equality of States and Its Recent Modifications
1951	Alexander Rudzinski	The So-Called Double Veto
1951	Yuen-Li Liang	Notes on Legal Questions Concerning the United Nations
1951	L.H. Woolsey	The "Uniting for Peace" Resolution of the United Nations
1951	Josef Kunz	Legality of the Security Council Resolutions of June 25 and 27, 1950
1951	Pitman Potter	Liberal and Totalitarian Attitueds Concerning International Law and Organization
1952	Yuen-Li Liang	Notes on Legal Questions Concerning the United Nations

1952	George Finch	Draft Statute for an International Criminal Court
1952	Josef Kunz	The United Nations and the Rule of Law
1952	Charles Fenwick	The Organization of Central American States
1952	Josef Kunz	Supra-National Organs
1952	Charles Fenwick	Treaty Establishing the European Defense Community
1953	Yuen-Li Liang	Notes on Legal Questions Concerning the United Nations
1953	Clyde Eagleton	Self-Determination in the United Nations
1953	Josef Kunz	Treaty Establishing the European Defense Community
1953	Josef Kunz	General International Law and the law of International Organization
1954	Yuen-Li Liang	Notes on Legal Questions Concerning the United Nations
1954	Josef Kunz	Chapter XI of the United Naitons Charter in Action
1954	Herbert Briggs	The Proposed European Political Community
1954	Pitman Potter	The United Nations Charter: 1955
1955	Gerhard Bebr	Regional Organization: a United Nations Problem
1955	Maxwell Cohen	The United Nations Secretariat - Some Constitutional and Administrative Developments
1955	Pitman Potter	Membership and Represenation in the United Nations
1955	Clyde Eagleton	Preparation for Review of the United Nations Charter
1956	Leo Gross	Progress Toward Universality of Membership in the United Nations
1956	Wolfgang Friedmann	Some Impacts of Social Organization on International Law
1956	Charles Fenwick	The Inter-American Regional System: Fifty Years of Progress
1956	Pitman Potter	Communist China: Recognition and Admission to the United Nations
1956	Juraj Andrassy	Uniting for Peace
1957	Joseph House and Gordon Baldwin	Exercise of Criminal Jurisdiction under the Nato Status of Forces Agreement
1957	Manley Hudson	Succession of the International Court of Justice to the Permanent Court of International Justice
1957	John Hazard	Legal Research on "Peaceful Co-Existence"
1957	Josef Kunz	The Changing Law of Nations
1957	Philip Jessup	International Parliamentary Law
1958	Louis Sohn	Authority of the United Nations to Establish and Maintain a Permanent United Nations Force
1958	Leo Gross	Participation of Individuals in Advisory Proceedings Before the International Court of Justice
1958	Josef Kunz	United Nations Secretary General on the Rôle of the United Nations
1959	Myres McDougal and Harold Laswell	The Identification and Appraisal of Diverse Systems of Public Order
1959	Ernest Kerley	Voting in the United Nations General Assembly
1959	Clarence Wilfred Jenks	The Common Law of Mankind
1959	Ervin Hexner	Interpretation by International Organizations of their Basic Instruments
1959	Josef Kunz	The Systematic Problem of the Science of International Law

1959	Pitman Potter	Obstacles and Alternatives to International Law
1960	Josef Kunz	Sanctions in International Law
1960	Pitman Potter	Relative Values of International Relations, Law and Organizations
1960	Leo Gross	The Question of Laos and the Double Veto in the Security Council
1960	Gordon Weil	Decisions on Inadmissible Applications by the European Commission of Human Rights
1960	Alwyn Freeman	The Development of international Co-Operation in the Peaceful use of Atomic Energy
1961	E.M. Miller	Legal Aspects of UN Action in the Congo
1961	Ernest Kerley	The Powers of Investigation of the United Nations Security Council
1962	Eric Stein	Mr. Hammarskjöld, The Charter Law and the Future Rôle of the united Naitons Secretary General
1962	Georges Delaum	The Proper Law of Loans Concluded by International Persons
1962	John Halderman	Legal Basis for United Nations Armed Foces
1964	Eric Stein	Assimilation of National Law as a Function of European Integration
1964	Philip Jessup	Diversity and Uniformity in the Law of Nations
1964	Myres McDougal and Gerhard Bebr	Human Rights in the United Nations
1964	John Hazard	New Personalities to Create new Law
1964	Oscar Schacter	The Quasi-Judicial Rôle of the Security Council and the General Assembly
1964	Stefan Riesenveld and Richard Buxbaum	Van Gend & Loos v. Administration Fiscale Néerlandaise: a Pioneering Decision of the Court of Justice of the European Communities

*No articles were identified in the 1963 edition as pertaining to the Law of International Organizations, since the volume was almost entirely dedicated to the discussion of the Cuban Missiles Crisis.

**Between 1949 and 1954, Yuen-Li Liang published a column titled “Notes on Legal Questions Concerning the United Nations”, which were comprised of smaller comments distributed in the four annual volumes. In the table, only one entry per year is included, considering the whole column, not its divisions.

TABLE E. Reviews published in the ´American Journal of International Law´ between 1945 and 1964

AMERICAN JOURNAL OF INTERNATIONAL LAW (1945-1964) – BOOK REVIEWS		
1945	Nicolas Politis	La Morale Internationale
1945	Hans Kelsen	Peace Through Law
1945	Harriett Davis	Pioneers in World Order: An American Appraisal of the League of Nations
1945	George Helm	International Monetary Cooperation

1945		The International Secretariat of the Future: Lessons from Experience, by a Group of Former Officials of the League of Nations
1945	Margaret Ball	The Problem of Inter-American Organization
1945	Ruth Masters	Handbook of International Organizations in the Americas
1946	Lázsló Ledermann	Les precurseurs de l´Organisation internationale
1946	Egon Ranshofen-Wertheimer	The International Secretariat
1946	Cajo Balossini	La perte de qualité de membre de la Société des Nations
1946	Maurice Bourquin	Vers une nouvelle société des nations
1946	Clarence Wilfred Jenks	The Headquarters of International Institutions: a study of their location and status
1946	Chester Purves	The Internal Administration of an International Secretariat
1946	Hambro and Goodrich	Charter of the United Nations: Commentary and Documents
1946	Herman Finer	The United Nations Economic and Social Council
1946	James Brierly	The Outlook for International Law
1947	Martin Hill	The Economic and Financial Organization of the League of Nations
1947	Paul Guggenheim	L´Organisation de la Société Internationale
1947	Piero Ziccardi	La Costituzione dell´Ordinamento Internazionale
1948	Andrè Salomon	Le préambule de la Charte, base idéologique de l´O.N.U.
1948	Martin Hill	Immunities and Privileges of Officials: the Experience of the League of Nations
1948	Philip Jessup	The International Problem of Governing Mankind
1948	Lazare Kopelmanas	L´Organisation des Nations Unies. Vol. I. L´Organisation constitutionelle des Nations Unies
1948	Wellington Koo	Voting Procedures in International Political Organizations
1948	Pitman Potter	Introduction to the Study of International Organization
1949	Gilbert Murray	From the League to the UN
1949	The Committee to Frame a World Constitution	Preliminary Draft of a World Constitution
1950	Hambro and Goodrich	Charter of the United Nations: Commentary and Documents. 2. ed
1950	Hans Kelsen	The Law of the United Nations: Critical Analysis of its Fundamental Problems
1950	Eric Beckett	The North Atlantic Treaty, the Brussels Treaty and the Charter of the United Nations
1950	Francisco Florio	Le Organizzazioni Internazionali
1950	Maxence Bibié	La Communauté Internationale et ses Institutions
1951	George Woodbridge	UNRRA: The History of the United Nations Relief and Rehabilitation Administration
1952	Werner Levi	Fundamentals of World Organization
1952	Alf Ross	Constitution of the United Nations: Analysis of Structure and Functions
1952	Francis Paul Walters	A History of the League of Nations
1952	Lawrence Preuss	Article 2, Paragraph 7 of the Charter of the United Nations and Matters of Domestic Jurisdiction

1952	Charles Field Haviland	The Political Role of the General Assembly
1952	Gerard Mangone	The Idea and Practice of World Government
1953	John MacLaurin	The United Nations and Power Politics
1953	Georges Day	Le Droit de Veto dans l´Organisation des Nations Unies
1953	Amry Vandenbosch and Willard Hogan	The United Nations
1953	Stephen Schwebel	The Secretary-General of the United Nations - His Powers and Practice
1953	Eduardo Jiménez de Aréchaga	Voting and Handling of Disputes in the Security Council
1953	Pierre Bourquin	La règle de l´unanimité des membres permanentes au Conseil de Sécurité
1953	Paul Reuter	La Communauté Européenne du Charbon et de l´Acier
1954	Arturo Pallares	Carta y Estructura de las Naciones Unidas
1954	Gerard Mangone	A Short History of International Organization
1954	Stanley Hoffman	Organisations Internationales et Pouvoirs Politiques des États
1954	Quincy Wright	Problems and Stability of Progress in International Relations
1955	Charles de Visscher	Théories et Réalités em Droit International Public
1955	Walter Schiffer	The Legal Community of Mankind: a Critical Analysis of the Modern Concept of World Organization
1955	Daniel Chever and Charles Field Haviland	International Organization of World Affairs
1955	Jean Carroz and Yürg Probst	Personnalité Juridique Internationale et Capacité de conclure des traités de l´ONU et des Institutions spécialisées
1956	Chamberlain, Jessup, Lande and Lissitzyn	International Organization
1956	Charles de Visscher	Théories et Réalités em Droit International Public. 2 ed.
1957	Amos Peaslee	International Governmental Organizations
1957	Charles de Visscher	Theory and Reality in Public International Law
1957	Philip Jessup	Transnational Law
1957	Francis Wilcox and Carl Marcy	Proposals for Changes in the United Nations
1957	Arthur Henry Robertson	The Council of Europe
1957	Henry Mason	The European Coal and Steel Community: Experiment in Supranationality
1957	Inis Claude Junior	Swords into Plowshares
1957	Hans Kelsen	The United Nations - Ten Years´ Progress
1958	Jacob Schenkman	International Civil Association
1958	Clyde Esagleton	International Governmental Organizations
1958	Ben Atkinson Wortley	The United Nations: the First Ten Years

1958	James Murray Junior	The Untied Naitons Trusteeship System
1958	Karl Zemanek	Das Vertragsrecht der Internationalen Organizationen
1958	Henri Tassin Adam	Les établissements publics internationaus
1958	Josef Söder	Der Vereinten Nationen und die Nichtmitglieder
1959	Angelo Piero Sereni	Diritto Internazionale, vol. ii - Organizzazzione Internazionale
1959	Antonio Malintoppi	Le Raccomandazioni Internazionali
1959	Nagendra Singh	Termination of Membership of International Organizations
1960	JW Schneider	Treaty-Making Power of International Organizations
1960	Fernand Van Langenhove	La crise du système de sécurité collective des Nations Unies
1960	Eduardo Jiménez de Aréchaga	Derecho Constitucional de las Naciones Unidas
1960	Leland Goodrich	The United Nations
1960	Political and Economic Planning	European Organizations
1960	HG Nicholas	The United Nations as a Political Instituion
1960	Pierre Mathijsen	Le Droit de la Communauté Européenne du Charbon et de l´Acier: um Étude des Sources
1961	Maurice Bourquin	L´État Souverain et l´Organisation Internationale
1961	Felix Fernández-Shaw	La Organización de los Estados Americanos: una Nueva Visión de América
1961	Philippe Cahier	Eétude des Accords de Siège Conclus entre les Organisations Internationales et les Etats oè Elles Résident
1961	Myres McDougal	Studies in World Public Order
1961	Angelo Piero Sereni	Le Organizzazioni Internazionali
1962	Clarence Wilfred Jenks	International Immunities
1962	Marc-Stanislas Korowicz	Organisations Internationales et Souveraineté des Etats Membres
1962	Badr Kasme	La capacité de l´Organisation des Nations Unies de conclure des traités
1962	Guenther Weissberg	The International status of the United Nations
1962	David Singer	Financing International Organization: the United Nations Budget Process
1962	Arthur Henry Robertson	The Council of Europe: its Structure, Functions and Achievements
1963	Michel Virally	L´ONU d´hier à demain
1963	Alessandro Vignano	Immunità e Privilegi degli Funzionari delle Organizzazioni Internazionali
1963	Clarence Wilfred Jenks	The Proper Law of International Organizations
1963	Felix Fernández-Shaw	La Organización de los Estados Americanos: una Nueva Visión de América
1963	Ruth Lawson	International Regional Organization: Constitutional Foundations

1964	Kenneth Carlston	Law and Organization in World Society
1964	Charles Fenwick	The Organization of American States
1964	Roberto Socini	Gli Accordi Internazionali delle Organizzazioni Inter-Governative
1964	Jean Siotis	Essai sur le Secrétariat International
1964	Thomas and Thomas	The Organization of American States
1964	Finn Seyersted	Objective International Personality of International Organisations. Do their capacities really depend upon their constitutions?

*The authors´ names, and not the reviewers´, are indicated in the table.

TABLE F. Articles published in the 'Annuaire français de droit international' between 1955 and 1964

ANNUAIRE FRANÇAIS DE DROIT INTERNATIONAL (1955-1964) - ARTICLES

1955	René Jean Dupuy	L´application du Traité d´assistance réciproque de Rio de Janeiro dans l´affaire Costa-Rica - Nicaragua
1955	Daniel-Henri Vignes	Le principe de l´unanimité dans les organisations européennes
1955	Charles Chaumont	La neutralité de l´Autriche et les Nations-Unies
1955	Georges Fischer	Le mode de règlement des différends adopté par l´Accord international sur le blé
1955	Georges Fischer	La coopération internationale en matière d´utilisation pacifique de l´énergie atomique
1955	Georges Fischer	Participation des États non membres aux travaux des comissions écnomiques régionales
1955	Georges Fischer	Les compétneces du Secrétaire général
1955	Georges Fischer	Coordination em matière d´assistance technique de l´ONU et des Institutions spécialisées
1955	Georges Fischer	Le caractère tripartite de l´Organisation
1955	Georges Fischer	Répresentation des territoires non autonomes à la Conférence internationale du Travail
1955	Georges Fischer	Pirivilèges et immunités
1955	Georges Fischer	Accord relatif au siège
1955	Georges Fischer and	Accord instituant l´Organisation
1955	Alexandre-Charles Kiss and Daniel-Henri Vignes	Le Conseil de l´Europe
1955	Suzanne Bastid and Daniel-Henri Vignes	L´obligation de consultation politique pur les États parties du Traité de l´Atlantique Nord
1955	Daniel-Henri Vignes	La personanalité juridique de l´OTAN
1955	Daniel-Henri Vignes	La réunion parlamentaire de l´OTAN à Paris (18-22 juillet 1955)

1955	Daniel-Henri Vignes	L´integration des forces et des états-majors
1955	Daniel-Henri Vignes	Le statut des agents de l´OTAN
1955	Daniel-Henri Vignes	L´exercice financier de l´OTAN et le concept des dépenses de défence
1955	Daniel-Henri Vignes	Le partage des dépenses em matière d´infranstructure commune et les appels d´offres internationaux
1955	Daniel-Henri Vignes	Agencement général de l´Organisation; engagements divers pris par les membres de l´Union et compétences exercées par l´Organisation
1955	Daniel-Henri Vignes	Organistaion et compétences, la Société européenne pour le financement du matériel de chemin de fer
1955	Pierre Jacobsen and Daniel-Henri Vignes	Bases juridiques, membre, fonctions, organes, financement, jurisdiction, rôle de France, conclusion
1955	Alexandre-Charles Kiss and Daniel-Henri Vignes	Compétences de regémentation de contrôle et jurisdictionelle
1956	Paul Reuter	Le droit au secret et les institutions internationales
1956	Michel Virally	Le valuer juridique des recommandations des organisations internationales
1956	Manfred Lachs	Les conventions multilatérales et les organisations internationales contemporaines
1956	Mohammed Bedjaoui	Jurisprudence comparée des tribunaux administratifs internationaux en matière d'excès de pouvoir
1956	Roland Drago and Georges Fischer	Pondération dans les organisations internationales
1956	Georges Fischer	La convertibilité des contributions au programme élargi d´assistance technique
1956	Paul Bertrand	La situation des "membre inactifs" de l´OMS
1956	Georges Fischer	Agence international pour l´énergie atomique
1956	Jean Salmon	Les contrats de la BIRD
1956	René Mankiewicz	Fréquence des sessions de l´Assemblée
1956	René Mankiewicz	Mode d´élection du Conseil
1956	René Mankiewicz	Méthodes de travail du Conseil
1956	René Mankiewicz	Statut de la Commission de navigation aérienne
1956	René Mankiewicz	L´International Air Transport Association
1956	René Mankiewicz	L´Organisastion internationale de police criminelle
1956	Alexandre-Charles Kiss and Daniel-Henri Vignes	Conseil de l´Europe: Les pouvoirs du Sécretaire général du Conseil de l´Europe comme dépositaire des conventions européennes
1956	Pierre Huet and Daniel-Henri Vignes	L´action de l´OECE dans le domaine de l´énergie nucléire
1956	Georges Fischer and Daniel-Henri Vignes	Euratom
1957	Gilles Fuchs	La Comission inter-américaine de la paix
1957	Nguyen Quoc Dinh	Les privilèges et immunités des organisations internationales d'après les jurisprudences nationales depuis 1945
1957	Lazar Focsaneanu	Le droit interne de l'Organisation des Nations Unies
1957	Georges Fischer	L'Accord entre l'Organisation des Nations Unies et l'Agence internationale de l'Energie atomique

1957	René Mankiewicz	L´Organisaton internationale de l´aviation civile
1957	Jean Claude Groshens	La Société sinancière internationale
1957	Mohammed Bedjaoui	Le syndicalisme des fonctionnaires internationaux
1957	René Jean Dupuy	La Commission européenne des Droits de l´Homme
1957	XXX	Marché commun, aspects institutionnels
1957	Riccardo Monaco	Le Rapprochement des législations nationales dans le cadre du marché commun
1957	André Cocatre-Zilgien	Euratom et Marché commun devant le Parlement français
1958	Marcel Merle	Le pouvoir réglementaire eds institutions internationales
1958	Michel Virally	Le Rôle politique du Sécretaire Général des Nations Unies
1958	Charles Chaumont	La situation juridique des Etats membres à l´égard de la force d´urgence des Nations Unies
1958	Jean Salmon	Quelques remarques sur l´installation du siège de l´UNESCO à Paris
1958	Philémon Beb A. Don	La Conférence internationale du Café de Rio de Janeiro
1958	Héribent Golsong and Alexandre-Charles Kiss	Les accords entre le Conseil de l'Europe et d'autres organisations intergouvernementales
1958	Pierre Huet	L'Agence européenne pour l'énergie nucléaire et la Société Eurochemic
1958	XXX	De quelques aspects des institutions de l´Euratom
1958	Georges Fischer	L'Accord de coopération entre les Etats-Unis et l'Euratom
1958	Bernard Le Page	Le système d'application progressive du traité instituant la Communauté économique européenne
1958	Bernard Le Page	Exceptions et limitations apportées aux principes de base d'un marché commun dans le traité instituant la Communauté économique européenne
1958	Pierre François Gonidec	L'Association des pays d'outre-mer au Marché Commun
1959	Michel Virally	La Conférence au sommet
1959	Marcel Merle	Le contrôle exercé par les organisations internationales sur les activités des Etats membres
1959	Guy Feuer	Une création originale des Nations Unies en matière d'assistance technique: le service international d'administrateurs
1959	André Teyssier d´Orfeuil	La Commission économique pour l'Afrique
1959	René Mankiewicz	L'Organisation de l'aviation civile internationale
1959	Antoine Boisson	L'Union postale universelle et l'évolution de sa structure
1959	Marc-André Eissen	La Cour européenne des Droits de l'Homme: de la convention au règlement
1959	Alexandre-Charles Kiss	Les Fonds spéciaux du Conseil de l'Europe
1959	-----	La personnalité juridique de la Communauté européenne du Charbon et de l'Acier dans les relations internationales
1960	René Jean Dupuy	Organisation internationale et unité politique, la crise de l'Organisation des Etats américains
1960	Claude Albert Colliard	L'Avis consultatif de la Cour Internationale de Justice sur la Composition du Comité de la sécurité maritime de

		l'Organisation intergouvernementale consultative de la navigation maritime
1960	Marc André Eissen	Le premier, arrêt de la Cour européenne des Droits de l'Homme: affaire Lawless, exceptions préliminaires et questions de procédure
1960	Jacques Lemoine	Le développement de la jurisprudence du Tribunal administratif de l'Organisation Internationale du Travail
1960	Michel Virally	Les Nations Unies et l'affaire du Congo, aperçu sur le fonctionnement des Institutions
1960	David Ruzié	L'année des Nations Unies. Questions juridiques
1960	Georges Fischer	La Banque internationale pour la reconstruction et le développement et l'utilisation des eaux de l'Indus
1960	Alexandre-Charles Kiss	Les actes du Comité des ministres du Conseil de l'Europe
1960	Marc-André Eissen	Le nouveau règlement intérieur de la Commission européenne des Droits de l'Homme
1960	Ingrid Detter	Aspects institutionnels de l'Association européenne de libre-échange
1960	Claude Lassalle	Le Projet de Convention relatif à l'élection de l'Assemblée parlementaire européenne au suffrage universel direct
1960	R.F.	Le Tarif douanier commun de la Communauté économique européenne
1960	Pierre Pinay	L'exercice du pouvoir réglementaire dans la Communauté économique européenne à propos de l'élimination des discriminations en matière de transports
1961	Marcel Merle	Les plébiscites organisés par les Nations Unies
1961	David Ruzié	L'année des Nations Unies (20 septembre 1960 - 19 septembre 1961). Questions juridiques
1961	René Mankiewicz	Organisation de l'aviation civile internationale: l'augmentation du nombre des membres du Conseil de l'O.A.C.I.
1961	Alexandre-Charles Kiss	Quelques aspects de la substitution d'une organisation internationale à une autre
1961	Michel Fromont	L'abstention de vote dans les organisations internationales
1961	Jean Salmon	La "beneficiary form"
1961	Hans Wiebringhaus	A propos du transfert de compétences entre organisations internationales: le cas du transfert de certaines activités de l'U.E.O. au Conseil de l'Europe
1961	Hans Jürgen Lambers	Les clauses de révision des Traités instituant les Communautés Européennes
1961	J.M.	Les Conseils des Communautés Européennes
1961	Daniel Vignes	La libération de l'établissement et des services dans la Communauté Economique Européenne
1961	Francis Wolf	Les Conventions internationales du travail et la succession d'Etats
1962	Georges Fischer	Une nouvelle organisation internationale, l'A.S.A.
1962	Hubert Thierry	L'avis consultatif de la Cour internationale de Justice sur certaines dépenses des Nations-Unies (art. 17, § 2 de la Charte)
1962	Jean-Pierre Ritter	La protection diplomatique à l'égard d'une organisation internationale

1962	Jean Salmon	L'emprunt de 200 millions de dollars de l'Organisation des Nations Unies
1962	Michaël Hardy	L'U.N.R.W.A. et son personnel
1962	David Ruzié	L'année des Nations Unies (20 septembre 1961 — 18 septembre 1962), questions juridiques
1962	René Mankiewicz	L'Organisation de l'aviation civile internationale
1962	Olivier Lefranc	Problèmes juridiques posés devant la XIIe session de la Conférence générale de l'Unesco
1962	René Mankiewicz	Les aéronefs internationaux
1962	Héribert Golsong	Les accords conclus au sein du Conseil de l'Europe : à propos du contrôle de leur application et de leur interprétation
1962	Alexandre-Charles Kiss	Les accords conclus au sein du Conseil de l'Europe : les clauses de signature différée et d'adhésion
1962	Hugo Hahn	La reconstitution de l'O.E.C.E. et sa continuation dans l'O.C.D.E.
1962	-----	Les organes subsidiaires dans la Communauté Economique Européenne
1962	Pierre Pinay	Règles de concurrence et transports dans le cadre de la Communauté Economique Européenne
1963	Louis Favoreu	L'arrêt du 21 décembre 1962 sur le Sud-Ouest africain et l'évolution du droit des organisations internationales
1963	Lazar Focsaneanu	Les banques internationales intergouvernamentales
1963	David Ruzié	L'année des Nations Unies (19 sept. 1962-16 sept. 1963), problèmes juridiques
1963	Claude-Henri Vignes	Questions juridiques intéressant l'Organisation mondiale de la Santé
1963	Alexandre-Charles Kiss	L'admission des Etats comme membres du Conseil de l'Europe
1963	René Jean Dupuy	Du caractère unitaire de la Communauté économique européenne dans ses relations extérieures
1963	Ignaz Seidl-Hohenveldern	La neutralité autrichienne et les relations de l'Autriche avec les Communautés européennes
1963	François Borella	Le régionalisme africain et l'Organisation de l'Unité Africaine
1963	Francine Batailler	Le juge interne et le Droit communautaire
1963	Hans Wiebringhaus	La Charte sociale européenne
1963	Richard Szawlowski	L'évolution du Comecon, 1949-1963
1964	Maurice Flory	Force internationale des Nations Unies et Pacification intérieure de Chypre
1964	Paul Tavernier, Thiébaut Flory and David Ruzié	L'année des Nations Unies — Problèmes juridiques
1964	Jean Aimé Stoll	Le statut juridique du représentant-résident du Bureau de l'assistance technique des Nations Unies dans l'État où il est accrédité
1964	Jean Lucien-Brun	Le Saint-Siège et les Institutions internationales
1964	Hans Wiebringhaus	Le Comité européen de coopération juridique
1964	Ulrich Everling	Les aspects juridiques de la coordination de la politique économique au sein de la Communauté Economique Européenne

1964	Benoit Aubenas	Intégration de la fonction publique communautaire lors de la mise en vigueur du statut des fonctionnaires des Communautés européennes
1964	Mustafa Kamil Yasseen	Le Comité juridique consultatif africano-asiatique

*No edition is mentioned before 1955 since it was the first year of publication of the AFDI.

TABLE G. Reviews published in the 'Annuaire français de droit international' between 1955 and 1964

ANNUAIRE FRANÇAIS DE DROIT INTERNATIONAL (1955-1964) – BOOK REVIEWS

1955	Paul Reuter	Institutions Internationales
1955	Pierre Brugière	Les pouvoirs de l´Assemblée générale des Nations Unies em matière de politique et de sécurité
1955	Chamberlain, Jessup, Lande and Lissitzyn	International Organization
1955	Daniel Vignes	La Communauté Européenne du Charbon et de l´Accier, um example d´administration économique internationale
1956	Philip Jessup	Transnational Law
1956	Claude-Albert Colliard	Institutions Internationales
1956	Mohamed Bedjaoui	Fonction publique internationale et influences nationales
1956	Guy Feuer	Les aspects juridiques de l´assistance technque dans le cadre des Nations Unies et des Institutions spécialisées
1956	Institut por la comparaison et le rattachement des droits européens	La fonction publique européenne
1957	Louis Sohn	Cases on United Nations law
1957	Carnégie pour la Paix Internationale	Études Nationales sur l´Organisation Internationale
1957	Alexander Loveday	Reflections on international administration
1957	Henri Tassin Adam	Les établissements public internationaux
1957	Inis Claude Jr	Swords into Plowshares. The Problems and Progress of International Organization
1957	Vladimir Kopal and Ivan Mrazek	Les Problèmes de révision de la Charte des Nations Unies
1957	William Frye	A United Nations peace force
1957	Riccardo Monaco	Le istituzioni internazionali di cooperazione europea
1957	Jean Meynaud	Le Marché commun
1957	Stelios Castanos	Les tendances juridiques de l´intégration européenne

1958	Clarence Wilfred Jenks	The Common Law of Mankind
1958	Angelo Piero Sereni	Diritto internazionale. II. Organizzazzione internazionale
1958	Grenville Clark and Louis Sohn	World Peace through World Law
1958	Nagendra Singh	Termination of membership of international organization
1958	Roberto Socini	Le organizzazioni internazionali a caractere europeo considerate nei loro rapporti reciproci
1959	Jean Salmon	Le rôle des Organizations internationales em matière de prêts et d´emprunts
1959	Pierre Duclos	La réforme du Conseil de l´Europe
1959	Eduardo Jiménez de Aréchaga	Derecho constitucional de las naciones unidas
1959	Philippe Cahier	Étude des accords de siège conclus entre les rganisations internationales et les États où elles résident
1959	Arthur Henry Robertson	European Institutions
1959	Louis Cartou	Le Marché Commun et le Droit Public
1959	D.S. Constantopoulos	The European Economic Community - A Real Union
1959	Cl. Garnier	Les Assemblées européennes
1960	Badr Kasme	La capacité de l´Organisation des Nations Unies de conclure des traités
1960	Bora Ljubisavljevic	Les problèmes de la pondération dans les institutions européennes
1960	Grenville Clark and Louis Sohn	World Peace through World Law - 2 ed
1961	Clarence Wilfred Jenks	International Immunities
1961	Jean Leca	Les téchniques de révision des conventions internationales
1961	Marc-Stanislas Korowicz	Organisations Internationales et Souveraineté des États membres
1961	Riccardo Monaco	Lezioni di Organizzazione internazionale - Diritto degli enti economici Internazionale
1961	Dag Hammarskjold	The international civil servant in law and in fact
1961	Georges Ténékidès	Homogénéité et diversité des régimes politiques au sein des organisaitons internationales
1961	Tommasi di Vignano	Immunità e privilegi dei funzionari delle organizzazioni internazionali
1961	Raymond Spencer Rodgers	Facilitation Problems of International Associations: The Legal, Fiscal and Adminsitrative Facilities
1961	Edoardo Vitta	L´integrazione europea, studio sulle analogie e influenze d diritto pubblico interno negli istituti di integrazione europea
1961	Centre français de droit comparé	Le droit des Communautés Européennes
1962	Clarence Wilfred Jenks	The Proper Law of International organizations
1962	Bernard Houyer-Hameray	Les compétences implicites des organisations internationales

1962	Roberto Socini	Les accords internationaux des organisations intergouvernamentales
1962	Pierre Poirier	La Force internationale d´urgence
1962	Arthur Henry Robertson	Le Conseil de l´Europe, as structure, ses fonctions et ses réalisations
1962	Roger Bloch and Jacqueline Lefevre	La fonction publique internationale et européenne
1962	Riccardo Monaco	Primi lineamenti di Diritto pubblico europeo
1962	Robert Kovar	Le pouvoir réglementarie de la Communauté Européenne du Charbon et de l´Acier
1962	Nicola Catalano	Manuel de droit des Communautés européennes
1963	Paul Reuter	Institutions Internationales - 4 ed
1963	Claude-Albert Colliard	Institutions internationales - 2 ed
1963	Derek Bowett	The law of international institutions
1963	Georges Langrod	La fonction publique internationale
1963	Jean Siotis	Essai sur le Secrétariat international
1963	Rosalyn Higgins	The development of International law through the political organs of the United Nations
1963	Finn Seyersted	Objective international personality of intergovernmental organisations
1963	Hugo Hahn	Continuity in the Law of International Organization
1963	Gamal El Din Attia	Les forces armées des Nations Unies em Corée et au Moyen-Orient
1963	Jean Salmon	Les difficultés financières des Nations Unies et les obligatins des Estats membres
1963	Roger Pinto	Les Organisations européennes
1963	Willem de Valk	La signification de l´intégration européenne pour le développement du droit international moderne
1963	Per Fischer	Europarat und parlamentarische Aussenpolitik
1964	Wolfgang Friedmann	The changing structure of international law
1964	Luis Garcia Arias	La Guerra Moderna y la Organización International
1964	Finn Seyersted	Settlement of Internal Disputes of Intergovernmental Organizations
1964	Charles Henry Alexandrowicz	World Economic Agencies. Law and Practice.
1964	Cem Sar	Le financement des activités de l´O.N.U.
1964	Francesco Durante	L´Ordinamento interno delle Nazioni Unite
1964	Claude Leclercq	L´O.N.U. et l´affaire du Congo
1964	Henri Tassin Adam	Les organismes internationaux spécialisés
1964	Maria Helena Simbrelo	Delimitación de competencias entre la O.N.U. y los organismos regionales en materia relativa al mantenimiento de la paz y seguridad internacionales
1964	Christian Tomuschat	Die gerichtliche Vorabentscheidung nach den Verträgen über die europäiscchen Gemeinschaften
1964	Constantin Economidès	Le pouvoir de décision des organisations internationales européennes

1964	Guggenheim, Long, Laive and Goormaghtigh	L´intégration européenne
1964	Jean Rau	Aspects juridiques des relations extérieures de la CEE
1964	Ulrich Everling	The right of establishment in the Common Market
1964	Robert Kovar	Le pouvoir réglementarie de la Communauté Européenne du Charbon et de l´Acier
1964	Serge Lazareff	Le statut des forces de l´O.T.A.N. et son application en France

*No edition is mentioned before 1955 since it was the first year of publication of the AFDI.

TABLE H. Topics included in the "Annuaire de l´Institut de Droit International" between 1947 and 1963

ANNUAIRE DE L´INSTITUT DE DROIT INTERNATIONAL (1947-1963) – TOPICS	
LES CONDITIONS D´ATTRIBUTION D´UN STATUT INTERNATIONAL A DES ASSOCIATIONS D´INITIATIVE PRIVEE – SUZANNE BASTID	
	Tome 43 (1950) Vol. I, 547-662
	Tome 43 (1950) Vol. II, 335-369 and 383-387
RECOURS JUDICIAIRE A INSTITUER CONTRE LES DECISIONS D´ORGANES INTERNATIONALES – WILHELM WENGLER	
	Tome 44 (1952) Vol. I, 224-360
	Tome 45 (1954) Vol. I, 265-307
	Tome 47 (1957) Vol. I, 5-33
	Tome 47 (1957) Vol. II, 274-327 and 476-479
MODIFICATION ET TERMINAISON DE TRAITES COLLECTIFS – ÉMILE GIRAUD	
	Tome 49 (1961) Vol. I, 5-295
	Tome 50 (1963), Vol. II, 270-305 and 361-364

*In spite of its denominations, the AIDI was not published on an annual basis. For this section, I have examined the 1947 (Lausanne), 1948 (Brussels), 1950 (Bath), 1952 (Sienna), 1954 (Aix-en-Provence), 1956 (Grenade), 1957 (Amsterdam), 1959 (Neuchatel), 1961 (Salzburg) and 1963 (Brussels) editions.

TABLE I. Articles published in the "Revue internationale de droit comparé" between 1949 and 1964

REVUE INTERNATIONALE DE DROIT COMPARE (1949-1964) – ARTICLES		
1960	Johannes Barmann	Les communautés européennes et le rapprochement des droits
1960	Riccardo Monaco	Comparaison et rapprochement des législations dans le Marché commun
1960	Frédéric Dumon	La formation de la règle de droit dans les communautés européennes

1960	André Tunc	L´élaboration de conditions générales de Vente sous les auspices déjà Commission Economique pour l´Europe
1961	Nicola Catalano	La Communauté économique européenne et l´unification, le rapprochement et l´harmonisation du droit des Etats membres
1963	Nicola Catalano	Rapports entre les règles de concurrence établies par le traité CEE et les législations des Etats

*No edition is mentioned before 1949 since it was the first year of publication of the RIDC.

TABLE J. Reviews published in the "Revue internationale de droit comparé" between 1949 and 1964

REVUE INTERNATIONALE DE DROIT COMPARE (1949-1964) – BOOK REVIEWS		
1950	Hans Kelsen	The Law of the United Nations
1950	Louis Sohn	Cases and other materials on World Law: The Interpretation of the Charter of the United Nations and of the Constitutions of other Agencies of the World Community
1953	Charles Henry Alexandrowicz	International Economic Organizations
1958	Michel Riou and Claude Georges	L´écueil de l´Euratom
1958	Clarence Wilfred Jenks	The International Protection of Trade Union Freedom
1958	Claude-Albert Colliard	Institutions Internationales
1958	Amos Peaslee	International Governmental Organizations
1959	Angelo Piero Sereni	Diritto Internazionale, vol. ii - Organizzazzione Internazionale
1959	René-Jean Dupuy	Le nouveau panaméricanisme. L´évolution du système américain vers le fédéralisme.
1959	Tien-Cheng Young	International Civil Service: Principles and Problems
1960	Louis Cartou	Le marché commun et le droit public
1960	Daniel Dollfus and Jean Rivoire	A propos de l´Euratom
1960	Bora Ljubisavljevic	Les problèmes de la pondération dans les institutions européennes
1961	Arthur Henry Robertson	The Council of Europe, its Structure, Functions and Achievement
1962	Jean Leca	Les Techniques de révision des conventions internationales
1962	Arthur Henry Robertson	The Law of International Institutions in Europe
1963	Arthur Henry Robertson	Le Conseil de l´Europe
1963	Amos Peaslee	International Governmental Organizations 2nd ed

1964	Clarence Wilfred Jenks	The Common Law of Mankind
1964	Clarence Wilfred Jenks	The Proper Law of International Organisations
1964	Georges Langrod	La fonction publique internationale. Sa genèse, son essence, son évolution.
1964	Henry Alfred Junckerstorff	International Manual on the European Economic Community

*No edition is mentioned before 1949 since it was the first year of publication of the RIDC.

TABLE K. Courses published in the "Recueil des Cours de l´Académie de Droit International" between 1947 and 1964

RECUEIL DES COURS – ACADÉMIE DE DROIT INTERNATIONAL (1947-1964)		
1947	Georges Kaeckenbeeck	La Charte de San-Francisco dans ses rapports avec le droit international
1947	Jesús María Yepes	Les accords régionaux et le droit international
1947	William Rappard	Vues rétrospectives sur la Société des Nations
1948	Camille Guit	Les accords de Bretton Woods et les institutions qui em sont issues
1949	Lawrence Preuss	Article 2, paragraph 7 of the Charter of the United Nations and matters of domestic jurisdiction
1950	Clarence Wilfred Jenks	Co-ordination: a new problem of international organization - a preliminary survey of the law and practice of inter-organizational relationships
1950	Clyde Eagleton	International Organization and the Law of Responsibility
1951	Ivan Kerno	L´organisation des Nations Unies et la Cour internationale de justice
1951	Émile Giraud	Le secretariar des institutions internationales
1951	Arthur Lehman Goodhart	The North Atlantic treaty of 1949
1951	Charles Fenwick	The progress of international law during the past forty years
1952	Max Sorensen	Le Conseil de l´Europe
1952	Paul Reuter	Le plan Schuman
1952	Louis Cavaré	Les sanctions dans le cadre de l´O.N.U.
1952	Nathan Feinberg	L´admission de nouveaux membres à la Société des Nations et à l´Organisation des Nations Unies
1952	Hanna Saba	Les accords régionaux dans la Charte de l´O.N.U.
1953	Alfred von Verdross	Idées directrices de l´Organisation des Nations Unies
1953	Jean-Flavien Lalive	L´immunité de jurisdiction des états et des organisations internationales

1954	Eduardo Jiménez de Aréchaga	Le traitement des différends internationaux par le Conseil de Sécurité
1955	Clarence Wilfred Jenks	The International Protection of Freedom of Association for trade union purposes
1955	Josef Kunz	La crise et les transformations du droit des gens
1956	Max Kohnstamm	The European Coal and Steel Community
1956	Juan de Soto	Les relations internationales de la communaute europeenne du charbon et de l'acier
1956	Émile Giraud	La révision de la Charte des Nations Unies
1956	Henri Rieben	De la cartellisation des industries lourdes européennes à la Communauté européenne du chrabon et de l´acier
1956	Charles Chaumont	Nations Unies et neutralité
1957	Suzanne Bastid	Les tribunaux administratifs internationaux et leur jurisprudence
1957	Arthur Henry Robertson	Legal problems of European integration
1958	Piero Ziccardi	Les caractères de l´ordre juridique international
1958	Jacob Robinson	Metamorphosis of the United Nations
1959	Aron Broches	International legal aspects of the operations of the World Bank
1959	Francis Aimé Vallat	The competence of the United Nations General Assembly
1959	Angelo Piero Sereni	International economic institutions and the municipal law of states
1960	Boutros-Boutros Ghali	Le principe de l´égalité des états et les organisations internationales
1960	René-Jean Dupuy	Le droit des relations entre les organisations internationales
1961	Marcel Prélot	Le droit des assemblées internationales
1961	Pierre Pescatore	Les relations extérieures des communautés européennes Contribution à la doctrine de la Personnalité des organisations internationales
1961	Allah Karim Brohi	Five lectures on Asia and the United Nations
1963	Georges Ténékides	Régimes internes et organisation internationale
1963	Oscar Schacter	The relation of law, politics and action in the United Nations
1963	Hugo Hahn	Constitutional limitations in the law of the European organisations
1963	Rudolf Binschedler	La délimitation des compétences des Nations Unies
1964	Eduardo Jiménez de Aréchaga	La coordination des systèmes de l´ONU et de l´Organisation des états américains pour le règlement pacifique des différends et la sécurité collective
1964	André de Laubadère	Traits généraux du contentieux administratif des Communautés européennes
1964	Hanna Saba	L'activité quasi-législative des institutions spécialisées des Nations Unies

*No edition is mentioned before 1947 since the Academy of International Law only resumed its activities after the war in this exact year.

TABLE L. Reviews published in academic journals of multiple countries between 1945 and 1964

MULTIPLE JOURNALS (1945-1964) – BOOK REVIEWS	
AMOS PEASLEE	International Governmental Organizations (1956)
ANDRÈ SALOMON	Le Préambule de la Charte: Base Idéologique de l'ONU (1946)
ANGELO PIERO SERENI	Diritto Internazionale, vol. ii - Organizzazzione Internazionale (1959)
ARTHUR HENRY ROBERTSON	The Council of Europe: its Structure, Functions and Achievements (1956)
ARTHUR HENRY ROBERTSON	European Institutions: Co-operation, Integration, Unification (1959)
BADR KASME	La Capacité de l'Organisation des Nations Unies de conclure des traités (1960)
CHAMBERLAIN, JESSUP, LANDE AND LISSITZYN	International Organization (1955)
CHARLES DE VISSCHER	Théories et Réalités en Droit International Public (1957)
CLARENCE WILFRED JENKS	The Headquarters of International Institutions. A Study of Their Locations and Status (1945)
CLARENCE WILFRED JENKS	The Common Law of Mankind (1958)
CLARENCE WILFRED JENKS	The Proper Law of International Organisations (1962)
CLARENCE WILFRED JENKS	International Immunities (1961)
DEREK BOWETT	The Law of International Institutions (1963)
EDUARDO JIMÉNEZ DE ARÉCHAGA	Voting and Handling of Disputes in the Security Council (1950)
EDUARDO JIMÉNEZ DE ARÉCHAGA	Derecho Constitucional de las Naciones Unidas (1958)
EGON RANSHOFEN-WERTHEIMER	The International Secretariat (1945)
ERIC BECKETT	The North Atlantic Treaty, the Brussels Treaty and the Charter of the United Nations (1950)
GEORGES DAY	Le droit de veto dans l'Organisation des Nations Unies (1952)
GERHARD BEBR	Judicial Control of the European Communities (1962)
GUY FEUER	Les aspects juridiques de l´assistance technque dans le cadre des Nations Unies et des Institutions spécialisées (1957)
HENRI TASSIN ADAM	Les établissements publics internationaux (1957)
HAMBRO AND GOODRICH	The Charter of the United Nations: Commentary and Documents (1946)
HANS KELSEN	The Law of the United Nations (1950)
HENRY MASON	The European Coal and Steel Community: Experiment in Supranationality (1955)
INIS CLAUDE JR	Swords into Plowshares. The Problems and Progress of International Organization (1956)
JAMES BRIERLY	The Outlook for International Law (1944)
JEAN LECA	Les téchniques de révision des conventions internationales (1961)

Jean Salmon	Le rôle des organisations internationales em matière de prêts et d´emprunts (1958)
Jean Siotis	Essai sur le Secrétariat International (1963)
Marc-Stanislas Korowicz	Organisations Internationales et Souveraineté des États membres (1961)
Martin Hill	The Economic and Financial Organization of the League of Nations: A Survey of Twenty-five Years' Experience (1946)
Martin Hill	Immunities and Privileges of Officials: the Experience of the League of Nations (1945)
Nagendra Singh	Termination of Membership of International Organizations (1958)
Paul Guggenheim	L´Organisation de la Société Internationale (1944)
Paul Reuter	La Communauté Européenne du Charbon et de l´Acier (1953)
Philip Jessup	Transnational Law (1956)
Philippe Cahier	Étude des accords de siège conclus entre les rganisations internationales et les États où elles résident (1959)
Piero Ziccardi	La Costituzione dell´Ordinamento Internazionale (1943)
Pierre Brugière	Les pouvoirs de l´Assemblée générale des Nations Unies en matière de politique et de sécurité (1955)
Roger Pinto	Les Organisations européennes (1963)
Rosalyn Higgins	The development of International law through the political organs of the United Nations (1963)
Stephen Schwebel	The Secretary-General of the United Nations. His Political Powers and Practices (1952)
Thomas and Thomas	The Organization of American States (1963)
Wellington Koo Jr	Voting Procedures in International Political Organizations (1948)
Wolfgang Friedmann	The Changing Structure of International Law (1964)

TABLE M. Reviews published in academic journals of multiple countries between 1945 and 1964, including only writings of a technical nature

MULTIPLE JOURNALS (1945-1964) – BOOK REVIEWS – CONDENSED	
Amos Peaslee	International Governmental Organizations (1956)
Angelo Piero Sereni	Diritto Internazionale, vol. ii - Organizzazzione Internazionale (1959)
Arthur Henry Robertson	The Council of Europe: its Structure, Functions and Achievements (1956)
Arthur Henry Robertson	European Institutions: Co-operation, Integration, Unification (1959)
Badr Kasme	La Capacité de l'Organisation des Nations Unies de conclure des traités (1960)
Clarence Wilfred Jenks	The Headquarters of International Institutions. A Study of Their Locations and Status (1945)
Clarence Wilfred Jenks	The Proper Law of International Organisations (1962)
Clarence Wilfred Jenks	International Immunities (1961)

DEREK BOWETT	The Law of International Institutions (1963)
EDUARDO JIMÉNEZ DE ARÉCHAGA	Voting and Handling of Disputes in the Security Council (1950)
EDUARDO JIMÉNEZ DE ARÉCHAGA	Derecho Constitucional de las Naciones Unidas (1958)
EGON RANSHOFEN-WERTHEIMER	The International Secretariat (1945)
ERIC BECKETT	The North Atlantic Treaty, the Brussels Treaty and the Charter of the United Nations (1950)
GEORGES DAY	Le droit de veto dans l'Organisation des Nations Unies (1952)
GERHARD BEBR	Judicial Control of the European Communities (1962)
GUY FEUER	Les aspects juridiques de l´assistance technque dans le cadre des Nations Unies et des Institutions spécialisées (1957)
HENRI TASSIN ADAM	Les établissements publics internationaux (1957)
HAMBRO AND GOODRICH	The Charter of the United Nations: Commentary and Documents (1946)
HANS KELSEN	The Law of the United Nations (1950)
HENRY MASON	The European Coal and Steel Community: Experiment in Supranationality (1955)
JEAN LECA	Les téchniques de révision des conventions internationales (1961)
JEAN SALMON	Le rôle des organisations internationales em matière de prêts et d´emprunts (1958)
JEAN SIOTIS	Essai sur le Secrétariat International (1963)
MARC-STANISLAS KOROWICZ	Organisations internationales et souveraineté des États membres (1961)
MARTIN HILL	The Economic and Financial Organization of the League of Nations: A Survey of Twenty-Five Years' Experience (1946)
MARTIN HILL	Immunities and Privileges of Officials: the Experience of the League of Nations (1945)
NAGENDRA SINGH	Termination of Membership of International Organizations (1958)
PAUL REUTER	La Communauté Européenne du Charbon et de l´Acier (1953)
PHILIPPE CAHIER	Étude des accords de siège conclus entre les rganisations internationales et les États où elles résident (1959)
PIERRE BRUGIÈRE	Les pouvoirs de l´Assemblée générale des Nations Unies en matière de politique et de sécurité (1955)
ROGER PINTO	Les Organisations européennes (1963)
ROSALYN HIGGINS	The development of International law through the political organs of the United Nations (1963)
STEPHEN SCHWEBEL	The Secretary-General of the United Nations. His Political Powers and Practices (1952)
THOMAS AND THOMAS	The Organization of American States (1963)
WELLINGTON KOO JR	Voting Procedures in International Political Organizations (1948)

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