Between Functionalism and Hegemony: Regional International Organizations in the History of International Law

Guy Fiti Sinclair
Associate Professor of Law, The University of Auckland, Auckland,
New Zealand
guy.sinclair@auckland.ac.nz

Abstract

This article examines the changing practice and theorisation of regional international organizations (RIOs) since the early nineteenth century. It argues that the identity and place of RIOs in international law have been continuously shaped and reshaped by the relational practices of particular entities, understood and enacted as more or less 'regional' and 'organizational', at different times and places. The article focuses on two axes of tension in particular: the positioning of RIOs between *functionalist* and *territorial* logics; and the possibility of RIOs being used for *hegemonic* or *counter-hegemonic* purposes. The article traces these two lines of tension through the practice of RIOs and doctrinal and theoretical reflections on that practice, over four periods of uneven lengths: the late nineteenth and early twentieth centuries; the interwar period; the four decades following the Second World War; and the period since the end of the Cold War.

Keywords

1   Introduction

This article analyses the place of regional international organizations (RIOs) in international law over the past two centuries. In this context, there is wide diversity across time and in different parts of the world regarding what is meant by 'regional'—which could refer to geographical, economic, cultural, or other commonalities—and the level of formalisation required for an 'organization' to exist. This article adopts a nominalist approach to these questions of definition, aiming to explore the different ways that social actors have understood and distinguished between international organizations (IOs) of more or less limited territorial scopes and degrees of institutionalisation. In this sense, the article seeks to recover the web of meanings—the background assumptions, beliefs, and discourses—that are embodied in, and make sense of, institutional practices regarding the meaning of RIOs.

This article argues that the identity and place of RIOs in international law are best understood as having been constantly shaped and reshaped by the relational practices of particular entities, understood and enacted as more or less 'regional' and 'organizational', at different times and places. From this perspective, every entity that is recognised as an RIO (or cognate term) is an assemblage of heterogeneous elements—each with its own constitutive makeup, interests, goals, and instrumentalities—in diverse and shifting relationships with one another. Furthermore, each RIO (so conceived) is constantly defined and redefined by its relationships to 'other', 'external' entities of various kinds, including: international bodies seen as more 'universal'; IOs from other 'regions'; entities that are understood as corresponding to 'sub-regions'; states, both within and without the RIO's defined 'region'; and a variety of non-state actors, including informal organizations and groupings, corporations, and non-governmental organizations. The relations between each RIO and these 'other' entities may be characterised in any number of ways, including cooperation, opposition, mimicry, fragmentation, or hybridity.[1]

This article focuses on two axes of tension that become apparent when considering the relations between RIOs and their various 'others'. The first concerns the positioning of RIOs between *functionalist* and *territorial* logics. On the one hand, RIOs, like other IOs, are usually understood to be created by states and delegated certain tasks or functions to serve the common needs

---

1   *See generally* Rafael Biermann and Joachim A Koops (eds), *Palgrave Handbook of Inter-Organizational Relations in World Politics* (Palgrave Macmillan, 2017).

of those states.[2] On the other hand, the membership of RIO s is, by definition, limited to a certain sub-set of states; their 'functionalism' applies, at least in principle, within a defined territory. The second axis of tension relates to the possibility of RIO s being used for imperialist or *hegemonic* purposes—often connected with the 'universalist' tendencies of functionalism—or alternatively for *counter-hegemonic* resistance and solidarity. The article traces these two lines of tension through the practice of RIO s and doctrinal and theoretical reflections on that practice, showing how both were present in the earliest IO s and remain salient today.

The article illustrates these themes with a necessarily selective account of the history of RIO s over four periods of uneven lengths. Part 2 highlights the 'regional' genesis of IO s and IO s law in the earliest institutional forms created in the late nineteenth and early twentieth centuries. Part 3 describes the shift from 'regional' to 'universal' IO s during the interwar period. Part 3 covers the contrary trend from the 'universal' to the 'regional' over the four decades following the Second World War, largely influenced by the pressures of the Cold War and decolonisation. Finally, Part 5 shows how the period since the end of the Cold War has resulted in a highly complex set of interrelationships among RIO s and 'universal' IO s.

2   The 'Regional' Origins of IO s

The earliest proto-IO s in the nineteenth century were all limited in geographical scope and/or membership, if not in ambition.[3] Some of these were unavoidably 'regional': the international commissions established to administer rivers such as the Rhine and the Danube in Europe were necessarily concerned with managing the relations among a limited number of states within a specific geographical area. Moreover, international public unions—such as the Universal Postal Union (established in 1874), the International Bureau of Weights and Measures (1875), or the International Association of Railway Congresses (1885)—were hardly 'universal', notwithstanding the names given to them. The original and dominant members of these entities were a relatively limited number of states in Europe, and sometimes the Americas. Other entities were more avowedly 'regional', or territorially limited: the first

---

2   Jan Klabbers, 'The EJIL Foreword: The Transformation of International Organizations Law' (2015) 26(1) *European Journal of International Law* 9.

3   Laurence Boisson de Chazournes, *Interactions between Regional and Universal Organizations. A Legal Perspective* (Brill Nijhoff, 2016) 5–6.

International Conference of American States held in 1889–1890, for example, resulted in the establishment of a permanent secretariat, the Commercial Bureau for the International Union of American Republics, later renamed the Pan American Union.[4]

Notwithstanding their 'regional' ambits, many of these new international bodies were understood to serve universalist—and thereby also imperialist or hegemonic—functions.[5] Many of the international public unions were in principle open to all countries and increasingly embraced so called 'semi-civilised' and 'semi-sovereign' states such as China, Turkey, India, and Egypt;[6] in doing so, they helped to construct transport and communications infrastructures for the ongoing expansion of European markets and regularised the intellectual and other property rights that lay at the foundation of an emerging global economy. International river commissions, based on the Rhine and Danube models, were established along the Congo and the Niger rivers to guarantee equal rights of commerce, and to govern the use of the Suez Canal and the Huangpu River in China.[7] European creditor nations formed international commissions and similar bodies to address cases of "serious disorganization in the financial system of the state" in countries such as Egypt and Turkey.[8] International sanitary councils with a specific 'regional' focus were established at key 'Oriental' capitals along trade and Islamic pilgrimage routes.[9] A Pan-American Sanitary Bureau was created in 1902, and the Pan American Union offered a convenient tool for the United States (U.S.) to extend its influence and commercial interests in South America.[10]

Contemporary observers sought to theorise the emergence of international bodies along a continuum from 'universal' to 'local'. Writing in 1897, Pierre Kazansky emphasised the former, highlighting the "general administrative interests of universal character" served by public international unions, which

---

4   Monica Herz, *The Organization of American States* (*OAS*) (Routledge, 2011) 9; Carolyn M Shaw, *Cooperation, Conflict and Consensus in the Organization of American States* (Palgrave Macmillan, 2004) 45—48.

5   Guy Fiti Sinclair, 'State Formation, Liberal Reform and the Growth of International Organizations' (2015) 26(2) *European Journal of International Law* 445.

6   Douglas Howland, 'An Alternative Mode of International Order: The International Administrative Union in the Nineteenth Century' (2015) 41(1) *Review of International Studies* 161.

7   Francis Bowes Sayre, *Experiments in International Administration* (Harper & Bros., 1919) 68–79, 84–91; Joanne Yao, *The Ideal River* (Manchester University Press, 2022).

8   Paul S Reinsch, *Public International Unions: Their Work and Organization* (Ginn and Company, 1911) 75.

9   Leonard Woolf, *International Government* (Brentano's, 1916) 223, 231.

10   Reinsch (n 8) 85.

he saw as part of a trend away from bilateral international law and towards "the international community [*la communauté internationale*], the international union of peoples".[11] Paul Reinsch likewise underlined the universality, albeit in varying degrees, of the "body of law" being produced by these new international entities.[12] Certain issues, such as railway freight communication, were by nature of "international interest", establishing "the unavoidable necessity of legislating [...] from the point of view of universality,—regarding the world as a unified economic organization".[13] Other problems, such as those involved in labour legislation, even though "not so clearly world-wide in their nature", nevertheless could "be dealt with satisfactorily only from an international point of view".[14] Yet certain unions were clearly established for "special and local" purposes, even while fulfilling broader functions.[15] For example, the Pan American Union was "distinguished from others by the universality of its purposes and by the geographic limitation of its membership".[16] As Reinsch observed:[17]

> In certain unions membership is limited *by natural causes or by the specific nature of the purpose* for which the union has been created. The union of American republics is limited by a geographical fact. The European railway union, the North Sea fisheries union, the Danube convention, are other examples of special purposes, which imply a limited membership.

Early theorists of IOs resolved the tension between universalist function and limited territory by reference to the notion of civilisation. Kazansky offered the paradoxical formulation that "administration institutions of a universal character" had been "created by administrative conventions concluded in view of interests more or less common to all civilised States [*les États civilisés*]".[18] Gustave Moynier similarly argued that "[e]very State which has achieved a certain degree of civilisation can, in fact, if it desires, enter into these alliances", for example, international secretariats, making them "essentially and virtually universal"—in contrast to "other administrative creations" such as the Rhine

---

11   Pierre Kazansky, 'Les premiers éléments de l'organisation universelle' (1897) 29 *Revue de Droit International et de Législation Comparée* 238, 239, 241. Thanks to Eve Bain for assistance with translations.
12   Reinsch (n 8) 130.
13   ibid 128.
14   ibid 128, 129.
15   ibid 73, 75.
16   ibid 77.
17   ibid 149 (emphasis added).
18   Kazansky (n 11) 241.

and Danube commissions, which "only come under the jurisdiction of a limited number of governments".[19] A slightly different rationale was suggested by Francis Sayre, who distinguished between international executive organs based principally on the extent of the powers they exercised. Sayre argued that governing bodies "possessing the actual authority and ostensible power to exert over some local situation and international control" were "most frequently set up in countries with inefficient or backward governments".[20] Examples of such bodies included the European Danube Commission, the international sanitary councils, the "ill-starred Albanian International Commission of Control",[21] and the International Congo River Commission.[22] Many of the international entities established in this period continued to operate through the interwar period also.

3   From 'Regional' to 'Universal' IOs

Long understood as marking a "move to institutions" in international law,[23] the end of the First World War may also be read as an inflection point in the emergence of 'universal' IOs from their 'regional' origins, and a move towards subsuming the latter within the former. In practice, of course, the League was never truly universal, not only because metropolitan powers were taken to represent many colonised territories, but because several powerful states never joined, or withdrew, or were expelled from it. The League's Covenant also made room for the possibility of "regional understandings […] for securing the maintenance of peace".[24] A 'regional' principle was similarly incorporated into the constituent instrument of the International Labour Organization (ILO),[25] and was further applied in its progressive decentralisation through a network of branch offices, national correspondents, missions by ILO officials, and the holding of regional conferences.[26]

---

19   Gustave Moynier, *Les bureaux internationaux des unions universelles* (C. Fischbacher, 1892) 7.
20   Sayre (n 7) 14.
21   ibid 56.
22   ibid 38–87.
23   David W Kennedy, 'The Move to Institutions' (1987) 8(5) *Cardozo Law Review* 841.
24   *Covenant of the League of Nations*, signed 28 April 1919 (entered into force 10 January 1920) art 21.
25   *Treaty of Versailles*, signed 28 June 1919 (entered into force 10 January 1920) Part XIII, art 427.
26   See generally Guy Fiti Sinclair, *To Reform the World: International Organizations and the Making of Modern States* (Oxford University Press, 2017) ch. 1.

Despite (or perhaps as a consequence of) several interventions by the United States in Latin America, the interwar period also saw further development of the Inter-American system, with both hegemonic and counter-hegemonic effects. Among other bodies created in this period, an Inter-American Commission for Women and an Inter-American Indian Institute reflected a growing concern with issues of rights.[27] Latin American states promoted institutional reforms that weakened U.S. control over the various bodies of that system, and used those bodies to push back against U.S. political and economic policies.[28] From 1933 onwards, President Roosevelt's Good Neighbour Policy helped to improve relations among member states. The Seventh Conference of American States, held that year, resulted in the Montevideo Convention on the Rights and Duties of States, which embodied many of the principles earlier promoted by Latin American states.[29]

While these activities were described by contemporary commentators as "regional and special questions" under the overall aegis of the League of Nations,[30] by the end of the Second World War international lawyers were reflecting more explicitly on the relationship between universalism and regionalism in IOs. Writing in 1943, Pitman Potter distinguished several different senses in which an organization could be "regional": "in membership", "in its areas of operations", or "its significance".[31] Potter noted that the "advocates of regionalism" were "prone to cite the League experience in special support of their doctrine".[32] But he cautioned against the "definitely dangerous or objectionable aspects of regionalism", such as the tendency "to sanctify, crystallize, and institutionalize elements of selfishness and opposition to the general welfare".[33] Exploring the complexities involved in the "coordination of any local or regional organizations with that of the general international community",[34] Potter sought a middle way:[35]

> Neither universalism nor regionalism can be adopted as final and exclusive principles. Both constitute notes or elements which must at all times

---

27 Herz (n 4) 10.
28 Shaw (n 4) 48–50.
29 ibid 51.
30 Denys P Myers, *Handbook of the League of Nations: A Comprehensive Account of Its Structure, Operation and Activities* (World Peace Foundation, 1935) ch. IX.
31 Pitman B Potter, 'Universalism Versus Regionalism in International Organization' (1943) 37(5) *American Political Science Review*, 854.
32 ibid 856.
33 ibid 858.
34 ibid 860.
35 ibid 862.

be present, in varying strength, in any political organization, especially any international organization—and, what is more, always have been and always will be present in this form. [...] The principal task [...] is not to waste more time debating over regionalism versus universalism, but to study the ways in which, in concrete cases, the two principles can be utilized in combination and the standards to be applied in determining the dosage of each to be adopted.

Other international lawyers reached similar conclusions around the same time. A major statement titled "The International Law of the Future", produced under the auspices of the American Society of International Law in 1944, noted that "[n]umerous regional organizations have existed in recent years" and the possibility of duplication or limitation of "general international conventions" by those "drawn up by groups of States", and summed up: "It is desirable that the activities of such groups of States be coordinated with those of the more general organization."[36] The post-war period would prove the difficulty of achieving this deceptively simple aim.

4   From 'Universal' to 'Regional' IOs

A second wave of RIOs is often described as arriving in the decades following the Second World War. The post-war order centred, of course, on a series of 'universal' IOs, namely the United Nations (UN) and its specialised agencies. However, a 'regional' principle was embedded in the UN Charter from the outset, even more explicitly than in the League's Covenant, in the Chapter VIII provisions allowing for "the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action".[37] The same principle soon found expression in the UN's economic activities, too: by 1948, the UN's Economic and Social Council had already established economic commissions for Europe (ECE), for Asia and the Far East (ECAFE), and for Latin America (ECLA); economic commissions for Africa (ECA) and Western

---

36   'The International Law of the Future: Postulates, Principles and Proposals' (1944) 38(S2) *American Journal of International Law. Supplements of Documents* 41, 93–94.

37   *Charter of the United Nations*, signed 26 June 1945 (entered into force 24 October 1945) art 52.

Asia were created in 1958 and 1973, respectively.[38] Several of the specialised agencies devolved their operations to field operations as they increasingly offered technical assistance services to member states in the Global South. Even UN peacekeeping took on something of a 'regional' flavour in the Congo operation, as the UN Secretary-General Dag Hammarskjöld arranged for assistance to come in the first instance from a "hard core" of the Congo's "sister African nations, as an act of African solidarity",[39] and the General Assembly gave members of the "Afro-Asian" bloc special responsibility in resolving the conflict.[40]

4.1   *Cold War Organizations*

Cold War rivalries did much to shape the meaning and identity of RIO s by prompting the formation of regional hegemonic blocs for military, political and economic purposes. Indeed, West Germany's accession to the North Atlantic Treaty Organization (NATO, 1949) was the immediate catalyst for the Warsaw Pact (1955).[41] Less durable, and therefore less well remembered or studied today, were the Southeast Asia Treaty Organization and the Central Treaty Organization.[42] Western Europe, in particular, saw a proliferation of economic IO s of various kinds. These included the organization for European Economic Co-operation (1948)—which became less 'regional' though not quite 'universal' when it was transformed into the Organization for Economic Co-operation and Development (OECD, 1961)—the Council of Europe (1949), the European Coal and Steel Community (1951), the European Economic Community (EEC), and European Atomic Energy Agency (both 1957). The 'regional' imaginaries implied by the membership and activities carried out by each of these organizations was very different; this perspective helps to

---

38   See generally Yves Berthelot (ed), *Unity and Diversity in Development Ideas: Perspectives from the UN Regional Commissions* (Indiana University Press, 2004). ECAFE was renamed the Economic and Social Commission for Asia and the Pacific (ESCAP) in 1974, and ECLA became the Economic Commission for Latin America and the Caribbean (ECLAC) in 1984.

39   Dag Hammarskjöld, *First Report by the Secretary-General on the Implementation of Security Council Resolution S/4387 of 14 July 1960* (18 July, 1960) UN Doc S/4389.

40   UNGA, *Question considered by the Security Council at its 906th meeting on 16 September 1960* (20 September, 1960) UN Doc A/RES/1474(ES-IV) para. 3.

41   Vojtech Mastny, 'The Warsaw Pact as History' in Vojtech Mastny and Maclom Byrne (eds), *Cardboard Castle?: An Inside History of the Warsaw Pact 1955-1991* (Central European University Press, 2005) 1–74, 3.

42   Amitav Acharya, 'Norm Subsidiarity and Regional Orders: Sovereignty, Regionalism, and Rule-Making in the Third World' (2011) 55(1) *International Studies Quarterly* 95.

historicise "forms and forums of European co-operation and integration" beyond the dominant EC/EU narrative.[43]

The economic organizations of the Western bloc were broadly mirrored in the Eastern bloc Council of Mutual Economic Assistance (Comecon, 1949). The Comecon 'family' eventually included more than fifty 'specialised agencies' covering various heavy and light industries, nuclear research, computer and telecommunication technologies, scientific and technical cooperation, as well as an International Bank for Economic Cooperation (1970) and an International Investment Bank (1972).[44] The stark image of RIOs embodying a crude East-West division was reinforced in the analysis of Western commentators, who viewed both the Warsaw Pact and Comecon as instruments for the Soviet Union to control its smaller allies,[45] underscoring the "challenge" they posed to the economic and military supremacy of the West.[46] It was echoed, too, in the rhetoric of the Eastern bloc, which described the EEC as an extension of the United States' attempt to dominate Europe through NATO and warned that the Common Market was intended to become "a military political bloc and even [...] a 'superstate'".[47]

The practice of states and IOs during the Cold War complicates the distinction between universal and regional IOs. While the UN itself always included members from both sides of the conflict, the same cannot be said of other ostensibly 'universal' organizations. Despite being a founding member of the World Health Organization, the Soviet Union withdrew from participating in that organization between 1949 and 1957.[48] Similarly, it withdrew from the UN Educational, Scientific and Cultural Organization between 1948 and 1954;[49] remained a non-member of the ILO until 1954; only joined the International Civil Aviation Organization in 1970;[50] and never became a member of the Food and Agriculture Organization, the International Monetary Fund (IMF),

---

43   Kiran K Patel, 'Provincialising European union: Co-operation and Integration in Europe in a Historical Perspective' (2013) 22(4) *Contemporary European History* 649.

44   Richard Szawlowski, *The System of the International Organizations of the Communist Countries* (A.W. Sijthoff, 1976).

45   Laurien Crump, *The Warsaw Pact Reconsidered* (Taylor & Francis, 2015) 1.

46   See, eg, Roy E Mellor, *COMECON: Challenge to the West* (Van Nostrand Reinhold Company, 1971).

47   L Krasnov, *Socialist Economic Integration and World Economic Relations* (Novosti Press Agency Publishing House, 1975) 66, 67.

48   Chris Osakwe, *The Participation of the Soviet Union in Universal International Organizations* (A. W. Sijthoff, 1972) ch. 3.

49   ibid ch. 4.

50   ibid 41.

the World Bank, or the General Agreement on Tariffs and Trade (GATT).[51] In many cases, the Soviet Union's withdrawal or non-participation set an example that was followed by its allies. Of the socialist states in Eastern Europe, only Czechoslovakia, Poland, and Yugoslavia were founding members of the IMF and the World Bank; Poland resigned from both in 1950, Czechoslovakia was expelled in 1954, and Cuba also left both institutions in the early 1960s.[52] Czechoslovakia was the only Eastern European party to the GATT at the outset, where it found itself isolated on issues such as the accession of West Germany.[53] Notwithstanding their putatively 'non-political' purposes and in-principle open memberships, then, these IOs took on a rather more 'regional' quality, effectively aligned with the West.[54]

Moreover, the image of monolithic and opposing RIOs, dominated by 'regional' hegemons, is belied by the historical record. Just as crises of disagreement and discord erupted within Western European organizations such as NATO and the EEC during the late 1960s,[55] so too did upheavals take place in the IOs of the Eastern bloc.[56] Recent historiography has demonstrated that these upheavals generated a "dynamics of dissent" that transformed both the Warsaw Pact and Comecon from mere bilateral "transmission belts" for Soviet policy into truly multilateral organizations.[57] In the Warsaw Pact, dissent "served as a catalyst for genuine discussion between all members within the alliance", empowering the smaller states to convene meetings, set agendas, disagree with each other, advocate alternative policy directions and even resist Soviet domination.[58] In Comecon, likewise, different groupings used the organization as "a multilateral forum of debate and a channel for airing […] radical views", ranging from the foreign-trade oriented and reformist

---

51 Josef M van Brabant, *The Planned Economies and International Economic Organizations* (Cambridge University Press, 1991).

52 ibid 48.

53 Francine McKenzie, *GATT and Global Order in the Postwar Era* (Cambridge University Press, 2020) 73–74.

54 ibid ch. 2; Bertram S Brown, *The United States and the Politicization of the World Bank* (Routledge, 1992).

55 Mary A Heiss and S Victor Papascoma (eds), *NATO and the Warsaw Pact: Intrabloc Conflicts* (Kent State University Press, 2008).

56 Mastny (n 41) 28–34.

57 Laurien Crump and Simon Godard, 'Reassessing Communist International Organisations: A Comparative Analysis of COMECON and the Warsaw Pact in Relation to Their Cold War Competitors' (2018) 27(1) *Contemporary European History* 85, 88.

58 Crump (n 41) 8.

positions advocated by Hungary, Poland and Czechoslovakia to the dissenting views frequently asserted by Romania.[59]

The evolving processes within 'RIOs' of the Eastern bloc drew inspiration from the circulation of Western models and practices of multilateralism.[60] The Warsaw Pact's charter was consciously patterned after NATO's,[61] and proposals were made to adopt an analogous institutional structure, including a committee of foreign ministers and a defence committee.[62] Similarities can also be observed in the organizational structures and powers set out in the charter of Comecon and the OECD.[63] From the late 1950s onwards, Comecon officials took the ECE as formal model for its institutional development, but often looked at least as much to the EEC for models of administrative best practice, inspiring its own formation of a centralised secretariat with thematic divisions, in-house economic expertise, and a bureaucratic culture.[64] Finally, it was a Warsaw Pact proposal, approved by NATO, that led to multilateral preparatory talks for a Conference on Security and Co-operation in Europe (CSCE). At the end of that Conference, the Helsinki Final Act eventually gave birth to yet another 'regional' organization, albeit one with members on three continents—the Organization for Security and Co-operation in Europe.[65]

4.2 *Third World Organizations*

States of the emerging 'Third World' drove the creation of a second set of 'regional' IOs in the decades following the end of the Second World War. In Latin America, these included the Organization of American States (OAS, established in 1948 as the successor to the Pan American Union and related institutions); the Organization of Central American States (1951); the Latin American Free Trade Association (LAFTA, 1960), which later became the Latin American Integration Association (ALADI, 1980); the Latin American and the Caribbean Economic System (1975); and the Andean Pact (1969), which later became the Andean Community (CAN, 1996). In Africa, the establishment of

59 Suvi Kansikas, *Socialist Countries Face the European Community* (Peter Lang, 2014) 196, 49–53.

60 Crump and Godard (n 57) 88.

61 Mastny (n 41) 5.

62 Crump and Godard (n 57) 98.

63 Richard Szawlowski, 'The International Economic Organizations of the Communist Countries: II' (1969) 11(1) *Canadian Slavonic Papers* 82, 99–100.

64 Crump and Godard (n 57) 101–2.

65 Angela Romano, 'Pan Europe: A Continental Space for Cooperation(s)' in Angela Romano and Federico Romero (eds), *European Socialist Regimes' Fateful Engagement with the West* (Routledge, 2021) 31, 36; Nicolas Badalassi and Sarah B Snyder (eds), *The CSCE and the End of the Cold War* (Bergahn, 2018).

the Organization of African Unity (OAU, 1963) was followed by the formation of organizations of more limited scope, such as the East African Community (1967) and the Economic Community of West African States (ECOWAS, 1975). In Asia and Oceania, different groupings of states established the South Pacific Community (SPC, 1947), the Colombo Plan for Cooperative Economic and Social Development in Asia and the Pacific (1951), the Association of Southeast Asian Nations (ASEAN, 1967), and the South Pacific Forum (1971). The memberships of several of these organizations spanned multiple 'regions', as commonly conceived, while others—such as the Commonwealth of Nations (1949), the Organization of the Petroleum Exporting Countries (OPEC, 1960) and the organization of African, Caribbean and Pacific States (ACP, 1975)— challenged the meaning of 'regional' in different ways.

'Regional' IOs occupied an ambivalent position in relation to hegemonic power in the period of post-war decolonisation. On the one hand, several of the earlier-established RIOs provided means for the 'great powers' to retain a foothold in their former colonial territories or spheres of influence. Latin American states led the way in arguing for including the Chapter VIII provisions to ensure that collective security arrangements could continue to be implemented on a regional basis.[66] Yet the United States dominated the OAS, using it on several occasions to legitimise its interventions in Latin American states,[67] as part of a more general effort to co-opt Pan Americanism as "a hegemonic myth that justified U.S. imperialism".[68] The founding members of the SPC were all colonial powers in the Pacific, and remain members today.[69] Along similar lines, the Commonwealth and the Colombo Plan represent institutionalised vestiges of the British Empire, and the origins of the ACP lie in the historical colonial relationships between its members and members of the EU.[70]

On the other hand, many of the later-established RIOs self-consciously aimed to avoid, or counteract, political, military, and economic domination by former colonial powers or would-be regional hegemons. Latin American

---

66 Tom Long, 'Historical Antecedents and Post—World War II Regionalism in the Americas' (2020) 72(2) *World Politics* 214, 231–238.

67 Shaw (n 4) 103–115; George Meek, 'U.S. Influence in the Organization of American States' (1975) 17(3) *Journal of Interamerican Studies and World Affairs* 311.

68 Stephen M Streeter, 'The Myth of Pan Americanism: U.S. Policy toward Latin America during the Cold War, 1954–1963' in David Sheinin (ed), *Beyond the Ideal: Pan Americanism in Inter-American Affairs* (Praeger, 2000) 167, 168.

69 Greg Fry, *Framing the Islands: Power and Diplomatic Agency in Pacific Regionalism* (Australian National University Press, 2019) ch. 4.

70 Maurizio Carbone, 'There is Life beyond the European Union: Revisiting the Organisation of African, Caribbean and Pacific States' (2021) 42(10) *Third World Quarterly* 2451, 2452.

members of the OAS were able on several occasions to override the preferences of the United States or force it to compromise.[71] UN agencies were active in creating institutions that established development programs and economic arrangements with some degree of independence from former colonial powers: ECAFE led the creation of the Asian Development Bank (1966),[72] while ECA initiatives included the African Development Bank (1964) and several dozen other entities.[73] Likewise, Latin American organizations such as the Andean Pact, LAFTA, and ALADI were inspired by the import-substitution industrialisation strategies promoted by ECLA and 'universal' organizations such as the UN Conference on Trade and Development and the UN Industrial Development Organization.[74] The OAU was a leading voice for decolonisation and the dismantling of Apartheid,[75] and joined the Arab League, OPEC, and other international bodies in an "anticolonial internationalism" that promoted sovereign rights over natural resources and opposed "informal economic domination".[76] Consequently, these newer RIOs embodied a variety of solidarities and political projects in competition with those offered by the Cold War rivals.[77]

4.3   *Regional Organizations in IOs Law*

The post-war proliferation of IOs on various 'regional' bases helped to make possible the elaboration of a systematic law of IOs. A long article by Wilfred Jenks in 1945, which may be taken as setting the agenda and methodology for a comparative analysis of the 'constitutions' and 'constitutional practice' of IOs, noted the existence of RIOs only in passing.[78] Six years later, however, Jenks distinguished between IOs with "general, functional, or regional

71   Shaw (n 4) chs 5–6; Meek (n 68).

72   Leelananda de Silva, 'From ECAFE to ESCAP: Pioneering a Regional Perspective' in Berthelot (38) 132 (ch. 3), 152–154.

73   Adebayo Adedeji, 'The ECA: Forging a Future for Africa' in Berthelot (n 38) 233, 249–250.

74   Herz (n 4) 78, 81.

75   See generally Matteo Grilli and Frank Gerits (eds), *Visions of African Unity* (Palgrave Macmillan, 2020).

76   Christopher RW Dietrich, *Oil Revolution* (Cambridge University Press, 2017) 128, 129. The UN Conference on Trade and Development embodied a broad division of the world into three global 'regions'—West, East, and South—and empowered yet another 'organization' established on a 'regional' basis, the Group of 77. Robert L Rothstein, *Global Bargaining: UNCTAD and the Quest for a New International Economic Order* (Princeton University Press, 1979).

77   Sandrine Kott, 'Cold War Internationalism' in Glenda Sluga and Patricia Clavin (eds) *Internationalisms: A Twentieth-Century History* (Cambridge University Press, 2017) 342.

78   Wilfred Jenks, 'Some Constitutional Problems of International Organizations' (1945) 22 *British Yearbook of International Law* 11, 11.

responsibilities".[79] The architects of the UN had "deliberately based their work on the principle of functional decentralization", including "as the basis of the relations between the United Nations and the specialized agencies".[80] However, Jenks now found that "the provision for meeting regional needs and aspirations" was the most complex aspect of "the new framework of international organization".[81] Surveying the multifaceted problems and modes of coordination required between them, mostly in connection with the Western European organizations, he concluded:[82]

> [...] the specialized agencies and the regional organizations approach problems from altogether different angles; the *functional competence of the specialized agencies* and the *geographical competence of the regional organizations* inevitably overlap and conflict and there is no principle on the basis of which they can be reconciled.

Accordingly, issues of coordination between the two different types of organization could only be addressed through "systematic consultation and a measure of reciprocal representation" that would allow problems to be solved "on a basis of practical convenience as they arise".[83] Almost twenty years later, Jenks struck a more hopeful note, albeit from a fundamentally 'universalist' perspective:[84]

> The future of these regional communities is far from assured, but they are potentially a source of strength rather than weakness to the world community, a necessary complement to it rather than a challenge to its influence and authority. To create a natural and organic relationship between the world community and these developing regional communities should be a primary objective of contemporary international statesmanship. Such a relationship is necessary to give the regional communities the wider outlook without which they may divide the world without effectively uniting their own regions [...].

---

79 C Wilfred Jenks, 'Co-ordination in International Organization: An Introductory Survey' (1951) 28 *British Yearbook of International Law* 29, 33.
80 ibid 37.
81 ibid 48.
82 ibid 72 (emphasis added).
83 ibid 73.
84 C Wilfred Jenks, *The World Beyond the Charter* (George Allen and Unwin Ltd, 1969) 140.

In works from this period elaborating the nascent law of IOs, it became standard to draw a conceptual distinction between 'regional' and 'universal' organizations. Parts one and two of the first English-language textbook dedicated solely to the subject, Bowett's *Law of International Institutions*, addressed "Global Institutions" and "Regional Institutions", respectively. The latter included a chapter on "European organizations"—distinguishing between the Council of Europe as the only "organization of general competence" and NATO, OECD, EFTA and the European Communities as "organizations of limited competence"—and a separate chapter covering the rest of the world, including Eastern Europe.[85] A more theoretical chapter on "'Regionalism' within the Universal System" focussed mainly on the tensions arising in practice in the relationship between the authority of UN Security Council and that of "regional arrangements" under Chapter VIII.[86] From a Soviet perspective, Grigory Tunkin distinguished between "multisocial" and "monosocial" IOs, the former consisting of states of "different socio-economic systems" and the latter comprised of states of only one socio-economic system. "Multisocial" IOs could therefore be either "universal (general)" or "regional (local)", whereas "monosocial" IOs could "be only of regional (local) character".[87]

Other scholars focussed more on the relationship of RIOs to imperial and hegemonic dynamics. Georges Abi-Saab thus described the "attitude towards regionalism" of the "newly independent states":[88]

> First of all, they fear regional organizations might be used as a cover for hegemonial powers to perpetuate their spheres of influence. Regional integration among older European states is also feared to be a new grouping bent on enhancing its own political and economic power to their detriment and to their exclusion from the world power process. […] This does not mean, however, that the interests involved are irreconcilable. But this trend in Western Europe has had a catalytic effect on Afro-Asian cooperation and consultation in many fields and on different levels.

---

85   DW Bowett, *The Law of International Institutions* (Stevens, 2nd ed, 1970) chs. 6 and 7.
86   DW Bowett, *The Law of International Institutions* (Stevens, 4th ed, 1982) ch. 5.
87   Grigory Tunkin, 'International Law in the International System' (1975) 147(IV) *Recueil des Cours* 1, 157.
88   Georges Abi-Saab, 'The Newly Independent States and the Rules of International Law: An Outline' (1962) 8(2) *Howard Law Journal* 95, 105.

Traces of the same concerns can be found in mainstream texts on IO s law. In a section on "Universal versus regional organizations",[89] Henry Schermers noted that "[n]o international organization has so far succeeded in achieving universality", but nevertheless argued that "universal organizations [...] are becoming increasingly necessary".[90] The key features of RIO s related to their connection with hegemonic power and functionalism: "the need felt in the region itself to resist external influence", such as the Soviet Union or "neo-colonialism"; greater homogeneity within them, as well as greater heterogeneity between them; and their divergent membership, arising from an effort "to utilize the largest possible unit for each specific function".[91] Accordingly, Schermers warned that variations in membership could on the one hand create an obstacle to cooperation among states, while "the concentration of too many functions in one organization might lead to its development into a super-State".[92]

5   'Regional' and 'Universal' Interactions in 'Global Governance'

A third wave of RIO s is often taken to have started in the late 1980s and crested in the 1990s and 2000s, coinciding with the end of the Cold War and accelerating globalisation. Some of the organizations formed in this period, such as the Commonwealth of Independent States (CIS, 1991), the Collective Security Treaty Organization (1992), and the Shanghai Cooperation organization (SCO, 2001), emerged from the dissolution of the Soviet Union. Others were 'sub-regional' organizations—such as the Southern Common Market (Mercosur, 1991), Southern African Development Community (SADC, 1992), the Common Market for Eastern and Southern Africa (COMESA, 1994), and the Community of Sahel—Saharan States (1998)—or 'trans-regional' organizations like Asia-Pacific Economic Cooperation (1989). The same period saw the transformation of the European Communities into the European Union (EU, 1993) and the OAU into the African Union (AU, 2002). Furthermore, within the past decade, the so-called BRICS states have formed several new organizations, including

---

89   By the fourth edition, this textbook distinguished between "universal" and "closed" organizations, with regional organizations a subset of the latter: Henry G Schermers and Niels M Blokker, *International Institutional Law* (Martinus Nujhoff Publishers, 4th ed, 2003) para 51.

90   Henry G Schermers, *International Institutional Law, 1: Structure* (A.W. Sijthoff, 1972) 16.

91   ibid 17, 18.

92   ibid 18.

the New Development Bank (NDB, 2014), the Eurasian Economic Union (EAEU, 2015), and the Asian Infrastructure Investment Bank (AIIB, 2016).

Many of these new organizations were influenced in their creation or their evolution by shifting ideas and practices in political economy that have accompanied globalisation. Following its formation, for example, the SADC gradually moved "from an inward-oriented policy of import substitution towards a more outward-looking approach to the global markets", reflecting the worldwide ascendancy of neoliberal economic paradigms.[93] Policies aiming at economic globalisation, open markets, and investment flows have likewise shaped the development programmes of the AU, ECOWAS, and other regional groupings in Africa.[94] On the other hand, organizations such as the Bolivarian Alliance for the Peoples of Our America (ALBA, 2004), the Union of South American Nations (UNASUR, 2008), and the Community of Latin American and Caribbean States (2010) reflect varying degrees of socialist or social democratic resistance to neoliberalism,[95] while Mercosur was seen as shifting its focus away from trade and towards "social welfare and civil society participation" in the early 2000s.[96] Whereas the NDB and the AIIB are considered to offer alternatives to the Western-dominated international financial institutions, the CIS, the SCO, and the EAEU have more recently been described as examples of "authoritarian regionalism".[97]

Like 'universal' IOs, RIOs have expanded their mandates, assumed new powers, and even extended the geographical scope of their activities over time. These expansions in competence and scope have increased the incidence of interactions among RIOs, producing complex and varied configurations. The 'second-generation regionalism' associated with the past few decades has been characterised as "more complex, comprehensive and political than in the past", encompassing both economic issues and "non-economic matters such

---

93   Johannes Muntschick, *The Southern African Development Community* (SADC) *and the European Union* (EU) (Palgrave Macmillan, 2018) 89.

94   Fredrik Söderbaum, 'African Regionalism and EU-African Interregionalism' in Mario Telò (ed), *European Union and New Regionalism* (Taylor & Francis Group, 2014) 201, 205–207.

95   Brigitte Weiffen and Rafael D Villa, 'Re-Thinking Latin American Regional Security: The Impact of Power and Politics' in Marcial AG Suarez, Rafael D Villa and Brigitte Weiffen (eds), *Power Dynamics and Regional Security in Latin America* (Palgrave Macmillan, 2017) 1, 9; Sebastian Santander, 'Competing Latin American Regionalisms in a Changing World' in Mario Telò, *European Union and New Regionalism: Competing Regionalism and Global Governance in a Post-Hegemonic Era* (Taylor & Francis Group, 2014) 187, 195 *et seq*.

96   Mark Petersen and Carsten-Andreas Schulz, 'Setting the Regional Agenda: A Critique of Posthegemonic Regionalism' (2018) 60(1) *Latin American Politics and Society* 102, 106.

97   Anastassia V Obydenkova and Alexander Libman, *Authoritarian Regionalism in the World of International Organizations* (Oxford University Press, 2019).

as justice, security, the environment, culture and identity".[98] Newer entities have encroached on the traditional areas of competence of older ones, as in the case of UNASUR and the OAS,[99] or the SCO and the OSCE.[100] Regional economic organizations have also expanded into the security realm, as when ECOWAS established a Monitoring Group to intervene in the Liberian civil war;[101] or, when influenced by the AU's call for an African Standby Force, the SADC created its own Brigade and a Regional Peacekeeping Training Centre.[102] Perhaps the most striking examples of a 'regional' organization taking action outside its 'region' were NATO's interventions in the conflicts in the Balkans, Afghanistan, Libya, and Syria.[103]

One result of the expansion of competences and geographical scopes of RIOs is the phenomenon of *overlapping regionalism*. Most states are members of two or more RIOs with some areas of similarity in their mandates, leading to the possibility of conflicts in rules and policies.[104] Security operations have involved some of the most fraught overlaps between 'universal', 'regional', and 'sub-regional' organizations. Thus, for example, the international administration of Kosovo involved missions from the UN, the OSCE, NATO, and the EU.[105] Peace operations in the Central African Republic have likewise involved interactions among a variety of IOs, including the UN, the AU, the EU, and the Economic Community of Central African States.[106] These institutional interactions raise sensitive issues of authority and power in post-colonial relations, as the UN's 'universal' authority can be perceived as representing a

---

98   Fredrik Söderbaum and Luk Van Langenhove, 'Introduction: The EU as a Global Actor and the Role of Interregionalism' (2005) 27(3) *European Integration* 249, 255.

99   Detlef Nolte, 'Costs and Benefits of Overlapping Regional Organizations in Latin America: The Case of the OAS and UNASUR' (2018) 60(1) *Latin American Politics and Society* 128.

100 Brigitte Weiffen, Andrea Gawrich and Vera Axyonova, 'Reorganizing the Neighborhood? Power Shifts and Regional Security Organizations in the Post-Soviet Space and Latin America' (2021) 6(1) *Journal of Global Security Studies* 1.

101 Yoram Z Haftel and Stephanie C Hofmann, 'Rivalry and Overlap: Why Regional Economic Organizations Encroach on Security Organizations' (2019) 63(9) *Journal of Conflict Resolution* 2180.

102 Muntschick (n 93) 230.

103 See generally Richard Prosen and Yonah Alexander (eds), *NATO: From Regional to Global Security Provider* (Lexington Books, 2015).

104 Diana Panke and Sören Stapel, 'Exploring Overlapping Regionalism' (2018) 21(3) *Journal of International Relations and Development* 635.

105 Malte Brosig, 'The Interplay of International Institutions in Kosovo between Convergence, Confusion and Niche Capabilities' (2011) 20(2) *European Security* 185.

106 Martin Welz, 'Multi-actor Peace Operations and Inter-organizational Relations: Insights from the Central African Republic' (2016) 23(4) *International Peacekeeping* 568.

kind of neo-imperial interference from outside the region, especially when it cooperates with peacekeeping forces from the EU or European states, including former colonial powers.[107]

Relationships between organizations in different regions, or *inter-regionalism*, add a further dimension of complexity. The EU has long taken a proactive stance in promoting regional integration efforts and establishing partnerships with RIOs in other parts of the world, from Mercosur to the AU.[108] One of the oldest interregional relationships is that between the EU and ASEAN, which began in the 1970s and has been recently reinforced in the EU's Indo-Pacific Strategy.[109] In turn, ASEAN has forged ties with Mercosur, the South Asian Association for Regional Cooperation, and others.[110] As the most active organization in this respect, the EU's interactions with its "regional others" have at once helped to stimulate their development of institutional capacity and identity as distinct actors—whether through "approximation" or "resistance"—while enhancing the EU's own standing and self-understanding as "the purveyor of certain norms and principles, among them a model of successful regional integration".[111] Yet the complexity and asymmetry of relations between the EU and various 'regional' and 'sub-regional' organizations have sometimes had the unintended effect of undermining these very efforts.[112]

Scholars reflecting on these developments saw the dangers they held for the unity of international law. Reviewing the "allocation of functions between universal and regional institutions" in several areas of activity, Christoph Schreuer urged flexibility and "careful planning in order to avoid duplication, waste of resources, unnecessary competition among institutions and a bloated bureaucracy".[113] Drawing on the experience of the EU, Schreuer ventured the

---

107 Kilian Spandler, 'UNAMID and the Legitimation of Global-Regional Peacekeeping Cooperation: Partnership and Friction in UN-AU Relations' (2020) 14(2) *Journal of Intervention and Statebuilding* 187; Tatiana Carayannis and Mignonne Fowlis, 'Lessons from African Union—United Nations Cooperation in Peace Operations in the Central African Republic' (2017) 26(2) *African Security Review* 220.

108 Thomas Henökl and Michael Reiterer, 'Orchestrating Multilateralism: Cases of EU and East-Asian inter-Regional Engagement' (2015) 5(3) *Regions & Cohesion* 83.

109 European Commission and High Representative of the Union for Foreign Affairs and Security Policy, *Joint Communication to the European Parliament and the Council: The EU strategy for cooperation in the Indo-Pacific*, JOIN/2021/24 final, 16 September 2021.

110 Julie Gilson, 'EU-ASEAN Relations in the 2020s: Pragmatic Inter-Regionalism?' (2020) 17(2) *International Economics and Economic Policy* 727, 727.

111 Frank Mattheis and Uwe Wunderlich, 'Regional Actorness and Interregional Relations: ASEAN, the EU and Mercosur' (2017) 39(2) *Journal of European Integration* 723, 731.

112 Muntschick (n 93) 166–175.

113 Christoph Schreuer, 'Regionalism v. Universalism' (1995) 6(3) *European Journal of International Law* 477, 483.

prediction that "regional agencies combining a number of activities such as economic integration, human rights and political cooperation will be more successful than specialized institutions with a narrow range of activities", and suggested that "the real antagonism is not between regionalism and universalism but between national sovereignty and international cooperation".[114]

Within the context of concerns about fragmentation and coherence, scholarship during this period increasingly focused on the management of interactions between IO s. The International Law Commission Study Group's report on 'Fragmentation of International Law' noted that "regionalism" did "not denote any substantive area of the law" and only rarely appeared "in an openly normative shape".[115] However, this section of the report—in a chapter on "Conflicts between Special Law and General Law"—had little to say on RIO s, as such, other than the question of the priority of regional arrangements and the Security Council under Chapter VIII of the UN Charter and the varied international roles played by the EU.[116] Most scholarship in international law continued to give only incidental attention to RIO s, except in their "liaisons" with 'universal' organizations.[117] The most significant work in this respect is by Laurence Boisson de Chazournes, who distinguishes between relations of an institutional type from those with an operational purpose, relationships of surveillance, and relationships of emulation.[118] As in earlier periods, the express aim of much of this literature is to improve policy coordination and the effectiveness of cooperation efforts among IO s.

6   Conclusion

The meaning and place of RIO s in international law have varied significantly over the past two centuries. This article has characterised the earliest international entities as essentially 'regional' in nature, while also relatively inchoate in organizational terms; traced the (relative) shift to more 'universal', and more formally institutionalised, IO s in the early twentieth century;

---

114   ibid 498–499.

115   International Law Commission, *Report of the Study Group, Fragmentation of International Law*, UN Doc. A/CN.4/L.702 (July 18, 2006) 102.

116   ibid 112–113.

117   Jan Klabbers, *An Introduction to International Organizations Law* (Cambridge University Press, 3rd ed, 2015) 289. See also Christian Dominicé, 'Co-ordination between Universal and Regional Organizations' in Niels M Blokker and Henry G Schermers (eds), *Proliferation of International Organizations: Legal Issues* (Kluwer Law International, 2001) 65.

118   Boisson de Chazournes (n 3).

described the efflorescence of RIOs within the overall framework of 'universal' IOs in the post-war international order; and finally analysed the increasingly complex interactions among RIOs, and with 'universal' IOs, in the past three decades. These trendlines suggest no particular teleology in the evolution of RIOs; certainly not one that culminates in a kind of universalised EU model. To the contrary, we might expect an ever-greater diversity in international entities and the relations among them. Indeed, this account highlights the ubiquity of competing regional imaginaries in all parts of the world, and demonstrates clearly that no single IO may claim authority to speak for an entire 'region'.

The variegated practices of entities that may be defined as RIOs have provoked a range of theoretical responses from international jurists. The earliest scholars arrayed the new international bodies along a continuum, from those fulfilling 'universal' purposes to those addressing 'special' or 'local' interests. A disciplinary bias in favour of the former has been evident since that time, with a presumption among many international lawyers that IOs with narrower 'geographic competences' should be tailored to complement and coordinate with IOs with 'functional competences' that serve a 'world community'. The earliest 'regional' IOs were also often justified as necessary vehicles for the 'civilising missions' of imperial powers; these purposes have undoubtedly continued into the present day,[119] although later RIOs have often been created (or adapted) to serve counter-hegemonic and counter-imperial purposes. Similarly, different RIOs align with or promote a variety of approaches to international political economy, governance, and the use of force. Anxieties about fragmentation associated with regionalism, today as in previous eras, thus reflect not merely the possibility of normative fault lines but deep ideological divergences, geopolitical contestations, and the possibility of other ways of living and being beyond the reach of Western liberal international law.[120]

Acknowledgment

---

119 Anne Orford, 'Regional Orders, Geopolitics, and the Future of International Law' (2021) 74(1) *Current Legal Problems* 149.

120 Antony Anghie, 'Identifying Regions in the History of International Law' in Bardo Fassbender and Anne Peters (eds), *The Oxford Handbook of the History of International Law* (Oxford University Press, 2012) ch. 44.