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Seeing like a Region. The Regional Re-Ordering of International Law

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ABSTRACT: While the first regional international organisations (RIOs) emerged alongside States at the time of the correlative demise of Empires in the 19th century, including to counter or to champion the imperialist projects of some of those newborn States, they were not institutionalised as such in the international institutional order of the 20th century. Until recently, international lawyers too have largely neglected the relevance of RIOs for the political ordering of international law. This is even more regrettable as international law and, later, international organisations have always been regional. As a matter of fact, the recent return of regional international law and organisations is an opportunity for international world-making. The 2025 Walther Schücking Lecture opens this window and proposes that we start seeing like a region in international law. It presents a four-pronged argument: it clarifies the *terms* of the debate, starting with the regional and then moving onto its binary opposition to the universal (1.); it presents a brief *history* of regional international law and organisations (2.); it argues for their *relevance* for the future of international law (3.); and, finally, it presents the main tenets of a possible *re-institution* of the international law of regional organisations (4.).

KEYWORDS: Regional International Organisations (RIOs), Regional International Law, Post-Imperialism, Eurocentrism, Confederalism, Sovereign Equality of Peoples, United Nations and Regions Organisation

I. Introduction

The first regional international organisations (RIOs) were instituted in the late 19th century, in Europe and then in the Americas and the Arab World. They were organised alongside newly emerging States at the time of the correlative demise of regional Empires. Part of the purpose of those first RIOs was, depending on the

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cases, to counter or, on the contrary, to champion new imperialist projects of and around some of those newborn States in different regions of the world.[1]

Curiously, however, those RIOs were not institutionalised as such in the international legal order of the 20th century, the one currently in force. There were attempts, of course, especially federalist ones, in the interwar period and immediately after the Second World War. Those regional projects aimed to ensure a greater degree of self-determination of peoples than what the newly created States, especially decolonised ones, could deliver to fight back both the nationalist (on the inside; think of the Black Federalists' project in the Caribbean)[2] and the imperialist (on the outside; think of Karl Polanyi's anti-*Grossraum* regional project)[3] tendencies of those States. However, those various attempts at regional world-making after Empires failed. Evidence for this, and I will come back to this later, was the limited and evasive treatment of RIOs in the Covenant of the League of Nations (LoN) and, later, in the United Nations (UN) Charter (UNC).

In academic terms, the question of the 'regionality' of international law and organisations (as opposed to their universality) is not new, of course. It has occupied historians and international relations' specialists since the beginning of the 20th century.[4] Quite perceptively, in his 1963 book *Swords into Plowshares*, Inis L.

[1] See Guy Fiti Sinclair, 'Between Functionalism and Hegemony: Regional International Organizations in the History of International Law', 21(1) *International Organizations Law Review* (2024) 65.

[2] See Adom Getachew, *Worldmaking after Empire: The Rise and Fall of Self-Determination* (2019); Jane Burbank and Frederick Cooper, *Post-Imperial Possibilities: Eurasia*, *Eurafrica and Afroasia* (2023).

[3] See Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (1957). See also Gareth Dale, 'In search of Karl Polanyi's International Relations theory', 42(3) *Review of International Studies* (2016) 401.

[4] See e.g., Amitav Acharya, *The End of the American World Order* (2nd ed., 2018); Tanja A. Börzel and Thomas Risse, 'Introduction', in Tanja A. Börzel and Thomas Risse (eds.), *The Oxford Handbook of Comparative Regionalism* (2016) 3; Philippe de Lombaerde, *Handbook of Regional Cooperation and Integration* (2024); Louise Fawcett, 'Regionalism', in Dirk Berg-Schlosser, Bertrand Badie, and Leonardo Morlino (eds.), *The SAGE Handbook of Political Science*, vol. 3 (2020) 1349; Louise Fawcett, 'Regionalism in Historical Perspective', in Louise Fawcett and Andrew Hurrell (eds.), *Regionalism in World Politics: Regional Organization and International Order* (1996) 9; Louise Fawcett and Andrew Hurrell, 'Conclusion', *id*. 309; Andrew Hurrell, 'Regionalism in Theoretical Perspective', *id*. 37; Peter J. Katzenstein, *A World of Regions: Asia and Europe in the American Imperium* (2005); Joseph S. Nye, *International Regionalism: Readings* (1968); Katrin Nyman-Metcalf and Ioannis F. Papageorgiou, *Democracy Through Regional Integration* (2015); Anastassia V. Obydenkova and Alexander Libman, *Authoritarian Regionalism in the World of International Organizations: Global Perspective and the Eurasian Enigma* (2019); Diana Panke, Sören Stapel, and Anna Starkmann, *Comparing Regional Organizations: Global Dynamics and Regional Particularities* (2020); Fredrik Söderbaum, *Rethinking Regionalism* (2016); Mario Telò, 'Regional Diversity, Interregional/Transregional Dialogues, and the New Multilateralism', in Thomas Meyer, José Luís de Sales Marques, and

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Claude, for instance, referred to the 'problem of regionalism' for international organisations (IOs), that were and still are usually understood as universal and functional in a binary opposition to territorial and political States.[5]

Curiously, however, but for a few exceptions and until recently,[6] international law scholars have largely ignored or, at least, downplayed the relevance of RIOs both in and for international law. Worse, they have been ambivalent about them, as shown by Anne Orford.[7] They have indeed routinely criticised the regionalisation of international law and organisations by the Union of Soviet Socialist Republics (USSR) and then Russia or by China as threats to the universality of international law and to universal international organisations (UIOs) (think, for example, of the critique of the Eurasian Economic Union (EAEU) in Eurasia or of the Shanghai Cooperation Organisation (SCO) in South Asia). However, and at the same time, international lawyers have turned a blind eye on the very same regionalisation efforts by the United States of America (USA) all along the 20th century, including inside the UN after 1945 (it suffices to mention, for example, the role granted from the very beginning to

Mario Telò (eds.), *Regionalism and Multilateralism: Politics, Economics, Culture* (2020) 66; Luk van Langenhov, *Building Regions: The Regionalization of World Order* (2011).

[5] Inis L. Claude, *Swords Into Plowshares: The Problems and Progress of International Organization* (1963), at 111.

[6] See e.g., Janina Barkholdt, 'Is the International Law Commission Taking Regionalism Seriously (Enough)?', 12 *Goettingen Journal of International Law* (2022) 153; Laurence Boisson de Chazournes, *Interactions between Regional and Universal Organizations: A Legal Perspective* (2017); Damian Chalmers, 'Regional Organizations and the Reintegration of International Law', 30(1) *European Journal of International Law* (2019) 163; Stéphane Doumbé-Billé (ed.), *La régionalisation du droit international* (2012); Mathias Forteau, 'Regional Co-operation', in Rüdiger Wolfrum (ed.), *Max Planck Encyclopedia of International Law* (2007); Ján Klučka, *Regionalism in International Law* (2018); Jean Salmon, 'Quelques réflexions sur les concepts de régionalisme et de région', in Mariano J. Aznar and Mary E. Footer (eds.), *Select Proceedings of the European Society of International Law*, Fourth Volume: *Regionalism and International Law* (2015) 45; Christoph Schreuer, 'Regionalism v. Universalism', 6 *European Journal of International Law* (1995) 477; Société française pour le droit international (ed.), *Régionalisme et universalisme dans le droit international contemporain* (1977); Rüdiger Wolfrum, Denise A. Bizzarro, and Tobias Stoll (eds.), *Strengthening the World Order: Universalism v. Regionalism: Risks and Opportunities of Regionalization* (1990); Apollin Koagne Zouapet, 'Not a Threat, an Opportunity: Regional Approaches and the Future of International Law', 48 *South African Yearbook of International Law* (2023) 1. What this review of the extremely limited general literature on the international law of regional organisations shows is that until recently, authors have mostly separated regional international law from regional international organisations (RIOs) as distinct issues, on the one hand, and that, for a long time, general publications on RIOs have been in French, on the other. Of course, there have been countless publications on specific regional international laws (e.g., African, Latin-American, European, or Asian; or in specific regimes of international law such as trade, security, or human rights) and on specific RIOs (including across one or the other regime of international law). For those additional references, see my publications in footnote 20.

[7] Anne Orford, 'Regional Orders, Geopolitics and the Future of International Law', 74(1) *Current Legal Problems* (2021) 149, at 190 – 194.

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the North Atlantic Treaty Organisation (NATO) in the UN collective security system albeit outside the framework of Article 53 UNC[8]). And the same authors have sometimes actively endorsed or, at least, simply recorded without any further concern similar efforts by European States inside the UN (think, for instance, of the international law-making privileges granted to the European Union (EU) at the General Assembly or at the International Law Commission (ILC)[9]).

The result of this lack both of institutionalisation of RIOs under international law and of concern for the regionalisation of international law by those RIOs on the part of international lawyers is well known: the contemporary international institutional order and its discourse still sees the world 'like a State', to quote James C. Scott's 1998 book *Seeing like a State*.[10] Indeed, that order is limited to organising every people in the world into a single political and territorialised institution, the State, with all its internal failings, including in terms of political equality inside the State.

A problem this focus on States at the price of regional orders also poses, however, is less well-known and will concern us in this lecture. It pertains to the undermining of the external or international law guarantee of political equality this time. The claim is very simple: without an additional layer of regional institutionalisation in the international order, the equality of States guaranteed under Article 2(1) UNC cannot translate into the effective political equality of all peoples in the world, even of all those States' peoples, be it inside each region or inside UIOs. One of the many reasons for this is that States are insufficient, as political institutions, to protect the sovereign equality of their peoples against the imperialist regional velleities of other States, which one may refer to as regional 'Empire-States', and against those of their respective regional IOs, which one may refer to as regional 'Empire-Organisations'.[11] These regional imperialist practices threaten the political equality of peoples that is also guaranteed by the UNC and that actually underpins the equality of States: they contradict the 'reaffirmed faith' in the equality of peoples proclaimed by the Preamble of the UNC and their 'equal rights' guaranteed by Article 1(2) UNC.

Of course, the political form 'Empire' has disappeared from the categories of the now State-based international institutional law. However, some States and some interna-

[8] Charter of the United Nations (UNC) 1945, XV UNCIO 335. See, however, Michel Virally, 'Les relations entre les organisations régionales et les organisations universelles', in Société française pour le droit international (ed.), *Régionalisme et universalisme dans le droit international contemporain* (1977) 147; Boisson de Chazournes, *supra* note 6.

[9] See e.g., Teresa Cabrita, 'The Integration Paradox: An ILC View on the EU Contribution to the Codification and Development of Rules of General International Law', 5 *Europe and the World: A Law Review* (2021), available at https://journals.uclpress.co.uk/ewlr/article/pubid/EWLR-5-7/.

[10] James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (1998).

[11] See e.g., Obydenkova and Libman, *supra* note 4.

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tional organisations, including RIOs, may still be considered to pursue 'imperialist' policies, i. e. policies whereby a central political power (e. g., a State or a RIO) behaves like an Empire and seeks to dominate peripheral political institutions (other States or RIOs) by treating them and their peoples unequally. The reason this should matter to us, international lawyers, is that the international legal and institutional order has contributed and still contributes actively to this form of 'post-imperial imperialism'. First, and as mentioned before, those regional Empire-States and Empire-Organisations have been left free, after the legal demise of the political form Empire, to re-invest the regional spaces unordered by international law to pursue their imperialist policies. Second, due to the lack of a proper egalitarian legal status of RIOs under the UN Charter,[12] a few of those Empire-States and Empire-RIOs have also been encouraged to grow in the shadow of the UN itself through selective regional consultations or cooperations conducted with or inside UN organs.[13]

This under-institutionalisation of RIOs is even more regrettable as international law has always been regional. And this, well before the late 19th century and the emergence of RIOs. The prominence of regional international law simply receded at times, especially under the pressure of the Europeans' parochial brand of universalism, before re-affirming itself at other junctures, such as the late 19th century and, later, during and especially after the Cold War.[14] One may even consider regionalisation as cyclical in the history of modern international law.

One reason we no longer see that international law is and, actually, was always also regional, and hence the reason we no longer 'see like a region' in international law, is due to the Eurocentric blindness of those who have taken their 'regional' international law to be 'universal' since the 17th century and have therefore 'universalised' it until it actually was. In the 19th century, Europeans did the same with UIOs whose model was the first regional IOs in Europe, as exemplified by the European models for the LoN and the UN system. In so doing, universalised European international

[12] See e. g., Virally, *supra* note 8; Boisson de Chazournes, *supra* note 6.

[13] See e. g., Art. 26(4) Statute of the International Law Commission 1947, United Nations General Assembly (UNGA) Res. 174 (II), 21 November 1947, as amended by the subsequent resolutions of the UNGA. See also United Nations Secretary-General (UNSG), 'Report on Cooperation between the United Nations and regional and other organizations', UN Doc. A/71/160-S/2016/621, 15 July 2016, at para. 145: 'Cooperation between the United Nations and regional and subregional organizations has significantly deepened and diversified in recent years. Such cooperation has proven critical to ensuring effective international peace and security engagements, as highlighted in the report of the High-level Independent Panel on Peace Operations (A/70/95-S/2015/446). The Secretary-General remains committed to strengthening further this cooperation *through deepened partnerships*, *especially through developing context-specific approaches to cooperation*, taking full account of the specificities and demands of each region, as well as the mandate of the institution concerned.' (emphasis added).

[14] See Börzel and Risse, *supra* note 4, at 623 and Figure 27.1.

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law and organisations have taken the place of other regional international laws and organisations, whether Asian, Arab, American, or African. This has taken place either by force or, at least, by emancipatory emulation. It corresponds to what Arnulf Becker Lorca has referred to as 'mestizo' or creole international law.[15]

The role played by this paradoxical form of 'parochial' or 'regional universalism'[16] on the part of Europeans explains why universal international law and organisations rapidly became the standard. This is why regional international law and organisations are now considered the exception in the minds of most international lawyers. It also accounts for why the question of regional international law and organisations has since been dealt with only in the context of and by opposition to the universality of international law and organisations. This is confirmed by the choice of terms: 'regionalism' and 'regionalisation' (as opposed to 'regionality') that are presented, in contemporary international law, as contestations of the default 'universality' (as opposed to its 'universalism' and 'universalisation'). In short, the historical order of things, both legal and political, has simply been reversed in the contemporary narrative of international law.

Interestingly, the recent return of regional international law and of the international law of RIOs seems to open a new chapter in the international law of institutions.[17] This new chapter in the regionalisation of international law and IOs has three features: the universality of regionalisation (it occurs across the world and in all regions at once, and not only in Europe, Latin America, the Arab world, and Africa; think, for example, of the SCO for South Asia or the EAEU in Eurasia)[18]; the

[15] Arnulf Becker Lorca, *Mestizo International Law: A Global Intellectual History 1842–1933* (2015), at 22.

[16] Jennifer Pitts, *Boundaries of the International: Law and Empire* (2018), at 3. See also Emmanuelle Jouannet, 'Universalism and Imperialism: The True-False Paradox of International Law?', 18(3) *European Journal of International Law* (2007) 379.

[17] See Tanja A. Börzel and Thomas Risse, 'Three Cheers for Comparative Regionalism', in Tanja A. Börzel and Thomas Risse (eds.), *supra* note 4, 621, at 627 and Figure 27.1.

[18] Here is a list of the most relevant RIOs, understood as regional international organisations (for a discussion of the definition, see Samantha Besson and Eva Kassoti, 'The International Law of Regional Organizations: Mapping the Issues', 21(1) *International Organizations Law Review* (2024) 1), and organised by region: *Africa:* African Union (AU, formerly OAU); African Development Bank (ADB); African Regional Intellectual Property Organization (ARIPO); African Continental Free Trade Area (AfCFTA); Economic Community of Central African States (ECCAS); Intergovernmental Authority on Development (IGAD); East African Community (EAC); Economic Community of West African States (ECOWAS); Common Market for Eastern and Southern Africa (COMESA); Southern African Development Community (SADC); Southern African Customs Union (SACU); Indian Ocean Commission (IOC); International Conference on the Great Lakes Region (ICGLR); Niger Basin Authority (NBA); Mano River Union (MRU); West African Economic and Monetary Union (UEMOA); Conseil de l'Entente (CE). *Asia-Pacific:* Asia-Pacific Economic Cooperation (APEC); South Asian Association for Regional Cooperation (SAARC); Shanghai Cooperation Organisation (SCO); Association of Southeast Asian Nations (ASEAN); Asia

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generality of regionalisation (it occurs across international law and in all its regimes, and not only in the fields of trade and security; it suffices to mention, for example, the general powers of the EU in Europe, the African Union in Africa, the Organisation of American States (OAS) in Latin America, the League of Arab States (LAS) in the Arab world, the EAEU in Eurasia and the Association of Southeast Asian Nations in Asia Pacific); and the depth of regionalisation (it does not only aim at cooperation, but also increasingly at integration or, at least, autonomous international law-making; think of the same RIOs again)[19].

Reacting to the universality, generality, and depth of the regionalisation of international law and organisations, this lecture proposes that we start seeing the world not only like States, but also like regions alongside States and that we re-order our international law-making processes and international organisations accordingly.[20]

Cooperation Dialogue (ACD); Asian Infrastructure Investment Bank (AIIB); Pacific Islands Forum (PIF), Pacific Community (PC, formerly South Pacific community (SPC)); Mekong-Ganga Cooperation (MGC); Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC, formerly Bangladesh India Sri Lanka Thailand Economic Cooperation). *Eurasia:* Economic Cooperation Organization (ECO); Organization of the Black Sea Economic Cooperation (BSEC); Collective Security Treaty Organization (CSTO); Eurasian Economic Union (EAEU, successor to EAEC); Commonwealth of Independent States (CIS); Organisation for Democracy and Economic Development (GUAM). *Europe:* Council of Europe (CoE); European Union (EU, ex-EEC); Council of the Baltic Sea States (CBSS); Nordic Council (NC); European Free Trade Association (EFTA); Benelux Economic Union (BEU). *Latin America & Caribbean:* Amazon Cooperation Treaty Organisation (ACTO); Andean Community (CAN); Organization of American States (OAS); Community of Latin American and Caribbean States (CELAC); Southern Common Market (MERCOSUR), Latin American Integration Association (ALADI); Caribbean Community (CARICOM); Association of Caribbean States (ACS); Pacific Alliance (PA); Central American Integration System (SICA); Latin American and Caribbean Economic System (SELA); Union of South American Nations (UNASUR); Organisation of Eastern Caribbean States (OECS); Latin American Fisheries Development Organization (OLDEPESCA). *Middle East & Arab World:* League of Arab States (LAS); Gulf Cooperation Council (GCC); Arab Maghreb Union (AMU); Organisation of Islamic Cooperation (OIC); Arab Cooperation Council (ACC, defunct); Islamic Development Bank (IsDB); Organization of the Petroleum Exporting Countries (OPEC); Council of Arab Economic Unity (CAEU). *Other regions and inter-regions:* Arctic Council (AC); North American Free Trade Agreement (NAFTA); Organisation for Security and Cooperation in Europe (OSCE); Organisation for Economic Co-operation and Development (OECD); North Atlantic Treaty Organization (NATO); Commonwealth of Nations; Organisation of African, Caribbean and Pacific States (OACP).

[19] See Alison Duxbury, 'Rewriting the law of international organizations: Whither the Asia Pacific?', 37(3) *Leiden Journal of International Law* (2024) 694.

[20] For my past publications on the topic, see Samantha Besson, 'The Future of Europe in a World of Regions', 63(1) *Common Market Law Review* (2026) 19; Samantha Besson, 'La fin du "décalque des institutions européennes": vers un droit inter-régional comparé de l'État', in Julien Barroche and Grégory Bligh (eds.), *Le concept d'État à travers les civilisations* (2027) forthcoming; Besson and Kassoti, 'The International Law of Regional Organizations: Mapping the Issues', *supra* note 18; Samantha Besson, 'The Politics of Regional International Organizations: A New Dawn for the Political Legitimacy of International Law', 21(1) *International Organizations Law Review* (2024) 87; Samantha Besson, 'Du droit de civilisation européen au droit international des civilisations: instituer un monde des régions, 31(3) *Swiss Review of International and European Law* (2021) 373; Samantha

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Moving further than Dipesh Chakrabarty's 'provincialization of Europe',[21] we, international lawyers, need to organise the 'regionalisation of the world' as a whole: this is the only way we can hope to re-construct a universal international law from the regions up and outside in, especially through RIOs, instead of continuing to impose it top-down and from a fictitious centre, that of universal IOs dominated by a few powerful States and by a few powerful RIOs, onto the peripheries.

Following up on the work of the International Law Association Study Group I co-presided with Eva Kassoti between 2021 and 2024,[22] the lecture addresses regional international law and regional international organisations together. It is because international law institutes regions as RIOs that the latter should be entitled to contribute to the adoption of international law through their institutions. And vice-versa: it is because RIOs may contribute to the adoption of international law that they should be instituted as such by international law. The locution 'international law of regional organisations'[23] should be read in two directions, therefore: as the international law that RIOs contribute to adopt and/or interpret (e.g., *qua* regional subsequent treaty practice and *qua* regional custom) and as the international law that institutes and orders RIOs in various forms (e.g., as regional organisations themselves, groups, and/or tribunals).

Besson, 'Reconstructing International Law starting from Regional Organizations', 2 *Revue Européenne du Droit* (2021) 65; Samantha Besson, 'The Influence of the Two Covenants on States Parties across Regions: Lessons for the Role of Comparative Law and Regions in International Human Rights Law', in Daniel Moeckli, Helen Keller, and Corina Heri (eds.), *The Human Rights Covenants at 50: Their Past, Present and Future* (2018) 243.

[21] Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (2007).

[22] See Fernando L. Bordin, Jed Odermatt (Co-rapporteurs), Samantha Besson, and Eva Kassoti (Co-Chairs), 'The International Law of Regional Organizations. Final Report', ILA (2024), available at https://www.ila-hq.org/en/documents/ila-study-group-regional-organisations-final-report-may-24. See also the different contributions in the 21(1) *International Organizations Law Review* (2024) 1–210 special issue on *The International Law of Regional Organizations*: Besson and Kassoti, 'The International Law of Regional Organizations: Mapping the Issues', *supra* note 18; Fernando L. Bordin and Jed Odermatt, 'International Law of Regional Organizations: A Comparative Perspective', 21(1) special volume *IOLR* (2024) 19; Damian Chalmers, 'The Distinctiveness of Regional International Organization Law', *id*. 43; Guy Fiti Sinclair, 'Between Functionalism and Hegemony: Regional International Organizations in the History of International Law', *id*. 65; Besson, 'The Politics of Regional International Organizations', *supra* note 20; Fabia Fernandes Carvalho, 'Regional International Organizations and Regionalism in the Theory of International Law', 21(1) special volume *IOLR* (2024) 115; Catherine Brölmann, 'Regional Organizations in International Law: Exploring the Function-Territory Divide', *id*. 132; Apollin Koagne Zouapet, 'States and Regional International Organizations', *id*. 147; Kirsten Schmalenbach, 'The Relationship between RIOS and the UN in Matters of Peace and Security: It's Complicated', *id*. 168; Eva Kassoti, 'The European Union and Other Regional International Organizations: Tales of Solidarity', *id*. 190.

[23] Besson and Kassoti, 'The International Law of Regional Organizations: Mapping the Issues', *supra* note 18, at 6.

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The lecture's argument is four-pronged. First, it unpacks the *terms* of the debate, starting with the regional and then moving onto its binary opposition to the universal (II.). The second part of the lecture presents a brief *history* of regional international law and organisations and its different waves (III.). The third part of the lecture argues for the *relevance* of the regionalisation of international law and organisations for the future of international law (IV.). Finally, the fourth and last part of the lecture presents the main tenets of a possible *re-institution* of the international law of regional organisations (V.).

II. The Terms of the International Law of Regional Organisations

The term 'region' is a very elusive one, and its legal determinability itself is in question.[24]

In response to critiques, I would like to argue in this section that the region and the regional, like the State and the national, are social and political constructs. This means that, like the State, the region can also be a matter of international legal determination and hence of institutional ordering, including through a form of institutional unity in diversity as is the case in the international law of statehood. As a matter of fact, without international lawyers, regional orders, including the RIOs we have today, would never have seen the light of day.[25] Think of their legal personality or their treaties, for instance. This is evidence not only of the possibility to make regional orders more determinate legally as such, but also of the inherent legal dimension of those regional orders as 'orders' or 'organisations' in the first place and as distinct ones at that.

My first claim in this lecture therefore is that the 'regional' amounts to much more than just an intermediary descriptive level between the 'national' and the 'universal'. It is more than the empty and unreflective in-between category of international law and organisations it has been reduced to in the ordinary discourse of international law. More specifically, it should no longer be regarded as a mere counterpart to the universal and hence as a negative category. Regional international law should not simply be equated with non-universal law, and regional international organisations with non-universal organisations.

[24] See e.g., Jan Klabbers, 'The Soft Phenomenology of the Regional International Organization', in Eva Kassoti, Teresa Cabrita, and Narim Idriz (eds.), *The European Union and Regionalism: Conceptual and Contextual Perspectives* (2025) 21, at 39.

[25] Orford, *supra* note 7, at 192 and 194.

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To elucidate the terms used when we refer to regional law and organisations in international law, I propose to reverse the order in which those terms are usually presented: first, I will discuss the concept of region for itself; second, I will turn to its conceptual counterpart in the binary opposition, i.e. the concept of universe or rather, as I will explain, of universality; and, third and most importantly, I will unpack the many meanings of the binary opposition between the universality of international law and what one may refer to in the future as its 'regionality', and the opposition's fallacy.

First of all, then, the *region*. In short, I take the term to refer to a re-instituted or re-ordered group or collective of instituted peoples, whether those peoples are first instituted in the form of States or of other public institutions such as indigenous public institutions. The region unites these different instituted peoples into a new whole and hence makes them 'integrated' or 'solidary', to use some of the terms used in the context of RIOs. What unites them into a region has to do with two complementary characteristics: first, a *territorial* bond (i); and, second, a *cultural* bond, be it religious, linguistic, civilisational, or else (ii).

The combination of these two elements, territorial and cultural, reveals that a region is a social construct of the peoples of its member institutions, rather than a pre-existing 'fact'[26] or, worse, a mere 'phenomenon'[27]. As a *social* construct, indeed, the region is the fruit of a set of relationships: it is constructed, first, from within, through the relationships between its member institutions, which are both inclusive and exclusive; and, second, from without, through its relationships with other regions, and even with universal institutions such as universal IOs. It is therefore a relative construct as well. A region is always a region among a set of other regions in the plural. As a matter of fact, it is this social and relational dimension of the region that explains its plasticity, both across time and space.[28] On the one hand, indeed, the number of regions of international law can vary from one period to another. For instance, within the UN, the number of regional groups (5 or 6) and their composition have regularly been renegotiated since 1945. On the other hand, each region may organise itself differently around its common cultural characteristics. Most regional orders have now become regional IOs in their own right.

[26] See e.g., International Law Commission (ILC), 'Fragmentation of international law: difficulties arising from the diversification and expansion of international law', Report of the Study Group of the ILC, Finalized by Martti Koskenniemi (Koskenniemi Report), UN Doc. A/CN.4/L.682, 13 April 2006, at paras. 209 and 221. See also Mathias Forteau, 'Regional International Law', in Rüdiger Wolfrum (ed.), *Max Planck Encyclopedia of International Law* (*MPIL*) (2006), available at https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1463.

[27] Koskenniemi Report, *supra* note 26, at para. 221.

[28] On the 'fissile' nature of regions and RIOs, see Chalmers, *supra* note 22.

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As a social and relational construct of an integrated whole, the region is clearly instituted, organised, or ordered by *law*. It is the law of the regional order that enables the region to institute itself as such and to define the regional bond between its member institutions. This may be exemplified by certain RIOs' constitutive treaties' preambles or mandates and their self-identification as regional organisations therein. By reference to the self-determination of the peoples who re-institute themselves a second time by organising themselves into a regional order, the legal ordered region also takes on a *political* dimension. As a matter of fact, this dimension is reflected in the etymology of the term 'region'. In Latin, indeed, it refers to the act of ruling and governing, as explained by Michel Foucault.[29] The law and politics of the notion of region precede its geography, therefore, rather than the other way around. Like the State, then, albeit without amounting to a State, a region has both a territorial and a political dimension. It is *geo-political* in the strict sense of the term, and I will revert to this key dimension of regionality later.

The time has come to move to the second term of the debate: *universality*. Unlike the term region, international law does not know of the term 'universe', which is not considered a social construct, and even less as a legal and political one. This is telling: whereas international law uses the word 'region' and the adjective 'regional', but not the noun 'regionality', it uses the adjective 'universal' and the noun 'universality', but not the word 'universe'. This is because, as I explained earlier, the universality of international law is treated as the standard and default position of international law, whereas its regionalisation is regarded as the exception and the contestation of this default position.

In short, and applied to international law and organisations, the term 'universal' qualifies the scope of application of law or organisations that claims to apply to all peoples and, by extension, to all their institutions, including all States. 'Universality' pertains to the universal validity of international law and organisations and, more precisely, to the universality of the personal and territorial scope of their *de jure* authority.

This brings me to a third terminological clarification, that of the *binary opposition* between the universal and the regional at play in international law. As mentioned in my introduction, the two terms often appear in opposition.[30] As should be clear by now, however, the regional has an independent conceptual life, and it is mostly the universal that always comes in pairs in this binary opposition to the regional. As a result, it is usually with the universal that the discussion begins, and the regional only comes next as the 'anti-universal'.

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[29] Michel Foucault, 'Questions à Michel Foucault sur la géographie', 1 *Hérodote* (1976) 71.

[30] On the binary oppositions to the universal, see Işıl Aral and Jean d'Aspremont, 'Introduction: The Universalizing Narratives of International Law and their Binary Contestations', in Işıl Aral and Jean d'Aspremont (eds.), *International Law and Universality* (2024) 1.

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There are at least two difficulties with this way of constructing the regional in a binary opposition to the universal. The first one is that it reduces the regional to the opposite of everything associated with the universal, be it law or international organisations. And this can amount to quite a lot of things. One may identify at least three binary oppositions in practice that oppose the universal to the non-universal when it comes to international law: the universal in the sense of 'general' international law, as opposed to special or particular law; the universal in the sense of 'unitary' international law, as opposed to plural and fragmented law; and the universal in the sense of 'abstract' international law, as opposed to concrete law. The problem with those three binary oppositions when applied to regional international law is that there may well be general, unitary, and abstract regional international law as well special, fragmented, and concrete regional law. It is difficult therefore to necessarily equate the regional with the non-universal on either or all of those counts.

The second difficulty is that the opposition generality v. speciality of international law (the first universal-regional binary opposition just identified) is itself polysemic. Indeed, it can refer to at least three oppositions: the generality of the 'content' of a norm as opposed to its speciality (*lex specialis*); the generality of the personal 'scope' of application of a norm, regime, or source as opposed to its speciality; and, finally, the generality of the 'secondary rules' of the international legal system as opposed to the secondary rules of regimes so special that they become self-contained (the general rules of international law). The problem here is that regional international law is not necessarily special in either of these three senses. And this contradicts the report on fragmentation prepared by Martti Koskenniemi for the ILC.[31] Moreover, even when regional international law is special in either of the three meanings of special international law, its regionality and hence its relevance as such in international law cannot be reduced to its functional speciality in that sense. I will revert to this issue in the lecture's fourth section.

III. The History of the International Law of Regional Organisations

The second part of this lecture is devoted to a (necessarily brief) sketch of the evolution of regional international law and organisations. As mentioned earlier, international law has been regional from the origins. Moreover, even after they started being universalised in the 19th century, international law and organisations have not only remained regional everywhere in the background but have even re-regionalised since then. This has occurred in different waves.

[31] Koskenniemi Report, *supra* note 26, at paras. 209 and 221.

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To make things simple, I propose to distinguish seven major periods in the history of regional international law and organisations. Situating the first historical period is no easy task, of course. Indeed, in reaction to the imposition of Europeans' regional international law as universal international law, it has since become an issue among international lawyers from other (e.g., Asian, African, or Latin-American) regions of the world to claim their region was the cradle of the first regional international law and organisations.[32] Importantly, however, this is not to deny the decisive role of European international law in the history of contemporary international law and of its universalisation after that. This role therefore still largely frames the periodisation of the historical panorama proposed here.

A. First Period: The Coexistence of Regional International Laws Since Time Immemorial

From the written and unwritten sources available, it seems possible to trace the existence of regional international law in all the world's legal cultures.[33]

Historical studies show that this is particularly true of international law applicable to relations between peoples and their various institutions (royal, imperial, urban, etc.) within the Muslim world and various regions of South and East Asia. As a matter of fact, there were regular encounters between these different regional traditions of international law themselves. There is evidence in Grotius, for instance, of such borrowings in Europe from regional Asian practices in the field of international treaties in the 17th century.[34]

B. Second Period: The Presumption of Universality of the Classical 'Natural Law of Nations' as the Law of Reason (16th – 18th Centuries)

As its name suggests, Europeans' natural law of nations presented itself from the outset as natural because it was rational. And it is from that rationality that it derived

[32] See also Arnulf Becker Lorca, 'Eurocentrism in the History of International Law', in Bardo Fassbender and Anne Peters (eds.), *The Oxford Handbook of the History of International Law* (2012) 1034; Pierre Singaravélou, 'Décoloniser la loi? Le droit à l'épreuve de l'histoire globale', in Samantha Besson, Dario Mantovani, and Pierre Singaravélou (eds.), *Aux confins de la loi: La nature*, *les colonies*, *l'espace* (2025) 51.

[33] See Antony Anghie, 'Identifying Regions and Sub-Regions in the History of International Law', in Bardo Fassbender and Anne Peters (eds.), *The Oxford Handbook of the History of International Law* (2012) 1058, at 1060.

[34] See Pitts, *supra* note 16, at 73 et seq.

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its presumed universality. This presumed universality supported the European law of nations' claim to apply to other regions as well, notably Asia.

As a matter of fact, European international jurists of the time, such as Vitoria, Grotius, and then Vattel, were relatively unconcerned about the regional origin of their law. This is confirmed by the collections of international treaties of the 17th century: they contained no treaties with institutions from other regions, even though the existence of such treaties was well established, as exemplified by the numerous treaties between Europeans and Ottomans at the time.[35]

C. Third Period: The Universalisation of the Modern 'European Public Law' as the Law of Civilisation (1815 – 1918)

This period is epitomised by the transition from a European international law presumed to be universal because it was natural, to a European international law to be actively universalised despite being positive and hence regional, because it had a civilising mission. This universalisation was not achieved by inclusion, as it was in the days of the natural law of nations. On the contrary, it occurred first through differentiation (e. g., unequal treaties, capitulations). It is only later, once the interest in cooperation of other peoples had grown, that the universalisation of international law progressed through conditionality and thus by the forced civilisation and hence transformation of other regional international laws.

This explains the ambivalent positioning of other regions' international laws at the beginning of the 19th century. It is best exemplified by the international law known as creole ('mestizo') international law, that then became 'American' and later 'Latin American' international law.[36] Indeed, the invocation of a distinct regional international law was first dictated by a reaction of emulation and demand for participation in the making of universal international law. At the same time, however, its distinctiveness was also vindicated as an act of resistance and emancipation. This ambivalence between regional emulation and emancipation also applied to the first RIOs set up in the 19th century. At that time, indeed, the first regional organisations were being instituted in Europe. This was the case of the first regional river commissions, administrative unions, and military alliances or agreements. These European RIOs provided a model of RIO that was disseminated to other regions such as Latin America and then Africa and Asia, both in emulation and in resistance.[37]

[35] See Pitts, *supra* note 16, at 73 et seq.; Becker Lorca, *supra* note 15, at 9 and 114 et seq.

[36] See Becker Lorca, *supra* note 15, at 22 and 128 et seq.

[37] See Sinclair, *supra* note 1.

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D. Fourth Period: The Failed Institution of Universal International Law and Organisations and the Parallel Development of Regional International Law and Organisations (1919 – 1945)

The end of the First World War led to the creation of the first general international organisation with a universal vocation: the LoN. Notably, the LoN was not inclusive enough to be sufficiently universal. And it was, in any case, too weak a universal institution. This explains why the regional orders already in place and which it was meant to replace were quickly rekindled. It is also why they were referred to, albeit negatively, in the LoN's constitutive treaty. It suffices here to mention Article 21 of the Covenant, which explicitly upheld the validity of pre-existing 'regional understandings', including the USA's Monroe Doctrine.[38]

During the interwar period, against a backdrop of crisis for universal international law and its organisation, regional international law and organisations re-asserted themselves even more strongly. This was once again the case of American international law, which had in the meantime become Latin American international law, but also in other regions of the world such as Europe and Asia. The same movement took hold at the institutional level, as regional alliances and orders were formalised and consolidated around regional Empire-States such as Germany or Japan, but also outside the group of States that was then considered the 'First World'. This was the case in Latin America, with the institution of the many conferences and offices that later gave rise to the Pan-American Union, and then to the OAS. It also occurred in the Arab world, with the forerunner of the LAS, born of the collapse of the Ottoman and European Empires in the region.

E. Fifth Period: The Re-Institution of Universal International Law and Organisations and the Double Life of Regional International Law and Organisations (1945 – 1960)

The institution of the UN in 1945 was meant as a re-institution of universal international law and organisation against the regional. This concern not to weaken the universality of the UN explains the scarce references to both regional international law and RIOs in the Charter.

[38] Art. 21 Covenant of the League of Nations 1919, 225 CTS 195: 'Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or *regional understandings like the Monroe doctrine*, for securing the maintenance of peace.' (emphasis added).

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Regarding regional international law, on the one hand, the International Court of Justice (ICJ) Statute makes no mention thereof in Article 38 on the sources of international law. And this is the case despite various proposals by Latin American States to include a reference to regional law therein during the negotiations. Of course, there are a few references to equitable geographical representation inside UN bodies, such as the ICJ (Article 9 ICJ Statute)[39], the Security Council (Article 23(1) UNC) or the ILC (Article 8 United Nations General Assembly Resolution 174)[40]. However, UN regional groups as such were only set up *ad hoc* and at a much later date.

As to regional international organisations, on the other hand, they are mentioned explicitly in the Charter and even positively this time around. If they are, however, it is to subject them hierarchically to the Security Council (and therefore to its 5 permanent members). This is what Chapter VIII says about 'regional arrangements and agencies' for the collective use of force (Article 53) and 'regional arrangements' for the maintenance of peace and security (Article 52). In any case, this hierarchical submission of regional international organisations was only *pro forma*. There was a double standard at work straight away, depending on the regional organisations involved and their link to a particular State. Indeed, not all regional security alliances have been considered as 'regional agencies' within the meaning of Article 53. It suffices here to contrast the independence granted to the NATO and the USA with the treatment of the Warsaw Pact and the USSR. Moreover, *ex post* authorisations to the use of force by RIOs have regularly been granted under Chapter VII, thereby circumventing the point of Chapter VIII altogether.

Outside the field of force and security, various types of regional 'cooperation' have been set up under the UN umbrella. This has taken place in two ways: through the *external* regionalisation of the UN, with its various, largely pragmatic relations and interactions with RIOs, on the one hand, and through the *internal* regionalisation of the UN, with the creation of UN regional commissions or of regional offices inside UN specialised agencies such as the World Health Organisation or the Food and Agriculture Organisation, on the other. This trend of cooperation between UIOs and RIOs also took hold outside the UN, in the commercial and financial spheres. This is exemplified by the institution of regional development banks and regional dispute settlement bodies under the Bretton Woods' universal institutions and especially the World Bank and the International Monetary Fund.

[39] Statute of the International Court of Justice 1945, XV UNCIO 335.

[40] UNGA Res. 174 (II), *supra* note 13.

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Outside the UN, many RIOs were either re-founded after 1945, like the LAS or the OAS, or founded from scratch in other regions.[41] This was the case in Europe, where the post-war period was the start of an intense phase of RIO institution-building, such as the European Coal and Steel Community and the European Economic Community, which later became the EU, and of course the Council of Europe.

F. Sixth Period: The Partial Re-Regionalisation of International Law and Organisations Outside the UN (1960 – 1990)

The Cold War gave new impetus to regionalisation, giving rise to a host of new regional organisations. This was the case, of course, above all in Europe, where RIOs flourished on both sides of the two blocs. They are referred to as 'First World' and 'Second World' RIOs. This time around, however, this occurred exclusively outside the framework of the UN. This was especially true in the fields of security and trade.

With decolonisation, a third circle of RIOs also appeared at that time, that of the 'Third World' and the 'New International Economic Order', particularly in Africa, but also in Latin America. This was the time a new African international law consolidated on the model of 19th-century American international law, taking up some of the latter's demands for the recognition of African regional legal and institutional specificities by universal international law.

G. Seventh Period: The Universal Re-Regionalisation of International Law and the Erosion of Universal Organisations, Including the UN (1990 – 2025)

With the end of the Cold War and of the bipolar system, regionalisation strengthened even further, leading to the so-called 'new regionalism'.[42] This was the case both in terms of regional international law, with the establishment of regional codification commissions throughout the world to influence universal international law-making, and at the institutional level, with the creation of new RIOs with a view to legitimising this fast-developing regional international law. I have already mentioned the three unique features of this re-regionalisation of international law and organisations in the introduction: its universality, generality, and depth, including in Asia and Eurasia.

[41] See Börzel and Risse, *supra* note 4, at 623 and Figure 27.1.

[42] *Ibid.*

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At the same time, however, – and there has been an unfortunate albeit correlative knock-on effect here – UIOs, including the UN, gradually started losing influence. Worse still, the 'regionalisation for universalisation' dynamic has been reversed: the UN, which presented itself as a universal framework for regional cooperation until the 1990s, is now dominated by a handful of regional organisations with which it (sadly) still claims only to 'collaborate' and conclude 'partnerships' as it did in the past.[43] This may be explained in two ways. First, it is due to the financial and technical disengagement of States, and the subsequent capture of the UIOs including the UN specialised agencies by certain regional Empire-States, initially the USA, and then China. Second reason: the legal framework for these 'relations' and 'interactions' with so-called 'regional and other organisations' has remained highly indeterminate ever since Chapter VIII was circumvented, creating numerous privileges for certain RIOs, such as NATO and the EU in particular.

Two lessons may be drawn from this history, first, of de-regionalisation through universalisation of international organisations in the 20th century and then, of re-regionalisation through de-universalisation of international organisations at the beginning of the 21st century.

First, regional and universal international organisations should not be regarded as opposites that cancel each other out in a zero-sum game (contrary to the way in which they were presented by Article 21 LoN Covenant, for instance). Nor should they be hierarchically ordered to one another (the way they have been in Articles 52 – 53 UNC). On the contrary, they should, in a future reform of the UN or in a future UIO, be carefully articulated in their complementarity in representing and re-instituting the same peoples and their States. Or else, UIOs and RIOs will keep undermining each other in the same deleterious cycle of de-regionalising universalisation and de-universalising regionalisation.

Second, and for this very reason, RIOs should no longer be regarded as competitors among themselves. Unless the relation between RIOs is articulated into equal complementarity, indeed, nothing will prevent certain RIOs from turning into the imperialist instrument of one or more regional Empire-States, both inside a region and outside. As the history of the second half of the 20th century has confirmed, those imperialist policies of Empire-States and their Empire-RIOs have become an internal threat to the very conditions of egalitarian multilateralism within the UN. Such policies can only be fixed by a regional re-ordering of the universal institutional order itself in the future.

[43] See UNSG, UN Doc. A/71/160-S/2016/621, *supra* note 13, at para. 145.

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IV. The Relevance of the International Law of Regional Organisations

In this third part of the lecture, I would like to revert to the question of the normative relevance of regional international law and organisations, this time for the future of international law.

To do so, it is important to start, negatively, by addressing one objection that may explain the long neglect of the international law of regional organisations in the international law literature (at least until recently). The claim is that international law does not attach any specific legal consequences to RIOs and their law, at least no consequences more specific than those attached to other special functional IOs and their law.[44]

To placate this objection, it is important to refer to what I said in the second section about the three senses of universality understood as the 'generality' of universal international law by opposition to the alleged 'speciality' of regional international law. The difficulty, I said then, is that regional international law is not necessarily non-general and hence special in any of these three senses. It can, of course, be so, as when it specifies the content of a general obligation or even provides an exception to it; when it limits its personal scope of application; or when it follows its own secondary rules on the law of treaties or international responsibility. This is not always the case, however. In any case, it is not a conceptual necessity linked to its regional quality: regional international law can have the same content as universal international law; does not necessarily limit its personal scope of application; and can adopt the same secondary rules as universal international law.

Importantly, then, what makes international law regional, and therefore distinctive or relevant, is to be found elsewhere than in its speciality in either of those three senses. First, the fact that regional international law and organisations can sometimes be regarded as special in all three respects at the same time points to its very 'special speciality' indeed. Second, and relatedly, regional international law and RIOs are increasingly used in international law to replace it in the regional relations between Member States and even beyond, in the external relations of either the RIO or its Member States,[45] thereby confirming the direct competition between universal and regional international law and organisations identified in the previous section.

[44] See e.g., Klabbers, *supra* note 24, at 39; Forteau, *supra* note 26, at 24; Koskenniemi Report, *supra* note 26, at paras. 209 and 221. *Contra:* Chalmers, *supra* note 6.

[45] See Pierre d'Argent, 'The European Union: Using International Law to Replace it', in Anne van Aaken et al. (eds.), *The Oxford Handbook of International Law in Europe* (2024) 207.

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Third, and most significantly, what accounts for the generality of the international law of RIOs that straddles all regimes of international law cannot merely lie in the functional aims of these organisations. On the contrary, it may only be explained by their geopolitical nature in re-instituting their Member States' peoples politically inside a new territorialised institutional order. As I argued earlier, RIOs have a clear geopolitical dimension due to their joint territorial basis and political organisation.

This is confirmed by the fact that some RIOs are the only IOs, according to their constitutive treaties, to have 'citizens', 'peoples', 'sovereignty', 'borders' and, related to this, a catalogue of 'human rights' and a 'court' whose jurisdiction does not only pertain to their Member States, but to the RIO itself. In fact, the neglect of these characteristics common to most RIOs is once again the result of the Eurocentrism of international lawyers. It has brought them to isolate the EU in its *sui generis* or exceptional category and to downplay the relevance of other RIOs' features, thereby leading to a model v. exception double-bind.[46] Interestingly, this exceptionalist positioning on the part of Europeans is a remake of what they did with respect to the relevance of other regions' international law and organisations in the 19th century.[47] According to that view, the EU may have a 'parliament' and 'citizens', and may therefore be 'political', but the other RIOs should be regarded as merely 'functional'. The EU might have a 'territory', but the other RIOs should only have 'spaces'. The EU might be 'autonomous' in the adoption of international law, but the other RIOs should only adopt 'soft law'.

It is time for international lawyers to start attaching relevance to the international law not only of the EU as one among many other RIOs, but of all RIOs at the same time and in a differentiated albeit common and hence equitable way. From a second and more positive perspective now, therefore, there are at least three stakes in this project for a regional re-ordering of international law.

First stake: the *universal authority of international law*, or more exactly the universal justification of its claimed universal authority. This is important if we want to move beyond the ordinary universalism still at play in international law-making.

Taking the regionalisation of international law and organisations seriously would make it possible to construct universality positively and from below, rather than to approach it negatively and from above. It could provide a better understanding of the diversity of institutional contexts, not only national but also regional, in which international law is constantly applied and hence interpreted and developed. Those

[46] For an endorsement of this double-bind, see Jan Klabbers, 'The European Union in the Law of International Organizations: Misfit or Model?', in Ramses A. Wessel and Jed Odermatt (eds.), *Research Handbook on the European Union and International Organizations* (2019) 25.

[47] For details, see Besson, 'The Future of Europe in a World of Regions', *supra* note 20.

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regional contexts amount to an integral part of the processes of universal law-making.[48] It is time therefore, to integrate both intra- and inter-regional comparisons more systematically inside the methods of comparative international law, especially when identifying and consolidating international customary law and international treaties' subsequent practice.[49] This argument also applies to the international law of international organisations which should be developed comparatively as a form of 'comparative inter-regional institutional law' if it is to capture the full institutional diversity of RIOs.[50]

Second stake: the *political legitimacy of regional organisations.* Here, it is the binary opposition between States and UIOs that still prevails in the international institutional order that is called into question by the regionalisation of international law and organisations.

More specifically, what is at stake, to quote Catherine Brölmann, is the opposition between the territorial and political international organisation reserved to States, on the one hand, and the purely functional and apolitical organisation reserved to international organisations, on the other.[51] The territorial and, as I explained before, the geopolitical dimension of regional orders, including RIOs, makes them sit uneasily inside this binary opposition. International lawyers can no longer afford to ignore the role played by international law in the geopolitical institution of RIOs and, to that extent, should make sure that when it does play that role, this serves those RIOs' political legitimacy.[52] Insofar as international law contributes to the organisation of regional organisations, and it does indeed, it should therefore do so in such a way as to guarantee the self-determination of their re-instituted peoples. This implies protecting the sovereign equality of peoples not only inside those RIOs, but also outside them when relating to other peoples.

[48] ILC, 'Ninth report on the expulsion of aliens', submitted by Mr. Maurice Kamto, Special Rapporteur, UN Doc. A/CN.4/670, 25 March 2014, at para. 19: 'While the Special Rapporteur cannot deny the merit of these suggestions, he must point out the following: *regional law is part of international law* and cannot be set aside, especially since the International Law Commission has always referred to it in its work.' (emphasis added).

[49] See Besson, 'Du droit de civilisation européen au droit international des civilisations', *supra* note 20; Besson, 'La fin du "décalque des institutions européennes": vers un droit inter-régional comparé de l'État', *supra* note 20; Besson, 'The Influence of the Two Covenants on States Parties across Regions: Lessons for the Role of Comparative Law and Regions in International Human Rights Law', *supra* note 20. See also ILC, 'General principles of law: Text of the draft conclusions provisionally adopted by the Drafting Committee on first reading', UN Doc. A/CN.4/L.982, 12 May 2023, Draft Conclusion 5; UNGA Res. 174 (II), *supra* note 13, Art. 26.

[50] See Besson and Kassoti, 'The International Law of Regional Organizations: Mapping the Issues', *supra* note 18. See also Duxbury, *supra* note 19, at 714.

[51] Brölmann, *supra* note 22, at 143. See also Besson, 'The Politics of Regional International Organizations', *supra* note 20.

[52] Orford, *supra* note 7, at 192 and 194.

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Third and final stake: the *political legitimacy of the international legal and institutional order* in general.

As the political scientist Andrew Hurrell rightly concluded back in 2007,[53] the principle of regional self-determination of peoples could in the future play, no more and no less, the role played by national self-determination for international political legitimacy in the 20th century. In turn, this should affect the way in which the universal international institutional order itself is organised and its political authority justified. The re-ordering of a universal international institutional order that guarantees the equal legal status of various RIOs, besides States, and their equal relations in UIOs could contribute to strengthening the protection of the equal sovereignty of all those UIO's Member States. So-doing, it would also enhance the self-determination of their peoples in international law-making and hence their political equality worldwide.

V. The Re-Institution of the International Law of Regional Organisations

In this final section, I would like to sketch what a future regional re-ordering of international law could and should amount to.[54] It presents the main tenets of a 'common' international law of regional organisations.[55]

Let me start, first, *inside RIOs*, with the internal institutional order of RIOs. Elsewhere, I have defended the re-institution of RIOs as a third political form and institution of public international law, one that could institute regional geopolitical communities equally to each other to prevent their domination by imperialist States or other imperialist RIOs. I have referred to this third institution of international law as the 'Regional Confederation'.[56]

[53] Andrew Hurrell, 'One World? Many Worlds? The Place of Regions in the Study of International Society', 83(1) *International Affairs* (2007) 127, at 146. See also Besson, 'The Politics of Regional International Organizations', *supra* note 20.

[54] For a full argument, see Besson, 'The Politics of Regional International Organizations', *supra* note 20; and the lecture I gave on the international law of regions at the Collège de France on 10 April 2025, available at https://www.college-de-france.fr/fr/agenda/cours/le-droit-international-des-regions/le-droit-international-des-regions-propositions-post-imperiales-pour-instituer-un-monde-des-regions.

[55] For an argument for the importance of developing such a common law of RIOs, see Boisson de Chazournes, *supra* note 6, in the final paragraph of her conclusion at 332.

[56] For a full account, discussing aspects of multiple sovereignty and representation, see Besson, 'The Politics of Regional International Organizations', *supra* note 20.

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The Regional Confederation is a political form unknown to modern international law. However, it was in use to institute regional geopolitical spaces around peoples long before the emergence of the first States. The Confederation was actually opposed to the Empire, which was the alternative regional political form back then, either for purposes of common defence or common prosperity in the face of imperialist military or economic policies. As a result, the Regional Confederation could lend itself very well to the contemporary post-imperialist re-institution of regional orders, and especially RIOs.

Like the Empire, indeed, the Confederation is a regional political form that is a ternary, instituted political entity, comprising a centre and peripheries, in this case the confederate States, albeit without creating a new State.[57] Moreover, like the Empire, the Confederation brings together heterogeneous States and maintains a multiplicity of citizenship ties between these States and their respective peoples. Unlike the Empire, however, the Confederation guarantees and protects the sovereign equality of the federated States, on the one hand, and the equal rights of their citizens, on the other. This reinforced, two-tiered guarantee of political equality goes hand in hand with the requirement of a democratic regime both at confederal level and within the confederate States. Indeed, this shared political regime implies greater political homogeneity within the Confederation, giving rise to a mutual domestication and democratisation effect between the Confederation and the Confederate States.

The proposed argument in favour of the institution of the regional Confederation in international institutional law is a republican one. It is based on the sovereign equality of States' peoples of the different regions of the world. If the State has been conceived and instituted against the Empire as the political form that enables the institution of peoples into several States, all of them being equal under international law (Article 2(1) UNC), its contemporary weaknesses should lead us to think of an additional institution and political form for the protection of the equality of these same peoples against the imperialism exercised by certain States and their RIOs. The time has come to re-institute the regional orders that have developed around States into Regional Confederations, to offer additional protection to the sovereign equality of their peoples and protect them against regional Empire-States and Empire-RIOs.

Importantly, the republican argument proposed here is not only a political regime argument, but one of political form. It understands the Confederation as a third and distinct federal political form that is neither a federal State, nor a federal international organisation. The reason I prefer the term 'Confederation' to that of 'Fed-

[57] See Olivier Beaud, 'Federation and Empire: About a Conceptual Distinction of Political Forms', 16(4) *International Journal of Constitutional Law* (2018) 1199.

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eration' is that it was used to refer to the political form of Switzerland or the USA well before these confederations of States became federal States. Accordingly, the point is not to institute a Regional Confederation in each region against or instead of the State, but to do so in order to re-institute the people of each State a second time and thereby to strengthen its sovereign equality. Nor is this proposal's point to replace UIOs. On the contrary, the latter should be re-instituted at the same time as universal institutional frameworks in which the proposed world of regions and their States can strive.

This explains why it is key to move, in a second step of the argument, from the re-institution of the sovereign equality of peoples inside each RIO to its parallel re-institution *from the outside*, this time in the egalitarian relations between RIOs themselves.

This external egalitarian re-institution of RIOs in international law requires doing two things. First, it is important to situate the Regional Confederation within international institutional law more generally so as to organise and guarantee it on an equal footing with others.[58] This is what was done for the State in Article 2(1) UNC in 1945. The sovereign equality among Regional Confederations should simply be added to this guarantee. Second, it is necessary to articulate the Regional Confederation with the other two institutions of international law, namely the States and the UIOs. This re-institution of the peoples of the world could be done by the re-organisation of the UN into a new 'United Nations and Regions Organisation' (UNRO). Such a new UIO could indeed bring together the many public institutions of those peoples, in particular States and Regional Confederations, as full members, albeit not as equal ones. States and Regional Confederations would be equal in their respective institutional categories, as explained earlier, but not equal to one another. This is how we should translate the complex institutional continuity between States and RIOs as two distinct sets of international institutions that institute and re-institute the same peoples and thereby partake in their equal sovereignty.[59]

At this stage, someone may object to the feasibility of the proposed reform. Let me remind you, however, that the proposal aims at the protection of the sovereign equality of peoples and their States, a guarantee that is already enshrined in the UN Charter. Moreover, and as I explained before, there is currently at least one generalist and autonomous RIO in every region of the world. Further, the threat posed by Empire-States and Empire-Organisations applies equally to all peoples in those

[58] See e.g., UNGA Res. 79/1, 22 September 2024, Pact for the Future, Action 39.

[59] See Besson, 'The Politics of Regional International Organizations', *supra* note 20; Samantha Besson and José L. Martí, 'Republican Sovereignty', in Mortimer Sellers and Frank Lovett (eds.), *The Oxford Handbook on Republicanism* (2025), available at https://academic.oup.com/edited-volume/55827/chapter-abstract/537022211?redirectedFrom=fulltext.

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RIOs, making the egalitarian stakes identified in this lecture equally shared around the world. To that extent, the argument does not only propose to reconstruct the existing international institutional order from within rather than its complete overhaul, but it also identifies a feasible and equally beneficial way of doing so for all peoples. This is the way we, international lawyers, can play our role as world-making midwives as we have always done at crucial geopolitical junctures: by facilitating the emergence of new worlds from dying ones, to paraphrase Antonio Gramsci.[60]

VI. Conclusion

My argument in this lecture has been that the future of world-making should be regional. For us Europeans, the place to start 'seeing like a region' is Europe. Remember that we owe our name to the Phoenicians who understood Europe as a horizon: after being the horizon of other regions, the time has come for Europe to start seeing itself like a region as well.[61]

With other peoples, 'We Europeans'[62] should pick up the construction of the allegedly universal international institutional order where it was left in 1945. We should endeavour to enforce that order's egalitarian principle at long last, by instituting regional orders not only for ourselves as we have done for centuries now, but also equally and for all other peoples in those regions. This is how we will enhance our chances of protecting those peoples from our own European regional imperialist universalism, but also, and at the same time, how we will get to protect ourselves from the imperialist power of other regional Empire-States and Empire-Organisations in the world.

This plea for a regional egalitarian multilateralism in international law is, I think, a proposal Walther Schücking would have endorsed had he lived through the 20th century. It resonates deeply with his ideas of differentiated institutionalisation and trans-civilisational law and with his argument for the development of federalism and republicanism inside IOs.[63]

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[60] Antonio Gramsci, *Prison Notebooks*, Notebook 3 (1930), at para. 34.

[61] See Besson, 'The Future of Europe in a World of Regions', *supra* note 20. See also Signe R. Larsen, 'European Public Law after Empires', 1(1) *European Law Open* (2022) 6, at 24–25; Eva Kassoti, Teresa Cabrita, and Narin Idriz (eds.), *The European Union and Regionalism: Conceptual and Contextual Perspectives* (2026).

[62] Bruno Karsenti and Bruno Latour, *Nous autres Européens* (2024).

[63] See Christian J. Tams, 'Re-Introducing Walther Schücking', 22(3) *European Journal of International Law* (2011) 725; Frank Bodendiek, 'Walther Schücking and the Idea of "International Organization"', 22(3) *European Journal of International Law* (2011) 741.

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