

Regionalism v. Universalism

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I. Introduction

The debate surrounding regionalism and universalism in international organizations reflects the old dilemma between centralism and local governance at the domestic level. Local modes of problem solving are often seen to be more efficient, to be based on a better understanding of the specific circumstances and to be better placed to take account of local peculiarities, cultural or otherwise. Centralist solutions carry the expectation of a more homogeneous, effective and uniform method of government. Within Nation States the compromise between the two opposing principles has found its expression in various models of federalism. The diversity and ongoing evolution of domestic solutions for the allocation of functions between central and local decision-makers is a clear sign that there is no simple answer to this basic antithesis.

The advent of international organizations with global pretensions has transposed the old dilemma to the international level and has added some new dimensions.¹ The universal arena is often seen as being too weak and incoherent for effective action. This has led to calls for a shift to regional institutions. Conversely, regionalism is said to carry the danger of fragmentation to the international system. Moreover, regional superpowers tend to distort or even abuse regional processes prompting calls for the involvement of a global mechanism with more 'democratic' or egalitarian structures.

Both the Covenant of the League of Nations and the Charter of the United Nations display a clear preponderance of universalist features. The Covenant's reference in Article 21 to 'regional understandings like the Monroe Doctrine' was little more than a futile attempt to secure United States participation. The League never obtained universal acceptance due to its limited membership, mostly of

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1 For comprehensive studies on regionalism see esp. B. Andemicael (ed.), *Regionalism and the United Nations* (1979); W. Lang, *Der internationale Regionalismus* (1982).

European and American States, a phenomenon which was exacerbated by a considerable number of defections.

In the negotiations surrounding the drafting of the United Nations Charter, the struggle between universalist and regionalist sentiments played a prominent role.² The Dumbarton Oaks proposals were strongly dominated by a universalist approach. At San Francisco important modifications in favour of regionalism were inserted at the insistence of the Latin American and Arab States. They include the right to individual and *collective* self-defence as enshrined in Article 51 and the primacy of dispute settlement through regional means (Articles 33(1) and 52(2) and (3)). On the other hand, enforcement action remained under the overriding jurisdiction of the Security Council (Articles 24, 25, 39-42, 53(1) and 54). Interestingly enough, regional activities in fields other than peace and security received scant attention and are not regulated in the Charter.

While the distribution of powers between the UN and regional arrangements is thus concentrated in Articles 51-54 of the Charter, these provisions by no means exhaust the open or oblique references to their intricate relationship. Article 43(3) provides for special agreements for the purpose of providing assistance to the Security Council *inter alia* with 'groups of Members'. Action to carry out decisions of the Security Council shall be taken by all the Members 'or by some of them' (Article 48(1)), directly and through 'appropriate international agencies' (Article 48(2)). The Military Staff Committee 'after consultation with appropriate regional agencies, may establish regional subcommittees' (Article 47(4)). Solution to disputes shall be sought, *inter alia*, through 'resort to regional agencies' (Article 33(1)). In addition, regionalist concepts also appear in the guise of geographical or cultural considerations in the composition of UN organs. In the election of non-permanent Members of the Security Council due regard is to be given also to 'equitable geographical distribution' (Article 23(1)). A consideration in the recruitment of staff for the Secretariat is that it should be on 'as wide a geographical basis as possible' (Article 101(3)). In the election of the judges of the International Court of Justice 'the representation of the main forms of civilization and of the principal legal systems of the world should be assured' (Article 9 ICJ Statute).

An important universalist feature of the Charter is the prevalence of Charter obligations over 'any other international agreement' (Article 103). Therefore, any regional agreements that are at variance with the Charter would have to yield. In actual practice, the most important pillar of universalism has turned out to be the provision on membership (Article 4). The almost complete participation of the international community remains the United Nations' greatest strength and source of legitimacy.

2 L.M. Goodrich, E. Hambro, A.P. Simons, *Charter of the United Nations* (1969); R.B. Russell, *A History of the United Nations Charter* (1958); Wolf, 'Regional Arrangements and the UN Charter', 6 EPIL (1983) 290; Hummer, Schweitzer, 'Article 52, paras. 14-29', in B. Simma (ed.), *The Charter of the United Nations. A Commentary* (1994) 679, at 687.

Subsequent practice has given much more weight to regionalism than the bare text of the Charter would suggest. This reversal towards regionalism away from a preponderantly universalist concept is the result of a number of factors. One has been the partial failure of the United Nations to come to terms with many of the tasks entrusted to it. Another has been a strong resurgence of group solidarity among Member States. A further factor has been the desire to tackle certain problems in a smaller arena which seemed better adapted to cooperation for these specific purposes. Finally, the attempt to escape the involvement of outside powers with their global strategies has also contributed to this trend.

On the other hand, a number of factors have tempered this flight into regionalism. One has been the desire to gain access through global institutions to resources, notably of an economic nature, not available in the region. Another has been the attempt to evade overbearing regional Powers by resorting to universal organizations in the hope of finding allies in the larger forum of global institutions.

Regionalist features have emerged both inside and outside the United Nations. Internal regionalization has occurred through the composition, structure and decision-making processes of the United Nations. External regionalization has been manifested through formal and informal cooperation with regional bodies. More important than these organizational questions is the distribution of functions in such areas as human rights, economic cooperation and peace and security between universal and regional institutions and the prospects for their constructive cooperation.

II. Regionalism within the United Nations

The structures and processes of the United Nations have over the years developed much stronger regionalist features than the occasional references to geography in the Charter would suggest. Group dynamics, often of a regional character, have been among the most characteristic features of United Nations activity. In particular, the General Assembly and other plenary bodies have developed a highly elaborate group system, which has become a dominant feature of decision-making. These groupings have strongly regional features although political coherence also plays an important role.³ The composition of the group may be determined primarily by geographical location and cultural bonds (Africa, Latin America) or through membership in a regional organization (European Union).

These groupings play an important role in structuring and streamlining the work of these bodies: Often, common positions are developed within the group and then presented and explained on behalf of all its Members. In the preparation of elections, agreed candidates are presented. Solidarity and voting discipline is often

3 See Bennigsen, 'Block- und Gruppenbildung' and Schreuer, 'Regionalisierung', in R. Wolfrum (ed.), *Handbuch Vereinte Nationen* (1991) 62, 679.

surprisingly high and is evidently based on the realization that group loyalty is an indispensable prerequisite for effective power structures, even if it is at the cost of short-term national interests. Negotiating groups between these caucuses often settle questions before they reach the plenary.

The significance and style of inter-regional cooperation has undergone certain changes in the history of the United Nations. During its first phase, the United Nations was still strongly dominated by the group of northern industrialized States and their allies. Decolonization and the dramatic increase in membership, especially in the 1960s, has not only led to a strengthening of the groups of African and Asian States but also to a newly discovered self-confidence of Members from these 'new regions'. A determined use of numerical majorities during this second phase led to a climate of confrontation, which reached its apex in the 1970s and is epitomized by resolutions purporting to herald a new international economic order. A third phase commencing in the late 1980s has seen the introduction of a much more cooperative and conciliatory climate, which has been strengthened by the near disappearance of the communist bloc.

Regional cooperation has been formalized in most elections and appointments. In the General Assembly, the election of the President, of the Vice-Presidents and of the Chairs of the Main Committees follows a carefully balanced regional pattern.⁴

In the Security Council, the 10 non-permanent seats are allocated to specific regions.⁵ In the current debate about a new structure for the Security Council, there are not only demands for a better representation of certain regions but even suggestions to create genuine permanent or semi-permanent regional seats.⁶

Similarly, the composition of the ECOSOC is determined by a roster of countries organized by regional groups.⁷

Regional considerations were even extended to organs whose members do not represent States but are elected in their individual capacity. It is accepted that the composition of the International Court of Justice should generally mirror the geographical composition of the Security Council. The International Law Commission, which under Article 8 of its Statute is to reflect the main forms of civilization and the principal legal systems of the world, is also composed according to a strict regional pattern.⁸

In the Secretariat, the problem of equitable geographical distribution has become the dominant factor for appointments. Desirable national ranges have been established for every Member on the basis of financial contribution, membership

4 G.A. Res. 1990(XVIII), G.A. Res. 33/138.

5 G.A. Res. 1991A(XVIII).

6 Sucharipa-Behrmann, 'The Enlargement of the UN Security Council. The Question of Equitable Representation of and Increase in the Membership of the Security Council', 47 *AJPI* (1994) 1.

7 G.A. Res. 1991B(XVIII) and 2847(XXVI).

8 G.A. Res. 36/39.

and population. Regional considerations also frequently play a role with certain positions rotating among nationals of Members belonging to a certain group.⁹

The creation of genuine regional substructures has not been a prominent feature in the United Nations. The five Regional Economic Commissions set up by ECOSOC are exceptional in this respect. They work relatively independently and are regarded as generally successful.¹⁰ A number of Specialized Agencies have regional offices and/or field units. UNDP has regional representatives and field offices.

Regionalization within the United Nations has clearly served some useful purposes. Political groupings can play an important and beneficial role in any democratic decision-making process. They add efficiency and structure to the complex process of communication, thereby facilitating compromise. Regional distribution of seats in political organs reduces the potential for conflict in the selection of Members and gives all groups a more secure sense of representation.

In an organization the size of the United Nations, groupings of Members are almost certain to continue to play an important role. What is less certain, is whether clustering will continue to be dominated by geography. To the extent that political orientation and economic development transcend geographical regions, new group loyalties will begin to emerge. For instance, Africa held together by its colonial past and by widespread poverty may lose its coherence and may, one day, look more like Asia with its infinitely more diverse political and economic landscape. A flexible response of the United Nations system to these anticipated changes will be decisive for maintaining its smooth functioning.

In non-political organs such as the International Court of Justice, the International Law Commission but also the Secretariat, any benefit of regional distribution of positions is less obvious. Regionalization may simplify the selection process but will frequently be at the expense of personal qualification. The representation of different legal cultures is, no doubt, a valuable element. Nevertheless, rigid regional quotas are neither necessary nor helpful. This criticism applies with particular force to the Secretariat where the primacy of merit over geographical considerations, as provided for by Article 101(3) of the Charter, should be restored.

III. The Relationship Between Universal and Regional Bodies

Cooperation between the United Nations and regional organizations has taken a variety of forms ranging from *de facto* collaboration to highly formalized and

9 The General Assembly has repeatedly criticized this practice. See, e.g., G.A. Res. 45/239, 46/232, 47/226.

10 Szasz, Willisch, 'Regional Commissions of the United Nations', 6 EPIL (1983) 296. Cf. also G.A. Res. 32/197 Annex paras. 19-27. There are plans for a strengthening of the Regional Commissions, see, e.g., G.A. Res. 46/235 and 47/212.

permanent relationships. The most obvious formal relationship is observer status for regional organizations with particular UN organs. The General Assembly has granted observer status to a number of regional organizations, including the Organization of American States (OAS) in 1948,¹¹ the League of Arab States in 1950,¹² the Organization of African Unity (OAU) in 1965,¹³ the European Economic Community (EEC) in 1974¹⁴ and the Conference on Security and Cooperation in Europe (CSCE) in 1993.¹⁵

The status of a regional agency under Chapter VIII has not always been clear.¹⁶ Some institutions such as the OAS¹⁷ and the CSCE¹⁸ have explicitly claimed this status. The General Assembly has recognized Chapter VIII status not only in respect of the OAS¹⁹ and the CSCE²⁰ but also in respect of the League of Arab States²¹ and the OAU.²² The Security Council has actively cooperated also with a number of other regional organizations invoking Chapter VIII.²³

The General Assembly of the United Nations routinely singles out certain regional organizations for praise emphasizing their importance, expressing the wish for further cooperation and generally commending their activities. At the 47th and 48th Sessions, resolutions to this effect were adopted in respect of the OAU,²⁴ the League of Arab States,²⁵ the OAS,²⁶ the CSCE,²⁷ the Latin American Economic System,²⁸ the Asian-African Legal Consultative Committee²⁹ and the Southern African Development Community.³⁰

11 G.A. Res. 253(III).

12 G.A. Res. 477(V).

13 G.A. Res. 2011(XX).

14 G.A. Res. 3208(XXIX). The now defunct Council for Mutual Economic Assistance was granted observer status at the same time. See G.A. Res. 3209(XXIX).

15 G.A. Res. 48/5.

16 Cf. the dictum of the International Court of Justice in the *Nicaragua* judgment: "The Court does not consider that the Contadora process, whatever its merits, can properly be regarded as a "regional arrangement" for the purposes of Chapter VIII of the Charter of the United Nations", ICJ Reports (1984) 440.

17 Art. I of the Charter of the Organization of American States of 1948, 119 UNTS 4.

18 Declaration and Decisions from Helsinki Summit, 10 July 1992, 31 ILM (1992) 1385 at 1403; Schlotter, 'Universalismus, Regionalismus, Kapitel VIII: Die KSZE und die Vereinten Nationen', 41 *Vereinte Nationen* (1993) 137.

19 G.A. Res. 47/11.

20 G.A. Res. 47/10 and 48/19.

21 G.A. Res. 48/21.

22 G.A. Res. 48/25.

23 See section IV.C.2.(d) below.

24 G.A. Res. 47/148 and 48/25.

25 G.A. Res. 47/12 and 48/21.

26 G.A. Res. 47/11.

27 G.A. Res. 47/10 and 48/19.

28 G.A. Res. 47/13 and 48/22.

29 G.A. Res. 47/6.

30 G.A. Res. 48/173.

In addition to these more visible forms of relationships, there are numerous other agreements, informal contacts, communications between Secretariats, mutual attendance at meetings and exchanges of documents.

The European Community's unprecedented assumption of functions, hitherto exercised by States, has led to new forms of formalized cooperation with global organizations. In the UN system proper, cooperation among the Members of the European Union is close but individual membership remains unaffected.³¹ By contrast, the Community has all but replaced its individual Members as participants in GATT. The other GATT Members have informally accepted this succession of a regional organization to the rights and duties of its members.³²

This development was taken to its logical conclusion in the relationship of the European Community to the Food and Agriculture Organization (FAO). In November 1991, the Community was formally admitted to membership of the global organization after FAO had amended its constitution.³³ The individual EC Members retain their respective memberships in FAO but have to share the exercise of their rights with the regional organization.

This brief survey of some types of formalized relationships between universal and regional institutions is nowhere near exhaustive. However, it gives an idea of the considerable diversity of arrangements for cooperation. This diversity is likely to increase further as interaction becomes more complex. Flexibility is an essential aspect of inter-agency interaction. However, it should also be borne in mind that the haphazard and unsystematic agglomeration of various types of collaboration is not necessarily the most effective way to achieve results. Well-designed structures of cooperation require careful planning in order to avoid duplication, waste of resources, unnecessary competition among institutions and a bloated bureaucracy. Carefully drafted mandates for cooperation, whether in the legal form of agreements or otherwise, can add precision in the allocation of functions, clarify modes of communication and establish clear power structures, thereby facilitating swift and decisive action when the necessity arises. Unfortunately, international organizations, both on the universal and the regional levels, have been prone to react to specific situations belatedly, in a random fashion and without much forward planning. A clearer conception of future tasks and detailed plans for synergic action carry considerable potential for the improvement of cooperation between universal and regional institutions.

31 See Brückner, 'The European Community and the United Nations', 1 *EJIL* (1990) 174.

32 D.M. Berrisch, *Der völkerrechtliche Status der Europäischen Wirtschaftsgemeinschaft im GATT* (1992).

33 EC Official Journal C 292/8-13 of 9 November 1991; Schwob, 'L'amendement à l'acte constitutif de la FAO visant à permettre l'admission en qualité de membre d'organisations d'intégration économique régionale et la Communauté économique européenne', 29 *RTDE* (1993) 1.

IV. The Allocation of Functions Between Universal and Regional Institutions

Many, if not most, functions assigned to universal institutions are also exercised by regional ones. The question of an optimum division of labour to achieve best results is the most intractable problem in the relationship of universal and regional organizations. Very little can be said by way of generalization. Different questions require different answers and a solution that is effective for one area of international cooperation may not work in another. Therefore, I suggest dealing briefly with three functional areas separately, namely human rights, economic cooperation and peace and security.

A. Human Rights

The evolution of human rights has been among the most dramatic developments in international law in the past decades. This development has taken place on both the universal and the regional levels. In addition to the pertinent UN instruments, bodies and procedures, Europe, America and Africa have devised important regional systems. The United Nations have taken a generally positive attitude towards regional systems supplementing their own efforts in this area and have at times explicitly welcomed them.³⁴ The Vienna Declaration of the 1993 UN World Conference on Human Rights confirms that regional arrangements should reinforce universal human rights standards and endorses efforts to strengthen these arrangements. It even advocates the establishment of regional and subregional arrangements where they do not already exist.³⁵

1. Substantive Rights

A regionalization of efforts to protect human rights may be justified by a diversity of value systems underlying the rights chosen for international protection. Whereas the Universal Declaration of Human Rights of 1948 still proceeded from a homogeneous and universal concept of human rights, subsequent debates have focussed on the priority of different types of human rights and their appropriateness for different cultures, economies and regions. This debate led to a bifurcation of human rights culminating in the adoption of the two UN Covenants in 1966, one dealing with economic, social and cultural rights and the other with civil and political rights. A widespread assumption, at any rate at the time, was that Europe and America would give priority to the latter while the developing regions of Africa and Asia would concentrate on the former. Subsequent developments have not fully

34 See G.A. Res. 47/125 and the previous resolutions cited there.

35 United Nations World Conference on Human Rights: Vienna Declaration and Programme of Action, 25 June 1993, I para. 37, 32 ILM (1993) 1661 at 1672.

borne out this expectation. Thus, the ratification record is largely identical for both Covenants.³⁶

On the regional level, Europe and America did give priority to civil and political rights. Instruments on economic, social and cultural rights were drafted somewhat later. The European Convention on Human Rights of 1950 was followed by the European Social Charter in 1961, a much weaker instrument. It is ironic that Western Europe, the region with the highest social standards domestically, has regarded the international protection of these rights with some diffidence. The American Convention on Human Rights of 1969 was followed by an Additional Protocol in the Area of Economic, Social and Cultural Rights in 1988.³⁷ The African Charter straddles both categories of human rights, at the same time emphasizing certain regional characteristics such as self-determination, group solidarity and duties of the individual.³⁸

A perusal of the various universal and regional human rights instruments does yield a number of variations in detail. However, no basic philosophical or ideological divergence has appeared which would justify separate regional developments. On the whole, the basic unity of human rights as a universal set of standards has prevailed over cultural relativism and regional fragmentation. Despite some opposition from authoritarian holdouts, the 1993 Vienna Declaration reaffirms the inherently universal character of all human rights:

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional peculiarities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.³⁹

2. Methods of Supervision

The *raison d'être* of different regional systems for the protection of human rights would, therefore, rest not so much on the diversity of cultures and values with regard to the substantive rights to be protected but on certain variations in the methods for their international supervision. An examination of universal and

36 As of 10 June 1994 the two Covenants had been ratified by 129 and 127 States respectively. The following countries have only ratified the first (economic, social and cultural rights): Greece, Guinea-Bissau, Honduras, Solomon Islands and Uganda. The following countries have only ratified the second (civil and political rights): Haiti, Mozambique and United States. Source: 42 *Vereinte Nationen* (1994) 118.

37 28 ILM (1989) 156.

38 Benedek, 'Durchsetzung von Rechten des Menschen und der Völker in Afrika auf regionaler und nationaler Ebene', 54 *ZaöRV* (1994) 150.

39 United Nations World Conference on Human Rights: Vienna Declaration and Programme of Action, 25 June 1993, I. para. 5, 32 ILM (1993) 1661 at 1665. This view was subsequently confirmed by G.A. Res. 48/119.

regional human rights instruments and practices does, in fact, demonstrate considerable variations as to structures and procedures for their implementation.⁴⁰

State reports to bodies of independent experts like the Human Rights Committee are the principal feature of monitoring on the universal level. The weakness of the system has often been decried. However, it may be more effective than is often assumed. The examining body does have access to other information to counterbalance the inherent bias of self-scrutiny in country reports. More importantly, the Committee is able to address basic structural problems in the country concerned without having to wait for individual cases. In addition, a specific strength of universal systems is the fact that persons selected on a global basis with different cultural and ideological backgrounds may, at times, be more objective and critical than individuals operating through the regional mechanisms.

The system under the European Convention has been dominated by individual complaints leading to judicial or quasi-judicial procedures. Although highly effective, this machinery has, in a sense, become a victim of its own success. The backlog of cases has prompted the Council of Europe to draft an 11th Additional Protocol designed to streamline the procedure before the Strasbourg organs and at the same time to reinforce its judicial character. Its most prominent feature is the replacement of the existing European Commission and Court with a new permanent Court. The success of the European system with its emphasis on individual complaints has been attributed to the fact that there are currently no widespread and systematic human rights violations, making it the ideal remedy for isolated aberrations.⁴¹

The American system, while possessing many features of the European Convention,⁴² has been most successful through the Commission's fact-finding role, mostly on the basis of on-site inspections, and through persuasion. The Court has played a secondary role. With dramatic progress being made in many parts of Latin America towards the rule of law, it is likely that judicial methods based on individual cases will play a more prominent role in the future.

With regard to the African Charter, it is still somewhat early to form a clear picture.⁴³ The procedure before the Commission is not directed at individual cases but at establishing the existence of a series of serious or massive violations.

40 For an excellent comparison see Tomuschat, 'Universal and Regional Protection of Human Rights: Complementary or Conflicting Issues?', in R. Wolfrum (ed.), *Strengthening the World Order: Universalism v. Regionalism. Risks and Opportunities of Regionalization* (1990) 173; see also Trindade, 'Co-existence and Coordination of Mechanisms of International Protection of Human Rights', 202 *RdC* (1987/II) 9; Partsch, 'Vor- und Nachteile einer Regionalisierung des internationalen Menschenrechtsschutzes', 16 *EuGRZ* (1989) 1.

41 Tomuschat, 'Universal and Regional Protection', *supra* note 40, at 192.

42 Robertson, 'The American Convention on Human Rights and the European Convention: A Comparative Study', 29 *European Yearbook* (1981) 50.

43 Benedek, 'The African Charter and Commission on Human and Peoples' Rights: How to make it more effective', 11 *NQHR* (1993) 25; Benedek, 'Durchsetzung von Rechten', *supra* note 38.

Sanctions are scant. The achievement of a friendly settlement is more in line with African traditions than a judicial decision.

The different regional systems of supervision reflect specific needs and cultural preferences. In addition, regional procedures are frequently seen to be more effective with a higher capability to give attention to detail. The procedures on the universal level remain important for areas of the globe with no functioning regional systems but also have a reinforcing effect for regions with their own machinery of supervision. No negative effects can be seen to arise from a two-tier system for the protection of human rights. At the present stage of the international protection of human rights, additional institutions and procedures should not be seen as unnecessary duplication of work but as a sorely needed reinforcement for a system that is still very much in its infancy. The recent creation of a UN High Commissioner for Human Rights is a case in point.⁴⁴ Improved coordination among the different institutions, universal and regional, will be an indispensable element in this development.

B. Economic Cooperation

Economic cooperation has taken a variety of forms both on the universal and regional levels. In the framework of the United Nations, development of the world's poorer regions has been in the forefront of efforts.⁴⁵ GATT has served as the primary vehicle for universal trade liberalization designed to achieve global growth. On the regional level too, wealth maximization as well as a more equitable distribution of resources have been among the declared goals. This has led to efforts at regional integration but also, at times, to inter-regional cooperation. This phenomenon of inter-regionalism is a complicating element in that one has to look not only at vertical relationships between the universal and regional levels but also at the horizontal relationship between regions.⁴⁶

1. Trade

Liberalization of trade has a successful record in developed regions in the shape of free trade areas, customs unions or economic communities. Regional economic cooperation among developing countries has been advocated as a vehicle of progress often under the label of collective self-reliance.⁴⁷ Unfortunately, this form

44 G.A. Res. 48/141.

45 See, e.g., the Declaration on the Right to Development, G.A. Res. 41/128; Development and International Economic Cooperation. An *Agenda for Development*, Report of the Secretary-General of 6 May 1994, A/48/935.

46 For a more extensive survey see Schreuer, 'Promotion of Economic Development by International Law at the Universal and/or the Regional Level', in R. Wolfrum (ed.), *Strengthening the World Order*, *supra* note 40, at 71.

47 See, e.g., Marasinghe, 'Regional Economic Cooperation in Developing Countries', 20 *Verfassung und Recht in Übersee* (1987) 5. Cf. also G.A. Res. 46/145 and 48/214 para. 7.

of regionalism has run into serious structural problems. Its success has been modest at best. Economies strongly relying on the export of raw materials are largely oriented towards partners outside the region and have little potential for internal exchange. Regional infrastructures are often weak. Most seriously, economic inequalities are an even more formidable obstacle to integration at lower levels of development than in developed regions. Relatively more advanced countries and localities tend to attract investments at the cost of the already less developed areas of the region leading to poles of growth and poles of stagnation. Redistribution of gains is more difficult in poorer regions than in more affluent areas like Europe. Regional integration is somewhat more promising where developed economies are present in the area and are prepared to participate actively.⁴⁸

The inter-regional model is best exemplified by the Lomé Conventions between the European Community and the ACP countries which are mostly located in Africa. They involve not only trade concessions but also financial support as well as guarantees for export earnings from raw materials in addition to other forms of aid. This form of inter-regional cooperation clearly carries more short-term potential than regionalism confined to a poor area. The UN Secretary-General's 1994 *Agenda for Development*⁴⁹ admits that each State and area bears primary responsibility for its own economy. However, it adds that development requires outside assistance and international cooperation.⁵⁰ In the case of a severely underdeveloped region, such assistance can only come from other regions.

On the universal level, liberalization of trade through GATT has achieved impressive results. However, its principles of reciprocity and non-discrimination have been perforated by numerous preferential agreements, often of a regional nature. The Generalized System of Preferences and the 1979 Enabling Clauses have created the legal basis for more favourable treatment for developing countries. However, the discretionary nature of these concessions and their withdrawal in respect of more successful exports and countries have made them a doubtful instrument of development. It is arguable that the discriminatory nature of these arrangements has worked more to the detriment of developing countries than to their benefit. Therefore, a genuine return to universalism in the form of a general lowering of trade barriers on the basis of reciprocity will be to the benefit of developed and developing regions alike. The 1994 GATT/WTO Agreement⁵¹ has taken some tentative steps in this direction. This is evidenced by the greater emphasis on the temporary nature of preferential treatment of developing countries

48 For a general overview see Preusse, 'Regional Integration in the Nineties – Stimulation or Threat to the Multilateral Trading System?', 28 *JWT* (1994) 147.

49 *Supra* note 45.

50 Paras. 139 and 140.

51 33 *ILM* (1994) 1125.

and a general tendency to make them participate more fully in the GATT/WTO framework.⁵²

2. Capital Transfers

Official capital transfers to developing countries have taken place through global and regional institutions. On the universal level, this function is exercised by the World Bank Group and by the International Monetary Fund. Apart from the insufficiency of funds, the voting procedures and the modalities of financing (i.e. priorities and conditions) have aroused the criticism of the recipient countries. This dissatisfaction has spawned the creation of regional development banks in America, Africa, Asia and, more recently, Europe. Here too, the participation of potent Members has turned out to be essential. Initial attempts by the African Development Bank to rely on regional Members exclusively ended in failure and has led to the admission of non-regional States since 1982. The other regional banks were able to rely on strong regional Members as well as on outside participation. Nevertheless, the combined lending volume of the regional banks is lower by far than that of the World Bank.

The Lomé Conventions also provide the prime example for inter-regional capital transfers, mostly in the form of soft loans or grants. These transfers are administered primarily by the European Development Fund and have over the years attained impressive proportions.

These selected examples are sufficient to demonstrate that regional action in the economic field is promising only if the necessary resources can be found within the region. Cooperation among poor countries with monocultures is not a viable strategy. The alternative is either inter-regional cooperation or global arrangements under which the right complementarities can be created and an optimum allocation of resources can be achieved.

C. Peace and Security

1. The Charter Law

The interplay of regional and universal institutions has received by far the most attention in the area of peace and security. The UN Charter refers to regionalism exclusively in this context.⁵³

52 Benedek, 'Implications of the Principle of Sustainable Development of Human Rights and Good Governance for the GATT/WTO', in K. Ginther, E. Denters, P.J.I.M. de Waart (eds), *Sustainable Development and Good Governance* (1994).

53 See esp. Hummer, Schweitzer and Röss, in B. Simma, *supra* note 2, at 679-757; Delbrück, 'Regionale Abmachungen: Friedenswahrung und Rechtsdurchsetzung – zum Problem der Allokation internationaler Rechtsdurchsetzungsmacht', in *Festschrift für Karl Zemanek* (1994) 163.

The basic concept of the Charter is to give priority to regional agencies or arrangements for the peaceful settlement of local disputes (Articles 33(1) and 52(2)) with the active encouragement and support of the Security Council (Article 52(3)). Yet, the powers of the Security Council are to remain unaffected (Article 52(4)). When it comes to enforcement action, the role of regional institutions is much more limited. They may be utilized by the Security Council to carry out enforcement action under its authority (Articles 48(2) and 53(1)). However, no enforcement action is to be taken by regional institutions without the authorization of the Security Council (Article 53(1)). In addition, regional arrangements or agencies have to keep the Security Council fully informed of any activities in the area of peace and security undertaken or merely contemplated by them (Article 54). Measures of self-defence under Article 51, whether they are taken individually or collectively, do not require prior authorization but are subject to immediate reporting to the Security Council.

The policy underlying these provisions is to require an increasing degree of community consensus as the coercive nature of measures increases. The danger of special interests motivating intervention is reduced by requiring international procedures for their initiation. Coercive action involving military force by individual States is generally prohibited except in the case of self-defence. On the regional level, the abuse of collective action by dominant powers was still seen as a distinct danger. Supervision by the Security Council was designed to add objectivity for coercive action. Only the universal level was seen to provide the required legitimacy for enforcement.

The logic of the Charter led to a traditional distinction between two different types of regional institutions whose tasks were seen to be entirely different: Regional institutions for the maintenance of peace and security within the region under Chapter VIII on the one hand and alliances for the purpose of collective self-defence against external threats under Article 51 on the other. The OAS, the Arab League and the OAU were regarded as the classic examples for the former; NATO, the WEU and the, now defunct, Warsaw Pact as examples for the latter. This artificial distinction was soon cast into doubt.⁵⁴ Chapter VIII agencies assumed functions of collective self-defence.⁵⁵ More recently, typical defence organizations have assumed Chapter VIII functions on behalf of the Security Council, such as NATO in Bosnia-Herzegovina.⁵⁶ The Secretary-General's 1992 *Agenda for Peace*⁵⁷ adopts a wide and flexible description of regional arrangements and agencies including regional organizations for mutual security and defence. Therefore, the traditional distinction must now be considered obsolete.

54 See, e.g., Akehurst, 'Enforcement Action by Regional Agencies, With Special Reference to the Organization of American States', 42 *BYIL* (1967) 175 at 179 et seq., 184.

55 See, e.g., Art. 3(1) of the Inter-American Treaty of Reciprocal Assistance of 1947, 21 *UNTS* 77.

56 Nolte, 'Die "neuen Aufgaben" von NATO und WEU: Völker- und verfassungsrechtliche Fragen', 54 *ZaöRV* (1994) 95.

57 *A/47/277*, para. 61, 31 *ILM* (1992) 956 at 970.

An unresolved legal problem is the question of regional action in a country which is not a Member of the regional organization. In such a case, the treaty establishing the regional agency would be insufficient as a legal basis for enforcement measures. It has been pointed out that Chapter VIII of the Charter would be inapplicable to action against third States.⁵⁸ However, Chapter VIII is not the only basis for regional action. There is nothing to stop a group of States from joining efforts in the framework of a regional organization and to do what they are permitted to do under general international law, such as taking reprisals not involving the use of force. Sanctions taken by the European Community against Iran in the wake of the Teheran hostages crisis are a case in point. When it comes to military action, the Security Council, acting under Article 42, may call upon regional organizations to carry out its decisions. Security Council action through appropriate international agencies, provided for in Article 48(2), is also possible in the territory of States that are not Members of these agencies. The activities of the European Community and of NATO in various functions in the former Yugoslavia with the approval and encouragement of the Security Council are a clear sign that 'out-of-area' action by regional organizations is acceptable.

2. *The Practice*

(a) Peaceful Settlement

Practice in the relationship between regional and universal bodies in the area of peace and security has undergone significant developments over the fifty years of the United Nations' existence.⁵⁹ In the field of peaceful settlement, no clear picture has emerged. Initial attempts to develop an 'exhaustion of regional remedies rule' have not been successful. The slogan 'try OAS/OAU first' has given way to the principle of free choice. Division of labour between the Security Council and regional institutions in the area of peaceful settlement appears to be a matter of practicability and discretion. Thus, in the context of the conflict in the former Yugoslavia, the Security Council has repeatedly encouraged and commended efforts by the European Community and the CSCE to achieve a peaceful settlement while UN efforts were also under way.⁶⁰

(b) Enforcement Action: The Struggle Over Competences

With regard to enforcement action, earlier stages were dominated by a dispute over competences between the United Nations and regional agencies, notably the OAS.

58 Wolf, 'Regional Arrangements', *supra* note 2, at 294.

59 Farer, 'The Role of Regional Collective Security Arrangements', in T.G. Weiss (ed.), *Collective Security in a Changing World* (1993) 153; Theuermann, 'Regionale Friedenssicherung im Lichte von Kapitel VIII der Satzung der Vereinten Nationen: Juristische und politische Probleme', in W. Kühne (ed.), *Blauhelme in einer turbulenten Welt* (1993) 231.

60 See, e.g., SC Res. 713 (1991), 727, 743, 749, 752, 762, 764 (1992), 855 (1993), 913, 937 (1994).

The outcome of this process was a gradual erosion of Security Council supervision over action taken by the regional organization.

One argument put forward in this context was that action by the regional agency could be approved by the Security Council subsequently and tacitly by not opposing it. This was the method accepted with regard to OAS sanctions against the Dominican Republic in 1960 and against Cuba in 1962. The same method of tacit subsequent approval appears to have been employed more recently. When the OAS adopted sanctions against the dictatorial regime in Haiti in the autumn of 1991, the Security Council took no action, although the General Assembly welcomed these measures and appealed to other Members of the United Nations to support them.⁶¹

It is obvious that tacit and subsequent authorizations by the Security Council are of limited value. In view of the voting procedures in the Security Council, a veto by a Permanent Member can block censure at any time and thus provide the appearance of approval by tacit assent.

Security Council supervision is especially important where military force is involved. It should not be forgotten that military action under the auspices of regional organizations has by no means always been benign. The use of the Warsaw Pact to cover Soviet military intervention in Czechoslovakia in 1968 is a case in point. The attempt of the United States to justify its 1983 invasion of Grenada, *inter alia*, by reference to a call by the Organization of Eastern Caribbean States (OECS), of which the United States is not even a Member, was equally unconvincing.⁶²

Another line of reasoning creating additional freedom of action for regional agencies was the argument that non-military sanctions are not subject to Security Council supervision.⁶³ The main argument in this context is that peaceful reprisals, which may be taken by States individually, may be channelled through regional organizations without requiring the Security Council's approval.

A particularly ingenious argument was developed primarily during the 1962 Cuban missile crisis in connection with the OAS imposed 'quarantine' of Cuba. The United States argued that the measure, although undoubtedly involving military coercion, was not an enforcement action in the sense of Article 53 and, hence, did not require Security Council authorization since it was based on an OAS recommendation only and did not require participation by individual Member States.⁶⁴ Needless to say, the coercive element is relevant primarily in relation to the State which is the object of the sanctions and not in relation to States participating in them.

61 G.A. Res. 46/7, 47/20 and 48/25. Cf. also SC Res. 841 (1993) affirming that OAS resolutions were to be taken into account in reaching a solution.

62 The operation escaped censure in the Security Council through a US veto. G.A. Res. 38/7 deplored the intervention as a flagrant violation of international law. See also Joyner, 'The United States Action in Grenada: Reflections on the Lawfulness of Invasion', 78 *AJIL* (1984) 131, at 135.

63 Akehurst, 'Enforcement Action', *supra* note 54, at 185 et seq., 195.

64 Akehurst, 'Enforcement Action', *supra* note 54, at 197 et seq.; Wilson, 'The Settlement of Conflicts within the Framework of Relations between Regional Organizations and the United Nations: The Case of Cuba, 1962-1964', 22 *NILR* (1975) 282 at 307.

(c) Regional Peace-keeping

Another element which has injected uncertainty into the relationship of the Security Council and regional organizations is the development of the concept of peace-keeping. Peace-keeping is not provided for expressly in the Charter. Therefore, there is no clear distribution of functions between the regional and universal levels.

Regional institutions have repeatedly dispatched peace-keeping forces.⁶⁵ The deployment of OAS forces in the Dominican Republic in 1965 created controversy in the Security Council but led to no clear outcome.⁶⁶ By contrast, the deployment of OAU troops in Chad in 1981 was simply taken note of by the Security Council.⁶⁷

The clearest case of Security Council acquiescence in regional peace-keeping occurred in the Economic Community of West African States (ECOWAS) operation in 1990.⁶⁸ A subregional economic organization of 16 countries dominated by Nigeria sent forces to Liberia to terminate a bloody internal conflict. It became involved in some offensive operations but ultimately achieved success. The Security Council was informed after the fact and proceeded to commend ECOWAS for its efforts to restore peace, security and stability in Liberia and to encourage it to continue its efforts.⁶⁹ It even joined in with its own peace-keeping mission (UNOMIL) actively supported by the OAU.⁷⁰

No clarification has ever been forthcoming as to which regional organizations have the capacity to engage in peace-keeping. While the traditional Chapter VIII organizations are obvious candidates, the involvement of a subregional economic organization is somewhat surprising. In 1992, the CSCE gave formal notice that it was willing to join the ranks of organizations with an official peace-keeping capacity by adopting detailed rules for CSCE peace-keeping.⁷¹

The picture has become even more complicated through the blurring of the line between peace-keeping and enforcement action often under the label of peace enforcement. The authorization procedure developed by the Security Council in its actions against Iraq⁷² gives a *carte blanche* to Member States and groups of Member States to achieve certain results, through the 'use of all necessary means'.

65 Farer, 'The Role of Regional Organizations in International Peace-making and Peace-keeping: Legal, Political and Military Problems', in W. Kühne (ed.), *Blauhelme in einer turbulenten Welt* (1993) 275; Theuermann, 'Regionale Friedenssicherung', 253 et seq.

66 Akehurst, 'Enforcement Action', *supra* note 54, at 203 et seq.

67 SC Res. 504 (1982).

68 Jonah, 'ECOMOG: A Successful Example of Peace-making and Peace-keeping by a Regional Organization in the Third World', in W. Kühne, *supra* note 59, at 303.

69 SC Res. 788 (1992), 813 (1993), 950 (1994).

70 SC Res. 856, 866 (1993), 911, 950 (1994); Nolte, 'Combined Peace-keeping: ECOMOG and UNOMIL in Liberia', *International Peacekeeping* (March-May 1994) 42.

71 Conference on Security and Cooperation in Europe: Declaration and Decisions from Helsinki Summit, 10 July 1992, Chapter III paras. 17-56, 31 ILM (1992) 1385 at 1400.

72 SC Res. 678 (1990).

(d) The Security Council's Search for Regional Assistance

More recent developments are no longer characterized by a dispute over competences between the regional and universal levels but by a search on the part of the UN for help from regional arrangements. The Secretary-General's 1992 *Agenda for Peace* envisages a division of labour between the United Nations and regional organizations on the basis of flexibility and creativity.⁷³ Regional organizations are to be entrusted with preventive diplomacy, peace-keeping, peace-making and post-conflict-peace-building:

Under the Charter, the Security Council has and will continue to have primary responsibility for maintaining international peace and security, but regional action as a matter of decentralization, delegation and cooperation with United Nations efforts could not only lighten the burden of the Council but also contribute to a deeper sense of participation, consensus and democratization in international affairs.⁷⁴

The Security Council of the post-Soviet era has attained an unprecedented consensus and potential for action. At the same time, it finds its financial and human resources stretched thin by a multitude of new tasks. It seemed a natural reaction to turn to regional organizations for help.

This search for support and cooperation has taken a variety of forms. It is best exemplified by the complex and often confusing roles that the European Community, the CSCE and NATO have played in the former Yugoslavia side by side with the United Nations. The roles assigned to the European Community and to the CSCE in an attempt to achieve a peaceful settlement have already been mentioned.⁷⁵ The original idea was a division of labour under which UNPROFOR would be responsible for peace-keeping and the protection of humanitarian assistance and the European organizations for seeking a political settlement.⁷⁶ As the situation deteriorated, the Security Council increasingly looked for regional support. When it became clear that UNPROFOR's resources were insufficient, calls were made by the Security Council to States acting 'nationally or through regional agencies' to safeguard the delivery of humanitarian assistance.⁷⁷ Later, regional organizations were called upon to enforce economic sanctions imposed by the Security Council.⁷⁸ A no-fly-zone was to be monitored by regional organizations including the European Community⁷⁹ and to be enforced by NATO although the latter was not referred to by name.⁸⁰ NATO was also entrusted, in principle, with

73 A/47/277, para. 62, 31 ILM (1992) 956 at 970.

74 Para. 64. The idea has since been taken up by the General Assembly. See G.A. Res. 47/71 paras. 52, 53 and G.A. Res. 48/42 paras. 47, 62-65.

75 See *supra* note 60.

76 See esp. SC Res. 743 (1992).

77 SC Res. 770, 776 (1992).

78 SC Res. 787 (1992), 820 (1993).

79 SC Res. 781, 786 (1992).

80 SC Res. 816 (1993).

protecting 'safe areas'.⁸¹ Eventually, 'regional organizations or arrangements', again meaning NATO, were even enlisted for the defence of UNPROFOR personnel through air support.⁸²

The attempt at cooperation between the United Nations and regional organizations in the former Yugoslavia was by no means exceptional. Similar efforts can be recorded, for instance, for South Africa,⁸³ Somalia⁸⁴ and Georgia.⁸⁵

3. Lessons for the Future

(a) Improved Coordination

The notable lack of success of the combined efforts of universal and regional institutions in the former Yugoslavia does not make this form of cooperation look auspicious at first sight. However, it would be a fallacy to assume that the failure of international attempts to bring an end to the tragic events there are primarily attributable to the combination of universal and regional efforts. The true reason for failure is the lack of resolve on the part of the major actors to take decisive action in the face of a determined aggressor. The mechanisms employed there have not proven useless *per se*. They merely did not fit the specific situation. The presence of UNPROFOR in the face of unspeakable atrocities, which it had neither the mandate nor the ability to stop, has already done grave damage to the image of the United Nations. There is a distinct danger that this political failure will also discredit the cooperation of universal and regional organizations.

In evaluating the Balkans operations of the early 1990s, one should make allowance for the fact that international organizations have little experience for military operations in highly violent conflicts. One specific lesson to be learned from the interplay of global and regional institutions is the necessity to create a workable chain of command that can generate swift action when the need arises. The mandates given to NATO were to be exercised 'under the authority of the Security Council and subject to close coordination with the Secretary-General and UNPROFOR'.⁸⁶ This diffuse political decision structure meant that when the contingency for decisive action arose, a process was set in motion which involved the Security Council, the Secretary-General, his Special Representative, UN field commanders, NATO and the governments supplying forces, especially the United States. The outcome was not only procrastination but frequently no action at all. There is a clear conclusion to be drawn from this experience: if military cooperation between the universal and regional levels is to work, authority to take action in a specific situation must be concentrated in one place under a clear mandate to be

81 SC Res. 836, 844 (1993), 958 (1994).

82 SC Res. 908 (1994).

83 SC Res. 772 (1992), 894, 930 (1994).

84 SC Res. 733, 746, 751, 767, 775, 794 (1992), 865, 885 (1993), 954 (1994).

85 SC Res. 892 (1993), 896, 934, 937 (1994).

86 See SC Res. 816, 836 (1993), 908 (1994).

agreed upon in advance. Ill-defined decision structures operating on an *ad hoc* basis have a paralyzing effect and are likely to jeopardize the entire operation.

This need for better coordination is not restricted to the operational level of military action. Effective measures cannot be based on improvised arrangements as the need arises. A credible international system for the maintenance of peace and security capable of deterring deviant behaviour must rest on a clear assignment of functions, on an effective decision-making process and on binding commitments for the implementation of decisions, once they are taken. All of this is still very much lacking in the relationship between the UN and regional organizations in the field of peace and security.

(b) Modes of Cooperation

A possible answer would be a new type of relationship agreement under which regional agencies undertake to carry out specific tasks on behalf of the United Nations. This kind of cooperation would go far beyond the current authorizations which leave States and groups of States free to act at their discretion or not to act at all. The legal basis would be the as yet inoperative Article 43 of the Charter under which agreements are to be concluded with individual Members or groups of Members for the purpose of providing the Security Council with the necessary military resources.

Institutionalized cooperation between the United Nations and regional organizations could take a variety of forms depending on the needs of the Security Council, on the type of regional organization and on the resources available to it. It could be in the form of a general mandate by the Security Council to the regional organization to attain a particular goal under the general supervision of the Security Council. It could also be in the form of an operation by the regional organization under the Security Council's immediate direction or it could simply be by way of support to an operation conducted by the Security Council itself. All these forms of cooperation are feasible and potentially effective. What matters is that the roles are clearly defined and the decision structures clearly set out in advance.

The use of regional military structures under the authority of the Security Council could serve several useful purposes. It could supply the Council with badly needed resources. It could reduce the dependence on individual Member States and the complications arising from protracted negotiations to have their resources made available. It would combine the superior legitimacy of the universal level with the more intimate knowledge of regional conditions. Moreover, regional organizations would be better equipped, politically and in terms of the available resources, than individual States to undertake the necessary preparations including training and the stockpiling of *matériel*. Until the United Nations acquires a genuinely international policing capacity of its own, and is independent of national contingents, regional forces are the next best solution.

(c) Effective Universal and Regional Structures

The success or failure of future cooperation between the United Nations and regional organizations in the field of peace and security will to a large extent depend on the future of the Security Council. Current debates about a revamping of its structure include strengthening regional elements in its composition.⁸⁷ The addition of seats assigned to regions may improve cooperation with regional organizations. An even more ambitious idea is the creation of regional chambers or commissions of the Security Council which could work with representatives of the respective regional organizations and would serve as permanent links between the two levels.⁸⁸

Despite these hopeful projects, the possibility of a relapse into Security Council paralysis cannot be ruled out entirely. A return of the extensive use of the veto or the unavailability of workable majorities remain distinct possibilities. Such a scenario would not augur well for a role of regionalism in the maintenance of peace and security. The idea of a regional substitution for ineffective universal machineries is not particularly promising. The Cold War with its ritual of obstruction in the Security Council left little room for constructive regional developments and soon degenerated into the torpor of mutually assured destruction by two antagonistic blocs.

It may be true that certain possibilities exist to control regional disputes even in the absence of an overarching system of supervision and coordination. However, such a situation of unrelated regional groupings bears grave dangers. One is the domination of regional arrangements by one or a few hegemonic Powers at the cost of the lesser countries in the area. Another is the political take-over of a regional organization by a group of States with ideological, religious or cultural affinities, which starts to victimize differently oriented States in the region. A third is the re-emergence of antagonistic power blocs.

While regional action is preferable to coercion by individual States, there is no guarantee that it will always be benign. In fact, history tells us that control and supervision by a body not representing immediate interests in an ongoing conflict is indispensable. Therefore, regional organizations will not be able to assume a stop-gap function for an ineffectual universal system. The overarching authority of a global institution is essential to check abuse and to provide the necessary coordination.

Similar considerations hold true for the opposite scenario of failure at the regional level with a functioning Security Council. A Security Council lacking the requisite resources to perform its functions may well turn to regional hegemonic Powers to perform certain functions on its behalf. Thus, the United States could be authorized to perform policing functions in Central America. Russia could be

87 Sucharipa-Behrmann, 'The Enlargement', *supra* note 6, at 7 et seq.

88 Dicke, 'Scope and Limits of Law Enforcement by Regional Arrangements Under Chapter VIII - Comment', in J. Delbrück (ed.), *Allocation of Law Enforcement Authority in the International System* (1995) 57, at 63.

entrusted with preserving law and order in the region of the former Soviet Union. While such a situation is preferable to unilateral action unfettered by Security Council control, it is a far cry from an optimum allocation of functions. The Security Council would essentially depend on the willingness of the Powers concerned to undertake these tasks. Their discretion in choosing the means, the timing and the intensity of their operations would be difficult to contain. In the worst case, the Security Council could degenerate into an agency for the rubber-stamp legitimization of regional power politics by its more influential Members. Effective structures, both at the universal and at the regional levels, are necessary. Only the interplay of both levels carries promise for progress towards a more effective international system for the maintenance of peace and security.

V. Conclusions

The complex interplay of regional and universal elements in international organizations permits relatively few generalizations. A call for better coordination and forward planning is both compelling and trivial. International politics, much like national politics, have a propensity to react to present calamities rather than to forestall future ones. Drastic measures are often backward-looking and designed to prevent a recurrence of past events.

One prediction that may be ventured is 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. The depth and intensity of cooperation in an institution like the European Union is likely to create conditions under which the need for constructive behaviour is compelling and the costs of failure become increasingly unacceptable. Mutual dependence in a number of fields, including the economy, is a better guarantee for peace and security than the most elaborate machinery for dispute settlement and peace-enforcement.

Another likely development is the decline of geographic factors as a guiding element for group identifications. Common interests are only partly determined by geographic proximity. The concepts of economic, cultural or political regions will have to receive added attention in the future.

There is no inherent superiority in either regionalism or universalism. The admittedly difficult task is to apply the best principles of federalism to international law by trying to find the level best equipped to deal with a specific problem. In the area of human rights, this may well be the regional level provided the right conditions have been created. In the area of peace and security, a strong role of supervision and control for the universal level is indispensable. Regional economic cooperation has proved valuable but universal and inter-regional efforts have remained essential for development.

Regionalism v. Universalism

Ultimately, the real antagonism is not between regionalism and universalism but between national sovereignty and international cooperation. Regional and universal efforts have rarely got into each other's way but have both been severely obstructed by nationalism and inward-looking politics of States. An optimum model involves universal, regional, possibly subregional, national and subnational elements of administration and governance. Only a constructive interaction of all these levels carries promise for the solution of the world's problems.