

HUMAN DIGNITY AS AN INTRINSIC VALUE OF THE *IUS GENTIUM*.

SOME CONSIDERATIONS ON INDIVIDUAL OPINIONS TO ICJ DECISIONS BY JUDGE ANTÔNIO AUGUSTO CANÇADO TRINDADE

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Summary: The phenomenon of human dignity is very much present in different theoretical studies and scholar papers mostly devoted to human rights area. Similarly, the concept of human dignity is used as reference to value or principle by different adjudicative bodies on municipal or international level. This paper aims to present some tiny puzzle part theoretically constructed on individual opinions by Judge Antônio Augusto Cançado-Trindade, which were joint to judgments and decisions adopted by the International Court of Justice during his mandates from 2009 to 2022. Human dignity, or broadly perceived as the principle of humanity has been used by Judge Cançado-Trindade on many occasions and in a variety of areas of international law going from the law of treaties to the law of the protection of cultural heritage. Four distinct areas have been selected out of Cançado-Trindade's individual opinions that shows how and to what extent human dignity revives specific concepts of international law: reparations, administration of justice, people-centred look on international law, inter-generational natural and cultural heritage.

Keywords: human dignity, universal juridical conscience, reparations, people-oriented international law, Antônio Augusto Cançado Trindade.

1 Introduction

For the purposes of this paper, useless will be any attempts to define or grasp the concept of human dignity in an axiological, systematic or other way. In this sense, we can only but refer to more precious and valuable monographs or edited books¹. Dignity was approached in different historical, social, philosophical meaning and

1 DÜWEL, Marus, BRAARVIG, Jens, BROWNSWORD, Roger, MIETH, Dietmar (eds.). *The Cambridge Handbook of Human Dignity. Interdisciplinary perspectives*. Cambridge: Cambridge University Press, 2014, pp. x-608. McCRDUEN, Christopher (ed.). *Understanding Human*

milieus. Within the ambit of international law, we can encounter the phenomenon of dignity from the second part of the twentieth century. Key documents of this period, the UN Charter and the Universal Declaration of Human Rights refer directly this notion². As a notion, value or principle, human dignity has been mostly used by human rights adjudicative bodies or in the area of international law of armed conflict. Brazilian jurist Antônio Augusto Cançado Trindade has paid a particular attention to human person within a particularly people-oriented international law. As an eminent scholar, legal adviser, judge and president of the Inter-American Court of Human rights and judge of the International Court of Justice, Antônio Augusto Cançado Trindade influenced and impressed several generations of international and human rights lawyers and practitioners. His conception of *humanized* international law has been thoroughly developed in his master-piece lectures at the Hague International Law Academy in 2005 and then published in *Collected courses*³ and many other articles and papers on his own. In this sense, it is not the aim of this paper to reprint his thoughts already presented in books, rather to demonstrate that his lines of thinking and argumentation have been succinctly utilize in the adjudicative process in his individual, separate or dissenting opinions formulated to decisions or judgments by the International Court of Justice (hereinafter “ICJ”).

In order to study and analyse judge Cançado Trindade’s reflections and thoughts, we went through all his individuals opinions. It is a well-known fact that judge Cançado Trindade was very creative and prolific lawyer. During his mandate as a judge from 2009 to 2022, he appended fifty opinions to ICJ orders or judgments, be it separate opinions (SO), dissenting opinions (DO) or individual declarations (Decl)⁴. Of course, not all of them treat the concept of human dignity. However, the great majority of his individual opinions reflect his basic “teachings” on new *ius gentium*. Teachings, which is thoroughly supported by thoughts of ancient, medieval or modern philosophers and lawyers. Some of them, judge Cançado Trindade calls the “founding fathers of *ius gentium*. The essential features of *his* humanized international law, where the principle of humanity and dignity of human person stem for a central role, will be presented in general

Dignity. London: Oxford university Press, 2013, pp. ix-743. Le BRIS Catherine. L’Humanité saisi par le droit international public. Paris : L.G.D.J., 2012, pp. ix-667.

- 2 The UN Charter Preamble precise: “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small”. Similarly, Art. 1 of the UDHR stipulates that “All human beings are born free and equal in dignity and rights.”
- 3 CANÇADO TRINDADE, Antonio Augusto. *International law for humankind : towards a new jus gentium* (I/II) : general course on public international law. The publication has been then revisited in 2013 (2nd edition) and in 2020 (3rd edition).
- 4 For seek of clarity, a simplified version of ICJ decisions is presented in references only, followed by the year (and month if necessary) of adoption. Then, the mention SO (separate opinion), DO (dissenting opinion) or Decl. (declaration) follows. For example Alleged Violations of Sovereign Rights (Nicaragua v. Colombia)_Judgment 2016_SO or Jurisdictional immunities of the State _Order 2011_SO.

considerations on universal juridical conscience (2). Then, focus will be shifted to people-oriented look on international law (3), the concept of reparations (4) and the administration of justice (5).

2 General considerations on universal juridical conscience

The concept of human dignity in the individual opinions by judge Cançado Trindade never functions independently and autonomously⁵. It is rather embedded in the larger concept of *humanity* or *the principle of humanity*. The principle of humanity itself is understood by him in the broader sense⁶. However, with respect to international human rights law, *dignity* is seen as a principle of its own. “Fundamental principle is, moreover, that of the dignity of the human person (laying a foundation of international human rights law). (. . .)”⁷ As such, the principle of humanity and the principle of dignity form the very foundation of international law, which is based upon *jus naturalis*. In this sense, judge Cançado Trindade’s main focus was on the foundations on international law. He rejected the concept based solely on the will of States and advocated for the concept of *recta ratio* inspired by Cicero. “*Recta ratio* surely stands above *voluntas*, human conscience above the “will””⁸ He does not deny or negate the role of State will in the creation of international law norms. He does not, however, attribute to the will of states a unique, fundamental importance in understanding and interpreting international law. Reason, *recta ratio* plays in this situation a central role. ““Natural precepts” of the kind found expression by the force of “natural reflection”, under the “pressure of necessity”, rather than as a result of “deliberate will”. After all, in the *jus gentium*, reason stands above the will. The foundation of law lies in the *recta ratio*.”⁹ According to judge Cançado Trindade, the will of the State is not in the nature of a principle shaping the binding character of international law. He pinpoints: “May I here again stress that, in my understanding, unlike what the ICJ has usually assumed, State consent is not at all a “fundamental principle”, it is not even a “principle”; it is at most a rule (embodying a prerogative or concession to States) to be observed as the initial act of undertaking an international obligation.”¹⁰ “Contrariwise, the voluntarist conception, obsessed with State consent or “will”, has proven flawed, not only in the domain of law, but also in the realms of other branches of human knowledge. The attachment to

5 There are of course individual opinion where judge Cançado Trindade refers directly to human dignity. Those are for example cases where he directly quotes either the UN Charter or the Universal Declaration of Human Rights.

6 “The principle of humanity *latu sensu*, bringing this latter well beyond the old and strict inter-State dimension”. Cf. Kosovo AO 2010_SO, para. 76.

7 Application of CERD (Georgia v. Russian Federation)_Judgment 2011_DO, para. 212. And similarly Application of the Convention on Terrorism and of CERD (Ukraine v. Russian Federation)_Judgment 2019_SO, para. 26.

8 Alleged Violations of Sovereign Rights (Nicaragua v. Colombia)_Judgment 2016_SO, para. 28.

9 Frontier dispute (Burkina Faso-Niger) _Judgment 2013_SO, para. 98

10 Alleged Violations of Sovereign Rights (Nicaragua v. Colombia)_Judgment 2016_SO, para 27.

power, oblivious of values, leads nowhere. As to international law, if, as voluntarist positivists argue, it is by the “will” of States that obligations are created, it is also by their “will” that they are violated, and one ends up revolving in vicious circles which are unable to explain the nature of international obligations.”¹¹ Cançado Trindade then, referring to jusnaturalist thinking (going back to the lessons of Francisco de Vitoria, Francisco Suárez and Hugo Grotius), concludes that on the: “primacy of human conscience over the “will” [stems] in the foundations of the law of nations:”¹² The role of will of States in the creation of international norms is reduced not only in areas such as human rights or humanitarian law, but also in fields typical for inter-states relations, such as diplomatic or consular law, or even *erga omnes* normativity. He stresses : “the Court is used to being attentive in particular to the “will” of States. In my understanding, the fact that its jurisdiction is grounded thereon does not mean that it can only consider the breaches of rights under Article 36 of the VCCR, in isolation. Not at all; in my understanding, should the Court have considered the interrelationship of the violation it established of Article 36 (1) (b) of the VCCR with human rights affected under the CCPR as well. They are all interrelated.....”¹³ “One cannot simply make abstraction of the effects of the breach of Article 36 (1) (b) of the VCCR on interrelated human rights of the victim under the CCPR, which are also part of customary human rights law. Such a restrictive view overlooks the interrelationship between law and justice.”¹⁴ And by the similar token with respect to *erga omnes obligation* : “Those obligations, in their turn, clearly transcend the individual consent of States, heralding the advent of the international legal order of our times, committed to the prevalence of superior common values, in the ongoing construction of the international law for humankind.”¹⁵ “In sum, the very process of formation and application of the norms of international law ceases to be a monopoly of the States.”¹⁶

International law anchored in *universal juridical conscience* then clearly explains its own focus on the human person, the population and the people. Judge Cançado Trindade puts it in this way: “This is the position that I also uphold; in my own understanding, it is the universal juridical conscience that is the ultimate material source of international law. In my view, one cannot face the new challenges confronting the whole international community keeping in mind only State susceptibilities; such is the case with the obligation to render the world free of nuclear weapons, an imperative of *recta ratio* and not a derivative of the “will” of States. In effect, to keep hope alive it is necessary to bear always in mind humankind as a whole.”¹⁷

11 Ibid. para. 29

12 Ibid. para 30.

13 *Jadhaw (India v. Pakistan)_Judgment 2019_ SO*, para. 67

14 *Ibid.*, para. 68

15 *Aut dedere aut iudicare (Belgium v. Senegal)_Order_DO*, para. 71.

16 *Jurisdictional immunities of the State _Order 2011_SO*, para. 35.

17 *Cessation of Nuclear arms race and Nuclear Disarmement (Marshal Islands v. India)_ Judgment 2016_DO*, para. 115. (*Marshal Islands v. UK*)

3 People-centred look on international law

Usually, textbooks on international law grasp this discipline from the perspective of its main subjects – States. International law is in majority conceived as an inter-state law and state-centric perspective determines as well in most cases the general approach of the International Court of Justice. However, this is not judge Cançado Trindade's perspective. Based on *universal juridical conscience*, principle of humanity and *recta ratio* his look is oriented to human person, people (population) as a final aim. This “beyond state” perspective or a people-centred look on international law has been developed by Cançado Trindade on many occasions and in different cases, not only those dealing with human rights or humanitarian aspects. He regretted many times¹⁸ that ICJ did not use the occasion for progressive development of international law which would lead to leave a state-centric approach aside. In this sense, Cançado Trindade reminds for example thoughts by Albert de La Pradelle who “warned that the strictly inter-State dimension is dangerous to the progressive development of international law; one ought to keep in mind also the human person, the peoples and humankind”¹⁹. Modern international law should have this people-oriented approach where humanity, human beings are the ultimate goal of protection. “In any case, beyond the States are the human beings who organize themselves socially and compose them. The State is not, and has never been, conceived as an end in itself, but rather as a means to regulate and improve the living conditions of the *societas gentium*”²⁰. According to Cançado Trindade, this conflict between a state-centric approach and a people-oriented approach must be resolved in favour of the human person. This is so as well in the area of typical inter-state relations which might have an implication on the condition of human person such as *aut dedere aut iudicare* principle related to *erga omnes* obligations, territorial disputes, principle of sovereign equality or procedural steps before the ICJ etc. Judge Cançado Trindade sees international law as a unique system where different State obligations should serve the final aim – humanity. In *Aut dedere aut iudicare* case he stresses: “Obligations *erga omnes* cannot properly be approached from a strictly inter-State perspective, which would no longer reflect the essence of the contemporary international legal order. Those obligations disclose not only a horizontal dimension, as they are owed to the international community as a whole (a point overworked in expert writing), but also, in my perception, a vertical dimension, as compliance with them is required not only from organs and agents of the public power, but also from natural persons (*simples particuliers*), in their inter-individual relations (a point insufficiently

18 *Aut dedere aut iudicare* (Belgium v. Senegal) _Order_DO, para. 85; Jurisdictional immunities of the State _Order 2010_DO, para. 101.

19 Alleged Violations of Sovereign Rights (Nicaragua v. Colombia)_Judgment 2016_SO, para. 38 quoting Albert de La Pradelle. *Droit international public* [Cours sténographié], Paris, Institut des hautes études internationales, 1932-1933, pp. 25, 33, 37 and 40-41.

20 Frontier dispute (Burkina Faso/Niger) _Judgment 2013_SO, para. 91

examined in expert writing to date). A proper understanding of the scope of those obligations, and due compliance with them, can help to rid the world of violence and repression, such as those which, in the present case, victimized thousands of persons in the years of the Habré régime in Chad (1982-1990).²¹ With respect to territorial delimitation, Cançado Trindade highlights in Temple of Preah Vihear case the protection of spiritual needs of human persons. “In this respect, it may be recalled that the needs of protection of people comprise all their needs, starting with the protection of the fundamental right to life in its wide dimension (i.e., the right to live with dignity, e.g., not to keep on being forcefully and suddenly evacuated from one’s home), and also including their spiritual needs.”²² And he goes on: “Cultural and spiritual heritage appears more closely related to a human context, rather than to the traditional State-centric context; it appears to transcend the purely inter-State dimension, that the Court is used to.”²³ In Jurisdictional immunities of the State case, judge Cançado Trindade juxtaposes the principle of sovereign equality and the principle of humanity. “The principle of the sovereign equality of States is indeed a fundamental principle applicable at the level of inter-State relations [...]. In any case, that principle is not the *punctum pruriens* here, as we are concerned in the cas d’espèce with atrocities or international crimes committed at intra-State level. The central principles at issue here are, in my perception, the principle of humanity and the principle of human dignity. State immunity cannot, in my view, be unduly placed above State responsibility for international crimes and its ineluctable complement, the responsible State’s duty of reparation to the victims.”²⁴ Still, in Jurisdictional immunities of the State, judge Cançado Trindade understands the waiver of a claim in a far broader significance: “My own personal understanding is that a State can waive claims on its own behalf, if it so decides, but not on behalf of human beings (whether its nationals or not) who have been victims of atrocities which shock the conscience of humankind. The individual victims, and not their State, are the bearers (titulaires) of the rights which had been violated [...], starting with the right to respect for their own dignity as human beings. Rights inherent to the human person are endowed with an element of timelessness. Their vindication cannot be waived at will, by any State whatsoever.”²⁵ The people-oriented look on international law advocated by Cançado Trindade is then reflected in different areas of application, and mostly in the area of reparation which in fact confirms the real functioning of international law²⁶.

21 Aut dedere aut iudicare (Belgium v. Senegal) _Order 2009_DO, para. 72

22 Temple Preah Vihear _Interpretation_Order 2012_SO, para. 102.

23 *Ibid.* para. 113.

24 Jurisdictional immunities of the State _Judgment 2012_DO, para. 291

25 Jurisdictional immunities of the State _Order 2010_DO, para. 114.

26 “The domain of international responsibility is central to international law, as without international responsibility the international legal system would not exist. The duty of full reparation is the prompt and indispensable complement of an internationally wrongful act” (Cf. Diallo case_ Judgment on Compensation_SO, para. 32.)

4 Reparations

A prompt reparation is something that is very close to judge Cançado Trindade's heart. It is something what is not only rooted in ancient history of law ("justice delayed is justice denied"²⁷) but it forms also part of *new ius gentium* anchored in and framed by *recta ratio*, and thus is closely related to human dignity. The humanist concept of reparation with regard to contemporary evolution of international law is presented by judge Cançado Trindade in many of his individual opinions especially with respect to the passage of time, (non)-involvement of the "will" of States, and broader impact reparation has to restore the social *milieu*. For example in Armed activities in Democratic republic of Congo "saga" he pinpoints: "The realm of the evolving *jus gentium*, the law of nations, was conceived as encompassing the international community of (emerging) States, as well as all peoples, groups and individuals: *jus gentium* was regarded as co-extensive with humanity. The duty of reparation for injuries was clearly seen as a response to an international need, in conformity with the *recta ratio* — whether the beneficiaries were (emerging) States, peoples, groups or individuals."²⁸ The obligation of reparation, together with the question of the passage of time, is very crucial in establishing justice and this is mainly in the situation of mass violations of human rights or atrocities committed during armed conflicts. Such restorative justice cannot be, according to Cançado Trindade, realized only within inter-state relations and cannot be left on the "will" of States. "Reparations, in cases involving grave breaches of the international law of human rights and of international humanitarian law, cannot simply be left over for "negotiations" without time-limits between the States concerned, as contending parties. Reparations in such cases are to be resolved by the Court itself, within a reasonable time, bearing in mind not State susceptibilities, but rather the suffering of human beings, — the surviving victims, and their close relatives, — prolonged in time, and the need to alleviate it. The aforementioned breaches and prompt compliance with the duty of reparation for damages, are not be separated in time : they form an indissoluble whole."²⁹ Similarly, with respect to passage of time judge Cançado Trindade stresses the need of a prompt reparation and a proactive role ICJ should play in this regard. "In my understanding, the Court is not conditioned or limited by what the parties request or want, not even in the fixing of time-limits." "The Court is master of its own procedure, also in the fixing of time-limits, in the path towards the realization of justice, avoiding the undue prolongation of time."³⁰ A prompt reparation has a beneficial impact not only on victims but it has a larger favourable effect on the society as such. In this sense, judge Cançado Trindade reminds the institute of restorative justice and its ties with universal juridical

27 This latin maxim has been quoted many times by judge Cançado Trindade in his individual opinions.

28 Armed Activities in Congo (DRC v Uganda) Order_2016 April_Decl, para. 18–19.

29 Armed Activities in Congo (DRC v Uganda) Order_2015 July_Decl, para. 7.

30 Armed Activities in Congo (DRC v Uganda) Order_2016 Dec_SO, para. 28.

conscience: “Restorative justice has made great advances in the last decades, due to the evolution of the international law of human rights, humanizing the law of nations (the *droit des gens*). Such advances are now being felt, though in a lesser degree but a reassuring one, also in the domain of international humanitarian law and of contemporary international criminal law. The universal juridical conscience seems to be at last awakening as to the need to honour the victims of human rights abuses and to restore their dignity.”³¹ Last point to be recalled is the central position of the victim claimed by Cançado Trindade, which is not self-explanatory as such. The “centrality of victims in human rights protection”³² and its implication to reparations is in fact a key element and building block that runs through all individual opinions by Cançado Trindade like a red thread. Centrality of victims resonates for Cançado Trindade in the Latin maxim “justice delayed, justice denied”, the passage of time, or rehabilitation of victims serving restorative justice. The centrality of victims touches the challenged “will of States”, or affects traditional inter-States relations. The centrality of victims is largely presented by Cançado Trindade in his separate opinion to ICJ judgment in *Diallo* case. “Here, the Applicant State is the claimant, but the victim is the individual. The Applicant State claims for reparation, but the *titulaire* of the right to reparation is the individual, whose rights have been breached. The Applicant State suffered no damage at all, it rather incurred costs and expenses, in espousing the cause of its national abroad. The damage was suffered by the individual himself (subjected to arbitrary arrests and detention, and expulsion from the State of residence), not by his State of nationality.”³³ “The individual concerned is at the beginning and at the end of the present case, and his saga has not yet ended, as a result also of the unreasonable prolongation of the proceedings before this Court.”³⁴ “It can no longer keep on reasoning within the hermetic parameters of the exclusively inter-State dimension. The recognition of the damage suffered by the individual (paragraph 98 of the Judgment) has rendered unsustainable the old theory of the State’s assertion of its “own rights” (*droits propres*), with its underlying voluntarist approach. The *titulaire* of the right to reparation is the individual, who suffered the damage, and State action in diplomatic protection is to secure the reparation due to the individual concerned.”³⁵ As such, the centrality of victims stands at the very centre of *universal juridical conscience* and is at the same time the result of the development of new *ius gentium* framed by *recta ratio*. The obligation to reparate an international breach is a fundamental obligation, not a ‘secondary obligation’³⁶,

31 *Diallo* case_Judgment on Compensation 2012_SO, para. 83.

32 *Ibid.*, para. 41–59.

33 *Diallo* case_Judgment 2010_SO, para. 204.

34 *Ibid.*

35 *Ibid.* para. 206.

36 *Armed Activities in Congo (DRC v Uganda)_Orde* 2016 December_SO, para. 20. Or *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua)_Judgment-compensation* 2018_SO, para. 16–19.

and as such, it is closely related to the administration of justice, which plays an important role in the enforcement of international law.

5 Administration of Justice

The principle of sound administration of justice is mentioned and discussed by judge Cançado Trindade on different occasions with respect to *classical* inter-state cases³⁷. On other occasions, this principle relates as well to rights of human persons and is closely aligned with the principle of humanity and the concept of universal juridical conscience. This is very evident in the context of the sound administration of justice in terms of access to justice and time passing for reparations which is an element proving a good functioning of the system of law. “The décalage between the time of human beings and the time of human justice is to be reduced. Without the realization of justice, without the right to the Law (le droit au Droit), there is no legal system at all, neither at domestic, nor at international, level.”³⁸ By a similar token directly with respect to the use of provisional measures: “For the purposes of provisional measures in the present case, the right to be preserved is ultimately the right to the realization of justice, the right to see to it that justice is done.”³⁹

For Cançado Trindade, the principle of sound administration of justice is another important and needed piece of puzzle for the ultimate, final aim of international law – humanity, human person. This final aim should be in the sights of all stakeholders – States which are contributing by their *will*, and adjudicative bodies exercising their *jurisdiction*. In this respect, judge Cançado Trindade is very demanding and requires an active approach by the ICJ. “[T]he matter the in one word before the Court calls for a more pro-active posture on its part, so as not only to settle the controversies filed with it, but also to tell what the law is (*juris dictio*), and thus to contribute effectively to the avoidance or prevention of irreparable harm in situations of urgency, to the ultimate benefit of all subjects of international law — States as well as groups of individuals, and simples particuliers. After all, the human person (living in harmony in her natural habitat) occupies a central place in the new *jus gentium* of our times.”⁴⁰ In a different case, Cançado Trindade specifies: “In such circumstances, an international tribunal cannot abstain from exercising its inherent power or *faculté* of supervision of compliance with its own Orders, in the interests of the sound administration of justice (*la bonne administration de la justice*). Non-compliance with provisional measures of protection amounts to a breach of international obligations deriving from such

37 Frontier dispute (Burkina Faso v. Niger), – Judgment 2013_SO; Temple of Preah Vihear case, Interpretation – Order 2012_SO; or Jurisdictional Immunities – Order 2012_DO.

38 Aut dedere aut iudicare (Belgium v. Senegal)_Order_DO, para. 77

39 *Ibid.* para. 95. And in a repetition with the functioning of the system of international law: “The present case, even at this stage, appears to me as one of great relevance, as the right to be preserved — the right to the realization of justice — is ineluctably linked to the rule of law at both national and international levels.” (*Ibid.* para. 101.)

40 Construction of a Road in Costa Rica (Nicaragua v. Costa Rica)_Judgment 2015_SO, para. 72

measures. This being so, the determination of their breach, in my understanding, does not need to wait for the conclusion of the proceedings as to the merits of the case at issue, particularly if such proceedings are unduly prolonged. [...] The determination of their breach is not conditioned by the existence of a request to this effect by the State concerned; the Court, in my view, is fully entitled to proceed promptly to the determination of their breach *sponte sua, ex officio*, in the interests of the sound administration of justice (la bonne administration de la justice). The determination of a breach of provisional measures entails legal consequences; this paves the way for the granting of remedies, of distinct forms of reparation, and eventually costs.”⁴¹ The sound administration of justice serves thus the final aim – humanity, protection of human person where the passing of time forms an important element in the functioning of law and the realization of justice. “The crucial factor here is, in my view, the endurance by the victims of the ungrateful passing of time throughout their long search, in vain, for human justice to date.”⁴² And in another separate opinion, judge Cançado Trindade concludes and presents its very strong position on the ICJ’s procedural activity: “In this matter, the worst possible posture would be that of passiveness, if not indifference, that of judicial inactivism. As I warned in an earlier dissenting opinion (cf. *supra*) and reiterate now in the present one, the matter before the Court calls for a more pro-active posture on its part, so as not only to settle the controversies filed with it, but also to tell what the law is (*juris dictio*), and thus to contribute effectively to the avoidance or prevention of irreparable harm in situations of urgency, to the ultimate benefit of all subjects of international law — States as well as groups of individuals, and simples particuliers. After all, the human person (living in harmony in her natural habitat) occupies a central place in the new *jus gentium* of our times.”⁴³ According to judge Cançado Trindade, the principle of sound administration of justice plays a crucial role in the right functioning of international law where the final aim serves humanity. In that sense, judicial bodies should play an active role. Even though, the principle of good administration of justice is mainly evident in the people-oriented look on international law in the concept of reparations framed by *universal juridical conscience*, Cançado Trindade is not limiting it to this area only.

6 Conclusion

The particularity of judge Cançado Trindade’s individual opinions to ICJ decisions is that they reflect unequivocal, coherent and interconnected *lessons* on international law which the late Brazilian judge presented already in 2005 in the General course at Hague Academy of International Law. International law for humanity as new *ius gentium* built on the concept of *recta ratio* and universal juridical conscience considers human dignity (dignity of human person) as

41 Certain activities carried out by Nicaragua (Costa Rica v. Nicaragua) – Judgment 2015_SO, para.63,64.

42 Aut dedere aut iudicare (Belgium v. Senegal) _Order_DO, para. 56.

43 Certain activities carried out by Nicaragua (Costa Rica v. Nicaragua)_Order 2013_SO, para. 76.

a building principle, and humanity as an ultimate aim of this legal system. The creative principle for international law is not the will of States (only) but rather the universal juridical conscience. In fact, all principles of international law (general principles of international law) one can encounter in different areas of international law serve humankind. They “emanate from human conscience, the universal juridical conscience, the ultimate material “source” of all law.”⁴⁴ As human conscience presents the “ultimate material source of law”, humanity is a final aim, there is a people-oriented look on the whole system of international law. Different international concepts and institutes thus are to be interpreted in this light. Therefore, the whole understanding of international law (the meaning of norms), the consequences of norms violations (reparations) and the processing of norms (sound administration of justice) serve and are directed towards this single and ultimate aim.

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