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PROTECTING ELEPHANTS THROUGH INTERNATIONAL LAW: LIMITS AND POSSIBILITIES IN A DIFFERENT WORLD

Abstract

The world has evolved since the XV and XVI centuries, and what was possible and accepted at that time may now be seen under a different light. This applies to international trade in ivory. In today's world organised groups have become more and more vocal, when it comes to influence the decision makers in such fields as the protection of nature and the environment. International environmental law has become an important branch of public international law, and it comprises a number of general principles as well as multilateral conventions. In this paper we will analyse the limits and possibilities of international law as an instrument to protect the elephant and fight the illegal smuggling of ivory, taking into account the increased role of civil society.

The initial conditions for trade in ivory, and the emerging role of civil society.

During the colonial era, trade in goods that now are considered protected was possible as a consequence of the particular political, social and legal situation. Being part of the same legal and administrative entity in fact made it easier to move all sort of goods from one end of the world to another, usually from the colonies in Africa and Asia to the motherland in Europe. No considerations of national sovereignty came into play. The lack of rules and obstacles to the free circulation of goods, especially within the borders of a colonial empire, favored the movement of the most precious materials, among which ivory must certainly be included.

At a more general level, in the XVI and XVII centuries the international community had not developed yet a full range of rules to regulate the interests and manage the disputes between one sovereign State and another, although in academic opinion there are views to trace the origin of modern international relations as back as the Peace of Westfalia (1648) or even earlier (TREVES, 2005: 3-ff.)

Given the lack of a fully-fledged institutional structure in State-to-State relations, it is easy to infer the complete irrelevance of what today we refer to as civil society.

The role played by non-State actors in international law is only a recent phenomenon, which is gaining momentum and has been studied in its different nuances (TREVES ET AL, 2005).

The two main areas in which States are confronted with a more and more vocal intervention from individuals and private organised groups (mainly in the form of non-governmental organisations) are on the one hand human rights, and on the other hand the protection of the environment, in its different and varied forms.

The emergence of individuals and organised groups is extremely important in international relations, since the international legal order is a State-based system, and therefore it has challenged the usual list of the so-called subjects of the international legal order. In other words, today sovereign States are not so free to decide their behaviours without taking into account the needs, requirements, expectations of individuals, minority groups, non-governmental organisations. The level and degree of the consideration given to these instances will of course vary from State to State,

according to the different situations, but the enlargement of the set of actors in international relations cannot be ignored.
One of the first examples in which public opinion, and National States, became aware of the relevance of NGOs in shaping the course of actions of a situation which would have normally been considered a State-to-State issue, was the so-called 'Rainbow Warrior case'.
The private vessel Rainbow Warrior, flying a British flag, was staging a demonstration to protest against the nuclear experiments carried out by France in the Mururoa atoll, when it was sunk in the Harbour of Auckland, New Zealand (10 July 1985), as a consequence of an explosion which resulted also in the death of a member of the crew, of Dutch nationality. The reaction of the public opinion was such that the question could not be handled as a purely inter-State dispute. Although not immediately, France had to publicly admit that its National security services had caused the sinking of the vessel, in clear violation of the territorial sovereignty of New Zealand, therefore entitled to compensation. The complexity of the case required the intervention of the Secretary General of the United Nations, who had to rule on various aspects of the incident. Besides the decision taken by the then UN secretary General, it is important to highlight that France, a Sovereign State, had previously accepted to undertake an arbitral procedure with Greenpeace, an international NGO, as a counterpart, for the determination of the level of compensation in favour of this latter. The arbitral judgement was finally issued and France was condemned to pay the sum of USD 8.159.000 to Greenpeace, as compensation for the damage suffered in consequence of its wrongful act.
More recently, another case involving a Greenpeace vessel came to the attention of the public. We are referring to the Arctic Sunrise, an ice-breaker registered in the Netherlands, which has been carrying out for more than a decade a series of protests against environmentally-unfriendly practices of States in different parts of the the world, such as Japanese whaling around Antarctica, pirate vessels fishing illegally for Patagonian toothfish around Mauritius, a British project to open up a new offshore oil frontier in Alaska.
In August 2013, the Arctic Sunrise started an expedition in the Arctic to protest against oil exploration and digging. In the Barents Sea it was confronted by the Russian Authorities, which refused to authorise entry into the Kara Sea. The tension then escalated, after an inspection by the Russian Authorities, the confirmation of the ban to proceed in the navigation and the threat to use force in case of non-compliance. On 18 September some activists forced the situation, trying to climb a Russian platform, which caused the stern reaction of the coastguard forces. As a result, the vessel was forcibly taken control of by the Russian Authorities, and the 30 people on board were taken to a detention facility for questioning, before a local Court issued a warrant to arrest them all. Without entering the details of the legal controversy, which saw also the International Tribunal for the Law of the Sea in Hambourg issuing a ruling in favour of the immediate release of both the vessel and the crew[1], in this case we want to stress the role played by public opinion and international pressure, which mounted in different ways (11 Nobel laureates wrote to the Russian President Vladimir Putin

[1] The Arctic Sunrise Case (Kingdom of the Netherlands v. Russian Federation), Provisional Measures, which can be read in the website of the ITLOS, http://www.itlos.org.

asking for the charges against the people in detention to be dropped), thus significantly contributing to the eventual release of the vessel (100 days after the seizure) and of the activists and journalists involved.
This case, even more than the one involving the Rainbow Warrior almost 20 years before, clearly shows how the dynamics of international relations are more and more influenced, or sometimes even shaken, by new actors, like organised groups such as international NGOs. This scenario was unthinkable of half a century ago, let alone during the time of the trade in ivory from the Asian colonies to the European Powers.

The emergence of rules of public international law for the protection of the environment

If a growing public awareness of the needs of environmental preservation is the first significant difference, we have to consider that it is not sufficient to grant a form of international protection, due to its irrelevance from a legal point of view. Next step in this work in fact will be to try to figure out whether the international community has in these years come up with a series of legally binding rules, which can be invoked by States in case of damage to the elephant and its ivory.
The rules of public international law are basically of two different types and they are usually referred to in legal opinion as 'the sources of international law': customary international law and treaty law (DIXON, 2013: 24-ff).
Customary international law is that law which has evolved from the practice or customs of States and it is ideally suited to the development of general principles, always available to fill the void should the detailed legal regime of a treaty fail to gain universal acceptance. For a rule of customary international law to be considered in force, two requirements must be met: State practice, of a general and consistent duration, and the so-called *opinio juris sive necessitatis*, or, in other words, the belief that the practice is obligatory, and not merely convenient or habitual.
International environmental law is a relatively recent branch of public international law, and it is made up of both several multilateral treaties and general principles.
The expression 'principles of international environmental law' may seem vague, but one has to consider that it is helpful in comprising different situations, from rules of customary international law to non-binding principles which are used in treaties and instruments of soft law, but which lack a clear normative content, or are not sufficiently rooted in the practice of States.
The most significant legal text devoted to the principles of international environmental law is the Rio Declaration on Environment and Development[2], which, despite the lack of a clear legally binding nature, is nonetheless important for the comprehensive scope of the principles it enshrines and for the consensus that they are building around their fundamental notions.
The first principle of international environmental law, on which little doubt can be raised in terms of its status as customary international law, is commonly referred to as 'no harm'. In other words, as stated in principle 2 of the Rio Declaration, 'States have, in accordance with the Charter of the United Nations and the principles of international

[2] The Rio Declaration on Environment and Development was adopted by consensus at the UN Conference on Environment and Development in 1992, and it is deemed as reflecting a real consensus of developed and developing states on the need to identify agreed norms of international environmental protection.

law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.' This principle, which can be found in a series of multilateral environmental treaties, has been upheld also by relevant international jurisdictions, from as back as 1941 (in the famous Trail Smelter case, decided by an arbitral tribunal: "Under the principles of international law […] no State has the right to use or permit the use of its territory in such a manner as to cause injury by fumes in or to the territory of another or the property of persons therein, when the case is of serious consequence and the injury is established by clear and convincing evidence"). Nonetheless, it seems to play a limited role in the protection of the elephant and its ivory, because it finds its natural application in cases of transboundary pollution, namely of the air.

A second principle which has gained significance in the last years is that of common but differentiated responsibilities (CULLET, 2003; STONE, 2004). It departs from the general rule of sovereign equality of States, and it is strictly linked with the idea of equity (different situations need differential treatment). This principle finds its application both in environmental and in trade law, and it is two-folded. Looking back to the past, it acknowledges the historical share in the consumption of natural resources, and projected to the future, it stresses on the better and more abundant technological and financial resources of richer Countries. Also this principle seems to have a limited impact on our area of interest, but it should not be ignored insofar as it recognises the different capabilities in terms of social and economic conditions in the international community, and it consequently requires a more proactive intervention from those Countries able to command more resources.

Another principle often quoted when it comes to environmental protection is the precautionary principle, defined in the Rio Declaration (principle 15) in these terms: 'where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.' Although it has been referred to in different decisions of international tribunals[3], there is a part of academic opinion still denying any sort of prescriptive power (BHAGWATI, p. 152: "this is no principle, of course; it merely states that if I have a fear about anything but no respectable scientists will put their signatures to its credibility, then I should be allowed to indulge it"). As far as the protection of elephants is concerned though, it is difficult not to recognise the threats of irreversible damage in case poaching activities are allowed to continue.

In the most advanced internal environmental legislations (like that of the European Union) the problem of the so-called internalisation of environmental costs results in the 'polluter pays' principle, with a view to considering as directly liable those private

[3] This principle was invoked before the International Court of Justice for the first time in the 1974 Nuclear tests case (New Zealand vs. France). More recently, the International Tribunal for the Law of the sea adopted a precautionary approach in the Southern Bluefin Tuna cases (New Zealand v. Japan, Australia vs. Japan, 1999), as well as, although in a different perspective, in the MOX Plant Case (Ireland v. United Kingdom, 2001). Also the World Trade Organisation Appellate Body, in the Hormones case (1998), explicitly discussed the relationship of the precautionary principle to the Agreement on the Application of Sanitary and Phytosanitary Measures, and in the Asbestos Case (2001), though without expressly mentioning it, the judges used precautionary reasoning upholding France's ban on chrysotile asbestos due to its supposed carcinogenic effect.

actors (especially industrial plants) which mostly contribute to the deterioration of nature and the environment.
In the background of every problem relating to environmental conservation and protection it is inevitable to consider the relevance of the principle of sustainable development, which basically aims to integrate harmonically economic development, environmental protection, and social concerns.
This is a fundamental principle, which should be enshrined in all domestic policies by all the members of the international community. But like most of these general principles, its prescriptive scope is not clearly defined, so it is extremely difficult to use it as an effective tool to bind sovereign States to effectively tackle the major environmental concerns. In the case of the protection of the elephant and ivory, sustainable development could be invoked to ask for more stringent rules against poaching and illegal trafficking, but even when we have established a normative content, the problems of implementation remain, as we will see in the remaining part of this work. The specific needs of such a particular area of the environment may therefore lack generic legal instrument. As a consequence we have to consider the second set of sources of international law, namely international treaties.
When a group of States freely decides to sign an international agreement, and therefore accepts to be bound by its provisions, one should expect that this results from a serious intention to establish a legal framework for the specific issue. In fact, unlike in the case of rules of customary law, each single State can influence more directly the formation and the content itself of the regulation which will govern their actions.
Multilateral environmental agreements (MEAs) have become more and more frequent, and they cover several aspects of the environment around us: transboundary pollution, climate change, biodiversity, hazardous waste, water pollution, etc.
Although they allow for a higher degree of flexibility in the establishment of the contents of the legal prescriptions, MEAs have nonetheless some shortfalls.
First and foremost, there is a problem related to the complexity of the whole process which leads to the adoption of a MEA. An international treaty needs to be negotiated (the more participant, the more difficult to strike a balance between conflicting interests), and this can take several years. After negotiation, a signature is required, to formalise the agreement reached on a particular text, followed by what is called ratification. This is a domestic legal process which varies from Country to Country, and it normally involves the other branches of the State, namely the Parliament and the office of the head of State. At the end of this whole procedure, which is described in the Vienna Convention on the Law of Treaties[4], the MEA becomes a binding set of rules.
The peculiarities of the environmental concerns, so strictly linked with science and its new discoveries, may result in the content of the treaty not being useful anymore, in consideration of the evolution of technology. In this case, in order for the text to be amended and to reflect the new, evolved situation, a renegotiation has to be started, involving all the States which have become members of the treaty.
Even after a number of States has secured a text which is in line with the latest evolutions and discoveries, chances are that some important players would not be in this group. This creates a problem, since in international law the general principle of

[4] Adopted in Vienna, 23rd May 1969, it entered into force 27th January 1980. As of today 113 States are Parties to the Convention.

pacta tertiis nec nocent nec prosunt applies. In other words, a legal obligation contained in an international treaty, if it is not at the same time a customary rule, cannot be invoked against a Country which has not expressed its willingness to be bound by it, through one of the instruments in accordance with the law of treaties. As a further consequence, a problem of free riding may arise, in the sense that this same Country, which is not legally bound by the content of the treaty, can take advantage from this lack of rules, having the possibility to act in a manner that would be unlawful for the other States. In such cases, the State may even ask for special advantages in order to accept the legal obligations at issue, which would trigger another round of negotiation to make such situation acceptable for all the Parties involved.
In spite of all these problems, which can reduce the effectiveness of MEAs, they must still be considered as the best instrument to protect the environment, in consideration of the more precise focus they can have.

Which international legal regime for the protection of the elephant?

As far as the protection of the elephant and ivory is concerned, the international community has shown its willingness to tackle the problem, in the more general context of the limits to be imposed to the trade of a number of endangered species.
In Washington, in 1973, a number of States agreed on an international convention with a view to ensuring that international trade in specimens of wild animals and plants would not threaten their survival (Convention on International Trade in Endangered Species of Wild Fauna and Flora, or CITES[5]).
Today a significant share of the international community, 179 sovereign States, has agreed to be bound by its contents, as a concrete manifestation of the awareness that some sort of common effort must be put in place in this delicate sector.
International treaties for the protection of the environment usually contain one or more of the general principles we have seen above, either in a specific article or in the preamble. CITES does not mention any of those principles, apart from the so-called principle of intergenerational equity, which is often considered as a sub-principle of that of sustainable development. The preamble in fact starts with the recognition that 'wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come'. In other words, the obligation to protect the environment, and specific examples of wild flora and fauna, is projected in the future, in favour of the generations to come, which have the same right of enjoying the beauty of nature as we have today.
Without analysing in depth the single legal provisions of the Convention, for the purposes of this work suffice it to say that the basic idea underpinning it is that all import, export, re-export and introduction from the sea of species covered by the Convention has to be authorised through a licensing system (prior grant and export permit), with of course some exceptions (see Art. VII: for instance, for specimens that were acquired before CITES provisions applied to them, known as pre-Convention specimens, or that are personal or household effects, or that are destined for scientific research, or for animals or plants forming part of a travelling collection or exhibition, such as a circus).

[5] The Convention on International Trade in Endangered Species of Wild Fauna and Flora was adopted in Washington, on 3rd March 1973, and it entered into force on 1st July 1975.

How is this licensing system implemented? Every State has to establish one or more National Management Authorities and National Scientific Authorities (see Art. IX).
The former is in charge of the day-to-day administration of the system, while the latter has a more general advising role, notably on the effects of trade on the status of the different species. It is therefore extremely clear the close bond which exists in this field between science and law. It is a scientific assessment of the situation, which takes into consideration all the evolutions and discoveries which may be relevant, setting the boundaries in which the legal provision is designed to operate.
This is extremely helpful in overcoming the general problem of the obsolescence of MEAs, furthermore keeping the rules firmly grounded on the actual situation as scientifically observed.
Three appendixes are integral part of the Convention, with a view to creating three different trade regimes for the various species of animals and plants, in accordance with the level of threat they face. In the first appendix we find species which are threatened with extinction, and for which trade is permitted only in exceptional circumstances, while the second one sets out those species which are not necessarily threatened with extinction, but in which trade must be controlled in order to avoid any utilisation incompatible with their survival. Finally, the third appendix contains those species that are protected in at least one Country, which has asked other CITES Parties for assistance in controlling the trade. In order to prevent such lists from becoming obsolete, Art. XV and Art. XVI of the Convention specify the procedures to be followed in case an amendment is needed in one or more of the three Appendixes.
Both the Asian (*Elephas Maximus*) and the African (*Loxodonta Africana*) elephants are enlisted in Appendix I (with a few exceptions in Appendix II), and are therefore granted the maximum level of protection.
The fact that an international legal framework has been established though is not in itself a guarantee of success. Art. VIII, para. 1 of CITES establishes that '1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:
(a) to penalize trade in, or possession of, such specimens, or both; and (b) to provide for the confiscation or return to the State of export of such specimens.' In other words, international rules do not take the place of domestic regulations, and the actual implementation of the measures set out in the CITES are left to the single States which have ratified it. This aspect is equally important, and deeply related to the nature itself of public international law. After the ascending phase, for the creation of common rules, we have to consider the descending phase, for their actual implementation. In other words, what happens when there is a violation of the rules set out in the CITES? Are there specific mechanisms which can ensure full compliance by all Parties to the Convention? It is a common feature of MEAs, to establish some sort of institutional framework, due to the complexity of the regime and its daily management. CITES is no exception, and it provides for a Secretariat, an administrative body which serves a series of purposes, as set out in Art. XII, para. 2. Besides taking care of the 3 Appendixes and their updates, as well as undertaking scientific studies which can be useful for all Parties, the Secretariat shall (para. d) 'study the reports of Parties and request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention', and also (para. h) ' make recommendations for the implementation of the aims and provisions of the

present Convention, including the exchange of information of a scientific or technical nature'. The whole procedure is therefore triggered by a State, which involves the Secretariat, in consideration of its neutral role as an administrative body. According to Art. XII then, 'when the Secretariat in the light of information received is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned'. An inquiry may follow, and the specific issue will eventually be discussed at the Conference of the Party (a regular meeting of all the States that have ratified the CITES), 'which may make whatever recommendations it deems appropriate (Art. XIII, para. 3). The mechanism is therefore not particularly stringent, and the final recommendation has no legally binding force. An important limit of international law emerges: given the principle of sovereign equality among the members of the international community, a State can be challenged for non-compliance in front of a third-party institution (international court or arbitration tribunal), which will issue a legally binding decision, only if it has, somehow, expressed its willingness to such a procedure. According to the provisions of CITES (Art XVIII), 'Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute.
2. If the dispute can not be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration,(…) and the Parties submitting the dispute shall be bound by the arbitral decision.' Therefore, if a dispute between two Parties still persists even after the recommendations of the Conference of the Parties, the first step is to find a negotiated solution, amicably, and only if this fails a third-party, neutral mechanism is involved, as an international arbitral tribunal.
But the pivotal role of each State is further highlighted by other provisions of CITES. According to Art. VIII each Party 'shall maintain records of trade in specimens of species included in Appendixes I, II and III' (para. 6), as well as 'prepare periodic reports on its implementation of the present Convention', to be transmitted to the Secretariat (para. 7). Furthermore, since a multilateral agreement is often a compromise which establishes only a minimum level of protection, the Convention expressly provides for the possibility, for each single State, to implement a series of protective measures which are stricter than what is required by CITES itself (see Art. XIV: 1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:(a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendixes I, II and III, or the complete prohibition thereof; or (b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III). Once again, the main responsibility for the effective functioning of the whole system relies on each single State, whose more protective domestic legislation may even be seen as a benchmark for future amendments of the CITES system.

Concluding remarks

As we have seen in the previous pages, the political, social and legal context was essential to determine the boundaries of such a significant international trade in ivory objects. Today all of this could not take place: society has evolved, and the idea that concerted efforts are required for a more effective protection of the environment in all

its aspects has become a common value. In academic opinion significant studies have been carried out to link the protection of the environment also with the main religions of the world, all of which, in their sacred texts, make it clear that it is a duty of the humankind to preserve and respect the world in which we all live (see WEERAMANTRY, 2009). Citizens are now organised in groups, like NGOs, that professionally aim to further this awareness, and the most recent and advanced ways of communication make it easier to grab the attention of an increasing number of people throughout the world.

But the need to protect nature and the environment is a constant concern of Governments, both domestically and internationally, although of course at different levels and with varying degrees of effectiveness. International environmental law has become a fully-fledged branch of public international law, underpinned by a number of general principles and a vast amount of multilateral treaties. Endangered species enjoy this new framework, and although not all general principles seem to be directly relevant, the existence of a dedicated MEA, the CITES agreement, is a guarantee of consistent attention from Government institutions. Although there are some shortcomings, mainly in terms of effectiveness of the implementing mechanisms, which are directly connected to the structure and nature of international law, the basic principle of the CITES regime is clear: trade in endangered species can only be authorised in limited, specific cases, for exceptional purposes. The welfare of the animal and plant species, in other words, prevails over the interests of trade and economy.

If elephants are killed to trade their tusks, today the general condemnation of society is guaranteed. But this is not enough. What happens to the amounts of ivory that are smuggled illegally from one Country to another, once and if it is seized by the competent Authorities? The situation we face today is substantially different. We are often not dealing with objects with a clearly-defined decorative or artistic value, and the creation of such objects is not the main purpose of trade in ivory anymore.

If we consider the most recent cases of stockpiles of ivory which was illegally traded, the main reason for such activities was a more mundane commercial fashion, or linked with ancestral medical practices, especially in Asia. The solution, in most cases, has been the destruction of such stockpiles.

Only in the last months we have seen nearly 6 tonnes in the USA (November 2013), 6 tonnes in China (January 2014), 3 tonnes in France (February 2014), all turned to dust, with plans to further destroy even bigger amounts in the years to come (28 tonnes in Hong Kong). This ivory was traded in breach of the legal provisions as set out in the CITES treaty, but the choice of destroying everything was not applauded unanimously. By reducing the ivory supply, the price will be driven up and this increase will further stimulate the poaching of even more elephants, others argue. Nobody will deny that the message to the people involved in illegal trafficking was loud and clear, and everybody around the world was able to see those huge amounts of ivory powder, now completely useless, but was this the only possible way of conveying the idea that the international community condemns the poaching of elephants? The text of the CITES does not help, since it does not prescribe any particular action in the case a stock of ivory coming from an enlisted species of elephants is seized by the relevant Authorities, besides, as we have seen, the general obligation upon each State to provide for the confiscation or return to the State of export, whose lack of effective control (or even

complicity) may have been instrumental in securing the smuggling of ivory. If the objective is clearly to provide a disincentive for all the illegal trafficker, proving that the result of the killing of elephants will in no case yield the economic fruits they are hoping for, maybe the same result can be achieved in a different manner. Reducing tonnes of ivory into dust, besides the effect of deterrence we have already mentioned, has no ecological value in itself, and it furthermore destroys a raw material which has been or could be crafted by highly-skilled individuals for artistic purposes. A moral issue here emerges, and some people even question whether it is appropriate or not for a museum to display objects in ivory and other materials for which endangered species have been killed, almost to extinction. I think we need to be pragmatic: ensuring that there is no economic benefit for the wrongdoers is essential, but the international community could design a mechanism for which the ivory is not lost forever. Something like an international fund or institution with the mandate to collect all the ivory which is seized throughout the world, to conserve it, and even to find a way, instead of either destroying it or returning it to the Country which could not secure its preservation, of possibly using it, for purposes which would benefit the whole of humankind. But this is of course something on which a political consensus in the international community has to be built, and only at a later stage a system of international law, with the limits we have highlighted, may be designed to ensure States understand their duties and fully abide by the rules. Although imperfect, international law is still the best instrument we have.

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