The Hidden Connection Between Arbitration, Peace, and SDGs

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1. Introduction – Arbitration and Peace

The topic of this paper is the connection between arbitration, peace, and Sustainable Development Goals (SDGs). Admittedly, this connection is not glaringly obvious, but in the few pages that will follow I hope I will be able to convince the readers that indeed there is a connection, and that the arbitration community is in the position to play an important role in helping creating a better world.

Since this paper is published on a Japanese law review, I think it is appropriate to start with a story about Japan. Actually, about the first time Japan was ever involved in an international arbitration, the famous case of the *Maria Luz*.[1] A case that dates to the early years of the Meiji Restoration.

The *Maria Luz* was a Peruvian ship, chartered by a Spanish subject, with a Peruvian crew and a Peruvian captain, named Herrera. In the summer of 1872, the ship was sailing from Macau, at the time part of the Portuguese empire, and was carrying about 240 Chinese subjects, who had contracts as indentured servants to work in plantations and mines in Peru. The *Maria Luz* encountered a storm, and could not face the trans-Pacific route, so she had to take shelter in Yokohama Bay for repairs. While on harbour, one of the Chinese passengers jumped overboard, and swam to a British ship, the *Iron Duke*: he asked for the

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1) Seiji George Hishida, *The International Position of Japan as a Great Power* (Columbia University Press 1905); Kiyoshi Tabohashi, 'Meiji Gonen No "Maria Rusu" Jiken' (1929) 40 Shigaku zasshi 87; Fujio Shimomura, *Meiji Ishin No Gaikō* (Ōyasu Shuppan 1948); Mitsuo Morita, 'Maria Rūzu Gō Jiken Ni Miru Jinken Ishiki to Sono Haikei' in Zenkoku jinken yōgoiin rengō-kai (ed), *Kokusai jinken-nen kinen ronbun shū* (Zenkoku jinken yōgoiin rengō-kai 1968); Suzanne Jones Crawford, 'The Maria Luz Affair' (1984) 46 The Historian 583; Tomoko Morita, 'Maria Rusu Gō Jiken to Geishōgi Kaihō Rei' in Yujirō Ōguchi (ed), *Onna to shakai shi* (Yamakawa Shuppansha 2001); Mitsuo Morita, 'Jinken Shisō Kara Mita Maria Rusu Gō Jiken' *Daini Tōkyō Bengoshi Shikaihō Tokushū-gō* (Daini Tōkyō Bengoshi 1992); Douglas Howland, 'The Maria Luz Incident: Personal Rights and International Justice for Chinese Coolies and Japanese Prostitutes' in Susan L Burns and Barbara J Brooks (eds), *Gender and Law in the Japanese Imperium* (University of Hawai'i Press 2014); Bill Mihalopoulos, 'Rethinking the Maria Luz Incident: Methodological Cosmopolitanism and Meiji Japan' in Akihiro Ogawa and Philip Seaton (eds), *New Frontiers in Japanese Studies* (Routledge 2020); Giorgio Fabio Colombo, *Justice and International Law in Meiji Japan: The María Luz Incident and the Dawn of Modernity* (Routledge 2023).

protection of the British authorities, as – he said – the captain of the *Maria Luz* was an evil person who mistreated his passengers and already killed few of them. The British, who were actively trying to sabotage the slave trade carried out across the Pacific Ocean by the Spanish and Portuguese Empires,[2] referred the matter to the Japanese authorities, suggesting a swift investigation of the matter.

It is important to remember that in 1872 the modern Japanese legal system was still in its infancy.[3] The 1868 Meiji Restoration had got rid of the Tokugawa shogunal laws, but the creation of a new order was still a work in progress. At the same time, the Japanese were eager to show the world that they were a civilized people, and that they could properly handle complex legal matters.[4] At the time, Japan was still subject to the so-called Unequal Treaties,[5] which granted some foreign powers several commercial privileges, territorial concessions, etc., but also extraterritoriality and consular jurisdiction.[6] While the imposition of the treaties was a matter of gunboat diplomacy,[7] the philosophical justification for such clauses was that the Japanese legal system was backward and inadequate: why foreign powers would accept that their subjects or citizens could be subjected to the jurisdiction of arbitrary courts and the imposition of medieval laws? Only when the Japanese legal system would be at the same level as those of the West the treaties could be renegotiated.[8] Of course, Western powers did not play a fair game, especially as they conveniently ignored that, especially in the colonies, their laws could not be consider a beacon of civility.[9] The comparison was always between the real Japan and an idealized West.[10]

But back to the *Maria Luz* story.

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2) Watt Stewart, *Chinese Bondage in Peru: A History of the Chinese Coolie in Peru, 1849-1874* (Duke University Press 1951); Arnold J Meagher, *The Coolie Trade: The Traffic in Chinese Laborers to Latin America* (2nd edn, Xlibris Publishing 2008).

3) Wilhelm Röhl (ed), *A History of Law in Japan since 1868* (Brill 2005).

4) RP Anand, 'Family of Civilized States and Japan: A Story of Humiliation, Assimilation, Defiance and Confrontation' (2003) 5 Journal of the History of International Law 1; Douglas R Howland, 'International Law, State Will, and the Standard of Civilization in Japan's Assertion of Sovereign Equality' in Robert J Beck (ed), *Law and Disciplinarity: Thinking Beyond Borders* (Palgrave Macmillan 2013).

5) Béatrice Jaluzot, 'Les Traités Inégaux Japonais, de Leur Signature à Leur Renégociation' (2021) 26 Journal of Japanese Law/Zeitschrift für Japanisches Recht 1.

6) Michael R Auslin, *Negotiating with Imperialism: The Unequal Treaties and the Culture of Japanese Diplomacy* (Harvard University Press 2006).

7) Brett Bowden, 'The Colonial Origins of International Law. European Expansion and the Classical Standard of Civilization' (2005) 7 Journal of the History of International Law 1; Martti Koskenniemi, 'Race, Hierarchy and International Law: Lorimer's Legal Science' (2016) 27 European Journal of International Law 415.

8) Louis G Perez, *Japan Comes of Age: Mutsu Munemitsu and the Revision of the Unequal Treaties* (Fairleigh Dickinson University Press 1999).

9) Turan Kayaoğlu, *Legal Imperialism: Sovereignty and Extraterritoriality in Japan, the Ottoman Empire, and China* (Cambridge Univ Press 2010).

10) Hirohiko Otsuka, 'Japan's Early Encounter with the Concept of the Law of Nations' (1969) 13 Japanese Annual of International Law 35; Hisashi Owada, 'The Encounter of Japan with the Community of Civilized Nations' (Lectio Magistralis upon the conferral of the Honorary Professorship, 3 July 2006).

The criminal investigation of Herrera's behaviour ended with a guilty verdict, but the captain was immediately pardoned with the very same judgment. Then, the matter moved to a civil case. The Chinese passengers had been released during the investigation, and they refused to move back onboard. On the other hand, the captain did not want to leave with them. So, he sued them in court for the enforcement of their indentured servitude's contracts.

Private international law experts may be amused. Contracts between a *Peruvian* citizen (also on behalf of a *Spanish* subject) and *Chinese* subjects in a *Portuguese* colony, for the performance of services in *Peru* were to be evaluated by a *Japanese* court. What is the applicable law?

The details of the civil litigation are indeed peculiar and fascinating: the parties were assisted by two British barristers residing in Yokohama, the judge (the 24 year old Governor of Kanagawa, sitting in his judicial capacity) was helped by a drunken American economist who often showed up in court dressed as a *samurai*, the defences were based on Common law and everybody spoke English during the procedure – except, of course, the judge and the parties! But indulging too much into details would lead us too far away from this paper's topic. Suffices to say that the Chinese won the case, as the Japanese judge found that contracts for what was in effect slavery were contrary to Japan's public policy, and therefore unenforceable.

Soon thereafter, Aurelio García y García, a Peruvian diplomat, arrived to Japan. His original mission was to negotiate a treaty of "peace, amity, and commerce" with the Japanese authorities,[11] but the *Maria Luz* incident was added to the negotiation agenda. García demanded reparations from the Japanese government, who in turn claimed they did nothing wrong. In a time of history when cannons were often considered the most appropriate way to settle disputes, the Japanese delegation proposed to refer the case to arbitration. They selected a head of State friendly to both countries to act as sole arbitrator, and so Czar Alexander II of Russia was entrusted with the decision of the case.[12] The Czar rendered the award in 1875, and found that Japan did not violate any international law provision, and Peru was not entitled to any reparation. This was the first arbitration case in which Japan was ever involved, and possibly the first in which an Asian country won, in the arena of arbitration, against a "Western" nation. The mastery of international law demonstrated in the arbitration was indeed instrumental for the Japanese authorities during the renegotiation of the Unequal Treaties. Choosing peace and law (to fight slavery, on top of that) over confrontation and violence was considered the epitome of civilization, and helped Japan to join the comity of nations.[13]

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11) C Harvey Gardiner, *The Japanese and Peru, 1873-1973* (New Mexico University Press 1975).

12) Ginevra Le Moli, '"Parity with All Nations": The "Coolie" Trade and the Quest for Recognition by China and Japan' (2021) 34 Leiden Journal of International Law 879.

13) Alexander Siebold, *Japan's Accession to the Comity of Nations* (Charles Lowe tr, Routledge 2013).

While one may think that 1875 is ancient history, the echo of the *Maria Luz* case is still strong. When Japan advocated for a permanent seat in the UN Security Council, it referred to the long tradition of preserving human rights and promoting the peaceful solution of controversies which started with the *Maria Luz* arbitration.[14)]

2. Solving Conflicts

The *Maria Luz* was a typical example of *arbitrage par le souverain*, in which the choice of a head of State to serve as arbitrator imbued the award with sovereign authority, and any eventual non-compliance with the decision would also be a diplomatic affront to the deciding sovereign.[15)] While those rulers were of course assisted by jurists, most of them did not have a legal training, and therefore their awards often lacked the sophistication and depth only a professional lawyer could provide.

The first "modern" arbitration, employing a panel of jurists, is the famous *Alabama* case of 1872, deciding a controversy between the United States of America and the British Empire over the British provision of a ship – the *Alabama* – to the Confederate forces during the US Civil War.[16)] The president of the *Alabama* tribunal was and Italian jurist – then to become the Ministry of Justice of the Kingdom of Italy -, Count Federigo Sclopis di Salerano.[17)] The tribunal eventually awarded in favour of the United States, and order Britain to pay a hefty sum as compensation. While, understandably, there was some significant criticism of the award in the British Parliament, Count Sclopis is happy to note in his diary that Prime Minister Gladstone, referring to the *Alabama* arbitration in a speech at the Honourable Society of the Middle Temple, told that

> Alluding to "recent events," he referred to arbitration as a principle of international politics, and said that, considering how often nations had bathed their hands in each other's blood, it would be an inestimable blessing to mankind if that principle had been adopted earlier in the history of the world.[18)]

The connection between arbitration between nations as a tool to preserve peace is obvious, and certainly does not need to be explained to this audience. We all know the

14) Masatsune Katsuno, 'Japan's Quest for a Permanent Seat on the United Nations Security Council'.

15) Mikaël Schinazi, *The Three Ages of International Commercial Arbitration* (Cambridge University Press 2022) 52–53.

16) Tom Bingham, 'The Alabama Claims Arbitration' (2005) 54 International and Comparative Law Quarterly 1; Adrian Cook, *The Alabama Claims: American Politics and Anglo-American Relations, 1865-1872 (E-book Version)* (2019); Bruno de Loynes de Fumichon and William W Park, 'Retour Sur l'affaire de l'Alabama: De l'utilité de l'histoire Pour l'arbitrage International' (2019) 3 Revue de l'Arbitrage 743.

17) Gian Savino Pene Vidari, 'Federigo Sclopis, Da Torino All'Europa' (2017) 3 Italian Review of Legal History 1.

18) The unpublished diary of Count Sclopis di Salerano is kept with the *Accademia delle Scienze* in Turin, Italy. The translation is mine.

history behind the establishment of the Permanent Court of Arbitration,[19] and other many institutions who promote systems of dispute resolution to avoid armed conflict. Here, however, I would like to advance the claim that even arbitration between *private* parties, *i.e.* commercial arbitration, may be instrumental for the preservation and promotion of peace between nations.

The most respected provider of commercial arbitration services is the ICC Court of Arbitration, which operates under the auspices of the International Chamber of Commerce (ICC). The ICC was established in 1919 by a group of business people led by the French Minister of Commerce Etienne Clementel, who called themselves "the Merchants of Peace".[20] The World has just experienced the horrors of World War I, and the international community was looking for solutions to prevent future conflict. The idea behind this group of entrepreneurs was simple: if people could trade peacefully across countries, they would be more interested in making money than in fighting wars. The world would not only become richer, but also more peaceful. The Merchants of Peace thought about creating standards and practices which would make trade frictionless across borders, but soon they devoted themselves also to create mechanisms to solve disputes. In their view, it was important to have a tool to settle business differences that was not a court and did not belong to any specific national jurisdiction, for a plurality of reasons: of course, they wanted, as adjudicators, people familiar with the business practices they were collecting and shaping. But they also wanted somebody with a truly international mindset, and they wanted a system that was detached from domestic courts to avoid the perception of a nationality bias. It was not important whether French courts would truly favour French businesses, or German courts German businesses: it was the *perception* of bias that really mattered. The process led to the establishment, in 1923, of the ICC court of arbitration, an institution that recently celebrated one hundred years of history, and solved almost 30.000 disputes.[21]

Today, the relevance of the solution of *private* disputes in the framework of preserving peace should not be underestimated. The insurgence of differences between businesses across borders may generate a climate of distrust between operators from certain countries; the real of alleged mistreatment of foreign companies by national courts may easily escalate into a diplomatic issue, which in turn could create frictions between nations. Also, while – luckily! – disputes between countries are limited in number, differences between businesses happen every day, and by their sheer number may create a climate of hostility across borders.

Therefore, commercial arbitration may help relieving international tensions. Providing

19) Tjaco T Van Den Hout, 'Resolution of International Disputes: The Role of the Permanent Court of Arbitration – Reflections on the Centenary of the 1907 Convention for the Pacific Settlement of International Disputes' (2008) 21 Leiden Journal of International Law 643.

20) George L Ridgeway, *Merchants of Peace: Twenty Years of Business Diplomacy Through the International Chamber of Commerce 1919–1938* (Columbia University Press 1938).

21) https://iccwbo.org/dispute-resolution/dispute-resolution-services/icc-international-court-of-arbitration/centenary-of-the-icc-court/

business with an a-national, or truly international, system of dispute resolution not only serves the practical need of solving differences, but also prevents the escalation of conflicts from the micro level to the macro. In this framework, arbitration has some features that serve the purpose in an especially suitable way.

First, arbitration indeed removes the perception of national bias: it is a common rule that when there is a dispute between entities from different countries,[22] the sole or presiding arbitration cannot be of the nationality of either party, in contrast to what happens in State courts where judges almost every time share the same citizenship of one of the disputants.

Secondly, with few exceptions, arbitration hearings may take place anywhere in the world – and increasingly, online.[23] That alleviates many of the difficulties connected with international travelling, especially when nationals from some countries may experience difficulties in securing visas or travel permits from another country (please allow me to leave aside for today the issue of professional requirements to plead in a hearing).

Third – and this connects me to my next point – parties can freely choose their arbitrators – provided that they comply with the requirements of independence and impartiality (and with any other additional requirement the applicable law may impose). This means that parties are in the position to designate as their decision maker the most qualified person(s) for the specific dispute.[24] In most countries, cases are assigned to judges on a rotation basis, and litigants cannot express any preference for a specific individual. Also, while there could be specialized courts or divisions, in commercial, IP, bankruptcy, and other matters, in many countries the judge is just a civil judge, who is not required to possess any specialization except the general qualifications to serve as a such. They may be exceptionally good judges, but perhaps they may lack expertise in the specific area. In arbitration, on the contrary, parties dealing with a complex cryptocurrency-related contract can choose, for example, a professor of financial law.

But the reasons for choosing an arbitrator might not be based on the person's professional skills: sometimes, parties would want somebody who they can relate to because of their cultural background, religion, ethnicity. And this leads to the next possible benefit of arbitration: enhancing diversity.

3. Enhancing Diversity

Let me give an example of a "cultural requirement" attached to an arbitration

22) Ilhyung Lee, 'Practice and Predictament: The Nationality of the International Arbitrator (with Survey Results)' (2007) 31 Fordham International Law Journal 603.

23) Maxi Scherer, 'Remote Hearings in International Arbitration: An Analytical Framework' (2020) 37 Journal of International Arbitration 407.

24) Onyema, Emilia, 'Selection of Arbitrators in International Commercial Arbitration' (2005) 8 International arbitration law review 45.

agreement, the case of *Jivraj v. Hashwani*.[25] In 2011, the UK Supreme Court dealt with a case involving a contract for a joint venture established between two businessmen in London, Mr. Jivraj and Mr. Hashwani, to deal with real estate projects. The operations went on smoothly for years, until a difference arose between the parties and they decided to trigger the arbitration agreement enshrined in their contract to settle it. The agreement read as follows:

> "[any dispute] shall be referred to three arbitrators (acting by a majority) one to be appointed by each party and the third arbitrator to be the President of the HH Aga Khan National Council for the United Kingdom for the time being. All arbitrators shall be respected members of the Ismaili community and holders of high office within the community".

What is peculiar in this agreement is that the desired quality in the arbitrators was not their knowledge of joint venture contracts, nor their familiarity with the London real estate market: it was their belonging to a certain religious group, the same to which the parties belonged to. In other words, somebody who was not only familiar with the law, but also with the practices, the customs, and the unwritten rules of a certain community.

When the dispute arose, Hashwani appointed as arbitrator a very respected British barrister, who, however, was not a member of the Ismaili community. When Jivraj objected to the appointment, Hashwani argued that, since the contract had nothing to do with religion, there was no genuine reason to comply with the religious requirement contained in the agreement. Not only that: the requirement violated labour legislation. The matter was brought to the court.

On first instance, the court found for Jivraj: in the eyes of the judge, parties' autonomy covered also the inclusion of a religious requirement, and arbitrators are not employees so labour legislation does not apply to them. The Court of Appeal found otherwise: an arbitrator appointment was a contract for provision of services, and labour law did apply. Hence, not only the religious requirement was invalid, but the whole arbitration agreement was struck down. The matter was brought to the Supreme Court: the ICC Court of Arbitration, the London Court of International Arbitration (LCIA), and the HH Aga Khan

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25) Richard Chalk and John Choong, 'Dark Cloud Lifted: Jivraj v Hashwani' (2011) 13 Asian Dispute Review 121; Hew R Dundas, 'The Return of Normality: The UK Supreme Court Decides Jivraj' (2011) 77 Arbitration 467; Adela Komorowska, 'Case Note - Jivraj v Hashwani [2011] UKSC 40' (2011) 1 UK Law Students Review 80; Laurence Rabinowitz, 'Arbitration and Equality: Jivraj v Hashwani' (2011) 12 Business Law International 119; C Mark Baker and Lucy Greenwod, 'The Regionalisation of International Arbitration: Maintaining International Standards in Appointing Arbitrators. A Comment on Jivraj v Hashwani' in Patrick Wautelet, Thalia Kruger and Govert Coppens (eds), *The Practice of Arbitration Essays in Honour of Hans van Houtte* (Hart Publishing 2012); Mark Freedland and Nicola Kountouris, 'Employment Equality and Personal Work Relations - A Critique of Jivraj v Haswani' (2012) 41 Industrial Law Journal 55; Connolly, 'Jivraj v Hashwani' [2013] Employment Law Briefing 3.

National Council for the United Kingdom all submitted briefs in support of Jivraj.

The Supreme Court sided with the first instance judge and – incidentally – with the entire international arbitration community. Arbitrators are not employees, and the parties enjoy ample freedom to choose whoever they feel comfortable with. It is worth noting a passage in the ICC Court of Arbitration document submitted to the Court, which was incorporated in the final judgment:

> The raison d'être of arbitration is that it provides for final and binding dispute resolution by a tribunal with a procedure that is acceptable to all parties, in circumstances where other fora (in particular national courts) are deemed inappropriate (eg because neither party will submit to the courts or their counterpart; or because the available courts are considered insufficiently expert for the particular dispute, or insufficiently sensitive to the parties' positions, culture, or perspectives)

Let us pause for a second and highlight a very important point. "Insufficiently sensitive to the parties' positions, culture, or perspectives." To use the words of the French scholar Xavier Licari, arbitration is "paideic": it serves a community.[26)]

The world has changed, and is changing at a very fast pace. The media keep on referring to the XXI century as the "Asian Century."[27)] The business community is increasingly composed of people who are not Caucasians. Yet, international business law is still largely dominated by standards and practices that were born in the United States or Europe. Harmonization is indeed an important goal: uniform norms reduce transaction costs and allows everybody to play by the same rules, making – as we have seen before – trade smoother. However, harmonization may come at the expense of diversity.[28)]

By the same token, the arbitration community has been criticized for being *pale, male, and stale*.[29)] The overwhelming majority of arbitrators are white men in their 50s or older. In recent years, however, the community has become increasingly aware of the issue, and took action to increase diversity in the field.

Initially, the focus was on mostly on *gender* diversity (which, incidentally, is SDG number 5), and understandably so: despite a growing presence of female lawyers in the

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26) François-Xavier Licari, 'Beyond Legal Pluralism: Some Thoughts on Paideic Arbitation' in Horatia Muir Watt and others (eds), *Global Private International Law: Adjudication without Frontiers* (Edward Elgar 2019) <www.academia.edu>.

27) Anupam Chander, 'The Asian Century Symposium - The Asian Century: Introduction' (2010) 44 U.C. Davis Law Review 717.

28) Shahla F Ali and others (eds), *Diversity in International Arbitration: Why It Matters and How to Sustain It* (Edward Elgar Publishing 2022); Giorgio Fabio Colombo and others, 'Reaching Sustainable Diversity in International Arbitration' *Diversity in international arbitration: why it matters and how to sustain it* (Edward Elgar 2022).

29) Erin Peters, 'Pale, Male, and Stale: Addressing Diversity in Arbitration' (*ADR Resarch Institute of Canada*, 22 February 2018) <https://adric.ca/adr-perspectives/pale-male-and-stale-addressing-diversity-in-arbitration/> accessed 10 August 2019.

community, the number of women appointed as arbitrators was negligible. Therefore, very worth initiatives such as the Equal Representation in Arbitration (ERA) Pledge were established, and the situation is (very slowly) getting better.[30]

However, gender is just one of the many aspects of diversity. The community is also increasingly focusing on *geographical*, *ethnic*, and significantly *cultural* diversity.[31] In this, I believe we are in a very appropriate place to discuss what Teemu Ruskola very provocatively calls the "white lawyer's burden": the presumption that only by adopting Euro-American legal practices can others be accepted as legitimate actors in the arbitration community.[32] East Asia has a lot to contribute to the debate, and to offer to alternative legal-cultural views to the field of international business law.[33]

In this regard, two things are particularly significant.

First, the debate about multiculturalism in arbitration must be taken seriously. When somebody proposes to look outside the Anglo-American approach they are frowned upon in the same way as if they were proposing to entrust the assembly of the village elders with the dispute on a multi-million business contract. Legal cultures outside what the comparative lawyers call the "Western Legal Tradition" must be taken seriously. Besides, I do not see any other way to dispel the accusations of neo-colonialism moved against international business law.[34]

Second: diversity is not just something nice, and ideal to make the world better. It is an essential component of a dispute resolution which purports to serve an international and increasingly diverse community. It may even become a procedural issue, as it was discussed in the *Carter v. Iconix Brand* case in New York.[35] The hip-hop artist Jay-Z moved to have an arbitration agreement held invalid because in an American Arbitration Association case the other party could find plenty of white guys in the list of arbitrators, whereas he struggled to find an African American arbitrator to serve in the case.

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30) Andrea Bjorklund and others, 'The Diversity Deficit in International Investment Arbitration' (2020) 21 The Journal of World Investment & Trade 410.

31) Sandrine Brachotte, 'The Limits of Arbitration Law in Addressing Cultural Diversity: The Example of Ismaili Arbitration in the United Kingdom' (2021) 10 Laws 47; Verlyn Francis, 'Ethics in Arbitration: Bias, Diversity, and Inclusion' (2021) 51 Cumberland Law Review 419; Joshua Karton, 'Diversity in Four Dimensions' in Shahla Ali and others (eds), *Diversity in International Arbitration* (Edward Elgar Publishing 2022); Giorgio Fabio Colombo, 'The Role of Culture in International Commercial Arbitration' (2024) 68 Pravovedenie 37.

32) Teemu Ruskola, 'Legal Orientalism' (2002) 101 Michigan Law Review 179.

33) Kun Fan and Joanna Lam, 'Ethnographic Methods in the Study of Hybrid Processes in Arbitration: The Chinese and Western Perspectives' (2016) 27 European Business Law Review 555; Kun Fan, '"Glocalization" of International Arbitration- Rethinking Tradition: Modernity and East-West Binaries Through Examples of China and Japan' (2016) 11 University of Pennsylvania Asian Law Review 243.

34) Mansour Vesali Mahmoud and Hosna Sheikhattar, 'A Call for Rethinking International Arbitration: A TWAIL Perspective on Transnationality and Epistemic Community' [2023] Law and Critique.

35) Gbenga Oduntan, 'Jay-Z's $200-Million Clothing Battle Could Be Game Changer for Black Lawyers the World Over' *The Conversation* (6 December 2018) 1.

Diversity is an essential component of cultural understanding and, ultimately, peace building. If a group of a community feels they are not represented in the decision-making process, they will feel discriminated, and this feeling may turn into resentment, and resentment turns easily into conflict. Defusing this spiral will indeed help understanding, and consequently peace.

4. Conclusions – the Way Ahead

This paper could of course have touched on other topics, such as the incorporation of ethical standards into international business law and therefore into arbitration awards,[36] or the recent trends of using arbitration to protect human rights,[37] or the environment.[38] Maybe on another occasion.

Let me close with a reflection about our role as lawyers in the effort to reach the SDGs, and in particularly the one I focused on during this presentation: Peace, Justice, and Strong Institutions.

It is indeed very easy, and somehow even fashionable, to be cynical about arbitration. After all, arbitration is a multi-billion-dollar industry run by international business lawyers who charge hefty, sometimes outrageous, hourly fees for their services. But this paper was written for a festive occasion, imbued with idealism, and we have the duty to be at least a bit idealistic. As jurist, we are entrusted with the duty and the privilege to preserve the rule of law, and to prove that rules are in place to protect the weak – as the strong have other ways to enforce their will.

I hope that with this paper I have revealed the connection between arbitration, peace, and the SDGs, and I hope to leave you with a positive feeling about what we can do to contribute to the creation of a fairer, more equitable, and ultimately better world.

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36) Catherine Rogers, *Ethics in International Arbitration* (Oxford University Press 2014).

37) Sébastien Besson, 'Arbitration and Human Rights' (2006) 24 ASA Bulletin <https://kluwerlawonline.com/api/Product/CitationPDFURL?file=Journals\ASAB\ASAB2006051.pdf> accessed 7 February 2026; Bruno Simma, 'Foreign Investment Arbitration: A Place for Human Rights?' (2011) 60 International & Comparative Law Quarterly 573; Filip Balcerzak, *Investor-State Arbitration and Human Rights* (Brill Nijhoff 2017).

38) Christina L Beharry and Melinda E Kuritzky, 'Going Green: Managing the Environment through International Investment Arbitration Symposium: Managing the Global Environment through Trade: WTO, TPP, and TTIP Negotiations, and Bilateral Investment Treaties versus Regional Trade Agreements' (2015) 30 American University International Law Review 383; Thomas Granier, Jacob Grierson and Sacha Karsenti, 'Is Arbitration Helping or Hindering the Protection of the Environment and Public Health?' (2021) 38 Journal of International Arbitration <https://kluwerlawonline.com/api/Product/CitationPDFURL?file=Journals\JOIA\JOIA2021016.pdf> accessed 7 February 2026.