

A Look into The Human Rights and Inter-State Abuses of Foreign Powers and Autocrats in García Márquez: An International Law and Literature Study

di Nicolás Carrillo-Santarelli

Abstract: *Diritti umani, abusi del potere estero sul piano interstatale ed autocrati in García Márquez: un'indagine di International Law and Literature* – Reading some works of literature through the lens of international law permits readers to become aware of that legal system's relevance in complex political situations, and so may trigger curiosity and be a tool to foster education and increase the circle of those who discuss about international law, encouraging creative answers that may be ignored by those who only read strictly legal texts. Additionally, such reading can highlight the *raison d'être* of international legal regimes, reveal their shortcomings and promises, and generate empathy with the victims of abuses against them. These arguments are explored and supported through the analysis of *The Autumn of the Patriarch*, a Latin American novel about a local dictator, in relation to three dimensions narrated therein: abuses against human beings, intervention by foreign powers, and breaches of law that endanger coexistence and cooperation by an authoritarian regime.

617

Keywords: Law and literature, International law, Empathy, Latin America, Human rights.

1. Introduction

Much has been discussed about law and literature studies, and whether they are actually useful. While some have debated as to the merits of literature to shed a light on legal processes of interpretation and adjudication, others have suggested that a law and literature analysis can make readers think seriously about hard questions of a political, ethical or another sort. Focusing on the ideas of the latter view, without dismissing the former, in this article I look into issues presented in the narrative of 'The Autumn of the Patriarch', a novel written by a great Latin American author, Gabriel García Márquez, as a case study.

Its examination permits me to go one step beyond, and argue that, when read *through* the lens of *international* legal norms and principles and their underlying interests and goals, a second, richer layer of meaning, not necessarily considered by the author himself –who, nevertheless, does explicitly refer to international legal aspects in his book—, can be obtained, and serve different goals: raising awareness of how international law permeates the daily lives of many and triggering curiosity about it; even perhaps helping thus to make international law not only the province of a few, and so preventing its elitization by making many, in different societies, think and question about international

law, which certainly affects them. Secondly, the narrative under discussion can help to think about the shortcomings of international law, but also about its promises and the *raison d'être* of many of its institutions, which deserve greater support and promotion.

To support the previous assertions, this article begins by exploring some of the interaction that international law and (some) literature can have, and then goes on to exemplify those arguments by looking at three dimensions present in the Autumn of the Patriarch, concretely: what international law says and ought to say in relation to abuses against human beings; what international law has to say in relation to abusive interventions masquerading as humanitarian initiatives and abuses of rights by foreign powers; and finally, at the unlawful actions of authoritarian regimes that affect peaceful coexistence and cooperation.

2. International law and literature connections

The facts that both law and literature are made sense through processes of interpretation, with some techniques and approaches to do so being shared by them; and that *some*¹ literary works can address legal questions from a critical, descriptive or other perspectives, depending on the (literary) realist, philosophical or other tendencies of the writers and their books, explain why law and literature connections are often present and worth exploring. Certainly, authors as Dworkin,² Bianchi,³ and others, have addressed different points of contact that law and literature can sometimes have, such as similarities in regard to interpretation –being there debates, for instance, on the relevance of the authors' own interpretation, or lack thereof, in both law and literature;⁴ reliance on a 'language'; how authorities often act as "writers" of one book in progress; the exploration of ethical and political questions underlying legal issues through literature; literature as a catalyst of empathy; and how plays, novels and other works permit to identify and debate on the content, meaning and legitimacy of legal notions, such as the rule of law, the settlement of disputes in heated social times, or else.

Sometimes, law and literature connections are studied generally, while at others this is done by focusing on certain authors or writings, e.g. Shakespearean ones, or on regimes or fields as the human rights one. The latter, among others, is relevant in the novel that will be examined in this paper, and has been considered to share with the "novel genre [...] shared assumptions and imbrications", with "an international literary public sphere [...] having] an implicit regulatory relationship to a projective international order, codifying the

¹ James Seaton, "Law and Literature: Works, Criticism, and Theory", *Yale Journal of Law & The Humanities*, Vol. 11, 1999, pp. 479, 484.

² Ibid., at 479, 491-492; Raymond Wacks, *Philosophy of Law: A Very Short Introduction*, Oxford University Press, 2014, pp. 58-61.

³ Andrea Bianchi, *International Law Theories: An Inquiry into Different Ways of Thinking*, Oxford University Press, 2016, pp. 287-289.

⁴ James Seaton, op. cit., pp. 492-495; Jonathan Culler, *Literary Theory: A Very Short Introduction*, Oxford University Press, 2011, 67; Yahli Shereshevsky and Tom Noah, "Reply to Dunoff and Pollack: 'Experimenting with International Law'", *EJIL: Talk!*, 4 April 2018.

normative imagery in which it and the human rights person may be imagined”, giving shape to conventional understandings of certain regimes; having interdependencies and being sometimes “mutually enabling fictions: each projects an image of the human personality that ratifies the other’s idealistic visions”, as narratives on “development and emancipation” and media that make proclamations or declarations about dimensions that are purported to be inherent, being it important to glean from literature both the potential to gain a sense of solidarity with those who suffer—as many individuals subject to despotic regimes and foreign intervention throughout the world do, just like characters of García-Márquez’s novel—and also the capacity to question one’s own role in certain relations in terms, among others, of a “structural complicity in an international system that extends and denies human rights differentially”.⁵

For those of us with a legal background, literature provides us with a fresh look that stands back from technicalities and often raises questions about the fairness, appropriateness and effectiveness of norms. That being said, critical literary theories posit that constructions of the meaning of works of literature is not predominantly explained by looking at the intention of the author but, rather, at the perspective of readers, considering their experience, preconceptions, interests, and other aspects. As to this, Jonathan Culler has well pointed out that in addition to the theories that posit that “meaning is in the text”, and that “context is what determines meaning”, “[s]ome critics claim [...] that the meaning of a text is the experience of a reader”.⁶ In fact, it may be the case that authorities who interpret law may sometimes also do so, unconsciously or not, under the influence of their motivations and preferences, which they read into the norms, as some legal realist and disaggregated studies suggest.⁷ But in addition to this, it is important to consider that works of literature can address the human—or other—interests, experiences, problems and needs that inform, or are ignored by, international law, and so generate dynamics of empathy, questioning of inadequate regulation, curiosity and awareness about international law, or support for the law.

To confirm the previous ideas, it is worth considering how specific international legal issues are dealt with in actual literary works, to ascertain if the previous dynamics can actually be triggered in specific books, especially those deal with local or national societies that have relationships with foreign actors or legal interests, as will be done in this book. Some may wonder if it is worth having *international* law and literature studies, when domestic law is actually closer to human beings and has a direct impact on them, which some ignore international law also has sometimes.

⁵ Thomas Schultz and François Ost, “Shakespearean Legal Thought in International Dispute Settlement”, *Journal of International Dispute Settlement*, Vol. 9, 2018; Joseph R. Slaughter, *Human Rights, Inc.: The World Novel, Narrative Form, and International Law*, Fordham University Press, 2007, pp. 3-4, 8, 14, 325-327.

⁶ Jonathan Culler, op. cit., at 66.

⁷ Steven R. Ratner, “Legal Realism School”, *Max Planck Encyclopedia of Public International Law*, Oxford University Press, 2007; Nicolás Carrillo-Santarelli and Carlos Espósito, “The Protection of Humanitarian Legal Goods by National Judges”, *European Journal of International Law*, Vol. 23, 2012, at 76.

As to that question, it is my contention that rushed arguments that dismiss the pertinence of looking at international legal issues based on their alleged absence in life or literature are not sound, considering that international law frequently has an unnoticed impact on everyday lives, as has been argued in the American Society of International Law.⁸ Being this so, reading certain novels, such as *The Autumn of the Patriarch*, through the prism of international law, can reveal this reality of international law impacting their lives to readers, while also making them aware of the importance and shortcomings that such law can have, all thanks to this international legal perspective being taken into account, which can in fact permit to identify relevant questions perhaps unnoticed by other readers, and so draw attention to them in order to achieve at least two things:

a) In the first place, literature can facilitate different individuals knowing about international law and its demands, and to critically consider its current state and potential changes *de lege ferenda*. For those with a legal background, works of literature can sometimes serve as case studies and also to critically think about the law; while for others literature can help them to critically become aware of international legal regulation. Both groups can then engage in critical analysis, and literature can prompt activism and change through its highlighting of deficiencies in the content or operation of laws. This process can be triggered through the identification of relevant international law discussions *and* identifying the human or other –ecological, etc.— problems explored in relation to them in a literary work, discussions raised by readers with an international law background can have both an educative function, helping to identify legal issues and acquiring consciousness of existing regulation, and also generating the opportunity of critically assessing existing positive law, that is to say, in ways that examine if norms and regulations indeed serve the functions they set out to accomplish, and moreover if such law appropriately takes into account human suffering and or other social, ethical or environmental problems. International law and literature studies can, by doing this, increase the demands for an effective observance of international law. In this regard, it is important to consider that regimes as that of international humanitarian law, which regulates conduct during armed conflicts, are considered to have an increased likelihood of effective observance if there is education on and dissemination of their content and requirements to all of those concerned with that law,⁹ be it because they are addressees or stakeholders, even when they are not lawyers. This is supported by the argument that different media, including films, video games, and literature, among other media, can help to sensitize and educate on legal obligations and the plight of victims or affected persons, having the possibility of generating empathetic responses and inspiring campaigns; and, as Kiera Dolin has argued,

⁸ American Society of International Law, *International Law: 100 Ways it Shapes Our Lives*, 2018 edn., 2018, available at <www.asil.org/sites/default/files/100Ways/100Ways.pdf> (last visit: 13 April 2018).

⁹ Frits Kalshoven and Liesbeth Zegveld, *Constraints on the Waging of War: An Introduction to International Humanitarian Law*, 4th edn., Cambridge University Press, 2011, at 69 (“To promote implementation of humanitarian law, instruction and education are crucial”).

literature also permits to “envisage[e] alternative worlds, [...] coming to terms with traumatic experience by embodying it in verbal imagery and narrative”,¹⁰ being international abuses of the sort that will be explored in this paper among them, and so their portrayal in literature can help to raise awareness and change or criticism concerning the population of certain states in relation to their foreign policies. Thus, educative and sensitizing effects on the existence and content of norms can be achieved through international law and literature studies.

In relation to the identification of legal issues present in literature, even if they were not consciously considered by some authors, it is important to stress that, as has been argued elsewhere, law is an institutional social construction, while human life and the world it has made can be described as a *nomos*,¹¹ insofar as there are constant normative questions and processes of thought –on how proper, inadequate, neutral, or abusive some conduct is— being consciously and unconsciously considered by human beings in their interactions and experiences. International legal discussions identified by readers or authors in relation to literary works also helps, precisely, to raise awareness as to their presence, and in light of them policies, inter-state and inter-actor relations and a multiplicity of narratives and perspectives can be identified and critically explored. This is related to the extra-legal dimensions of international legal problems. Precisely because of this, many of those insights are gleaned if one approaches the text with certain expectations or from a given perspective, be it feminist, Marxist, constructivist, or else, as often happens in literature¹² and also in legal studies.¹³

b) Secondly, international law and literature studies can help to think, know and learn about *different* conceptions of international law and connected human problems. The identification of incidental, subtle or conspicuous international law elements present in literary works, and their discussion by some readers, may also help other readers that learn about those perspectives to take a fresh look at legal interpretation and evaluation and perhaps to even adopt different perspectives in relation to legal or extra- and meta-legal questions. This can happen, for instance, when the society or characters portrayed in the respective piece belong to a group or society different from or even opposed to that of certain readers, who may thus become familiar with different perspectives

¹⁰ Kiera Dolin, *A Critical Introduction to Law and Literature*, Cambridge University Press, 2007, p. 207; Nicolás Carrillo, “The Role of Emotions in the Processes of Interaction with International Law”, *E-International Relations*, 2 January 2018, available at <www.e-ir.info/2018/01/02/the-role-of-emotions-in-the-processes-of-interaction-with-international-law/> (last visit: 13 April 2018); Nicolás Carrillo Santarelli, “The “Artistic”

Influence of Emotions and Empathy in the Content, Interpretation and Effectiveness of International Law”, *Anuario MEXicano de Derecho Internacional*, Vol. XVII, 2017, pp. 99, 102.

¹¹ Iain Scobbie, “Legal Theory as a Source: Institutional Facts and the Identification of International Law”, in Samantha Besson and Jean d’Aspremont (eds.), *The Oxford Handbook of the Sources of International Law*, Oxford University Press, 2017; Jan Klabbers, “The Transformation of International Organizations Law”, *European Journal of International Law*, Vol. 26, 2015, at 9.

¹² Jonathan Culler, op. cit., pp. 48, 64, 138, 140.

¹³ Andrea Bianchi, op. cit.; Umut Özsu, “B. S. Chimni’s “Relatively Autonomous” International Law”, *EJIL: Talk!*, 27 December 2017.

and know about the position of other actors. Authors as Anker and Culler have said, literature –and certain active, sometimes conscious engagements with literary works and their potential to trigger imagination, empathy and engaged analysis—can help to approach paradoxes and dilemmas existent in the human rights universe, gain additional insights about neglected dimensions in human rights or other discourses of certain groups —e.g. on aspects related to physical aspects, “semantic colonization” or problems of persons in their everyday lives, sometimes in other societies, as those explored in the novel under examination—, and raise awareness on different perspectives,¹⁴ sometimes even triggering empathetic forces, when such dynamics take place in connection with international legal aspects, the fruits that can be reaped are especially valuable. Why so? Because international society is far from homogeneous, and is a forum of discussions and connections of dissimilar actors and societies, reason why literature can facilitate comparative analyses of international law,¹⁵ making it easier to see the different interpretations and conceptions of international law that there are around the world.

In this regard, it can be said that while international law operates as a –constructed— common language that permits transactions to be made by recourse to it and agendas or ideas promoted by clever uses of its components, just as happens with other languages, while its acquisition and learning is not creative, its use can be, and therefore its components may be used by some actors invoking it –and pursuing agendas—¹⁶ to build previously unheard-of statements and constructions,¹⁷ being there often disagreement as to how to make sense of its words and codes. Indeed, the de-coding of what uses of force, non-intervention or sanctions are lawful by different actors with competing agendas often reveals that interpretation is far from settled and even contentious, being often accompanied by political and other constructive dynamics.¹⁸ Against this backdrop, since readers are often exposed to predominant narratives via their own states’ statements and media, being made aware of competing narratives on the impact or legality of policies endorsed or rejected by their states and societies, as seen through the eyes of characters, societies and questions presented in literature, can be eye-opening or lead to serious reassessments or searches of justification.

The previous processes can, in addition to increasing *knowledge* about legal content and interpretations, have an *emotional* relevance by making readers feel the experience of characters who are occasionally affected by international law

¹⁴ Elizabeth S. Anker, *Fictions of Dignity: Embodying Human Rights in World Literature*, Cornell University, 2012, pp. 2-3, 221-222, 224; Jonathan Culler, op. cit., pp. 88, 124-126.

¹⁵ Anthea Robers, *Is International Law International?*, Oxford University Press, 2017.

¹⁶ Myres S. McDougal, Harold D. Lasswell and Lung-chu Chen, “Human Rights and World Public Order: A Framework for Policy-Oriented Inquiry”, *American Journal of International Law*, Vol. 63, 1969, at 239; Rosalyn Higgins, *Problems & Process: International Law and How We Use it*, Oxford University Press, 2004, pp. 50, 54; Jan Klabbbers, *International Law*, 2nd edn., Cambridge University Press, 2017, pp. 342-343.

¹⁷ Noam Chomsky, *Language and Mind*, 3rd edn., Cambridge University Press, 2006, pp. 19; James McGilvray, *Chomsky: Language, Mind, Politics*, 2nd edn., 2014.

¹⁸ Jan Klabbbers, op. cit., pp. 18, 342-343.

and foreign policies. Moreover, the non-formalist approach of law and literature permits readers to conduct critical thinking and evaluate if law actually serves a few interests or ought to encompass more guarantees, among other possibilities. All of this can contribute to preventing international lawyers from living in an ivory tower and prompt them to think on the narratives and theories they hitherto believed in in a critical way. Altogether, by exploring intra- or extra-legal elements related to international law, wide-readerships of works of literature can generate non-elitist and democratic discussions on certain international legal issues, and also use those works as an excuse to generate interest in certain topics and problems.

In light of the previous considerations, in the next section I now intend to explore international law and literature elements found in an interesting novel written by the Colombian Nobel Prize of Literature Laureate Gabriel García Márquez, called *The Autumn of the Patriarch* (*El otoño del patriarca*), which deals with the abuses of a Latin American autocrat and strongman living in an unnamed state.¹⁹

3. International legal responses to domestic abuses and asymmetric inter-state relations in *The Autumn of the Patriarch*

The *Autumn of the Patriarch* is a book that is drafted with a stream of consciousness technique and has few sections. It is set in an unnamed Latin American state and narrates some events in the life of a dictator. This permits the book to explore, through the perspective of different characters, issues of abuse of power, flattery by subordinates, and the manipulation of truth – something quite relevant in these times of “alternative facts” –, among other dynamics of an unchecked, abusive power; how local regimes disregard international law when it suits them –and how foreign powers do likewise. Pertinent episodes thus permit to ponder upon the content, appropriateness and effectiveness of certain international norms, and also on the political hypocrisy often found in international relations.

623

3.1 Episodes that shed light on the importance of international protection from domestic abuses and its limitations. Between impotence and hope

Discussions of the novel can highlight one of the reasons why the edifice of international human rights law was consolidated after the horrors of World War II, namely the idea that domestic and national remedies and protection were not always available or effective, and accordingly it was important to create

¹⁹ William Kennedy, “A Stunning Portrait of a Monstrous Caribbean Tyrant”, *The New York Times*, 31 October 1976, available at: archive.nytimes.com/www.nytimes.com/books/97/06/15/reviews/marque-autumn.html (last visit: 5 April 2018).

international human rights protections²⁰ in order to offer “hope” to those that did not find it in their local societies, as Antonio Cançado Trindade has well explained.²¹ In this regard, episodes of cruel abuses, as torture and the treatment of human beings as mere instruments, are presented in the book, portraying their callousness and the tragic suffering of victims. Readers can imagine many throughout the world are enduring and have endured, and why the violations against them are inadmissible. The shock of reading passages on this can instill into readers the idea that such injustices, when perpetrated locally with impunity, must have an international legal response and victims ought to be protected.

For instance, in the book it is told that some individuals provided “testimony of atrocious antecedents so they would be given work under the guidance of [...] torturers who are rationalists general sir, and consequently are methodical in cruelty and resistant to compassion”;²² and also how there was a “horror laboratory at the harbor fort where they chose the most run-down of political prisoners in order to get training in the manipulation of the throne of death whose discharges absorbed the total electrical power of the city”.²³

While the events of the novel are set in the Interwar period –as revealed by reference to the League of Nations—, and so neither the Universal Declaration of Human Rights nor other contemporary instruments and institutions existed during that period, the case can be made that the atrocities and abuses of the regime, when seen in today’s light, confirm the importance that international bodies are empowered to examine the responsibility and obligations of states and leaders, and that the latter ought to be held accountable before bodies as the International Criminal Court when there is domestic impunity, as the Preamble²⁴ and article 17 of the Rome Statute of the International Criminal Court indicate.²⁵ Moreover, consideration of the principle set forth in article 27²⁶ of the same Statute and in Principle III of the 1950’s Principles of International Law

²⁰ Francisco J. Ansuátegui Roig, “La historia de los derechos humanos”, in Ramón Soriano Díaz et al. (eds.) *Diccionario crítico de los derechos humanos*, Universidad Internacional de Andalucía, 2000, pp. 75-76.

²¹ Concurring Opinion of Judge A.A. Cançado Trindade to: I/A Court H.R., Case of Castillo Petruzzi et al v. Peru. Preliminary Objections. Judgment of September 4, 1998. Series C No. 41, para. 35.

²² Gabriel García Márquez, *The Autumn of the Patriarch*, HarperCollins Publishers, 2006, at 218.

²³ Ibid., at 179.

²⁴ The Preamble of the Statute refers to the “States Parties to” it being “Determined to put an end to impunity for the perpetrators of these crimes” (emphasis found in the original text).

²⁵ The cited Preamble of the Rome Statute of the International Criminal Court highlights how the States Parties are “Determined to put an end to impunity for the perpetrators” of international crimes enshrined in that treaty, while article 17 deals with complementarity and the capacity of the Court to operate if a given state under its jurisdiction proves to be unwilling or unable to genuinely respond to international crimes.

²⁶ Such article indicates that “This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute”.

Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal²⁷ is also pertinent in this regard, because it expressly indicates that Heads of State or Government must respond before international criminal authorities. Indeed, the heinous abuses of the unnamed dictator of García Márquez's novel, thanks to the portrayal of feelings –of suffering, injustice, etc.— which, as the great Russian author Leo Tolstoy argued, art is meant to convey,²⁸ can help to bolster the argument that the likes of Al Bashir,²⁹ Assad and other political leaders accused of the perpetration of international crimes should not be shielded from facing international criminal justice merely based on their office –which, actually, is taken advantage of by some leaders in order to perpetrate abuses. International crimes are so gross that no one should be allowed to suffer them as victims, and perpetrators, wherever and whoever they are, ought to face justice. Readers can get a sense of this by reading the novel mindful of the current requirements and possibilities of international criminal law, precisely developed in order to face problems as those portrayed in the novels. Needless to say, literature can be read in light of developments that did not exist at the time in which the respective books were written.³⁰ That being said, as other elements later discussed portray, to hold international criminals responsible there are limits, and unlawful intervention must be excluded, because it poses other problems and is sometimes conducted with double intentions.

As also discussed in another novel written by a Latin American Nobel of Literature laureate, Mario Vargas Llosa's interesting "The Feast of the Goat" novel –in which the dictator Trujillo did refer to international pressure spearheaded by the OAS—,³¹ there is mention in the book of international condemnation against the dictator's abuses, and also of requests and investigations of a humanitarian nature. In this sense, an international organization expressly identified as such, the League of Nations, is portrayed as conducting efforts of this kind, as when it conducted in the novel visits and requests, when it tried to find out if children who had been forced to favor the

²⁷ According to this Principle, "The fact that a person who committed an act which constitutes a crime under international law acted as Head of State or responsible Government official does not relieve him from responsibility under international law."

²⁸ For Tolstoy, "superior" art has is capable of clearly transmitting the feelings experienced by authors that they desire to transmit –that being said, I argue that it may happen that readers "experience" feelings not experienced or even considered by the author of a book when writing it. The is argued in: Leo Tolstoy, *What is Art?*, Penguin Classics, 1996. Concerning this idea, it has been said that for Tolstoy "[t]he work of art is the vehicle by means of which something that is not the work of art, namely the datum, is delivered to a receiver or consumer", as explained in: T. J. Diffey, *Tolstoy's 'What is Art?'*, Routledge, 2016.

²⁹ International Criminal Court, Case Information Sheet on: Situation in Darfur, Sudan, *The Prosecutor v. Omar Hasan Ahmad Al Bashir*, ICC-PIDS-CIS-SUD-02-005/17_Eng, 6 April 2017 (last update), available at < www.icc-cpi.int/darfur/albashir/Documents/AlBashirEng.pdf > (last visit: 13 April 2018).

³⁰ Regarding this, it has been said, for instance, that "A work is interpreted as answering questions posed by this horizon of expectations, and a reader of the 1990s approaches *Hamlet* with expectations different from those of a contemporary of Shakespeare", as mentioned in: Jonathan Culler, op. cit., at 64.

³¹ In that novel, the Dominican Republic's dictator complains about "economic sanctions by the OAS" and initiatives by Rómulo Betancourt. See: Mario Vargas Llosa, *The Feast of the Goat*, Faber and Faber, 2012.

dictator in the lottery had been kidnapped, and when it asked for clemency and requested that the death penalty were not implemented against two individuals. Such efforts, portrayed in the book, can also help to legitimize and explain the importance of initiatives of international human rights supervisory bodies such as *in loco* visits, recommendations and orders they issue to states, reports and investigations they conduct, and so can help to offset the allegations that such actions are (supposedly) contrary to sovereignty and the principle of non-intervention –which they are not if they respect the prohibition of the use of force, since sovereignty requires observing international standards,³² human rights ones included; and non-intervention only protects from interference in issues in which states have a –sovereign— freedom of choice,³³ and it is unlawful for states and their authorities to “choose” to violate human rights. Thus, in the face of states that attempt to rely on a perverted interpretation of the aforementioned principles while ignoring competing ones,³⁴ readers can get a sense of why licit international human rights supervision is important and can often be crucial, as was the case with the Inter-American Commission on Human Rights’ decisive action against abuses of the Argentinian dictatorship and the exposition of abuses in other states in the American region.³⁵

That being said, the book does raise the question of the ineffectiveness of international action when local authorities are strong enough and staunchly refuse to acknowledge their responsibility and ensuing obligations –which include cessation, providing guarantees of non-repetition and reparations, among others.³⁶ This happens when it is narrated that the dictator:

“[R]emained in the hammock alone and absorbed, insensitive to the pleas for mercy from all over the world, on the radio he heard the sterile debate at the League of Nations, he heard insults from some neighboring countries and some distant support, he listened with equal attention to the timid reasons of the ministers in favor of clemency [...] he refused to see the apostolic nuncio with a personal message from the Pope in which he expressed his pastoral concern for the fate of two errant members of the flock [...] and lastly he ordered that the brothers Mauricio and Gumaro

³² Georg Nolte has well written about “sovereignty simply as the liberty of a state within the limits of international law”, as flows from case law and international legal considerations. See: Georg Nolte, “Sovereignty as Responsibility?”, in *Proceedings of the Annual Meeting (American Society of International Law)*, Vol. 99, 2005, at 389.

³³ Antonio Remiro Brotons et al., *Derecho internacional*, Tirant Lo Blanch, 2007, pp. 143-144 (“La intervención prohibida debe, pues, recaer sobre materias respecto de las cuales el principio de soberanía de los Estados permite a cada uno de ellos decidir libremente”).

³⁴ Myres S. McDougal and Harold D. Lasswell, “The Identification and Appraisal of Diverse Systems of Public Order”, *American Journal of International Law*, Vol. 53, 1959, pp. 3-5.

³⁵ Bertha Santoscoy, “Las visitas *in loco* de la Comisión Interamericana de Derechos Humanos”, in *Memoria del Seminario “El sistema interamericano de protección de los derechos humanos en el umbral del siglo XXI*, Vol. 1, Inter-American Court of Human Rights, 2003, at available pp. 618, 621, 624.

³⁶ See articles 30 and 31 of the articles on the Responsibility of States for Internationally Wrongful Acts adopted by the International Law Commission in 2001; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, paragraph IX.18.

Ponce de León be executed just as soon as my supreme and unappealable decision is known, but not at the execution wall, as had been called for, but under the punishment that had fallen into disuse, that of being quartered by horses and their parts exposed to public indignation and horror in the most visible places of his measureless realm of gloom”³⁷ (emphasis added).

In conjunction with the feelings of reaction against impunity and the abuses that strongmen make, that can be triggered when reading the novel, the sobering effect of ascertaining how both in the story and in real life justice initiatives sometimes come to nothing and are ineffective, eluded or laughed at, can be disillusioning. In this sense, for instance, international institutions and civil society have decried both the lack of progress in proceedings and legal action against alleged war criminals and the actual or intended withdrawal of states from the Rome Statute of the International Criminal Court.³⁸ Regretfully, such perceived ineffectiveness and local action against international attempts to bring about justice can also be echoed by others and generate a domino effect of rejection, there being examples as Burundi’s withdrawal from the aforementioned Statute or Venezuela’s (and almost Peru’s) withdrawal³⁹ from the American Convention on Human Rights. That being said, such episodes in no way should encourage giving up on international efforts. After all, law also has an expressive –or symbolic– effect,⁴⁰ which entails the sending messages to society at large and to stakeholders, with the aim of raising awareness, shaping social attitudes, and promoting change. Likewise, NGOs and other actors, states included, often engage in the shaming of perceived abusers.⁴¹ Such pressure must persist in the face of opposition by alleged perpetrators, and can generate conscience in local societies and also increase actions as boycotts or else by other participants and actors in the international society, who are not necessarily limited to formal subjects of international law.⁴² Interestingly, literary pieces also serve, along with reports, to bring about this shaming, either generally or in specific cases, and can sometimes bring about more transmissions of concern and feelings, thanks to their being artistic channels, than some technical reports can, thus complementing them.

Novels as *Autumn of the Patriarch* can also highlight local or regional customary or treaty norms that are not present in general international law or

³⁷ Gabriel García Márquez, op. cit., pp. 193-195.

³⁸ International Criminal Court, “ICC Statement on The Philippines’ notice of withdrawal: State participation in Rome Statute system essential to international rule of law”, 20 March 2018; Coalition for the International Criminal Court, “Civil society welcomes Burundi ICC investigation”, 9 November 2017.

³⁹ Inter-American Commission on Human Rights, “IACHR Deeply Concerned over Result of Venezuela’s Denunciation of the American Convention”, Press Release, 10 September 2013.

⁴⁰ Alex Geisinger and Michael Ashley Stein, “A Theory of Expressive International Law”, *Vanderbilt Law Review*, Vol. 60, 2000; Richard H. McAdams, *The Expressive Powers of Law: Theories and Limits*, Harvard University Press, 2015.

⁴¹ Thomas Buergenthal, “The Evolving International Human Rights System”, *American Journal of International Law*, Vol. 100, 2006, at 807.

⁴² Rosalyn Higgins, op. cit., pp. 49-50.

elsewhere, and so can be illustrative for readers from outside the respective region as to both their content and underlying rationale. In regard to this, the novel under discussion does refer to the regional regulation of diplomatic asylum, unique to the Americas, and identified by the International Court of Justice in the Colombian-Peruvian asylum and Haya de la Torre cases.⁴³ This happens when another abuse against international law and human dignity is depicted, specifically when one of the regime's agents refers to:

“[T]he apparatus of terror of a bloodthirsty civilian who had been punished by the blind justice of the mob, for there was José Ignacio Saenz de la Barra, beaten to a pulp, hanging by his feet from a lamppost on the main square with his own genitals stuck in his mouth, just as you had foreseen general sir when you gave us orders to cordon off the streets to the embassies to stop him from seeking asylum”.⁴⁴

The previous passage, of course, only succinctly refers to diplomatic asylum, and can make some readers, with or without an international legal background, feel curious enough to research on it and how that institution, with political origins,⁴⁵ is to my mind explained by the many dictatorships and coups d'état that took place in Latin America during the Cold War –and before. Still, even if the story had been set elsewhere, due to the inviolability of diplomatic facilities –which the Assange case has reminded the whole world about—,⁴⁶ forbidding someone from obtaining protection, in the knowledge that the individual in question was at risk, could likewise entail a breach of the obligation to prevent attacks against someone under a state's jurisdiction, which is one of the duties that the obligation to ensure human rights generates.⁴⁷ Passages as the one quoted above could thus also trigger education and also sensibilization as to the content and logic of international norms on the protection of human dignity.

3.2. The omnipresent threat of illicit foreign intervention and political hypocrisy in García Márquez's novel

In addition to portraying aspects related to *erga omnes* obligations tied to humanitarian concerns, the book also addresses episodes that are relevant from

⁴³ International Court of Justice, *Colombian-Peruvian asylum case, Judgment of November 20th 1950* : I.C. J. Reports 1950, p. 266; *Haya de la Torre Case, Judgment of June 13th, 1951* : I.C.J. Reports 1951, p. 71.

⁴⁴ Gabriel García Márquez, op. cit., at 225.

⁴⁵ Nelson Iriñiz Casás, “Views of a Delegate to the 1961 Vienna Conference”, in Paul Behrens (ed.), *Diplomatic Law in a New Millennium*, Oxford University Press, 2017, at 51; Antonio Remiro Brotons et al., op. cit., at 66.

⁴⁶ Paul Behrens, “Diplomatic Law Today: Has the Vienna Convention Met Its Expectations?”, in Paul Behrens (ed.), *Diplomatic Law in a New Millennium*, Oxford University Press, 2017, at 371.

⁴⁷ I/A Court H.R., Case of Velásquez Rodríguez v. Honduras. Merits. Judgment of July 29, 1988. Series C No. 4, para. 166; I/A Court H.R., Case of González et al. (“Cotton Field”) v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 16, 2009. Series C No. 205, paras. 252, 463, 474.

the point of view of inter-state and international affairs in relation to norms protecting coexistence and cooperation.⁴⁸ In regards to this, on the one hand the narration could be seen to suggest, as some liberal international relations theories do, that illiberal authorities and states tend to endanger international peace and peaceful coexistence more frequently in some events⁴⁹ –albeit democracies have fostered chaos due to their interventions, undoubtedly. Yet, the book also refers to episode of foreign actions against the unnamed Latin American republic in ways that would be nowadays regarded as contrary to the prohibition of the use of force in light of United Nations pronouncements, as those of a High Level panel, on the doctrine of responsibility to protect and the so-called humanitarian intervention.⁵⁰ Both visions are complementary, and are especially important for chauvinistic readers, making them think about how gross violations cannot be shielded under the aegis of non-intervention and also about the actions of foreign powers with double standards that decry only some breaches of non-intervention and ignore others, and illustrating about the position of societies in some developing countries, which can be portrayed in an easier way through artistic expressions as those found in this novel.

Regarding foreign abuses found in the novel, a conspicuous one is that of forbidden intervention. While not applicable to the facts of the novel in light of intertemporality considerations,⁵¹ United Nations General Assembly 2625 (XXV) is nonetheless relevant insofar as it permits an interpretation of past facts through the lens of current sensibilities, and also permits to consider the narrated facts as a case study. In the aforementioned resolution, entitled “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations”, it is stated that the principle of non-intervention in the matters falling within the jurisdiction of states forbids direct or indirect threats and interference in sovereign affairs, including the prohibition of armed attempts at regime changes. The resolution also mentions that disputes must be settled peacefully. In contrast to such lofty standards, a “punitive expedition of the British fleet” takes place in the novel, during which “Commander Kitchener told [...] pointing to the body you see, general, that’s what happens to those who raise their hands against their fathers, don’t forget it when you’re in your own kingdom”,⁵² depicting an imperialist mindset of domination and superiority of some countries that begets in those with such conception feelings of entitlement to intervene –this is a narrative that many among Latin American inhabitants

⁴⁸ Richard J. Barnet, “Review: Coexistence and Cooperation in International Law”, *World Politics*, Vol. 18, 1965, pp. 85-86.

⁴⁹ Anne-Marie Slaughter and Thomas Hale, “International Relations, Principal Theories”, *Max Planck Encyclopedia of Public International Law*, Oxford University Press, 2013.

⁵⁰ Kevin Jon Heller, “The Coming Attack on Syria Will Be Unlawful”, *Opinio Juris*, 12 April 2018; High-Level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility*, United Nations, 2004, paras. 12, 36, 55, 201-203, 232; “China says Syrian strikes violate international law, urges dialogue”, *Reuters*, 14 April 2018.

⁵¹ Markus Kotzur, “Intertemporal Law”, *Max Planck Encyclopedia of Public International Law*, Oxford University Press, 2008.

⁵² Gabriel García Márquez, *op. cit.*, at 239.

believe more powerful states have towards them. Likewise, an episode of intervention contrary to the principle indicated above takes place in the novel when:

“General Rodrigo de Aguilar had succeeded in establishing another system of power within the power as widespread and as fruitful as mine, and not content with that in the shadows he had set up the mutiny of the Conde barracks with the complicity and unreserved assistance of Ambassador Norton, his buddy in matters of Dutch whores, his fencing master, the one who had smuggled in the ammunition in barrels of Norwegian cod under the protection of diplomatic immunity while he would use balm on me at the domino table with the incense candles saying there was no government more friendly [...] they didn’t resign themselves to failure but had ended up conceiving the perfect coup”⁵³ (emphasis added).

In addition to non-intervention related to regime change-attempts and pressure or coercion against weaker states, a discussion of the abuse of rights⁵⁴ to diplomatic inviolability also merits consideration. In regard to this, articles 27 and 40 of the Vienna Convention on Diplomatic Relations adopted in 1961, which entered into force in 1964, are pertinent. First, perhaps aware of real episodes in which diplomatic inviolability was discussed, the author of the novel does have a point, insofar as article 27 of the Convention in question refers to how “[t]he official correspondence of the mission shall be inviolable”, and how the “diplomatic bag shall not be opened or detained”. Concerning this, the fact that ammunition was *in fact* smuggled in the episode quoted above hints to said inviolability having been respected by the authoritarian regime controlling the unnamed state. Yet, doubt lingers as to how such information was obtained: by defection, confession, an actual breach of correspondence inviolability? While this is not expressly clarified, if the latter option were the one to have taken place, then international law would have been breached by the dictator’s regime. Third states through which diplomatic correspondence moved would also be under an obligation to respect inviolability, as article 40 of the Convention stipulates.

On the other hand, insofar as the inviolability of courier would have been taken advantage of by Norwegian agents in the novel in order to facilitate the acquisition of instruments aimed at facilitating regime change by agents opposing the dictator, arming them, at first glance it would seem that the principle of non-intervention would have been violated by those agents, and so an abuse of rights relying on inviolability and the protection it grants from interference would have taken place –as happens when, for example, cocaine is trafficked in some diplomatic bags—,⁵⁵ since, as indicated above, indirect intervention through other actors is also forbidden. This, of course, can raise

⁵³ Ibid., at 115.

⁵⁴ Michael Byers, “Abuse of Rights: An Old Principle, A New Age”, *McGill Law Journal*, Vol. 47, 2002.

⁵⁵ Nelson Iríñiz Casás, op. cit., at 51.

questions in readers as to the wisdom of the prohibition of intervention in cases as the one portrayed in García Márquez's novel.

One first explanation is that the prohibition under examination serves coexistence, insofar as permission of intervention when questionable authorities (which abound in the world) are present could risk destabilizing relations and trigger escalations, retaliations and chaos in foreign affairs. As a counterpoint to the objective of stability in international relations,⁵⁶ some can point towards legitimacy and the necessity of protecting local populations as motivations of the agents that smuggled ammunition. Yet, while some consider (myself included) that countermeasures implemented by non-victims are permissible, and may include certain actions against states who breach *erga omnes* obligations as such and individuals connected to them in a pertinent and sufficient way,⁵⁷ such countermeasures cannot entail the use of force, as reminded in article 50 of the International Law Commission's articles on the Responsibility of States for Internationally Wrongful Acts, which indicates that countermeasures shall not affect the "obligation to refrain from the threat or use of force", human rights and humanitarian obligations, and peremptory obligations. Thus, current *lex lata* seeks to strike a balance between stability, as discussed above, and legitimacy and protection arguments, by permitting certain non-armed initiatives or armed measures that are authorized by the Security Council.⁵⁸ That being said, readers can find this state of affairs unsatisfactory –or agree with it–, and the discussions prompted by thinking about issues as the one being discussed can be enriching, generating interest in international law and permitting voices different from the traditional ones joining the discussion, which is important because law affects many, even those unaware of it; and it is important for lawyers to be aware of different interpretations and positions, especially those not conditioned by professional (de-?)formation, and of human experience in terms of how human beings are affected by defective law, certain interpretations and the lack of implementation of protective norms. As Andrea Bianchi has mentioned, this juxtaposes law *as* literature (concerned with similarities between those fields) with law *in* literature, which can help lawyers to "develop a more humane understanding of their discipline and practice if they were to become acquainted with [...] literary works."⁵⁹

Also related to intervention, the novel narrates how sometimes arguments of foreign powers framed in terms of humanitarian intervention and alleged concern for the wellbeing of local populations conceal the intention to increase influence and seize power or resources. This has actually been a common complaint and narrative in some Latin American and other circles,⁶⁰ which may perhaps be ignored by some readers of the so-called Global North. *El otoño del*

⁵⁶ Antonio Remiro Brotons et al., op. cit., pp. 66, 103, 106, 171, 1246, 1264, 1292,

⁵⁷ Alexandra Hofer, "The 'Curiouser and Curiouser' Legal Nature of Non-UN Sanctions: The Case of the US Sanctions against Russia", *Journal of Conflict & Security Law*, 2018, pp. 3-4, 12, 18, 22-23, 25-26, 29-30.

⁵⁸ High-Level Panel on Threats, Challenges and Change, op. cit., para. 55.

⁵⁹ Andrea Bianchi, op. Cit., at 288.

⁶⁰ Eduardo Galeano, *Las venas abiertas de América Latina*, Siglo XXI, 2008.

patriarca does refer to this idea when it tells how, in connection with long-standing and constant foreign aims of intervening and taking possession of the territorial waters:⁶¹

“[T]he new ambassador Fischer [...] proposed to me to disclose the existence of a plague of yellow fever in order to justify a landing of marines in accordance with the mutual assistance treaty for as many years as would be necessary”.⁶²

As with the discussion on courier and correspondence inviolability, again we see a common thread underlying certain episodes in the novel penned by García Márquez, namely clandestine operations, concealed intentions and abuses of rights perpetrated by foreign powers who want to further their own interests, depicting a realist conception in which national interests reign supreme in foreign affairs.⁶³ Law is not central here, but rather its manipulation or intentional dismissal in certain affairs is. That being said, an argument raised by authors as Antonio Remiro Brotons, in the sense that even those powers that breach law pay lip service to it and desire to preserve a reputation as international law-observing –lest others misbehave towards them and their interests in return— is confirmed.⁶⁴ This is because in the two episodes just discussed states invoke international law instead of claiming that it is irrelevant or useless –even when subverting its spirit.

Finally, among other examples, it is perhaps necessary to address (another) a real-life scenario that took place in Latin America in the past –one which, actually, was not originally contrary to international law and was a symptom of the problems of the permission of the use of force in international relations, in spite of the suffering caused to local populations: the so-called gunboat diplomacy –in Spanish it has a term of its own, demonstrating how it was suffered by Latin American countries: *la diplomacia del cañón*.⁶⁵ This expression refers to the policy that some foreign powers had of attacking coastal or other populations, for instance in Venezuela, in order to exert pressure on the respective regime and “persuade” it to pay its outstanding debts towards foreigners –both natural and legal persons. Concerning this, in the Autumn of the Patriarch it is mentioned that when a:

“[M]oratorium was declared on the obligation contracted from the bankers of Hamburg, the German fleet had blockaded the port, an

⁶¹ Gabriel García Márquez, op. cit., pp. 99, 188, 210, 233.

⁶² Ibid., at 230.

⁶³ Anne-Marie Slaughter and Thomas Hale, op. cit.

⁶⁴ Antonio Remiro Brotons et al., op. cit., pp. 50, 55.

⁶⁵ O. Thomas Johnson Jr. and Jonathan Gimblett, “From Gunboats to BITs: The evolution of modern international investment law”, *Yearbook on International Investment Law & Policy 2010-2011*, at 652.

English warship had bred a warning shot that opened a breach in the cathedral tower”.⁶⁶

This is an interesting part of the book, because it actually tells about things that actually happened in Latin America and the conduction of foreign affairs, showing how literature also serves to remind about such (dark) episodes and their impact, lest history becomes “whitewashed” and only the dominion of the victors –thus, it preserves memory, not necessarily in accurate terms but also in relation to how things were perceived. As to the impact of the conduct in question, it is telling that the harm caused to a religious building is narrated, because such goods are protected under international humanitarian law as civilian objects,⁶⁷ and the contemporary contours of such law exist since the 19th Century.⁶⁸ Sadly, such episodes constantly occur in our days, whenever hospitals, religious buildings, schools and other civilian persons and goods are harmed during attacks,⁶⁹ sometimes in contravention of the principles of discrimination during attacks, precaution and proportionality, apart from human rights standards also being violated –but even if in some rare instances the law is not violated, the situation is tragic and humans suffer, reason why *lex ferenda* or ethical questioning can be made by readers. Literature, in episodes as this, can also make readers think about such suffering and injustice, and generate condemnations against actions and attacks as those narrated in the novel –both by the very author of a text and/or readers, who are made aware not only of the “cold” facts but also of the human experience during them.

633

3.3. The disregard of the law of peoples in inter-state affairs by one authoritarian regime, as narrated in the Autumn of the Patriarch

As to the abuses perpetrated by the novel’s dictatorship in the international relations sphere, epitomizing the lack of scruples of authoritarian regimes and how often they observe international law only if and when it suits them, paying it lip service at best, in a dynamic of mere coincidence with what its norms say,⁷⁰ different episodes can be particularly illustrating.

Firstly, echoing cases that have led to debates on issues as the *male captus, bene detentus* doctrine or the breach of territorial integrity through extraterritorial action as detention –in which states as Israel and Colombia have

⁶⁶ Gabriel García Márquez, op. cit., at 211.

⁶⁷ Article 52 of Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I); article 16 of Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

⁶⁸ Amanda Alexander, “A Short History of International Humanitarian Law”, *European Journal of International Law*, Vol. 26, 2015, at 112.

⁶⁹ See, for example: “Kunduz hospital attack: MSF’s questions remain as US military seeks no charges”, *The Guardian*, 29 April 2016.

⁷⁰ Harold Hongju Koh, “Why Do Nations Obey International Law?”, *The Yale Law Journal*, Vol. 106, 1997, at 2600.

been involved, in cases involving Eichmann and FARC members—,⁷¹ The Autumn of the Patriarch includes the narration of how the nameless dictator, obsessed with Leticia Nazareno, a woman who lived abroad, ordered an unlawful extraterritorial operation that entailed her kidnapping abroad (“she had been kidnapped from Jamaica inside a crate of party crystal to be placed upon her throne as wife of a hidden president”).⁷² In addition to violating territorial integrity, that action also outrageously violated the human right to personal liberty⁷³ —and thus also epitomizes problems as those discussed in section 2.1, supra. About the operation that victimized Leticia Nazareno, the book says that “security services [kidnapped] her from the convent in Jamaica, gagged and in a strait jacket inside a pine box with metal hoops and black letters saying fragile”.⁷⁴ Needless to say, breaches and affectations of territorial integrity risk serious disruptions to peaceful international relations, as attested by a case in which Ecuador and Colombia were involved.⁷⁵ Even some those who consider that self-defense against non-state actors ought to be permitted *de lege ferenda* or can already take place abroad when the respective state in which those actors are found is unwilling or unable to protect a third state against them,⁷⁶ acknowledge that bilateral or multilateral relations can be strained as a result of the alleged self-defense operations, be them lawful or not.

Apart from the previous extraterritorial abuse, the book also deals with another misbehavior that has also occurred in international practice, namely negligence towards diplomatic personnel and facilities when the former face a risk of attack by third parties. The very International Court of Justice addressed this problem in its case on the *United States Diplomatic and Consular Staff in Tehran*, in which the Court noted that:

“Iran was placed under the most categorical obligations, as a receiving State, to take appropriate steps to ensure the protection of the United States Embassy and Consulates, their staffs, their archives, their means of communication and the freedom of movement of the members of their staff [...] the Iranian Government failed altogether to take any “appropriate steps” to protect the premises, staff and archives of the United States’ mission against attack by the militants, and to take any steps either to

⁷¹ Antonio Remiro Brotóns et al., op. cit., pp. 129, 132.

⁷² Gabriel García Márquez, op. cit., at 43.

⁷³ See articles 7 of the American Convention on Human Rights and 9 of the International Covenant on Civil and Political Rights, among others.

⁷⁴ Gabriel García Márquez, op. cit., at 151.

⁷⁵ Tatiana Waisberg, “Colombia’s Use of Force in Ecuador Against a Terrorist Organization: International Law and the Use of Force Against Non-State Actors”, *ASIL Insights*, 2008.

⁷⁶ Ibid.; Elena Chachko and Ashley Deeks, “Who is on Board with “Unwilling or Unable?””, *Lawfare*, 10 October 2016, available at <www.lawfareblog.com/who-board-unwilling-or-unable> (last visit: 16 April 2018); Madeline Holmqvist Skantz, *The Unwilling or Unable Doctrine – The Right to Use Extraterritorial Self-Defense Against Non-State Actors*, Thesis, Stockholm University, 2017, pp. 1, 17, 49, 70-71, available at <www.diva-portal.org/smash/get/diva2:1134709/FULLTEXT02.pdf> (last visit: 16 April 2018).

prevent this attack or to stop it before it reached its completion”, and by doing so breached general international law.⁷⁷

Likewise, article 22 of the Vienna Convention on Diplomatic Relations states that “The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity”.

Contrary to the aforementioned duties, the dictator’s omission and conduct also would have engaged the responsibility of the state it so cruelly and harshly controlled, when after the Vatican’s refusal to declare his mother as a saint, and when the respective Apostolic Nunciature –which has diplomatic functions—⁷⁸ faced imminent attacks, the dictator:

“[G]ave no orders, but the forces of public order remained aloof when the mobs of hired fanatics stormed the palace of the Apostolic Nunciature, sacked its museum of historic relics, surprised the nuncio taking his siesta outdoors in the peaceful backwaters of the inner garden, dragged him naked onto the street [...] but the forces of public order did not intervene when hordes of indignant pilgrims built bonfires on the main square with the large wooden doors of the cathedral and broke the stained-glass windows with angels and gladiators of the Apostolic Nunciature with stones, they demolished everything general sir, but he didn’t move from the hammock [...] they sacked churches, mission houses, they destroyed everything that had to do with priests general sir”.⁷⁹

635

As with the kidnapping episode, this one also entails human rights abuses, in this case against religious persons who, like everyone else, have a right to be protected from private and public abuses by the states whose jurisdiction they are subject.⁸⁰ Moreover, apart from the omission of the protection the state was obliged to provide, the text suggests that the attacks were actually directed by state agents, and in such event rather than speaking of a failure to protect, we would directly attribute the abuse to the state as such, if it gave specific instructions to carry the attacks that took place, in accordance with international case law and norms⁸¹ –this discussion can be explored, among others, in case study teaching method sessions. Thus, this analysis permits to also educate on the specific wrongful act to be attributed to a state or to another actor, depending on the specific circumstances, helping to develop casuistry analysis in

⁷⁷ International Court of Justice, *United States Diplomatic and Consular Staff in Tehran, Judgment*, I.C.J. Reports 1980, p. 3, paras. 61-63.

⁷⁸ Marek St. Korowicz, *Introduction to International Law: Present Conceptions of International Law In Theory And Practice*, Springer-Science+Business Media, B.V., 1959, at 272.

⁷⁹ Gabriel García Márquez, op. cit., pp. 134, 148.

⁸⁰ I/A Court H.R., *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4, para. 172.

⁸¹ International Law Commission, Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, *Yearbook of the International Law Commission*, 2001, Vol. II, Part Two, 2001, article 8, and paras. 4 and 8 of the commentary to article 8.

an entertaining or graphic way for students and others, thanks to the captivating dynamics of stories. Curiously, aside from this, the aforementioned Vatican refusal also led to the “decree [of] a state of war [...] declared between this nation and the powers of the Holy See with all the consequences which international law and all extant international treaties” entail.⁸² The Holy See is actually one of the subjects of international law, and this legal system is expressly referred to, which may make readers curious about finding out more on what it is and requires, and about what international law actually permits during armed conflicts, instead of what autocrats may *think* it permits. Literature can thus trigger curiosity and be a complementary material to develop legal interpretation skills when used for this purpose.

4. Conclusions

Law and literature studies can be equally helpful for both lawyers and non-lawyers alike since, after all, *both* are living in a world with regulations and have the right to critically think about them: literature can also help to develop skills related to the identification of legal issues already addressed by law or deserving such attention, and also of the interplay between international law and international politics and relations; be engaging material that, due to human fascination with storytelling –studied even by neuroscience, and related to empathy arousal and imagination, among others—,⁸³ facilitates education on legal developments, legal thinking, critical analysis of law, and the identification of human, environmental or other problems and the interests at stake, including those of those traditionally excluded and disadvantaged persons in contemporary society; and permits to think about developing issues and future developments that can take place if certain trends are maintained –this can be done even through dystopian and science-fiction texts, especially if there is a suspension of disbelief⁸⁴ and, as happens e.g. in Mary Shelley’s *Frankenstein*, bioethical, scientific and other dilemmas that are relevant are considered. Additionally, the explanation of why we have certain norms can be explained through literature that explores the relevant human problems and past gaps, as happens in Philippe Sands’s *East West Street*.⁸⁵

Nobel laureate García Márquez’s *Autumn of the Patriarch* is not an easy book to read. The stream of consciousness technique, along with the absence of sections and the nonstop narration make this so. Notwithstanding, it is a fascinating read, and this book presents grisly episodes that transmit the seriousness of the abuses perpetrated by the unnamed Latin American dictator to readers, while also conveying the problems of intervention of foreign powers and their attempts to impose conditions and burdens on weaker and smaller states

⁸² Gabriel García Márquez, op. cit., at 148.

⁸³ Adam Gopnik, “Can Science Explain Why We Tell Stories?”, *The New Yorker*, 18 May 2012; Jessica Stillman, “This Is Your Brain on Good Storytelling”, *Inc.*, 12 November 2014.

⁸⁴ William Safire, “Suspension of Disbelief”, *The New York Times*, 7 October 2007.

⁸⁵ Lisa Appignanesi, “East West Street by Philippe Sands review – putting genocide into words”, *The Guardian*, 22 May 2016.

and benefit from their resources. Sadly, both aspects have taken place historically, as argued above in relation to the ‘gunboat diplomacy’ episode and others. Logically, this reading in itself can raise awareness of the problems of Latin American-style dictatorships and authoritarian regimes and, additionally, generate empathy if readers imagine themselves as witnesses or the targets of the abuses that are narrated in this extraordinary novel.

But in addition to this, reading the book through the lens of international legal questions can prove quite fruitful and enriching, revealing a “hidden” layer of signifiers and signifiants related to the realm of international regulation, which can thus be critiqued and appreciated. It can help to lend to support for initiatives as those of judge Baltasar Garzón against Pinochet, in light of the sense of impotence and injustice of the unnamed dictator’s abuses; it can also be read as highlighting the importance of the rule of law and division of powers, aspects recently discussed in reports of the Inter-American Commission on Human Rights and the United Nations Office of the High Commissioner for Human Rights,⁸⁶ and of international protection from domestic abuses; it can also make readers feel curious, and so learn about, why there is diplomatic immunity and inviolability, based on the importance of the peaceful coexistence of states that, however, cannot be abused lest a wrongful act is generated by the abusing power; it also serves to prompt discussions on international institutions, non-intervention, licit protection, and else. If this alone is fulfilled, a great deal will be achieved, considering how education is so important to increase the likelihood of international law being effectively observed and engaged with, as has been said in relation to international humanitarian law, especially if readers come to believe in the “fairness” of international norms.⁸⁷ Apart from this, the law and literature reading of the book can also highlight contemporary shortcomings of international law, in relation to effectiveness and legitimacy aspects, and thus trigger creative, out-of-the-box proposals that lawyers exclusively exposed to the “black letter of the law” may miss.

⁸⁶ United Nations Office of the High Commissioner for Human Rights, *Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017*, pp. ii, 4, available at < www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_EN.pdf > (last visit: 13 April 2018); Inter-American Commission on Human Rights, *Situation of Human Rights in Venezuela*, OEA/Ser.L/V/II, Doc. 209, 31 December 2017, paras. 39, 190.

⁸⁷ See footnote 9, supra; Harold Hongju Koh, op. cit., at 2601.