The Legacy of Antônio Augusto Cançado Trindade: Interview with Leonardo Nemer Caldeira Brant

By:

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To close this symposium on the life and work of Judge Cançado Trindade, the editors of Afronomicslaw, Opinio Juris and Agenda Estado de Derecho had the opportunity to interview the recently appointed and also Latin American Judge Leonardo Nemer Caldeira Brant in December 2022. The conversation focuses on the impact of Cançado Trindade's scholarship, case law, individual opinions, and his legacy for international law. Also, the challenges he is facing as judge of the International Court of Justice (ICJ).



Photo: International Court of Justice

What is the impact of Antônio Augusto Cançado Trindade as an academic and judge on international law?

I think Judge Cançado Trindade's impact on international law is immense. Unfortunately, he left us at an early age, and it is a pity not to have been able to profit from his wisdom and experience at the ICJ for more years.

One of Cançado Trindade's great characteristics as a judge was his consistency. His vision of international law was very clear, in the sense that he understood international law as a tool for serving humanity, not only states. His work and scholarship focused directly on individuals, who were, in his view, the ultimate beneficiaries of international law.

As for States, Cançado thought they were an artificial super structure, created by individuals, so that humanity should be the primal concern of international law. This vision is highly interesting, because it helps to explain his legacy on human rights, as a judge and the rationale behind his individual opinions.

While recognizing that the role of the ICJ is to address matters between states and only states can be parties to a case, as stated by Article 34 of the Statute of the ICJ, judge Cançado tried to broaden the scope of the Court’s decisions, considering the direct impact these rulings have on people’s lives.

Could you please expand on judge Cançado’s view of international law?

For me, one thing that is clear, it is that Judge Cançado Trindade's position was characterized by being highly progressive. I recall that on one occasion, at an academic event in my hometown of Belo Horizonte [Brazil], I had the opportunity to speak with him about the case of Germany v. Italy, which focused on jurisdictional immunities. His opinion on the matter was divergent from most of the Court. But above all, I remember that when we talked about his role as an ICJ judge, he insisted that his role as a judge was to say what the law should be, not what it is.

This had a great impact on me because what mattered the most to him was the coherence of his thinking and of working for the developments of international law in which the wellbeing of individuals must take precedence over States. Even if this meant a doctrinal approach that would go beyond the specific case before a supranational court.

Undoubtedly, he was a man ahead of his time and I believe that international law, in a few years, will go in the direction he proposed in his scholarship and individual opinions.

In our symposium, we discuss the impact of judge Cançado Trindade to the field of international law, particularly in his time as a judge of the Inter-American Court of Human Rights. But could you please explain what has been the impact of Cançado's scholarship in Brazilian academia and the Brazilian diplomatic service?

Judge Cançado Trindade had and has a gigantic impact in Brazil. First of all, he has served as an inspiration to an entire generation of international lawyers, me included. For decades he was a professor at the School of the Diplomatic Service in Brazil, Itamaraty, and his teachings shaped how the diplomatic service views international law. An instrument of peace and to the service of humanity. Those that are now leading the Brazilian foreign service were students of professor Cançado and many of them recognize him as a great mentor.

Not long ago, we were invited to participate in a ceremony at the Brazilian Embassy in The Hague to celebrate our National Holiday, which takes place on September 7. And I remember Cançado coming to tears when diplomats acknowledged the impact of his work and teachings of international law for a whole generation of diplomats. It was a special moment to all of us.

What about in Brazilian universities?

The work of Cançado is highly influential in Brazilian academia, including for the younger generation. Part of his legacy lies in the fact that we studied international law under his lens, which focused on the importance and role of human rights. So, the inspiration to which I refer, had impacts not only at the level of academics and diplomats, but I insist - in the perception - of how Brazil sees and values international law.

As a scholar, he put the protection and defense of human rights at the center of international law. That it is a recurring theme in Brazilian academia and not unfortunately in other countries.

This brings me back to his progressive understanding of international law. I remember, once he told me: "*I am an international law activist, not just an operator*". From his perspective, it is not just about -operating- international law and international relations, but he understood international law as an

instrument to shape the future. He was a militant for the construction of a more progressive international law, inspired by individuals as the final beneficiaries of our discipline.

I insist. He was a man ahead of his time, with a wonderful legacy and a life dedicated to the study of international law and to a juridic humanism that I, as a judge, feel obliged to follow with all the seriousness and weight it deserves.



To finish this interview, we would like to talk about the challenges that you are facing as a judge of the International Court of Justice

As a judge of the ICJ, I am guiding all my acts with impartiality, independence, and balance. Although I am not a militant of international law as Judge Cançado Trindade was, I will focus on the maintenance of peace and the peaceful settlement of disputes.

I will be mindful of the duality involved in dealing with contentious cases in a balanced manner and, at the same time, I will focus in advancing the development of international law in my individual opinions. I must admit that more than a progressive profile, I see myself as more pragmatic but always respecting and abiding by the values and principles of international law.

Finally, just like Cançado Trindade did in his life, I would like to work as a judge and in academia to inspire a new generation of international jurists. And I would like for these young professionals to carry the values of a Latin American vision

of international law. A vision that fosters peace, democracy, and the defense of human rights.

Thank you very much for your time, judge Brant. We wish you all the best in your work as a judge of the ICJ.

Thank you to you, to Afronomicslaw, to Opinio Juris and to Agenda Estado de Derecho for having me and for hosting this symposium on judge Cançado Trindade.

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