The International Community: Conceptual Insights from Law and Sociology

Rhetorically, the 'international community' has become a heavily travelled site in political and public discourse. Whether it is the protection of human rights, the fight against global terrorism, crisis management of and response to environmental disasters and humanitarian emergencies, or international negotiations with regimes such as Iran and North Korea – in the age of globalization the international community seems to be at the forefront whenever global peace and security are under threat. While talk would suggest that there exists some kind of unitary and durable actor called 'international community', it is far from clear who or what it represents. International lawyers and International Relations theorists alike have dealt with the formation, role and nature of the concept, though this has not resulted in any clear, consensual account. In this short essay, I will pull some of this research together in order to stipulate the principal conceptual issues scholars have to consider when working with the notion of 'international community'.

Law and the International Legal Community

The concept of 'international community' has been approached from two main disciplinary perspectives. The first one is a legal perspective that focuses on the nature and extent of the norms and principles that form the constitutional core of international law. An international *legal* community (*Voelkerrechtsgemeinschaft*) comes into being when states consensually agree to establish certain constitutional elements that set out the basic criteria for global law-making. Mosler (1980) is perhaps the classical exponent of this view, but it is also present in the works of Tomuschat (1993) and Fassbender (2009). For Mosler (1990: 15), it is the constitution, understood as the highest law of society, which 'transforms a society into a community governed by law'. Any society, he claimed, 'must have one essential constitutional rule in the absence of which it would not be a community […]' (Mosler 1980: 16).

Todays' image of an international (legal) community is closely linked to progressive moral ideals, most notably human rights and equality, and it is frequently associated with the UN Charter and the substantive rules and normative goals imbued in it. Bruno Simma's (1994) essay *From Bilateralism to Community Interest in International Law* tellingly captures the essence of the way in which both the making and character of international law have evolved. As Kingsbury and Donaldson (2011: 79) summarise:

International law is, and should be, building on and evolving from its foundations in a minimal statist system based on a series of consent-based bilateral legal relations of opposability between States ('bilateralism'), toward a legal order of something he [Simma] termed 'international community'. By this he meant a 'more socially conscious legal order', increasingly reflective of community interests.

Rather than a purely legal entity, this suggests that 'international community' stands for, and is the key manifestation of, the progressive cosmopolitan development of modern international law. Its emergence not just signifies the new purpose and moral and political ideals behind global normative order making, but also 'grounds international law's promise of universalism' (Kingsbury and Donaldson 2011: 79).

'International Community' as a Sociological Concept

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The kind of 'international community' that can generate collective action and globally shared ethical standards may be extrapolated through and against international law, but it also transcends and presupposes any normative order founded on state consent and individual interests. Even if 'international community' is conceived in the minimal sense as a legal entity with a merely prudential constitution, there must be some kind of pre-existing common interests and social goals that animate the formation of such a constitution. In other words, community interests do not emerge from a normative vacuum, and questions about the normative ends of a legal system logically precede its concrete organisation.

If one comes at 'international community' from a second, sociological perspective, the focus thus shifts to a somewhat more abstract level. Here, it is much less about the role and rule of law than about the degree of human interconnectedness, the feeling of belonging together, and the construction and perception of what differentiates 'Us' from 'Others'. This perspective emanates from Ferdinand Tönnies' (2002) seminal distinction between 'society' and 'community', and it is present in English School discussions of world society and culture (Buzan 2004: 74-76). Tönnies' (2002: 33-37) distinction essentially hangs on the type of bond between the members of a social group. Community is 'organic', rooted in natural attraction between its members. Society, on the other hand, is 'mechanic', artificially formed for the purpose of realising its members' rational interests. David Ellis (2009) elaborates this account of an organic community with regard to the international context. The crucial determinant in the distinction between an international society rooted in interdependence and an international community is, in Ellis (2009: 7) view, the existence of a sufficiently developed common ethos:

The common ethos comprises the constitutive values and norms that define the collective identity of the community. It produces hypothesized material effects of cultural environments: states orient their self-presentations toward, and draw their frames from, the community ethos (Schimmelfennig quoted in Ellis 2009: 7).

A conception of 'international community' grounded in common ethos has two important corollaries. The first is the way in which this distinction serves to address the relationship between international society and international community by establishing some tentative boundaries between the concepts. Common ethos is conceived as analytically prior to the existence of a rational, contractual arrangement such as the society of states (Tönnies 2002; Conklin 2012). State consent and coherent practices, and the presence of certain constitutional principles for the development and application of legal rules, may serve to infer the existence of international society. But it does not, from a sociological perspective, presuppose the kind of organic unity necessary for the formation of an international community. English School theory is very clear on this point. International law is seen as the constitutive basis of international society, indicating the kind of rule-governed interaction which is central to Bull and Watson's (1984: 1) famous definition of international society.[1] But law and procedural arrangements alone neither constitute nor represent the organic 'we' feeling that binds the members of a community together.

This raises extremely complicated questions about the conceptual relationship between 'international community' and 'international society'. As hinted above, society is the more basic, and certainly from an anthropologically perspective, prior idea. The English School literature conforms this view, maintaining that there must be a degree of common interest and cultural unity on the basis of which international society can be built (Bull 1977: 16, Wight 1977: 33). In his analysis of the international system/international society distinction, Barry Buzan (1993) suggests that there is some historical evidence that vindicates this view, pointing to Wight's case studies of classical Greece and early modern Europe as well as Gong's (1984) genealogy of the standard of 'civilization'. Yet, he concedes that in principal 'international society could evolve functionally from the logic of anarchy without preexisting cultural bonds' (Buzan 1993: 334). David Ellis (2009: 8) even reverses the logic entirely, arguing that the density of interaction induced and propelled by the presence of international society is a necessary condition for the development of common ethos. This would suggest a derivative relationship with international society coming first, providing the normative background structures necessary for the development of socio-cultural bonds.

My somewhat unsatisfying intuition is that both logics are in play, and that the relationship between international society and international community is reticular rather than derivative: continuous interaction, made possible through and facilitated by international society's fundamental institutions such as diplomacy, great power management and international law, results in, and is generated by, common ethos.[2]

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The Problem of Collective Identity

It is immediately apparent that the conditions for the existence of an international community are normatively much more demanding than those upon which the concept of international society is predicated. Bull (1977) shows how a society of states can, in principal, operate on an instrumental set of shared norms, rules and principles as long as the fundamental social ordering objectives (security, *pacta sunt servanda,* private property ownership) are secured. Of course, even Bull's minimal, functional image of international society presuppose both a common interest in upholding social order and a minimal moral agreement on basic ordering values and questions of right and wrong; it is indeed difficult to imagine an international society without some sense of shared identity. But the common ethos that underscores natural bonds between members of a community needs much more than shared normative ordering principles. It is a sense of collective identity and common morality that leads states to share a sense of belonging to a common purpose (Ellis 2009: 8-9; Jackson 2000: 336, Brown 1995: 91). Collective identity, however, not only requires some sense of emotional allegiance that mobilizes states to act as, or at least represent, a collective *moral* agent, but, and perhaps even more problematically, it also needs an outside environment against which the 'self' can be established (Simma and Paulus 1998: 268).

The collective identity element raises the normative threshold for the formation of an international community up to a point at which some commentators call the entire idea of a globally spanning community into question (e.g. Brown 1995: 100-106). They have a point. The UN perhaps comes closest to resembling the idea of an international community rooted in a common identity associated with the principles of its Charter, as Fassbender (2009) wishes to suggest. But notwithstanding Kofi Annan's (1999: 3) invigorating statement that the international community 'has an address [and] achievements to its credit', the UN does not (yet) satisfy the requirements, and expectations towards, a durable, institutionalised universal global political community. Ad-hoc coalitions of states may occasionally exercise agency on behalf of the international community. However, as Brown's (2001) study of the Gulf War in 1990 and the NATO intervention in Kosovo in 1999 shows, even the ideological coherence and value commitments of 'collations of the willing' have varied greatly.

Conclusion

The concept of 'international community', to borrow Simma and Paulus' (1998: 277) words, 'contains as much aspiration as reality'. Rather than imagining contemporary international relations as either communitarian or societal, we should expect to find both elements co-existing and interacting, with the relative weight of each depending on context. Analytically, theorists can take the idea of community meaningfully forward by thinking of 'international community' as an ideal-type to which to recourse to when theorising the normative basis of communitarian norms, practices, institutions and values.

[1] An international society is existent when 'a group of states (or, more generally, a group of independent political communities) which not merely form a system, in the sense that the behaviour of each is a necessary factor in the calculations of the others, but also have established by dialogue and consent common rules and institutions for the conduct of their relations, and recognise their common interest in maintaining these arrangements'.

[2] The problem of Buzan's account is that he confuses the concepts of society (*Gesellschaft*) and community (*Gemeinschaft*) in his attempt to establish a boundary between international system and international society, suggesting that there is a society-society and a community-society. In his later work (e.g. Buzan 2004: 74-76), he seems to be much clearer about the distinction.

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