International civil society in international law: The growth of NGO participation

HOLLY CULLEN* & KAREN MORROW**

Abstract. This article analyses the argument that the development of NGO activity in the international arena in the past decade demonstrates the emergence of international civil society. Such activity has accelerated in several areas, notably environment and human rights, and the integration of NGOs into the implementation of international law, particularly of multilateral treaties, indicates a socialisation of international law, and more importantly, the beginnings of pluralism in international law, where states are not the only actors which can influence the progressive development of international law. NGOs are an appropriate focus for this discussion as most aspects of civil society are represented by such bodies.

Keywords: civil society, environment, European Community, human rights, Non-Governmental Organisations

Introduction

The term ‘international civil society’ (sometimes ‘global civil society’) has grown into increasingly common usage. It is now being used even in the context of international law. While the term is increasingly used, it is little analysed, except in terms of questioning whether or not such a category exists. Kenneth Anderson’s recent article is one of the first to consider what the role of international civil society might be in the context of international law.

* Senior Lecturer, University of Durham, United Kingdom.
** Lecturer, University of Durham, United Kingdom.
2 Anderson, ibid.
Civil society is a crucial concept in liberal political and social theory. It refers to an area of the public realm which is not the state. It is distinguished from the state, but in recent writings, is also distinguished from the market as well. Civil society therefore includes public organisations which are not state organisations: the media, educational institutions, religious bodies and voluntary associations are the main categories of civil society group. The question of whether there is a form of civil society at the international level is a debate which has emerged over the past decade.

While it has often been noted that international law lacks a democratic element, it is less frequently noted that it also lacks a social element. Allott’s account of the development of international law is based on the premise that:

International society, having chosen not to conceive of itself as a society, having chosen to conceive of itself as essentially different in kind from the state-societies in their internal aspect, has managed to avoid both forms of social revolution [democratisation and socialisation]. The social world of humanity has been neither democratised nor socialised because humanity has chosen to regard its international world as an unsocial world.

Allott defines socialisation as the capacity of societies to form socially their social purposes. While he links socialisation to democratisation politically, he identifies them as historically separate processes. The existence of civil society, in his analysis, appears to be a pre-condition for the development of democratisation, which in turn reinforces civil society. Socialisation primarily involves the development of a public, but non-political sphere, including the media, education, law and administration – in other words, a civil society. This did not happen at the international level, where the public sphere has been represented entirely by the state, and no society has

---

4 On the discussion of international civil society in international relations, see Held and Shaw, ibid.


6 Falk, op. cit.


9 Ibid.

10 Ibid., at p. 9.
