CIVITAS VS TOTUS ORBIS: ON THE POSSIBILITY OF AN INTERNATIONAL "SOCIETY" OR "COMMUNITY" IN A BROKEN WORLD

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KEYWORDS	**ABSTRACT**
International Society *International Community* *Cooperation* *Integration* *Natural Sociability*	*Faced with the division and polarisation of international society at this moment in human history, with several armed conflicts causing immense suffering, we wonder whether an international society, or even a true international community, in which the bonds of integration are stronger, is possible. Or whether, on the contrary, imperialism or the currently flourishing nationalisms will reassert themselves. We have seen how most authors agree on the existence of a natural sociability of human beings, which is the basis of the need for cooperation between individuals, peoples and states. On this basis, we have analysed the emergence and development of international society up to the present day and the elements that would allow us to speak of a world community of states, or at least of sub-global communities.*

1.Introduction

I n Roman times, the word *civitas* had different meanings, all related to the term "city", but in general it seems to have referred not so much to the physical "city", for which the word *urbs* was more appropriate, but to the "political organisation" (Rodríguez, 1990, p. 234). For example, for Cicero, although he used the term with different meanings, even as a synonym for the world, including all humanity and the gods (Rodríguez, 1990, p. 237), it can be said, broadly speaking, that for him *civitas* is a gathering or a group of people gathered or brought together in such a way that there is an association between them, a *societas*, a pact that makes them *socii* of each other (Rodríguez, 1990, p. 238). This is how we will use the word *civitas* in this paper for the conference on creative cities, as a synonym for municipal, regional or state community, to contrast it with the international society or international community. With regard to the latter concept, we recall that Francisco de Vitoria, the 16th century Spanish Dominican considered the father of international law, developed the concept of *totus orbis* as a universal community of all men and all peoples, united by the bond of a common human nature[1].

The research question would be whether it is possible to think of a kind of international society of states or sovereign entities, or of the human community in general, or whether, on the contrary, nationalism or imperialism are the natural or predominant forms of humanity. In short, *civitas versus totus orbis*.

For us, the difference between the terms *society* and *community* in the context of groupings of States is related to the degree of unity or integration that exists between them. On the one hand, with regard to the concept of *society*, we can take as a reference Hedley Bull's definition of international society in the context of the English School of International Relations, which has become a classic:

> A society of states (or international society) exists when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive themselves to be bound ·by a common set of rules in their relations with one another, and share in the working of common institutions. (Bull et al., 1977, p. 13)

On the other hand, the term *community* implies a greater degree of interaction and integration between the different subjects that make it up (Dupuy, 1979, p. 25; Tomuschat, 1993, p. 211; Truyol y Serra, 1959, pp. 573-574). In fact, as Andreas Paulus observes:

> [...] one may say-with the necessary caution-that a community adds a normative element, a minimum of subjective cohesion to the social bond between its members. Whereas *society* emphasizes factual interconnections and interrelations, *community* looks to values, beliefs, and subjective feelings. (Paulus, 2013, &3)

An international community can thus be understood as a meaningful economic, political, cultural or security union. Within it, States, individuals, companies and other entities that are its subjects can share common values, beliefs, subjective feelings, cultural characteristics, norms and goals, and act together to address common challenges or promote common interests.

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[1] "From all that has been said, a corollary may be inferred, namely: that international law has not only the force of a pact and agreement among men but also the force of a law; for the world as a whole being in a way one single State, has the power to create laws that are just and fitting for all persons, as are the rules of international law. Consequently, it is clear that they who violate these international rules, whether in peace or in war, commit a mortal sin; moreover, in the gravest matters, such as the inviolability of ambassadors, it is not permissible for one country to refuse to be bound by international law, the latter having been established by the authority of the whole world." (Brown Scott, 1934, *De Potestate Civili*, appendix C, p. xc).

In our view, the opportunity to carry out this reflection is unique, due to the fact that we are witnessing a decisive moment in the history of humanity, in which global rivalries and imperialisms have re-emerged and the entities and institutions created after the Second World War to support international security and cooperation between all the States of the world are in a terrible crisis, especially due to the recent wars in Ukraine and the Middle East. The reader may remember that the United Nations Organization (UN) was created to maintain international peace and security, following the steps and lessons of the League of Nations. More specifically, the UN Charter, in its Article 2.4, prohibits the use of force and established an institutional security system to enforce this prohibition, which is regulated in its Chapter VII. According to the Charter, the main responsibility for the operation of this system was placed in the hands of the Security Council, in which the major powers - the 5 permanent members - were to decide unanimously on any action to be taken (right of veto). The measures could include military action against the violator of the prohibition of the use of force.

But the current wars reveal a rupture in the founding consensus of the United Nations and the liberal international system that emerged after the Second World War that seems beyond repair. On the one hand, Russia, a permanent member of the Security Council, has invaded Ukraine with the intention of seizing all or part of its territory, something that has rarely happened since the Second World War. And it has paralysed all the measures the Security Council is trying to enforce. On the other hand, the United States of America (US), another permanent member, is pursuing the same policy in the Security Council with regard to the war in Gaza between Israel and Hamas. In fact, the US has so far used its veto power to block almost every attempt to stop Israel in its brutal retaliation for Hamas's invasion of Israeli territory on 7 October 2023 and the resulting deaths of hundreds of people and the taking of a large number of hostages. At the same time, as is well known, the other superpower, China, which is now seen by some as a major challenge to the international order and the global leadership of the US (Lukin & Novikov, 2021, p. 32), is pursuing, among other things, a very assertive policy of territorial claims in relation to Taiwan (Curtis & King, 2023) or in the South China Sea (Espaliú Berdud, 2023; Glaser, 2015; Haetami, 2019; Tucker, 2022, p. 113; Zhao, 2016, p. 16).

It is therefore legitimate to ask, if the permanent members of the Security Council, which according to the UN Charter should be the guarantors of the security system established by the UN, do not respect it, what future does the UN have? And if the UN, which is the organisation that symbolises unity and cooperation among all the peoples of the world, has no future, then what can we expect from international society? Will the multipolar or polycentric model of international relations (Buzan & Schouenborg, 2018, p. 70; Lukin & Novikov, 2021, p. 28), in which the centre of the world now seems to be shifting towards Asia, with the emergence –or resurgence (Breslin, 2013, p. 615; Onuma, 2011, p. 71)- of China, Japan and India as major powers to the detriment of the West, be consolidated?

In this way, we will reflect on the foundations of international society, starting from the social nature of man, through the need for coexistence and cooperation between States to the possibility and existence of a true global community, understood as a high level of integration between a group of States, or of some sub-global communities of States.

Thus, the second section will be devoted to an analysis of the question of the natural sociability of the human person and the theories that have been developed throughout history concerning the tendencies of individuals and political entities to relate to each other. In the third section, we will reflect on the existence of an international society and on the possibility of a genuine global community among States, or at least of sub-global communities. Finally, we will present our conclusions.

2. On the natural sociability of mankind.

When people examine their own tendencies, they can see the existence of forces that lead to isolation in one's own individuality and separation from others. At the same time, there are other forces within the human person that tend towards sociability, openness and relationship with others. This individual relational duality, which everyone can easily contrast, is also projected between social groups, in all the dimensions or levels at which society is organised, whether local, regional, national or international[2].

This explains why, in the history of social thought, as Professor Truyol y Serra points out, a philosophical current based on Aristotle has emphasised sociability as part of human nature. Meanwhile, another current has tried to underline the radical unsociability of human beings and, therefore, the artificial character of society, based on a calculation of utility on their part (Truyol y Serra, 1981, p. 56).

Without attempting an in-depth study of the thought of these authors, which would be far beyond our capacity and the purpose of this work, we will briefly examine the ideas of some of the most important representatives of these schools, beginning with the great Aristotle.

Aristotle discusses the sociality of humanity in many of his works, but one of the most important studies in which he addresses this question is the *Politics*. In the *Politics*, Aristotle explores various aspects of human society, such as the nature of political communities, the functions of individuals within society, and the inherent sociality of human beings. It focuses on the natural inclination towards community and social group living. In his own words:

> Hence it is evident that the state is a creation of nature, and that man is by nature a political animal. And he who by nature and not by mere accident is without a state, is either a bad man or above humanity; […]. (Aristotle & Barnes, 2017, p. 3)

Although Truyol y Serra does not cite them in the chain of authors who, throughout history, have defended the social nature of the human person, there is no doubt that the great Roman thinkers Seneca and Cicero played a prominent role in this current. Indeed, the Stoic writer, philosopher, statesman and dramatist, Lucius Annaeus Seneca the Younger (4 bc – ad 65), has gone down in history as one of the great thinkers who defended the social nature of human beings. An important work in which he does this is *De Beneficiis* (On Benefits). In Book I, Chapter III, Seneca begins to discuss the nature of benefits and how they are intrinsically linked to life in society. Here, Seneca argues that human beings are meant to live in community and that the exchange of favours and benefits is a fundamental part of social relations. He also discusses how generosity and gratitude are virtues that strengthen social bonds and contribute to the common good (Seneca, 2023).

Geographically and temporally close to Seneca, Cicero also explored the social nature of man in his works. In particular, in his book *De Officiis* (On Duties or Offices), Cicero addresses issues of morality, justice and life in society. In this work, Cicero argues that human beings are naturally inclined towards community life and that they have duties and responsibilities towards other members of society (Cicero, Book I, &22). In other works, such as *De Republica* (The Republic) Cicero explores ideas about political and social organisation that include considerations of the social nature of human beings.

Abu Nàr Mùhammad al-Faràbi (al-Faràbi, c. 870-950) is now widely regarded as the founder of Islamic Aristotelianism. He dealt with the idea of sociability as part of human nature in his work entitled *The Political Regime* (also known as *al-Madinah al-Fadila* in Arabic). This book discusses

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[2] A good reflection on this can be found in André Malraux's novel "La condition humaine", published in 1933. In this book, which explores the themes of revolution, political struggle and human nature in the context of the Chinese Revolution of 1927, Malraux examines how individuals and societies are often torn between the impulse to seek independence and the desire to belong to a collective or community (Malraux, 1933).

various aspects of political philosophy, including the nature of the ideal city-state and the qualities of a virtuous leader. In relation to Aristotle's ideas, al-Farabi stresses in *The Political Regime* the importance of social interaction and cooperation between individuals for the well-being and prosperity of society. He emphasises that human beings are naturally inclined to live in communities and participate in social relations, reflecting an understanding of sociability as inherent in human nature (Alfarabi, 2015).

Ibn Rushd (Averroes c.1126-1198), a philosopher and physician based in what is now Spain in one of the entities that followed the Umayyad Caliphate of Cordoba, is known throughout history as one of the great commentators on the work of Aristotle. In the wake of the great Greek thinker, Averroes develops the idea of the natural sociability of the human being in his work *Middle Commentary on Aristotle's Ethics'* (in Arabic: *Tafsir al-Ma'ani li-Tafsir Kitab Aristutalis al-Ilahiyyat al-Ulá'*). In this commentary, Averroes analyses and explains Aristotle's ethical concepts, including the social nature of human beings and their need to live in community. Through his interpretation of Aristotle, Averroes highlights the importance of sociability as a fundamental part of human nature and its role in the realisation of virtue and well-being in society (Averroës & Berman, 1999).

As far as Christian thought is concerned, our first point of reference should be St Thomas Aquinas (c. 1224-1274), even though other authors had dealt with the subject before him, such as St Augustine of Hippo (c. 354-430). Aquinas deals with the social nature of man in several parts of his vast work, especially in his Anthropology and Ethics, but we will limit ourselves here to pointing out two of his references to the question in the Summa Theologica. In the *Prima Secundae*, in Question 90, Article 2, St Thomas discusses social justice and natural law, arguing that human beings are naturally inclined to live in society and to organise themselves into political communities in order to seek the common good (Freddoso, 2013, p. 621). In the *Secunda Secundae*, in Question 23, Article 1 (Freddoso, 2013, pp. 150-151), St Thomas addresses the social nature of man by discussing the virtue of friendship. Here he argues that human beings are naturally inclined to live in society and to relate to one another on the basis of friendship.

Francisco de Vitoria (c.1483-1546), the great 16th century Spanish theologian, argued that human beings are meant to live in society and that this tendency towards association and social interaction is an intrinsic part of their nature. This view of human sociability influenced his thinking on justice, natural rights and the relationship between different communities and cultures, as reflected in his work *De Indis et De Iure Belli*, where he discusses the rights of indigenous peoples in the face of European colonisation. In his words: "Therefore, it appears that friendship among men exists by natural law and its against nature to shun the society of harmless folk" (Brown Scott,1934, p. xxxvii).

Building on these earlier ideas, Francisco Suarez (c. 1548-1617), an important 16th-century Spanish Jesuit philosopher and theologian, addressed various aspects of human nature, including its social dimension, in several of his works. One of his most notable works on the social nature of humanity is *De Legibus, ac Deo Legislatore* (On Laws and God the Lawgiver). In this book, Suarez explores the nature of law, including natural law, and its implications for human society. He discusses the innate sociability of individuals and how this relates to their moral and legal obligations within the community. In his words,

> [...] man is a social animal, requiring by his very nature a civil life and intercourse with other men; therefore, it is necessary that he should live rightly, not only as a private person, but also as a part of a community; [...]. (Suárez, 2015, p. 52, &19)

Hugo Grotius (c.1583-1645), a major figure in philosophy, political theory and law during the 16th and 17th centuries addressed the question of man's natural sociability in his work *The Law*

of War and Peace (Latin: *De Jure Belli ac Pacis*). In this treatise, Grotius discusses at length the nature of man, his social relations and the formation of political societies. He argues that human beings have a natural inclination towards society and peaceful coexistence, and develops a theory of natural law and international law that is based on this inherent sociability. In the prologue to his book, Grotius states that:

> Man is, to be sure, an animal, but an animal of a superior kind, much farther removed from all other animals than the different kinds of animals are from one another. [E]vidence on this point may be found in the many traits peculiar to the human species. But among the traits characteristic of man is an impelling desire for society, that is, for the social life – not of any and every sort, but peaceful, and organised according to the measure of his intelligence, with those who are of his own kind; this social trend the Stoics called "sociableness". Stated as a universal truth, therefore, the assertion that every animal is impelled by nature to seek only its own good cannot be conceded. (Neff, 2012, p. 2)

Throughout history, however, even in Western civilisation, some voices have been raised against the previous ideas. Thomas Hobbes (c.1588–1679) is perhaps one of the most notable thinkers to have historically challenged the idea that human beings are sociable by nature. In his famous work *Leviathan*, he proposed the concept of a "state of nature", where humans exist in a pre-social condition characterised by a "war of all against all". According to Hobbes, humans are primarily driven by self-interest and the pursuit of power, leading to conflict and chaos in the absence of a strong central authority. We can find his ideas on this subject, for example, in the first part *Of Man*, in Chapter XIII of his book, where he stresses that:

> Hereby it is manifest, that during the time men live civil without a common Power to keep them all in awe, they States, are in that condition which is called Warre; and such there is alwayes a warre, as is of every man, against every man. (Hobbes, 1651, p. 96)

While Jean-Jacques Rousseau (c.1712-1778) is often associated with the idea of the "noble savage" and the importance of community, he also had a sophisticated view of human sociability. In his *Discourse on the Origin and Foundations of Inequality among Men*, Rousseau proposed that early humans lived solitary lives and that it was the development of agriculture and private property that led to the breakdown of natural sociability and the emergence of inequality and conflict. In this work he stressed, among other things, that:

> Human society viewed with a calm and dispassionate gaze seems at first to exhibit only the violence of powerful men and the oppression of the weak. The mind rebels against the harshness of the former; one is inclined to lament the blindness of the latter. And since nothing is less stable among men than those external relationships produced more often by chance than wisdom, and which are called weakness or power, wealth or poverty, human institutions appear at first glance founded on shifting sands. (Rousseau & Coleman, 2009, p. 18)

And, in order to present as global a vision as possible, although very synthetic, we believe that the presentation of some of the ideas of thinkers from the Chinese and Indian civilisations in this respect may help us to do so.

For example, Confucius taught that human beings are social by nature and that their nature is manifested through roles and relationships within the family, the local community and society as a whole. Confucian ethics emphasise values such as respect, loyalty and reciprocity as essential to maintaining social cohesion. In that sense, according to Paul Tucker,

[...] China's Confucian traditions emphasize the harmony and order embedded in and achievable through lifelong striving for private and public virtue (to Westernize the idea), entailing duty to family, community, and the state's leaders: hierarchy with reciprocity. (Tucker, 2022, p. 217)

Moreover, according to professor Zhang Hui, at the international level, "[...] Confucianism emphasizes a cosmopolitan world view that holds that "all within the four seas belong to one family" (Zhang Hiu, 2019, p. 194).

For its part, Taoism tends to have a rather restrained view of the social nature of human beings. While not completely anti-social, Taoism stresses the importance of finding a balance between living in society and living in harmony with the *Tao*, or the natural flow of the universe. From a Taoist perspective, society and its rules can be seen as distractions that lead people away from their true nature and the path to enlightenment. This does not mean, however, that Taoism promotes complete isolation or indifference to others. Rather, it promotes the idea of living in harmony with others and the world around us, without clinging too much to social conventions or external expectations. In short, Taoism recognises the importance of social life, but emphasises the need to maintain an inner balance and connection with nature in order to achieve true spiritual fulfilment. In one of his most classic texts, the *Tao Te Ching*, which is one of the foundations of philosophical Taoism, part of this conception is presented in a somewhat nebulous way:

"81. [...] The Sage does not store things for himself.

   The more one does for others,

The more he has for himself.

   The more one gives to others,

The more he keeps for himself.

The Tao of heaven is to benefit others

   without hurting them.

The Tao of the Sage is to act without competing" (Lin, 2020, p. 143).

In order to present a snippet of another branch of classical Chinese thought and its conception of the social nature of man, we must briefly refer to Legalism. Legalists have a more pragmatic and utilitarian view of human society. Legalists believe that people are inherently selfish and need to be controlled by strict laws and regulations aimed at maintaining social order and State power (Kung-sun & Duyvendak, 1963).

To conclude this survey of the history of universal thought in an attempt to substantiate a generalised conception of man's natural sociability, we turn to the Hindu tradition, in particular to the *Upanishads*, a compendium of philosophical texts that form part of the *Veda*, the more ancient religious texts of Hinduism. Even as Patrich Olivelle highlights, the *Upanishads* were composed over several centuries and in various regions, and it is futile to try to discover a single doctrine or philosophy in them (Olivelle, 1998, p. 4), they are useful to convey an idea of the Hinduism perception of the common nature of all things. Indeed, the *Upanishads* present the idea that all living things are interconnected and that there is an underlying unity to all existence known as *Brahman*. This view emphasises the interdependence of all forms of life and suggests that humanity's natural sociability arises from a recognition of this essential unity[3].

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[3] See, for example, the chapter 6 of the "Chandogya Upanisad" (Olivelle, 1998, pp. 245-257).

3. On the basis of the existence of an international society and of an international community or communities.

Starting from the observation that there is a certain consensus, if not unanimity, on the natural sociability of the human person, we can continue our argumentation towards the possibility of the existence and maintenance of an international society and, finally, towards that of an international global community or several international sub-global communities.

First, there will be an explanation of the formation of today's international society in terms of its constituent actors and subjects. In fact, political entities, whatever their sphere of action, are made up of individuals who, at some point in their common past, have decided to associate themselves beyond natural groups or families, and have given themselves an institutional structure and rules to regulate their relations within this institution. But when circumstances permit, interpersonal relations between the individuals of the various political entities require relations at the institutional level between these political entities. And when these political entities have the level of sovereignty of a people or a nation, the relations between them are called international relations. Gradually, the consolidation of these international relations has given rise to an international society, understood as a grouping of different sovereign entities, and - even if we acknowledge our Eurocentrism - after the formation of modern States in Europe at the end of the fifteenth or sixteenth century, the current international society and the law that regulates the relations between the different actors or subjects that make it up have emerged. Admittedly, although this theory of the formation of international society from the birth of States in Europe suffers from an abuse of the Western prism and has been contested for it (Buzan & Schouenborg, 2018, pp. 1-2; Kaczmarska, 2017, p. 12; Tucker, 2022, p. 29), it is commonly accepted[4].

Although international relations have and have had States as particular protagonists, their essential raw material is constituted by relations between individuals, as George Scelle has noted (Scelle, 1932, Préface, p. VII). Even more, one can say, as Professor Truyol y Serra beautifully put it: "On pourrait ajouter que l'intensité des échanges entre individus et groupes non-étatiques est le meilleur thermomètre pour mesurer la température d'une société internationale et par conséquent sa santé" (Truyol y Serra, 1959, p. 570). Indeed, commercial, tourist, cultural, religious or simply personal motives are at the root of these individual relationships between groups from different nations, peoples or States. The technological advances associated with the first industrial revolution multiplied these individual international interactions, making international relations between States more frequent (Tucker, 2022, p.5), more constant and more fundamental.

At the time, this growth in international relations led to the emergence of international organisations, the first of which were the institutions that regulated navigation on the multinational rivers of old Europe, a phenomenon that was consolidated with the League of Nations at the beginning of the 20th century. Since then, as a result of the multiplication of interactions between individuals, companies and States, favoured by the technological revolution, a large number of international organisations have been created to channel all this cooperation and interaction. Accordingly, this exponential multiplication of international relations at all levels has required a gigantic growth of international law, the legal system that regulates international society and the relations between its actors and subjects. In addition to that, the revolution brought about by the Internet within the technological era has globalised today's world and brought about human relations with impressive intensity and speed, albeit virtually. This has given individuals a greater role in the new international relations, often to build, but sometimes to destroy. Therefore, we can say, as Edith Brown Weiss put it, that we live in a kaledeiscopic world (Brown Weiss, 2019, p. 51), or rather, in a kaledeiscopic digital world.

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[4] But not for all, for example, for Bardo Fassbender and Anne Peters: "The Eurocentric story of international law has proven wrong because it is incomplete" (Fassbender & Peters, 2012, p. 1).

It seems quite clear, moreover, that this growth of international society from the numerical point of view, in relation to the actors and subjects that make it up and dynamise it, cannot be reversed.

Secondly, taking into account the nature of the relations between the various actors that have shaped international society and the law that regulates these relations, we can, following Schwarzenberger (Schwarzenberger, 1976, pp. 9-12) and others, speak of three stages in the historical evolution of the growth of international society and its legal system. The first stage was characterised by power relations between States, in which imperialism and domination played a leading role. This was followed by a second stage characterised by relations of reciprocity, in which, among other things, the regime of diplomatic immunities emerged. There is also the reciprocity of concessions, as expressed in extradition treaties, treaties of establishment, transit treaties, copyright protection treaties, trademark treaties and so on. And finally, in a third stage, international society evolved towards relations of coordination, in which States managed to coordinate in order to face problems of general interest (Casanovas y La Rosa, 2001, p. 119; Villalpando, 2010, pp. 394-395), and the legal systems for refugees, the fight against drug trafficking, the fight against trafficking in human beings, and one could add nowadays the protection of the environment or of areas beyond national jurisdiction, etc., emerged.

We would like to emphasise, however, that all this peaceful co-operation and co-ordination that we have witnessed since the Second World War is primarily based on the security system that we referred to at the beginning of this article, embodied in Chapter VII of the UN Charter, the cornerstone of which is the prohibition of the use of force laid down in Article 2(4) of the Charter. And nobody would deny that the fact that States have been able to establish the UN security system is in itself proof that they have reached a relevant level of cooperation, or at least a willingness to cooperate.

Therefore, having witnessed the growth of international society over the last few centuries, both in terms of the number of actors within it and in terms of the nature of the relations between them and the law that regulates those relations, it is worth asking the question: can certain elements be identified in international society or in international law that would speak of a true community, in the sense described above of a group of States with a high degree of interaction and integration?[5] And if it is not possible to identify sufficient elements to speak unambiguously of the existence of a global international community, would there nevertheless be sufficient elements to recognise at least a regional community, in the sense of a group of States that are geopolitically close and that have this high degree of interaction and integration?

With regard to a group of States whose integration makes it possible to speak of an international community, albeit a regional one (Truyol y Serra, 1981, p. 57), perhaps the only case would be that of the European Union (Buzan & Schouenborg, 2018, p. 3). Because it is only there that the strong unity, interaction and integration of relations between individuals, companies, national and institutional institutions can be appreciated, which allow to speak of a true community. Indeed, as the European Court of Justice stated in 1963 in the Van Gen en Loos case, the unity and interaction between citizens, companies and the Member States themselves is such that the European Community at that time had its own legal system, which is unique among international organisations because it presupposes a high degree of integration between its members:

> "The conclusion to be drawn from this is that the Community constitutes a new legal order of
> international law for the benefit of which the states have limited their sovereign rights, albeit

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[5] For professor Zhang Hui, a majority of authors already affirms the existence of the international community: "The mainstream view holds that the foundations of the existence and development of international law have changed from an international society characterized by coexistence and limited cooperation to an international community in which nations have broad and important common interests and closer cooperation" (Zhang Hui, 2019, p. 192).

within limited fields, and the subjects of which comprise not only Member States but also their nationals". (Court of Justice of the European Union, 1963 Summary, & 3)

Although there are other groupings of States that could be candidates for forming a genuine international community, such as the American States, the African States, the Arab States or the Asian States through their regional international organisations, or other more informal groupings or alliances, such as the Western States in general, the so-called BRICS, the Chinese Belt and Road Initiative, etc.

As for the existence of institutions or legal regimes in international law that would speak of a truly global international community (Tomuschat, 1993, p. 236), we can advance the legal regime of the common heritage of mankind (Pardo, 1984), the notion of *erga omnes* obligations (International Court of Justice, 1970, p. 32; Institut de Droit International, 2005, Article 1 (a)), the notion of international *jus cogens* [6], international responsibility towards the international community as a whole[7], crimes of concern to the international community as a whole[8], etc[9]. All these legal institutions, even if they operate in different legal environments, have as their referent subject the whole of humanity, which thus appears as a new actor in the international sphere, clothed with a legal personality, however nebulous.

Moreover, the transfer of sovereign security powers by UN Member States to the Security Council could also be seen as an element in the construction of a global international community that goes beyond mere cooperation (Rao, 2011, p. 330). Indeed, as stated in Article 24 (1) of the Charter:

In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

This cession by almost all the States of the world of an aspect so closely linked to sovereignty as the use of force is, in my view, tantamount to a quasi-constitutional cession to the Security Council and the permanent members. This is why many authors have considered the UN Charter as a kind of constitution of an institutionalised international society (Crawford, 2013, p. 336; Simma, 1994, p. 262), or rather of a true international community. For Luigi Ferrajoli, for example, a major paradigm shift in law and politics took place after the Second World War, with the creation of constitutional democracies in States that were freed from totalitarian regimes on the one hand, and a new international order on the other (Ferrajoli, 2018, p. 67). For this author:

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[6] See the definition of this term in Article 53 of the Vienna Convention on the Law of Treaties of 1969.

[7] See Articles 40, 41, 42 and 48 of the 2001 International Law Commission Draft Articles on International Responsibility of States for International Wrongful Acts (International Law Commission, 2001).

[8] See for example, Article 5 of the 1998 Rome Statute of the International Criminal Court.

[9] In the opposite sense, we can cite the opinion of a prestigious author of the Soviet school of international law, Professor Tunkin, for whom: "The concept that the basis of law is community, particularly a common ideology, is completely unfounded. Proponents of this concept frequently point out that in the absence of a specific community between people, the existence of law in general and of international law in particular is impossible. Of course, in the absence of a specific community between people, the existence of human society, and consequently of law, is inconceivable, but it still does not follow that this community is the reason for the formation of law or is reflected in law. The history of human society shows completely the opposite: in a pre-class society, where this community between people was more significant, there was no law: only with the emergence of class contradictions, with the destruction of the tribal community, does law emerge. Law, including international law, emerged not as a result of an increase in community among people, but as a result of the division of society into classes and the formation of new class contradictions unknown to tribal society. International law, just as municipal law, is a phenomenon peculiar to a class society. The theoretical unfoundedness of the concept of a common ideology as a necessary condition for the existence and development of international law does not make this concept less dangerous." (Tunkin, 1974, p. 27).

"In both cases, the change was brought about by the instrument of positive law and by the same kind of constituent act, consisting of a firm rejection of the horrors of the past: the constitutionalisation, in the countries liberated from fascist regimes, of the principle of equality and fundamental rights, including those rights to survival that are social rights, and the stipulation, in international relations, of the principle of peace and human rights through the UN Charter of 1945, the Universal Declaration of Human Rights and the successive supranational charters of fundamental rights". (Ferrajoli, 2018, p. 67)

In addition, as Baldo Fassbender argues, the fact that the Charter was adopted in the same way as any other treaty does not prevent it from having constitutional status, as this was the only legal method available to the founders of the UN in 1945. For this professor, despite the method of adoption, the Charter was created to guarantee peace, security and the social and economic development of all the peoples of the world in a new and different way. Thus, for Fassbender,

[t]here is ample evidence that the delegates at San Francisco realised that this was a true "constitutional moment" in the history of the international community; they were not simply negotiating another treaty but reorganising the world community for the benefit of "succeeding generations". (Fassbender, 2009, p. 92)

Much of this constitutional impulse is reflected in the choice of the term "Charter" rather than "Covenant" (Wolfrum, 2012, para. 2), and of the phrase "we the peoples of the United Nations" in the preamble to the Charter, rather than resorting to the traditional "contracting parties", etc., that accompany the adoption of any other treaty. In this respect, as Fassbender rightly notes, "[...] the Charter has left behind the traditional state-centric view of international law, by gearing its rules to the ultimate goal of the general welfare of peoples and individual human beings" (Fassbender, 2009, p. 102).

At the same time, however, the Charter, and in particular the security system it establishes, can also be seen as a quasi-constitutional treaty insofar as it institutionalises the alliance of the victorious powers of the Second World War. As Bruno Simma points out, "the Charter of the United Nations is not only an embryonic constitution of the world community but at the same time also a treaty institutionalizing an alliance of the victors of World War II" (Simma, 1994, p. 258). The latter could be the view of the Soviet Union, which perhaps did not see the UN Charter so much as a constitution of the international community, but rather as a non-aggression pact between the Great Powers. Such is the view of Professor Richard Gardner, for whom "The Soviet Union has always seen the U.N. Charter essentially as a contract between rival states rather than as a constitution capable of organic growth in the service of a world community" (Gardner, 1964, p. 847)

The problem with the UN security system, however, is that even if it could be seen as the peaceful foundation of an international society, or even an element of a global international community, the use made of it in recent decades, mainly by the permanent members of the Security Council, does not speak much in favour of real integration among UN Member States.

Thus, until recently, this has been the situation that international society has reached, with a good number of diverse actors and a good level of cooperation and coordination among them, and with some focal points that would allow us to speak of an incipient global international community or, at least, of some international community of a regional type, such as the one constituted by the European Union. However, as we know, the situation is deteriorating rapidly and there are worrying, though not rare, signs of a decline in the coordination of international relations and, therefore, in international security. This shows that, despite the achievements of recent decades

in terms of cooperation and coordination between States, elements of power relations and imperialism are of course still present or gaining ground in today's international society.

The legitimate question is, what are the reasons for this reversal in the evolution of international society towards greater unity (Zhang Hui, 2019, p. 192), or, in other words, towards the formation of a true global community?[10]. Why has division, rivalries and war reappeared on humanity's horizon?

In my opinion, two causes lie at the root of this involution in the history of international society. On the one hand, the weakening in contemporary man of the idea of God or divinity, which leads to a loss of the notion of fraternity among human beings, and the relevance of morality in the human and international relations. On the other hand, the oblivion of new generations of the miseries and destruction that war brings.

First of all, as far as a kind of spiritual crisis of humanity is concerned, it should be noted that the loss of the sense of divinity, and therefore of fraternity, or of the relevance of morality in interpersonal or international relations, has been highlighted by leading thinkers in both the religious and secular firmament.

Indeed, in the Judeo-Christian tradition, for example, the idea that human beings are brothers and should live in harmony is found in several writings and teachings and is at the core of its moral rules. In the Old Testament, the book of *Genesis* tells the story of Cain and Abel, where envy and sin lead to fratricide. In the New Testament, Jesus teaches about charity and the need to live in peace. One could also cite St. Augustine (c. 354 – 430) and his book *The City of God* as the main author of this trend. In St Augustine's *City of God* (c. 413-426), this idea is also reflected in Chapter IV of Book XV. In this work, Augustine discusses the causes of wars and conflicts between people. He points out that the root of these evils lies not simply in differences of interest or human ambition, but in sin and a lack of love and justice. Augustine argues that when people turn away from God and the moral principles he teaches, they fall into selfishness, envy and hatred of their fellow human beings, which inevitably leads to discord and violence (Augustine, 1957, Book XV, Chapter IV).

As for secular philosophers who have pointed out the detrimental consequences of immorality for social peace among human beings, we can cite, among others, Immanuel Kant (c. 1724-1804), of whom humanity has just celebrated the third centenary of his birth. Thus, in *Perpetual Peace: A Philosophical Sketch* (c. 1795), Kant acknowledges the natural tendency of human beings to socialise, but at the same time points out that this very nature can lead to conflict and war between nations. Kant argues that while humans have an innate tendency towards sociability, they also have selfish and competitive tendencies that can lead to strife and violence. However, he argues that reason and morality can and should be used to overcome these destructive tendencies and create lasting peace among nations. Therefore, Kant proposes a number of principles and conditions that he considers necessary to achieve this goal, such as the establishment of a confederation of States, mutual respect for rights, and adherence to universal moral principles. In this context, the social nature of human beings is seen as a resource that can be used to promote peace and cooperation among nations, provided it is based on reason and morality. In its own words:

> The state of Peace between neighbor nations is not a natural state (*status naturalis*), this being more usually a state of war –.*i.e*, if not always of actual hostilities yet always under menace of these. Peace must therefore be instituted; [...]. (O'Brien, 1939, p. 24)

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[10] By contrast, for Oriol Casanovas y la Rosa, the existence of wars and conflicts is not an obstacle to appreciate the existence of an international community. For this Spanish author: "The international community is not a Super-State that could guarantee the peaceful co-existence of its members. The presence of conflicts, even including wars, in the relations between States, does not present an insuperable obstacle to the notion of an international community" (Casanovas y la Rosa, 2001, p. 119)

The way to institute the peace is indeed the creation of a confederation of States. For the German philosopher:

> The practicability (objective reality) of this idea of federalism, which is gradually to extend to all States and so lead to perpetual peace, can be demonstrated. For when fortune so disposes that a powerful and enlightened people can constitute themselves a republic (which by its nature lends itself to perpetual peace) it becomes a centre of federal union for other States. These unite with it and thus secure international peace in accordance with the law of nations and by successive similar alliances the union gradually extends further and further. (O'Brien, 1939, p. 31)

In fact, these facts and opinions speak of a spiritual crisis in international society, leading to a weakening of the awareness of the identity of forming and belonging to a community of human persons and States. In my opinion, if the development towards unity and integration between States, which has been observed in recent centuries, is halted or slowed down, it can only be the result of this weakening of the psychological or spiritual aspect of the international community, since the material element, constituted by the ever more complex interweaving of common needs, interests, problems and challenges, is constantly growing.

Secondly, in addition to the spiritual crisis facing humanity, I believe that another factor that has contributed to the breakdown of international society is the neglect of the catastrophe of war. Humanity made a great effort to overcome centuries of division and confrontation by creating the UN, after having paid a heavy price in the two World Wars of the 20th century. And that effort made it possible to consolidate peaceful international relations as the basis of an international society or as the seed of an international community. However, the current generation, not having had the experience of those two wars, seems to despise what was achieved then.

Perhaps it would be too optimistic to claim that knowledge of past events guarantees that they will not be repeated. But, of course, knowledge of them can at least help to heal the wounds caused by conflicts (Pollmann, 2017, p. 140) and, moreover, by being aware of their consequences, to be more cautious when, for example, starting a war. A privileged witness to the barbarity of war, Sir Winston Churchill, had already warned of this in the preface to his 1948 book, The Gathering Storm, in which he recounted his experiences of the Second World War:

> It is my earnest hope that pondering upon the past may give guidance in days to come, enable a new generation to repair some of the errors of former years, and thus govern, in accordance with the needs and glory of man, the awful unfolding scene of the future. (Churchill, 2005, p. xiv)

Some years earlier, George Santayana had expressed the same idea in a phrase that now appears symbolically at the entrance to one of the buildings that make up the Auschwitz concentration camp: "Those who cannot remember the past are condemned to repeat it" (Santayana, 1922, p. 284). But perhaps it is only human to have two falls on the same stone, or, as in the myth of Sisyphus, to have to start all over again.

It may be that all is not lost and that a large-scale global conflict can still be avoided. Or perhaps the world situation is not so fragmented as to suggest that we are approaching the abyss.

In this more hopeful direction, some proposals and expert analyses of China's role in international relations would come as a relief that at least China is not on the brink of a global conflict with the West. For example, from within China itself, Professor Zhang Hui proposes the concept of a *community of shared future for mankind* to curb this growing divide in international society. This idea first appeared in a report to the 18th National Congress of the Communist Party of China on how to further promote the "[...] noble cause of peace and development of mankind [...]"(Zhang Hui, 2019, pp. 187-188). And since that moment this idea reflects China's new

understanding of the social foundations of international law in the 21st century, as a complement to and evolution of previous ideas of "international society" and the "international community". This concept points out that

> In promoting mutually beneficial cooperation, we should raise awareness about human beings having a community of shared future. A country should accommodate the legitimate concerns of others when pursuing its own interests; and it should promote common development of all countries when advancing its own development. Countries should establish a new type of global development partnership that is more equitable and balanced, stick together in times of difficulty, both share rights and shoulder obligations, and boost the common interests of mankind. (Zhang Hui, 2019, p.187)

This conception of Chinese international relations seems to be in line with the assessment of a large part of the doctrine which indicates, as professor Breslin has underlined that:

> [...] a number of studies of China's international behaviour have pointed to the way in which the country has tended to conform to existing ways of doing things when it joins international organizations, rather than trying to challenge and change existing modi operandi" (Breslin, 2013, p. 616).

Even if sometimes, as Buzan put it:

> [...] One problem in thinking about this question is the absence of a fully articulated discourse that tells both the Chinese people and the rest of the world what kind of international society China would like to see and be part of [...]" (Buzan, 2010, p. 29).

Or, as has also set forth, "For the time being at least, China is less interested in promoting a clearly articulated grand strategy and a new set of universal values than it is in finding pragmatic solutions" (Breslin, 2013, p. 633; Zhao, 2016, p. 14).

The future will tell whether this generation will throw away the accumulated treasure of centuries of international cooperation and the lessons learned from the many wars that have bled the world, and Europe in particular, dry, or whether we can continue to live and cooperate in peace among all the States of the world.

5. Conclusion

The current crossroads at which the world finds itself, with a division unprecedented in decades, with several terrible wars causing enormous destruction of life and property, and with the cloud of doubt that genocides are being committed in these wars, has led us to question whether the existence of an international society and community is possible. Or, on the contrary, nationalism and imperialism are once again winning the day in human history.

In this paper we have examined the evolution of international society as we know it from the emergence of modern European states at the end of the fifteenth century to the present day. Despite the current fragmentation, there is no denying that the number of actors involved in international relations has grown steadily over the centuries, as has the variety and depth of the legal institutions of international law that govern relations between the actors of international society. Indeed, the great diversity of common interests between States and the possibilities and needs for cooperation between individuals, companies and States themselves speak for themselves of an indestructible substratum for the existence of an international society. What is more, this substratum of possibilities and needs for cooperation between the various actors in

international relations is based on the natural sociability of human beings, which, as we have seen, is generally acknowledged, if not unanimously, by numerous authors from almost all times and cultures.

Although there are also elements that allow us to affirm that international society was moving towards a level of cooperation and integration that could sustain the emergence of a true international community, we understand that it was not yet possible to speak openly of such a transformation having taken place. Among the elements pointing towards the formation of a global international community, we can cite the emergence of *jus cogens*, *erga omnes* obligations, the notion of the common heritage of mankind, and the UN Charter itself, especially in terms of the security system it established, which had constitutional features in international society.

While it was premature to speak of an international community at the global level, it was possible to establish the existence of a genuine regional or sub-global international community in relation to the European Union and its Member States. And other regional systems were emerging, halfway between groups of states with a high degree of cooperation between them and mature international communities of a sub-global type, on the American, African or Asian continents.

However, this evolution of international society towards the emergence of a global international community or more regional international communities has broken down, with the increasing conflicts that have arisen in recent years, which are very reminiscent of the world situation before the First World War.

I believe that the causes of the resurgence of imperialism and nationalism, and of war, which is the child of such an unhappy marriage, lie in the spiritual and transcendental crisis of humanity and in the neglect of the evils that human conflict entails. In the first place, the blurring of the idea of God as the common Father of humanity implies the loss of the sense of brotherhood among men. And secondly, I understand that the present generation, which has not been a victim of the world wars, does not perceive in its depths the treasure of peace that it holds in its hands, acquired by previous generations. Knowledge of history does not prevent the repetition of mistakes, but it does help to avoid them, or at least to condition decision-makers who are aware of the enormous consequences of war.

Much of the sensitivity of the current global situation is due to the irresponsibility of the permanent members of the UN Security Council, who have failed to live up to their privileges. Russia has launched a war of aggression in Ukraine and the United States repeatedly vetoes any real solution to the Israeli-Palestinian conflict. They are betraying the pact that the whole of humanity made with them in 1945 to surrender the sovereign capacity to use force in exchange for an institutional system in which the great powers became the guarantors of world security.

On the other hand, while China is increasingly assuming a central role in international relations and global security, and while it is conducting shows of force in Taiwan and the South China Sea, it does not appear to be seeking, for the time being, to displace the United States as the hegemonic power. Nor to replace the system of international relations based on norms and values that the UN and the Pax Americana have sought to establish. This is not a bad sign, at least in the sense that the current structure of international society, which was founded on the UN security system, is definitely in a state of flux. It is to be hoped, therefore, that the battle between *Civitas vs Totus orbis*, as an indicator of nationalism and imperialism, will not be decided in favour of *Civitas*.

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