

Beyond Bilateralism: Community Interest as the Foundation of a New International Legal Order

The traditional, bilateralist model no longer accurately describes modern international law. Despite this, we have lack a theoretical underpinning through which to understand the new international legal order. We are in need of a new paradigm. The notion of international community interest can provide this tool. Transcending the individual interests of states, it attaches instead to a shared system of values, such as the protection of human dignity and the global environment. This shift, from individual interest to community, underlies fundamental structural changes in international law.

The first category of such changes relates to *international law-making*. Community interest-inspired obligations (e.g. to respect human rights) break with the traditional model in that they are not owed between states bilaterally. They thus institute an evolution in the nature of international legal obligations, from relative to absolute. Methods of law-making reflect this, becoming increasingly cooperative and legislative. Simultaneously, *jus cogens* limits the law-making power of states where it conflicts with fundamental community interests.

The second category relates to the legal response to *international law-breaking*. The community interest in legal compliance underlies the shift from a subjective conception of ‘responsibility as reparation’, to an objective responsibility focused on the return to legality. Further, the community interest in the enforcement of particular rules underpins the newly differentiated regime of responsibility for serious breaches of peremptory norms, and the restructuring of the invocation of responsibility with regard to obligations *erga omnes*.

We turn finally to *international law-framing*. The ‘international community’ provides the frame within which international law can be seen as a system within which states act, rather than merely threads of obligation and responsibility binding them in bilateral pairings. The recognition of commonality through the community interest is thus transformative, establishing a new paradigm through which we may understand international law.