



## **Cosmopolitanism and violence: difficulties of judgment**

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### **Abstract**

This paper addresses the difficult relation of cosmopolitan ideas to the existence of war and violence. It explores the ambivalences within the cosmopolitan outlook as it seeks to reconcile its attentiveness to the actuality of violence in the modern age with its normative vision of perpetual peace. I address these ambivalences through a discussion of a) what it is to learn from the catastrophes of the twentieth century; b) the contribution Kant's theory of cosmopolitan law to the solution to contemporary problems of violence; c) the reconstruction of cosmopolitan thinking in the wake of the Holocaust as an attempt to take atrocities seriously; d) the application of cosmopolitan criteria to the justification and authorization of humanitarian military intervention; and e) the attempt on the part of Habermas and Derrida to address the ambivalence involved in reconciling cosmopolitanism and violence in Kosovo and Iraq. While cosmopolitanism is usually understood as a reference to a worldly legal and institutional order, the cosmopolitan outlook is also a mode of understanding the world, an ethic of responsibility and an ongoing exercise of political judgment in the face of violence.

**Keywords:** Cosmopolitanism; violence; war; crimes against humanity; Kant; Habermas; Arendt; humanitarian military intervention

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### **A. Learning from catastrophe**

One of the enduring features of the modern age has been the contrast between the hopes and expectation of peace that have taken root in liberal and socialist traditions and the persistent reality of war and terror (Joas 2003: 1). This contrast has been present ever since Kant articulated his own hopes and expectations of 'perpetual peace' whilst acknowledging that the actuality of relations between states was more like one of perpetual war (Kant 1991).

Today the inheritors of this radical tradition speak of 'learning from catastrophe'. By catastrophe they refer to the unprecedented violence that marked

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and marred the twentieth century. Jürgen Habermas writes of ‘the gruesome features of a century that “invented” the gas chambers, total war, state-sponsored genocide, and extermination camps, brainwashing, state security apparatuses, and the panoptic surveillance of entire populations’ (Habermas 2001: 45). Learning from catastrophe means confronting the fact that the twentieth century ‘generated more victims, more dead soldiers, more murdered civilians, more displaced minorities, more torture, more dead from cold, from hunger, from maltreatment, more political prisoners and refugees, than could ever have been imagined’ (Habermas 2001: 45).

By the time of the unofficial Christmas ceasefire of 1914, when British and German soldiers reposed for a few days of fraternization in Flanders in the first winter of the war and posed for snapshots one of which was printed in the *Daily Mirror* of the 5<sup>th</sup> January 1915, the Great War had already killed off some three million men. By the end of the war Germany mourned about two million dead, France and Russia about 1.7 million each, the Austro-Hungarian empire 1.5 million and the British Empire about a million (Sofsky 2003: 115–17). Wolfgang Sofsky estimates that in the first half of the century war and terror cost the lives of some 55 million human beings (Sofsky 2003: 134). The infinite misery these figures conceal is indicated in the eradication of whole groups and peoples and in the fact that for many millions of these casualties death consisted in the destruction of their souls long before that of their bodies. This was a century in which one could be forgiven for thinking, as Hannah Arendt aptly put it, that human beings had become utterly ‘superfluous’. Just in case we think that humanity improved after 1945, we should remember that in the second half of the century some forty million people were the victims of warfare.

In a similar vein Michael Mann opens his historical sociology of murderous ethnic cleansing on the modernity of the phenomenon in question:

Since my previous work had neglected the extremes of human behaviour, I had not thought much about good and evil. Like most people, I had tended to keep them in entirely separate categories from each other as well as from ordinary life. Having studied ethnic cleansing, I am now not so sure. Though I am not attempting here to morally blur good and evil, in the real world they are connected. Evil does not arrive from outside our civilisation, from a separate realm we are tempted to call ‘primitive’. Evil is generated by civilisation itself. (Mann 2005: ix)

Murderous ethnic cleansing is neither primitive nor alien; it belongs to our own civilization and in some sense to us. We can trace its history from the annihilation of indigenous peoples by imperialist and settler powers in the Americas, Australia and African colonies; we trace it through the death camps of mid-twentieth century totalitarianism, via the American war in Vietnam and the Pol Pot extermination in Cambodia, and thence to the genocidal massacres

in Rwanda and the former Yugoslavia. If 1989 appeared at the time to mark the close of the 'short twentieth century', the era of catastrophe, this conclusion now appears radically premature.

The catastrophes of the twentieth century did not extinguish the hopes and expectations of peace; on the contrary they made its attainment all the more urgent (Shaw 2003). A radical tradition endured with a vision of a new international order in which atrocities by state actors would no longer go unpunished. For this tradition the important point was to maintain a sense of astonishment in the face of human atrocity and it was the tone and emotion of astonishment that we find most pronounced in those authors who seriously sought to understand and resist the phenomena of totalitarian terror. I am thinking of Hannah Arendt, Albert Camus, Arthur Koestler, George Orwell, David Rousset and C.L.R. James (Berman 2004).

Today the resurgence of cosmopolitan thought should be understood, in part, as an attempt to recapture the spirit of this radical tradition for our own times. The twentieth century was a century of anticipation that out of the fires of war there would arise the phoenix of an international federation, international law, human rights, the criminalization of genocide and related atrocities, and mechanisms for the non-violent resolution of disputes (Beck 2000; Beck 2002). The cosmopolitan outlook is the attempt to keep both moments firmly in view: not only the experience of violence in the modern age but also the normativity of its non-acceptance. 'Keep your mind in hell and despair not', quotes Gillian Rose at the start of her *Love's Work* (Rose 1995). Cosmopolitanism is not a fixed idea – which is why it may be preferable to substitute the term cosmopolitan outlook for *cosmopolitanism* – but rather an ongoing and incomplete research project marked by a refusal to wash over the extremes of human behaviour or to be engulfed by them (Fine 2003, 2005).

## **B. The Kantian theory of cosmopolitan law: a solution to the problem of violence?**

The modern cosmopolitan outlook found expression in the political writings of Kant around the time of the French revolution. Kant contrasted the actualization of right at the national level – in the form of property rights, the rule of law, republican government and the monopoly of the legitimate use of violence by the state – with the basic absence of right at the international level. He wrote of the 'depravity' of an international order in which 'the glory of its ruler consists in his power to order thousands of people to immolate themselves for a cause which does not truly concern them, while he need not himself incur any danger whatsoever' (Kant 1991: 103). For Kant, the international order was one in which the idea of 'right', if it existed at all, meant no more than the right of states to go to war as they please, use any means of warfare

deemed necessary, exploit newly discovered colonies as if they were 'lands without owners', and treat foreigners arriving on their lands as if they were enemies (Kant 1991: 105). Kant compared the international order to a Hobbesian state of nature, in which there was perpetual war of all states against all. He argued that for states to put an end to this 'lawless condition of pure warfare', they had to 'renounce their savage and lawless freedom, adapt themselves to public coercive laws, and form an international state . . . which would grow until it embraced all the peoples of the earth' (Kant 1991: 105). What was required according to Kant was a double action: on one side, the formation of a new Leviathan, an international legal authority, designed to guarantee lawful relations among states; on the other, the nurturing of self-discipline within individual states.

Regarding the new Leviathan, Kant was against world government on the grounds that it would either conceal the rule of a single great power or turn itself into a 'universal despotism' denying freedom to all. He argued that a voluntary federation of nations, based on the mutual co-operation and voluntary consent, would create the conditions necessary for the realization of cosmopolitan order. Regarding the self-discipline of states Kant argued that there were favourable historical factors at work: first, self-discipline corresponded with the economic rationality of a commercial age in which peaceful exchange is more profitable than plunder; second, it accorded with the political rationality of states facing escalating risks and costs of war; and third, it was a product of the spread of republicanism, since rulers could no longer declare war without consulting their citizens and republican citizens would have a higher level of political maturity than the subjects of traditional monarchies. Kant accepted the qualification that republican citizens are often civilized only in respect of 'courtesies and proprieties' and that militarism could soon debase their minds, but the conviction remained that the 'germ of enlightenment' would none the less survive and work toward 'the perfect civil union of humankind' (Kant 1991: 114). The world Kant imagined was one in which standing armies would be abolished, no national debt incurred in connection with military costs, no individual state permitted to forcibly interfere in the internal affairs of another, foreigners afforded a right of hospitality and indigenous inhabitants of the colonies no longer 'counted as nothing'. Kant recognized that cosmopolitanism was a 'fantastical' idea in that European states were still relating to one another more like atomized individuals in a Hobbesian state of nature than in accordance with the cosmopolitan ideas which had momentarily lit up the dawn of the French revolution. While nationalism and xenophobia were the rising stars of the new order, Kant's obstinacy lay his insistence that cosmopolitanism was *right* whether or not public opinion and the state recognized it as such. His underlying faith was that humanity is 'by its very nature capable of constant progress and improvement without forfeiting its strength' (Kant 1991: 189) While careful not to define where this

capacity for progress and improvement might lead, 'for this will depend on freedom, which can transcend any limit we care to impose' (Kant 1991: 191), he believed, as Hegel put it, that it is in 'the nature of spirit . . . to assume a higher shape than that in which its being originally consisted' (quoted in Fine 2003a).

Within our own disciplines various sociologists have re-articulated this basic Kantian perspective for social theory and political philosophy. Norbert Elias, for example, was among the first of the postwar sociologists to identify the absence of external authority at the international level as a problem:

There is no monopoly of force on the international level. On this level we are basically still living exactly as our forefathers did in the period of their so-called 'barbarism'. Just as formerly each tribe was a constant danger to the other tribes, so nowadays each state represents a constant danger for other states. Their representatives and members must always be on guard against and must constantly reckon with the possibility of being attacked by a stronger state . . . In intra-state relations people have reached a higher level of civilisation than in the relationships between states. In inter-state relations people today do not find themselves on a lower rung of the civilising process because they are naturally evil or because they have inborn aggressive urges, but rather because specific social institutions have been formed which can more or less effectively impose a check on every state-authorized act of violence in relations within the state, while such institutions are completely lacking in relations between states. (Elias 1997: 176–7)

Elias followed Kant in drawing a close connection between the intra- and inter-state levels of analysis. He echoed Kant's proposition that a well-established parliamentary democracy (which Kant called a 'republic') is less likely to go to war than a state with a more autocratic form of government or at least less likely to go to war with other well-established parliamentary democracies. He too saw war between states as the greatest threat to the rights and security of citizens within modern parliamentary democracies. The normative vista was clear enough: not to accept as given this opposition between intra-state civilization and inter-state barbarism, as if it were an inexorable feature of modern political life, but rather to establish social institutions at the inter-state level equivalent to those found at the intra-state level – institutions that could instil the habit of self-discipline on the part of states and monopolize the legitimate use of violence at the international level. Sociology is not a naïve science and Elias was as keenly aware as Weber that the monopoly of physical force by the nation-state can be a dangerous weapon when used by those who control it as a means of internal repression and external aggression. The solution Weber looked to at the intra-societal level was not to dissolve the state monopoly of physical force but establish a form of state and a coterie

of state actors who would not abuse this power. Similarly, at the inter-state level Elias conceived the task to be in some sense analogous: to establish a form of international federation that would monopolize the legitimate use of violence and instil self-discipline on the part of nation states without abusing the powers granted to it.

It is easy to be sceptical of the dream of modernity without war. The cosmopolitan outlook advanced by Kant and Kantians contains many difficulties. The affinity of republicanism to peace is compromised by the history of popular and intellectual enthusiasm for war. The affinity of international trade to peace is compromised by the history of imperial and inter-imperial conflict. It may get its history wrong in downplaying the legality of the Westphalian settlement, which after all put an end to the perpetual violence of the Thirty Years War. Cosmopolitanism gets the future wrong in its conviction that the establishment of a federation of nations is the philosopher's stone for resolving the problem of war. It neglects how far any attempt to outlaw the use of force leads to new justifications for the use of force. When Kant declared that human beings have the capacity for transcending any limit we care to impose, including that of the necessity of war, we may forget that this freedom also includes transcendence of the limits of human atrocity. Yet in these very errors the Kantians are surely superior to those who decry the very concept of cosmopolitanism.

The contrast of cosmopolitan with mainstream sociology has often been stressed in the literature on the grounds that mainstream sociology attributes the propensity to war in the modern age to some kind of backwardness on the part of nations. This was the intellectual context in which the theory of German *Sonderweg* was advanced to explain the First World War (Collins 1999). Certainly the image of modernity we sometimes see within modernization theory is one in which the reality of war is diminished, explained away or even evaporated. The non-violent resolution of conflicts may appear almost as the defining characteristic of modernity. Most sociologists follow Max Weber in emphasizing the social pacification over time of *intra-state* conflicts through the combined exercise of self-discipline on the part of individuals and the monopolization of the means of violence on the part of the state, even if at the *inter-societal* level sociology has had less to say about the absence of self-discipline among states and the absence of legitimate authority able to restrain states from acts of violence.

However, the distinction between cosmopolitanism and the more classical tradition of sociology should not be overstated. Even nationalistically oriented forms of sociology can have a cosmopolitan aspect. This ambivalence is evident, for example, in the work of Emile Durkheim, a vehement supporter of the French national cause in the Great War who none the less espoused a conception of French patriotism which sought to attach it to cosmopolitan values and engender a self-discipline that would overcome the cult of violence.

His aim, so it seems, was to sublimate national antagonisms into a more peaceable form of competition:

If each State had as its chief aim, not to expand, or to lengthen its borders, but to set its own house in order and to make the widest appeal to its members for a moral life on a ever higher level, then all discrepancy between national and human morals would be excluded. If the State had no other purpose than making men of its citizens, in the widest sense of the term, the civic duties would be only a particular form of the general obligations of humanity. It is this course that evolution takes, as we have already seen. The more societies concentrate their energies inwards, on the interior life, the more they will be diverted from the disputes that bring a clash between cosmopolitanism — or world patriotism, and patriotism; as they grow in size and get greater complexity, so will they concentrate more and more on themselves . . . Societies can have their pride, not in being the greatest or the wealthiest, but in being the most just, the best organised and in possessing the best moral constitution. (Durkheim 1992: 74–5)

As Daniel Chernilo puts it, ‘Durkheim took the defence of France’s national identity as a ‘moral duty’ precisely because he regarded it as universal *as well as* national (Chernilo 2006 and 2006a). The conception of France as a *universal nation*, a nation whose particular interests correspond with the universal values of humanity as a whole, allowed Durkheim to translate victory for France into victory for the cosmopolitan spirit. This idea of France as a nation without nationalism is doubtless problematic and potentially dangerous, yet it illustrates that even within the homelands of ‘classical sociology’ national allegiance could be tempered by cosmopolitan commitment to the self-discipline of states.

### C. Human rights after the Holocaust: taking atrocities seriously

Hannah Arendt argued in her work on *The Origins of Totalitarianism* that, after the Holocaust, it was no longer possible simply to return to the past and reconstruct the system of national sovereignty that totalitarianism had exploded. *New* guarantees had to be conceived and realized.

Anti-Semitism, imperialism and totalitarianism . . . demonstrated that human dignity needs a *new guarantee* which can be found only in a *new political principle, a new law on earth*, whose validity this time must comprehend the whole of humanity, while its power must remain strictly limited, rooted in and controlled by newly defined territorial entities’ (Arendt 1979: ix, my emphases).

In spite of her own strictures against Kant’s naïve cosmopolitanism, Arendt’s dual vista was Kantian in its inspiration: on the one side, a new law on earth

encompassing the whole of humanity; on the other, the reformation of nation-states within a global framework. The problem she discerned was that norms of international law still operated in terms of treaties and agreements between sovereign states; that international organizations still conceived their role in terms of reinforcing national self-determination and state sovereignty; and that new declarations of human rights were basically insubstantial in the absence of means of coercive enforcement. Arendt also followed Kant in finding no solution in the form of world government.

The essentially barbaric idea that ‘right’ is what is good for the whole does not lose its destructive force whether the whole is ‘the German people’ or ‘the proletariat’ or if the unit to which ‘the good for’ applies is as large as mankind itself. It is quite conceivable, and even within the realm of practical political possibilities, that one fine day a highly organized and mechanized humanity will conclude quite democratically – namely by a majority decision – that for humanity as a whole it would be better to liquidate certain parts thereof. (Arendt 1979: 299)

Writing in the shadow of catastrophe, Arendt’s normative vista was, I would suggest, essentially cosmopolitan: ‘The right to have rights, or the right of every individual to belong to humanity, should be guaranteed by humanity itself’ (Arendt 1979: 298). The question remained: how to give substance to the idea of humanity? Arendt took her cue from the realm of international law.

August 1945 signalled the birth of ‘crimes against humanity’ as a category of international criminal law. It was formulated in the Nuremberg Charter as a supplement to already existing crimes in international law: war crimes and crimes against peace. It functioned to make visible the new forms of violence totalitarianism brought in its wake which the category of war crimes left concealed. Crimes against humanity were defined in terms of various ‘inhumane’ acts like mass murder, extermination, enslavement, deportation and persecution based on political, racial or religious grounds. Today this definition has been sharpened and extended in international humanitarian law, not least through the inclusion of mass rape (Robertson 2002).

Together with Karl Jaspers, Arendt caught the significance of this legal innovation for cosmopolitan thinking (Jaspers 1961; Arendt and Jaspers 1992). The category of crimes against humanity challenged the principle of national sovereignty that had made heads-of-states inviolable to prosecution. It announced that individuals acting within the legality of their own state could still be tried as criminals. It removed from perpetrators the excuse of only obeying orders. It held that those who sit behind desks planning atrocities can be as guilty as those who participate directly in their execution. It meant that service to the state does not exonerate any official or scientist from their responsibilities as human beings. It enabled a distinction to be made between the criminally guilty and those others who were capable of co-operating under

orders but not guilty in the same sense. By treating mass murderers as mere criminals, it deprived them of the allure of 'satanic greatness' and represented them in their 'banality'. It provided an alternative to vengeance and collective punishment. And it signified that atrocities committed against one set of people – be it Jews, Poles or Roma – are an affront not only to these particular people but to humanity as a whole and that humanity has a responsibility to hold to account those who commit them (Fine 2000).

Jaspers and Arendt were well aware of the limitations of the Nuremberg Tribunal: not least, that it focused on the prosecution of war crimes at the expense of crimes against humanity and that it excluded in principle the prosecution of crimes committed by members of the Allied powers. They recognized that the Tribunal was contained within a national framework but argued it was still 'a feeble, ambiguous harbinger of a world order the need of which mankind is beginning to feel' (Jaspers 1961). They confronted the insufficiency of any legal response in the face of this catastrophe. Arendt in particular emphasized the difference between 'a man who sets out to murder his old aunt' and 'people who without considering the economic usefulness of their actions at all . . . built factories to produce corpses', and she acknowledged that the latter seemed to explode the limits of all legal forms and systems (Arendt and Jaspers 1992). She noted the disproportion between the few Nazis treated as criminally guilty and the mass of perpetrators who had committed the crimes in question. She acknowledged that the very distinction between the guilt and innocence that criminal law requires is difficult to sustain when a machinery of mass murder makes almost every individual complicit. She observed that the punishment of perpetrators was in fact provoking among Germans feelings of incomprehension, resentment and betrayal and that there was precious little sign of a new sense of universal responsibility among people who saw themselves as no more than cogs in a machine.

However, Arendt articulated a sense of lost opportunity when she saw how quickly the cosmopolitan dawn signalled by this legal event turned into night. The advent of the Cold War meant that the cosmopolitan outlook came off most official agendas and became the preserve only of a handful of radical intellectuals and civil society associations. This sense of lost opportunity lay behind Arendt's analysis of the trial of Adolf Eichmann, the official in charge of the deportation of Jews in the Final Solution. She maintained that the importance of the trial lay in its capacity to hold responsible, render judgment on and mete out punishment to an individual who, while hiding behind the legality of the Nazi state, 'supported and carried out a policy of not wanting to share the earth with the Jewish people and the people of a number of other nations'. The trial also served to make visible a history of the Holocaust from which most eyes had been previously averted (Levy and Sznajder 2002). Arendt did not wish to exaggerate the failures of the Eichmann trial. Justice was done, even if the court failed to see that exterminating a particular

category of people was more than a crime against that category and that humankind in its entirety might be 'grievously hurt and endangered' (Arendt 1977: 276). She understood, however, that the universalistic import of crimes against humanity was being corralled back into a basically national frame of reference. Thus in prioritizing the charge of 'crimes against the Jewish people', the court failed to understand that 'the physical extermination of the Jewish people was a crime against humanity perpetrated on the body of the Jewish people, and that only the choice of victims, not the nature of the crime, could be derived from the long history of Jew-hatred and antisemitism' (Arendt 1977). This was the nub of the issue: the mass murder of Jews was an attack not only on Jews but upon human diversity as such (Arendt 1977).<sup>1</sup>

The cosmopolitan project, as Arendt formulated it, was designed not only to re-orient Germany back to the tradition of western humanism but to renew the tradition of western humanism itself. It was to this end that Arendt elaborated a conception of 'universal responsibility' in which human beings would assume:

responsibility for all crimes committed by human beings, in which no one people are assigned a monopoly of guilt and none considers itself superior, in which good citizens would not shrink back in horror at German crimes and declare 'Thank God, I am not like that', but rather recognize in fear and trembling the incalculable evil which humanity is capable of and fight fearlessly, uncompromisingly, everywhere against it. (Arendt 1994: 132)

The line of thought developed by Arendt links the cosmopolitan outlook to another Kantian thematic: not so much to the constitutional law of his political writings but to the role of judgment as 'the faculty for thinking the particular' (Kant 1987: 18). She writes:

One judges always as a member of a community, guided by one's community sense, one's *sensus communis*. But in the last analysis, one is a member of a world community by the sheer fact of being human; this is one's 'cosmopolitan existence'. When one judges and when one acts in political matters, one is supposed to take one's bearings from the idea, not the actuality, of being a world citizen. (Arendt 1992: 75–6)

The cosmopolitan outlook finds a home in the world through actors taking their bearings from the idea of 'being a world citizen'. It entails grappling with the ambivalences faced by subjects in making cosmopolitan judgments about the extremities of organized violence in thoroughly non-ideal conditions. And it is the necessary accompaniment at the level of subjective culture to the growth of cosmopolitan forms of law at the level of institutions.

#### **D. Human rights and humanitarian military intervention: logics of justification**

The end of the Cold War gave rise to misapprehensions about the end of war as such. It was soon revealed, however, that the end of the Cold War was the beginning of new forms of war, or of forms of war which may not be exactly new but do not fit easily into either the old frameworks (Kaldor 2001, 2003). We may think of ethnic wars such as those fought in the Balkans, various new forms of 'global terrorism', as well as the so-called 'war against terrorism'. My focus here is on forms of war justified in the universal language of human rights and named 'humanitarian military intervention' or the 'new military humanism' depending on one's perspective. The legitimacy of this kind of war has been challenged from several sides – through the anti-imperialist defence of resistance against western and especially American power, through a pacifist objection to all wars without distinction, and through a pessimistic depiction of a wave of undifferentiated violence running through the postmodern world.

What we find among cosmopolitans is a deep sense of ambivalence. On the one hand, humanitarian military intervention is a necessary extension of the precedent set at Nuremberg. Crimes against humanity should serve not only as a justification for legal prosecution after the event but also for military intervention before or during the event. If the idea of 'universal responsibility' is to mean anything, it is the responsibility of those who have the power to intervene not to stand idly by when crimes against humanity are being committed and when it is within their capabilities to stop them. On the other hand, the use of military force in such circumstances may appear as an exercise of dominance on the part of strong powers merely rationalized by appealing to humanitarian motives or consequences.

Support for humanitarian military intervention in the 1990s was premised on the widespread feeling that the exercise of military force was needed to stop humanitarian crimes. Cases in point were the US intervention in Somalia, sanctioned by the United Nations, between 1992 and 1994 and NATO's air campaign, this time not officially sanctioned by the United Nations, against Serbia in 1999. It was also provoked by the failure of the international community to act effectively in the face of genocide in Rwanda in 1994 (Wheeler 2000: 208–41) and ethnic cleansing in Bosnia through the 1990s (Bobbitt 2002: 414–67). Jürgen Habermas attributes his own guarded support for the NATO intervention in Kosovo partly to the UN's inability to protect Bosnian Muslims in the declared 'safe area' of Srebrenica in 1995 (Habermas 1999: 269 and Postel 2002: 1): 'confronted with crimes against humanity, the international community must be able to act even with military force, if all other options are exhausted' (quoted in Postel 2002: 1–2). Opposition to humanitarian military intervention, however, came from individuals who shared similar or the same cosmopolitan principles but thought that any attempt to furnish

military action with a humanitarian gloss could only lead to the legitimization of violence and delay the construction of a universal human rights culture (Booth 2001: 314). One commonly held view is that military violence is basically incompatible with the goal of governing international affairs via cosmopolitan norms, which can only be generated through non-violent processes of communicative interaction (Young 2003). Controversies over ‘collateral damage’ are just one instance of widespread concern over the destructive effects of modern warfare.

One way in which cosmopolitan theorists have addressed this ambivalence is by specifying a demanding set of formal criteria for the justification, authorization and conduct of military force (Smith and Fine 2006). For example, most cosmopolitan writers agree that it is only in the context of ‘supreme humanitarian emergencies’ that military action becomes justifiable and they distinguish between ordinary routine abuse of human rights and ‘those extraordinary acts of killing and brutality that belong to the category of “crimes against humanity”’ (Wheeler 2000: 34). Most agree that military action should be employed only as a means of *last resort* with much of the debate over the Kosovo intervention revolving around whether or not the intervening powers were seriously committed to finding a diplomatic solution (Chomsky 1999: 22–3; Falk 1999: 855). Most argue for some sort of *proportionality* or *efficiency* threshold. Military action must have a reasonable chance of not causing more harm than would occur without the use of military force (Wheeler 2000: 36–7; Archibugi 2004: 11–13). Most support pre-emptive intervention only if intervening parties are convinced that killings are imminent and that it makes no sense to wait for mass killings to start (Wheeler 2000: 34–5). In Rwanda, notably, it is often held that speedy action *before* the genocide unfolded was possible, given that there had been clear and urgent warnings to the international community (Barnett 2003: 175).

Most cosmopolitans require that interventions also be given institutional authorization at the global level. States should not be able to appeal to their own interpretation of cosmopolitan principles to justify military interventions without being constrained by *legal* procedures for determining whether or not such an appeal is appropriate. This idea is central to Habermas’ rebuttal of the ‘Schmittian’ complaint that humanitarian military intervention constitutes a dangerous moralization of warfare:

... the establishment of the desired situation of world citizenship would not mean that violations of basic human rights are evaluated and fought off in an unmediated way according to philosophical *moral* standards, but instead are prosecuted as criminal acts within a state-ordained legal order. (Habermas 1999: 269)

Humanitarian military interventions are conceived not so much as a species of war but rather as *police actions* designed to enforce cosmopolitan laws

(Kaldor 2003: 134). Some cosmopolitans are in favour of establishing a World Court to act as a deliberative body to determine publicly whether humanitarian crimes are serious enough to merit military intervention (Archibugi 2004: 10).

Cosmopolitans also establish criteria for the *conduct* of humanitarian military intervention. There are already restrictions on military conduct familiar from 'just war' theory, but the distinctive contribution of cosmopolitanism lies in its account of changes in military strategy necessary if 'cosmopolitan militaries' are to respond to humanitarian crimes. The central concern here is the elaboration of certain principles: for example, that intervening states must not put innocent persons at risk in order to protect the lives of their own forces; that the rights of enemy soldiers and non-combatants must be respected; and that military forces must be trained to engage in rescue operations and humanitarian missions involving capability to be deployed on the ground if necessary. As Rawls puts it, 'well-ordered peoples must respect, so far as possible, the human rights of the members of the other side, both civilians and soldiers' (Rawls 1999: 96). Cosmopolitan writers have addressed how 'cosmopolitan minded militaries' should differ from conventional state-based militaries: 'Whereas the soldier, as the legitimate bearer of arms, had to be prepared to die for his country, the international soldier/policeman risks his or her life for humanity' (Kaldor 2001: 131). The most optimistic look forward to a time when 'military forces may move . . . to the forefront of the movement concerned with seeing in a more just, equitable and humane world, to become a kind of global social movement for peace and security, or a true "force for good"' (Elliott and Cheeseman 2002: 55).

The elaboration of such rigorous *criteria* allows the cosmopolitan to prescribe how military action *ought* to be carried out but it presupposes a world in which states are motivated by cosmopolitan norms, international procedures exist to render an authoritative judgment about the need for intervention and military forces are able to enforce cosmopolitan laws. When we factor in the 'non-ideal' conditions of the current world order – those of power, prejudice, interest and inequality – we cannot avoid the return of ambivalence. In any particular case we can reluctantly endorse military interventions on the grounds that some kind of response is better than none in the face of humanitarian crimes; or we can reluctantly condemn such interventions because the proposed remedy does not live up to cosmopolitan criteria. I am not suggesting that the ideal character of this cosmopolitan approach is a reason to dismiss it. Normative theories of military intervention function to clarify and systematize our convictions; they provide a framework for our judgments and they promote legal and institutional reforms. The downside, however, is that the gap between facts and norms may be so wide that cosmopolitan ends become utterly abstracted from the grubby experience of actual military force and from the resistance it may engender. It is not surprising under these

circumstances that the cosmopolitan outlook appears to some astute commentators either as hopelessly naïve or wilfully cynical (Zolo 2002; Chomsky 1999).

The ambivalence of which I am speaking is subtly captured by the differences in tone of Jürgen Habermas' public interventions on this subject: his cautious but decided defence of NATO's intervention in Kosovo in 1999 and his open condemnation of the recent war in Iraq in 2003 (Fine and Smith 2003; Smith 2006). Habermas argued that, notwithstanding the absence of legal authorization, the intervention in Kosovo was right due to the urgency of stopping ethnic cleansing. He qualified this support by maintaining that it should not be treated as a precedent but rather as a marker of the need to advance the transition from the classical international law of states to a cosmopolitan order (Habermas 1999: 264). He was concerned over the lack of an explicit UN Security Council resolution to back the use of military force, but regarded the situation in Kosovo so grave that military intervention was nonetheless justified as an exception: 'NATO's self-authorization should not be allowed to become the general rule' (Habermas 1999: 271).

In 2003 the war in Iraq confirmed Habermas's worst fears that very different interpretations of international law were dividing the West and providing a thin veil for the unilateral exercise of force by the USA: 'For half a century the United States could count as the pacemaker for progress on this cosmopolitan path. With the war in Iraq . . . the normative authority of the United States of America lies in ruins' (Habermas 2003: 365). The fear Habermas expressed in the Kosovo emergency was now being realized in the Bush–Blair doctrine: 'if the regime of international law fails, then the hegemonic imposition of a global liberal order is justified, even by means that are hostile to international law' (Habermas 2003: 365). What he saw in the case of Iraq was the USA acting as a new form of 'universal nation' outside of international law and institutions. He did not withdraw his support for military intervention in Kosovo or his endorsement of 'the undisputed democratic and rule-of-law character of all the members of the acting military coalition', but he sharply contrasted what he saw as the hegemonic unilateralism of the Anglo-American interpretation with the generally cosmopolitan character of the European (2003: 366). At best, justifications of the Iraq war substituted the simulacrum of cosmopolitan thought for the seriousness of the genuine article.

### **E. Conclusion: cosmopolitanism in an age of terror**

The virtue of Habermas's approach lies in the concreteness of his cosmopolitan judgments and his own readiness to make a decision in the face of ambivalence. We may or may not agree with his judgments but he does not shy away from them. If he is to be faulted, it is over the validity of the mediations he

constructs between general principles and the particular case. We may question, for example, the legitimacy of the contrast he draws between Anglo-American unilateralism and European multilateralism, but we know where he stands. There is an interesting contrast between Habermas and Derrida in this respect. In his dialogue with Habermas, Derrida also looks on the world through a cosmopolitan gaze that in some respects goes further down the road of cosmopolitan violence. He expresses his support for the establishment of a UN army as an effective intervening force but articulates his own equivocation:

I am not unaware of the utopic character of the horizon I'm sketching out here, that of an international institution of law and an international court of justice with their own autonomous force . . . this unity of force and law is not only utopic but aporetic . . . we would be reconstituting a new figure . . . of universal sovereignty, of absolute law with an effective autonomous force at its disposal . . . (Derrida 2003: 114–15).

Ambivalence punctuates the text:

The Progress of cosmopolitanism, yes . . . But cosmopolitanism . . . presupposes some form of state sovereignty, something like a world state . . . The state is . . . at once remedy and poison . . . (Derrida 2003: 123–33)

I am less convinced than Derrida that we should pin our faith on the building of a UN army or that we can simply declare our ambivalence in general philosophical terms. There is an absent middle. Cosmopolitanism must be able to draw upon the resource of political actors capable of making complex and informed judgments on urgent questions of public deliberation. In its more determinate mode cosmopolitan judgment may involve the application of cosmopolitan values to political activity and in its more reflective mode it may involve the creation of cosmopolitan values through political activity. Either way, it entails grappling with ambivalence.

Today some observers say that a human atrocity is imminent among the African tribal populations of Darfur. It would appear that in Darfur the new 'Government of National Unity' is deliberately escalating the level of violence and insecurity as a form of counter-insurgency warfare with the goal of accelerating human destruction in this region. There is little evidence, however, that the world is listening seriously. Neither the US nor European countries nor other international actors seem intent on speaking out. The absence of an effective voice emerging from the Blair government is especially dismaying in light of British willingness to intervene in Iraq. In failing to respond, the world may be again witnessing – and acquiescing in – genocide. The shadows of Auschwitz, Srebrenica, Cambodia and Rwanda are falling heavily over Darfur (Reeves 2005). We are equally haunted by the spectre of terrorism: images of 9/11 and 7/7, images of the beheading of hostages and the suicide-bombing of many thousands of innocent civilians by the 'resistance' in Iraq. Much of this

terrorism appears to have lost all rational connection with political instrumentality and purpose and appears distinct from the traditional terrorism that has marked national movements in, say, Algeria or Ireland or even in Israel/Palestine. On the other side, it may well be the case, as Derrida among many others has claimed, that under current American leadership many forms of what is called the ‘war on terror’ work to ‘regenerate the causes of the evil they claim to eradicate’ (Derrida 2003: 100).

The cosmopolitan outlook is both a refusal to lose our sense of astonishment in the face of such violence and an understanding that we are not defenceless. It seeks an alternative to an ill-defined ‘war on terror’ that is both legal and political in its orientation (Shaw 2005). On the one side, it declares that international law must be respected and made effective; on the other, it reminds us, as Derrida puts it, that:

those called ‘terrorists’ are not in this context ‘others’ whom we as ‘Westerners’ can no longer understand. We must not forget that they were often recruited, trained, and even armed, and for a long time, in various Western ways by a Western world that itself . . . invented the word, the techniques and the politics of ‘terrorism’. (Derrida 2003: 115)

To be sure, there is a real danger, were we to split law from understanding, that law might revert to a kind of blind judgment that designates the perpetrator as the unspeakable beast and ourselves as absolute innocence, or, alternatively that politics might regress into a mere justification of the perpetrators in the name of understanding the origins of their anger and disillusionment. The function of international law is not to demonize the perpetrators of atrocities but to hold them responsible for their actions and thereby to humanize them. Equally the function of political understanding is not to justify the violence that such perpetrators commit – whether in the name of other crimes committed by the West or of higher motives projected onto the perpetrators themselves – but on the contrary to confront the actuality of atrocity and unearth its origins. Law and politics are the two sides of the contemporary cosmopolitan coin: they bring together institution and outlook, judgment and understanding, in confronting the organized violence of our age.

(Date accepted: December 2005)

## Note

1. It is precisely this engagement with the actuality of violence that is missing in the critiques of the Nuremberg trials advanced

at the time by Carl Schmitt and Martin Heidegger. Both ironised on the idea of crimes against humanity: a crime against

humanity is one committed by Germans, a crime for humanity is one committed by Americans; what the Nazis did to the Jews was no worse than what the Russians did to the Germans; the manufacture of corpses in gas chambers and extermination camps was in essence the same as other practices of modern technology like the mechanized food-industry; those liquidated in extermination camps are comparable with the millions of impoverished people perishing from hunger in China (Fine 2000). Eichmann's lawyer said: 'You are decorated if you win and go to the gallows if you lose'. Klaus Barbie's lawyer later said: 'Acts labelled "crimes against humanity" are normal routines of power in the international arena'. What we find in all cases is a state of denial: either the actions in question did not happen, or they did happen but were normal, or they should not be seen as carrying a moral imperative to respond (Cohen 2001).

Such criticism remains intact among left-wing critics of cosmopolitanism today. Drawing on a criticism frequently made of

the Nuremberg Tribunal, some now declare that the impartiality of the Hague Tribunal for War Crimes in the former Yugoslavia tribunal is a farce because it prosecutes Milosevic and other officials from the former Yugoslavia but not the NATO commanders who made military targets of civilian institutions. But can we say that the prosecution in a court of law of officials accused of authorising and conducting murderous ethnic cleansing is tantamount, as one writer puts it, to the 're-legitimation of the right of the great powers to practice what violence they please' or to 'a return to the Westphalian system of open great power domination over states which are too weak to prevent external claims against them'? (Chandler 2003). This way of thinking would appear to have no understanding of cosmopolitanism. Of course, international tribunals are a function of power, even of military victory, but this does not invalidate them if their aim is to ensure that military victory is tempered with a visible sense of justice.

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