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ON RECONCILING COSMOPOLITAN UNITY AND NATIONAL DIVERSITY
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There are few ideas as important to the history of modern democracy as that of the nation as a political community. And yet, by comparison to its companion idea of political community as based upon the agreement of free and equal individuals, it remained until recently a marginal concern of liberal political theory. The aftermath of decolonization and the breakup of the Soviet empire, among other things, has changed that and brought it finally to the center of theoretical attention. And once there, the deep-seated tensions in theory between nationalism and liberalism have proved to be as hard to overlook as their all too familiar tensions in practice. Thus many liberal political theorists have taken to framing their inquiries into nationalism by asking whether there is a conception of nationhood that is compatible with basic liberal principles. Can the values of nation and culture be combined with those of freedom and equality within the basic structure of the democratic constitutional nation-state? One fault line that has attracted its share of attention divides liberal universalism from nationalist particularism. That division becomes all the more salient when the topic of cosmopolitanism comes up -- as it does more and more frequently, partly in reaction to horrors perpetrated under the banner of ethnonationalism. The framing question then is whether there is a conception of nationhood that is compatible with cosmopolitanism when the latter is understood as the establishment of a basic structure of cosmopolitical justice under a global rule of law.

Immanuel Kant was among the first to understand cosmopolitanism in these terms, and his attempt to reconcile it with nationalism, most famously in his essay on "Perpetual Peace," has remained among the most influential. Kant was writing during the birth of the modern nation-state from the American and French Revolutions. Political theorists addressing these issues today can look back on a two-hundred-year history of the nation-state and ahead to the anticipated consequences of the accelerated globalization processes now underway. The work of Jürgen Habermas is particularly interesting in this regard, for he explicitly takes up Kant's reading of history "with a cosmopolitan intent," complicates it with lessons drawn from the intervening two centuries of experience with the nation-state, and projects it into a hoped-for cosmopolitan future. In this paper, after framing the problem of reconciling nationalism and cosmopolitanism in a certain way (I), I want to take a new look at how Kant tried and failed to resolve it (II), and then to examine Habermas's recent efforts to update the Kantian project (III). In the final section (IV), I will consider

some doubts about that project raised by Charles Taylor in his defense of “alternative modernities.”

I

From the time of the French Revolution to the present, through successive waves of nation-state formation in the nineteenth and twentieth centuries, a distinctively modern form of political community has gradually prevailed over all competitors.^[1] Within the boundaries of preexisting territorial states and through the formation of new states, amidst the disintegration of empires and the dismantling of colonialism, it has become the characteristic modern expression of shared political identity. The idea of the nation as political community was present not only at the birth of modern democracy, when “we the people” became the bearers of sovereignty, but also through the wars of national liberation and the struggles for national self-determination that shaped this century. The development of the nation-state system that now covers the globe is, of course, a complex and variegated story, whose proper telling requires extensive historical and comparative analysis. But here I am interested only in the core idea of linking political communities to communities of origin. In this sense, the basic principle of nationalism, in its strictest form, demands that every nation have its own state; and the basic right of nationalism, in its strictest form, is the right of every people to political self-determination.

Taken in this strict sense, nationalism as a normative doctrine today raises spectres of ethnic cleansing, forced resettlement, massive repression, and the like. Nation-states require territories within whose boundaries they have a monopoly on force. But the earth is entirely covered by already existing states, which are less than 200 in number, while the identifiable ethnic groups that might conceivably invoke the nationalist principle and the nationalist right number some 5000.^[2] Moreover, the globe is not divided into ethnically homogeneous regions that might become independent states; ethnic intermingling is almost everywhere the rule. So taking ethnonationalism as the basic principle of state formation is, in the world we actually inhabit, a recipe for bloody disaster. This should be kept in mind when considering nationalism’s claimed superiority as regards sensitivity to and accommodation of difference. A global mosaic of politically organized, ethnically homogeneous enclaves is about as unaccommodating, not to mention unrealistic, a scheme as could be imagined. So we have to turn to less extreme conceptions of nationalism if we want to get at the unresolved theoretical issues.

It is now generally recognized that national identities are neither natural nor prepolitical. They are socioculturally constructed -- “imagined communities” as Benedict Anderson has it, or “imagined commonalities” as Max Weber had it ; and they typically serve political purposes -- as vehicles of emancipation or aggression, for instance, or of political unification and economic modernization. To be sure, they are usually constructed as quasi-

natural, precisely as the prepolitical basis of and justification for the national political communities embracing them. Thus national consciousness typically includes a belief by members of the national community that they share some distinct subset of such “objective” features as common descent, language, culture, homeland, customs, traditions, religion, history, destiny, or the like. But these commonalities are as often fictive as real. The classical nation-states were never as homogeneous in these respects as members characteristically took them to be, and contemporary nation-states are even less so. As historians have documented, the process of nation-building typically involved the work of intellectuals and writers, scholars and publicists, historians and artists using media of mass communication to forge a national consciousness and generate a common allegiance, first among the professional classes and through them among the masses. Correspondingly, standard languages were typically not a ground but a goal of nation-building processes. In short, nations were not found but created (not ex nihilo, of course); and they were created in response to historical contingencies and for political purposes. This is especially clear in the case of states that emerged from former colonies within territorial boundaries that cut across traditional ethnies and homelands. But it is true, in varying degrees, of the classical nation-states as well.

The constructed character of national identity makes it notoriously susceptible to being instrumentalized for political purposes, good and bad. Raising national consciousness in the liberation struggles of oppressed groups usually counts as the former, fanning nationalist xenophobia for aggressive or expansive purposes as the latter. Historical sociologists and sociological historians often maintain that nation-building fulfilled essential functions in processes of modern state-formation -- functions of cultural and linguistic unification, for instance, or of economic and political modernization -- and in particular that it was an important catalyst in the spread of republican government. Some argue, even, that for many purposes there were no functional alternatives to nationalism, and thus that it was an indispensable element in social, cultural, political, and economic modernization processes. In the same vein, theorists of contemporary politics sometimes claim that political integration in complex societies is not possible in the absence of strong national identification, that a purely “constitutional” or “civic” patriotism is no adequate substitute for loyalties rooted in culture, history, religion, or the like. This is said to be true even, or rather especially, of liberal democratic societies. The arguments here are familiar from the recent liberal-communitarian debates in political theory. One basic issue is whether a citizenship of individual liberties and a politics of interest aggregation are a functionally and normatively adequate basis for democratic societies, or whether citizenship has rather to be tied to community and politics to common values if we are to have the solidarity and stability that democratic societies require.

Another important line of argument for the indispensability of nationalism intersects the main line of normative

political theory in the modern period. There is, the argument goes, a huge gap in classical social contract theories: they provide no convincing normative delimitation of the “multitude of men” (Hobbes) or “number of men” (Locke) who are to be parties to the contract, i.e. no normative account of just who must consent to the terms of association and why just them, though it seems generally to be assumed that the parties share a language and culture.^[3] Nationalism claims to fill this normative-theoretical gap rather than leaving the matter, as liberal theorists in effect have, to the contingencies of history, which means, in practice, to shifting constellations of power. On this view, the boundaries of the nation should be the boundaries of the state.

Against these functional and normative arguments, a growing number of theorists have been arguing that the traditional nation-state system of national and international organization has outlived its usefulness, that it has become, in a word, dysfunctional and thus must be superseded. The path to a postnational system is variously conceived, but in all the different scenarios the inexorable thrust of globalization plays a significant role. Globalization of capital and labor markets, of production and consumption, of communication and information, of technological and cultural flows is already posing problems that can't be resolved within the borders of individual states or with the traditional means of interstate treaties. Just as the problems that accompanied the rise of capitalism in modern Europe created a need for delocalizing law and politics which led eventually to the formation of the nation-state, the globalization of capitalism, and of everything that goes with it, is creating a growing need for denationalizing -- in the sense of supranationalizing -- law and politics. Many fear that if legal and political institutions do not expand to global proportions so as to keep up with the economy, we will be left with a more or less self-regulating capitalism that simply “creates a world in its own image,” as national governments become less and less able to sustain the social-welfare arrangements with which they have heretofore sought to “domesticate” capitalism within their borders.^[4] In this conjuncture, the task of a political theory committed to principles of freedom and equality under the rule of law is to think beyond the present, to elaborate normative models -- or, if you like, utopian projections -- of a world order that could measure up to such principles, that is, in which they would no longer be institutionalized, however imperfectly, only at the national level and below. To borrow a term from Rawls, political theorists should attempt to sketch the “basic structure” of a system of cosmopolitical justice that could serve as a point of normative orientation and guide to political practice. They should strive to overcome the deep-seated inclination to think largely within the taken-for-granted confines of the nation-state and seek to conceptualize transnational structures for guaranteeing individual rights, securing democratic accountability, and ensuring fair distribution on a global scale.

The local “inside” is now increasingly linked with the global “outside”; but it is not only this aspect of globalization that sets the idea of the ethnocultural nation-state at odds with reality. The vast movements and

minglings of populations around the world have a parallel effect: the “inside” is also increasingly diverse. And there seems to be no halting this diversification short of violence, coercion, and repression. The growing heterogeneity of most populations makes any model of political community based on ethnocultural homogeneity or on forced assimilation to a hegemonic culture increasingly unsuitable as a normative model. The political-theoretical challenge it raises is, rather, to think unity in diversity, to conceptualize forms of political integration that are sensitive to, compatible with, and accommodating of varieties of difference. Reconciling national diversity with cosmopolitan unity is one component of a response.

And this brings us back to the tensions between liberalism and nationalism, between voluntary membership and ascriptive membership, between citizens with legally defined basic rights and conationals with culturally defined shared features. It is clear that any attempt at reconciliation will have to involve transformation. In particular, if we are trying to conceptualize a liberal nationalism, in the broadest sense, then it will have to be compatible with the universal content of the basic rights of citizens under the rule of law. To be sure, these basic or “human” rights are given particular and various expressions in different constitutional traditions. But it belongs to their very meaning that they claim a universal validity transcending any particular legal system-- precisely the surplus of meaning characteristic of normative or “regulative” (Kant) ideas. Liberal theorists have always known this and thus have felt obliged to explain, again and again, why it was that women, slaves, the unpropertied and uneducated, and virtually the entire non-Western world could not in practice be granted the fundamental rights that in theory belonged to “all men”.^[5]

If nationalism has to be transformed to be compatible with liberal universalism, what of liberal universalism? What changes must it undergo to be compatible even with a transformed nationalism? That will become clearer as we proceed. But even at the start, it is evident that it will have to accommodate somehow the cultural differences that nationalism stresses and liberalism has, until quite recently, largely ignored. For it is clear that a theory of justice which respects individuals’ rights to define and pursue happiness in their own ways should, in particular, take into consideration their desires to continue living with others distinct forms of life -- to go on speaking the languages, adhering to the customs, passing on the traditions, practicing the religions, and so forth, which inform who they are and who they want to be as individuals and as communities. Of course, the formation of an independent state is by no means the only way of safeguarding the integrity of a valued form of life. In addition to anti-discrimination legal protections and voluntary cultural associations, there is a wide range of political-organizational possibilities for securing some measure of autonomy short of sovereign statehood: consociation, federal union, loose confederation, functional decentralization, devolution, special representation or veto rights, special language or land rights, and so on

and so forth. Given the demographics of the planet, it seems evident that a vast array of such arrangements would be necessary even to begin to accommodate existing diversity in any cosmopolitical legal and political order. The one arrangement that would have to go is precisely the absolutely sovereign nation-state -- which does not mean that the nation-state must simply disappear. For the present, it seems, any viable scheme of cosmopolitan unity will have to preserve while transforming it. To borrow a term from Hegel, the nation-state must be *aufgehoben*.

On the other hand, a liberal cosmopolitanism could not countenance granting communal rights for the sake of protecting cultures that deny individual rights. More specifically, if culturally diverse nations are the rule, then cultural pluralism has to be integral to national self-understanding. And this suggests that ethnic nationalism will have to give way increasingly to civic nationalism. The latter is, to be sure, a more abstract form of integration; but allegiance to a national community was itself already more abstract than the local ties it transcended. And, as we saw, the nation, however powerful the “we-”consciousness it generated, is not a natural but a constructed object of group loyalty. There seems to be no reason in principle, then, why it cannot itself be transformed so as to be compatible with a liberal cosmopolitanism. A look at Kant and Habermas will help us get clearer on the conceptual issues involved.

II

Kant has long been a favorite target of those opposed to abstract universalism in political theory generally and to undifferentiated cosmopolitanism in international affairs particularly.^[6] And indeed his moral ideal of a kingdom of ends, as a systematic union of rational beings under laws they give to themselves, seems to warrant that characterization and that critique. But Kant’s moral theory is not his political theory.^[7] And a closer look at his specifically political writings, especially at his essay on “Perpetual Peace” -- perhaps the single most influential discussion of cosmopolitanism by a major philosopher -- shows that first and very widespread impression to be mistaken. Kant was indeed a cosmopolitan thinker; but he was also concerned to reconcile his universalistic aspirations with the diversity of national cultures, of which he had a wider knowledge than most of his contemporaries. Kant did, after all, lecture on anthropology and geography at Königsberg University for more than thirty years; he was, in fact, the first to do so. Thus it was quite in keeping with his interests when in 1785, one year after his “Idea for a Universal History with a Cosmopolitan Purpose” had appeared, he published a two-part review of Herder’s “Ideas on the Philosophy of History of Mankind,” that early harbinger of nationalist thinking.^[8]

In his Anthropology from a Pragmatic Point of View, Kant defined “people” and “nation” as follows: “By the word ‘people’ [*Volk*] we mean a multitude of men assembled within a tract of land insofar as they comprise a whole.

That multitude, or part thereof, which recognizes itself as united into a civil whole by its common descent [*Abstammung*] is called a nation [*Nation*].” [AP, 174] This mix of subjective (“recognizes itself”), objective (“common descent”), and political (“united into a civil whole”) elements is not unlike that involved in the contemporary conception of the nation- state discussed in Part I above. And indeed, in The Metaphysics of Morals Kant tells us that the term *Völkerrecht* actually refers to a kind of *Staatenrecht*, to the right of peoples organized as states, that is to say, to the right of nation-states.^[9] But there are other elements, having to do with race and ethnicity, that clearly mark his views as belonging to a particular time and place. Thus in the Anthopology he goes on to characterize peoples in terms of a mix of biological and cultural factors. The inborn [*angeboren*] character of a people is a function of its racial makeup; it is “in the blood.”^[10] Its acquired [*erworben*] character develops out of the former through culture, especially language and religion.^[11] Human biological-cultural diversity thus belongs to the natural history of the human species, which in Kant’s philosophy of history means that “nature wills” it, which for him is also to say that it is part of the providential ordering of things. More specifically, on Kant’s reading of history, the separation, competition, and conflict among peoples are central ingredients in the dynamics of cultural progress. But they bring hostility and war as well, or rather as the other side of the very same developmental process. And it is here that Kant locates his reconciling project: as moral beings we must hope that “as culture grows and men gradually move towards greater agreement over their principles, [this diversity] will lead to mutual understanding and peace. And unlike that universal despotism which saps all men’s energies and ends in the graveyard of freedom, this peace is created and guaranteed by an equilibrium of forces and a most vigorous rivalry.” [PP, 114] To understand Kant’s cosmopolitanism we have to understand this conception of unity in difference.

The main elements can be read off the lines just cited: belief in political-cultural progress and convergence; rejection of a centralized global state; retention of national difference and even national “rivalry” amidst global unity. These same elements can already be found in the conception of cosmopolitan unity advanced in “Idea for a Universal History with a Cosmopolitan Purpose” in 1784, some ten years before “Perpetual Peace.” They remained more or less constant thereafter, but their relative weights and precise configuration underwent subtle changes. In a word, while a federal union of distinct peoples under a global rule of law remained the rational ideal, its distance from the real was increasingly emphasized and the more practicable goal of a loose confederation of sovereign states took center stage.

For Kant, the ideal form of systematic union among rational beings with diverse, often conflicting interests is civil union under a rule of law that permits the greatest individual freedom compatible with a like freedom for all under general laws. Accordingly, “the highest task which nature has set mankind,” as he puts it in “Idea for a Universal History,” is that of “establishing a perfectly just civil constitution,” which, by placing enforceable limits on

the “continual antagonism” among men, makes it possible for the freedom of one to coexist with a like freedom for all others. [\[12\]](#) By the same logic, the coexistence of the freedom of one independent state with a like freedom for all others is possible only under a rule of public coercive law governing relations between them. Thus, practical reason requires not only that individuals abandon the lawless state of nature and enter into a law-governed commonwealth, but also that individual nations, in their external relations, “abandon a lawless state of savagry and enter into a federation of peoples in which every state, even the smallest, could expect to derive its security and right...from a united power and the law-governed decisions of a united will.”[UH,47] At the global level too natural rivalries and antagonisms are to be constrained by a rule of law deriving from a united will and backed by a united power. Kant is well aware of the ridicule to which earlier cosmopolitical schemes, notably those of the Abbé St. Pierre and Rousseau, were subjected, but he contends that constant war and its accompanying evils irresistably push us in that direction. “They compel our species to discover a law of equilibrium to regulate the-- in itself salutary --opposition of many states to one another, which springs from their freedom. Men are compelled to reinforce this law by introducing a system of united power, hence a cosmopolitan condition of general political security [*einen weltbürgerlichen Zustand der öffentlichen Staatssicherheit*]”.[\[13\]](#) This cosmopolitan condition or “perfect civil union of mankind” is the “highest purpose of nature” and the most encompassing idea of political-practical reason, for the approximate realization of which we may hope and must strive.[\[14\]](#)

If we move now from the “Idea for a Universal History” of 1784 to Kant’s 1793 essay “On the Common Saying: ‘This May Be True in Theory, But It Does Not Apply in Practice’,” the central elements of his cosmopolitan conception remain essentially the same, though his upholding of the ideal in the face of a recalcitrant reality already evinces a note, if not of desperation, at least of reservation. He repeats the claim that war and its attendant distress will eventually force people to do for reasons of self-interest what practical reason anyway prescribes, that is, “to enter into a cosmopolitan constitution [*weltbürgerliche Verfassung*].” [TP,90] But he immediately adds that “if such a condition of universal peace is in turn even more dangerous to freedom, for, as has occurred more than once with states that have grown too large, it may lead to a most fearful despotism, distress must force men into a condition that is not a cosmopolitan commonwealth under a single ruler, but a lawful condition of federation under a commonly agreed upon international law [*Völkerrecht*].” [TP, 90] The threat of despotism attaches, it seems, to the form of cosmopolitan unity marked by a single global state, under a single ruler, of whom all human beings are subjects. As we shall see, such a fusing or melting together [*zusammenschmelzen*] of distinct peoples is the very source of danger that Kant will later cite in “Perpetual Peace” against the idea of a universal monarchy. But whereas there it will provide grounds for espousing the very weak “substitute” of a voluntary league of nations, in this essay the alternative espoused is the still

very strong idea of a federation of nation states under a rule of international law, which, he elaborates, is “backed by power” and “to which every state must submit.” [TP, 92] Against the latter, Kant concedes, political realists may still object that independent states will never freely submit to such coercive laws [*Zwangsgesetzen*], and thus that the proposal for a “universal state of nations” [*allgemeinen Völkerstaat*], however fine it sounds in theory, does not apply in practice. It is just another “childish, “academic” idea.^[15] Nevertheless, it is here that Kant takes his stand: “For my own part, I put my trust in the theory of what the relationship between men and states ought to be according to the principle of right.” In his view, individuals and states should act in such a way “that a universal state of nations may thereby be ushered in”; accordingly, “we should thus assume that it is possible (*in praxi*), that there can be such a thing.” [TP, 92]

Over the next two years, perhaps partly in reaction to the course and consequences of the French Revolution, which he followed very closely,^[16] Kant shifted his emphasis in the direction of the realities of practice, endorsing in “Perpetual Peace” the more “practicable” or “achievable” [*ausführbar*] goal of a voluntary federation or league of sovereign nation states [*Völkerbund*] under an international law [*Völkerrecht*] that was not public coercive law backed by the united power of a universal state of nations, though he still maintained that the latter was what was called for by reason. “There is only one rational way in which states coexisting with other states can emerge from the lawless condition of pure warfare. Just like individuals, they must renounce their savage and lawless freedom, adapt themselves to public coercive laws, and thus form a state of nations (*civitas gentium*) which would necessarily continue to grow until it embraced all the peoples of the earth. But since this is not the will of nations, according to their conception of international law (so that they reject *in hypothesi* what is true *in thesi*), the positive idea of a world republic cannot be realized. If all is not to be lost, this can at best find a negative substitute in the shape of an enduring and gradually expanding federation to prevent war. The latter may check the current of man’s inclination to defy the law and antagonize his fellows, although there will always be the risk of it bursting forth anew.” [PP, 105] Thus, the “positive idea” of establishing a universal and lasting peace is the idea of a “world republic”, the member states of which are themselves republics: a world republic of national republics. The public coercive law of this world republic would regulate external relations among states, among individuals who are citizens of different states, and among individuals and states of which they are not citizens.^[17] This type of law is variously referred to by Kant as *Völkerstaatsrecht*, the right of a state of nations, and *Weltbürgerrecht*, the right of world citizens.^[18] Whatever its precise form, for Kant only this type of global public law completes our emergence from the state of nature in which rights and possessions are merely “provisional” rather than “peremptory” or “conclusive” [*peremptorisch*]. Prior to its

establishment, “any rights of nations and any external possessions states acquire or retain by war are merely provisional. Only in a universal union of states, analogous to that by which a people become a state, can rights come to hold conclusively and a true condition of peace come about.”^[19] Nevertheless, as indicated in a passage cited above, Kant concedes that in the given circumstances global public coercive law is unachievable. Not only are individual states unwilling to give up their unlimited sovereignty, but there are intrinsic difficulties in administering global justice owing to the vastness of the earth’s surface and the variety of its inhabitants.

At this point in Kant’s argument, many commentators head in the wrong direction by taking his admonitions against a world state in the form of a universal monarchy for a rejection of world government in any form.^[20] Kant’s language is occasionally less clear on this than it could be.^[21] But there is overwhelming textual evidence for distinguishing his conception of a “world republic”, which he consistently upholds as the most encompassing idea of political-practical reason, from the conception of a “universal monarchy” or any other form of world state that might result from one power subjugating all the others. It is the latter which he characterizes as a “soulless despotism” that would inevitably give rise to widespread resistance and ultimately lapse into anarchy.” [PP, 113] For our purposes here, it is interesting to note that one basic complaint he voices against it is the *Zusammenschmelzung* of diverse peoples.^[22] Any viable conception of global unity has to be compatible with national diversity, for “nature wills” this diversity and “uses two means to separate peoples and prevent their intermingling [*Vermischung*], the variety of languages and of religions.” [PP, 113] At the same time, however, nature (or providence) also wills that the war and violence resulting from this separation be overcome by global peace. For one thing, cultural development leads to a growing agreement on basic principles and an expansion of mutual understanding. [PP. 114] For another, nature unites peoples by means of their mutual self-interest, especially in the economic sphere. “For the spirit of commerce [*Handelsgeist*] sooner or later takes hold of every people and it cannot exist side by side with war. Of all the powers (or means) at the disposal of the state, the power of money is probably the most reliable; so states find themselves compelled to promote the noble cause of peace, though not from motives of morality.” [PP, 114]

Kant concedes that the idea of global civil unity amidst national cultural diversity is unachievable or unworkable [*unausführbar*] in the circumstances of the time; it can at most be approximated or approached [*annähern*]. And he judges the degree of approximation possible under the given conditions to be the rather limited one of a voluntary, revocable league or federation of nations [*Völkerbund*] with the sole purpose of preserving the peace.^[23] The correspondingly weak conception of international law or the law of peoples [*Völkerrecht*] he joins to it remained in central respects the predominant one well into the twentieth century, a century of global slaughter without equal.

Conceding unlimited sovereignty to independent states and presenting no effective barrier to their use of arms in pursuing what they take to be their vital interests, that arrangement has proved incapable of checking the resort to violence and to the threat of violence in international affairs, incapable, that is, of fulfilling the purpose Kant intended for it. It is, in short, no longer -- if it ever was -- a practically adequate approximation to the idea of legal pacifism.

On the other hand, there are features even of Kant's weaker version of a peaceful world order that strike us still today as rather strong requirements, particularly the First Definitive Article, which requires that "the civil constitution of every state shall be republican." [PP, 99] On his understanding of the term, a "republican" constitution is founded on the freedom of members as human beings, their equality as subjects, and their independence as citizens.^[24] It encompasses the rule of law, representative government, and the separation of powers. It expressly does not include either substantive equality^[25] or universal suffrage.^[26]

Thus, Kant's "practicable" scheme for global peace combines international law [*Völkerrecht: ius gentium*] that is based on a voluntary league of nations with state law [*Staats(bürger)recht: ius civitatis*] that is republican without being democratic or egalitarian. There is also a third principal component, namely cosmopolitan law [*Weltbürgerrecht: ius cosmopolitanum*], which, in the context of this more practicable scheme, is reduced to "the conditions of universal hospitality," that is, "the right of a stranger not to be treated with hostility when he arrives on someone else's territory."^[27] This last, Kant maintains, is the minimum required to enable inhabitants of one society to attempt to enter into relations with those of another, and thus to foster the sorts of mutual relations among peoples that may "bring the human race nearer and nearer to a cosmopolitan constitution," that is, to a "public human right in general."^[28] This conception of cosmopolitan law is said in The metaphysics of Morals to be rooted in the finitude of the earth that is our common home: "Nature has enclosed all [nations] together within determinate limits by the spherical shape of the place they live in...[T]hey stand in a community of possible physical interaction (*commercium*), that is, in a thoroughgoing relation of each to all the others of offering to engage in interaction [*Verkehr*] with any other, and each has right to make this attempt...[which,] since it concerns the possible union of all nations with a view to certain universal laws for their possible interaction, can be called cosmopolitan right (*ius cosmopolitanum*)."^[29] Some of the most serious violations of the conditions of hospitality in his time, Kant repeatedly inveighs, are the conquest and colonization that mark the relations of "the civilized states of our continent" to the rest of the world.^[30] Thus, while himself proposing a racial theory of ethnic difference and cultural hierarchy, Kant vigorously condemns the colonizing efforts that quite often appeal to such theories for justification!

The view of global peace advanced two years later in Kant's most systematic work of *Rechtstheorie*, Part I of

The Metaphysics of Morals, is substantailly the same as that elaborated in “Perpetual Peace.” Thus his tripartite division of public right in section 43 mirrors that noted in the earlier essay: *Staatsrecht, Völkerrecht, Weltbürgerrecht* , only this last is now charaterized as “ineluctably” resulting from the first two, being in essence a kind of *Völkerstaatsrecht* .^[31] And the internal relation among them is characterized in the strongest terms: “So if the principle of outer freedom limited by law is lacking in any one of these three possible forms of rightful condition, the framework of all the others is unavoidably undermined and must finally collapse.” [MM, 89] In a word, there is no final exit from the condition of nature to the condition of right until a state of nations under the rule of cosmopolitan law is established. This last, then, is “the entire final end of the doctrine of right within the limits of reason alone.” [MM, 123] Without it, the law of peoples remains merely provisional.[MM, 119] But here, too, Kant concedes the impractability under present conditions of instituting a *Völkerstaatsrecht* based on a world republic and proposes to substitute a *Völkerrecht* based on a league of nations, once again restricting *Weltbürgerrecht* to the right of hospitality. “A federation of nations in accordance with the idea of an original social contract is necessary, not in order to meddle in one another’s internal disagreements, but to protect against attacks from without. This alliance must, however, involve no sovereign authority (as in a civil constitution), but only an association (federation); it must be an alliance that can be renounced at any time...”^[32] Since a “universal union of states,” in which alone “right [can] come to hold conclusively and a true condition of peace come about,” is an “unachieveable idea,” the basic principles of right require only that we strive to fashion alliances among states which more and more closely approximate it.^[33] Inthe circumstances of late eighteenth-century Europe, the closest practicable approximation is, in kant’s view, the league of nations decribed above. However, he hastens to add, this concession does not absolve moral-political agents from persistently “working toward the kind of constitution that seems to us most conducive to perpetual peace, say, a republicanism of all states together and spearately...[E]ven if the complete realization of this objective always remains a pious wish, still we are certainly not deceiving ourselves in adopting the maxim of working incessantly towards it.” [MM, 123]

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If Kantian cosmopolitanism is to be of service to the project of conceptual reconciliation proposed in Part I, it will have to be altered in important respects. To mention only the most obvious:

1. Kant’s quasi-naturalistic account of “peoples” as the prepolitical bases of political communities has to be revised in line with our heightened awareness of the historically contingent, politically motivated, and socioculturally constructed character of representations of race, ethnicity, and nationality.^[34]

2. Correspondingly, Kant’s understanding of nations as, at least to a considerable degree, racially, ethnically,

and culturally homogeneous has to be revised to allow for the internal heterogeneity of political communities. This means not only dropping his claim that through racial and cultural differences “nature” prevents the “intermingling” [*Vermischung*] of peoples,^[35] but also making conceptual room in his constitutional republicanism for the pluralism that has become a hallmark of democratic politics.

3. Kant’s eighteenth-century understanding of republican government has to be revised to incorporate the basic democratic and social reforms achieved through political struggle in the nineteenth and twentieth centuries.

4. The Enlightenment universalism underlying Kant’s construction of the cosmopolitan ideal has to be replaced by a multicultural universalism more sensitive to the dialectic of the general and the particular.

The unprecedented slaughter of the twentieth century has made a mockery even of Kant’s wavering faith in the capacity of traditional international law and interstate treaties to preserve global peace. The principal theoretical alternative to these failed measures remains some form of legal pacificism, that is, of the global rule of law. Kant’s own account of *Völkerstaatsrecht* and *Weltbürgerrecht* is far too sketchy to serve as anything more than a starting for developing that alternative. In this respect, as in the others mentioned, Habermas’s “discourse theory of law and democracy,” which he presents as a reworking of Kant’s basic approach “with the benefit of two hundred years’ hindsight,” can take us a few steps further in the task of conceptual reconciliation.

III

Critics typically situate Habermas’s approach to law and politics at one extreme of the universalism-particularism spectrum: it is taken to be the very archetype of abstract, difference-levelling universalism. This assessment is usually arrived at in one short stroke, by extrapolating from his moral universalism. But that is no less an oversimplification than was the corresponding extrapolation from Kant’s moral ideal of a kingdom of ends, which, as we saw, ignored the principled differentiation between law and morality he had elaborated in The Metaphysics of Morals. For the past decade at least, Habermas has been similarly concerned to spell out the differences between these two domains of “practical reason.”^[36] From his discourse-theoretical perspective, one of the major differences that emerges is the variety of types of reasons relevant to the legitimation of positive law. Not only moral arguments figure in legal and political discourse, but also a balancing interests and a weighing of pragmatic and of what he calls “ethical political” considerations as well. It is this last type of consideration that is most interesting for our purposes, as Habermas uses the term “ethical” here in somewhat the way Hegel used *sittlich* and *Sittlichkeit*, to represent cultures and forms of life from a normative and evaluative perspective. Thus Habermas’s discussion of “ethical-political” justifications in law and politics is, roughly speaking, a discussion of the ways in which the values, goods,

and identities embedded in different cultural contexts figure into legal and political discourse. Here are two characteristic passages: “In contrast to morality, law does not regulate interaction contexts in general but serves as a medium for the self-organization of legal communities that maintain themselves in their social environments under particular historical conditions. As a result...laws also give expression to the particular wills of members of a particular community.” [FN, 151f.] “In justifying legal norms we must use the entire breadth of practical reason. However, these further [i.e., other than moral, TMC] reasons have a relative validity, one that depends on the context...The corresponding reasons count as valid relative to the historical, culturally molded identity of the legal community, and hence relative to the value orientations, goals, and interest positions of its members...[T]he facticity of the existing context cannot be eliminated.” [FN,156]

It is not only statutory law that is pervaded with particularity in these respects: constitutional undertakings to spell out the basic principles of government and the basic rights of citizens ineluctably also express the particular cultural backgrounds and historical circumstances of founding generations. Though Habermas expressly regards “the system of basic rights” as a normative (or “regulative”) idea that should guide every legitimate constitution-framing process [FN, chapter 3], he is equally clear that any actually existing system of rights is, and can only be, a situated interpretation of that idea. “The system of rights is not given to the framers of a constitution in advance as a natural law. These rights first enter into consciousness in a particular constitutional interpretation....No one can credit herself with access to the system of rights in the singular, independent of the interpretations she already has historically available. ‘The’ system of rights does not exist in transcendental purity.” [FN, 128f.] Surveying the history of democratic constitutional law over the past two centuries, the theorist can at most attempt a critical, systematic reconstruction of the basic intuitions underlying it. Of course, to accommodate even the existing range of legitimate variation, any such reconstruction will of necessity be highly abstract, as is indeed the case with Habermas’s own.

Getting clear about the content of basic constitutional norms is only the beginning of the story, for “every constitution is a living project that can endure only as an ongoing interpretation continually carried forth at all levels of the production of law.” [FN, 129] Thus, historically and culturally situated interpretation should not be seen as an unfortunate but unavoidable fall from transcendental grace, but as the very medium for developing “constitutional projects,” which are by their very nature always unfinished and ongoing. “[T]he constitutional state does not represent a finished structure but a delicate and sensitive -- above all fallible and revisable -- enterprise, whose purpose is to realize the system of rights anew in changing circumstances, that is, to interpret the system of rights better, to institutionalize it more appropriately, and to draw out its contents more radically.” [FN, 384]

Even these few sketchy remarks on Habermas’s legal and political theory should make clear that for him the

rule of law in the democratic constitutional state is not a fixed essence but an idea that has to be actualized in and through being variously interpreted and embodied in historically and culturally distinct constitutional projects. This suggests that there should be space in his conception of cosmopolitical justice for distinct political cultures, and indeed there is. His version of civic patriotism, which he calls “constitutional patriotism,” is construed broadly as allegiance to a particular constitutional tradition, that is, to a particular, ongoing, historical project of creating and renewing an association of free and equal citizens under the rule of laws they make for themselves. Each democratically constituted nation of citizens will understand and carry out that project from perspectives opened by its own traditions and circumstances. If that self-understanding is itself to include space for a pluralism of worldviews and forms of life, as Habermas insists it must, then constitutional patriotism cannot be wedded to monocultural or hegemonic-cultural interpretations of basic rights and principles to the exclusion, repression, or marginalization of minority-cultural perspectives. [\[37\]](#) In a move reminiscent of Rawls’s introduction of the idea of an “overlapping consensus” on basic political values amidst a persistent pluralism of “comprehensive doctrines” about the meaning and value of human life, Habermas, employing sociological terminology, proposes a “decoupling” of political integration from the various forms of subgroup and subcultural integration among the population of a democratic constitutional state. “In multicultural societies...coexistence with equal rights for these forms of life requires the mutual recognition of the different cultural memberships; all persons must also be recognized as members of ethical communities integrated around different conceptions of the good. Hence the ethical integration of groups and subcultures with their own collective identities must be decoupled from the abstract political integration that includes all citizens equally.” [SR,133f.]

Rawls’s proposal has given rise to vociferous debate, as have other proposals for conceptualizing legal-political neutrality in our increasingly multicultural societies. Habermas can hardly hope to avoid such controversies. If his approach is to have a chance of surviving them, he will, to start with, have to understand “decoupling” in process terms, as an ongoing accomplishment of something that is never fully realized. As Charles Taylor, Will Kymlicka, and others have convincingly argued, there can be no culturally neutral system of law and politics, no privatization of culture analogous to the privatization of religion, and thus no strict separation of culture and state. Official languages, school curricula, national holidays, and the like are only the most obvious expressions of a public culture that is never perfectly neutral with respect to the diverse cultural backgrounds of members. And as we saw, Habermas himself maintains that political goals, policies, and programs are inevitably permeated by cultural values and goods, and that putting them into effect just as inevitably has cultural consequences. This suggests that “decoupling” may be the wrong notion for what we want here. If we understand the core of a constitutional tradition dynamically and

dialogically, as an ongoing, legally institutionalized conversation about basic rights and principles, procedures and practices, values and institutions, then we can allow for a conflict of interpretations concerning them and for a multiplicity of situated perspectives upon them. Insofar as these interpretations purport to be of the same constitutional tradition, and insofar as their proponents are and want to remain members of the same political community, the ongoing accomplishment of a working consensus on fundamental legal and political norms seems to be a basic requirement of public discourse in official and unofficial public spheres. A central element of such a working consensus would be sufficiently widespread agreement about the institutions and procedures through which persistent reasonable disagreements may be legitimately settled, at least for the time being.

This is, in fact, close to the conception that Habermas actually defends. “The political integration of citizens ensures loyalty to the common political culture. The latter is rooted in an interpretation of constitutional principles from the perspective of the nation’s historical experience. To this extent, that interpretation cannot be ethically neutral. Perhaps one would do better to speak of a common horizon of interpretation within which current issues give rise to public debates about the citizens’ self-understanding....But the debates are always about the best interpretation of the same constitutional rights and principles, which form the fixed point of reference for any constitutional patriotism...” [SR, 134] Even this common horizon of interpretation is in flux, however, as it too reflects participants’ situated understandings, which are themselves continually shifting. Habermas remarks this in connection with immigration. In his view, while it is not legitimate for a democratic constitutional state to require “ethical-cultural integration” of immigrants, that is to say, assimilation to the dominant culture in the broad sense, it is, he maintains, legitimate to require political integration, that is, assent to the principles of the constitution within the scope of interpretation set by the political culture of the country. [SR, 138] But he immediately concedes that the latter is itself subject to contestation and alteration from the new perspectives brought to the political public sphere through immigration. “[T]he legitimately asserted identity of the political community will by no means be preserved from alteration in the long run in the wake of waves of immigration. Because immigrants may not be compelled to surrender their own traditions, as other forms of life become established the horizons within which citizens henceforth interpret their common constitutional principles may also expand....[A] change in the composition of the active citizenry changes the context to which the ethical-political self-understanding of the nation as a whole refers.” [SR, 139f.]

Despite this recognition of the “ethical permeation” of law and politics at every level, Habermas continues to speak of the “neutrality” of the law vis-a-vis internal ethical differentiations. Like “decoupling”, “neutrality” is, in my view, not the best choice of terminology for what is at issue, which is rather impartiality or fairness in the sense of

equality of respect, treatment, and opportunity to participate in the political process. What Habermas is concerned to preclude, above all, is that a majority culture “usurp state prerogatives at the expense of the equal rights of other cultural forms of life.” [SR, 134f.] And that case would, I think, better be made by extending to cultural membership the types of arguments historically advanced to address systematic inequalities of social position .

In any case, it is evident that Habermas’s conception of a multiplicity of political-cultural realizations of the “same” system of rights is already sketched from a cosmopolitan point of view akin to Kant’s. For Kant, the cosmopolitan civil condition, as a regulative idea, was characterized by a multiplicity of republics under a rule of law regulating relations among them and guaranteeing the rights of individuals as world citizens. Habermas’s version of cosmopolitanism may be read as updating this idea, first, to take account of the internal relation between the rule of law and democracy -- so that Kant’s republics become democratic constitutional states -- and, second, as we saw, to make room for an irreducible plurality of forms of life. But he also wants, third, to build into his version a strong egalitarian component -- so that the democratic constitutional project is understood as that of realizing an association of free and equal citizens under the rule of laws they can all reasonably consent to. There is, as we know, an unavoidable dialectic of *de jure* and *de facto* legal and substantive equality that has played itself through successive waves of critical social and political theory. Class, gender, race, ethnicity, sexuality, and the like mark respects in which existing forms of equality under law have been revealed to sanction gross inequalities in life circumstances and positions of power.

Habermas’s contribution to this ongoing discussion turns on his account of the internal relation between “private and public autonomy,” or, to put it another way, on his attempt to connect internally the basic values of liberalism individualism and civic republicanism. Against a purely liberal-individualist conception of equal rights, he argues that “in the final analysis, private legal persons cannot attain the enjoyment of equal individual liberties unless they themselves, by jointly exercising their autonomy as citizens, arrive at a clear understanding about what interests and criteria are justified, and in what respects equals will be treated equally and unequals unequally in any particular case.” [SR,113] Understood in this way, the ongoing project of realizing a system of equal rights must be sensitive to any systematic causes of substantive inequality. And that, according to Habermas, requires a democratic politics, for there is no other non-paternalistic way of deciding what the prerequisites are for the equal opportunity actually to exercise legally granted rights. In other words, the basic liberal ideas of equal respect, equal consideration, equal treatment, and the like cannot be specified in the abstract, once and for all, but only concretely, in the ongoing discourses of democratic public life. “It must therefore be decided from case to case whether and in which respects factual (or material) equality is required for the legal equality of citizens who are both privately and publicly

autonomous. The proceduralist paradigm gives normative emphasis precisely to the double reference that the relation between legal and factual equality has to private and public autonomy. And it privileges all the arenas where disputes over the essentially contestable criteria of equal treatment must be discursively carried out.” [FN, 415]

In shifting from the national to the cosmopolitan perspective, it is impossible to overlook the relative paucity of transnational arenas of this type. Insisting, as Habermas does, on the internal connection between individual rights and democratic politics implies that there could be no adequate institutionalization of human rights on a global scale without a corresponding institutionalization of transnational forms of democratic participation and accountability. Inasmuch as individual liberties, democratic procedures, and redistributive mechanisms are interdependent aspects of cosmopolitical justice, as he understands it, no one can be adequately realized without the others. This, of course, renders his cosmopolitan ideal more ambitious in theory and more difficult in practice than Kant’s. And it makes all the more palpable the existing gap between a political integration that is largely restricted to the national level and an economic integration that is increasingly global. If that gap is not closed, there is a danger that the structure of mass-democratic, welfare-state integration that has predominated at the national level since World War II will itself disintegrate; for the constellation of individual freedom, democratic government, and social security that generally sustains it is being increasingly undermined by processes and problems to which the individual nation state can no longer adequately respond. In Habermas’s phrase, “Under the conditions of a globalized economy, ‘Keynesianism in one country’ no longer functions.”[\[38\]](#)

* * *

In addition to the daunting practical problems that attend the establishment of a basic structure of cosmopolitical justice as Habermas conceives it, there are a number of important theoretical issues his conception raises, of which I shall mention only the following.

1. Habermas’s conception of civil union amidst cultural diversity takes “constitutional patriotism” to be the political-cultural glue holding multicultural polities together. This obviously raises feasibility questions as to whether allegiance to legal-political institutions, practices, ideas, values, traditions, and the like can function as the core of social integration in modern societies, whether it can provide sufficient “glue” to keep together the socially differentiated, culturally heterogeneous, and ideologically fragmented populations that characterize them. But it also raises conceptual questions concerning the very idea of “decoupling” a shared civic culture from culture(s) more broadly. I have already touched upon some of them above and will here add only the following consideration. Habermas’s discussion of political-cultural neutrality (or impartiality) vis-a-vis a multiplicity of subcultures tends to focus on the contrast of civic with ethnic culture, for one of his chief aims is to disentangle state from nation. Other

aspects of the politics-culture nexus tend to be neglected, at least in the context of this discussion. In The Structural Transformation of the Public Sphere and The Theory of Communicative Action, however, some of these other aspects figured prominently.^[39] There, the interpenetration of public-political and public-cultural spheres was an important theme: the analytic distinctions between them did not occlude their real interconnections. In particular, the powerful connections of political culture to popular culture, which increasingly means mass-mediated culture, was identified as a key issue for contemporary democratic theory and practice. Supposing that mass-mediated popular culture is a permanent feature of modern society, what implications does that have for shaping and sustaining a sense of national belonging? How is this likely to be affected by the transnationalization of the culture industry? To what extent and in what ways is political culture transmitted and political integration achieved in and through mass-mediated popular culture? And if the answers are “considerably” and “many”, what are the consequences for Habermas’s distinction between assimilating to a particular political culture and assimilating to a hegemonic national culture?

2. Similar questions can be posed at the global level, as well as questions peculiar to it. Habermas’s cosmopolitan scheme turns on the idea of realizing the “same” system of rights in a diversity of political-cultural settings, and that immediately raises issues concerning the transcultural notion of rights invoked here, the nature of their transcultural justification, the sense in which the “same” rights can be said to animate the rather different political-cultural traditions that embody them, and so on. In brief, how could a transnational legal-political consensus regarding the basic structure of cosmopolitical justice be achieved across the wide range of political-cultural diversity?

3. To deal with this issue, Rawls introduces the idea of an “overlapping consensus” on a law of peoples among political societies marked by widely different political cultures -- liberal and nonliberal, democratic and nondemocratic, egalitarian and hierarchical, secular and religious.^[40] Habermas’s cosmopolitan ideal does not allow for the same broad scope of variation among political cultures. He defends a more “comprehensive” version of a rights-based theory of justice. This has the advantage of reducing the need for citizens to develop the starkly split political/nonpolitical mentalities that Rawls’s scheme requires. But it makes cosmopolitan justice turn on institutionalizing at a global level a version of the same system of rights that is variously institutionalized in national constitutional traditions. Thus it requires a far greater degree of convergence among political cultures than does Rawls’s scheme: for cosmopolitan constitutionalism to be fully realized, all subglobal political systems would themselves have to become rights-based. Nationally, as well as sub-, supra-, and trans-nationally, what Kant called “civil union” would comprise a diversity of historically and culturally situated projects of realizing the same system of basic human rights. Kant’s world republic of national republics is reenvisioned as a global constitutional union of constitutional democracies. What warrants this stress on human rights in connection with cosmopolitanism?

4. Habermas, like Kant, is committed to some form of at least legal- and political-cultural convergence, such that “as culture grows and men generally move toward greater agreement over their principles, they lead to mutual understanding and peace.”^[41] In Communication and the Evolution of Society and The Theory of Communicative Action Habermas propounds the broader account of cultural and societal development as “rationalization” that underlies this political-theoretical commitment.^[42] But in the present context, he argues simply that the conditions of modernity leave individual states with no other practicable option but to modernize their relations both internally and externally. This is, of course, a disputable claim, even if we restrict it’s ambit to the legal-political domain. Couldn’t we conceive of “alternative modernities”? Charles Taylor thinks so; and in the final section of this paper I want to air some of the issues raised here by examining his instructive differences with Habermas on that question.

IV

As Habermas is well aware, “the general validity, content, and ranking of human rights are as contested as ever. Indeed, the human rights discourse that has been argued in normative terms is plagued by a fundamental doubt about whether the form of legitimation that has arisen in the West can also hold up as plausible within the frameworks of other cultures.”^[43] The liberation struggles of the past 150 years, especially of the last few decades, have again and again revealed the ideological functions that established understandings of human rights have served. That much is clear. But is the meaning of human rights exhausted by such ideological functions? Or is there a normative surplus of meaning that can be rescued by critically rethinking them and offering alternative accounts of their practical implications in given circumstances. One argument that speaks for the latter option is that many of the most telling critiques of established rights regimes have themselves been mounted precisely as critical rights discourses of various sorts. In the contemporary world social, political, and cultural criticism would be severely incapacitated if such discourses were unavailable.

In any case, rethinking human rights is the route Habermas chooses, not only for normative but also for historical and sociological reasons. “My working hypothesis is that [human rights] standards stem less from the particular cultural background of Western civilization than from the attempt to answer specific challenges posed by a social modernity that has in the meantime covered the globe. Whether we evaluate this modern starting point one way or another, it confronts us today with a fact that leaves us no choice and thus neither requires, nor is capable of, a retrospective justification. The contest over the adequate interpretation of human rights has to do not with the desirability of the ‘modern condition’ but with an interpretation of human rights that does justice to the modern world from the viewpoints of other cultures as well as our own.” [HR, 13] To the obvious question of whether there could

be such an interpretation, one can, I think, presently respond only that that remains to be seen. Writing expressly as “a Western participant in a cross-cultural discussion of human rights,” Habermas has tried to rethink some of the aspects of the Western rights tradition that have proved most objectionable to non-Western participants. In that spirit, he has drawn upon his theory of communicative action to denaturalize and deindividualize the notion of rights and to disentangle it from the matrix of possessive individualism in which it has been ensnared since Locke.^[44] Further, through accentuating elements of the republican tradition of democratic thought, he has sought to restore the balance between individual and community and to resist the liberal displacement of the search for the common good by the aggregation of individual interests. Together with his attention to the inequities produced by uncontrolled market processes and his concern to accommodate cultural diversity, these changes certainly present a version of human rights less starkly at odds with traditionally “communitarian” styles of thought. But of course the differences that remain are considerable. Though human rights are viewed as socially constituted, they are still borne by individual legal persons; and though rights-bearing subjects are seen as socioculturally embedded, personal and political autonomy retain their normative status; moreover, the “decoupling” of political integration from overarching views of the meaning and value of human life remains a basic requirement. For many, such differences would be sufficient to make a conception of human rights incorporating them unacceptable.

This consideration serves as the starting point of Charles Taylor’s recent reflections on the possibility of “a world consensus on human rights.”^[45] His line of reasoning is particularly interesting in our present context, because he agrees with Habermas about having to start from the fact of global modernity and about the need that creates for agreement on norms of coexistence across different cultural traditions; but he disagrees with him on the type of agreement we should expect. Examining their differences will allow us to bring the issue of transcultural human rights into somewhat sharper focus and to connect it with another question, namely the extent to which there can be “functional equivalents” for modern law and thus “alternative modernities” in respect to legal and political culture.

Like Habermas, Taylor regards at least some aspects of modernity as irresistible. “From one point of view, modernity is like a wave, flowing over and engulfing one traditional culture after another. If we understand by modernity, *inter alia*, the developments discussed above -- the emergence of a market-industrial economy, of a bureaucratically organized state, of modes of popular rule -- then its progress is, indeed, wavelike. The first two changes, if not the third, are in a sense irresistible. Whoever fails to take them or some good functional equivalent on will fall so far behind in the power stakes as to be taken over and forced to undergo these changes anyway...[They] confer tremendous power on the societies adopting them.” {NM, 43f.} But while these sorts of institutional changes are unavoidable, their cultural accompaniments in the West are not. Some alterations or others of traditional cultures

will be necessary, but there is a good deal more latitude here than with economic and administrative structures. “[A] successful transition involves a people finding resources in their traditional culture to take on the new practices. In this sense modernity is not a single wave. It would be better to speak of alternative modernities, as the cultures that emerge in the world to carry the institutional changes turn out to differ in important ways from each other...What they are looking for is a creative adaptation, drawing on the cultural resources of their tradition,...[which]by definition has to be different from culture to culture.” [NM, 44]

A crucial question for our purposes is where modern law, with its conception of basic human rights, belongs. Taylor assigns it an ambivalent position, partly institutional, partly cultural, by distinguishing between norms of action and their justifications. It is only with regard to the former that we can reasonably expect convergence; the latter may and should vary with alternative modernities. This move enables him to adopt a position on human rights that, while appealing to Rawls’s notion of overlapping consensus, is in some respects more universalistic than the one Rawls himself adopts in “The Law of Peoples.” Taylor writes: “What would it mean to come to a genuine, unforced international consensus on human rights? I suppose it would be something like what John Rawls describes in his Political Liberalism as an ‘overlapping consensus.’ That is, different groups, countries, religious communities, civilizations, while holding incompatible fundamental views on theology, metaphysics, human nature, and so on, would come to agreement on certain norms that ought to govern human behavior. Each would have its own way of justifying this from out of its profound background conception. We would agree on the norms, while disagreeing on why they were the right norms. And we would be content to live in this consensus, undisturbed by the differences of profound underlying belief.” [WC, 15] Taylor then goes on to draw a further distinction between norms of action and the “legal forms” in which they are inscribed, and assigns the latter to the variable part of modernity as well. What this means in connection with human rights is that neither “rights talk” nor “rights forms” are necessary accompaniments of a modern economy and state.

As to the talk, Taylor notes that the language of rights has its roots in Western culture; although the norms expressed in it do turn up in other cultures, they are not expressed in rights language; nor are the justifications offered for them based in views of humans and societies that privilege individual liberty and legitimation by consent. As to the forms, the Western rights tradition ensures immunities and liberties in the peculiar form of “subjective rights,” which not only reverses the traditional ethical priority of duties over rights but also understands the latter as somehow possessed by individuals. This understanding is itself embedded in the philosophical justifications mentioned above. So Western legal philosophy and Western legal forms are tightly interconnected; but according to Taylor, neither is inextricably tied to the basic norms that are expressed and inscribed in them. Hence, while some of the norms are

integral to modernity, their philosophical justifications and institutional forms may vary from culture to culture. And so, the inquiry into the possibility of a world consensus on human rights can now be pointed in a specific direction: “what variations can we imagine in philosophical justifications or in legal forms that would still be compatible with meaningful universal consensus on what really matters to us, the enforceable norms?” [WC,18] What Taylor hopes to encounter along this route is “a convergence on certain norms of action, however they may be entrenched in law,” together with “a profound sense of difference, of unfamiliarity, in the ideals, the notions of human excellence, the rhetorical tropes and reference points by which these norms have become objects of deep agreement for us.” [WC, 20] Further along the same path he sees “a process of mutual learning,” leading to a “fusion of horizons” through which “the moral universe of the other becomes less strange.” [WC, 20]

This adaptation of Rawls’s idea of an overlapping consensus stands or falls with the independent variability of legal norms, forms, and justifications. If it turned out that what is required by modern economies and modern states are not only the norms but the forms, that is, certain ways of entrenching the norms in law, the range of alternative modernities would be more constrained than Taylor takes it to be. That is precisely what Habermas maintains to be the case. One of the central sociological lines of argument in Between Facts and Norms is that modern law must have most of the formal properties it has in order to fulfill the functions it fulfills: there are no functional alternatives to its formality, positivity, reflexivity, individuality, actionability and the like.

The fact that modern law is based upon individual rights and liberties releases legal persons from moral obligations in certain spheres of action and gives them latitude, within legally defined limits, to act upon their own choices free from interference by the state or by third parties -- as is required in decentralized market societies. If these rights and liberties are to have the protection of the law, they must be connected with actionable claims, such that subjects who consider their rights to have been violated may have recourse to legal remedies. At the same time, as membership in the legal communities of diverse modern societies can less and less be defined in terms of gender, race, religion, ethnicity, and the like, it comes to be more and more abstractly defined in terms of the equal rights and responsibilities of citizens as legal subjects. The fact that positive law issues from the changeable decisions of a legislator loosens its ties with traditional morality and makes it suitable as a means of organizing and steering complex modern societies. This requires that the enactment, administration, and application of the law themselves be legally institutionalized; law becomes reflexive. And since modern law, as a positive, reflexive, and therefore fungible “steering medium,” can no longer be legitimated solely by appeal to inherited beliefs and practices, there is a need for new forms of legitimation. That need is compounded by the facts that cultural pluralism limits the authority of any one tradition and that rights-based conceptions of citizenship increase the pressure for political participation. In the

long run, it is not clear that there are functional alternatives to democratic forms of popular rule in modern societies. One could go on in this vein. The general line of argument is that the functions and forms of modern law are tailored to one another. Because no contemporary society, whatever its cultural traditions, can do without the former, none can do without some version of the latter.

As Habermas notes: “the decisive alternatives lie not at the cultural but at the socioeconomic level....[T]he question is not whether human rights, as part of an individualistic legal order, are compatible with the transmission of one’s own culture. Rather, the question is whether traditional forms of political and societal integration can be reasserted against, or must instead be adapted to, global economic modernization.” [HR, 15] If the latter proves to be the case, then we would expect the transition to modernity to involve cultural changes more extensive than those Taylor envisages, for, as he himself remarks, legal form and legal culture are closely intertwined. To the extent that individuals are guaranteed spheres of choice free from collectively binding beliefs and values, that citizenship qualifications are made independent of religious profession or cultural membership, that legislation is legitimated by its democratic provenance, and so forth, to that extent legal and political culture is being differentiated from traditional worldviews and forms of life. What further cultural changes are likely to be associated with that differentiation and its consequences is a disputed question.

Taylor is right, I think, to pose the question of alternative modernities in the way he does: given that some degree of convergence in economic, governmental, and legal institutions and practices seems to be an unavoidable feature of a globalized modernity, what kinds and degrees of divergence remain possible and desirable? In particular, how much room do such modernizing tendencies leave for deep cultural differences? Taylor is also right, in my view, to emphasize that different starting points for the transition to modernity are likely to lead to different outcomes, and thus that new forms of modern society are likely to evince new forms of difference. This is, of course, already true of European modernity: Swedish society is not the same as French or Italian society, let alone American society. And yet they are too much the same to satisfy Taylor’s interest in alternative modernities, for he envisions much broader and deeper differences in ideas and beliefs, outlooks and attitudes, values and identities, institutions and practices. Above all, he is interested in the differences among largely implicit, embodied, cultural understandings of self, society, nature and the good. Thus, what he is most concerned to refute is the claim that that there is only one viable modern constellation of such background understandings, the one that came to dominate in the West, which he understands as the claim that modern cultures can be expected sooner or later to share atomistic-individualistic understandings of self, instrumentalist conceptions of agency, contractualist understandings of society, the fact-value split, naturalism, scientism, secularism, and so on.^[46] And what he is most concerned to defend is the possibility and desirability of

alternative spiritual and moral ideals, visions of the good, and forms of self-identification. That is to say, what moves him is resistance to the idea that modernity will force all cultures to become like ours.

To the question of how much and what kinds of difference we have good empirical and theoretical reasons to expect, there is clearly no generally accepted answer. But one might well conjecture that it is more than most modernization theorists have predicted but less than Taylor hopes for. He concedes that market economies and bureaucratic states are inescapable features of modern societies, and that with them come certain legal norms and spheres of instrumental action, as well as increased industrialization, mobility, and urbanization. He also mentions science and technology as something all modern societies have to take on, as well as general education and mass literacy. We might add to these the concomitant legal forms I mentioned above, together with the legal cultures that support them. We might further add a host of changes that Taylor presumably would also regard as irresistible for modern societies: the decline of the agricultural mode of life that has defined most of humanity for much of our recorded history; the functional differentiation and specialization of occupational and professional life; a diversity of lifestyles, outlooks, and attitudes; a pluralism of belief systems, value commitments, and forms of personal and group identity; a steady growth of knowledge understood as fallible and susceptible to criticism and revision; the dissolution of patriarchal, racist, and ethnocentric stereotyping and role-casting, as of all other “natural,” “God-given,” or time-honored hierarchies of that sort; the inclusion, as equals, of all inhabitants of a territory in its legal and political community; the spread of mass media and of mass-mediated popular culture; the existence of public political spheres that allow for open exchange and debate; and, of course, an ever-deeper immersion in transnational flows of capital, commodities, technology, information, communication, and culture. One could go on, but these few remarks are enough to suggest that the scope of deep divergence is somewhat more constricted than Taylor lets on, especially if we take into account the very dense internal relations and causal connections between the aforementioned changes and the cultural elements, particularly the background understandings, that Taylor sometimes seems to regard as swinging free of them.

These considerations are not meant to detract from the legitimacy or significance of Taylor’s concern with identifying possibilities of divergence within convergence. Nor are they intended to contravert his claim that the extent of divergence can and likely will be greater than that countenanced in most classical and contemporary theories of modernization. And they do not profess to provide a theoretical argument for the superficiality or marginality of the differences, as compared to the similarities, among possible alternative modernities. In a word, their main purpose is not the negative one of placing a priori limits on societal and cultural variation but the positive one of showing that the idea of a global rule of law is not as hopelessly impracticable as it might seem if we attended only to cultural

differences. The respects in which there is a credible case for different modern societies coming together seem to me to be sufficient to ground a “rational hope,” as Kant would say, for the degree of legal- and political-cultural convergence required for some form of transnational agreement on what Habermas calls “the basic system of human rights.”

How much or how little cultural convergence of other sorts will accompany it is, it seems to me, an open question. I do think, however, that Taylor tends to overestimate the the extent to which cultural differences are likely to survive societal change. To mention just one basic dimension of change: the implicit, embodied, background understandings of gender identity, difference, roles, relations, and hierarchy characteristic of traditional (and, of course, modern) patriarchal cultures are, in the long run, incompatible with the changes in legal and political culture mentioned above. Moreover, as any anthropologist or sociologist can attest, significant changes in this dimension of cultural self-understanding inevitably bring with it significant changes in any number of others. And though the new forms of gender relations that develop are not likely to be the same from culture to culture, insofar as they are tied to legal and political equality they will likely be much more similar than they have been.^[47]

Spiritual descendents of Herder might see the sorts of cultural convergence I have described as tragic loss. Spiritual descendents of Kant will see some of them at least as signalling the “move toward greater agreement on principles...[that] leads to mutual understanding and peace,” of which he wrote at the birth of the modern era.

^[1] Among the works I have found helpful on the points raised in this section are: Benedict Anderson, Imagined Communities (Verso, 1983); Ernest Gellner, Nations and Nationalism (Cornell University Press, 1983); Liah Greenfeld, Nationalism: Five Roads to Modernity (Harvard University Press, 1992); Jürgen Habermas, Die Einbeziehung des Anderen (Suhrkamp Verlag, 1996); E.J. Hobsbawm, Nations and Nationalism since 1780 (Cambridge University Press, 1990); J. Hutchinson & A. D. Smith, eds., Nationalism (Oxford University Press, 1994); R. McKim & J. McMahon, eds., The Morality of Nationalism (Oxford University Press, 1997); David Miller, On Nationality (Oxford University Press, 1995); and Yael Tamir, Liberal Nationalism (Princeton University Press, 1993).

^[2] I take these estimates from Will Kymlicka, Multicultural Citizenship (Oxford University Press, 1995), p. 1. He notes his own sources for them on p. 196, n.1.

^[3] This theoretical gap is the subject of Vernon Van Dyke’s “The Individual, the State, and Ethnic Communities,” in W. Kymlicka, ed., The Rights of Minority Cultures (Oxford University Press, 1995), pp. 31-56. As Van Dyke notes, there are important exceptions within the tradition of liberal political theory, for instance John Stuart Mill, who held that the boundaries of the state and of the nation should in general coincide. (p. 35)

^[4] This is, for instance, a chief concern of Eric Hobsbawm in his history of the “short twentieth century,” The Age of

Extremes (Vintage, 1996), and of Jürgen Habermas in Die Einbeziehung des Anderen.

[5] See the interesting discussion of this in Charles W. Mills, The Racial Contract (Cornell University Press, 1997).

[6] For this account of Kant's views on cosmopolitanism and nationalism I will be drawing on the following works [with bracketed abbreviations for citations]: (1784) "Idea for a Universal History with a Cosmopolitan Purpose" [UH], in H. Reiss, ed., Kant: Political Writings, tr. H.B. Nisbet (Cambridge University Press, 1991), pp. 41-53; (1793) "On the Common Saying: 'This May Be True in Theory, but It Does Not Apply in Practice'" [TP], in Reiss, ed., pp. 61-92; (1795) "Perpetual Peace: A Philosophical Sketch" [PP], in Reiss, ed., pp. 93-130; (1797) The Metaphysics of Morals [MM], ed. and tr. M. Gregor (Cambridge University Press, 1966); (1797) Anthropology from a Pragmatic Point of View [AP], tr. M. Gregor (Martinus Nijhoff, 1974). I will alter the translations, usually without making special note of the fact, when that is required for consistency or transparency.

[7] Their distinctness is, of course, his rationale for separating the *Rechtslehre* from the *Tugendlehre* in The Metaphysics of Morals.

[8] "Reviews of Herder's Ideas on the Philosophy of History of Mankind," in Reiss, ed., pp. 201-220.

[9] MM, 114. See also PP, 102, where the discussion of *Völkerrecht* in the Second Definitive Article is said to apply to "*Völker als Staaten*."

[10] AP, 174, 184. For a critical account of Kant's unfortunate views on race, see Emmanuel Chukwudi Eze, "The Color of Reason: The Idea of 'Race' in Kant's Anthropology," in idem, ed., Postcolonial African Philosophy (Basil Blackwell, 1997), pp. 103-140. Eze makes a convincing case for the significance of race in Kant's thinking about human nature, culture, and history, as well as for the claim that Kant constructed one of the more elaborate theories of race and philosophical justifications of racial hierarchy of his time. His argument for the claim that Kant's racial theories are transcendently grounded and thus are inseparable from his transcendental philosophy and his humanist project more generally is, in my view, less conclusive.

[11] AP, 174f. and PP, 113f. The relative influence of biology, i.e. race, and of culture is different for different peoples; see AP, 176ff.

[12] UH, 45f. Kant immediately concedes that "a perfect solution is impossible," for, as he famously puts it, "Nothing straight can be constructed from such crooked timber as that which man is made of." But we can and must continually strive to "approximate to this idea." [UH, 46f.]

[13] UH, 49. The term rendered as "cosmopolitan," *weltbürgerlichen*, will later be used to designate a specific type of transnational law. In this 1784 essay, the institutional form of the "cosmopolitan condition" is characterized as a "federation of peoples" [*Völkerbund*], which clearly refers here to a federal union with a "united power." As we shall see, in the 1790s the corresponding institutional form is designated as a *Völkerstaat* or "state of nations," while *Völkerbund* is reserved for the more "practicable" arrangement of a voluntary and revocable league of nations.

[14] UH, 51. Note that the cosmopolitan --*weltbürgerliche*-- condition is the civil --*bürgerliche*-- union of the *Welt*, i.e. of humanity.

[15] TP, 92. Kant's use of the term *Zwangsgesetzen* shows that the federation he has in mind is not the loose,

voluntary federation he later proposes in “Perpetual Peace.” The same thing is indicated by his use of *Völkerstaat* to characterize it: the federation of peoples envisaged here is a state of nations under international laws backed by the state.

[16] The Treaty of Basel was concluded between France and Prussia early in 1795; “Perpetual Peace” appeared later that year.

[17] Compare The Metaphysics of Morals, p. 114.

[18] Thus in “Perpetual Peace” he characterizes a global civil constitution as one “based on *Weltbürgerrecht*, in so far as individuals and states, coexisting in an external relationship of mutual influences, may be regarded as citizens of a universal state of humankind (*ius cosmopolitanum*).” And in The Metaphysics of Morals, p. 114, he refers to this type of law as “*Völkerstaatsrecht* or *Weltbürgerrecht*” [my emphasis].

[19] MM, 119. Cf. the discussion of provisional and conclusive acquisition in relation to the “civil condition” at MM, 51-53, which ends with the thought that until this condition “extends to the entire human race,” acquisition will remain provisional.

[20] Sharon Byrd has a good discussion of this point in “The State as a ‘Moral Person’,” in Proceedings of the Eighth International Kant Congress, Vol. I, Part I, Sections 1-2, ed. H. Robinson (Marquette University Press, 1995), pp. 171-189. She lists some of those who have gotten it wrong in n.57, pp. 186f. To that list can be added the names of John Rawls, “The Law of Peoples,” in On Human Rights, S. Shute & S. Hurley, eds. (Basic Books, 1993), pp. 41-82, at pp. 54f., and Jürgen Habermas, “Kant’s Idea of Perpetual Peace, with the Benefit of Two Hundred Years’ Hindsight,” in Perpetual Peace. Essays on Kant’s Cosmopolitan Ideal, J. Bohman & M. Lutz-Bachmann, eds. (The MIT Press, 1997), pp. 113-154, at p. 119 and p. 128.

[21] See especially the oft-cited passage in “Perpetual Peace,” p. 102, which is not only ambiguous in the original German but too freely translated by H. B. Nisbet in the Reiss edition of Kant’s Political Writings. Kant did not write that the federation which he espouses “would not be” the same thing as an international state, but that it “need not be” such. Nor did he write “the idea of a *Völkerstaat* is contradictory.” The German phrase “*darin aber wäre ein Widerspruch*” could refer to the very idea of a civil condition among independent nation states, which he is discussing in this paragraph. In any case, this is one of the very few passages in which there is any ambiguity on the point. As I shall now argue, his principled opposition is to a universal monarchy that ignores the ethnocultural differences among peoples and not to a state of nations that builds them into its institutional arrangements.

[22] This is rendered by Nisbet as “welded together” and “amalgamation” at PP, 102 and PP, 113, respectively.

[23] See the Second Definitive Article, PP. 102.

[24] See, for instance, “Theory and Practice,” pp. 74-79.

[25] See, for instance, TP, 75: “This uniform equality of human beings as subjects of a state is however perfectly consistent with the utmost inequality of the mass in the degree of its possessions,” where “possessions” is meant in the broadest sense.

[26] See, for instance, TP, 77: “In the question of actual legislation, all who are free and equal under existing public

laws may be considered equal, but not as regards the right to make these laws,” which is, roughly speaking, reserved to male property owners. Accordingly, on pp. 100 ff. of “Perpetual Peace,” as elsewhere, he warns against confusing the republican constitution with the democratic one.

[27] PP, 105, Third Definitive Article. For the three types of law involved, see the note at PP, 98f.

[28] PP, 106. Pauline Kleingeld, “Kant’s Cosmopolitan Law. World Citizenship for a Global Order,” unpublished ms, gives a good account of this aspect of Kant’s theory of right.

[29] MM, 121. The Gregor translation renders *Verkehr* as “commerce,” adding a note on its broad range of meanings from social interaction to economic exchange. In this passage, it is clear that Kant intends the broadest sense of *commercium*; thus to foreclose misleading identifications with our previous use of “commerce” to render *Handel*, I have here rendered *Verkehr* as interaction.

[30] PP, 106f. See also MM, 53 and MM, 121f.

[31] MM, 89. The Gregor translation doesn’t capture the idea of the third resulting from the combination of the first and second which is conveyed by the German “*beides zusammen*.”

[32] In “On Perpetual Peace, and On Hope as a Duty,” in the volume of Proceedings cited in n.20, Jules Vuillemin surmises that Kant was influenced by contemporary discussions of federalism in the USA and France: pp. 19-32, at p. 22 and p. 31, n.24.

[33] MM, 119. Kant variously designates such arrangements as congresses, leagues, federations, associations, and coalitions, among other things. But the essential point remains the same: the more feasible kind of arrangement is “a coalition of different states that can be dissolved at any time, and not a union like that of the American states which is based on a constitution and therefore cannot be dissolved.” [MM, 120] The latter, stronger kind of federal union among nations would call for just the sort of constitutional *Völkerstaat* that he has conceded to be unachievable.

[34]. Kant seems to have had some doubts of his own about the naturalness of nationhood -- nurtured, perhaps, by observing the formation of the first modern nation state. Thus, writing of the state in The Metaphysics of Morals, he notes: “Because the union of the members is (presumed to be) [*anmasslich*] one they inherited, a state is also called a nation [*Stammvolk*] (*gens*).” [MM, 89] That this parenthetical reservation was no mere slip of the pen is suggested by a remark later in the same work: “As natives of a country, those who constitute a nation [*Volk*] can be represented analogously to descendents of the same ancestors (*congeniti*) even though they are not.” [MM, 114]

[35] PP, 113. See also AP, 182: “This much we can judge with probability: that a mixture of races (by extensive conquests), which gradually extinguishes their characters, is not beneficial to the human race...”

[36] These efforts culminated in Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy, tr. W. Rehg (The MIT Press, 1996); cited in brackets in the text as [FN]. See also his 1986 Tanner Lecture, “Law and Morality,” in The Tanner Lectures on Human Values, VIII (University of Utah Press, 1988), pp. 217-279, and Die Einbeziehung des Anderen, forthcoming in English translation by C. Cronin and P. De Greiff as The Inclusion of the Other (The MIT Press, 1998).

[37] See especially the papers collected in The Inclusion of the Other. I shall be citing an earlier publication of one of

these papers, “Struggles for Recognition in the Democratic Constitutional State,” tr. S. Weber Nicholse, in Multiculturalism, Amy Gutmann, ed. (Princeton University Press, 1994), pp. 107-148; cited in brackets in the text as [SR].

[38] “Aus Katastrophen Lernen? Ein zeitdiagnostischer Rückblick auf das kurze 20. Jahrhundert,” unpublished ms, p. 18.

[39] J. Habermas, The Structural Transformation of the Public Sphere, tr. T. Burger & F. Lawrence (The MIT Press, 1989); idem, The Theory of Communicative Action, vols. I and II, tr. T. McCarthy (Beacon Press, 1984, 1987).

[40] J. Rawls, “The Law of Peoples.” See my discussion of his approach in “On the Idea of a Reasonable Law of Peoples,” in Perpetual Peace. Essays on Kant’s Cosmopolitan Ideal, pp. 201-217.

[41] PP, 114. In fact, like Kant, Habermas sees cultural convergence as extending beyond the legal and political spheres to include science and technology, as well as aspects of morality and even of art. The resulting disagreement with Rawls on the “reasonability” of “comprehensive doctrines” generally, and on the relation of law to morality particularly, comes through clearly in Habermas’s discussion of human rights in “Kant’s Idea of Perpetual Peace,” pp. 134-140, where he argues that though they are properly legal and not moral rights, part of their distinctness derives from the fact that the principal arguments for them are themselves moral in nature. See also Habermas’s exchange with Rawls in The Journal of Philosophy, XCII (1995): 109-180.

[42] J. Habermas, Communication and the Evolution of Society, tr. T. McCarthy (Beacon Press, 1979).

[43] J. Habermas, “Remarks on Legitimation through Human Rights,” unpublished ms, pp. 9f.; hereafter cited in brackets in the text as [HR].

[44] See Between Facts and Norms, especially sections 1.3, 2.3, and 3.2, and The Inclusion of the Other, passim.

[45] C. Taylor, “A World Consensus on Human Rights?,” in Dissent (Summer, 1996): 15-21; hereafter cited in brackets in the text as [UC]. This is an abbreviated version of an unpublished ms on the “Conditions of an Unforced Consensus on Human Rights.” I will also be drawing upon his discussion of “Nationalism and Modernity” [NM], in The Morality of Nationalism, pp. 66-73, and his paper “Two Theories of Modernity,” delivered in December of 1997 at a conference on “Alternative Modernities” at the India International Center in Delhi.

[46] See “Two Theories of Modernity.” This is, of course, a highly tendentious rendering of both the claim and the culture.

[47] See the interesting discussion between Susan Moller Okin and her critics, “Is Multiculturalism Bad for Women?,” in Boston Review, vol. XXII, no. 5 (October/November, 1997): 25-40.

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ON RECONCILING COSMOPOLITAN UNITY AND NATIONAL DIVERSITY
T. McCarthy

There are few ideas as important to the history of modern democracy as that of the nation as a political community. And yet, by comparison to its companion idea of political community as based upon the agreement of free and equal individuals, it remained until recently a marginal concern of liberal political theory. The aftermath of decolonization and the breakup of the Soviet empire, among other things, has changed that and brought it finally to the center of theoretical attention. And once there, the deep-seated tensions in theory between nationalism and liberalism have proved to be as hard to overlook as their all too familiar tensions in practice. Thus many liberal political theorists have taken to framing their inquiries into nationalism by asking whether there is a conception of nationhood that is compatible with basic liberal principles. Can the values of nation and culture be combined with those of freedom and equality within the basic structure of the democratic constitutional nation-state? One fault line that has attracted its share of attention divides liberal universalism from nationalist particularism. That division becomes all the more salient when the topic of cosmopolitanism comes up -- as it does more and more frequently, partly in reaction to horrors perpetrated under the banner of ethnonationalism. The framing question then is whether there is a conception of nationhood that is compatible with cosmopolitanism when the latter is understood as the establishment of a basic structure of cosmopolitical justice under a global rule of law.

Immanuel Kant was among the first to understand cosmopolitanism in these terms, and his attempt to reconcile it with nationalism, most famously in his essay on "Perpetual Peace," has remained among the most influential. Kant was writing during the birth of the modern nation-state from the American and French Revolutions. Political theorists addressing these issues today can look back on a two-hundred-year history of the nation-state and ahead to the anticipated consequences of the accelerated globalization processes now underway. The work of Jürgen Habermas is particularly interesting in this regard, for he explicitly takes up Kant's reading of history "with a cosmopolitan intent," complicates it with lessons drawn from the intervening two centuries of experience with the nation-state, and projects it into a hoped-for cosmopolitan future. In this paper, after framing the problem of reconciling nationalism and cosmopolitanism in a certain way (I), I want to take a new look at how Kant tried and failed to resolve it (II), and then to examine Habermas's recent efforts to update the Kantian project (III). In the final section (IV), I will consider

some doubts about that project raised by Charles Taylor in his defense of “alternative modernities.”

I

From the time of the French Revolution to the present, through successive waves of nation-state formation in the nineteenth and twentieth centuries, a distinctively modern form of political community has gradually prevailed over all competitors.^[1] Within the boundaries of preexisting territorial states and through the formation of new states, amidst the disintegration of empires and the dismantling of colonialism, it has become the characteristic modern expression of shared political identity. The idea of the nation as political community was present not only at the birth of modern democracy, when “we the people” became the bearers of sovereignty, but also through the wars of national liberation and the struggles for national self-determination that shaped this century. The development of the nation-state system that now covers the globe is, of course, a complex and variegated story, whose proper telling requires extensive historical and comparative analysis. But here I am interested only in the core idea of linking political communities to communities of origin. In this sense, the basic principle of nationalism, in its strictest form, demands that every nation have its own state; and the basic right of nationalism, in its strictest form, is the right of every people to political self-determination.

Taken in this strict sense, nationalism as a normative doctrine today raises spectres of ethnic cleansing, forced resettlement, massive repression, and the like. Nation-states require territories within whose boundaries they have a monopoly on force. But the earth is entirely covered by already existing states, which are less than 200 in number, while the identifiable ethnic groups that might conceivably invoke the nationalist principle and the nationalist right number some 5000.^[2] Moreover, the globe is not divided into ethnically homogeneous regions that might become independent states; ethnic intermingling is almost everywhere the rule. So taking ethnonationalism as the basic principle of state formation is, in the world we actually inhabit, a recipe for bloody disaster. This should be kept in mind when considering nationalism’s claimed superiority as regards sensitivity to and accommodation of difference. A global mosaic of politically organized, ethnically homogeneous enclaves is about as unaccommodating, not to mention unrealistic, a scheme as could be imagined. So we have to turn to less extreme conceptions of nationalism if we want to get at the unresolved theoretical issues.

It is now generally recognized that national identities are neither natural nor prepolitical. They are socioculturally constructed -- “imagined communities” as Benedict Anderson has it, or “imagined commonalities” as Max Weber had it; and they typically serve political purposes -- as vehicles of emancipation or aggression, for instance, or of political unification and economic modernization. To be sure, they are usually constructed as quasi-

natural, precisely as the prepolitical basis of and justification for the national political communities embracing them. Thus national consciousness typically includes a belief by members of the national community that they share some distinct subset of such “objective” features as common descent, language, culture, homeland, customs, traditions, religion, history, destiny, or the like. But these commonalities are as often fictive as real. The classical nation-states were never as homogeneous in these respects as members characteristically took them to be, and contemporary nation-states are even less so. As historians have documented, the process of nation-building typically involved the work of intellectuals and writers, scholars and publicists, historians and artists using media of mass communication to forge a national consciousness and generate a common allegiance, first among the professional classes and through them among the masses. Correspondingly, standard languages were typically not a ground but a goal of nation-building processes. In short, nations were not found but created (not ex nihilo, of course); and they were created in response to historical contingencies and for political purposes. This is especially clear in the case of states that emerged from former colonies within territorial boundaries that cut across traditional ethnies and homelands. But it is true, in varying degrees, of the classical nation-states as well.

The constructed character of national identity makes it notoriously susceptible to being instrumentalized for political purposes, good and bad. Raising national consciousness in the liberation struggles of oppressed groups usually counts as the former, fanning nationalist xenophobia for aggressive or expansive purposes as the latter. Historical sociologists and sociological historians often maintain that nation-building fulfilled essential functions in processes of modern state-formation -- functions of cultural and linguistic unification, for instance, or of economic and political modernization -- and in particular that it was an important catalyst in the spread of republican government. Some argue, even, that for many purposes there were no functional alternatives to nationalism, and thus that it was an indispensable element in social, cultural, political, and economic modernization processes. In the same vein, theorists of contemporary politics sometimes claim that political integration in complex societies is not possible in the absence of strong national identification, that a purely “constitutional” or “civic” patriotism is no adequate substitute for loyalties rooted in culture, history, religion, or the like. This is said to be true even, or rather especially, of liberal democratic societies. The arguments here are familiar from the recent liberal-communitarian debates in political theory. One basic issue is whether a citizenship of individual liberties and a politics of interest aggregation are a functionally and normatively adequate basis for democratic societies, or whether citizenship has rather to be tied to community and politics to common values if we are to have the solidarity and stability that democratic societies require.

Another important line of argument for the indispensability of nationalism intersects the main line of normative

political theory in the modern period. There is, the argument goes, a huge gap in classical social contract theories: they provide no convincing normative delimitation of the “multitude of men” (Hobbes) or “number of men” (Locke) who are to be parties to the contract, i.e. no normative account of just who must consent to the terms of association and why just them, though it seems generally to be assumed that the parties share a language and culture.^[3] Nationalism claims to fill this normative-theoretical gap rather than leaving the matter, as liberal theorists in effect have, to the contingencies of history, which means, in practice, to shifting constellations of power. On this view, the boundaries of the nation should be the boundaries of the state.

Against these functional and normative arguments, a growing number of theorists have been arguing that the traditional nation-state system of national and international organization has outlived its usefulness, that it has become, in a word, dysfunctional and thus must be superseded. The path to a postnational system is variously conceived, but in all the different scenarios the inexorable thrust of globalization plays a significant role. Globalization of capital and labor markets, of production and consumption, of communication and information, of technological and cultural flows is already posing problems that can't be resolved within the borders of individual states or with the traditional means of interstate treaties. Just as the problems that accompanied the rise of capitalism in modern Europe created a need for delocalizing law and politics which led eventually to the formation of the nation-state, the globalization of capitalism, and of everything that goes with it, is creating a growing need for denationalizing -- in the sense of supranationalizing -- law and politics. Many fear that if legal and political institutions do not expand to global proportions so as to keep up with the economy, we will be left with a more or less self-regulating capitalism that simply “creates a world in its own image,” as national governments become less and less able to sustain the social-welfare arrangements with which they have heretofore sought to “domesticate” capitalism within their borders.^[4] In this conjuncture, the task of a political theory committed to principles of freedom and equality under the rule of law is to think beyond the present, to elaborate normative models -- or, if you like, utopian projections -- of a world order that could measure up to such principles, that is, in which they would no longer be institutionalized, however imperfectly, only at the national level and below. To borrow a term from Rawls, political theorists should attempt to sketch the “basic structure” of a system of cosmopolitical justice that could serve as a point of normative orientation and guide to political practice. They should strive to overcome the deep-seated inclination to think largely within the taken-for-granted confines of the nation-state and seek to conceptualize transnational structures for guaranteeing individual rights, securing democratic accountability, and ensuring fair distribution on a global scale.

The local “inside” is now increasingly linked with the global “outside”; but it is not only this aspect of globalization that sets the idea of the ethnocultural nation-state at odds with reality. The vast movements and

minglings of populations around the world have a parallel effect: the “inside” is also increasingly diverse. And there seems to be no halting this diversification short of violence, coercion, and repression. The growing heterogeneity of most populations makes any model of political community based on ethnocultural homogeneity or on forced assimilation to a hegemonic culture increasingly unsuitable as a normative model. The political-theoretical challenge it raises is, rather, to think unity in diversity, to conceptualize forms of political integration that are sensitive to, compatible with, and accommodating of varieties of difference. Reconciling national diversity with cosmopolitan unity is one component of a response.

And this brings us back to the tensions between liberalism and nationalism, between voluntary membership and ascriptive membership, between citizens with legally defined basic rights and conationals with culturally defined shared features. It is clear that any attempt at reconciliation will have to involve transformation. In particular, if we are trying to conceptualize a liberal nationalism, in the broadest sense, then it will have to be compatible with the universal content of the basic rights of citizens under the rule of law. To be sure, these basic or “human” rights are given particular and various expressions in different constitutional traditions. But it belongs to their very meaning that they claim a universal validity transcending any particular legal system-- precisely the surplus of meaning characteristic of normative or “regulative” (Kant) ideas. Liberal theorists have always known this and thus have felt obliged to explain, again and again, why it was that women, slaves, the unpropertied and uneducated, and virtually the entire non-Western world could not in practice be granted the fundamental rights that in theory belonged to “all men”. [5]

If nationalism has to be transformed to be compatible with liberal universalism, what of liberal universalism? What changes must it undergo to be compatible even with a transformed nationalism? That will become clearer as we proceed. But even at the start, it is evident that it will have to accommodate somehow the cultural differences that nationalism stresses and liberalism has, until quite recently, largely ignored. For it is clear that a theory of justice which respects individuals’ rights to define and pursue happiness in their own ways should, in particular, take into consideration their desires to continue living with others distinct forms of life -- to go on speaking the languages, adhering to the customs, passing on the traditions, practicing the religions, and so forth, which inform who they are and who they want to be as individuals and as communities. Of course, the formation of an independent state is by no means the only way of safeguarding the integrity of a valued form of life. In addition to anti-discrimination legal protections and voluntary cultural associations, there is a wide range of political-organizational possibilities for securing some measure of autonomy short of sovereign statehood: consociation, federal union, loose confederation, functional decentralization, devolution, special representation or veto rights, special language or land rights, and so on

and so forth. Given the demographics of the planet, it seems evident that a vast array of such arrangements would be necessary even to begin to accommodate existing diversity in any cosmopolitical legal and political order. The one arrangement that would have to go is precisely the absolutely sovereign nation-state -- which does not mean that the nation-state must simply disappear. For the present, it seems, any viable scheme of cosmopolitan unity will have to preserve while transforming it. To borrow a term from Hegel, the nation-state must be *aufgehoben*.

On the other hand, a liberal cosmopolitanism could not countenance granting communal rights for the sake of protecting cultures that deny individual rights. More specifically, if culturally diverse nations are the rule, then cultural pluralism has to be integral to national self-understanding. And this suggests that ethnic nationalism will have to give way increasingly to civic nationalism. The latter is, to be sure, a more abstract form of integration; but allegiance to a national community was itself already more abstract than the local ties it transcended. And, as we saw, the nation, however powerful the “we-”consciousness it generated, is not a natural but a constructed object of group loyalty. There seems to be no reason in principle, then, why it cannot itself be transformed so as to be compatible with a liberal cosmopolitanism. A look at Kant and Habermas will help us get clearer on the conceptual issues involved.

II

Kant has long been a favorite target of those opposed to abstract universalism in political theory generally and to undifferentiated cosmopolitanism in international affairs particularly.^[6] And indeed his moral ideal of a kingdom of ends, as a systematic union of rational beings under laws they give to themselves, seems to warrant that characterization and that critique. But Kant’s moral theory is not his political theory.^[7] And a closer look at his specifically political writings, especially at his essay on “Perpetual Peace” -- perhaps the single most influential discussion of cosmopolitanism by a major philosopher -- shows that first and very widespread impression to be mistaken. Kant was indeed a cosmopolitan thinker; but he was also concerned to reconcile his universalistic aspirations with the diversity of national cultures, of which he had a wider knowledge than most of his contemporaries. Kant did, after all, lecture on anthropology and geography at Königsberg University for more than thirty years; he was, in fact, the first to do so. Thus it was quite in keeping with his interests when in 1785, one year after his “Idea for a Universal History with a Cosmopolitan Purpose” had appeared, he published a two-part review of Herder’s “Ideas on the Philosophy of History of Mankind,” that early harbinger of nationalist thinking.^[8]

In his Anthropology from a Pragmatic Point of View, Kant defined “people” and “nation” as follows: “By the word ‘people’ [*Volk*] we mean a multitude of men assembled within a tract of land insofar as they comprise a whole.

That multitude, or part thereof, which recognizes itself as united into a civil whole by its common descent [*Abstammung*] is called a nation [*Nation*].” [AP, 174] This mix of subjective (“recognizes itself”), objective (“common descent”), and political (“united into a civil whole”) elements is not unlike that involved in the contemporary conception of the nation- state discussed in Part I above. And indeed, in [The Metaphysics of Morals](#) Kant tells us that the term *Völkerrecht* actually refers to a kind of *Staatenrecht*, to the right of peoples organized as states, that is to say, to the right of nation-states.^[9] But there are other elements, having to do with race and ethnicity, that clearly mark his views as belonging to a particular time and place. Thus in the [Anthropology](#) he goes on to characterize peoples in terms of a mix of biological and cultural factors. The inborn [*angeboren*] character of a people is a function of its racial makeup; it is “in the blood.”^[10] Its acquired [*erworben*] character develops out of the former through culture, especially language and religion.^[11] Human biological-cultural diversity thus belongs to the natural history of the human species, which in Kant’s philosophy of history means that “nature wills” it, which for him is also to say that it is part of the providential ordering of things. More specifically, on Kant’s reading of history, the separation, competition, and conflict among peoples are central ingredients in the dynamics of cultural progress. But they bring hostility and war as well, or rather as the other side of the very same developmental process. And it is here that Kant locates his reconciling project: as moral beings we must hope that “as culture grows and men gradually move towards greater agreement over their principles, [this diversity] will lead to mutual understanding and peace. And unlike that universal despotism which saps all men’s energies and ends in the graveyard of freedom, this peace is created and guaranteed by an equilibrium of forces and a most vigorous rivalry.” [PP, 114] To understand Kant’s cosmopolitanism we have to understand this conception of unity in difference.

The main elements can be read off the lines just cited: belief in political-cultural progress and convergence; rejection of a centralized global state; retention of national difference and even national “rivalry” amidst global unity. These same elements can already be found in the conception of cosmopolitan unity advanced in “Idea for a Universal History with a Cosmopolitan Purpose” in 1784, some ten years before “Perpetual Peace.” They remained more or less constant thereafter, but their relative weights and precise configuration underwent subtle changes. In a word, while a federal union of distinct peoples under a global rule of law remained the rational ideal, its distance from the real was increasingly emphasized and the more practicable goal of a loose confederation of sovereign states took center stage.

For Kant, the ideal form of systematic union among rational beings with diverse, often conflicting interests is civil union under a rule of law that permits the greatest individual freedom compatible with a like freedom for all under general laws. Accordingly, “the highest task which nature has set mankind,” as he puts it in “Idea for a Universal History,” is that of “establishing a perfectly just civil constitution,” which, by placing enforceable limits on

the “continual antagonism” among men, makes it possible for the freedom of one to coexist with a like freedom for all others. [12] By the same logic, the coexistence of the freedom of one independent state with a like freedom for all others is possible only under a rule of public coercive law governing relations between them. Thus, practical reason requires not only that individuals abandon the lawless state of nature and enter into a law-governed commonwealth, but also that individual nations, in their external relations, “abandon a lawless state of savagry and enter into a federation of peoples in which every state, even the smallest, could expect to derive its security and right...from a united power and the law-governed decisions of a united will.”[UH,47] At the global level too natural rivalries and antagonisms are to be constrained by a rule of law deriving from a united will and backed by a united power. Kant is well aware of the ridicule to which earlier cosmopolitical schemes, notably those of the Abbé St. Pierre and Rousseau, were subjected, but he contends that constant war and its accompanying evils irresistibly push us in that direction. “They compel our species to discover a law of equilibrium to regulate the-- in itself salutary --opposition of many states to one another, which springs from their freedom. Men are compelled to reinforce this law by introducing a system of united power, hence a cosmopolitan condition of general political security [*“einen weltbürgerlichen Zustand der öffentlichen Staatssicherheit”*] J. [13] This cosmopolitan condition or “perfect civil union of mankind” is the “highest purpose of nature” and the most encompassing idea of political-practical reason, for the approximate realization of which we may hope and must strive. [14]

If we move now from the “Idea for a Universal History” of 1784 to Kant’s 1793 essay “On the Common Saying: ‘This May Be True in Theory, But It Does Not Apply in Practice’,” the central elements of his cosmopolitan conception remain essentially the same, though his upholding of the ideal in the face of a recalcitrant reality already evinces a note, if not of desperation, at least of reservation. He repeats the claim that war and its attendant distress will eventually force people to do for reasons of self-interest what practical reason anyway prescribes, that is, “to enter into a cosmopolitan constitution [*weltbürgerliche Verfassung*].” [TP,90] But he immediately adds that “if such a condition of universal peace is in turn even more dangerous to freedom, for, as has occurred more than once with states that have grown too large, it may lead to a most fearful despotism, distress must force men into a condition that is not a cosmopolitan commonwealth under a single ruler, but a lawful condition of federation under a commonly agreed upon international law [*Völkerrecht*].” [TP, 90] The threat of despotism attaches, it seems, to the form of cosmopolitan unity marked by a single global state, under a single ruler, of whom all human beings are subjects. As we shall see, such a fusing or melting together [*zusammenschmelzen*] of distinct peoples is the very source of danger that Kant will later cite in “Perpetual Peace” against the idea of a universal monarchy. But whereas there it will provide grounds for espousing the very weak “substitute” of a voluntary league of nations, in this essay the alternative espoused is the still

very strong idea of a federation of nation states under a rule of international law, which, he elaborates, is “backed by power” and “to which every state must submit.” [TP, 92] Against the latter, Kant concedes, political realists may still object that independent states will never freely submit to such coercive laws [*Zwangsgesetzen*], and thus that the proposal for a “universal state of nations” [*allgemeinen Völkerstaat*], however fine it sounds in theory, does not apply in practice. It is just another “childish, “academic” idea.^[15] Nevertheless, it is here that Kant takes his stand: “For my own part, I put my trust in the theory of what the relationship between men and states ought to be according to the principle of right.” In his view, individuals and states should act in such a way “that a universal state of nations may thereby be ushered in”; accordingly, “we should thus assume that it is possible (*in praxi*), that there can be such a thing.” [TP, 92]

Over the next two years, perhaps partly in reaction to the course and consequences of the French Revolution, which he followed very closely,^[16] Kant shifted his emphasis in the direction of the realities of practice, endorsing in “Perpetual Peace” the more “practicable” or “achievable” [*ausführbar*] goal of a voluntary federation or league of sovereign nation states [*Völkerbund*] under an international law [*Völkerrecht*] that was not public coercive law backed by the united power of a universal state of nations, though he still maintained that the latter was what was called for by reason. “There is only one rational way in which states coexisting with other states can emerge from the lawless condition of pure warfare. Just like individuals, they must renounce their savage and lawless freedom, adapt themselves to public coercive laws, and thus form a state of nations (*civitas gentium*) which would necessarily continue to grow until it embraced all the peoples of the earth. But since this is not the will of nations, according to their conception of international law (so that they reject *in hypothesi* what is true *in thesi*), the positive idea of a world republic cannot be realized. If all is not to be lost, this can at best find a negative substitute in the shape of an enduring and gradually expanding federation to prevent war. The latter may check the current of man’s inclination to defy the law and antagonize his fellows, although there will always be the risk of it bursting forth anew.” [PP, 105] Thus, the “positive idea” of establishing a universal and lasting peace is the idea of a “world republic”, the member states of which are themselves republics: a world republic of national republics. The public coercive law of this world republic would regulate external relations among states, among individuals who are citizens of different states, and among individuals and states of which they are not citizens.^[17] This type of law is variously referred to by Kant as *Völkerstaatsrecht*, the right of a state of nations, and *Weltbürgerrecht*, the right of world citizens.^[18] Whatever its precise form, for Kant only this type of global public law completes our emergence from the state of nature in which rights and possessions are merely “provisional” rather than “peremptory” or “conclusive” [*peremptorisch*]. Prior to its

establishment, “any rights of nations and any external possessions states acquire or retain by war are merely provisional. Only in a universal union of states, analogous to that by which a people become a state, can rights come to hold conclusively and a true condition of peace come about.”^[19] Nevertheless, as indicated in a passage cited above, Kant concedes that in the given circumstances global public coercive law is unachievable. Not only are individual states unwilling to give up their unlimited sovereignty, but there are intrinsic difficulties in administering global justice owing to the vastness of the earth’s surface and the variety of its inhabitants.

At this point in Kant’s argument, many commentators head in the wrong direction by taking his admonitions against a world state in the form of a universal monarchy for a rejection of world government in any form.^[20] Kant’s language is occasionally less clear on this than it could be.^[21] But there is overwhelming textual evidence for distinguishing his conception of a “world republic”, which he consistently upholds as the most encompassing idea of political-practical reason, from the conception of a “universal monarchy” or any other form of world state that might result from one power subjugating all the others. It is the latter which he characterizes as a “soulless despotism” that would inevitably give rise to widespread resistance and ultimately lapse into anarchy.” [PP, 113] For our purposes here, it is interesting to note that one basic complaint he voices against it is the *Zusammenschmelzung* of diverse peoples.^[22] Any viable conception of global unity has to be compatible with national diversity, for “nature wills” this diversity and “uses two means to separate peoples and prevent their intermingling [*Vermischung*], the variety of languages and of religions.” [PP, 113] At the same time, however, nature (or providence) also wills that the war and violence resulting from this separation be overcome by global peace. For one thing, cultural development leads to a growing agreement on basic principles and an expansion of mutual understanding. [PP. 114] For another, nature unites peoples by means of their mutual self-interest, especially in the economic sphere. “For the spirit of commerce [*Handelsgeist*] sooner or later takes hold of every people and it cannot exist side by side with war. Of all the powers (or means) at the disposal of the state, the power of money is probably the most reliable; so states find themselves compelled to promote the noble cause of peace, though not from motives of morality.” [PP, 114]

Kant concedes that the idea of global civil unity amidst national cultural diversity is unachievable or unworkable [*unausführbar*] in the circumstances of the time; it can at most be approximated or approached [*annähern*]. And he judges the degree of approximation possible under the given conditions to be the rather limited one of a voluntary, revocable league or federation of nations [*Völkerbund*] with the sole purpose of preserving the peace.^[23] The correspondingly weak conception of international law or the law of peoples [*Völkerrecht*] he joins to it remained in central respects the predominant one well into the twentieth century, a century of global slaughter without equal.

Conceding unlimited sovereignty to independent states and presenting no effective barrier to their use of arms in pursuing what they take to be their vital interests, that arrangement has proved incapable of checking the resort to violence and to the threat of violence in international affairs, incapable, that is, of fulfilling the purpose Kant intended for it. It is, in short, no longer -- if it ever was -- a practically adequate approximation to the idea of legal pacifism.

On the other hand, there are features even of Kant's weaker version of a peaceful world order that strike us still today as rather strong requirements, particularly the First Definitive Article, which requires that "the civil constitution of every state shall be republican." [PP, 99] On his understanding of the term, a "republican" constitution is founded on the freedom of members as human beings, their equality as subjects, and their independence as citizens.^[24] It encompasses the rule of law, representative government, and the separation of powers. It expressly does not include either substantive equality^[25] or universal suffrage.^[26]

Thus, Kant's "practicable" scheme for global peace combines international law [*Völkerrecht: ius gentium*] that is based on a voluntary league of nations with state law [*Staats(bürger)recht: ius civitatis*] that is republican without being democratic or egalitarian. There is also a third principal component, namely cosmopolitan law [*Weltbürgerrecht: ius cosmopolitanum*], which, in the context of this more practicable scheme, is reduced to "the conditions of universal hospitality," that is, "the right of a stranger not to be treated with hostility when he arrives on someone else's territory."^[27] This last, Kant maintains, is the minimum required to enable inhabitants of one society to attempt to enter into relations with those of another, and thus to foster the sorts of mutual relations among peoples that may "bring the human race nearer and nearer to a cosmopolitan constitution," that is, to a "public human right in general."^[28] This conception of cosmopolitan law is said in The metaphysics of Morals to be rooted in the finitude of the earth that is our common home: "Nature has enclosed all [nations] together within determinate limits by the spherical shape of the place they live in...[T]hey stand in a community of possible physical interaction (*commercium*), that is, in a thoroughgoing relation of each to all the others of offering to engage in interaction [*Verkehr*] with any other, and each has right to make this attempt...[which,] since it concerns the possible union of all nations with a view to certain universal laws for their possible interaction, can be called cosmopolitan right (*ius cosmopolitanum*)."^[29] Some of the most serious violations of the conditions of hospitality in his time, Kant repeatedly inveighs, are the conquest and colonization that mark the relations of "the civilized states of our continent" to the rest of the world.^[30] Thus, while himself proposing a racial theory of ethnic difference and cultural hierarchy, Kant vigorously condemns the colonizing efforts that quite often appeal to such theories for justification!

The view of global peace advanced two years later in Kant's most systematic work of *Rechtstheorie*, Part I of

The Metaphysics of Morals, is substantailly the same as that elaborated in “Perpetual Peace.” Thus his tripartite division of public right in section 43 mirrors that noted in the earlier essay: *Staatsrecht*, *Völkerrecht*, *Weltbürgerrecht* , only this last is now charaterized as “ineluctably” resulting from the first two, being in essence a kind of *Völkerstaatsrecht* .^[31] And the internal relation among them is characterized in the strongest terms: “So if the principle of outer freedom limited by law is lacking in any one of these three possible forms of rightful condition, the framework of all the others is unavoidably undermined and must finally collapse.” [MM, 89] In a word, there is no final exit from the condition of nature to the condition of right until a state of nations under the rule of cosmopolitan law is established. This last, then, is “the entire final end of the doctrine of right within the limits of reason alone.” [MM, 123] Without it, the law of peoples remains merely provisional.[MM, 119] But here, too, Kant concedes the impractability under present conditions of instituting a *Völkerstaatsrecht* based on a world republic and proposes to substitute a *Völkerrecht* based on a league of nations, once again restricting *Weltbürgerrecht* to the right of hospitality. “A federation of nations in accordance with the idea of an original social contract is necessary, not in order to meddle in one another’s internal disagreements, but to protect against attacks from without. This alliance must, however, involve no sovereign authority (as in a civil constitution), but only an association (federation); it must be an alliance that can be renounced at any time...”^[32] Since a “universal union of states,” in which alone “right [can] come to hold conclusively and a true condition of peace come about,” is an “unachieveable idea,” the basic principles of right require only that we strive to fashion alliances among states which more and more closely approximate it.^[33] Inthe circumstances of late eighteenth-century Europe, the closest practicable approximation is, in kant’s view, the league of nations decribed above. However, he hastens to add, this concession does not absolve moral-political agents from persistently “working toward the kind of constitution that seems to us most conducive to perpetual peace, say, a republicanism of all states together and spearately...[E]ven if the complete realization of this objective always remains a pious wish, still we are certainly not deceiving ourselves in adopting the maxim of working incessantly towards it.” [MM, 123]

* * *

If Kantian cosmopolitanism is to be of service to the project of conceptual reconciliation proposed in Part I, it will have to be altered in important respects. To mention only the most obvious:

1. Kant’s quasi-naturalistic account of “peoples” as the prepolitical bases of political communities has to be revised in line with our heightened awareness of the historically contingent, politically motivated, and socioculturally constructed character of representations of race, ethnicity, and nationality.^[34]

2. Correspondingly, Kant’s understanding of nations as, at least to a considerable degree, racially, ethnically,

and culturally homogeneous has to be revised to allow for the internal heterogeneity of political communities. This means not only dropping his claim that through racial and cultural differences “nature” prevents the “intermingling” [*Vermischung*] of peoples,^[35] but also making conceptual room in his constitutional republicanism for the pluralism that has become a hallmark of democratic politics.

3. Kant’s eighteenth-century understanding of republican government has to be revised to incorporate the basic democratic and social reforms achieved through political struggle in the nineteenth and twentieth centuries.

4. The Enlightenment universalism underlying Kant’s construction of the cosmopolitan ideal has to be replaced by a multicultural universalism more sensitive to the dialectic of the general and the particular.

The unprecedented slaughter of the twentieth century has made a mockery even of Kant’s wavering faith in the capacity of traditional international law and interstate treaties to preserve global peace. The principal theoretical alternative to these failed measures remains some form of legal pacificism, that is, of the global rule of law. Kant’s own account of *Völkerstaatsrecht* and *Weltbürgerrecht* is far too sketchy to serve as anything more than a starting for developing that alternative. In this respect, as in the others mentioned, Habermas’s “discourse theory of law and democracy,” which he presents as a reworking of Kant’s basic approach “with the benefit of two hundred years’ hindsight,” can take us a few steps further in the task of conceptual reconciliation.

III

Critics typically situate Habermas’s approach to law and politics at one extreme of the universalism-particularism spectrum: it is taken to be the very archetype of abstract, difference-levelling universalism. This assessment is usually arrived at in one short stroke, by extrapolating from his moral universalism. But that is no less an oversimplification than was the corresponding extrapolation from Kant’s moral ideal of a kingdom of ends, which, as we saw, ignored the principled differentiation between law and morality he had elaborated in *The Metaphysics of Morals*. For the past decade at least, Habermas has been similarly concerned to spell out the differences between these two domains of “practical reason.”^[36] From his discourse-theoretical perspective, one of the major differences that emerges is the variety of types of reasons relevant to the legitimation of positive law. Not only moral arguments figure in legal and political discourse, but also a balancing interests and a weighing of pragmatic and of what he calls “ethical political” considerations as well. It is this last type of consideration that is most interesting for our purposes, as Habermas uses the term “ethical” here in somewhat the way Hegel used *sittlich* and *Sittlichkeit*, to represent cultures and forms of life from a normative and evaluative perspective. Thus Habermas’s discussion of “ethical-political” justifications in law and politics is, roughly speaking, a discussion of the ways in which the values, goods,

and identities embedded in different cultural contexts figure into legal and political discourse. Here are two characteristic passages: “In contrast to morality, law does not regulate interaction contexts in general but serves as a medium for the self-organization of legal communities that maintain themselves in their social environments under particular historical conditions. As a result...laws also give expression to the particular wills of members of a particular community.” [FN, 151f.] “In justifying legal norms we must use the entire breadth of practical reason. However, these further [i.e., other than moral, TMC] reasons have a relative validity, one that depends on the context...The corresponding reasons count as valid relative to the historical, culturally molded identity of the legal community, and hence relative to the value orientations, goals, and interest positions of its members...[T]he facticity of the existing context cannot be eliminated.” [FN,156]

It is not only statutory law that is pervaded with particularity in these respects: constitutional undertakings to spell out the basic principles of government and the basic rights of citizens ineluctably also express the particular cultural backgrounds and historical circumstances of founding generations. Though Habermas expressly regards “the system of basic rights” as a normative (or “regulative”) idea that should guide every legitimate constitution-framing process [FN, chapter 3], he is equally clear that any actually existing system of rights is, and can only be, a situated interpretation of that idea. “The system of rights is not given to the framers of a constitution in advance as a natural law. These rights first enter into consciousness in a particular constitutional interpretation....No one can credit herself with access to the system of rights in the singular, independent of the interpretations she already has historically available. ‘The’ system of rights does not exist in transcendental purity.” [FN, 128f.] Surveying the history of democratic constitutional law over the past two centuries, the theorist can at most attempt a critical, systematic reconstruction of the basic intuitions underlying it. Of course, to accommodate even the existing range of legitimate variation, any such reconstruction will of necessity be highly abstract, as is indeed the case with Habermas’s own.

Getting clear about the content of basic constitutional norms is only the beginning of the story, for “every constitution is a living project that can endure only as an ongoing interpretation continually carried forth at all levels of the production of law.” [FN, 129] Thus, historically and culturally situated interpretation should not be seen as an unfortunate but unavoidable fall from transcendental grace, but as the very medium for developing “constitutional projects,” which are by their very nature always unfinished and ongoing. “[T]he constitutional state does not represent a finished structure but a delicate and sensitive -- above all fallible and revisable -- enterprise, whose purpose is to realize the system of rights anew in changing circumstances, that is, to interpret the system of rights better, to institutionalize it more appropriately, and to draw out its contents more radically.” [FN, 384]

Even these few sketchy remarks on Habermas’s legal and political theory should make clear that for him the

rule of law in the democratic constitutional state is not a fixed essence but an idea that has to be actualized in and through being variously interpreted and embodied in historically and culturally distinct constitutional projects. This suggests that there should be space in his conception of cosmopolitical justice for distinct political cultures, and indeed there is. His version of civic patriotism, which he calls “constitutional patriotism,” is construed broadly as allegiance to a particular constitutional tradition, that is, to a particular, ongoing, historical project of creating and renewing an association of free and equal citizens under the rule of laws they make for themselves. Each democratically constituted nation of citizens will understand and carry out that project from perspectives opened by its own traditions and circumstances. If that self-understanding is itself to include space for a pluralism of worldviews and forms of life, as Habermas insists it must, then constitutional patriotism cannot be wedded to monocultural or hegemonic-cultural interpretations of basic rights and principles to the exclusion, repression, or marginalization of minority-cultural perspectives. [\[37\]](#) In a move reminiscent of Rawls’s introduction of the idea of an “overlapping consensus” on basic political values amidst a persistent pluralism of “comprehensive doctrines” about the meaning and value of human life, Habermas, employing sociological terminology, proposes a “decoupling” of political integration from the various forms of subgroup and subcultural integration among the population of a democratic constitutional state. “In multicultural societies...coexistence with equal rights for these forms of life requires the mutual recognition of the different cultural memberships; all persons must also be recognized as members of ethical communities integrated around different conceptions of the good. Hence the ethical integration of groups and subcultures with their own collective identities must be decoupled from the abstract political integration that includes all citizens equally.” [SR,133f.]

Rawls’s proposal has given rise to vociferous debate, as have other proposals for conceptualizing legal-political neutrality in our increasingly multicultural societies. Habermas can hardly hope to avoid such controversies. If his approach is to have a chance of surviving them, he will, to start with, have to understand “decoupling” in process terms, as an ongoing accomplishment of something that is never fully realized. As Charles Taylor, Will Kymlicka, and others have convincingly argued, there can be no culturally neutral system of law and politics, no privatization of culture analogous to the privatization of religion, and thus no strict separation of culture and state. Official languages, school curricula, national holidays, and the like are only the most obvious expressions of a public culture that is never perfectly neutral with respect to the diverse cultural backgrounds of members. And as we saw, Habermas himself maintains that political goals, policies, and programs are inevitably permeated by cultural values and goods, and that putting them into effect just as inevitably has cultural consequences. This suggests that “decoupling” may be the wrong notion for what we want here. If we understand the core of a constitutional tradition dynamically and

dialogically, as an ongoing, legally institutionalized conversation about basic rights and principles, procedures and practices, values and institutions, then we can allow for a conflict of interpretations concerning them and for a multiplicity of situated perspectives upon them. Insofar as these interpretations purport to be of the same constitutional tradition, and insofar as their proponents are and want to remain members of the same political community, the ongoing accomplishment of a working consensus on fundamental legal and political norms seems to be a basic requirement of public discourse in official and unofficial public spheres. A central element of such a working consensus would be sufficiently widespread agreement about the institutions and procedures through which persistent reasonable disagreements may be legitimately settled, at least for the time being.

This is, in fact, close to the conception that Habermas actually defends. “The political integration of citizens ensures loyalty to the common political culture. The latter is rooted in an interpretation of constitutional principles from the perspective of the nation’s historical experience. To this extent, that interpretation cannot be ethically neutral. Perhaps one would do better to speak of a common horizon of interpretation within which current issues give rise to public debates about the citizens’ self-understanding....But the debates are always about the best interpretation of the same constitutional rights and principles, which form the fixed point of reference for any constitutional patriotism...” [SR, 134] Even this common horizon of interpretation is in flux, however, as it too reflects participants’ situated understandings, which are themselves continually shifting. Habermas remarks this in connection with immigration. In his view, while it is not legitimate for a democratic constitutional state to require “ethical-cultural integration” of immigrants, that is to say, assimilation to the dominant culture in the broad sense, it is, he maintains, legitimate to require political integration, that is, assent to the principles of the constitution within the scope of interpretation set by the political culture of the country. [SR, 138] But he immediately concedes that the latter is itself subject to contestation and alteration from the new perspectives brought to the political public sphere through immigration. “[T]he legitimately asserted identity of the political community will by no means be preserved from alteration in the long run in the wake of waves of immigration. Because immigrants may not be compelled to surrender their own traditions, as other forms of life become established the horizons within which citizens henceforth interpret their common constitutional principles may also expand....[A] change in the composition of the active citizenry changes the context to which the ethical-political self-understanding of the nation as a whole refers.” [SR, 139f.]

Despite this recognition of the “ethical permeation” of law and politics at every level, Habermas continues to speak of the “neutrality” of the law vis-a-vis internal ethical differentiations. Like “decoupling”, “neutrality” is, in my view, not the best choice of terminology for what is at issue, which is rather impartiality or fairness in the sense of

equality of respect, treatment, and opportunity to participate in the political process. What Habermas is concerned to preclude, above all, is that a majority culture “usurp state prerogatives at the expense of the equal rights of other cultural forms of life.” [SR, 134f.] And that case would, I think, better be made by extending to cultural membership the types of arguments historically advanced to address systematic inequalities of social position .

In any case, it is evident that Habermas’s conception of a multiplicity of political-cultural realizations of the “same” system of rights is already sketched from a cosmopolitan point of view akin to Kant’s. For Kant, the cosmopolitan civil condition, as a regulative idea, was characterized by a multiplicity of republics under a rule of law regulating relations among them and guaranteeing the rights of individuals as world citizens. Habermas’s version of cosmopolitanism may be read as updating this idea, first, to take account of the internal relation between the rule of law and democracy -- so that Kant’s republics become democratic constitutional states -- and, second, as we saw, to make room for an irreducible plurality of forms of life. But he also wants, third, to build into his version a strong egalitarian component -- so that the democratic constitutional project is understood as that of realizing an association of free and equal citizens under the rule of laws they can all reasonably consent to. There is, as we know, an unavoidable dialectic of *de jure* and *de facto* legal and substantive equality that has played itself through successive waves of critical social and political theory. Class, gender, race, ethnicity, sexuality, and the like mark respects in which existing forms of equality under law have been revealed to sanction gross inequalities in life circumstances and positions of power.

Habermas’s contribution to this ongoing discussion turns on his account of the internal relation between “private and public autonomy,” or, to put it another way, on his attempt to connect internally the basic values of liberalism individualism and civic republicanism. Against a purely liberal-individualist conception of equal rights, he argues that “in the final analysis, private legal persons cannot attain the enjoyment of equal individual liberties unless they themselves, by jointly exercising their autonomy as citizens, arrive at a clear understanding about what interests and criteria are justified, and in what respects equals will be treated equally and unequals unequally in any particular case.” [SR,113] Understood in this way, the ongoing project of realizing a system of equal rights must be sensitive to any systematic causes of substantive inequality. And that, according to Habermas, requires a democratic politics, for there is no other non-paternalistic way of deciding what the prerequisites are for the equal opportunity actually to exercise legally granted rights. In other words, the basic liberal ideas of equal respect, equal consideration, equal treatment, and the like cannot be specified in the abstract, once and for all, but only concretely, in the ongoing discourses of democratic public life. “It must therefore be decided from case to case whether and in which respects factual (or material) equality is required for the legal equality of citizens who are both privately and publicly

autonomous. The proceduralist paradigm gives normative emphasis precisely to the double reference that the relation between legal and factual equality has to private and public autonomy. And it privileges all the arenas where disputes over the essentially contestable criteria of equal treatment must be discursively carried out.” [FN, 415]

In shifting from the national to the cosmopolitan perspective, it is impossible to overlook the relative paucity of transnational arenas of this type. Insisting, as Habermas does, on the internal connection between individual rights and democratic politics implies that there could be no adequate institutionalization of human rights on a global scale without a corresponding institutionalization of transnational forms of democratic participation and accountability. Inasmuch as individual liberties, democratic procedures, and redistributive mechanisms are interdependent aspects of cosmopolitical justice, as he understands it, no one can be adequately realized without the others. This, of course, renders his cosmopolitan ideal more ambitious in theory and more difficult in practice than Kant’s. And it makes all the more palpable the existing gap between a political integration that is largely restricted to the national level and an economic integration that is increasingly global. If that gap is not closed, there is a danger that the structure of mass-democratic, welfare-state integration that has predominated at the national level since World War II will itself disintegrate; for the constellation of individual freedom, democratic government, and social security that generally sustains it is being increasingly undermined by processes and problems to which the individual nation state can no longer adequately respond. In Habermas’s phrase, “Under the conditions of a globalized economy, ‘Keynesianism in one country’ no longer functions.”[\[38\]](#)

* * *

In addition to the daunting practical problems that attend the establishment of a basic structure of cosmopolitical justice as Habermas conceives it, there are a number of important theoretical issues his conception raises, of which I shall mention only the following.

1. Habermas’s conception of civil union amidst cultural diversity takes “constitutional patriotism” to be the political-cultural glue holding multicultural polities together. This obviously raises feasibility questions as to whether allegiance to legal-political institutions, practices, ideas, values, traditions, and the like can function as the core of social integration in modern societies, whether it can provide sufficient “glue” to keep together the socially differentiated, culturally heterogeneous, and ideologically fragmented populations that characterize them. But it also raises conceptual questions concerning the very idea of “decoupling” a shared civic culture from culture(s) more broadly. I have already touched upon some of them above and will here add only the following consideration. Habermas’s discussion of political-cultural neutrality (or impartiality) vis-a-vis a multiplicity of subcultures tends to focus on the contrast of civic with ethnic culture, for one of his chief aims is to disentangle state from nation. Other

aspects of the politics-culture nexus tend to be neglected, at least in the context of this discussion. In The Structural Transformation of the Public Sphere and The Theory of Communicative Action, however, some of these other aspects figured prominently.^[39] There, the interpenetration of public-political and public-cultural spheres was an important theme: the analytic distinctions between them did not occlude their real interconnections. In particular, the powerful connections of political culture to popular culture, which increasingly means mass-mediated culture, was identified as a key issue for contemporary democratic theory and practice. Supposing that mass-mediated popular culture is a permanent feature of modern society, what implications does that have for shaping and sustaining a sense of national belonging? How is this likely to be affected by the transnationalization of the culture industry? To what extent and in what ways is political culture transmitted and political integration achieved in and through mass-mediated popular culture? And if the answers are “considerably” and “many”, what are the consequences for Habermas’s distinction between assimilating to a particular political culture and assimilating to a hegemonic national culture?

2. Similar questions can be posed at the global level, as well as questions peculiar to it. Habermas’s cosmopolitan scheme turns on the idea of realizing the “same” system of rights in a diversity of political-cultural settings, and that immediately raises issues concerning the transcultural notion of rights invoked here, the nature of their transcultural justification, the sense in which the “same” rights can be said to animate the rather different political-cultural traditions that embody them, and so on. In brief, how could a transnational legal-political consensus regarding the basic structure of cosmopolitan justice be achieved across the wide range of political-cultural diversity?

3. To deal with this issue, Rawls introduces the idea of an “overlapping consensus” on a law of peoples among political societies marked by widely different political cultures -- liberal and nonliberal, democratic and nondemocratic, egalitarian and hierarchical, secular and religious.^[40] Habermas’s cosmopolitan ideal does not allow for the same broad scope of variation among political cultures. He defends a more “comprehensive” version of a rights-based theory of justice. This has the advantage of reducing the need for citizens to develop the starkly split political/nonpolitical mentalities that Rawls’s scheme requires. But it makes cosmopolitan justice turn on institutionalizing at a global level a version of the same system of rights that is variously institutionalized in national constitutional traditions. Thus it requires a far greater degree of convergence among political cultures than does Rawls’s scheme: for cosmopolitan constitutionalism to be fully realized, all subglobal political systems would themselves have to become rights-based. Nationally, as well as sub-, supra-, and trans-nationally, what Kant called “civil union” would comprise a diversity of historically and culturally situated projects of realizing the same system of basic human rights. Kant’s world republic of national republics is reenvisioned as a global constitutional union of constitutional democracies. What warrants this stress on human rights in connection with cosmopolitanism?

4. Habermas, like Kant, is committed to some form of at least legal- and political-cultural convergence, such that “as culture grows and men generally move toward greater agreement over their principles, they lead to mutual understanding and peace.”^[41] In Communication and the Evolution of Society and The Theory of Communicative Action Habermas propounds the broader account of cultural and societal development as “rationalization” that underlies this political-theoretical commitment.^[42] But in the present context, he argues simply that the conditions of modernity leave individual states with no other practicable option but to modernize their relations both internally and externally. This is, of course, a disputable claim, even if we restrict it’s ambit to the legal-political domain. Couldn’t we conceive of “alternative modernities”? Charles Taylor thinks so; and in the final section of this paper I want to air some of the issues raised here by examining his instructive differences with Habermas on that question.

IV

As Habermas is well aware, “the general validity, content, and ranking of human rights are as contested as ever. Indeed, the human rights discourse that has been argued in normative terms is plagued by a fundamental doubt about whether the form of legitimation that has arisen in the West can also hold up as plausible within the frameworks of other cultures.”^[43] The liberation struggles of the past 150 years, especially of the last few decades, have again and again revealed the ideological functions that established understandings of human rights have served. That much is clear. But is the meaning of human rights exhausted by such ideological functions? Or is there a normative surplus of meaning that can be rescued by critically rethinking them and offering alternative accounts of their practical implications in given circumstances. One argument that speaks for the latter option is that many of the most telling critiques of established rights regimes have themselves been mounted precisely as critical rights discourses of various sorts. In the contemporary world social, political, and cultural criticism would be severely incapacitated if such discourses were unavailable.

In any case, rethinking human rights is the route Habermas chooses, not only for normative but also for historical and sociological reasons. “My working hypothesis is that [human rights] standards stem less from the particular cultural background of Western civilization than from the attempt to answer specific challenges posed by a social modernity that has in the meantime covered the globe. Whether we evaluate this modern starting point one way or another, it confronts us today with a fact that leaves us no choice and thus neither requires, nor is capable of, a retrospective justification. The contest over the adequate interpretation of human rights has to do not with the desirability of the ‘modern condition’ but with an interpretation of human rights that does justice to the modern world from the viewpoints of other cultures as well as our own.” [HR, 13] To the obvious question of whether there could

be such an interpretation, one can, I think, presently respond only that that remains to be seen. Writing expressly as “a Western participant in a cross-cultural discussion of human rights,” Habermas has tried to rethink some of the aspects of the Western rights tradition that have proved most objectionable to non-Western participants. In that spirit, he has drawn upon his theory of communicative action to denaturalize and deindividualize the notion of rights and to disentangle it from the matrix of possessive individualism in which it has been ensnared since Locke.^[44] Further, through accentuating elements of the republican tradition of democratic thought, he has sought to restore the balance between individual and community and to resist the liberal displacement of the search for the common good by the aggregation of individual interests. Together with his attention to the inequities produced by uncontrolled market processes and his concern to accommodate cultural diversity, these changes certainly present a version of human rights less starkly at odds with traditionally “communitarian” styles of thought. But of course the differences that remain are considerable. Though human rights are viewed as socially constituted, they are still borne by individual legal persons; and though rights-bearing subjects are seen as socioculturally embedded, personal and political autonomy retain their normative status; moreover, the “decoupling” of political integration from overarching views of the meaning and value of human life remains a basic requirement. For many, such differences would be sufficient to make a conception of human rights incorporating them unacceptable.

This consideration serves as the starting point of Charles Taylor’s recent reflections on the possibility of “a world consensus on human rights.”^[45] His line of reasoning is particularly interesting in our present context, because he agrees with Habermas about having to start from the fact of global modernity and about the need that creates for agreement on norms of coexistence across different cultural traditions; but he disagrees with him on the type of agreement we should expect. Examining their differences will allow us to bring the issue of transcultural human rights into somewhat sharper focus and to connect it with another question, namely the extent to which there can be “functional equivalents” for modern law and thus “alternative modernities” in respect to legal and political culture.

Like Habermas, Taylor regards at least some aspects of modernity as irresistible. “From one point of view, modernity is like a wave, flowing over and engulfing one traditional culture after another. If we understand by modernity, inter alia, the developments discussed above -- the emergence of a market-industrial economy, of a bureaucratically organized state, of modes of popular rule -- then its progress is, indeed, wavelike. The first two changes, if not the third, are in a sense irresistible. Whoever fails to take them or some good functional equivalent on will fall so far behind in the power stakes as to be taken over and forced to undergo these changes anyway...[They] confer tremendous power on the societies adopting them.” {NM, 43f.} But while these sorts of institutional changes are unavoidable, their cultural accompaniments in the West are not. Some alterations or others of traditional cultures

will be necessary, but there is a good deal more latitude here than with economic and administrative structures. “[A] successful transition involves a people finding resources in their traditional culture to take on the new practices. In this sense modernity is not a single wave. It would be better to speak of alternative modernities, as the cultures that emerge in the world to carry the institutional changes turn out to differ in important ways from each other...What they are looking for is a creative adaptation, drawing on the cultural resources of their tradition,...[which]by definition has to be different from culture to culture.” [NM, 44]

A crucial question for our purposes is where modern law, with its conception of basic human rights, belongs. Taylor assigns it an ambivalent position, partly institutional, partly cultural, by distinguishing between norms of action and their justifications. It is only with regard to the former that we can reasonably expect convergence; the latter may and should vary with alternative modernities. This move enables him to adopt a position on human rights that, while appealing to Rawls’s notion of overlapping consensus, is in some respects more universalistic than the one Rawls himself adopts in “The Law of Peoples.” Taylor writes: “What would it mean to come to a genuine, unforced international consensus on human rights? I suppose it would be something like what John Rawls describes in his Political Liberalism as an ‘overlapping consensus.’ That is, different groups, countries, religious communities, civilizations, while holding incompatible fundamental views on theology, metaphysics, human nature, and so on, would come to agreement on certain norms that ought to govern human behavior. Each would have its own way of justifying this from out of its profound background conception. We would agree on the norms, while disagreeing on why they were the right norms. And we would be content to live in this consensus, undisturbed by the differences of profound underlying belief.” [WC, 15] Taylor then goes on to draw a further distinction between norms of action and the “legal forms” in which they are inscribed, and assigns the latter to the variable part of modernity as well. What this means in connection with human rights is that neither “rights talk” nor “rights forms” are necessary accompaniments of a modern economy and state.

As to the talk, Taylor notes that the language of rights has its roots in Western culture; although the norms expressed in it do turn up in other cultures, they are not expressed in rights language; nor are the justifications offered for them based in views of humans and societies that privilege individual liberty and legitimation by consent. As to the forms, the Western rights tradition ensures immunities and liberties in the peculiar form of “subjective rights,” which not only reverses the traditional ethical priority of duties over rights but also understands the latter as somehow possessed by individuals. This understanding is itself embedded in the philosophical justifications mentioned above. So Western legal philosophy and Western legal forms are tightly interconnected; but according to Taylor, neither is inextricably tied to the basic norms that are expressed and inscribed in them. Hence, while some of the norms are

integral to modernity, their philosophical justifications and institutional forms may vary from culture to culture. And so, the inquiry into the possibility of a world consensus on human rights can now be pointed in a specific direction: “what variations can we imagine in philosophical justifications or in legal forms that would still be compatible with meaningful universal consensus on what really matters to us, the enforceable norms?” [WC,18] What Taylor hopes to encounter along this route is “a convergence on certain norms of action, however they may be entrenched in law,” together with “a profound sense of difference, of unfamiliarity, in the ideals, the notions of human excellence, the rhetorical tropes and reference points by which these norms have become objects of deep agreement for us.” [WC, 20] Further along the same path he sees “a process of mutual learning,” leading to a “fusion of horizons” through which “the moral universe of the other becomes less strange.” [WC, 20]

This adaptation of Rawls’s idea of an overlapping consensus stands or falls with the independent variability of legal norms, forms, and justifications. If it turned out that what is required by modern economies and modern states are not only the norms but the forms, that is, certain ways of entrenching the norms in law, the range of alternative modernities would be more constrained than Taylor takes it to be. That is precisely what Habermas maintains to be the case. One of the central sociological lines of argument in Between Facts and Norms is that modern law must have most of the formal properties it has in order to fulfill the functions it fulfills: there are no functional alternatives to its formality, positivity, reflexivity, individuality, actionability and the like.

The fact that modern law is based upon individual rights and liberties releases legal persons from moral obligations in certain spheres of action and gives them latitude, within legally defined limits, to act upon their own choices free from interference by the state or by third parties -- as is required in decentralized market societies. If these rights and liberties are to have the protection of the law, they must be connected with actionable claims, such that subjects who consider their rights to have been violated may have recourse to legal remedies. At the same time, as membership in the legal communities of diverse modern societies can less and less be defined in terms of gender, race, religion, ethnicity, and the like, it comes to be more and more abstractly defined in terms of the equal rights and responsibilities of citizens as legal subjects. The fact that positive law issues from the changeable decisions of a legislator loosens its ties with traditional morality and makes it suitable as a means of organizing and steering complex modern societies. This requires that the enactment, administration, and application of the law themselves be legally institutionalized; law becomes reflexive. And since modern law, as a positive, reflexive, and therefore fungible “steering medium,” can no longer be legitimated solely by appeal to inherited beliefs and practices, there is a need for new forms of legitimation. That need is compounded by the facts that cultural pluralism limits the authority of any one tradition and that rights-based conceptions of citizenship increase the pressure for political participation. In the

long run, it is not clear that there are functional alternatives to democratic forms of popular rule in modern societies. One could go on in this vein. The general line of argument is that the functions and forms of modern law are tailored to one another. Because no contemporary society, whatever its cultural traditions, can do without the former, none can do without some version of the latter.

As Habermas notes: “the decisive alternatives lie not at the cultural but at the socioeconomic level....[T]he question is not whether human rights, as part of an individualistic legal order, are compatible with the transmission of one’s own culture. Rather, the question is whether traditional forms of political and societal integration can be reasserted against, or must instead be adapted to, global economic modernization.” [HR, 15] If the latter proves to be the case, then we would expect the transition to modernity to involve cultural changes more extensive than those Taylor envisages, for, as he himself remarks, legal form and legal culture are closely intertwined. To the extent that individuals are guaranteed spheres of choice free from collectively binding beliefs and values, that citizenship qualifications are made independent of religious profession or cultural membership, that legislation is legitimated by its democratic provenance, and so forth, to that extent legal and political culture is being differentiated from traditional worldviews and forms of life. What further cultural changes are likely to be associated with that differentiation and its consequences is a disputed question.

Taylor is right, I think, to pose the question of alternative modernities in the way he does: given that some degree of convergence in economic, governmental, and legal institutions and practices seems to be an unavoidable feature of a globalized modernity, what kinds and degrees of divergence remain possible and desirable? In particular, how much room do such modernizing tendencies leave for deep cultural differences? Taylor is also right, in my view, to emphasize that different starting points for the transition to modernity are likely to lead to different outcomes, and thus that new forms of modern society are likely to evince new forms of difference. This is, of course, already true of European modernity: Swedish society is not the same as French or Italian society, let alone American society. And yet they are too much the same to satisfy Taylor’s interest in alternative modernities, for he envisions much broader and deeper differences in ideas and beliefs, outlooks and attitudes, values and identities, institutions and practices. Above all, he is interested in the differences among largely implicit, embodied, cultural understandings of self, society, nature and the good. Thus, what he is most concerned to refute is the claim that that there is only one viable modern constellation of such background understandings, the one that came to dominate in the West, which he understands as the claim that modern cultures can be expected sooner or later to share atomistic-individualistic understandings of self, instrumentalist conceptions of agency, contractualist understandings of society, the fact-value split, naturalism, scientism, secularism, and so on.^[46] And what he is most concerned to defend is the possibility and desirability of

alternative spiritual and moral ideals, visions of the good, and forms of self-identification. That is to say, what moves him is resistance to the idea that modernity will force all cultures to become like ours.

To the question of how much and what kinds of difference we have good empirical and theoretical reasons to expect, there is clearly no generally accepted answer. But one might well conjecture that it is more than most modernization theorists have predicted but less than Taylor hopes for. He concedes that market economies and bureaucratic states are inescapable features of modern societies, and that with them come certain legal norms and spheres of instrumental action, as well as increased industrialization, mobility, and urbanization. He also mentions science and technology as something all modern societies have to take on, as well as general education and mass literacy. We might add to these the concomitant legal forms I mentioned above, together with the legal cultures that support them. We might further add a host of changes that Taylor presumably would also regard as irresistible for modern societies: the decline of the agricultural mode of life that has defined most of humanity for much of our recorded history; the functional differentiation and specialization of occupational and professional life; a diversity of lifestyles, outlooks, and attitudes; a pluralism of belief systems, value commitments, and forms of personal and group identity; a steady growth of knowledge understood as fallible and susceptible to criticism and revision; the dissolution of patriarchal, racist, and ethnocentric stereotyping and role-casting, as of all other “natural,” “God-given,” or time-honored hierarchies of that sort; the inclusion, as equals, of all inhabitants of a territory in its legal and political community; the spread of mass media and of mass-mediated popular culture; the existence of public political spheres that allow for open exchange and debate; and, of course, an ever-deeper immersion in transnational flows of capital, commodities, technology, information, communication, and culture. One could go on, but these few remarks are enough to suggest that the scope of deep divergence is somewhat more constricted than Taylor lets on, especially if we take into account the very dense internal relations and causal connections between the aforementioned changes and the cultural elements, particularly the background understandings, that Taylor sometimes seems to regard as swinging free of them.

These considerations are not meant to detract from the legitimacy or significance of Taylor’s concern with identifying possibilities of divergence within convergence. Nor are they intended to contravert his claim that the extent of divergence can and likely will be greater than that countenanced in most classical and contemporary theories of modernization. And they do not profess to provide a theoretical argument for the superficiality or marginality of the differences, as compared to the similarities, among possible alternative modernities. In a word, their main purpose is not the negative one of placing a priori limits on societal and cultural variation but the positive one of showing that the idea of a global rule of law is not as hopelessly impracticable as it might seem if we attended only to cultural

differences. The respects in which there is a credible case for different modern societies coming together seem to me to be sufficient to ground a “rational hope,” as Kant would say, for the degree of legal- and political-cultural convergence required for some form of transnational agreement on what Habermas calls “the basic system of human rights.”

How much or how little cultural convergence of other sorts will accompany it is, it seems to me, an open question. I do think, however, that Taylor tends to overestimate the the extent to which cultural differences are likely to survive societal change. To mention just one basic dimension of change: the implicit, embodied, background understandings of gender identity, difference, roles, relations, and hierarchy characteristic of traditional (and, of course, modern) patriarchal cultures are, in the long run, incompatible with the changes in legal and political culture mentioned above. Moreover, as any anthropologist or sociologist can attest, significant changes in this dimension of cultural self-understanding inevitably bring with it significant changes in any number of others. And though the new forms of gender relations that develop are not likely to be the same from culture to culture, insofar as they are tied to legal and political equality they will likely be much more similar than they have been. [\[47\]](#)

Spiritual descendents of Herder might see the sorts of cultural convergence I have described as tragic loss. Spiritual descendents of Kant will see some of them at least as signalling the “move toward greater agreement on principles...[that] leads to mutual understanding and peace,” of which he wrote at the birth of the modern era.

[\[1\]](#) Among the works I have found helpful on the points raised in this section are: Benedict Anderson, Imagined Communities (Verso, 1983); Ernest Gellner, Nations and Nationalism (Cornell University Press, 1983); Liah Greenfeld, Nationalism: Five Roads to Modernity (Harvard University Press, 1992); Jürgen Habermas, Die Einbeziehung des Anderen (Suhrkamp Verlag, 1996); E.J. Hobsbawm, Nations and Nationalism since 1780 (Cambridge University Press, 1990); J. Hutchinson & A. D. Smith, eds., Nationalism (Oxford University Press, 1994); R. McKim & J. McMahon, eds., The Morality of Nationalism (Oxford University Press, 1997); David Miller, On Nationality (Oxford University Press, 1995); and Yael Tamir, Liberal Nationalism (Princeton University Press, 1993).

[\[2\]](#) I take these estimates from Will Kymlicka, Multicultural Citizenship (Oxford University Press, 1995), p. 1. He notes his own sources for them on p. 196, n.1.

[\[3\]](#) This theoretical gap is the subject of Vernon Van Dyke’s “The Individual, the State, and Ethnic Communities,” in W. Kymlicka, ed., The Rights of Minority Cultures (Oxford University Press, 1995), pp. 31-56. As Van Dyke notes, there are important exceptions within the tradition of liberal political theory, for instance John Stuart Mill, who held that the boundaries of the state and of the nation should in general coincide. (p. 35)

[\[4\]](#) This is, for instance, a chief concern of Eric Hobsbawm in his history of the “short twentieth century,” The Age of

Extremes (Vintage, 1996), and of Jürgen Habermas in Die Einbeziehung des Anderen.

[5] See the interesting discussion of this in Charles W. Mills, The Racial Contract (Cornell University Press, 1997).

[6] For this account of Kant's views on cosmopolitanism and nationalism I will be drawing on the following works [with bracketed abbreviations for citations]: (1784) "Idea for a Universal History with a Cosmopolitan Purpose" [UH], in H. Reiss, ed., Kant: Political Writings, tr. H.B. Nisbet (Cambridge University Press, 1991), pp. 41-53; (1793) "On the Common Saying: 'This May Be True in Theory, but It Does Not Apply in Practice'" [TP], in Reiss, ed., pp. 61-92; (1795) "Perpetual Peace: A Philosophical Sketch" [PP], in Reiss, ed., pp. 93-130; (1797) The Metaphysics of Morals [MM], ed. and tr. M. Gregor (Cambridge University Press, 1966); (1797) Anthropology from a Pragmatic Point of View [AP], tr. M. Gregor (Martinus Nijhoff, 1974). I will alter the translations, usually without making special note of the fact, when that is required for consistency or transparency.

[7] Their distinctness is, of course, his rationale for separating the *Rechtslehre* from the *Tugendlehre* in The Metaphysics of Morals.

[8] "Reviews of Herder's Ideas on the Philosophy of History of Mankind," in Reiss, ed., pp. 201-220.

[9] MM, 114. See also PP, 102, where the discussion of *Völkerrecht* in the Second Definitive Article is said to apply to "*Völker als Staaten*."

[10] AP, 174, 184. For a critical account of Kant's unfortunate views on race, see Emmanuel Chukwudi Eze, "The Color of Reason: The Idea of 'Race' in Kant's Anthropology," in idem, ed., Postcolonial African Philosophy (Basil Blackwell, 1997), pp. 103-140. Eze makes a convincing case for the significance of race in Kant's thinking about human nature, culture, and history, as well as for the claim that Kant constructed one of the more elaborate theories of race and philosophical justifications of racial hierarchy of his time. His argument for the claim that Kant's racial theories are transcendently grounded and thus are inseparable from his transcendental philosophy and his humanist project more generally is, in my view, less conclusive.

[11] AP, 174f. and PP, 113f. The relative influence of biology, i.e. race, and of culture is different for different peoples; see AP, 176ff.

[12] UH, 45f. Kant immediately concedes that "a perfect solution is impossible," for, as he famously puts it, "Nothing straight can be constructed from such crooked timber as that which man is made of." But we can and must continually strive to "approximate to this idea." [UH, 46f.]

[13] UH, 49. The term rendered as "cosmopolitan," *weltbürgerlichen*, will later be used to designate a specific type of transnational law. In this 1784 essay, the institutional form of the "cosmopolitan condition" is characterized as a "federation of peoples" [*Völkerbund*], which clearly refers here to a federal union with a "united power." As we shall see, in the 1790s the corresponding institutional form is designated as a *Völkerstaat* or "state of nations," while *Völkerbund* is reserved for the more "practicable" arrangement of a voluntary and revocable league of nations.

[14] UH, 51. Note that the cosmopolitan --*weltbürgerliche*-- condition is the civil --*bürgerliche*-- union of the *Welt*, i.e. of humanity.

[15] TP, 92. Kant's use of the term *Zwangsgesetzen* shows that the federation he has in mind is not the loose,

voluntary federation he later proposes in “Perpetual Peace.” The same thing is indicated by his use of *Völkerstaat* to characterize it: the federation of peoples envisaged here is a state of nations under international laws backed by the state.

[16] The Treaty of Basel was concluded between France and Prussia early in 1795; “Perpetual Peace” appeared later that year.

[17] Compare The Metaphysics of Morals, p. 114.

[18] Thus in “Perpetual Peace” he characterizes a global civil constitution as one “based on *Weltbürgerrecht*, in so far as individuals and states, coexisting in an external relationship of mutual influences, may be regarded as citizens of a universal state of humankind (*ius cosmopolitanum*).” And in The Metaphysics of Morals, p. 114, he refers to this type of law as “*Völkerstaatsrecht* or *Weltbürgerrecht*” [my emphasis].

[19] MM, 119. Cf. the discussion of provisional and conclusive acquisition in relation to the “civil condition” at MM, 51-53, which ends with the thought that until this condition “extends to the entire human race,” acquisition will remain provisional.

[20] Sharon Byrd has a good discussion of this point in “The State as a ‘Moral Person’,” in Proceedings of the Eighth International Kant Congress, Vol. I, Part I, Sections 1-2, ed. H. Robinson (Marquette University Press, 1995), pp. 171-189. She lists some of those who have gotten it wrong in n.57, pp. 186f. To that list can be added the names of John Rawls, “The Law of Peoples,” in On Human Rights, S. Shute & S. Hurley, eds. (Basic Books, 1993), pp. 41-82, at pp. 54f., and Jürgen Habermas, “Kant’s Idea of Perpetual Peace, with the Benefit of Two Hundred Years’ Hindsight,” in Perpetual Peace. Essays on Kant’s Cosmopolitan Ideal, J. Bohman & M. Lutz-Bachmann, eds. (The MIT Press, 1997), pp. 113-154, at p. 119 and p. 128.

[21] See especially the oft-cited passage in “Perpetual Peace,” p. 102, which is not only ambiguous in the original German but too freely translated by H. B. Nisbet in the Reiss edition of Kant’s Political Writings. Kant did not write that the federation which he espouses “would not be” the same thing as an international state, but that it “need not be” such. Nor did he write “the idea of a *Völkerstaat* is contradictory.” The German phrase “*darin aber wäre ein Widerspruch*” could refer to the very idea of a civil condition among independent nation states, which he is discussing in this paragraph. In any case, this is one of the very few passages in which there is any ambiguity on the point. As I shall now argue, his principled opposition is to a universal monarchy that ignores the ethnocultural differences among peoples and not to a state of nations that builds them into its institutional arrangements.

[22] This is rendered by Nisbet as “welded together” and “amalgamation” at PP, 102 and PP, 113, respectively.

[23] See the Second Definitive Article, PP. 102.

[24] See, for instance, “Theory and Practice,” pp. 74-79.

[25] See, for instance, TP, 75: “This uniform equality of human beings as subjects of a state is however perfectly consistent with the utmost inequality of the mass in the degree of its possessions,” where “possessions” is meant in the broadest sense.

[26] See, for instance, TP, 77: “In the question of actual legislation, all who are free and equal under existing public

laws may be considered equal, but not as regards the right to make these laws,” which is, roughly speaking, reserved to male property owners. Accordingly, on pp. 100 ff. of “Perpetual Peace,” as elsewhere, he warns against confusing the republican constitution with the democratic one.

[27] PP, 105, Third Definitive Article. For the three types of law involved, see the note at PP, 98f.

[28] PP, 106. Pauline Kleingeld, “Kant’s Cosmopolitan Law. World Citizenship for a Global Order,” unpublished ms, gives a good account of this aspect of Kant’s theory of right.

[29] MM, 121. The Gregor translation renders *Verkehr* as “commerce,” adding a note on its broad range of meanings from social interaction to economic exchange. In this passage, it is clear that Kant intends the broadest sense of *commercium*; thus to foreclose misleading identifications with our previous use of “commerce” to render *Handel*, I have here rendered *Verkehr* as interaction.

[30] PP, 106f. See also MM, 53 and MM,121f.

[31] MM, 89. The Gregor translation doesn’t capture the idea of the third resulting from the combination of the first and second which is conveyed by the German “*beides zusammen*.”

[32] In “On Perpetual Peace, and On Hope as a Duty,” in the volume of Proceedings cited in n.20, Jules Vuillemin surmises that Kant was influenced by contemporary discussions of federalism in the USA and France: pp. 19-32, at p. 22 and p. 31, n.24.

[33] MM, 119. Kant variously designates such arrangements as congresses, leagues, federations, associations, and coalitions, among other things. But the essential point remains the same: the more feasible kind of arrangement is “a coalition of different states that can be dissolved at any time, and not a union like that of the American states which is based on a constitution and therefore cannot be dissolved.” [MM, 120] The latter, stronger kind of federal union among nations would call for just the sort of constitutional *Völkerstaat* that he has conceded to be unachievable.

[34]. Kant seems to have had some doubts of his own about the naturalness of nationhood -- nurtured, perhaps, by observing the formation of the first modern nation state. Thus, writing of the state in The Metaphysics of Morals, he notes: “Because the union of the members is (presumed to be) [*anmasslich*] one they inherited, a state is also called a nation [*Stammvolk*] (*gens*).” [MM,89] That this parenthetical reservation was no mere slip of the pen is suggested by a remark later in the same work: “As natives of a country, those who constitute a nation [*Volk*] can be represented analogously to descendents of the same ancestors (*congeniti*) even though they are not.” [MM, 114]

[35] PP, 113. See also AP, 182: “This much we can judge with probability: that a mixture of races (by extensive conquests), which gradually extinguishes their characters, is not beneficial to the human race...”

[36] These efforts culminated in Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy, tr. W. Rehg (The MIT Press, 1996); cited in brackets in the text as [FN]. See also his 1986 Tanner Lecture, “Law and Morality,” in The Tanner Lectures on Human Values, VIII (University of Utah Press, 1988), pp. 217-279, and Die Einbeziehung des Anderen, forthcoming in English translation by C. Cronin and P. De Greiff as The Inclusion of the Other (The MIT Press, 1998).

[37] See especially the papers collected in The Inclusion of the Other. I shall be citing an earlier publication of one of

these papers, “Struggles for Recognition in the Democratic Constitutional State,” tr. S. Weber Nichol森, in Multiculturalism, Amy Gutmann, ed. (Princeton University Press, 1994), pp. 107-148; cited in brackets in the text as [SR].

[38] “Aus Katastrophen Lernen? Ein zeitdiagnostischer Rückblick auf das kurze 20. Jahrhundert,” unpublished ms, p. 18.

[39] J. Habermas, The Structural Transformation of the Public Sphere, tr. T. Burger & F. Lawrence (The MIT Press, 1989); idem, The Theory of Communicative Action, vols. I and II, tr. T. McCarthy (Beacon Press, 1984, 1987).

[40] J. Rawls, “The Law of Peoples.” See my discussion of his approach in “On the Idea of a Reasonable Law of Peoples,” in Perpetual Peace. Essays on Kant’s Cosmopolitan Ideal, pp. 201-217.

[41] PP, 114. In fact, like Kant, Habermas sees cultural convergence as extending beyond the legal and political spheres to include science and technology, as well as aspects of morality and even of art. The resulting disagreement with Rawls on the “reasonability” of “comprehensive doctrines” generally, and on the relation of law to morality particularly, comes through clearly in Habermas’s discussion of human rights in “Kant’s Idea of Perpetual Peace,” pp. 134-140, where he argues that though they are properly legal and not moral rights, part of their distinctness derives from the fact that the principal arguments for them are themselves moral in nature. See also Habermas’s exchange with Rawls in The Journal of Philosophy, XCII (1995): 109-180.

[42] J. Habermas, Communication and the Evolution of Society, tr. T. McCarthy (Beacon Press, 1979).

[43] J. Habermas, “Remarks on Legitimation through Human Rights,” unpublished ms, pp. 9f.; hereafter cited in brackets in the text as [HR].

[44] See Between Facts and Norms, especially sections 1.3, 2.3, and 3.2, and The Inclusion of the Other, passim.

[45] C. Taylor, “A World Consensus on Human Rights?,” in Dissent (Summer, 1996): 15-21; hereafter cited in brackets in the text as [UC]. This is an abbreviated version of an unpublished ms on the “Conditions of an Unforced Consensus on Human Rights.” I will also be drawing upon his discussion of “Nationalism and Modernity” [NM], in The Morality of Nationalism, pp. 66-73, and his paper “Two Theories of Modernity,” delivered in December of 1997 at a conference on “Alternative Modernities” at the India International Center in Delhi.

[46] See “Two Theories of Modernity.” This is, of course, a highly tendentious rendering of both the claim and the culture.

[47] See the interesting discussion between Susan Moller Okin and her critics, “Is Multiculturalism Bad for Women?,” in Boston Review, vol. XXII, no. 5 (October/November, 1997): 25-40.

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