

The Modern Nation State and Cosmopolitanism: Norms of International Relations

Jessica Portmess
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Advisor: Patrick Neal
Political Science Department

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”

-Preamble to United Nations Universal Declaration of Human Rights¹

“We the peoples of the United Nations determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small...for these ends to unite our strength to maintain international peace and security...have resolved to combine our efforts to accomplish these aims.”

-Preamble to United Nations Charter²

I. Introduction

The list reads like a dark historical rap sheet: the Holocaust, Rwanda, Sierra Leone, the Former Yugoslavia, Cambodia, Argentina, Chile, genocide, disappearances, torture, ethnic cleansing. There were crimes and criminals, perpetrators and victims, but there was also something about these atrocities that awoke an understanding in the human conscience that such horrors marked violations of elements of humanity itself. It is through these atrocities, these dark hours of history, that we trace a deep line on the palm of humanity, trying to make sense of our history to find where the line ends.

Most commentators on human rights and crimes against humanity in contemporary international relations argue that Cold War politics defined clear norms of international relations based on balances of power. International relations were arguably more predictable as a result of these political patterns than is the case in the fragmented state of the international community today. Since the end of the Cold War, new actors and blurred lines dividing friend and foe have complicated the understanding of norms in international relations. Romeo Dallaire, the U.N. Force Commander who served in Rwanda during the 1994 genocide, describes this transition

¹ (1948). "Universal Declaration of Human Rights." Retrieved September 1, 2007, 2007, from <http://www.un.org/Overview/rights.html>.

² (1945). "Charter of the United Nations." Retrieved March 1, 2008, 2008, from <http://www.unhchr.ch/html/menu3/b/ch-pream.htm>.

well when he argues that after the Cold War ended, we stumbled into the 1990's and that we are still "ad-hocing and crisis managing" in a system where ambiguity and complexity seem to be the norms. The international community has not created a framework that successfully prevents the repetition of past atrocities.³ It has produced documents and agreements such as the United Nations Universal Declaration of Human Rights, The Genocide Convention, the Responsibility to Protect Doctrine, but there is still inaction and a lack of consensus.

One begins to question why it seems that the mechanisms the international community devised in the last half-century are not protecting human rights as well as their creators intended, or, in many cases, not protecting them at all. It is through close theoretical examination of these mechanisms that the problems are revealed. Theoretical conflicts between traditional state sovereignty and human rights, rights of the nation and rights of the individual, the community of humanity and the particular communities of the world, are built into the mechanisms designed to forge consensus and concerted action. The U.N. Universal Declaration of Human Rights, quoted above, includes the notion of the "human family" in its very preamble, presupposing agreement that such a family exists not only in biological reality but in some form that grants us rights. The preamble to the Charter of the United Nations, also quoted above, enshrines the U.N.'s commitment to human rights and yet in the same breath, separated only by commas, asserts the equal rights of states and individuals alike. How then are we to navigate situations when the rights of a nation and the rights of the individual conflict or, when individual human rights are violated by the state itself? Cosmopolitan theory provides answers to such questions and this thesis is an investigation of those responses.

Cosmopolitan political theory inspires a common compassion or connection that one

³ Dallaire, R. (2008). STAND April Action Keynote Speaker, Ira Allen Chapel, University of Vermont. Burlington, VT.

feels with all of humanity but its nature, like many theories, makes it difficult to pin down to our political collection so that it can be examined. The basic tenets of Cosmopolitan theory are expressed in three parts by Thomas Pogge, a leading contemporary Cosmopolitan. The first part is what Pogge calls “individualism,” which is the argument that human beings, and not the state, are the units of ultimate moral and international concern. The second tenet of the Cosmopolitan theory, according to Pogge, is “universality,” or the equality of all human beings in their moral worth. Lastly, Cosmopolitanism calls for “generality,” referring to the argument that all people ought to be the ultimate concern for everyone.⁴ The last important aspect of Cosmopolitan theory that can be easily defined is the rejection of the moral significance of national and political borders.⁵ From these basic tenets, Cosmopolitan theorists split off into different directions: institutional, moral, and with many nuances in between. Cosmopolitan theory radiates from the ideas enshrined in the Universal Declaration of Human Rights and some aspects of the charter of the U.N.; however, this thesis approaches the discussion from a theoretical perspective acknowledging that practical discussion often flows from the ideal theory to the real world application.

In this project, I have explored the complex discussion of Cosmopolitan norms in international relations through the theories of two proponents of Cosmopolitan theory: Seyla Benhabib and Immanuel Kant, and two critics of Cosmopolitanism: Michael Walzer and Edmund Burke. In the following chapter I briefly brush away some of the theoretical misconceptions that cloud the fundamental disagreements of the debate in order to determine the true roots of the disagreement. In each of the following four chapters I discuss the pertinent theories of the four thinkers. In the next chapter I draw out the foundational differences over the definition of the

⁴ Caney, S. (2005). Justice Beyond Borders. New York, Oxford University Press. pp. 3

⁵ Cabrera, L. (2004). Political Theory of Global Justice. New York, Routledge. pp. 1-6

political community in the Cosmopolitan discussion. The last chapter draws the four theories into a discussion of the recent Responsibility to Protect Doctrine that emerged from the 2001 Canadian commission on Intervention and State Sovereignty in order to understand the implications of their arguments in emerging norms of international relations and the debate over the meaning of state sovereignty. The complex foundational disagreements in the discussion of Cosmopolitan theory are revealed through this exploration and I have found that much of the discordance hinges on disagreements over the definitions of universality, political community, and state sovereignty. These terms are vehicles for political argument and their clarification is necessary if debate is ever to yield action which prevents the reincarnation of history's atrocities.

II. Oversimplification of the Cosmopolitan Debate: Roots of the Disagreement

In the debate between cosmopolitans and critics of cosmopolitanism both sides are often guilty of oversimplification of the arguments made by the opposing side. Both are, at times, guilty of theoretical mudslinging where arguments of theorists from one side are presented in stark sound-bites leaving the reader to wonder if the argument has been misrepresented. This kind of degradation of detail hinders debate and while it may allow one side to feel justified, it leaves the theoretical debate even farther from resolution or reconciliation. In this section, I will discuss some of these oversimplifications, establishing what the discussion is *not* about, in order to determine what the root of the disagreement actually is.

The critics of cosmopolitanism often paint cosmopolitanism as a theory that advocates, at its strongest, a world government, and at its weakest, a fuzzy feeling of membership in a world community that does not exist and so has no practical political implications or foundations.

Andrew Shorton writes of these critiques:

“the humane aspirations of the cosmopolitan have been contested, dismissed and discredited as being too utopian or idealistic for our plural and messy social world, as being alienating in their cool-headed rationalism, and even as lending themselves to perversion by imperialists masquerading as humanity's friend.”⁶

This criticism does not seem wholly unfounded when one considers theorists like Louis Pojman who labels himself as a moral and institutional cosmopolitan and advocates a single human society to the point of recommending a republican world government, or what he calls a “soft Leviathan.” Pojman argues that Kant’s moral cosmopolitanism is too weak and that the world needs a formal world government comprised of autonomous but not sovereign nation-states.⁷

Though Pojman’s path to this conclusion seems sound, with references to global institutions like

⁶ Shorton, A. (2007). "Borders and Belonging: Recent Work in Cosmopolitan Philosophy." European Journal of Political Theory 6(2): 227-238. pp. 227

⁷ Pojman, L. P. (Spring 2005). "Kant's Perpetual Peace and Cosmopolitanism." Journal of Social Philosophy 36(No. 1): 62-71. pp. 70

the World Health Organization and global issues like global warming as reasons to band together for some sort of communal activity, his conclusion can easily be interpreted as extreme and practically misguided. For the critics of cosmopolitanism it is easy to completely reject the cosmopolitan argument as an “obsessive search for the metaphysical absolute divorced from difficult realities” and thus useless in practical politics, in part, because of radical conclusions like Pojman’s.⁸

A rather popular critique of cosmopolitanism that reveals a lack of understanding of the complexity of the debate is that cosmopolitanism does not appreciate the human need for social roots and that it altogether rejects diversity of identity and tradition. Hillary Putnam, in a critique of cosmopolitan theorist Martha Nussbaum, argues that without an actual world state we cannot consider ourselves “citizens of the world” as Nussbaum would like us to and that any communal feeling we have towards others with whom we do not share some common unifying feature in our identity, is based on some tradition like that of viewing all humans as fellow creations of God. Putnam argues that cosmopolitanism does not allow for interpretation based on these communal traditions because it rejects tradition as a value. According to Putnam, because we are not citizens of some fictitious community, cosmopolitanism has little strength as a political theory. Putnam distorts Nussbaum’s rejection of patriotism in the global community of cosmopolitanism in order to demonstrate its rejection of diversity as follows:

“All the various realizations of the human patriotic impulse—the national traditions, and the many communities within each national tradition that try to keep the national traditions alive while interpreting them in an ever-changing world—should be discouraged, indeed scrapped if possible, because patriotism always leads to chauvinism and intolerance, and these, as we know, manifest themselves in the marginalization of other peoples, as well as, in the worst case, all the horrors of ethnic cleansing and wars of extermination or subjugation.”⁹

In this critique one can see again the tendency to label cosmopolitanism as a theory

⁸ Burke, A. (2005). "Against the New Internationalism." *Ethics and International Affairs* 19(2): 73-89. pp. 85

⁹ Putnam, H. (1996). *Must We Choose Between Patriotism and Universal Reason? For Love of Country?* J. Cohen. Boston, MA, Beacon Press: 91-98. pp. 92

advocating a homogenous global community. Based on this interpretation, cosmopolitanism is easily rejected, again, because of a seemingly complete lack of political practicality and also because it values a certain sameness that would turn most individuals who exist in a diverse world away from the theory.

A similar critique which simplifies the argument into stark terms and does not do justice to the complexity of the debate, is that cosmopolitanism is either too “hot” or too “cold” a theory to deal with reality. Max Pensky, defines this criticism as the perception that cosmopolitanism is too cold to do justice to actual ethical experiences because it completely rejects substantive attachments of loyalty to national or other types of identity. The other side of this criticism is that cosmopolitanism has

“a “hot” attitude towards a kind of global polity or global community that does not actually exist, and hence a utopian, misguided commitment that actually harms the plausibility of border-crossing justice claims, and perhaps unwittingly serves to disguise-and further-Eurocentrism, exclusion, and paternalism, perhaps even racism, in the form of a global culture of human rights,”¹⁰

This criticism of cosmopolitanism is arguably rooted in some undeveloped arguments of cosmopolitan theory; however, the belief that cosmopolitanism advocates a homogenous global community akin to racism is surely a cosmopolitanism taken to the extreme. If critics insist on interpreting all of cosmopolitan theory at this extreme level, discussion between cosmopolitans and their critics will be difficult. Extremists exist in both camps and, as Michael Walzer points out in a response to cosmopolitan theorist Martha Nussbaum’s essay on the limits of patriotism, extreme particularism that ignores universal loyalties can lead to immoral conduct just as easily as extreme cosmopolitanism can. Walzer argues, and I would agree, that the argument needs to be cast in less extreme terms because:

¹⁰ Pensky, M. (2007). "Two Cheers for Cosmopolitanism: Cosmopolitan Solidarity as Second-Order Inclusion." *Journal of Social Philosophy* 38(1): 165-184. pp. 168

“The crimes of the twentieth century have been committed alternately, as it were, by perverted patriots and perverted cosmopolitans. If fascism represents the first of these perversions, communism, in its Leninist and Maoist versions, represents the second. Isn't this repressive communism the child of universalizing enlightenment?”¹¹

Abandoning the type of extremism and over-simplification that often appears in debate will allow us to uncover the substantiated criticisms of cosmopolitanism so that the two sides may move closer to some sort of theoretical agreement.

The theories of many critics of cosmopolitans also lend themselves to simplified extremes. Cosmopolitans are not innocent of theoretical oversimplification of these opponents. Critics of cosmopolitans, many of whom believe that cosmopolitanism is an attack on the sovereignty and moral importance of the state, are often accused of prioritizing the rights of states above the rights of individuals in exaggerated or particularly egregious ways. Gerald Doppelt, in his critique of Walzer's theory of international relations, argues that the theory of a collective right based on the consent of individuals often leads to states completely ignoring or, at worst, violating individual rights. Doppelt argues that in the case of illiberal or tyrannical governments, Walzer would say that such a state, no matter how tyrannical, possesses the rights of political sovereignty and is free from military intervention.¹² Doppelt goes on to argue that

“the language of collective rights furnishes a rhetoric of morality in international relations which places the rights of de facto states above those of individuals”¹³

In the case of Doppelt's critique, we are able to follow the conversation between the two theorists through an essay Walzer wrote in response to Doppelt's criticism entitled “The Moral Standing of States: A Response to Four Critics.” In his article, Walzer confronts the over-

¹¹ Walzer, M. (1996). *Spheres of Affection. For Love of Country?* J. Cohen. Boston, MA, Beacon Press: 125-131. pp. 127

¹² Doppelt, G. (1978). "Walzer's Theory of Morality in International Relations." *Philosophy and Public Affairs* 8: 3-26. pp. 7-8

¹³ Ibid. pp. 26

simplification and misinterpretation of his theory and argues that he values individual rights in so far as they are the foundation for collective rights like the right to self-determination. The issue of the legitimacy of a tyrannical government that violates individual rights may be a sticking point of Walzer's theory, but not because he prioritizes state rights over individual rights. The explanation is more complex. This theoretical complexity is critical to the understanding of Walzer's arguments and I will examine it further in the following chapters.

Doppelt's critique of Walzer highlights the tendency of those who advocate cosmopolitanism to oversimplify the arguments of their critics. Walzer does in fact value individual rights and instead of prioritizing state rights over individual rights, Walzer argues, as we will see, that individual rights are the very foundation of the state. The debate over cosmopolitanism is often cast in terms of a choice between the rights of the state and the rights of the individual. Oftentimes, these two concepts of rights are painted as irreconcilable and by posing the debate in such terms, we find that there is little room for negotiation when these rights conflict. It becomes clear that, as Walzer pointed out, the discussion needs to be cast in terms that acknowledge the complexity of the discussion.

The real question in the discussion of cosmopolitanism is not an argument about abandoning national or other identities in favor of a homogenous world government. Even though some cosmopolitan theorists might advocate such a development it does not represent cosmopolitan theory as a complex whole. Similarly, it is not an argument that state rights and interests are the only value that should be considered in political decision-making even though some critics of cosmopolitanism may also advocate such an extreme view. The real question lies in the genuine disagreement between the moderates on both sides and it is here in the middle that we can hope to have a discussion that will bring the two sides closer together instead of wielding

theoretical one-liners that stifle debate. The real issue lies in the reconciliation of state and individual rights and the conception of a global community based on universal ideas of humanity. The oversimplification of the argument masks the foundations of the disagreement which are: how we define the political community, who participates in this community, and what rights are afforded to the members and the community itself. This realization uncovers further disagreements about how and if communities are defined by universals as well as the role and meaning of state sovereignty. A complex understanding of the cosmopolitan debate must address these issues.

III. Seyla Benhabib and Cosmopolitan Theory

Cosmopolitanism, as I suggested in the introduction, approaches international relations from a few different directions. Some theorists focus their attention on institutional cosmopolitanism which applies the norms of moral cosmopolitanism to international organizations like the United Nations. Others are more engaged in the theoretical debate over the very foundations of cosmopolitanism and the implications of these theoretical foundations on prescriptive norms of justice. Among theorists that spend a majority of their time discussing and reinforcing the theories behind cosmopolitan norms there also exists a diverse range of angles, interpretations, and arguments. Cosmopolitan theorist Seyla Benhabib separates cosmopolitan thinkers into those like Martha Nussbaum that have adopted a perspective of morality that places ties to mankind before ties of country, those that subscribe to cosmopolitanism because they believe identities to be too fluid and complex to be adequately enclosed by national borders, and finally those, like herself, that hold cosmopolitanism to be a normative philosophy for carrying universalistic norms of discourse ethics beyond the borders of the nation-state.¹⁴ The arguments of Seyla Benhabib are an important thread in cosmopolitan theory and her treatment of state and individual rights, contract theory, and discourse theory draw heavily from the Kantian tradition and will serve as a useful contrast to the theories of Walzer and Burke.

In her 2004 Tanner Lecture on Human Values delivered at UC Berkeley, Seyla Benhabib gave a talk entitled “*Reclaiming Universalism: Negotiating Republic, Self-Determination, and Cosmopolitan Norms.*” Benhabib began this lecture with a discussion of the emergence of what she calls a “human rights regime” that is marked by the Universal Declaration of Human Rights in 1948. After the discovery of the war-time practices of Nazi Germany during the Second World

¹⁴ Benhabib, S., J. Waldron, et al. (2006). Another cosmopolitanism. Oxford ; New York, Oxford University Press. pp. 18

War, it became clear that some crimes are more than inhumane and instead are crimes committed against humanity itself. Benhabib writes of the surge of human rights language after WWII:

“If, however, there are crimes that can be perpetrated against humanity itself, then the individual human being is considered not only as a being worthy of moral respect but as having a legal status as well that ought to be protected by international law,”¹⁵

The near-consensus that all humans have certain rights that ought to be protected at all times was codified in 1948 with the Universal Declaration of Human Rights. The idea that political justifications could be based on an appeal to human rights had moral, practical, and legal implications.

Benhabib argues that the Universal Declaration of Human Rights marked a turning point in international law. In discussing the emergence of a human rights regime Benhabib defines such a regime as follows:

“a set of interrelated and overlapping global and regional regimes that encompass human rights treaties as well as customary international law or international soft law,”¹⁶

This regime transformed human rights codes into universal norms that challenge the unrestrained behavior of the sovereign nation-state.¹⁷ According to the classic Westphalian model, sovereign states are free, equal, and have the right to exercise ultimate authority over all subjects within their territory. However, Benhabib argues that the traditional understanding of state sovereignty has evolved to be conditional, that is to say, dependent upon adherence to certain common values and principles like human rights in their domestic policies.¹⁸ I will discuss the implications of this argument in greater depth in the following sections. However, according to Benhabib, the tenet of the classic Westphalian model that holds that sovereign states have ultimate authority over the subjects within their territory has been delegitimized by the post-WWII evolution of

¹⁵ Ibid. pp. 14

¹⁶ Ibid. pp. 26

¹⁷ Ibid. pp. 27

¹⁸ Ibid. pp. 23

international law.¹⁹

The legal and moral implications of the emergence of the human rights regime are intertwined and it is here that Benhabib's cosmopolitan argument takes root. She argues that the evolution of international law is the manifestation of a global morality of law where the rights claims of human beings everywhere are legalized regardless of membership in bounded communities like nation-states. This argument reveals Benhabib's theoretical stance on cosmopolitanism and she writes:

“I follow the Kantian tradition in thinking of cosmopolitanism as the emergence of norms that ought to govern relations among individuals in a global civil society,”²⁰

The actual definition of a “global civil society” is not addressed by Benhabib and is, at the basic level, unnecessary to understand Benhabib's approach to cosmopolitanism as a normative philosophy. Benhabib invokes the tradition of discourse theory and argues that cosmopolitanism is less a practical prescription for international institutions and more an important tool in the justification of norms. Discourse theory refers to the idea that the individual is engaged in a moral conversation with all moral agents that are affected by that individual's actions and choices. This conversation requires that the individual be able to justify her actions to the affected individuals with reasons based in morality. According to this view, boundaries require moral justification and one must be able to morally justify why some individuals are included within these boundaries and others are not.²¹ Thus, cosmopolitanism is a part of this moral conversation and is a product of mediation rather than a theory that denies all other perspectives in the moral conversation. Benhabib articulates the difference between her view and other views of the relationship between morality and the political community by saying:

¹⁹ Ibid. pp. 24

²⁰ Ibid. pp. 19

²¹ Ibid. pp. 18

“Unlike communitarians who reduce the demands of morality to the claims of specific ethical, cultural, and political communities, and unlike realists and postmodernists who are skeptical that political norms can ever be subordinated to moral ones, I insist upon the necessary disjunction as well as the necessary mediation between the moral and the ethical, the moral and the political.”²²

Benhabib’s cosmopolitanism results from following the moral conversation of discourse theory to its logical end. If actions must be morally justified and must also adhere to certain moral universals such as human rights, one logical conclusion is that all individuals ought to be considered moral and legal persons in a worldwide civil society. This conclusion is supported by the historical emergence of a human rights regime governed by that very principle.

Not all cosmopolitan theorists arrive at their cosmopolitan conclusions from the same direction as Benhabib, nor do they interpret their conclusions in the same manner. Martha Nussbaum, for instance, bases her cosmopolitan arguments on the idea that human personhood is defined as “the possession of practical reason and other basic moral capacities.”²³ This, according to Nussbaum, is the source of moral worth that is equal for all, providing that you are biologically human. This concept of moral worth is then combined with the idea that being born into a particular nation-state and not another is a matter of pure luck that can affect the opportunities and duration of one’s life.²⁴ She does not deny that the nation-state is the fundamental political unit, but argues that the belief that all human beings are equal and endowed with certain inalienable rights morally requires all individuals to consider what that requires them to do for the rest of the world. Nussbaum’s cosmopolitanism is also a justification. She argues that a universal value of special care for your own sphere, be it familial, religious, or otherwise, is justified by cosmopolitanism in the sense that this is a sensible way to do good and

²² Ibid. pp. 19

²³ Nussbaum, M. C. and J. Cohen (1996). For love of country : debating the limits of patriotism. Boston, Beacon Press. pp. 133

²⁴ Ibid. pp. 135

not because those in your own sphere are of a greater moral worth.²⁵ Cosmopolitanism, according to Nussbaum, is not rooted in a thought experiment like the discourse theory but instead, in the moral conviction that all humans have certain rights as a result of being human and that all individuals are morally equal. Nussbaum's argument for placing the love of humanity before the love of country is one of the more abstract and utopian expressions of cosmopolitanism.

Nussbaum's approach to cosmopolitanism lends itself to emotionally inspiring arguments rooted in calls to our common humanity and respect for moral equals. This may make her arguments more accessible to all individuals; however, for many, the more simplistic approach is a valuable thought experiment but one that folds under rigorous theoretical inspection.

Nussbaum's arguments tend to be reduced to a sort of bumper-sticker philosophy and are rejected by theorists who do not, as Nussbaum does, presuppose the existence of some global community of humanity based on the moral equality of all individuals. One can imagine these theorists responding to Nussbaum's argument with the claim that a love or sense of community based solely on humanity is entirely unrealistic and is actually embedded in pre-existing feelings of community or solidarity. Nussbaum's theory has few developed responses to this attack on one of its basic presuppositions.

The need to imagine Walzer's response to Nussbaum's expression of cosmopolitanism is relieved by the fact that his critique of her theory was included in her book For Love of Country. He argued that the idea of a global community is valuable for the sake of education but not practical politics in that there is nothing about Nussbaum's global community that makes it a community in the sense that many theorists and practical politicians currently recognize. It has no naturalization process or citizenship status, it lacks institutional structures, decision-making

²⁵ Ibid. pp. 13

procedures, obligations based on citizenship, and even common celebrations.²⁶ There are neither procedural nor sentimental foundations for such a community in Walzer's view. Walzer goes on to argue that this kind of inspirational but practically empty cosmopolitanism encourages its own perversion and is historically represented in its perverted form by the repressive communism of Lenin and Mao.²⁷ Nussbaum does not have a developed response to this criticism beyond the idea that the absence of a world state does not reduce the value of the thought process based on universal moral equality when others are in need. There is no doubt that there is some theoretical value in this argument for universality and neutrality when others are in need, in so far as it is an interpretation of the Rawlsian thought experiment. However, Nussbaum's cosmopolitanism is too stark and simplistic to successfully address the arguments of its critics.

Benhabib's theory, though less emotionally inspiring on the surface, presents a more nuanced argument and is better equipped to hold its ground when examined critically through the lens of Walzer or Burke. While Nussbaum's theory requires us to subscribe to certain presuppositions regarding the moral equality of all persons in a global community in order to conclude that certain tangible rights and responsibilities exist, Benhabib's approach emphasizes discussion and justification in the mediation between the political and the moral. Benhabib stresses that she seeks "neither totalization nor transcendence, to use Emmanuel Levinas's language, but mediation."²⁸ Where Nussbaum's argument assumes agreement and is ill-equipped to address its absence, Benhabib assumes disagreement and focuses on the mediation when this disagreement occurs. Benhabib calls for reflection and the presence of Nussbaum's universal voice in the moral discourse but she does not argue that this voice should necessarily quiet all

²⁶ Ibid. pp. 125

²⁷ Ibid. pp. 127

²⁸ Benhabib, S., J. Waldron, et al. (2006). Another cosmopolitanism. Oxford ; New York, Oxford University Press. pp. 158

other voices and she assumes, rightly I think, that in most cases it will not. This more nuanced approach of necessary disjunction but constant mediation, will fare better both in the application to real world politics and under fire from critics like Walzer and Burke.

IV. Cosmopolitan Universality and Immanuel Kant

Immanuel Kant, in his essay “Idea for a Universal History with a Cosmopolitan Intent” attempts, through philosophical argument, to establish the possibility of a universal history of the world. He leaves the actual mapping of this history to some one else and instead seeks only to argue that such a mapping is possible. In doing this, Kant sets out to determine whether there is some “natural objective in this senseless course of human affairs.”²⁹ Kant argues that human actions are appearances of the metaphysical freedom of will and are therefore determined in conformity with universal natural laws. History, being the narrative of these appearances of the human will, reveals its conformity with these natural laws if examined as a whole. Thus,

“What strikes us as complicated and unpredictable in the single individual may in the history of the entire species be discovered to be the steady progress and slow development of its original capacities,”³⁰

Understanding the implications of this statement on the universality of history and the universal objective of the human species requires a deeper look both at the phrases like “original capacities” that Kant employs as well as the line of reasoning that leads Kant to make his final conclusion: that history reveals the universal natural laws and the natural objective of the human species which is Kantian cosmopolitanism. In his quest to show that universal history is possible, Kant reveals his arguments for universality, the importance of particular societies in defining universal rights, and the roots of much of modern cosmopolitanism. Such arguments also follow the common threads of Kant’s other works, such as his philosophical sketch “To Perpetual Peace.”

One must first examine the nine theses Kant presents in his “Idea for a Universal History with a Cosmopolitan Intent,” in order to determine whether we should agree with Kant’s

²⁹ Kant, I. (1983). Perpetual Peace and Other Essays. Indianapolis, IN, Hackett Publishing Company, Inc. pp. 30

³⁰ Ibid. pp. 29

conclusions. The first four theses address the natural state of man and what this natural state reveals about nature's objectives. The first thesis is that nature was purposive in her creation of man. According to Kant, objects and humans were all made by nature and endowed by nature with certain characteristics so that these characteristics will be used to achieve a certain end. These characteristics are what Kant calls natural or original capacities and, as the second thesis argues, were given by nature to man so that they would be completely developed. In man's case, he was given reason and free will and because nature is purposive, man's objective is to develop these original capacities to their full extent (an achievement Kant thinks is not possible on this earth).^{31,32} Kant's second thesis goes on to say that man's natural capacities will not be fully developed in one individual man because he will not live long enough to make complete use of them. Instead, the development of man's original capacities will only be realized in man as a species. A sequence of generations is very important in that the enlightenment of one generation is passed on to the next and each generation brings the species closer to nature's objective.³³

Kant argues, in his third thesis, that man as a species has a natural objective because nature does nothing unnecessarily. Nature's objective is revealed by the fact that nature endowed man with reason and will. Nature is, again, purposive and gave man certain tools so that he might work towards his natural purpose.³⁴ The fourth thesis describes the last important natural characteristic of man that is necessary to realize nature's intent: that man was put in a state of "antagonism" so that man might exit this natural state and enter into a law-governed order in society. "Antagonism," is defined by Kant as "unsocial sociability," or the natural paradox by which man is unsociable and desires individual honor or power which drives them to socialize in

³¹ Ibid. pp. 29-31

³² Pojman, L. P. (Spring 2005). "Kant's Perpetual Peace and Cosmopolitanism." *Journal of Social Philosophy* 36(No. 1): 62-71. pp. 62-64

³³ Kant, I. (1983). *Perpetual Peace and Other Essays*. Indianapolis, IN, Hackett Publishing Company, Inc. pp. 29-31

³⁴ Ibid. pp. 31-33

order to achieve these ends. This socializing as a result of unsociability results in man entering into a society where his resistance to being social constantly threatens stability. This society, according to Kant, allows man to further develop his natural capacities and so move closer to nature's objective. Kant writes;

“Thanks be to nature for the incompatibility, for the distasteful, competitive, vanity, for the insatiable desire to possess and also to rule. Without them, all of humanity's excellent natural capacities would have lain eternally dormant,”³⁵

Kant argues that morality is reason internalized, while law is reason externalized.³⁶ Laws aid man in his development of his natural capacities and although men are not morally good, society's laws force him to be a good citizen.³⁷

A polity, according to Kant, is a society of men who have entered into that society because nature had placed them in a state of antagonism and war. Nature has caused that men inhabit all parts of the earth and through war and trade, man interacts. In Kant's original contract, by which men enter into society to escape this natural condition (which Kant would argue is exactly what nature had intended them to do by putting man in that state to begin with), men freely associate and are both authors and subjects of laws. This contract, makes men rights-bearing citizens. In this sense, the nation is necessary to define individuals as citizens which gives them rights. These rights, however, come from a society built to develop man's natural capacities and so are based on universal rights of man.^{38,39}

Man enters into society and loses his lawless freedom but gains protection for his rights and a vehicle that moves him closer to achieving his natural objective, though perhaps not

³⁵ Ibid. pp. 21

³⁶ Pojman, L. P. (Spring 2005). "Kant's Perpetual Peace and Cosmopolitanism." *Journal of Social Philosophy* 36(No. 1): 62-71. pp. 62

³⁷ Kant, I. (1983). *Perpetual Peace and Other Essays*. Indianapolis, IN, Hackett Publishing Company, Inc. pp. 112

³⁸ Ibid. pp. 344

³⁹ Benhabib, S., J. Waldron, et al. (2006). *Another cosmopolitanism*. Oxford ; New York, Oxford University Press. pp. 31-35

consciously known or intended by any given individual man. Multiple societies, unbounded by any law, will act just as un-covenanted man acted before society. Thus, Kant's fifth thesis sets out that;

“The greatest problem for the human species, whose solution nature compels it to seek, is to achieve a universal civil society administered in accord with the right,”⁴⁰

Kant's sixth thesis argues that this problem will be very hard, in fact, the hardest thing that man will have to do. In order to leave the “lawless state of savagery,” states must, just as individuals did when they entered a society, enter into a “federation of peoples.”⁴¹ Entering into this federation will solve the problem of law-governed external relations among nations—a necessity if a universal civil society is to be achieved. Kant envisions that this universal civil society, as the name implies, will eventually include all the people on earth.⁴² Kant describes the federation of nations as follows;

“In such a league, every nation, even the smallest, can expect to have security and rights, not by virtue of its own might or its own declarations regarding what is right, but from a united might, and from decisions made by the united will in accord with laws,”⁴³

This league of nations will be obedient to universal law and the rights of nations will be based on this federation and its compliance with these laws.⁴⁴ Kant argues that this federation will have the eventual effect of ending all wars forever by organizing laws to which nations are compelled to submit.⁴⁵ Nations protect man's rights in accordance with the natural rights and capacities of man. These nations exist in the same lawlessness as un-covenanted man until they enter into a federation of nations. Both of these acts of union and contract serve to reveal the plan of nature and the natural objective of man.

⁴⁰ Kant, I. (1983). Perpetual Peace and Other Essays. Indianapolis, IN, Hackett Publishing Company, Inc. pp. 33

⁴¹ Ibid. pp. 34

⁴² Ibid. pp. 117

⁴³ Ibid. pp. 34-35

⁴⁴ Pojman, L. P. (Spring 2005). "Kant's Perpetual Peace and Cosmopolitanism." Journal of Social Philosophy 36(No. 1): 62-71. pp. 62-64

⁴⁵ Kant, I. (1983). Perpetual Peace and Other Essays. Indianapolis, IN, Hackett Publishing Company, Inc. pp. 124

Kant articulates this objective for nations, and as a result, man as well in his eighth thesis. This thesis states that because domestic enlightenment arises from relations with other nations, the history of the human species reveals nature's plan to bring about perfect constitutions both domestically and internationally.⁴⁶ Kant defends the republican constitution as perfect in his essay on Perpetual Peace; however, the exact nature of this constitution is not as important as what its existence implies for the universality of human history. Kant argues that through external relations among nations, where national upheaval will have international affects as other nations become arbiters, the way will be prepared for the "great body politic of the future."⁴⁷ This great body politic is, as Kant says, "nature's supreme objective-a universal cosmopolitan state, the womb in which all of human species' natural capacities will be developed."⁴⁸ Kant's final thesis regarding the universal history of man says only that based on the previous eight theses, the philosophical attempt to work out a universal history of man, that is, to find the natural objective in the seemingly senseless affairs of men, ought to be considered possible.

Kant thus embraces the universal but he does so in a way that does not all together reject the particularity of the state. Instead, **he positions the state in a position** subordinate to the universal. The state is necessary to protect man's rights and aid in the achievement of his natural objective but the conduct of the state must be in accordance with universality. Kant's cosmopolitan claims are more modest than his commitment to universality might suggest. He does not call for the creation of a world state in the bureaucratic sense but instead emphasizes the importance of a universal in domestic or international politics and justifications. Kant expresses the limitations between the universal and the particular with his cosmopolitan right to hospitality and the limitation of rights claims by maxims of universality or "publicity."

⁴⁶ Ibid. pp. 36-39

⁴⁷ Ibid. pp. 37

⁴⁸ Ibid. pp. 38

The only explicit universal right that Kant discusses in “Perpetual Peace” is a cosmopolitan right to hospitality. Kant does this intentionally which is clear when he writes: “The cosmopolitical right shall be *limited* to conditions of universal hospitality.”⁴⁹ This right to hospitality entails the right possessed by all men to be admitted into societies that are not their native societies. This right is based on the “the common possession of the surface of the earth” and the fact that “originally one has not a greater right to a country than another.”⁵⁰ Kant goes on to discuss an interdependence of nations which has resulted in an international condition where “a violation of rights, committed in one place, is felt throughout the whole” and concludes that “the idea of a cosmopolitical right can no longer pass for a fantastic exaggeration of right....”⁵¹ The limitation of cosmopolitan rights to the right to hospitality is a critical theoretical maneuver by Kant, one that has allowed him, despite persistent discussion of what universal rights practically entail, to remain an important and serious thinker in the tradition of international political theory.

Another important theoretical detail that separates Kant from some of the more enthusiastic advocates of universal rights is a “transcendent formula of public right” that he hopes will serve as a mediator between conflicting claims of “universal” rights. This formula states that “All the actions, relative to the right of another, whose maxim is not susceptible of publicity, are unjust.”⁵² “Publicity” means that any maxim

“which absolutely requires secrecy in order to succeed, and which I cannot publicly avow, without arming all others against my projects; such a maxim can only owe to the injustice with which it menaces them, this infallible and universal opposition, of which reason foresees the absolute necessity.”⁵³

Kant acknowledges that “dogmatic deduction” in a conflict over rights claims will result in an

⁴⁹ Kant, I. (1932). Perpetual Peace. Los Angeles, CA, U.S. Library Association. Pp. 23-34 (Italics Added)

⁵⁰ Ibid. pp. 24

⁵¹ Ibid. pp. 26-27

⁵² Ibid. pp. 29

⁵³ Ibid. pp. 60

interminable argument. He argues that this formula of public right will free us from such unsolvable debates and allow the conflicting parties to come to some sort of agreement.

Kant's treatment of explicit universal rights does not go beyond the cosmopolitan right to hospitality and he attempts to safeguard against totalitarian abuses of the language of universal rights by arguing for his formula of public right. Martha Nussbaum describes Kant's particular strain of cosmopolitanism as follows:

“Kant more influentially than any other Enlightenment thinker, defended a politics based upon reason rather than patriotism or group sentiment, a politics that was truly universal rather than communitarian, a politics that was active, reformist, and optimistic, rather than given to contemplating the horrors, or waiting for the call of Being.”⁵⁴

Kant presents us with a tempered yet, as Nussbaum describes it, optimistic argument for man's ability to use reason to access the universal in his relations and justifications with other human beings. He holds states to the same standard. It is not difficult to draw a connection between Kant's argument and Benhabib's emphasis on the discourse theory in international relations in the sense that Kant argued for the use of reason and universal principles in both practical relations and justifications of action. Indeed, the idea that all individuals are part of this discourse because of their equal moral worth is firmly rooted in Kantian principles of humans as ends in themselves. Kant realized that in reality not all relations would be conducted rationally with a mind to the universal, but he argued that reason makes such relations possible and goals like perpetual peace worth working towards. In sum, Kant's moderate but unfaltering commitment to the maxim of universality positions him as a theorist somewhere between Michael Walzer's half-hearted rejection of the universal and cosmopolitans who attempt to forge a list of explicit universal rights.

⁵⁴ Nussbaum, M. C. (1997). Kant and Cosmopolitanism. *Perpetual Peace: Essays on Kant's Cosmopolitan Ideal*. J. a. M. L.-B. Bohman. Cambridge, MA, The MIT Press. pp. 27

V. Michael Walzer: Alternatives to Cosmopolitanism

Michael Walzer, a prominent American political philosopher, is a contemporary proponent of the importance of the nation state in morality. Walzer concludes that certain moral universals do in fact exist, but only as a part of more complex particular moralities. In order to examine the validity of his view, it is necessary to unpack Walzer's general theory and examine arguments in support of it.

In his book, Thick and Thin: Moral Argument at Home and Abroad, Walzer introduces a theory of morality that he calls 'Moral Minimalism,' to describe the relationship between what he calls 'thick,' or particular, and 'thin,' or universal, morality. Moral Minimalism refers to the theory that universal meanings, which he calls minimal, are embedded in more particular morality, which he refers to as maximal. Walzer uses the example of a protest in a foreign country where protesters are holding signs that say words like 'Truth.' He argues that everyone can relate to the minimalist universal meaning of the word 'Truth' but that the word takes on different and more particular meanings according to the maximal morality of the culture or history of our community. The "Truth" in the sense of Walzer's concept of thin morality is the universal, abstract, and somewhat superficial concept that everyone relates to merely because they are holding the sign. On the other hand, "Truth" as a concept of thick morality means that the word has contextual significance that only those who share that particular context will relate to. According to Walzer, we ought to recognize that these universals exist; however, they are not enough to make up a stand-alone morality without the thicker context of our particular circumstances and in this sense, they are insufficient standards for making practical decisions.⁵⁵

Walzer thus does not reject the idea that certain universals exist, nor does he deny that

⁵⁵ Walzer, M. (1994). Thick and thin : moral argument at home and abroad. Notre Dame, University of Notre Dame Press. pp. xi-9

these universals provide a common thread throughout all humanity. Rather, he questions whether or not this thread is strong enough to break through territorial borders and nationalism. Walzer argues that human society is universal simply because we are all human and that it is particular because it is only within a society that groups have their own norms, history, and culture. Without this particularity, humans exist in what Hannah Arendt calls “the abstract nakedness of being human and nothing but human.”⁵⁶ Again, the tension between the universality of human experience and the pluralism of our particular societies is evident and must be addressed. Walzer argues that the mere fact that universals exist does not mean that every society is operating on the same model and moving in the same political direction.⁵⁷ Universal minimal morality is weaker than the maximal morality in its effects on decision-making. The minimal meanings of ideas like “Truth” are parts of a maximal morality that is contextual and based in the experience of the community. It may be that the existence of minimal morality simply means that everyone has certain moral expectations for the behaviors of other humans, compatriots and strangers alike, but that these expectations are too basic for most practical decision-making. Therefore, the maximal morality of particular communities is the primary foundation for most moral decisions.⁵⁸

The political arena of Walzer’s theory is not global but state-centered and the way in which Walzer defines the state is integral to understanding his theory. The nation-state and politics in general, according to Walzer, are founded in a shared history and communal sentiment. He argues that conceiving of similar foundations for a global community would be extremely difficult. If minimal morality is not enough for purposes of practical life and there is

⁵⁶ Arendt, H. and P. R. Baehr (2000). The portable Hannah Arendt. New York, Penguin Books. pp. 38

⁵⁷ Walzer, M. (1994). Thick and thin : moral argument at home and abroad. Notre Dame, University of Notre Dame Press. pp. xi-9

⁵⁸ Ibid. pp. 9-18

no way to construct a global maximal morality, there is little question that we ought to preserve the state in order to have a political arena for the enforcement of rights. Rights require a location and a self-enclosed arena for political development so that they can be enforced. Regardless of increased interdependence, states still serve as the most effective political arena for this purpose, an assertion that is supported by the fact that local political processes, not global, still have the greatest influence on the conduct of the state.⁵⁹ In any case, the global community, as we know it today, is still not a community of humanity in general but rather one of states bound together by convention and a minimal morality of abstract concepts.

If politics ought to be thought of in terms of the state and politics is defined by a shared history and community which defines the maximal morality that guides decision-making, the logical conclusion is that the nation-state is also integral to Walzer's maximal morality. It is clear that territorial borders have moral weight according to Walzer and this has important effects on the implications of his theory in global politics. How ought we to think of the struggles of those individuals outside of our own borders? Do nation-states and individuals have any responsibilities or obligations to others because of this universal minimal morality even if it is not the foundation for domestic moral decision-making? To understand Walzer's answers to these questions, one must first understand Walzer's definitions of government and legitimacy.

Walzer claims that there are two distinct types of legitimacy: domestic and international. Calling a government "legitimate" relies entirely, according to Walzer, on the audience you are addressing. Domestic legitimacy can only be judged by those within the maximal community and is deemed legitimate depending on the "fit" of government and community, that is, "the

⁵⁹ Walzer, M. (Spring 1980). "The Moral Standing of States." Philosophy and Public Affairs 9(No. 3): 209-229. pp. 226-228

degree to which the government actually represents the political life of its people.”⁶⁰ If there is a lack of “fit” then the members of the community can exercise their right to rebel. This right to rebel is held only by those members of the community and cannot be transferred to foreign states nor can it be transferred at the initiative of foreigners. International legitimacy, on the other hand, is judged by the outsiders of a political community. A government can only be called illegitimate among this audience if “the absence of “fit” between the government and community is radically apparent.” If an outside power were to intervene in a case where the lack of “fit” were not so obvious, that power would be robbing the community members of their rights, the most notable of these rights to Walzer being the right to rebel or what is more aptly known as the right to self-determination. Walzer does, however, establish some rules of disregard that create exceptions to this interpretation of international legitimacy in cases of struggles for secession, counter-intervention, massacre, enslavement, or displacement of peoples.⁶¹

Walzer’s dual definition of legitimacy has been harshly criticized by those who argue that his interpretation of international legitimacy can lead to the international toleration of regimes that violate human rights or suppress political freedoms for the sake of respecting a right to self-determination. Walzer responds to these criticisms with the argument that international legitimacy is a pluralistic idea and that there will always be different “patterns of cultural and political development.”⁶² The subjective nature of international legitimacy, judged by outsiders to the maximal community, leaves room for many different interpretations of what a good “fit” might look like and suggests that outsiders need to be tolerant of outcomes that, although they might not look like our own, are nonetheless potentially legitimate. Walzer writes of an undemocratic regime;

⁶⁰ Ibid. pp. 214

⁶¹ Ibid. pp. 209-216

⁶² Ibid. pp. 216

“Though the “fit” between government and community is not of a democratic sort, there is still a “fit” of some sort, which foreigners are bound to respect.”⁶³

Walzer’s critics have argued that his theory, when followed to its logical end, may require us at some point to call a tyrannical state legitimate because, despite complaints and reports of human rights abuses, the lack of “fit” will not be “radically apparent.” Walzer sidesteps this criticism in a way that reveals both the foundation, and perhaps a weakness, of his theory. He writes; “My actual claim is that foreign officials must act as if it were legitimate, that is, must not make war against them (the tyrannical state).”⁶⁴

Walzer’s treatment of legitimacy leads him to argue for a policy of non-intervention in the affairs of other states. His argument does not hinge on the territorial sovereignty of a state to do as it wishes with its citizens nor does he argue that states have a right or an obligation to intervene when they disapprove of another state’s actions. Instead, his general theory as well as his argument for non-intervention rest on the rights of the individual within the political community. The respect afforded to another state in cases where foreign intervention is being considered, rests on the rights of the individuals within that state to shape their own political community. This right of self-determination is incredibly important to Walzer’s theory. Barring cases of extreme human rights violations like genocide, the right to self-determination must be respected despite how messy the process might appear to be from the outside. Even if a group requests help from a foreign power, Walzer argues that foreign powers must remain uninvolved unless a clear majority of the population within the requesting state believes that there is a lack of “fit.”⁶⁵ The rights of the state rely on the rights of the individuals within it and the state is important only insofar as it is the arena for these individual rights to play out and be protected.

⁶³ Ibid. pp. 216

⁶⁴ Ibid. pp. 216

⁶⁵ Ibid. pp. 219-226

It is through Walzer's treatment of legitimacy and intervention that we find that his theory of the nation-state rests on a contract. Walzer draws on the theory of Edmund Burke in that this contract is horizontal, meaning it is between all members of the political community, including those that have died or are yet to be born. Government is an instrument of its citizens but is not necessarily freely chosen by each generation but instead is a product of the combined history and values of all generations, what Walzer calls maximal morality.⁶⁶ The government is part of each particular society and a product of that society's maximal morality.

Walzer argues that individuals outside of a maximal morality can never be detailed critics of this maximal morality simply by wielding minimalist ideals like "Truth" and "Justice." Since the state is the political arena for the protection and expression of this maximal morality, it follows that outsiders cannot meddle in affairs of that state because:

"They don't know enough about its history, and they have no direct experience and can form no concrete judgments, of the conflicts and harmonies, the historical choices and cultural affinities, the loyalties and resentments, that underlie it."⁶⁷

The outsider cannot insert himself into a specific context to fight for "Truth" as he defines it or even as it is defined in minimal morality because that outsider cannot understand how "Truth" fits into this particular context. Given that government is part of this maximal context, the same goes for interventions into the government by such an outsider.

Walzer works through his theory from what he calls the "Legalist Paradigm" and uses this paradigm as a starting point for the legal and moral discussions about citizenship and intervention. The paradigm refers to the informal conventions of law and order that are not necessarily documented in explicit laws. It is from this paradigm that Walzer

⁶⁶ Ibid. pp. 209-219

⁶⁷ Ibid. pp. 212

devises his theory of Just and Unjust war as well as his argument for the norm of non-intervention. The first assumption of the legal paradigm is that there is no universal government; instead, there is an international society of independent states where all men and women are protected, or ought to be, by their respective governments. Territorial integrity and political sovereignty thus, are rights granted to member states within this international community. However, these collective rights rest primarily on the rights of the individuals to build a common life within these states and the sovereignty of member states becomes an expression of individual life and communal liberty.⁶⁸ This interdependence of individual rights and the moral standing of states is crucial to Walzer's theory and it will prove important when I investigate the implications of his theory on the norms of international relations in the following chapters.

⁶⁸ Walzer, M. (1977). Just and unjust wars : a moral argument with historical illustrations. New York, Basic Books. pp. 91-108

VI. Edmund Burke and the Tradition of the Political Community

Edmund Burke wrote within a specific historical context in response to particular historical events but his writings still allow for the extraction of more abstract arguments. Although this generalization from the specific is, perhaps, something that Burke himself would argue is pointless or futile, I would argue that theories of rights, social contract, and the definition of the state are embedded in Burke's writings and speeches, including his treatment of the French Revolution in Reflections on a Revolution in France.

The state, according to Burke, is the product of a long history of experimentation. Previous generations, as a result of this process of trial and error, created government. The government as a product of this process may, at times, be imperfect but the emphasis in this case is on respect for the process that created it instead of the flaws it may have in its present form. Burke argues that the French Revolution sought to disrupt and disrespect this historical process and in doing so destroyed the continuity of the commonwealth. As a result of this disruption, the commonwealth was left in ruin for future generations and these generations were not taught to respect the institutions of their forefathers.⁶⁹ Burke, in a speech on reform of representation in parliament a few years before the French Revolution, argued that the human species over many generations is wise but one generation acting without sufficient deliberation is unwise. In this same speech, Burke articulates this theory of the state as a product of the wisdom of many generations as follows:

“it [the commonwealth] is a deliberate election of ages and generations; it is a Constitution made by what is ten thousand times better than choice, it is made by the peculiar circumstances, occasions, tempers, dispositions, and moral, civil, and social habitudes of the people, which disclose themselves only in a long space of time”⁷⁰

⁶⁹ Burke, E. (1987). Reflections on a Revolution in France. Indianapolis, IN, Hackett Publishing Company. Pp. 77-86

⁷⁰ Burke, E. (1782). "Speech on the Reform of the Representation of the Common in Parliament." Retrieved November 1, 2007, 2007, from <http://www.econlib.org/library/LFBooks/Burke/brkSWv4c2.html>. (4.2.7)

It is through this argument that Burke reveals a truly important factor in the consideration of the state in general and reform in particular, that is, the connection with the history and past generations that in their wisdom created the state.

If the commonwealth is a product of history, then society is also a product of conventions. In his discussion of the French Revolution Burke criticizes the Revolutionaries' use of the "rights of man" as an abstract principle that motivates practical action. These "rights" do in fact exist in abstract perfection but this precludes their practical salience. Burke writes of natural rights in practical politics:

"Government is not made in virtue of natural rights, which may and do exist in total independence of it, and exist in much greater clearness and in a much greater degree of abstract perfection; but their abstract perfection is their practical defect."⁷¹

Real practical and moral rights, according to Burke, are not the metaphysical abstractions invoked by the revolutionaries but practical compromises between good and evil or, oftentimes, evil and evil. In this sense, rights are a middle ground and must be discerned through practical compromise.⁷² Rights in the political community do not exist as abstract universals and Burke turns to society and its conventions as the source of man's rights.

Society, according to Burke, is more an ancient order than a choice presented to every individual man or even to each generation. The social contract is defined as a;

"Partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born."⁷³

This ancient order has produced conventions and prejudices that define man's rights and shape his habits.⁷⁴ Man chose to relinquish his natural rights when he entered the social contract and what he received in exchange were conventional rights protected and provided for by society.

⁷¹ Burke, E. (1987). Reflections on a Revolution in France. Indianapolis, IN, Hackett Publishing Company. pp. 52

⁷² Ibid. pp. 53-55

⁷³ Ibid. pp. 85

⁷⁴ Ibid. pp. 53-54

The advantages that society provided became man's rights.⁷⁵ Society was, then, a product of a convention and so rights as products of society are also products of convention. Burke's definition of rights refers not just what men are free to do in society but also what a law-governed society restricts them from doing. That is to say that "the restraints on men, as well as their liberties, are to be reckoned among their rights."⁷⁶ The natural rights, or the "rights of man" of the French Revolution, threatened the very structure provided by society that defines and protects man's rights. If that structure is destroyed, man is plunged back into anarchy, left once again to define his rights and find a way to protect them.⁷⁷

If one generalizes Burke's treatment of the French Revolution she can feasibly conclude that society is important as a context for rights definition and protection. Burke argues that the restrictions and liberties embodied by rights vary with time and circumstances and cannot be made into some sort of abstract rule. The importance and respect we ought to give to the wisdom of past generations and the historical process of convention and society building encourages man to approach reform with caution and tolerance for what is nothing more than the natural ebb and flow of the messy historical process.⁷⁸ An individual or a group that seeks radical reform is challenging the generational wisdom that is the "general bank and capital of nations and ages."⁷⁹ In addition, one of the natural rights that un-covenanted man gave up when he entered into the social contract was his right to define justice in the terms most important to him. Man gave up his right to individually define justice in order to enter into a collective

⁷⁵ Ibid. pp. 55

⁷⁶ Ibid. pp. 51-53

⁷⁷ Hampsher-Monk, I. (1992). A history of modern political thought : major political thinkers from Hobbes to Marx. Oxford [England] ;, Cambridge Blackwell. pp. 261-272

⁷⁸ Burke, E. (1987). Reflections on a Revolution in France. Indianapolis, IN, Hackett Publishing Company. pp. 51-54

⁷⁹ Ibid. pp. 76

definition created by a society formed by the wisdom and experimentation of past generations.⁸⁰

Burke's acknowledgment of abstract rights and his denial of their place in practical politics hints at what Walzer defines as moral "thinness and thickness." Burke, like Walzer, emphasizes the importance of context, what Walzer calls moral "thickness", in defining rights while recognizing that some universal rights, or moral "thinness," may exist wholly outside of politics. In addition to their shared definitions of the social contract, the roots of Walzer's theory of maximal morality can also be found growing in the political theory of Burke's letters and speeches. Burke wrote in his "Letters on a Regicide Peace" of what he called "manners." These manners do not refer to those manners in the modern sense of keeping one's elbows off the table during dinner but rather to the shared customs, traditions, understandings, culture, or history that binds individuals in separate countries together. It is these manners, not any abstract ties of biological humanity that create a feeling of community between individuals of different states. These manners are, according to Burke a foundation for morality. Burke writes:

"Manners are of more importance than laws. Upon them, in a great measure, the laws depend. The law touches us but here and there, and now and then. Manners are what vex or soothe, corrupt or purify, exalt or debase, barbarize or refine us, by a constant, steady, uniform, insensible operation, like that of the air we breathe in. They give their whole form and colour to our lives. According to their quality, they aid morals, they supply them, or they totally destroy them."⁸¹

It is not difficult to draw the line from Burke's "manners" to Walzer's "maximal morality" or to see Burke's practical rejection of abstract universals in Walzer's emphasis on context and a shared history instead of thin moral principles.

It is from Burke's treatment of the French Revolution that we are able to construct the foundation of Burke's political theory. Albeit a somewhat simplified discussion of Edmund Burke in his complexity, it reveals the historical roots of modern arguments against abstract

⁸⁰ Ibid. pp. 51-53

⁸¹ Burke, E. (1796). "Letters on a Regicide Peace " Retrieved November 1, 2007, 2007, from <http://www.econlib.org/Library/LFBooks/Burke/brkSWv3c1.html> (3.1.105)

universal concepts like human rights when they collide with the state. Through this analysis one can begin to extract the threads of a larger argument concerning how we define the political community, the concept of sovereignty, and the role of the universal in politics.

VII. Cosmopolitanism and Defining the Political Community

The debate over cosmopolitanism involves many threads spun around foundational disagreements that spread out through debates over the modern state, global governance, international law, and definitions of sovereignty. These components are important to the broader discussion of cosmopolitan norms; however, following the threads from their origin will help us navigate these complex debates. The arguments of the four theorists that I have discussed in previous chapters demonstrate how the debate can take off into many different directions but it is possible, and indeed crucial for the sake of comparison and discussion, to first concentrate on the foundational disagreements of these four theorists over the definition and implications of the political community.

Criteria for the definition of the political community range from the purely territorial to the cultural or historical. Some theorists contend that the community resides only in the mind of its members and others argue that it is visibly outlined by borders or the earth's physical features. Some stress custom and history while others focus their attention on human nature and the human experience as a foundation for community. I will focus on the implications of this debate on international politics and cosmopolitanism insofar as our definition of the political community serves as criteria for deciding who has certain rights, what these rights are, and whether or not these rights can be applied universally or only particularly within that specific political community. The positions of the four theorists on these issues are rooted in their positions on the existence of universal rights of man and how these rights might interact with the role of the modern nation-state in defining rights in the political community.

Edmund Burke's Reflection on a Revolution in France is a response to a specific historical event, the French Revolution. However, the revolutionaries in the context of the

French Revolution were those who believed in the natural rights of man and Burke's reaction to these revolutionaries can be interpreted, in part, as a reaction to the idea of these abstract natural rights. The French revolutionaries bear similarities to the modern day cosmopolitans who value the universal rights of humanity above other political values and it is through this generalization that Burke becomes an important voice in the cosmopolitan debate. Burke acknowledges that man, by virtue of being a human, may have some abstract universal rights but he argues that these rights, in whatever their degree of theoretical perfection, have no place in practical politics. In fact, universal rights according to Burke threaten the very structure that would ensure their protection: the state. The state is the source and enforcer of rights and challenging the state through the invocation of universal rights risks creating an anarchy where the rhetoric of universal rights remains but there are no viable means for the protection of these rights.

The political community for Burke, then, is defined by the state insofar as rights have their origin in the state. This distinction hinges on the argument that rights are a product of civil society and convention. The civil society and conventions of a state are products of a long history of trial and error. Like Max Weber's rule of the "eternal past," Burke argues that the state and the rights granted to those who are members of this political community are rooted in a shared history and custom, the "deliberate election of ages and generations."⁸² The state as the political community is defined by a horizontal contract between generations that is not formally chosen by each individual. The creation of the contract marked the end of the abstract natural rights of man and the beginning of man's conventional rights which are defined by the state. Burke's political community is, thus, defined by membership in a state that protects and defines individual rights and is formed by a contract.

⁸² Burke, E. (1782). "Speech on the Reform of the Representation of the Common in Parliament." Retrieved November 1, 2007, 2007, from <http://www.econlib.org/library/LFBooks/Burke/brkSWv4c2.html>. (4.2.7)

Immanuel Kant also values the state for its role in enforcing and protecting rights but fundamentally disagrees with Burke on the role of the universal in the definition of rights as well as the state itself. Kant agrees with Burke that the state is necessary but adds that the state and the rights afforded to those within the state must be in accordance with universal law. Where Burke denies the place of universals in practical politics, Kant actually raises them above the state and makes the state a means to achieving man's natural capacities. Burke's state can be seen as an end in itself, valuable because of shared history and customs, while Kant's state is a means to nature's purposive end for mankind. Kant addresses the conflict that can arise between the state and universal rights of man by making the state subordinate to universality to some degree, a quality he stresses with the categorical imperative in his theory of morality. In his essay on Perpetual Peace, Kant argues that many separate states are in a "state of war" because they can break out into hostilities at any moment. He stops short of suggesting a system of global government beyond a federation of nation-states, even for the sake of perpetual peace, because states are valuable in protecting rights and "laws invariably lose their impact with the expansion of their domain of governance."⁸³

States are necessary but they are not free to do anything they wish. Whereas Burke's state is not bound by universals, Kant argues that this is the only way for man to reach nature's intended end for him. When the state conflicts with universal rights of man Kant argues that such rights,

"must be held sacred, however great the cost of sacrifice may be to those in power. Here one cannot go halfway, cooking up hybrid pragmatically conditioned right (which are somewhere between the right and the expedient) instead, all politics must bend its knee before morality."⁸⁴

Thus, all discussions of politics must keep this universality in mind. Kant, like Burke and

⁸³ Kant, I. (1983). Perpetual Peace and Other Essays. Indianapolis, IN, Hackett Publishing Company, Inc. pp. 124-125

⁸⁴ Ibid. pp. 135

Walzer, is a contractarian. However, he argues that this contract is also subject to universal law. The contract allows citizens to be authors and subjects of laws but these laws must be in accordance with universal principles. It is critical to understand that Kant does not reject the importance or practicality of the state but positions the state in regards to universality in a way that is very different from the approach of Edmund Burke. The political community according to Kant is practically bound by the state but even citizens of the state are moral members of a universal community that also has practical implications for the conduct of the state.

I have positioned Michael Walzer as an opponent of cosmopolitanism; however, his theory does not entirely lend itself to such a stark classification and in fact, bits of both Kant and Burke show themselves in Walzer's theory. Walzer agrees with Burke that the political community is defined by a horizontal contract and that this community is built on a shared sense of history or custom. Walzer articulates this Burkian idea of a contextual political community in his theory of maximal morality. However, Walzer does not completely push aside the notion of universal rights in politics but rather elevates a universal individual right of self-determination to be the foundation of his theory of state legitimacy and non-intervention. Walzer's theory of domestic and international legitimacy demonstrates his belief that any rights or respect granted to the state in the international sphere are a function of the respect for the collective right of the individuals within the state. Walzer thus takes a sort of hybrid approach to universal rights, acknowledging their importance within international politics more heartily than Burke but without the complete commitment of Kant.

The political community, according to Walzer, is defined by a shared history and culture and includes very minimal concepts of universal rights. The state is important insofar as it practically encompasses this political community and serves as an arena where rights, even those

that are universal, are expressed and protected. Walzer argues that rights require a location and self-enclosed arenas of political development. His idea of universality is weak in comparison with Kant's and any universals that exist are embedded inextricably in a maximal morality. This universality is only so strong as to allow us to have very basic expectations of others but it will never serve as a free-standing morality in itself. He poses the question of whether or not one could still talk of "Truth" or "Justice" if she did not have a particular context in which to interpret these universal ideas. Walzer's universality stops at minimal universal concepts and a universal right to self-determination. As long as the universal right to self-determination is respected, the end need not be in accordance with any universal idea and it is here that Walzer leaves Kant by the wayside.

Seyla Benhabib, on the other hand, takes Kantian universality in the definition of political community to the level of modern cosmopolitan theory. Although Benhabib does not state it as explicitly as Kant, the universal is again elevated above the state. She argues that the political and the moral must be separate but in constant mediation because, since 1948, universal human rights have become part of a global morality of law that applies to all humans everywhere regardless of membership in a nation-state. States have, in recent history, become subordinate to certain universal principles and Benhabib argues that this transcendence of universal norms beyond state borders is the direction the global community ought to head with cosmopolitanism as its guide.

Although it is sometimes difficult to separate Benhabib's theoretical arguments from her empirical observations, it is possible to tease out her theory on the political community from her treatment of the emergence of a human rights regime since 1948. This is not difficult to do when Benhabib states explicitly that cosmopolitanism is the "emergence of norms that ought to govern

relations among individuals in a global civil society.”⁸⁵ We can draw from this that Benhabib believes that the political community includes all human beings both legally and morally. States and the respect or rights afforded to states in international politics are reliant on their adherence to certain universal principles, both a practical observation and a normative argument that rings of Kantian universality.

Defining the political community is crucial to the discussion of cosmopolitanism because of the definition’s relationship with universality and the articulation or protection of rights. Whether we define a community by custom, contract, or human qualities implies whether rights are only afforded to members of that community or if rights are afforded regardless of membership in a community. Whether we define a community by consent or by a principle of impartiality, as may be the case in a global community of all humanity, is practically important for the formation and justification of certain policies. Saying you are going to war because it is in the best interest of your particular political community will result in a different decision-making process with very different justifications than saying you are going to war because you have a duty to uphold some universal principle for your fellow human beings.

Who has rights as a member of a political community relies heavily on how we define that community. Kant and Benhabib would argue that everyone is part of the global cosmopolitan community despite many that argue that such a community does not practically exist. Kant is a proponent of a “universal cosmopolitan state, the womb in which all of human species’ natural capacities will be developed,” and Benhabib often invokes the language of a “global civil society.”⁸⁶ For Walzer and Burke, those who share a history, culture, or customs are considered part of the political community. If you are not a part of the political community as

⁸⁵ Benhabib, S., J. Waldron, et al. (2006). Another cosmopolitanism. Oxford ; New York, Oxford University Press. pp. 19

⁸⁶ Kant, I. (1983). Perpetual Peace and Other Essays. Indianapolis, IN, Hackett Publishing Company, Inc. pp. 38

Walzer and Burke define it, if you are a needy outsider, you have no rights within that community. On the other hand, for Kant and Benhabib it is impossible to be outside of a community of humanity and so you always have certain rights. Walzer's universal right to self-determination doesn't have much weight outside of a particular political community where you exercise these rights. In this sense, the right is only universal in the sense that everyone has it when they are members of some community and not that everyone has it at all times everywhere. According to Walzer, the universal right to self-determination must be positioned within a political community. The rights that are afforded to members of the political community vary according to Walzer and Burke from community to community according to history, conventions, and custom while the universal rights of Kant and Benhabib are unaffected by crossing a physical border or declaring a particular citizenship.

The discussion of the definition of the political community is an important aspect in the debate over human rights based on universality or membership in a political community; however, it is not an easy matter to settle. Those who maintain that the political community, insofar as it is a community that provides its members rights, does not include all of humanity must face the difficulties of defining membership in that community. Limiting the definition of this community to those that reside within state borders risks oversimplifying the matter in the opposite direction by overlooking the layers that lie between the individual, the state, and all of humanity. Identities based on ethnicity or communities like the European Union which include certain states but by their very definition exclude others present an important grey area that should be addressed when defining the political community. Transnational organizations and institutions are also blurring the lines of identity and clouding previously clear divisions between communities. For my purposes, discussion of the political community is important insofar as

rights are granted or denied on the basis of this community; however, the complexity of practically defining political communities is a critical issue in the negotiation of the norms that govern international relations but it is one that I will not attempt to address in more detail at this time. Instead I turn now to the debate between the argument for a universal community of humanity and the traditional understanding of state sovereignty defended by theorists like Walzer and Burke. The norm of traditional state sovereignty in international relations is considered a defense for the particular political community by some and an obstacle to the realization of a global community of humanity by others. An investigation of this disagreement further demonstrates the complexity of the cosmopolitan debate.

VIII. The Responsibility to Protect: Cosmopolitanism and State Sovereignty

Canadian Prime Minister, Jean Chrétien, announced the formation of the International Commission on Intervention and State Sovereignty in September 2000. Twelve months after its launch, the commission released a report entitled “The Responsibility to Protect,” or R2P as it has come to be known, in which they attempted to reposition the concept of state sovereignty in international relations.⁸⁷ The report redefines the notion of state sovereignty from a concept that entails a state's freedom from outside intervention to one that implies a state's responsibility to protect its inhabitants. In the event that a state fails to protect its inhabitants in situations which the report refers to as “conscience shocking situations crying out for action,” the international community has a responsibility to protect the suffering population.⁸⁸ As this is a fairly recent report, a treatment of this idea in light of the arguments of Burke, Walzer, Benhabib, and Kant, will allow me to explore the arguments of our four theorists more deeply and to place them into a contemporary discussion of the implications of their theories. I seek through this discussion of R2P to use it as a tool for analysis in order to draw out nuances of our four theorists. However, commentary on R2P will also eventually emerge as a product of this theoretical treatment.

The report argues that the concept of intervention has undoubtedly been shaped by its recent history. The withdrawal of peacekeeping forces from Somalia, the genocide in Rwanda, and the interventions waged in Kosovo and Bosnia all occurred in the last twenty years and the dust raised by these interventions, their stumbles and their failures, is still continuing to settle in the realm of international norms and laws. Some argue that outside powers have intervened too much in the affairs of states that are not their own, while others argue that not enough has been

⁸⁷ (2001). “The Responsibility to Protect.” Retrieved March 1, 2008, 2008, from <http://www.iciss.ca/progress-en.asp>

⁸⁸ (Ibid.). XII 1A, 1B

done, proving that the debate over proper cause and mechanism for intervention is far from settled.⁸⁹ It is within these debates that the currents of state sovereignty and universal human rights run strongly, often over and around one another still maintaining their own theoretical and historical strongholds and never fully mixing into one coherent concept. The concept of state sovereignty is rooted deeply in theoretical traditions that made movements towards independence from colonial powers theoretically defensible. Contemporary understanding of universal human rights is shaped by the seemingly still-fresh memories of the Holocaust and the Second World War. Both concepts have a historical conscience that makes the sacrifice of one for the other difficult. Most cosmopolitan theorists argue that recent history shows the traditional concept of state sovereignty bending to that of universal human rights. R2P attempts to commit this evolution of state sovereignty to paper in hopes that, through consensus, we can create norms of intervention to react and prevent violations of human rights.

The report begins by positioning the concept of state sovereignty in its historical context. It argues that the traditional understanding of state sovereignty, often referred to as “Westphalian,” is understood as a concept that entails both the equality of all sovereign states as well as the authority of each state to make decisions regarding the people and resources within its territory.⁹⁰ Hedley Bull’s definition of sovereignty is often referenced when describing this traditional understanding. Bull defined sovereignty as “independence from outside authority” which had, as corollaries, the norms of non-intervention and equality of the rights of states.⁹¹ In most understandings of sovereignty, membership in the international community of the United Nations was the “final symbol of independent sovereign statehood and thus the seal of

⁸⁹ (Ibid.). pp. 1-2

⁹⁰ (Ibid.). pp. 12

⁹¹ Hoffman, S. (1996). The Ethics and Politics of Humanitarian Intervention. Notre Dame, IN, University of Notre Dame Press. pp. 12

acceptance into the community of nations.”⁹²

Cold War politics encouraged the use of intervention as a political tool used to support certain leaders often despite abuses of the local populations at the hands of these leaders.⁹³ The report argues, however, that the evolution of conflict towards state fragmentation and failed states, accompanied by the increased presence of non-state actors and modern technology, suggests that the justifications for intervention need to be changed and translated into more workable norms and laws. It should be noted that few theorists support a strict rule of non-intervention in cases such as genocide and few theorists argue that sovereignty entails the absolute power of the state to do *anything* it wishes to its inhabitants. However, the Cold War experience has, perhaps justifiably, cultivated a fear that any ground ceded to the idea of intervention for humanitarian causes may lead to the abuse of this category by powers seeking their own interests via intervention. R2P, by changing the language of the intervention discussion and repositioning the justifications for intervention, attempts to define the modern concept of state sovereignty as a *responsibility* to protect in order to avoid discussions based on a *right* to intervention.⁹⁴ Carsten Stahn called this redefinition a “rhetorical trick: it flipped the coin, shifting the emphasis from a politically and legally undesirable right to intervene for humanitarian purposes to the less confrontational idea of a responsibility to protect.”⁹⁵

The modern concept of state sovereignty, according to R2P, entails a dual responsibility. It consists of an external responsibility to respect the sovereignty of other states and an internal responsibility to respect the rights and basic dignity of all individuals within the state. The report

⁹² (2001). "The Responsibility to Protect." Retrieved March 1, 2008, 2008, from <http://www.iciss.ca/progress-en.asp> pp. 13

⁹³ (Ibid.). pp. 12

⁹⁴ (Ibid.). pp. 17

⁹⁵ Stahn, C. (2007). "Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?" *American Journal of International Law* **101**(1): 99-120. pp. 3

argues that it is this modern definition of sovereignty which has become the “minimum content of good international citizenship.”⁹⁶ The commission hoped that this redefinition would bring a “transition from a culture of sovereign impunity to a culture of national and international accountability.”⁹⁷ The report acknowledges that states have the “primary responsibility” to protect the rights of their inhabitants and that “it is only if the state is unable or unwilling to fulfill this responsibility, or is itself the perpetrator, that it becomes the responsibility of the international community to act in its place.”⁹⁸ In this sense, the report adds a *third* responsibility to this redefined sovereignty and argues that a sort of “residual” or “fallback” responsibility resides with the international community if a state fails to carry out its responsibility to protect human rights.

It is important to note that the argument that this modern concept of sovereignty entails a responsibility to protect those in need also relies on an expanded definition of human security. That the state must provide security for its inhabitants is one of the traditional functions of the state and the commitment of the international community to human security is enshrined, though left undefined, in the U.N. Universal Declaration of Human Rights.⁹⁹ However, the report defines human security as: “the security of people-their physical safety, their economic and social well-being, respect for their dignity and worth as human being, and the protection of their human rights and fundamental freedoms.”¹⁰⁰ With this ample and expanded definition of human security, the report redefines sovereignty from the negative freedom, to be free from outside intervention, to a positive doctrine of responsibility (held primarily by the state and secondarily

⁹⁶ (2001). "The Responsibility to Protect." Retrieved March 1, 2008, 2008, from <http://www.iciss.ca/progress-en.asp> pp. 8

⁹⁷ (Ibid.). pp. 14

⁹⁸ (Ibid.). pp. 17

⁹⁹ (1948). "Universal Declaration of Human Rights." Retrieved September 1, 2007, 2007, from <http://www.un.org/Overview/rights.html>. (Article 3)

¹⁰⁰ (2001). "The Responsibility to Protect." Retrieved March 1, 2008, 2008, from <http://www.iciss.ca/progress-en.asp> pp. 15

by the international community) to protect this version of security.

The report stresses that this responsibility manifests itself not only in the responsibility to intervene when human rights are being violated, what they call a responsibility to react, but also in a responsibility to prevent such violations and a responsibility to rebuild after the intervention. The “responsibility” in the responsibility to protect is thus a comprehensive concept. This reflects the commission’s goal to produce something more than the customary rhetorical commitments to react in the event that it is clear that a violation like genocide is occurring. Another important effort of the commission was to translate traditional understandings of the Just War Theory into a set of norms for intervention that could be formally implemented in the international realm. In this vein, the report includes certain requirements for intervention that include: just cause such as the large scale loss of life; right intention, to stop human suffering despite the fact that other interests may be involved; use of intervention as a last resort; the use of the minimum force necessary; and a reasonable chance for success.¹⁰¹ The report also includes a provision which states that any decisions to intervene must be made by a right authority, in reference to the U.N. Security Council. Again these requirements follow from the commission’s goal to move closer towards negotiable norms and guidelines for intervention that could produce a greater consensus than previous attempts. In this sense, the report did not seek to suggest replacements for the authority of the U.N. Security Council or the traditional decision-making structures but rather to resituate both the norms and their justifications.

It is also crucial to note that the report does not discount the role of states as the front-line defense for individual human rights. Instead, it sets out to articulate the commitment of the international community to step in when the national system for dealing with human rights violations fails. The commission wrote of this complementary relationship:

¹⁰¹ (Ibid.). pp. XII

“What is at stake here is not making the world safe for big powers, or trampling over the sovereign rights of small ones, but delivering practical protection for ordinary people, at risk of their lives because their states are unwilling or unable to protect them.”¹⁰²

It is unclear, in R2P’s definition of sovereignty, what the “sovereign rights” of states are. To say a state has a right to its responsibility to its inhabitants seems to be an absurd argument.

Nevertheless, the assertion of the role of the state is an important distinction to be made for those who worry that such a doctrine would undoubtedly be abused by powerful states.

The commission hoped that this idea of a “responsibility to protect” would be a conceptual mediator in the confrontation between intervention and state sovereignty. The report was thus an attempt to find new justifications for intervention that would avoid the polemical language of traditional sovereignty or a “right to intervene.” This argument attempts to reposition the sovereignty and intervention debate from two different directions. The modern understanding of sovereignty, as R2P would have us believe, is first a responsibility of the state to protect its inhabitants, a view which is not entirely antithetical to the Westphalian understanding of the authority of the state within its own borders. However, this responsibility and the “fallback” responsibility of the international community also create a conditional understanding of sovereignty whereby if a state fails to fulfill its responsibility to universal standards of human rights that may be foreign to the traditions of its political community, the international community has a responsibility to intervene. Other than the fact that this responsibility is equal for all states, the redefined notion of sovereignty completely abandons the Westphalian authority of the sovereign state to autonomously mold their own political affairs.

The report attempts to position this combination of a “responsibility to protect” which resides with the state and the “fallback responsibility” of the international community as an alternative to the language of a “right to intervene.” In doing so, it claims to create an alternative

¹⁰² (Ibid.). pp. 11

to the concept of “freedom from outside intervention” embedded in the traditional understanding of sovereignty. The report argues that it is shifting the debate from a focus on those entities considering intervention to those individuals in need. It may be the case that the debate in the international intellectual community has focused on such a “right to intervene” but this is not at all the focus of those proponents of the traditional understanding of state sovereignty who are engaged in the intervention debate. Proponents of the Westphalian concept of sovereignty do not debate the existence of a “right to intervene” because the traditional understanding of sovereignty relies on the right of the state to be *free* from outside intervention. It is this interpretation that would require change if sovereignty were to be redefined.

Sovereignty is traditionally understood as a concept of the rights of a state that are respected in international relations, not a right *granted by* the international community. The report completes a sort of theoretical dodge, claiming to have created an alternative to traditional understanding of sovereignty while merely working the word sovereignty into a debate where all the participants have already abandoned any assumption that state sovereignty implies a states’ autonomy expressed in the norm of non-intervention. The real disagreement exists between this modern notion of conditional sovereignty and the traditional norm of non-intervention, not between a “right to intervene” and a “responsibility to intervene.” R2P does not confront the real conflict but assumes that by changing language, the foundational disagreements can be avoided. Whether or not such a restructuring of justification is plausible or misguided will be revealed further by an examination of this idea through the lens of each of our four theorists.

A. Seyla Benhabib and Cosmopolitanism

Cosmopolitan theorists often discuss state sovereignty, if they address it at all, as an antiquated concept of international law, one that is being replaced by cosmopolitan norms and

international law based on universal human rights.¹⁰³ Jean Cohen writes in an article entitled “Whose Sovereignty? Empire Versus International Law” that “the emergence of human rights law based on consensus apparently implies that global cosmopolitan law triumphs the will of states and their international treaties (consent).”¹⁰⁴ Thus, Sovereignty, according to the cosmopolitan, is a concept that may eventually be abandoned altogether. Cohen goes on to argue that this rejection of the concept of sovereignty is based on a misunderstanding of the concept itself. Many cosmopolitans take sovereignty to mean the unrestrained power of the state and argue that such power could act as a bulwark against the action necessary to enforce human rights.¹⁰⁵ This cosmopolitan argument may contribute to the fear that the language of human rights will be used as a tool of empire and imperialism and it is not difficult to imagine how the complete disposal of any recourse to sovereignty available to a state could lead to the abuse of intervention at the hands of the most powerful. Cohen aptly describes this situation when she writes that: “without legality complementing alleged moral legitimacy, interventions justified by the discourse of human rights will threaten the autonomy not only of failed or rogue states but of every political community.”¹⁰⁶

It is important to mention the existence of cosmopolitan theories that wholeheartedly and explicitly reject sovereignty as a concept important to contemporary international law; however, Seyla Benhabib deviates from this strain of cosmopolitanism in a few important ways. As I discussed earlier, it is this deviation that makes her theory more attractive in a deep discussion of cosmopolitan theory. It is clear from Benhabib’s writing that although she considers sovereignty a value secondary to human rights, she does not appear at first to reject the concept’s importance

¹⁰³ Cohen, J. (2004). "Whose Sovereignty? Empire Versus International Law." Ethics and International Affairs **18**(3): 1-24. pp 7-8

¹⁰⁴ Ibid. pp.1

¹⁰⁵ Ibid. pp. 14

¹⁰⁶ Ibid. pp.24

out-right. Benhabib recognizes the importance of the state in the protection of universal human rights, and in this way she argues that cosmopolitan conceptions of justice and human rights are emerging as norms that govern the sovereign state and thus are higher than sovereignty in the hierarchy of values in international relations.¹⁰⁷ It is not difficult to imagine which norm, human rights or sovereignty, would yield if they were to come into conflict. It is of course this view which leads to Benhabib's assertion that cosmopolitan law "binds and bends the will of sovereign nations."

Benhabib does not treat sovereignty as a concept that is necessarily antithetical to human rights, although it very may well be; instead she assumes that cosmopolitan norms will necessarily trump any claims based on sovereignty and in this sense, her rejection of state sovereignty is subtler than that of other cosmopolitan theorists. According to Benhabib, sovereignty has become dependent on a state's adherence to common values and principles, namely human rights. If one follows this reasoning to its logical end, she is left to conclude that a state is granted this authority over its own territory only if it adheres to certain universal values like human rights. Like R2P's redefinition of sovereignty as responsibility it is unclear what of its original value, if any, this interpretation of sovereignty retains. It is a conditional sovereignty and one wonders if this sovereignty can only be granted by an outside source, presumably the international community, if it should be called sovereignty at all. The concept of an authority that is granted only when you have met some outside standards and that can be taken away if you fail to meet these standards, seems nothing more than a ceremonial concept far from any conception of authority that was originally embedded in the concept of state sovereignty. Benhabib thus, like R2P, does not confront the conflict between the cosmopolitan norms she

¹⁰⁷ Benhabib, S., J. Waldron, et al. (2006). Another cosmopolitanism. Oxford ; New York, Oxford University Press. pp.27

espouses and the traditional understanding of state sovereignty but seems to brush it aside by making sovereignty something that can be overruled and revoked.

Most of Benhabib's cosmopolitan focus is on what Hannah Arendt would call the "Perplexities of the Rights of Man." That is, that those rights positioned as universal human rights are dependent upon membership in a particular political community. The state, in Benhabib's view, is practically necessary for enforcing these rights and ensuring that humans are not left in some political hinterland outside of a political community and thus deprived of any protection for these rights that their humanity alone supposedly grants to them. In sum, it is easy to see Benhabib's theory shining through the words of R2P and the report is in line with Benhabib's claim that cosmopolitan norms are emerging in the international community that subordinate traditional understandings of state sovereignty to the contemporary understanding of human rights. However, both Benhabib and R2P do not confront the sort of arguments for state sovereignty supported by Walzer and Burke but rather seem to absorb the word "sovereignty" into the cosmopolitan vocabulary. It is also not difficult to see the roots of Kantian universality supporting Benhabib's arguments. That politics bends its knee to morality is not so far off from the idea that sovereignty bends to cosmopolitan norms. However, there is an important distinction to be made between Kant and Benhabib that one discovers when an issue like the redefinition of state sovereignty is considered.

B. Immanuel Kant

Kant clearly argues that politics, and indeed individual conduct, ought to be in accordance with universal principles. However, R2P was written to deal with the instances when this tie is broken, when states fail to protect universal human rights. When confronted with this situation, it is through an exploration of Kantian philosophy that one finds Kant and Benhabib

standing on different sides of the cosmopolitan debate. I have already discussed the fact that Kantian philosophy is more reserved than some contemporary cosmopolitan theories because of the importance he places on the state and his reluctance to articulate more than a right to hospitality in his treatment of cosmopolitan norms. It seems that this distinction would make Kantian theory more reluctant to redefine sovereignty as R2P suggests because he values the state to a greater degree than Benhabib. However, when Kantian universality and the state conflict, which is often, Kantian philosophy deviates even further from the Benhabib's submission to the unhindered emergence of cosmopolitan norms.

When one presses Kantian theory further into the debate over intervention she discovers arguments for a universal right to self-determination similar to the arguments of Michael Walzer.

Kant writes of intervention into a sovereign state's affairs:

“So long, however, as this internal conflict remains undecided, a foreign power's interference would violate the rights of an independent people struggling with its internal ills. Doing this would be an obvious offense and would render the autonomy of every nation insecure.”¹⁰⁸

Kant goes on to argue, as Walzer does, that there are certain exceptions to this rule in cases of what we would today refer to as genocide or other gross violations of universal human rights. Redefining sovereignty as a responsibility to protect puts this right to self-determination in a vulnerable place on the list of universal human rights, meaning that in most cases it will be violated in order to protect against violations that “shock the moral conscience of mankind.” If a people's right to self-determination is violated by an intervention to end a violent conflict which is the very expression of that self-determination it would arguably not shock the conscience of many. Thus, prioritizing a right to self-determination above other rights may, at times, require the international community to tolerate the violations of rights such as the right to life, liberty, or the security of person, but to theorists like Kant the protection of the right to self-determination

¹⁰⁸ Kant, I. (1932). Perpetual Peace. Los Angeles, CA, U.S. Library Association. pp. 109

is critical to the preservation of the state. For Walzer, it is upon this individual right that the very concept of sovereignty is built.

C. Michael Walzer

The relationship between state sovereignty as a right of the political community and universal human rights is raised to a new level of complexity by Michael Walzer. Walzer also argues that state sovereignty will often necessarily be violated to protect certain universal human rights. However, Walzer's emphasis on the right to self-determination makes his theory even less inclined than that of Kant, to redefine sovereignty as R2P does. Despite similarities between the norms of the just war tradition included in R2P and Walzer's own arguments for a constrained approach to intervention in Just and Unjust Wars, Walzer's theory of self-determination would require the international community to prioritize certain rights as secondary to a right of self-determination when considering possible intervention. Walzer writes of a state's freedom from outside intervention in domestic politics: "it is thought that the citizens of a sovereign state have a right, insofar as they are to be coerced and ravaged at all, to suffer only at one another's hands."¹⁰⁹ The adherence to this argument in international relations may very well result in some "conscience shocking" situations of its own, but this is a necessary evil if we are to respect, as Walzer urges us to do, the right to self-determination as a universal human right.

According to Walzer's theory, state sovereignty and universal human rights are not necessarily antithetical. Instead, state sovereignty, according to Walzer's view, is an *expression* of universal rights. The difference lies in what rights we are referring to. To use Walzer's own words when he describes interventions which violate rules of state sovereignty as it is traditionally understood:

¹⁰⁹ Walzer, M. (1977). Just and unjust wars : a moral argument with historical illustrations. New York, Basic Books. pp. 86

“In each of these cases we permit or, after the fact, we praise or don’t condemn these violations of the formal rules of sovereignty, because they uphold the values of individual life and communal liberty of which sovereignty itself is merely an expression.”¹¹⁰

Thus, human rights are the foundation of state sovereignty. This relationship, which may seem impossible to those who argue that claims of sovereignty have constantly masked violations of human rights, is made possible by Walzer’s emphasis on self-determination as a basic human right granted to members within a political community regardless of the status of that community, failed or flourishing. Comparing Walzer to Benhabib is thus, complicated by the fact that it is, in many ways, like comparing apples to pears. Benhabib is primarily concerned with the universal rights of individuals who find themselves outside of a particular political community while Walzer focuses on the universal rights of these individuals within a community. However, their different focuses originate in a disagreement over the importance of a right to self-determination. Again the strands between universal human rights, political community, and the uncertain place of state sovereignty as an expression of one or the other are revealed in the shadows of the theoretical debate over cosmopolitanism.

Walzer is arguably, of the four theorists, the one that would think the redefinition of sovereignty by R2P most absurd. That sovereignty should be defined in a way that would lend itself to the violation of the right of self-determination would sacrifice a central tenet of Walzer’s theory. In Walzer’s view, sovereignty *is*, in a way, a concept that protects universal human rights. For Walzer, unless a right to self-determination is explicitly included by documents such as R2P, the subordination of state sovereignty to human rights would be nonsensical. He is careful to include exceptions to this respect for state sovereignty and thus, presents a complex theory for the navigation of state sovereignty and universal human rights. Walzer’s exceptions to absolute respect for state sovereignty are not necessarily based on abstract universals but instead on the

¹¹⁰ Ibid. pp. 108

“moral convictions of ordinary men and women, acquired in the course of their everyday activities.”¹¹¹ The distinction is important and reinforces the value of maximal morality, the morality of “everyday activities” to decision-making in the international realm. This leads Walzer to support John Stuart Mill’s argument that “we need to establish a kind of *a priori* respect for state boundaries; they are, as I have argued before, the only boundaries communities ever have.”¹¹²

D. Edmund Burke

Edmund Burke approaches a defense of state sovereignty against interventions from different, though not wholly unrelated, grounds than does Michael Walzer. In Burke’s theory the traditional understanding of state sovereignty as equal respect for political autonomy and territorial integrity for all states is not based on the rights of those individuals within the community but on the traditions and conventions of that community. In his “Letter on Regicide Peace,” Burke discusses the bond forged by traditions that are shared between nations:

“Nothing is so strong a tie of amity between nation and nation as correspondence in laws, customs, manners, and habits of life. They have more than the force of treaties in themselves. They are obligations written in the heart...The secret, unseen, but irrefragable bond of habitual intercourse holds them together, even when their perverse and litigious nature sets them to equivocate, scuffle, and fight about the terms of their written obligations.”¹¹³

To intervene and violate a state’s sovereignty would be to assume that you know the history and customs that brought a certain polity to its present state better than those that reside within that polity. When one considers Burke’s outrage at the French Revolutionaries who attempted to challenge and change their society by appealing to natural rights that existed independent of the French traditions, it is not difficult to imagine Burke’s contempt for the idea that an outside power who is completely detached from this tradition would attempt to do the same.

¹¹¹ Ibid. pp. 107

¹¹² Ibid. pp. 90

¹¹³ Burke, E. (1796). "Letters on a Regicide Peace " Retrieved November 1, 2007, 2007, from <http://www.econlib.org/Library/LFBooks/Burke/brkSWv3c1.html> (3.1.112)

Burke's theory supports the traditional understanding of state sovereignty as I, and R2P, have defined it here. A norm of non-intervention into a political community is a product of the historical process that shaped it and the rules of sovereignty are the protection of this process from outside intervention. In this sense, the political community exists as an entity that ought to be respected apart from any respect that ought to be afforded to its members. If tradition is challenged, the very source of morality and hence the very source of rights, as Burke defines them, is also challenged. Burke understands the political community to be a product of a long history of the trial-and-error of generations, thus, a product of their self-determination. Walzer argues that self-determination has practical value because those who shape their political community will, in a sense, own it for themselves and will know better how to navigate it. It is by considering Burke that one can access the rich theoretical foundation of this idea. Self-determination not only has practical value but also an inherent value based in the preservation of the history and traditions of a political community.

Thus, the opposition of Burke's theory to a doctrine like R2P is rooted in a respect for tradition and history. However, it is not clear how this narrow treatment of Burke's theory would apply to failed states or to situations where state boundaries enclose a number of groups with distinct traditions and history. Some scholars of Burke may point to his respect for Divine Natural Law to fill in the holes where the light of his devotion to the politically practical and historically respectful does not reach.¹¹⁴ However, for the purposes of this discussion, Burke's defense of tradition represents a strong opposition within the cosmopolitan debate, that is, that doctrines like R2P could lead outside powers to intervene without respect for or knowledge of the rich traditions and history that only those within a political community can fully understand.

¹¹⁴ Stanlis, P. J. (1958). Edmund Burke and the Natural Law. Ann Arbor, Michigan, University of Michigan Press. pp.26-27

Thus, it is within these traditions that political change must evolve according to Burke though this will, at many times, lead to the messy and violent process acknowledged as a sometimes necessary evil by Walzer.

In sum, the redefinition of state sovereignty attempted by the Commission on Intervention and State Sovereignty in R2P would be welcomed by Seyla Benhabib as further evidence for the evolution of cosmopolitan norms. Although her rejection of the traditional concept of state sovereignty is perhaps more subtle than others, sovereignty, however it is understood, is subordinate to human rights. The theory of Kant, a supposed father of cosmopolitanism, is not as hospitable to the redefinition of sovereignty as a concept that protects a state's right to manage its own internal affairs. The state must still act in accordance with the universal but Kant does not make it explicitly clear beyond a right to hospitality, what exactly these universals would be in international relations. Kant, like Walzer, values the right to self-determination. It is this self-determination, according to Walzer, that sovereignty protects. The results of self-determination, the traditions and history of a political community, are what cause Burke's theory to resist abandoning the traditional concept of state sovereignty. According to Walzer, Burke, and Kant, Westphalian sovereignty is not Benhabib's antiquated norm in need of revision or resituation but rather an important protection and expression of historical traditions and the collective right of individuals within the state to self-determination.

IX. Conclusions

This exploration of cosmopolitan norms has perhaps not revealed a clear path to the resolution of the theoretical conflicts of the cosmopolitan debate in international relations. It has, however, uncovered the complexity of the issues involved and until these complexities can be confronted and understood, the discussion will be broken and stagnant. Cosmopolitanism can be examined from many angles. I argue here that the discussion begins with a definition of political community because membership in the community determines the rights of the individuals considered as members. This is true whether we consider a community that extends only to its physical borders or one that includes all of humanity.

Whether one defines a political community by tradition or universal values determines how this community is treated and how it interacts with other communities internationally. Whether one interprets sovereignty as a right or responsibility of the political community or as an expression of collective individual rights within that community is also influenced by how we define this community. These differences guide how we react to the needs of those outside of the political community. The very idea that there are individuals that may find themselves without rights as an outsider makes a community based on humanity attractive. No one can revoke your universal rights by revoking your citizenship to a particular society. However, there are significant practical and theoretical obstacles to the complete realization of this community of humanity insofar as it must protect and enforce the universal human rights of its members. The arguments of R2P are based on the idea of the basic and equal human dignity of all individuals that is inherent to cosmopolitanism. Although it is not explicitly articulated, a responsibility to protect would seem to originate from the assumption that we all share a human community that entails certain rights and that these rights somehow entail a duty, or a responsibility, for their

protection. I'm not convinced that the discussion has yet reached the point where this theoretical jump to sovereignty as responsibility can be made and seriously accepted, if it is possible at all. Assuming that all of humanity agrees with the premise that there is a rights-granting community based on humanity will load the dice in favor of documents like R2P. However, these assumptions can also create potential obstacles to agreement on international norms.

Norms and trends in international law, like those that produced the U.N. Declaration of Human Rights, may not be evidence that a universal community of humanity exists at this time; however, it suggests that individuals are increasingly being considered moral and legal citizens in an order that goes beyond their membership in particular political communities. A cosmopolitan global community does not yet exist as a developed rights-granting community. Walzer is right to point out that there are no institutions granting me citizenship in this world order, and the history and traditions that bind me with humans across the world I have never known are scattered and few. Thus, states are still the most important political units for the enforcement of rights. However, the critical change is that the rights discussion is beginning to include both the rights agreed upon within that state *and* the rights that are considered universal. The role of states in the international order is being reassessed alongside concepts like sovereignty and political community. The implications of these developments are pervasive; they affect the traditional understandings of the political autonomy of states as well as their political integrity but this does not mean that the state as a political community is becoming outdated or unnecessary. Instead, a balance has become necessary between the universal rights of individuals and the sovereignty of states as it protects tradition or the individual rights to self-determination.

Walzer and Burke both argue, at times, as if the political contract is somehow more real

and more tangible than a sense that all humans, regardless of membership within one or various different communities, all share in some form of global community of humanity. I would respond to this “global community of the imagination” argument, as Benhabib does, with a reference to the emerging legalization of norms in international law for this political community. A community that is increasingly becoming a structure of legal norms is moving in the direction of a tangible political unit just like the state. It is difficult to say that such a community would be any less serious or important than a community into which I was born but where my great-great-grandfather and my unborn child have both signed a metaphorical contract. Again this difference depends, in part, on the different definitions of community. Such a definition is undoubtedly complex and would arguably include both elements of legality and social conventions as well as the presence of this community in the imaginations of its members. That this community of humanity does not yet exist, or may not ever exist in the strict sense that Walzer and Burke define the political community, does not mean that all of cosmopolitanism theory is falsified and ought not to be included in the norms of international relations.

The global cosmopolitan community may never progress to the level of shared tradition and custom of Walzer and Burke. If it continues to evolve into a system of legal norms and institutions that protect universal rights based on “thin” universal principles while allowing and encouraging the diversity of the world’s particular cultures this could be considered a cosmopolitan victory. The realization of cosmopolitan values does not require a world state that creates a homogeneous global community. Instead, it will require the navigation of the delicate balance between universal human rights and particular traditional values. Benhabib’s moral discourse will be absolutely necessary for the evolution of norms that do not destroy this balance. However, the cosmopolitan theory that requires moral justification for everything that affects the

moral members of the global community is also forcing traditions and customs into a discourse to which they are foreign. Lest cosmopolitanism encourage the eradication of a deep traditional bank of history, arguments that a certain practice is traditional or a cultural custom need to be given weight in the moral discourse. There will, of course, be a point where such arguments must be abandoned for the protection of universal human rights and it is the location of these breaking points that should concern the discussion of cosmopolitan norms in international relations.

The acceptance of cosmopolitan theory does not necessarily require the rejection of all the familiar traditions and loyalties that enrich communities and reflect a long historical process. This heterogeneity has important value as well. Martha Nussbaum observed that “cosmopolitanism offers no such refuge (such as the surrogate parent that the nation provides); it offers only reason and the love of humanity, which may seem at times less colorful than other sources of belonging.”¹¹⁵ However, Nussbaum argues that none of the major theorists of cosmopolitanism “denied that we can and should give special attention to our own families and to our own ties of religious and national belonging.”¹¹⁶ This special attention is the most sensible way to do good. The problem is that in many cases, being born within particular national borders, while it implies a commonality of tradition and history, also affects the rights and opportunities an individual enjoys throughout her life. It is when these standards do not match the inherent human dignity and worth that cosmopolitans revere that the cosmopolitan argument runs into concepts like state sovereignty.

The argument that there is a tension between the type of political community that Burke and Walzer exemplify in their theories and the type of community proposed by cosmopolitans is

¹¹⁵ Nussbaum, M. C. and J. Cohen (1996). For love of country : debating the limits of patriotism. Boston, Beacon Press. pp. 15

¹¹⁶ Ibid. pp. 135-136

often called the “belonging problem.” This argument against cosmopolitanism suggests that cosmopolitanism is:

“cut adrift from the knotted and tangled human relationships of authentic social experience- has neglected something fundamental about the nature or character of human existence, about our need for roots, or for loyalty, or for recognition by recognized others, or about the social significance of our attachments to families, communities, and national.”¹¹⁷

Accepting that this kind of community based on rooted familiar attachments does not exist between all of humanity does not discount cosmopolitanism as a whole. Instead, we can use Walzer's tactic for acting as if a state is internationally legitimate even when we suspect that it is not in order to respect the individual rights to self-determination. Even though a global community of humanity has not been fully realized, it may be true that we ought to act as if there is such a community in order to respect universal human rights.

Cosmopolitanism has made it in the door of international relations through the vehicle of universal human rights language and it is fitting that many of the current disagreements surround this language's semantics. Abuse of the word “universal” by cosmopolitans in the human rights discussion has often resulted in a practical quagmire. There is a list, albeit a rather short one, of universal human rights that emerged after World War II that are both universal in the sense that they apply to all humans and universal in the sense that very few individuals do not agree that they are universal rights. These rights include the right to be free from genocide, ethnic cleansing, enslavement, torture, and rape. They are negative liberties for which the international community has not yet devised a refined structure for their protection and enforcement. They are included in the U.N. Universal Declaration of Human Rights and theorists do not deny their existence. These are the universal rights that we have, without a doubt, discovered. However, listed among these rights on the Universal Declaration of Human Rights are the right to marry as

¹¹⁷ Shorten, A. (2007). "Borders and Belonging: Recent Work in Cosmopolitan Philosophy." European Journal of Political Theory 6(2): 227-238. pp. 227

you choose, the right to have a proper amount of vacation time, and the right to a representative government. It is when we use the word “universal” to refer to genocide and also to vacation time that we are unable to protect either. Genocide is not a strictly Western or liberal concept, it is an atrocity without nationality. Issues like marriage, vacation time, and form of government are not what I would call Universals, like genocide, and it is in these issues that communities must be allowed to steer themselves according to their traditions and culture. The results will often be, as Walzer argued, very far from our own but as long as a community is not committing genocide or enslaving its population, those Universals which our collective reason has agreed upon, they must be left to determine their own path.

An attempt to shape a political community past a certain point may weaken the progress we have already made. Our energy should be directed towards refining a system to enforce and protect against Universals instead of those rights which a particular community may advocate as the best based on their maximal morality. There should be an attempt to differentiate between the human rights that are uncontested Universals and those whose universality would be rejected by many of the world’s societies. The Universal Declaration of Human Rights was, in this light, too ambitious for its own good. It positioned an ample list of human rights as universal and in assuming their universality, made any opposition seem anti-human. The inclusion of Universal human rights and what are arguably human rights particular to Western liberal communities has, to a degree, paralyzed the international community to act in cases of genocide or ethnic cleansing because of a widespread fear that this will be an excuse for liberal nation building in a project of empire expansion.

Walzer’s concept of a “fit” between government and governed also poses a challenge in the semantics of the cosmopolitan discussion. Walzer argues that “fit” does not necessarily mean

a representative government but this tolerance of different legitimate paths is not embedded in the word itself. What exactly does “fit” look like and will the international community *know* when a lack of “fit” is apparent? The answers to these questions need to be clarified. If some interpret the concept of “fit” as meaning democratic government and others as a government rooted in communal traditions and history, they will come to the table with different opinions on how active the international community should be in the affairs of states. Walzer is necessarily vague because “fit” will look very different for most political communities but such ambiguity does not fare well in the rigorous discussion of cosmopolitan norms. Self-determination is an important exercise in finding the proper “fit” but we must be vigilant that it does not become a mask for the violation of Universals and also that it does not block discussion of human rights in the moral discourse of cosmopolitanism.

This moral discourse is necessary but it should not be a complete replacement for diverse traditions and customs. The traditional understanding of state sovereignty is, thus, an important protector of the process of self-determination and its products in traditions and history. The moral discourse will allow the examination of these processes and the mediation between sovereignty and cosmopolitan values will encourage discussion of the possibility that our traditions are violating basic human worth and dignity. It will allow us to check the process of self-determination against Kant’s categorical imperative, recognizing that the goal is not a world universal in its customs, flavors, and experience but a world where we continue to work towards the balance between of the imperfect process of self-determination and the respect for the Universal moral worth of individual human beings.

Traditional understandings of sovereignty cannot be abandoned in this discussion though it should be understood, as Walzer argued, that sovereignty will sometimes necessarily be

overridden by a need to intervene. However, these violations are exceptions and not the rule. This will arguably not be enough for those who fear that sovereignty will continue to be a shield for the violation of human rights and who argue that these exceptions need to be translated into norms and laws. This would, however, also run the risk of sacrificing the value of sovereignty to many different perspectives of human rights. To say that sovereignty is completely conditional to all human rights without any differentiation between these rights robs the political community of an important safeguard. It is true that the state has the ability to turn savagely on its own people but it is also true that the state is the place for its members to try and err in the process of shaping and owning their own political community. Neither “sovereignty” nor “human rights” are words that carry *absolute* authority. Neither should be treated, as Michael Ignatieff would say, as a trump card in this complex and difficult discussion of the norms of international relations. The present reality of international relations resides somewhere between the relativist’s world governed only by particular traditions and the cosmopolitan world of universal values. The practical synthesis of these two forces in international relations is the challenge facing my generation and the generations to come.

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