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National Sovereignism and Global Constitutionalism: An Adornian Cosmopolitan Critique

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There are two dominant schools of thought addressing problems of cosmopolitanism and (international) conflict: democratic national sovereignism, inspired by Hegel, and global constitutionalism, inspired by Kant and reformulated by Habermas. This paper develops a third position by reading Adorno's critique of both theoretical traditions. Rather than compromising between these camps, Adorno triangulates between them. Critically illuminating their respective deficiencies in view of the changing conditions of a globalized modern world has critical implications for cosmopolitics. Although largely negative, Adorno's critique provides an important framework for a contestatory reformulation of cosmopolitanism, one that is better equipped to confront societal and political global conflicts insufficiently reflected in sovereignist and global constitutionalist models.

KEYWORDS Adorno, conflict, cosmopolitanism, global constitutionalism, Habermas, Hegel, Kant, sovereignty

Despite the growing body of literature on cosmopolitan theory, much of contemporary normative political theorizing on global politics remains caught in the traditional dichotomy between national democratic sovereignism and liberal cosmopolitan constitutionalism.¹ The former assumes that the realization of democratic self-determination requires “thick” ties to particular circumscribed collectives and their norms. Such a politics of limits anchored in collective mores and protected publics is linked to rigorous, “Westphalian” or “realist” defences of states' claims to sovereign autonomy against both foreign interference and depoliticized

¹ S. Benhabib, “Claiming Rights Across Borders: International Human Rights and Democratic Sovereignty,” *American Political Science Review* 103.4 (2009): 691–704.

technocratic transnational governance. This camp embraces defenders of liberal nationalism, agonistic democratic theorists and some deliberative democrats.² Liberal global constitutionalism, on the other hand, offers an all-encompassing view of global order shaped by formalized universal ethical, political and legal principles and forms of global citizenship. It suggests that robust, binding forms of global authority, global public law and international institutional integration are required, at least in key areas of global public policy affecting humankind as a whole, such as human rights and the environment.³ Arguably, however, both camps have failed to adequately respond to the constitutive conflicts of world society by reflecting on the shortcomings and limits of the principles they seek to defend or establish. These range from issues of systemic global socioeconomic antagonisms and institutionalized democratic exclusion to violent inter- and intra-state conflicts and crimes against humanity.

This paper engages with and problematizes both traditions, and particularly their capacity to address (international) conflict, by critically reading G. W. F. Hegel and Immanuel Kant through the lens of Theodor Adorno. National sovereignty is epitomized by Hegel and his followers, while liberal legal cosmopolitanism is inspired by Kant and reformulated in Jürgen Habermas's global constitutionalism. Adorno, a largely overlooked theoretical resource for cosmopolitan theorizing, triangulates, rather than compromises, between Hegel and Kant (and both camps respectively) by illuminating the most serious deficiencies of each. Instead of striking a compromise between the two camps, the paper argues that he thus engenders an alternative cosmopolitan view which seeks to address conflicts of structural domination, political exclusion and collective persecution constitutive of modern world society.

The paper proceeds in three steps. First, Hegelian notions grounding national sovereignty and collective particularism are subjected to Adorno's critique in order to expose their normative and empirical contradictions. Second, in light of this, Adorno's treatment of the virtues and problems of Kant's cosmopolitanism and, by extrapolation, Habermas's (post-)Kantian global legal constitutionalism is

² See D. Miller, *On Nationality* (Oxford: Oxford University Press, 1997); C. Offe, "Governance: An 'Empty Signifier'?", *Constellations* 16.4 (2009): 500–62; Y. Tamir, *Liberal Nationalism* (Princeton, NJ: Princeton University Press, 1993); C. Mouffe, *On the Political: Thinking in Action* (New York: Routledge, 2005); and C. Mouffe, "Which World Order: Cosmopolitan or Multipolar?," *Ethical Perspectives* 15.4 (2008): 453–67. For a critique, see M. Thaler, "The Illusion of Purity: Chantal Mouffe's Realist Critique of Cosmopolitanism," *Philosophy and Social Criticism* 36.7 (2010): 785–800.

³ D. Archibugi, *A Global Commonwealth of Citizens: Towards Cosmopolitan Democracy* (Princeton, NJ: Princeton University Press, 2008); J. Habermas, *The Inclusion of the Other* (Cambridge, MA: MIT Press, 1998); J. Habermas, *The Divided West* (Cambridge, MA: Polity Press, 2006); D. Held, *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Stanford, CA: Stanford University Press, 1995); and R. Marchetti, "Models of Global Democracy: In Defense of Cosmo-Federalism," in *Global Democracy: Normative and Empirical Perspectives*, ed. D. Archibugi et al. (Cambridge: Cambridge University Press, 2012), 22–46. Some recent variations of "moderate," "rooted" or "statist" cosmopolitanism attempt to strike a balance between the two traditions. See P. Lenard and M. Moore, "A Defense of Moderate Cosmopolitanism and/or Moderate Liberal Nationalism," in *Rooted Cosmopolitanism: Canada and the World*, ed. W. Kymlicka and K. Walker (Vancouver: University of British Columbia Press, 2012), 47–68; G. Hirshberg, "A Defense of Moderate Cosmopolitanism" (Dissertation, Faculty of the Graduate School of Arts and Sciences, Georgetown University, 2009); S. Scheffler, *Boundaries and Allegiances* (New York: Oxford University Press, 2001); K.-C. Tan, "Cosmopolitanism and Patriotism," in *Rooted Cosmopolitanism*, ed. Kymlicka and Walker, 31–46; L. Ypi, "Statist Cosmopolitanism," *Journal of Political Philosophy* 16.1 (2008): 48–71; D. Weinstock, "Rooted Cosmopolitanism: Unpacking the Arguments," in *Rooted Cosmopolitanism*, ed. Kymlicka and Walker, 87–104.

reconstructed. Absorbing both the insights and the limitations of each school of thought, these moves enable a change in perspective that takes cosmopolitan thinking further: beyond particularistic rejections, but also beyond formalistic global public law that is decoupled from substantive social justice, democratic politics, and particulars. Finally, the paper considers Adorno's own non-formalistic cosmopolitan responses to key domains of conflict in contemporary world society, which are structural, institutional, and openly violent. Notwithstanding the under-theorized nature of his claims and the lack of a comprehensive "positive" model, it is argued that Adorno's contributions help to engender a self-reflexive reformulation of cosmopolitan constitutionalism from below in an increasingly interdependent, "partially globalized world."⁴

Hegel and the fetishization of national sovereigntism

In more ways than one the antinomy between liberal cosmopolitanism and democratic sovereigntism continues to mirror the conflict between Hegel's and Kant's respective thinking on the cosmopolitan question, their respective problematic presuppositions on legal and political authority, and their other shortcomings when it comes to dealing with conflict – the manifold theoretical revisions in both camps notwithstanding. No one has elaborated their mutual critique and the implications of such a critique for a cosmopolitan project more pointedly than Adorno. The starting point for the development of a critical Adornian cosmopolitanism is his critique of Hegel, and thus of the problematic presuppositions of democratic sovereigntism in modern world society. Despite Adorno's methodological indebtedness to Hegelian thinking and, above all, his admiration for Hegel's political realism,⁵ Adorno offers a profound cosmopolitan critique of the particularism underlying Hegel's presumed universalism – an abstract collective particularism which fosters the reified illusion that human societies are independent from one another.

Two themes are particularly important. First, Adorno points out that the idea of spirits individualizing themselves in a series of "national spirits" leads Hegel to conceive of collective customs and traditions as "endowed with an absolute right vis-à-vis actual individuals."⁶ They repress and subsume what is actually concrete, that is, the plurality of living creatures. Consequently, Hegel's concept of national spirits does not do what it pretends to do, namely, engage with particulars. In fact, the claim that there are "independent" national spirits or cultural identities – independent not only from each other, but also from individual citizens – is often used, as Adorno argues in *Negative Dialectics*, to "confer legality upon the rule of force over individuals, in a way similar to Durkheim's later use of collective norms, and to Spengler's use of the soul of each culture."⁷ National particularism

⁴ R. Keohane, "Governance in a Partially Globalized World," *American Political Science Review* 95.1 (2001): 1–13.

⁵ R. Fine, "Debating Human Rights, Law, and Subjectivity: Arendt, Adorno, and Critical Theory," in *Arendt and Adorno: Political and Philosophical Investigations*, ed. L. Rensmann and S. Ganesha (Stanford, CA: Stanford University Press, 2012), 154–72.

⁶ G. W. F. Hegel, *The Phenomenology of Spirit*, trans. A. V. Miller (Oxford: Oxford University Press, [1807] 1976); T. W. Adorno, *History and Freedom* (Cambridge: Polity Press, [1964–65] 2006), 102. These repressive customs are by no means as individuated or distinct as Hegel – along with contemporary sovereigntists – suggests.

⁷ T. W. Adorno, *Negative Dialectics* (New York: Continuum, [1966] 1973), 338.

or sovereignty thus often ends up being just another, thinly veiled, general principle that superimposes itself on actual empirical human beings by turning particular national identities into instances of an all-encompassing “false” universal – an ahistorical, abstract and apolitical substrate – that objectifies the subjugation of particulars. The “transposition of the particular into particularity,” Adorno says, “follows the practice of a society that tolerates the particular only as a category, a form of the supremacy of the universal.”⁸ For Adorno, Hegel thus mystifies the political primacy of the state over the individual, and the consequences of the structural conflict between the two. Seen through this lens, the glorification of the nation-state’s collective particularism, construed as sovereign right, fosters another repressive extrapolation of differences and conflicts: it obstructs universal freedom and replicates the subjugation of individuals who resist the pressures of collective assimilation to the general collective norm. Against this, Adorno points out that the predicates of the extant world, from religion to cultural customs and even political laws, are thoroughly historical. Today, he argues, they “have not only lost their self-evident character but that which Hegel took for their substantiality,” which “hopelessly decayed into that body of customs which was then dug up in the age of dictatorships.”⁹ This necessitates a “vigorous critique of a politics fetishized into being-in-itself, or of a spirit bloated in its particularity.”¹⁰ According to Adorno, Hegel’s claim that no man can “vault the spirit of his people, no more than he can vault the globe,” reifies the concept of the nation by the illusion of its spirit’s and its *mores*’ substantiality, and thus the illusion of its authenticity. Reflected in contemporary sovereigntist presuppositions, this is “a provincialism in the age of global conflicts and of a potential global constitution of the world.”¹¹

Second, while Hegel’s sovereigntism denies the internal conflicts between individuals and the state or the collective, it problematically reifies other conflicts that engender domination: the conflict and separation between sovereign states under the principles of conventional international law. In Adorno’s view, the nation-state’s failure to protect those who have been declared a nation’s “existential others” and “enemies” points to problems intrinsic to the very principle of national sovereignty. Its fetishization in classical international law shields and thus enables sovereign nation-states to exercise unlimited “sovereign violence” against “their” own citizens and denizens. In Adorno’s view such political violence, accompanied with imperialistic injections, reflects the remnants of sovereign national power in a world in which boundaries between “domestic” and “foreign” have largely become obsolete.¹² To be sure, under specific circumstances, Adorno suggests, sovereign borders may still serve as vehicles for public autonomy, as plural spaces of cultural

⁸ Adorno, *Negative Dialectics*, 334.

⁹ Adorno, *Negative Dialectics*, 340.

¹⁰ Adorno, *Negative Dialectics*, 323.

¹¹ Adorno, *Negative Dialectics*, 341.

¹² Adorno’s critique is shared by Hannah Arendt, who adds that behind all “nationalistic phraseology,” “national sovereignty is no longer a working concept of politics, for there is no longer a political organization which can represent a sovereign people within national boundaries.” Thus the nation-state, “having lost its very foundations, leads the life of a walking corpse,” in spite of “repeated injections of imperialistic expansion” (H. Arendt, “The Seeds of a Fascist International,” in *Essays in Understanding, 1930–1954: Formation, Exile, and Totalitarianism* (New York: Schocken Books, [1945] 1994), 143).

non-identity against global patterns of social domination. However, he insists that “cultures,” “identities,” “national communities” and their presumed underlying collective customs and norms are in historical flux. Fetishizing them as substantial expressions of a sovereign collective will presupposes a cultural closure that reifies certain local customs and *a priori* favours parochial identity constructs over the non-identical, and over individual experience and suffering. At best, hegemonic cultural norms indicate a temporary majority opinion or hegemonic legal norm. But this says little about dissenting voices, democratic autonomy or the recognition of genuine cultural diversity and hybridity. Instead of objectifying national or cultural customs, their particularistic contents and contingent boundaries are and must be exposed to public critique and contestation from within and without. Such particular contents and confines, including the very concept of the nation itself, do not simply exist but are the product of multiple struggles that “emerged historically.”¹³ From this perspective, much of the talk about radically different cultural standards, and about national sovereignty as a principle that is to be rigorously upheld in order to guard cultural and democratic autonomy, becomes shallow, and even invalid, as for Adorno the nation has lost its rational justification in a globalized world. Rather than promoting cultural sensitivity or protecting national “independence” against outside “interference,” these claims often tend to affirm and shelter blind particularism and violent conflicts while serving the powers that be; indeed, they are regularly mobilized by dictators who seek to shield their “sovereign” violence and unchecked rule, as they persecute minorities or crack down on political dissent.

While Adorno defends Hegel’s political realism, he thus rigorously rejects Hegel’s “false universals,” including his absolutist conception of states as particulars.¹⁴ Adorno’s critique advances the critique of national sovereignty as a principle – indeed the persistent cornerstone – of international law.¹⁵ The “right to practice mass murder,” Horkheimer and Adorno claim persuasively, is often shielded “in the name of the principle of sovereignty under international law, which tolerates any act of violence in another country.”¹⁶ Mirroring this charge, democratic sovereignists, who believe in the primacy of communal norms and collective self-determination without qualification, insist on unconditional respect for sovereign borders and the political boundaries they constitute can be charged with shielding

¹³ Adorno, *History and Freedom*, 105f.

¹⁴ For an alternative reading of Hegel’s presumed “ethical cosmopolitanism,” see L. Moland, *Hegel on Political Identity: Patriotism, Nationality, Cosmopolitanism* (Evanston, IL: Northwestern University Press, 2011).

¹⁵ After 1945, political sovereignty and the Westphalian principle of “sovereign equality” – violated internationally by the Nazi regime – was restored as a principle of international law in response to its totalitarian dismantling. To be clear, such sovereignty was now to be protected more robustly by international institutions, which were simultaneously strengthened. Moreover, in response to the Nazi atrocities and subsequent genocidal crimes, “human rights” and “crimes against humanity” have evolved as categories of international law, increasingly making the principle of national state sovereignty conditional and signalling elements of a “human rights revolution.” See S. Benhabib, *Dignity in Adversity: Human Rights in Troubled Times* (Cambridge: Polity Press, 2011); and M. Ignatieff, *Human Rights as Politics and Idolatry* (Princeton, NJ: Princeton University Press, 2000). Still, in practice, the principle of sovereignty is being challenged only gradually by human rights regimes and the human rights revolution.

¹⁶ M. Horkheimer and T. W. Adorno, *Dialectic of Enlightenment: Philosophical Fragments* (Stanford, CA: Stanford University Press, [1969] 2002), 160. Horkheimer and Adorno thus revise and radicalize Kant’s critique of the unconditional “right of sovereignty.” Kant criticizes this so-called right in *ius gentium* as a licence for rulers to go to war as they please. See I. Kant, “Perpetual Peace,” in *Political Writings*, ed. H. Reiss, trans. H. B. Nisbet (Cambridge: Cambridge University Press, [1795] 1970b), 93–130; and R. Fine, “Debating Human Rights,” 162.

nation-states' domestic oppression and even human rights abuses. Rejecting cosmopolitan and human rights claims as ideological expressions of "the world hegemony of a dominant power [imposing] its conception of the world on the entire planet"¹⁷ or the "dogmatic postulate of Western ethical rationalism"¹⁸ in the name of "realism," sovereigntists deny the critical, emancipatory, normative surplus of universal human rights.

The antinomies of global constitutionalism: Kant and Habermas revisited

Adorno's critique of Hegel and sovereigntism only unfolds its full meaning in its dialectic relation to his critique of Kant and cosmopolitanism. In contrast to Hegel's restrictive image of a world confined by sovereign particularities and national identities, Adorno praises Kant's cosmopolitan ideal as an "existing concept" – Hegel's term for an idea that can no longer be legitimately dismissed or negated. Adorno also praises the political space Kant seeks to create for freedom by developing this ideal in opposition to any iron laws of necessity.¹⁹ Moreover, he follows Kant in holding that the idea of genuine historical progress relies on the critical universal ideal of humanity, of universal freedom and human solidarity – rather than exclusive collectivities and blind submission to their *mores*. Especially under objectively globalized conditions and in light of the global historical caesura of the Holocaust, the idea of humanity evokes, in Adorno's words, the "Kantian universal or cosmopolitan concept, not one of any particular sphere of life."²⁰ And as little as "humanity *tel quel* progresses by the advertising slogan of the ever and new improved, so little can there be an idea of progress without the idea of humanity."²¹

Most importantly – and contrary to overgeneralizing misperceptions of his work – Adorno follows Kant in recognizing the significance of institutionalized juridical rights, law and legality.²² In fact, Adorno argues that "formal" civil liberties and rights to due process are part of the progressive functions of a "universal legal system," which emerged with the democratic nation-state.²³ For him, they serve to protect humans, generating widely shared standards and possibilities to appeal to. According to Adorno, then, any generalized rejection of juridical norms, *Rechtsstaatlichkeit* and (human) rights would constitute an abstract negation that fosters unmediated heteronomy. In this conception, legal norms matter. Consequently, in Adorno's view, the formalism of Kant's universal ethics and legal doctrine, which the latter's political cosmopolitanism seeks to advance further, is far

¹⁷ Mouffe, *On the Political*, 110.

¹⁸ D. Zolo, "The Political and Legal Dilemmas of Globalisation," *Theoria* 103 (2004): 40.

¹⁹ L. Rensmann, "Back to Kant? The Democratic Deficits in Habermas' Global Constitutionalism," in *Deprovincializing Habermas: Global Perspectives*, ed. T. Bailey (New York: Routledge, 2013), 27–49.

²⁰ T. W. Adorno, "Progress," in *Critical Models: Interventions and Catchwords* (New York: Columbia University Press, [1962] 1998a), 145.

²¹ Adorno, "Progress," 145.

²² See R. Fine, "Debating Human Rights," 164–9; and L. Rensmann, "Grounding Cosmopolitics: Rethinking Crimes against Humanity and Global Political Theory with Arendt and Adorno," in *Arendt and Adorno*, ed. Rensmann and Gandesha, 138–9.

²³ Adorno, *History and Freedom*, 140.

from being “merely damnable.”²⁴ Although failing to provide us “with a positive casuistry for future action,” Kant’s formalism “humanely prevents the abuse of substantial-qualitative differences in favor of privilege and ideology. It stipulates the universal legal norm, and thus, despite and because of its abstractness, there survives in it something of substance: the egalitarian idea.”²⁵ In other words, Kant’s formalist philosophy in general and his liberal cosmopolitanism in particular rightly object to blind collectivism and particularism. The latter naturalizes and reifies socio-cultural differences in the service of domination. By contrast, the universal moral and legal principles Kant postulates, reflected in the universalistic categorical imperative and cosmopolitan right that take humans by virtue of being human as a reference point, preserve a universal cosmopolitan ideal which Adorno endorses.²⁶

Yet, in Adorno’s understanding, formal legal concepts do not only generate egalitarian rights claims as “normative constraints” that may help defend diversity or offer individual protection against naked privilege and direct oppression.²⁷ As long as international law is itself entangled in a system of domination in an antagonistic world society, Adorno argues, those legal frameworks and concepts *also*, even if involuntarily, serve the function to conceal injustice and fundamental societal conflict in the language of equality and universality. This discloses the structural ambivalence of law and legal regimes. It is particularly striking in the liberal cosmopolitan reduction of law to a circumscribed, minimalist bill of rights leaving key issues of substantive justice outside of its scope while protecting atomized individual and property rights – thus limiting law to a particular, abstract kind of regulation based on specific prerogatives that keep untouched the fundamental conflicts and injustices actually shaping (global) society. Following Aristotle’s and Karl Marx’s critiques of formalism, then, Adorno also criticizes Kant. His moral and legal formalism, Adorno argues, does not sufficiently reflect the particular conditions and limits of formal universalistic morality, ideals and laws. It supposedly lacks reflection on problems of domination that evade formal laws’ predefined scope of authority.

Four problems are crucial here. First, Adorno argues that Kant’s moral philosophy and his cosmopolitan model seek to rigorously apply generalized moral maxims and prioritize universal formal legal rules – ultimately through coercive public law – independent of particular constellations or contexts of structural domination.²⁸ Yet, as Adorno puts it, “freedom calls for reflection, which rises above the particular categories of law and chance.”²⁹ He therefore problematizes Kant’s universalism for

²⁴ Adorno, *Negative Dialectics*, 236.

²⁵ Adorno, *Negative Dialectics*, 236; see also Fine, “Debating Human Rights,” 164–9.

²⁶ Adorno would probably have welcomed the possibilities established by international human rights law in so far as they enable progressive claims against domination and create possibilities for humans to appeal to. Likewise, in one of his last essays, Adorno defends the separation of powers “upon which every democracy is based,” as an institutionalized context for critique and freedom: “The system of checks and balances, the reciprocal overview of the executive, the legislative, and the judiciary, means as much as that each of these powers subjects the others to critique and thereby reduces the despotism that each power, without this critical element, gravitates to” (T. W. Adorno, “Critique,” in *Critical Models: Interventions and Catchwords* (New York: Columbia University Press, [1969] 1998b), 281).

²⁷ H. Brunkhorst, “Constitutional Evolution in the Crisis of the Early Twenty-First Century,” *Social Research* 81.3 (2014): 519–39.

²⁸ See, most dramatically, I. Kant, “Idea for a Universal History with a Cosmopolitan Purpose,” in *Political Writings*, ed. H. Reiss, trans. H. B. Nisbet (Cambridge: Cambridge University Press, [1784] 1970a), 41–53.

its abstractness in the face of particular contexts and conflicts – notwithstanding Kant’s idea of reflective judgement, the categorical imperative never to treat humans only as means and the space he allocates to open public debate.³⁰ The pre-conceived boundaries of Kantian formal cosmopolitan equality subject only certain forms of violence and rights violations to its jurisdiction. In Kant’s *Perpetual Peace*, cosmopolitan right is even restricted to a “universal right to hospitality.”³¹ Through Adorno’s lens, contemporary liberal cosmopolitanism and global constitutionalism by and large replicate such formalism. They exclude, for instance, substantive issues of social injustice and global poverty, leaving vast structural global inequalities of power and wealth untouched. By contrast, Adorno stresses “the coarsest demand: that no-one shall go hungry anymore.”³² For him, liberalism’s deafness to such claims, mirrored in Kant, reflects a lack of critical self-reflection. While formal equality aspires to universally and indiscriminately protect individuals, decoupled from its context it may ultimately fail to address actual human needs. Its principled formality may violate the particular, as it *a priori* and unconditionally abstracts from the specific conflicts, contradictions and conditions that generate oppression and human suffering. In the words of Simon Jarvis, Adorno suggests that Kant’s purely abstract “ought” leaves the “ought” without substance and the “is” without intelligibility.³³

Second, in Adorno’s view, Kant’s moral and legal cosmopolitanism, mirrored by contemporary liberal cosmopolitans, also bespeaks a particular – and ultimately repressive – concept of humanity. It presupposes a specifically restricted, pre-conceived image of humanity that is projected onto the future of global public law and its lawfully conforming subjects.³⁴ This image tends to lock humanity into a reified concept that excludes those who do not assimilate to the universalized principles established “from above” by the elite moral philosopher who advances a specific vision of global unity based on a particular conception of what Kant considers as universally morally good and human.³⁵ In this context, Adorno offers a scathing critique of the liberal ideal of a cosmopolitan “melting pot.”³⁶ Despite the emancipatory promises inscribed into cosmopolitan universality, the underlying pre-established harmony of the “melting pot,” Adorno suggests, reflects problematic societal tendencies towards forced politico-cultural standardization and homogenization that harmonize differences and the diversity of multitudes. Under the identity principle to which all humans are subjugated, whatever eludes identity “turns into frightening retribution for the calamity which identity brought on the nonidentical.”³⁷ In so far as Kant follows a conformistically standardized conception of

²⁹ Adorno, *Negative Dialectics*, 237.

³⁰ Rensmann, “Back to Kant?,” 28–33.

³¹ Kant, “Perpetual Peace,” 103.

³² T. W. Adorno, *Minima Moralia: Reflections from Damaged Life* (New York: Verso, [1951] 1974), 156.

³³ S. Jarvis, *Adorno: A Critical Introduction* (New York: Routledge, 1998), 169. See also Fine, “Debating Human Rights,” 167.

³⁴ Cf. Adorno, *History and Freedom*.

³⁵ Kant’s league of nations model in *Perpetual Peace*, to be sure, temporarily suspends the imposition of coercive global public law and gives credit to the resilience of the heterogeneous public wills of nations and republican political autonomy – in contrast to contemporary liberal cosmopolitan constitutionalists like Habermas. Cf. Kant, “Perpetual Peace;” D. Howard, *From Marx to Kant* (Albany, NY: SUNY Press, 1987), 266ff; and Rensmann, “Back to Kant?,” 33.

³⁶ Adorno, *Minima Moralia*, 103.

humanity, he may involuntarily reproduce society's false universal that excludes or renders superfluous all those who do not adopt its imperatives.

Third, in Adorno's view, despite its virtues, Kantian cosmopolitanism risks playing the "progressive" humanitarian tune to the music of the global capitalist market – and a world that is, in fact, continuously shaped by the sovereign rule of states. Kantian cosmopolitanism, he argues, falsely suggests that human rights can be guaranteed through formal procedures and agreements within the present global order, as if humanity were already free, "coherent in itself and moving upward as a unity."³⁸ Kantian cosmopolitanism thereby fails to recognize actual societal conflicts – and the reality that domination "has become both universalized (spatially) and internalized (psychologically)."³⁹ Liberal cosmopolitanism may actually help to protect indirect forms of social domination, exclusion, violence and poverty if the pretence of formal justice cosmopolitan law generated simultaneously avoids or conceals issues of structural global injustice, with which it is then involuntarily complicit.

Today, this Adornian critique is exemplified in liberal cosmopolitanism's trust in superimposing universally binding norms and global public law "from above" – through centralized global institutions that Kant initially envisioned in 1784 but then, to be sure, eventually viewed as potentially despotic.⁴⁰ At any rate, Adorno charges the Kantian cosmopolitan project – and those arguing within its framework – with a lack of reflexivity on its societal and material conditions and the underlying structures in and through which formal principles are embedded. The "more passionately thought denies its conditionality for the sake of the unconditional," Adorno warns, "the more unconsciously and so calamitously it is delivered up to the world."⁴¹

Fourth, even though Adorno endorses the *ideal* of a universally free humanity and a "potential global constitution of the world," he criticizes Kant's idealized "universal history" and cosmopolitan teleology of human development as the "purpose of nature" that renders actual conflicts secondary, turning them into stepping stones of progress.⁴² In light of the atrocities of the twentieth century, Adorno argues that the Kantian idea of universal history turned negative. Therefore, it must be:

construed and denied. After the catastrophes that have happened, and in view of the catastrophes to come, it would be cynical to say that a plan for a better world is manifested in history and unites it. No universal history leads from savagery to humanitarianism, but there is one leading from the slingshot to the megaton bomb ... It is the horror that verifies Hegel, and stands him on his head.⁴³

³⁷ Adorno, *Negative Dialectics*, 320.

³⁸ Adorno, "Progress," 146.

³⁹ R. Wolin, *Walter Benjamin: An Aesthetic of Redemption* (New York: Columbia University Press, 1982), 271.

⁴⁰ Kant, "Perpetual Peace," 101.

⁴¹ Adorno, *Minima Moralia*, 247.

⁴² Adorno, *Negative Dialectics*, 341.

⁴³ Adorno, *Negative Dialectics*, 320. Adorno's critique is undoubtedly driven by a universalistic perspective and normativity (cf. Benhabib, *Dignity in Adversity*, 21). Adorno points out, however, that Kant and Hegel share teleological narratives about human progress and universal history, clouded in the ideas of, respectively, the progressive advancement of universal law and enlightenment humanitarianism, or the "world spirit." If any telos can be found in history, in view of

Naive liberal trust in human progress realized by legal and institutional evolution, Adorno suggests, is oblivious to the conditions and origins of catastrophe.⁴⁴

Consequently, Adorno does not criticize Kant for a *lack* of cosmopolitanism but, on the contrary, for his shortcomings in self-reflectively engendering the practical realization of the cosmopolitan ideal in the face of actual inhumanity and injustice. In other words, Adorno defends Kant's cosmopolitanism against Hegel's reified sovereigntist particularism and outdated conception of culture, but criticizes it for its own reifications, packaged in legal and ethical formalisms unaware of their conditions and limitations. Despite all their emancipatory virtues, Adorno suggests that they also tend to immunize theory against systemic antagonisms and constitutive conflicts over power and resources in world society. By constructing a universal history of progress and trusting in the evolution of formal law and international institutions, in Adorno's view, Kant takes part in creating illusions about a world constituted by social and political domination. He largely glosses over the problem that global laws and international institutions may shield – indeed serve – processes of repressive subjugation through market imperatives, a power structure in world society that lacks democratic inclusion from below and hidden forms of exclusionary violence. In so doing, for Adorno, Kant is involuntarily complicit in cosmopolitanism's failure to self-reflectively – and practically or democratically – ground its project of universally and substantially reconciling freedom, difference and equality.

Importantly, Adorno's reflections on the problems, contradictions and limits of Kant's formal ethical and legal cosmopolitanism are relevant also for post-Kantian models of global constitutionalism that absorb the Kantian logic. Jürgen Habermas, the most important and influential theorist of liberal cosmopolitanism today, seeks to preserve the spirit of Kant's ideals in a new kind of global constitutionalism. Habermas tries to overcome Kant's contradictions and limitations, which he largely attributes to the temporal conditions (*Zeitkern*) of his political philosophy and proposals. After all, Kant could not predict certain fundamental changes in the conditions of world politics and the “modern predicament,” such as the scope of globalization, the “constitutionalization” of international law and the human rights challenges generated by modern mass atrocities and genocide.⁴⁵ In so doing, Habermas not only seeks to revive and transform Kant's ideas; he also responds to Adorno and Max Horkheimer, who he credits with forcing us to reflect on the philosophical and political implications of genocide, but whom he also charges with dismissing the emancipatory normative traits of modern rationality by falling victim to the “self-referentiality of a totalizing critique of reason.”⁴⁶

Over time, Habermas has provided different justifications and varying institutional and legal designs for global constitutionalism that depart from Kant. Yet,

the catastrophes of the twentieth century, Adorno argues that Hegel's “world spirit” actually points to the realization of “absolute of suffering” and would have to be redefined as “permanent catastrophe” (Adorno, *Negative Dialectics*, 320).

⁴⁴ Such trust has recently been expressed in the contested concept of “humanitarian interventionism” in international law. For a critical discussion of Kant and “humanitarian interventionism,” see A. Franceschet, “Kant, International Law, and the Problem of Humanitarian Intervention,” *Journal of International Political Theory* 6.1 (2010): 1–22.

⁴⁵ Cf. J. Habermas, *The Postnational Constellation* (Cambridge, MA: MIT Press, 2001); and Habermas, *The Divided West*.

⁴⁶ Habermas, *The Postnational Constellation*, 130.

while they vary in legal scope and more or less robust democratic prerequisites, they all tend to reinforce centralized global legal authority. Unlike Kant's insistence – his formalism notwithstanding – on the decentred public autonomy of sovereign republics submitting to the cosmopolitan project, Habermas consistently proposes the enforcement of an overarching constitutional order with limited decentralized democratic control. In fact, against Kant's reservations, Habermas conceives a global “political constitution of a decentered world society as a multilevel system,” anchored in consistently enforced formal global public law – at least in core domains such as peace and human rights – that ensures the globally institutionalized “normative taming of political power through law.”⁴⁷ At least in these core domains, global constitutionalization for Habermas need only meet minimal standards of democratic legitimacy requirements: “If the international community limits itself to securing peace and protecting human rights, the requisite solidarity among world citizens need not reach the level of the implicit consensus on thick political value-orientations that is necessary for the familiar kind of civic solidarity among fellow-nationals.” Habermas thus suggests that “judicial oversight” sufficiently legitimizes the global enforcement of human rights, or “humanitarian interventions:” “We can take it for granted that these basic rights are accepted worldwide and that the judicial oversight of the enforcement of law for its part follows rules that are recognized as legitimate.”⁴⁸

Following Adorno's critical insights on Hegel, Habermas rightly challenges cultural relativism and sovereigntism beyond Kant's modest legal post-sovereigntism. But Habermas's approach glosses over some of the constitutive tensions that Kant still recognized – in particular, the conflict between the rational *justification* of cosmopolitan constitutionalism's universal ideal and the actual *legitimacy* of democratic will-formation. The latter, Kant recognizes, actually opposes world republicanism, signifying that “the general will is in contradiction with itself” due to autonomous publics in a decentred world society.⁴⁹ Adorno's critique of Kant therefore suggests that Habermas reinforces, rather than overcomes, the weaknesses of Kantian liberal cosmopolitanism, with its formal principles, legal delusions and unresolved antinomies. Habermas's global constitutionalism is arguably oblivious to its societal conditions, material systemic global domination and centrally allocated elite power, as well as to the need for decentred public autonomy to enable democratic politics to control law and its exercise. While Habermas formally decouples politics from law and separates different realms of social domination, leaving some entirely untouched, their “interlinkage is crucial for a transformative social critique” even if each “deserves its own form of normative critique.”⁵⁰ Indeed, seen through Adorno's lens, Habermas's models are even more formalistic – and thus “more Kantian” – than Kant. Habermas ultimately subjugates democratic will-formation to abstract, formal universal legal principles – a move which Kant, despite his shortcomings in reference to both sovereign rights and cosmopolitan

⁴⁷ Habermas, *The Divided West*, 116.

⁴⁸ Habermas, *The Divided West*, 135, 143, 174.

⁴⁹ Kant, “Perpetual Peace,” 101. For a Kantian critique of Habermas, see Rensmann, “Back to Kant?”

⁵⁰ L. Zuidervaart, *Social Philosophy after Adorno* (Cambridge: Cambridge University Press, 2007), 121.

formalism, largely refrained from making.⁵¹ By presupposing the universal validity of legal norms and rules which are to be globally enforced by thinly or “weakly” publicly legitimized global authority “from above,” in Adorno’s view, Habermas’s formalism fails to reflect on its condition of possibility. Its juridification of cosmopolitan claims negates the politically contested scope of global issues and policies, including human rights, and fetishizes the enforcement of a “universal law” by sacrosanct legal custodians and doctrines. In so doing, liberal cosmopolitan constitutionalism no longer reflects its own conditions. This is especially the case if it supports conceptions of global public law to be applied by globally governing elites that are supposed to be exempt from democratic control, public deliberation and the critique of power and social antagonisms. Adorno’s critique of Kant suggests that such a radical decoupling of formal law from politics, particulars, solidarity and substantive issues of social justice may unwittingly help to seal the juridified protection of the global powers that be – and, under the pretence of universalistic legality, uphold the false universal of an uncontrolled global system of economic domination supported by administrative and managerial classes.⁵²

Engaging conflict: towards an Adornian cosmopolitanism

Against the stubborn collectivist particularism of Hegelian sovereignty, Adorno praises Kantian cosmopolitanism for superseding the fetishization of mores and cultural antagonisms in a world order centred on nation-states. By criticizing Hegel’s “dialectics at a standstill,” Adorno develops a specific historical understanding of the rise and fall of the nation-state as an outmoded model of social organization. Yet, employing Hegelian realism and sovereigntist concerns about the actual conditions of public autonomy, Adorno also criticizes the formalism and legalism of Kantian cosmopolitanism in so far as it dangerously and deceptively tends to decouple law from politics and democratic inclusion. Its most significant contemporary reconstruction, the global constitutionalism proposed by Habermas, similarly fails to reflect on its conditions of possibility and to realistically address the constitutive conflicts that underlie global legal rule in a structurally antagonistic modern world society – a globalized society in which “law” has not just progressive functions, but also serves to shield, conceal and thus reproduce systemic global socioeconomic domination, powerful political elites and interests, and a world order that is haunted by ongoing social exclusion, militarized conflicts, and mass violence against minorities.⁵³ Liberal cosmopolitan constitutionalism risks being complicit

⁵¹ It is Adorno’s decentred democratic thinking and defence of democratic institutional mechanisms, most explicit in his late writings (for instance, Adorno, “Critique”), that can be contrasted with Habermas’s global constitutionalist turn away from democratic deliberation. This is ironic in so far as Habermas suggests that the “old Frankfurt School never took bourgeois democracy very seriously” (J. Habermas, *Autonomy and Solidarity: Interviews with Jürgen Habermas*, ed. P. Dews (London: Verso, 1986), 98).

⁵² Brunkhorst, “Constitutional Evolution.” Espen Hammer has similarly praised the Adornian ethic as an effective counterweight to liberal and Habermasian attempts to restrict politics to “the management of social positivity” and “consensually enforced administration” (E. Hammer, *Adorno and the Political* (New York: Routledge, 2005), 178ff).

⁵³ This criticism applies even to liberal global justice theorists who propose just institutional reforms to tackle injustices created by global capitalism without fully engaging with the underlying systemic conflicts that make such reforms unlikely. See, for instance, T. Pogge, *World Poverty and Human Rights* (Cambridge: Polity, 2008).

with such domination in so far as it helps to decouple or immunize the normative constraints created by global law from substantive issues of democracy, justice and solidarity, and partakes in proposing and enforcing formal legal principles that abstract from the particular conditions of human suffering, systemic violence and institutionalized power.

With this dialectical critique with cosmopolitan intent, Adorno provides important theoretical arguments for reconstructing an alternative, non-formalistic and contestatory cosmopolitanism from below that is better equipped to reflect on its conditions in world society and to confront the constitutive conflicts of contemporary world politics.⁵⁴ Even though largely negative in its formulation, Adorno's work advances a materialist understanding of an interrelated set of contradictions, conditions and arenas of conflict that both national sovereigntism and formal cosmopolitanism neglect: first, *socioeconomic conflicts* shaping humanity's antagonistic "global societal constitution,"⁵⁵ that is, the global structural injustices generated by an all-pervasive, global systemic economic rationality or objective abstraction reproducing social domination, exclusion and inequality, and constituting the background condition of law and politics;⁵⁶ second, *institutional conflicts* caused by institutionalized democratic exclusion at the global and local levels, that is, the conflicts between self-constituting, decentred *demos* and transnational multitudes appropriating cosmopolitan claims *vis-à-vis* powerful global institutions, laws and states; and third, the pressing and arguably most challenging terrain of *violent inter and intra-state conflicts* and totalitarian threats generated through the dialectics of modernity and anti-modernity, requiring practical and legitimate cosmopolitan responses to crimes against humanity.⁵⁷

Reflective of these challenges, and contrary to common misperceptions, Adorno thus points to the organizational, political and ethical enabling of a "self-conscious global subject."⁵⁸ Recent work has begun to explore his contributions as a cosmopolitan thinker,⁵⁹ in opposition to anti-imperialistic rhetoric that justifies a resurgence of nationalism.⁶⁰ Critical of any "abstract organization" or centralized "gigantic blocs" that may reinforce global heteronomy, but also problematizing the outmoded "idea of a political subject defined by the nation-state," Adorno points to, among other things, the possibilities created by modern technology to

⁵⁴ As I have explored elsewhere, Adorno perceptively analyses the contours of the cosmopolitan condition of world society and politics. See L. Rensmann, "Adorno and the Global Public Sphere: Rethinking Globalization and the Cosmopolitan Condition of Politics," in *Re-Imagining Public Space: The Frankfurt School and Beyond*, ed. D. Boros and J. M. Glass (New York: Palgrave Macmillan, 2014), 163–90.

⁵⁵ Adorno, "Progress," 144.

⁵⁶ T. W. Adorno, "Gesellschaft," in *Soziologische Schriften I* (Frankfurt: Suhrkamp, [1967] 1979), 9–20, 13.

⁵⁷ L. Rensmann, "Political Terror in the Age of Global Modernity: Adorno's Critical Theory of Totalitarianism Revisited," *Politics, Religion and Ideology* 12.1 (2011): 3–26.

⁵⁸ Adorno, "Progress," 144. For more cautious interpretations of Adorno in the context of his "negative" ethics and politics, see G. Schweppenhäuser, *Adorno: An Introduction* (Durham, NC: Duke University Press, 2009); S. Mariotti, "Critique from the Margins: Adorno and the Politics of Withdrawal," *Political Theory* 36.3 (2008): 456–65; and E. Hammer, "Adorno and Extreme Evil," *Philosophy and Social Criticism* 26.4 (2000): 75–93.

⁵⁹ See R. Wolin, *The Frankfurt School Revisited* (New York: Routledge, 2006); Rensmann, "Grounding Cosmopolitics;" G. Boucher, *Adorno Reframed* (London: I. B. Tauris, 2013); D. Cook, "Adorno's Global Subject," in *Critical Theory and the Challenge of Praxis: Beyond Reification*, ed. S. Giacchetti Ludovisi (Burlington, VT: Ashgate, 2015).

⁶⁰ See C. W. Barrow, "The Return of the State. Globalization, State Theory and the New Imperialism," *New Political Science* 27.2 (2005): 123–45.

enable decentred cosmopolitanism by grounding new forms of transnational organizations and movements “from below.”⁶¹ Notwithstanding the difficulties of theoretical transfer, some under-theorized claims and a lack of a comprehensive “positive” model, Adorno is thus still a powerful resource for the reformulation of cosmopolitanism – and even cosmopolitan constitutionalism – from below. Moving beyond Hegelian collectivism and Kantian formalism, Adorno advances a genuinely “cosmopolitan perspective,”⁶² philosophically and politically committed to both democratic plurality and universal justice.

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⁶¹ T. W. Adorno, “Die auferstandene Kultur,” in *Gesammelte Schriften*, Vol. 20.2 (Frankfurt: Suhrkamp, [1949] 1986), 454; Adorno, *History and Freedom*, 111; B. Beauzamy, “Transnational Social Movements and Democratic Legitimacy,” in *Legitimacy Beyond the State? Re-Examining the Democratic Credentials of Transnational Actors*, ed. E. Erman and A. Uhlin (Basingstoke: Palgrave Macmillan, 2010), 110–29.

⁶² U. Beck, “The Cosmopolitan Perspective: Sociology in the Second Age of Modernity,” *British Journal of Sociology* 51.1 (2000): 79–106.

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