

jürgen habermas

the divided west



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**The
Divided
West**

BY JÜRGEN HABERMAS

**Edited and Translated by
CIARAN CRONIN**

polity

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Editor's Preface

The writings collected in this volume document the responses of one of the major social and political thinkers of our time to what are likely to be regarded by future generations as important events in world history. Since the early 1990s, when the end of the Cold War inaugurated dramatic changes in the international political landscape, Jürgen Habermas has produced important theoretical writings and numerous essays, and conducted interviews, devoted to global political issues. The underlying themes and concerns of these writings have remained consistent, even as Habermas has refined his ideas concerning law and politics above the national level and has responded to new political developments. His central theoretical preoccupation has been the articulation of a model of democratic politics beyond the nation-state that is capable of meeting the challenges of the “postnational constellation.” In this connection, he has repeatedly discussed the process of European unification as a potential model for the transition from international law to cosmopolitan society which he advocates.

Habermas presents his approach to international law and politics as a critical appropriation of Kant's idea of a “cosmopolitan condition,” to which the closing essay of this volume represents a further major contribution. This essay was also written as a direct response to the

events – in particular, the policies pursued by the US government since September 11, 2001 – which have led to a damaging split within the West over the future direction and goals of global political governance. The remaining essays and interviews document Habermas's responses to these events as they occurred and thus set the political stage for the theoretical project developed systematically in the closing essay.

In what follows, I will offer some remarks on the theoretical and practical motivations of Habermas's cosmopolitan project as set forth in the closing essay. I will then show how they are reflected in some of the principal themes of the remaining essays and interviews and conclude with some observations on the role of the public intellectual as exemplified by the writings in this volume.



In the essay “Does the Constitutionalization of International Law Still Have a Chance?” Habermas argues that the continuation of the Kantian cosmopolitan project under current global conditions should take the form of a constitutionalization of international law. Kant's idea of a “cosmopolitan condition” must be freed from the historical and – as Habermas here emphasizes – *conceptual* ballast with which it is weighed down in Kant's own writings. Kant envisaged the creation of a cosmopolitan political order that would ultimately unite all human beings into a republican state of world citizens. He argued that this future “cosmopolitan condition” was a necessary complement to the republican national states then in their infancy and to the established international system of sovereign states if an enduring condition of world peace was to be achieved in an increasingly interconnected world. Although Habermas embraces the normative thrust of Kant's cosmopolitan vision – and, in particular,

the central role it accords law – he now argues that its major weakness, and the reason for the apparent inconsistencies in Kant's treatment, is a conceptual one.¹ Kant failed to conceptualize the cosmopolitan condition in sufficiently abstract terms because he took the French Revolution as his model for understanding what was required to pacify international and global relations. Applying the social contract idea directly to relations between states, Kant concluded that the transition from an international to a cosmopolitan condition would require the creation of a single world republic enjoying a monopoly of coercive state authority.²

Habermas believes that Kantian cosmopolitanism can be liberated from these conceptual fetters by conceiving sovereignty in *procedural* rather than substantive terms and by rethinking the problem of the transition from an international to a cosmopolitan political order. On Habermas's communicative conception of reason, the validity of moral and political norms is tied to public procedures of communication that demand openness to the viewpoints and experiences of others and a willingness to reach agreements with them on shared interpretations of principles to regulate social interaction. The corresponding deliberative conception of democracy interprets the individual liberties and political participation rights enshrined in modern constitutions as guidelines for constructing legislative, executive, and judicial institutions in which the enactment, application, and interpretation of law is exposed to discursive examination and public scrutiny. Sovereignty thereby acquires a procedural meaning in the sense that the legitimacy of government at all levels (municipal, national, and supranational) becomes a function of how legal norms are legitimated through discursive procedures that must themselves be legally enabled or institutionalized.³

On this deliberative understanding of democracy, the constitution becomes an ongoing project in which the constitutional basic rights are implemented over time in

legislative and adjudicative institutions which are, in turn, organized as deliberative procedures and are exposed to critical public scrutiny. The key question in the present context is how this model can be applied to political relations above the level of the state. Here Habermas departs from Kant in arguing that there is an important *disanalogy* between the problem of founding a democratic constitutional state and that of founding a cosmopolitan constitutional order that precludes a strictly parallel application of the idea of a social contract at both levels. Whereas the former problem required that untamed political power be brought under a rule of law by creating a sovereign constitutional authority, a rule of law already exists at the international level in the form of the "proto-constitution" composed of the legal instruments and institutions of international law. At this level, the challenge is to construct corresponding political institutions to lend the principles of this proto-constitution force in the face of urgent global political challenges. The cosmopolitan project, therefore, is not a straightforward continuation of the development of the constitutional state at the global level, as Kant assumed, and hence it does not imply the creation of a world state that would supersede existing states.

Of course, this conceptual argument only begins to answer the question of the viability, and hence the relevance, of Habermas's project of constitutionalizing international law under current global conditions. The theoretical and practical challenges it faces are formidable. If it is to be taken seriously, it must offer a plausible account of the scope and competences of the supranational governance institutions it advocates, how they can coexist with constitutional states and international alliances, and, importantly, how they can acquire discursive democratic legitimacy. Writing as a philosopher and social theorist, Habermas does not attempt to provide an empirical analysis of current global trends on which plausible conjectures concerning future developments could be

based. His aim is rather to lend sufficient concrete substance to the cosmopolitan model that it can be seen as a plausible alternative to the major competing approaches. His justification strategy in chapter 8 is, broadly speaking, twofold: having staked out the conceptual parameters of the project of the constitutionalization of international law, he offers, on the one hand, a rough outline of the institutional architecture of a possible corresponding future global political order and, on the other, a defense of its normative substance against the main competing models.

The institutional architecture favored by Habermas would combine an empowered United Nations responsible for securing peace and promoting human rights at the *supranational* level with governance institutions based on cooperation among the major world powers to address urgent problems of regional and global concern at the *transnational* level. The result would be what he calls a "global domestic politics without a world government." Since this multilevel framework would not imply the existence of a single world government, its viability is not contingent on the world's population forming a single global *demos* with a shared political culture. But how then could the laws and policies of this global political order acquire discursive legitimacy? On the model Habermas proposes, national public spheres would remain the primary sites of democratic legitimation, and democratically elected national governments – and possibly delegates to a global parliament – would function as the main conduits of legitimation from their populations to the transnational and supranational institutions. Democratic legitimation above the national level would be the indirect product of a plurality of decentered discourses taking place in a variety of national and regional public spheres. Their summation would be an effective global public opinion informed by transnational media and mobilized by international non-governmental organizations that would find expression on suitable occasions in worldwide

demonstrations (of which the mass protests against the American and British invasion of Iraq on February 15, 2003 may be the harbingers).

As regards the second strand of justification – the defense of the cosmopolitan project against the principal competing models – Habermas develops a complex historical-reconstructive argument designed to show that the constitutionalization of international law represents the logical continuation of a development extending over the past two centuries. The evolution of international law during the twentieth century, whose three main junctures were the founding of the League of Nations following World War I, the passage of the UN Charter after World War II, and the revitalization of the UN following the end of the Cold War, demonstrates that the transition from international law to a cosmopolitan constitution has acquired an independent historical momentum, notwithstanding the setbacks it suffered at each stage. The prohibition of war inspired by the devastating trench warfare of World War I represented a quantum leap in the development of international law and put the Kantian cosmopolitan project on the international political agenda for the first time. However, the weak institutional framework of the League of Nations, as a voluntary alliance of states lacking effective supranational institutions to codify and enforce the prohibition on wars of aggression, made it incapable of containing the aggressions unleashed by the rise of fascism. The legal and institutional innovations that emerged in response to the mass crimes of World War II went much farther in this respect. Even though the UN Charter was not intended to be a constitution for international relations, its major innovations lent it the *prima facie* features of a constitution. And although the stalemate imposed by the superpower rivalry during the Cold War meant that these innovations remained relatively ineffectual for many decades, their validity was never seriously questioned and they exercised a steady influence on ideas and mentalities.

The stagnation of the Cold War period marked the heyday of the classical competitor to the cosmopolitan project, namely, the "realist" view that international relations involve power struggles between states to which the moral ideas underlying the cosmopolitan project have no application. Although this amoral view of international relations derived much of its theoretical appeal from the transitory historical constellation of the Cold War, it continues to influence neoliberal models of international order that appeal to supposedly self-regulating global markets and it finds support in the recent interest in the ideas of the fascist constitutional theorist Carl Schmitt. Those suspicious of the active role that a reformed world organization would play as the supranational guarantor of peace and human rights may be sympathetic to Schmitt's hyperbolic argument that military actions undertaken on "humanitarian" grounds are merely masks for barbarism because the moralization of war implies a demonization of one's enemies as "evil" that tends to escalate hostilities into total war. However, against this and related "realist" critiques of a "moralization" of international relations, Habermas emphasizes that his project implies a *juridification* rather than a moralization of global peacekeeping operations. Humanitarian interventions would acquire the status of police operations and those accused of war crimes would not be stigmatized as morally evil but would enjoy the safeguards of due process accorded to defendants in normal criminal proceedings.⁴

Habermas's principal concern, however, is a new challenge to the cosmopolitan project as advanced once again by a revitalized United Nations during the 1990s (i.e., the third major juncture in the evolution of international law on Habermas's reconstruction). In question is the hegemonic liberal image of international order which would replace the commitment to an international rule of law with the "ethos" or moral values of a superpower, the United States, which uses its overwhelming military force unilaterally to impose democracy and human rights,

as it interprets them, on “rogue states” and unstable global regions. Rather than engage in polemics concerning the true motives of the Bush administration, Habermas takes the neoconservative program at face value and argues that even a genuinely benevolent global hegemon committed to promoting human rights and democracy could not be certain that it was really acting in the interests of those it claimed to be protecting. In a globalized world that is too complex to be governed from a center, only deliberative decision-making procedures involving representatives of all of the populations concerned could produce the level of moral certainty required to justify military interventions to promote democracy and human rights (the only permissible exception being emergency interventions to prevent gross violations of human rights).

At the same time, Habermas rejects the revisionist reading of US foreign policy that argues that US advocacy of democracy and human rights was always a mask for the pursuit of national interests. On this “cynical” reading, the neoconservative orientation of the Bush administration would be merely a continuation of the main tradition in US foreign policy, whereas Habermas insists that it represents a revolutionary break with the dominant – though not, of course, the only – American tradition in international relations. The merits of Habermas’s historical-reconstructive approach become particularly apparent as an antidote to this facile cynicism. From the presidency of Woodrow Wilson until the end of the twentieth century, he argues, US leaders, jurists, and political theorists were consistently at the forefront of initiatives to expand the legal and institutional foundations of the international political order. Accordingly, the policies of the Bush administration are not a logical continuation of the dominant strain in US foreign policy, but a fateful, revolutionary break with its better traditions. Moreover, it is imperative that future US administrations return to these traditions if progress toward the constitutionalization of

international law is to be resumed. In the remaining essays and interviews in this volume, Habermas is unsparing in his criticisms of the divisive maneuvers of the Bush administration in pushing ahead with its divisive program both domestically and internationally.



The remainder of the volume provides numerous insights into the theoretical and practical motivations of Habermas's cosmopolitan project, of which just a few salient themes can be mentioned here. In addition to clarifying his positions on such important issues as terrorism, fundamentalism, tolerance, and the current international political system, in the opening interview (pp. 15ff.) Habermas provides a forceful defense of one of his deepest theoretical commitments, namely, that the rationality intrinsic to communication can foster normative consensus across cultures. Against deconstructionist skepticism concerning the possibility of transcultural understanding in general, he appeals to the hermeneutic and pragmatist insight that the idea of self-enclosed universes of meaning in which we are trapped is conceptually incoherent. Instead, the resources on which we unavoidably draw in everyday communication – for example, the structure of personal pronouns which compels us to adopt the perspective of our interlocutors in dialogue – also facilitate communication and understanding across cultural boundaries, at least in principle. Nevertheless, Habermas recognizes that communicative processes alone are powerless to overcome mutual distrust and incomprehension unless the material preconditions for mutual respect between cultures and global regions are realized. In view of its colonial past, therefore, the onus is on the West to examine its own political culture and to cooperate in overcoming the devastating global inequalities created by unfettered capitalism.

One issue that crops up repeatedly in these essays and interviews poses a particularly telling challenge for Habermas's cosmopolitan model. This is the apparent inconsistency between his positions on the NATO intervention in Kosovo in April 1999 and the US invasion of Iraq in March 2003, for which he has come in for sharp criticism. Habermas defended the NATO intervention on the grounds that it marked an important advance over the primacy accorded state sovereignty in classical international law. Because it was justified by the urgent need to protect the human rights of the Kosovo Albanians threatened with ethnic cleansing, the intervention could be interpreted as promoting the constitutionalization of international law.⁵ By contrast, he criticized the invasion of Iraq as a revolutionary break with international law, even though it was also defended by appeals to human rights and the promotion of democracy in Iraq and the Middle East. These contrasting positions follow from a context-sensitive application of the cosmopolitan framework to the two cases. Although neither military operation had the authorization of the Security Council required by international law, the Kosovo intervention was justified by the obligation on all states in international law to prevent gross violations of human rights and by the fact that it was undertaken by an alliance of unquestionably liberal democratic states. The Iraq invasion, by contrast, was not required to prevent an imminent military threat or gross violation of human rights by the Iraqi government; moreover, the coalition assembled by the United States was clearly an *ad hoc* hegemonic construction that includes states with poor democratic and human rights credentials.

Habermas's core criticism of the Bush administration's "revolutionary" policy shift, therefore, concerns its unilateralism, its insistence on hegemonically pursuing national interests, by military force if necessary, in the name of one-sided interpretations of supposedly universal values such as "human rights" and "democracy." This policy

assigns "allies" a subordinate role and treats international law as a mere reflection of relations of power. The contrast posed by the Habermasian project of constitutionalizing international law could hardly be starker. It regards international law as the medium in which relations between major powers and global regions can be integrated into a system of cooperative and deliberative institutions that would compel all sides to open their interpretations of human rights and democracy to criticism in a cooperative search for consensual legal norms to be backed up with credible sanctions.

However, the contrast between the Kosovo intervention and the Iraq invasion also reveals an important historical irony to which Habermas alludes on a number of occasions, namely, that the justifications of the various NATO allies for their participation in the Kosovo intervention already exhibited a significant divergence in normative outlook which the subsequent invasion of Iraq sharpened into a full-scale rift. Whereas the continental European countries regarded the intervention as a regrettable expedient to bridge the gap between legitimacy and effectiveness in the international law, though one that would ultimately promote the transition from international law to a cosmopolitan society, the Americans and the British saw it as a matter of imposing their liberal political system internationally. Moreover, the fact that the Americans could count on at least the verbal support of other European heads of government for their unilateral campaign in Iraq shows that the fatal fault line along which the policies of the Bush administration have split the West also marks an internal division within the European Union itself.

This brings us, finally, to one of the persistent themes of Habermas's recent political writings, the process of European unification. The essays and interviews collected here attest to the fact that, for Habermas, the European Union currently represents the crucible within which the key experiments in cosmopolitanism are being conducted.

His contributions to European political debates are shaped by his understanding of the challenges posed by economic, social, and cultural globalization for the established European democracies. Economic globalization, in particular, is inexorably undermining the ability of individual nation-states to regulate their own economies through national policy mechanisms. A major consequence is their increasing inability to extract the tax revenue needed to sustain social welfare programs and a looming crisis of legitimacy, which depends, among other things, on the role of the welfare state in cushioning the deleterious social effects of unfettered capitalism. Nation-states cannot meet the challenges of this emerging "post-national constellation" alone; in the long run they have no alternative but to unite into transnational and supranational associations and to cooperate in constructing a cosmopolitan political order.⁶

It is against this background that Habermas's harshly critical commentaries on the faltering process of political unification within the expanding European Union must be understood. Although the process of European integration has the potential to serve as a model for progress towards a "cosmopolitan condition," the European Union is riven by internal divisions related to those which have split the West over the future direction of global political governance. Those countries whose history and political traditions make their political elites more sympathetic to the Anglo-American model of liberal democracy – in particular, Great Britain and the Scandinavian countries – tend to favor a model of European integration based on economic liberalization. They accordingly seek to limit the competences of European institutions and agencies to matters of market regulation and jealously defend the sovereignty of member states in such sensitive areas as social, defense, and foreign policy. By contrast, the vision of a united Europe shared by the Western European founding countries – France, Germany, Italy, and the Benelux countries – remains deeply influenced by the

ideals of the post-war generation, which regarded a future united Europe as necessary to overcome the disastrous historical antagonisms between the European states.⁷ The festering conflict between these opposing visions reached new heights in the recent controversy over a constitution for the EU that is urgently needed to cope with the problems of governing a Union whose enlargement is aggravating the already acute "democratic deficit" of the EU institutions.⁸

Among Habermas's most important contributions to European debates are those that focus on the preconditions of democracy at the European level and of a corresponding European political identity and culture.⁹ Against those who claim that there cannot be a European democracy because there is no European *demos* that could function as the subject of popular sovereignty, he argues that a shared political identity is not a prior condition of democratic legitimation, but is constituted through the process of translating constitutional basic rights into law within an enfolding constitutional project. Such a project is viable provided that the populations concerned share sufficient commonalities to foster the solidarity required to support mutual sacrifices. On the deliberative understanding of democracy, a procedurally generated "constitutional patriotism" replaces the idea of a shared descent and culture beloved of nationalists as the focus and medium of political identification.

In chapter 3, Habermas argues that Europeans possess a sufficiently rich store of common political values and traditions to make a deeper constitutionalization of the Union possible. An important refinement here is his argument that new organizational tasks and the requirements of redistribution across wider geographical spaces entailed by the eastern enlargement will inevitably generate increased demands for broader citizen participation in European decision-making. This necessitates a corresponding deepening of mutual solidarity and identification, and this can only be insured by a deeper political

integration of the Union. Democratization at the supranational level, by contrast, entails comparatively modest demands on global solidarity because the tasks of a reformed United Nations would be restricted to peace-keeping and protecting human rights. At this level, a shared sense of outrage at gross violations of human rights, whose existence is already attested by spontaneous protests, would be sufficient to invest the actions of the world organization with democratic legitimacy.



Taken as a whole, these writings invite us to reflect, in conclusion, on the relation between Habermas's enactment of the role of public intellectual in his interventions in political debates and the function his cosmopolitan model assigns a transnational public sphere in fostering democracy above the national level. Although Habermas writes in the first instance as a German philosopher and social theorist addressing a German educated public, in which role he has frequently had a major influence on public opinion in post-war Germany, he is also acutely aware of the need for a transnational networking of public discourse in the emerging postnational constellation. The appeal documented by the essay "February 15, or: What Binds Europeans" is particularly interesting in this regard. The essay, which was co-signed by Jacques Derrida, was Habermas's contribution to an initiative in which he invited a number of prominent European and American intellectuals to join in responding to the clearly expressed intention of the US government to attack Iraq come what may. This initiative can be interpreted as a contribution to promoting the horizontal networking of national public spheres called for by Habermas's model of transnational deliberative democratic legitimation, and hence as a discursive counterpart to the spontaneous mass demonstrations against the imminent invasion of Iraq in

major European cities and across the world on February 15, 2003.

Here Habermas is writing as a European intellectual, as the proponent of a vanguard role for the “core” founding member states of the European Union in reviving the stalled process of European unification, and as an advocate of the shared values on which a European political identity and culture could be founded. In the emerging global constellation, a united and self-confident Europe represents for Habermas the most viable political, if not military, alternative to hegemonic unilateralism and the best safeguard against a new era of major power rivalry – or a new balance of threats between hostile “hemispheres” – as the inevitable pretenders emerge to challenge the current military supremacy of the United States.

Ciaran Cronin

Author's Foreword

The West was not divided by the danger of international terrorism but by policies of the current US government that ignore international law, marginalize the United Nations and accept the inevitability of the break with Europe. What is at stake is the Kantian project of abolishing the state of nature between states. The source of disagreement is not the apparent political goals but one of the greatest efforts to advance human civilization. The concluding essay in this book is intended to draw attention to this fact.

Of course, the split also runs through Europe and America themselves. In Europe, it mainly troubles those who have identified throughout their lives with the best American traditions, with the roots of the political Enlightenment around the turn of the nineteenth century, the rich currents of pragmatism and the return to internationalism after 1945.

For Germans, the blatant repudiation of these traditions serves as a litmus test. The chemical bond formed by Germany's turn to the West since Adenauer is now disintegrating into its two constituent elements. The moral and intellectual identification with the principles and basic commitments of Western culture, to which a finally liberalized Germany owes its normative self-understanding, is detaching itself unmistakably from

Germany's opportunistic accommodation to the hegemonic power which took Europe under its atomic umbrella during the Cold War.

I want to draw attention to this difference as well. The study on the constitutionalization of international law provides an opportunity to bring together some previously published writings which throw light on the relation between this question and the goal of European unification.

Jürgen Habermas
Starnberg