Regional Federalisation with a Cosmopolitan Intent

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RECONSTITUTING DEMOCRACY IN EUROPE

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Abstract

This paper deals with the issue of institutionalising a legal pacifistic international order. While Kant's idea of perpetual peace serves as the point of departure, it is argued that in order to find a proper institutional arrangement one would have to look beyond the two notions found in Kant: the voluntary federation and the world state. In line with proponents of the world state, the author argues that the federative model is not only inconsistent with the idea of an international civil condition, but also is inadequate in empirical terms. At the same time, strong reasons can be raised against various world state conceptions. Against David Held's idea of a 'cosmopolitan democratic community' it is argued that a world state could not become a relevant arena for democratic politics due to the lack of a robust civic solidarity at the global level. When it comes to more moderate ideas of world government, such as Otfried Höffe's 'minimal world state', the traditional problem of despotism is held up, although in an untraditional way. Less than being a problem related to size, it is a problem related to the fact that a world state would have no external borders. Furthermore, it is argued that the conceptually necessary connection which often is said to exist between the state and any legal order relies on a misleading comparison of anarchic international relations with the original state of nature, conceived of, not as a hypothetical, but as an empirical condition. In so far as the so-called theorem of an international state of nature does not hold, it is argued, in line with Jürgen Habermas, that a peaceful international law-based order coherently can be envisaged as a non-state multi-level system. However, in order live up to the basic principles of Kant's (liberal) republicanism, such a multi-levelled world order requires that regional unions like the EU and others, evolve into federal states.

Keywords

Introduction[1]

A characteristic feature of Kant's doctrine of right is the idea that the rule of law cannot be limited to the jurisdiction of bounded state communities if it is to guarantee each person's freedom. According to this view, states, just like individuals in the original state of nature, are obliged to enter into juridical relations with each other in order to achieve a condition of 'universal and lasting peace' (Kant 1996: 123). This idea of a law-governed international order is in 'Idea for a Universal History with a Cosmopolitan Intent' further described as 'a cosmopolitan state in which the security of nations is publicly acknowledged' (Kant 1983: 36). This is a terminology that points beyond the issue of 'international justice', strictly speaking. Following Kant's divisions in his philosophy of right, the latter is an issue that exclusively concerns the external relations between states, and falls under the category 'right of nations' (*Völkerrecht*), whereas the term 'cosmopolitan state' conceptually is linked to the category 'cosmopolitan right' (*Weltbürgerrecht*), and thereby refers to the rights of individual persons irrespective of their particular state-citizenship. Usually Kant treats these categories separately as two distinct aspects of law, which adds to the first aspect: the right of a state (*Staatsrecht*). For this reason, one should avoid any confusion or assimilation of the two. At the same time, the fact that 'the security of nations' is described as 'a cosmopolitan state' in the quotation above indicates a close connection between them. The key term for understanding this connection is, I believe, 'equiprimordiality' (*Gleichursprünglichkeit*). With respect to all the three dimensions of law, their interrelation is one of mutual dependency: 'So if the principle of outer freedom limited by law is lacking in any one of these three possible forms of rightful condition, the framework of all the others is unavoidably undermined and must finally collapse' (Kant 1996: 89). Thus, by underscoring this complementary relation between *Staatsrecht*, *Völkerrecht* and *Weltbürgerrecht*, Kant's doctrine of right does not only point beyond the legal community of state-citizens towards an international legal community of states. It also points beyond a state-centred international law towards an inclusive legal community comprising all human beings. None of these three 'communities' can replace one of the others. Each is dependent on the other two for its sustenance. As a whole they constitute the highest political good: perpetual peace.

A persistent challenge related to the idea of perpetual peace is to clarify what kind of institutional arrangement is required for its realisation, or, perhaps better: approximation. While Kant argued in favour of a voluntary federation of republics, many commentators and theorists have argued that the establishment of a legally binding international law in the final resort requires some kind of world state, a notion also found in Kant. In the present article I provide arguments that in sum point beyond these two competing conceptions, which still guide much of the discussion concerning how binding international law should be institutionalised. In agreement with contemporary proponents of the world state I argue that the voluntary federation, for familiar reasons, is too weak a conception. In addition, I argue that

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there are weighty arguments that speak in disfavour of the world state.[2] For one thing, it is questionable whether a world state could become a democratic state in any meaningful sense due to limited solidarity resources. At this point, I rely on Habermas' distinction between a reactive cosmopolitan solidarity and an active civic solidarity, although I, in contrast to Habermas, make this distinction dependent on physical distance and the need for manageable scale rather than collective identities. In addition, I point to the danger of despotic political rule. Even though I reject the traditional objection that any state covering to vast spaces is bound to become despotic, I still consider it prudential to avoid a world state due to the fact that such a state has no external borders. Consequently, there is need to reflect on the possibility of alternative institutional schemes. In this context, I find Jürgen Habermas' proposal for a constitutionalised world order conceptualised in terms of a multileveled non-state institutional scheme of interest. Central to this scheme is the evolution of politically integrated regions, like the EU. In Habermas' view, such regional bodies mainly serve the purpose of increasing political action-capacities vis-à-vis economic forces unleashed by processes of globalisation. In addition, I propose that such integration, at the mid-level so to speak, may help bring about an international legal order with a cosmopolitan imprint by providing action-capacities for an all-embracing world organisation as well. However, if such regional political bodies are to be sufficiently robust and representative in order to pursue 'world domestic politics' (Habermas 2001, 2006), they would have to evolve into federal states on a continental scale. Even if we can do without world government, continental governments are needed.

Kant's idea of perpetual peace: a brief outline

Within the classical order of European states the right to go to war (*ius ad bellum*) was recognised as an intrinsic part of sovereignty. The ascription of sovereign status implied the ascription of a right to declare war without justifying such a declaration with reference to higher ranking norms. In *To Perpetual Peace* Kant makes a brief remark on this doctrine of contemporary international law, deeming it 'meaningless (for it would then be the right to determine the right not by independent, universally valid laws that restrict the freedom of everyone, but by one-sided maxims backed by force)' (1983: 117). The 'veto' of practical reason – that 'there is to be no war' (Kant 1996: 123) – requires the replacement of the Europen order of sovereign states established by the peace of Westphalia in 1648 with an international civil order analogous to the internal civil order of individual states. According to this view, peace is not, however, just a moral end which most effectively is pursued through the medium of law, but is rather to be conceived as intrinsic to the theory of law. By designating 'universal and lasting peace' as 'the entire final end of the doctrine of right' (ibid.), law is not thought of as a mere instrument for achieving a praiseworthy condition, i.e. perpetual peace. In a certain sense it is the opposite way around: It is the Law (*das Recht*) as such that requires war to be overcome once and for all through the extension of the rule of law beyond the nation-state. In other words, legal pacifism is contained in 'the sum of the conditions under which the choice of one can be united with the choice of another in accordance with a universal law of freedom' (ibid. 24).

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[2] In the words of Hans Kelsen: 'The League of Nations was certainly too little; the dream of a World State is certainly too much' (Kelsen 2008: viii).

The basic idea here is quite straightforward: Whereas the internal civil condition ends the state of nature between individuals by submitting them to public laws that regulate their external freedom in a symmetrical and non-contingent fashion, it does not suffice to establish peaceful relations between the different states. As in Hobbes, internal peace guaranteed by a public authority monopolising the means of force is gained at the expense of transferring the state of nature to foreign affairs. Hence, considered in their external relations the states are in a non-rightful condition of war. But this is in the end an untenable situation in Kant's view (and at this point he deviates from Hobbes as well as from the majority of earlier theorists within the social contract tradition). As long as the states in their external relations remain in a state of nature, the law-governed freedom enjoyed by the citizens of the particular states is threatened, and may very well be lost in the next war. The right to independence from the arbitrary choices of other people therefore cannot come to hold conclusively unless one achieves a 'universal and lasting peace'.

But just as the idea of perpetual peace is an implication of law, so its realisation calls for legal institutionalisation. Perceiving external state-relations in terms no less 'realistic' than, say, Thomas Hobbes or Hans Morgenthau, Kant categorically rejects the doctrine of power-equilibrium underlying classical international law: 'For an enduring universal peace brought about by a so-called *balance of power in Europe* is a mere figment of imagination, like *Swift's house*, whose architect built it so perfectly in accordance with all the laws of equilibrium that as soon as a sparrow lit on it, it fell in' (1983: 89). Non-violent and fair resolutions to international conflicts calls for some kind of supranational public authority empowered to make collectively binding decisions concerning how standing rules should be applied in particular cases. In the absence of such an authority, adjudication is left to the discretion of individual states – each and every state would be allowed to determine what is right 'by one-sided maxims backed by force' (Kant 1983: 117)[3] – and this is not consistent with the concept of law, which concerns the conditions for uniting individual wills under a universal law of freedom. Hence, only by extending legal structures to the international level can the belligerent relations among nation-states be overcome. If their rights vis-à-vis each other is to be guaranteed, they have to 'enter into a contract resembling the civil one' (Ibid. 115).

Once the extension of the rule of law beyond the borders of the nation-state is conceived as an essential precondition for the sustenance of a legal framework guaranteeing rightful relations between interacting persons, one faces the challenge of explicating what such an extension implies in practical terms. *What kind* of institutional arrangement is required in order to secure the permanence of an international social contract? *Prima facie* it is tempting to think that Kant, in drawing parallels between the process of achieving perpetual peace and the process by which individual persons escapes the original state of nature, suggests that an international legal order requires a 'universal state' (*Völkerstaat*) that could effectuate sanctions against actors who threaten international security. Yet, as is well known, in *To Perpetual Peace* the world state is explicitly rejected, partly due to an alleged contradiction inherent to the idea of a 'nation consisting of nations',[4] and partly due to

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[3] Needless to say, in practice this would apply for large and powerful states only.

[4] '[M]any nations in a single nation would constitute only a single nation, which contradicts our assumption (since we are here weighing the rights of *nations* in relation to one another, rather than fusing them into a single nation)' (Kant 1983: 115).

the fear that any attempt to empower a global sovereign would be contra-productive. Rather than bring about perpetual peace, such efforts might very well lead to a 'soulless despotism' that eventually would deteriorate into anarchy (Kant 1983: 125). In the place of the world state Kant therefore introduces a voluntary federation of republican states that is to renounce war once and for all. Such a federation is to maintain peace and security between its member states, but does not require them 'to subject themselves to civil laws and their constraints' (Ibid. 117). In *The Metaphysics of Morals*, Kant speaks of 'a *permanent congress of states* […] which can be *dissolved* at any time' (1996: 119f). Thus, even if the Westphalian state system is condemned for its incitements in favour of warlike behaviour and continual preparation for war (Kant 1983: 89), there is no plea for a world government that abolishes the system of territorially based states.[5] On the contrary, the prohibition of aggressive war, complemented with the principle of non-intervention, rather underlines the sovereign equality of states, and thus forms the flip-side of nationally organised popular sovereignty. Whereas the latter tames political power internally by means of a division of powers according to which the monopoly of violence in the executive is confronted with the sovereign right of the people to legislate (cf. Maus 2006: 476), the function of international law is to tame political power in its external dimension, i.e. to protect internal political processes from interference by foreign powers (Kant 1996 114 f.).

Why the voluntary federation is too little

While there may be quite good reasons for rejecting the idea of a world state, one can still raise questions regarding the conceptual coherence as well as the empirical feasibility of Kant's federative model. For one thing, a federation that does not require its members to submit to enforceable public laws is not compatible with the idea of domesticating international relations through law. Certainly, the idea of international right presupposes the co-existence of relatively independent states. If every state were to fuse into one single global state, the international dimension of right would simply evaporate and any hypothetical prohibition against war would be nothing but an empty formula. On the other hand, if the separate states do not have to submit to coercive laws and are free to leave the federation at will, it becomes hard to comprehend in what sense this arrangement manages to establish a legally binding international law. As Kant himself writes in the introduction to *The Metaphysics of Morals*, the principle of right is conceptually linked with the authorisation to coerce (Kant 1996: 25). But on this premise, the fact that member states of the voluntary federation do not subject to the constraints of civil laws implies that they fail to establish a civil condition that guarantees the rights of each state vis-à-vis every other state.

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[5] One should note that it has been contested whether the '*idea of federalism*' of which Kant speaks in *To Perpetual Peace* really is to be conceived as a replacement for the idea of world government. According to some commentators, Kant introduced the voluntary federation for pragmatic reasons. On this reading, he merely found global public coercive law unachievable for the time being, due to the individual states' unwillingness to give up their unlimited sovereignty as well as the practical difficulties related to administering a global legal system. As a matter of internal consistency, however, he is held to opt for the world state, whereas the federative model serves as a first step approximating perpetual peace (see, for instance, Byrd 1995; McCarthy 2002). While I agree that the federative, or *con*federative, model is problematic in light of Kant's own theory, I believe the traditional reading, according to which the world state is discarded, is the most adequate.

Based on similar objections, many interpreters have concluded that the achievement of perpetual peace in the final resort requires a world state. Simply as a matter of logical consistency, an international civil condition has to be conceived in terms of a world republic, it is contended. Anything less than world government would be insufficient for the purpose of achieving the sought for international civil condition (Byrd 1995; Höffe 2006; Lutz-Bachmann 1997; McCarthy 2002). This is an issue to which I will return in the next section. Before that, I would rather address a second line of criticism, which concerns the issue of whether Kant's model is adequate in light of *our* historical situation. In this context, the core normative concerns of his theory of law are at stake. If the empirical conditions presupposed by Kant's concrete conceptualisation of perpetual peace no longer hold, then any attempt at approximating the idea of a voluntary federation would necessarily fail to realise the basic principles of justice underlying this model.

Today it has become almost commonplace to claim that nation-states are under pressure due to processes of 'globalisation' or, perhaps better, 'denationalisation' (cf. Zürn 2000), terms which refer to the increase in cross-border social exchange that has taken place since the early 1970s. There is of course nothing new about transnational interaction as such. In fact, Kant addresses the problem of private subjects crossing national borders by including the dimension of cosmopolitan right (*Weltbürgerrecht*)[6] as an essential part of his theory of law. Still, it is commonly observed that the relative importance of border-crossing transactions at present has reached levels that tend to limit the possible scope of action of independent state-actors. To a lesser and lesser extent networks of interaction correspond to the borders of nation-states, and the latter increasingly seem enmeshed in the former rather than the opposite way around (Brunkhorst 2002). Against the background of such an analysis, Habermas has passed the following judgement on Kant's proposal for achieving perpetual peace: '[T]he globalization of economy and society has condensed the context in which Kant already embedded his idea of a cosmopolitan condition into a postnational constellation' (Habermas 2006: 175).

Even if globalisation does not imply the end of the nation-state *tout court*, it does challenge the vision of a world divided into a plurality of independent and internally democratic states whose external affairs are regulated by an international law tailored exclusively for the purpose of preventing war. As for the latter aspect, violent interstate conflict is no longer the only, perhaps not even the predominant, threat to international peace and security. According to the 2004 report of the High-level Panel appointed by former Secretary General Kofi Annan, we are in need of a new and comprehensive concept of security. Beyond war between and inside states, it is argued that such a new 'security consensus' would have to address challenges related to poverty, infectious diseases, environmental degradation, proliferation of weapons of mass destruction, organised crime, and transnational terrorism. From this perspective, the goal of a just and peaceful world order is not exclusively associated with the non-violent and non-arbitrary resolution of interstate conflicts, but also

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[6] Even if the category of cosmopolitan right refers to rights ascribed to any individual person irrespective of his or her particular state-citizenship, it does not challenge the principles of state sovereignty and territorial integrity. The content of this category is delimited to the 'conditions of universal *hospitality*' (Kant 1983: 118), and is supposed to enable fraternisation – be it trade, diplomacy, or exchange of ideas – across borders. This way, the idea of cosmopolitan right actually presupposes, rather than questions, state-borders (cf. Maus 2006).

extends to the social and economic preconditions for its realisation. In addition, the Panel emphasised the interconnectedness and trans-boundary character of the different types of threats. Unlike classical warfare, which in part is constituted by borders, the 'new' threats are borderless.[7]

Against this background of a perceived mutual vulnerability to interrelated threats, it is arguable that no state, not even the most powerful, is able to adequately address pressing threats without the cooperation of other states. Independently, sovereign states have a rather restricted capacity to protect the lives and secure the well-being of their citizens. It is therefore in the interest of everyone that collective measures are taken to co-ordinately address the wide array of common security threats. Except for interstate conflicts and cases where state-authorities are the main threat to or are unwilling to protect their own population, such collective measures may not require more than an intergovernmental mode of cooperation. In this respect, the 'new security consensus' points beyond the 'permanent congress of states' merely with regard to the range of issues which need international regulation in order to achieve perpetual peace. Yet, at the same time, the interdependencies and shared risks of contemporary world community have impact on the internal political order of states by challenging their actual autonomy. This point can be highlighted by turning to the other aspect of Kant's model – the inner aspect, so to speak.

According to the first definitive article of *To Perpetual Peace*, the civil constitution of every state is to be republican, the only form of government coherent with the concept of right (Kant 1983: 112 ff.). On this view, a representative political system separating executive from legislative powers, ascribing the latter to 'the united will of the people' (Kant 1996: 91), is a prerequisite for domestic justice. Kant thereby links the egalitarian meaning of law to the principle of popular sovereignty. If legal coercion is to be interconnected with the guarantee of equal liberties for everyone, all those addressed by legal norms must have an equal chance of participating in and influencing the law-making process. Otherwise, the law might be nothing but an instrument of personal rule: '[W]hen someone makes arrangements about *another*, it is always possible for him to do the other wrong; but he can never do wrong in what he decides upon with regard to himself (for *volenti non fit iniuria*)' (Ibid.).

Insofar as Kant connects legal validity to the idea of self-legislation, or political autonomy, he gives expression to the distinct modern concept of popular sovereignty, according to which all obligations are self-imposed and therefore 'free from rulership or domination' (Brunkhorst 2005: 68). Traditionally, this idea has been most closely approximated in the organisational body of the nation-state. On this model, the

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[7] A terrorist attack in any major financial centre is likely to lead to a global economic recession and will have a dramatic impact on the life-conditions of many people in developing countries due to increase in poverty. Poverty is statistically linked with the outbreak of civil war, and is also the main reason why millions of people suffer and die prematurely from curable diseases, while civil violence and diseases like malaria and HIV/AIDS reinforce poverty. Environmental degradation, in itself essentially a threat that knows no borders, is further connected with the outbreak of infectious diseases, which in turn may be spread world-wide at unprecedented speed due to closely integrated communications systems. As for organised transnational crime, estimated profits generated in some regions exceed the GDP of certain countries, thereby undermining the state authority necessary for guaranteeing the equal rights of citizens. Cf. 'A more secure world: our shared responsibility,' Report of the High-level Panel on Threats, Challenges and Change, chaired by Anand Panyarachun. The report is available at: <http://www.un.org/secureworld/>.

democratic community is delimited with reference to a fixed territory over which a centralised state exerts control by means of police and military forces. Territory demarcates the spatial reach of a state's jurisdiction, and the population living within the relevant geographical area constitutes the politically autonomous community that claims a right to self-government and freedom from interference vis-à-vis other state-communities. Internally, the hierarchical state-structure is tailored for the purpose of providing necessary services and regulative functions for the spatially determined society, while the legislative authority of the people is ensured by national channels of democratic legitimacy (national elections, national plebiscites, debate and criticism within national public spheres etc.).

The adequacy of this constellation presupposes that the comprehensive jurisdiction over the territory which a state-authority formally enjoys is complemented with actual capacities to regulate and intervene in the society delimited by this territory. Whether democracy is conceptualised as directly-participative or representative, 'elitist' or egalitarian, aggregative or deliberative, the principle of popular sovereignty requires that those who decide are to be authorised by and accountable to the constituency they decide for. And if there is to be such a relation between decision-makers and decision-takers, the comprehensive jurisdiction over a certain territory which a national state-authority formally enjoys must be complemented with *de facto* capacities to regulate and intervene in the society delimited by this territory. However, against the backdrop of de-nationalisation, the 'material' autonomy of formally sovereign states can no longer – if ever – be taken for granted.

The phenomenon commonly regarded as having the most significant impact on the scope of possible action available to nation-states is *economic* de-nationalisation. At present, the mutual dependency between the economic and the political subsystems, which were differentiated with the dissolution of feudal society, is being superseded by a fundamental asymmetry: While national state-apparatuses still are dependent on tax-income produced by the economic system, their capacity to regulate the general conditions of economic re-production appears to gradually dissolve. In practical terms, this does not only mean that certain desirable policy-options, like redistribute interventions in the market, possibly might be unaffordable due to considerations of competitiveness. There is also the issue of multinational enterprises challenging the sovereign competencies of governments (Muchlinski 1997). With Habermas one could speak of a replacement of the steering-medium of power with the steering medium of money, a replacement which necessarily infringes on the principle of popular sovereignty: 'Power can be democratized; money cannot. Thus the possibilities for a democratic self-steering of society slip away as the regulation of social spheres is transferred from one medium to another' (Habermas 2001: 78).

Against this background, the establishment of inter- and supranational institutions as well as transnational forums is often proposed in order to compensate for the loss of political control at the national level. Larger political bodies are perceived as possible complements to the political structures of nation-states – as arenas where national communities through co-operative problem-solving potentially can regain some of their autonomy *vis-à-vis* economic forces (Zürn 2000: 190; Menéndez 2007:13). As a matter of fact, global, regional and transnational legal orders already *have emerged* as a response to the complex and increasing global interdependencies and as a reaction to the destructive forces unleashed by two world wars (Brunkhorst 2005, 2006a). From a

Kantian perspective this is good news, even if the strictly intergovernmental model – the permanent congress of states – is no longer adequate. It means that the idea of a international legal order with a cosmopolitan imprint is no mere 'normative utopia', but can link up with actual tendencies that meet it halfway (cf. Habermas 2006: 143 ff., 176 ff.). The bad news, however, is that the transnational and supranational organisational bodies of today are relatively weak and, at best, only halfway democratic. This leads to the question concerning how supranational institutions should be organised in order to secure popular rule and international peace. Should we, in the end, aim at some kind of world state, or are there other alternatives?

Why the world state is too much

One of the more ambitious strategies for coping with the challenges related to globalisation is David Held's recasting of Kant's 'cosmopolitan right' in terms of a 'cosmopolitan *democratic* law' (Held 1997: 242ff). Against the background of global interconnectedness and a recognised right of every person to influence the conditions under which one is living, the cosmopolitan outlook is said to require far more than the quite narrow conception found in Kant. Beyond 'universal hospitality', the cosmopolitan is committed to work towards a 'cosmopolitan democratic community' that effectively holds national, transnational and international power systems accountable and thereby establishes the conditions for equal protection of autonomy and freedom for each and everyone. In institutional terms, Held proposes a complex multileveled system of interconnected and overlapping political authorities at the global, supranational and international levels, combined with trans-national referenda-groups, entrenchment of civil, political, economic and social rights, as well as an independent international court. In the end, this structure of 'interconnected power and authority centers' (Held 1997: 245 f.) is to become a rather comprehensive democratic world-state with a reformed UN as the hierarchical peak and the General Assembly transformed into a world parliament.

Even if a world state to some extent may appear attractive on normative as well as conceptual grounds, one could still question whether the social prerequisites for cosmopolitan democracy are in place, or are likely to be in place for the foreseeable future. At this point I have in mind the issue of motivation and solidarity; our willingness to accept special obligations towards co-citizens who nevertheless remain strangers. After all, democracy is not just about institutional schemes institutionalising procedures for preference aggregation. It is also a social practice, or a way of life, implying commitment and concern for the well-being of one's society as a whole. The question is how far such commitments go, and whether we reasonably can expect a world state to be perceived as a relevant arena for democratic decision-making on a wide range of issues.[8] As I see it, the latter is not very likely.

In this connection, I find Habermas' distinction between 'cosmopolitan' and 'civic' solidarity useful (Habermas 2001: 107 ff), although I think one should account for it in a different and more principled way than he does. According to Habermas, the barrier hampering any aspiration towards a cosmopolitan democratic order that knows no boundary between inside and outside is the lack of a thick global collective

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[8] Held lists seven categories of rights which are to be protected by the world state: health rights, social rights, cultural rights, civic rights, economic rights, pacific rights, and political rights (Held 1995: 192 f.).

identity.[9] In his view, world citizens are united by their 'humanity', which suffices to ground a negative, or reactive, solidarity supported by moral sentiments. Such a 'cosmopolitan' solidarity gives rise to indignation and moral outrage when confronted with violations of human rights and acts of aggression, as well as sympathy for those who suffer due to natural and humanitarian disasters.[10] On this basis, an all-inclusive world-organisation like the UN could be empowered to pursue goals like human rights-protection and international peace and security. But it does not suffice to motivate collective action in general, because the pursuance of political goals and goods that reaches beyond the requirements of justice, i.e. what is equally good for all, presupposes common allegiances and identifications that enable the members of a community to reflect and decide upon what is good for them as a group distinct from other groups.[11] It would require an active 'civic' solidarity, that is rooted in particular life forms, and that makes co-citizens tolerate special obligations toward each other. Due to the lack of a collective identity at the global level, however, a world government could not count on such a civic solidarity for support, or so Habermas argues. For structural reasons a world state (which excludes no-one) could not link up with the concrete self-understanding and motivations of its citizenry, and therefore would be at odds with the ethos of democratic citizenship, which is a precondition for the sustenance of the Enlightenment-project aimed at creating a society of free and equal citizens.

However important tradition and a common 'we'-feeling may be for the emergence of a strong sense of solidarity, one could still object that allegiances and identifications are subject to historical change. Even if it may not seem very likely, it is possible to conceive of a future condition in which a relatively unified global culture has emerged due to extensive and continuous cross cultural communication. If the

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[9] 'Any political community that wants to understand itself as a democracy must at least distinguish between members and non-members. […] Even if […] a community is grounded in the universalist principles of a democratic constitutional state, it still forms a collective identity, in the sense that it interprets and realizes these principles in light of its own history and in the context of its own particular form of life. This ethical-political self-understanding of citizens of a particular democratic life is missing in the inclusive community of world citizens' (Habermas 2001: 107). The fact that the issue of an absent collective identity is linked to the missing boundary between inside and outside has led Robert Fine and Will Smith (2003) to conclude that this argument is conceptual in nature, or, more precisely, that it is an empirical argument in the guise of a conceptual argument. As I read the argument, however, it rather points to a conflict between the idea of a world state and the ethos of democratic citizenship, i.e. the normative aspect of being a citizen (as opposed to 'bourgeois') concerned with the common good. Surely, there is contained in the concept of popular sovereignty a reference to particular societies. But even if the idea of self-government through positive law must be established in a determinate society ascribing rights and duties to a specific group of people (cf. Habermas 1996: 124 f.), this in itself does not contradict the idea of a democratic world government. Just as territorial borders are contingent and permeable, so the group of people constituting a particular demos may change and expand. And since the group of world citizens is just as determinate as the group of any other particular state-community, there is no logical fallacy involved in imagining changes and expansions so far-reaching that all of humanity one day in the future would constitute a self-governing society. Besides, as Habermas remarks in passing in a reply to Rainer Schmalz-Bruns, even a citizenry consisting of all living human beings could still make a distinction between themselves and past as well as future generations (Habermas 2007: 441 n49). Hence, the point here is not to deem global democracy impossible on conceptual grounds. The real issue concerns the slack social bonds at the global level.

[10] Cf. Habermas (2008: 344), and Kant (1983: 119): 'Because a (narrower or wider) community widely prevails among the Earth's peoples, a transgression of rights in *one* place in the world is felt *everywhere*'.

[11] Craig Calhoun gives expression to a similar view in this way: 'Democracy must grow out of the life-world; it must empower people not in the abstract but in the actual conditions of their lives. This means to empower them within communities and traditions, not in spite of them, and as members of groups, not only as individuals' (Calhoun 2002: 875).

distinction between 'cosmopolitan' and 'civic' solidarity is dependent on the degree of social cohesion among world citizens, the argument concerning too slack social bonds would in such a case no longer have that much weight. Yet, in my view, there is another, permanent feature of the human condition that may ground the thesis that a world state with wide-ranging competencies cannot become a democratic state in any meaningful sense: the need for manageable scale. Less than weak social cohesion, physical distance and the magnitude of political issues may account for the lack of a strong civic solidarity at the global level. On this view, differentiation with regard to the scope of our responsibilities arises from a perceived need for a moral division of labour, and a global democratic order may not be possible simply because it requires too much of ordinary people. As Craig Calhoun has pointed out, there are legitimate everyday needs and desires that do not necessarily square too well with the idea of a cosmopolitan political community: '[O]ne of the things people quite reasonably want from a good political order is to be left alone some of the time – to enjoy a non-political life in civil society. […] Oscar Wilde famously said of socialism that it requires too many evenings. We could say of cosmopolitanism that it requires too much travel, too many dinners out at ethnic restaurants, too much volunteering with Médecins Sans Frontières' (Calhoun 2002: 882).

While the argument thus far disfavours the idea of a comprehensive world state, it is not necessarily contrary to more modest proposals for global statehood organised according to a principle of subsidiarity. Otfried Höffe, for instance, speaks in favour of a 'minimal', in contrast to a 'homogeneous' world state (Höffe 2006: 193ff.). Whereas the former is conceived as a 'secondary state' with a narrow set of competencies, and therefore does not infringe on the right to self-determination of particular peoples, only the latter is said to contradict the idea of securing freedom and peaceful coexistence between distinct state-communities by fusing them into one state. On this account, the 'minimal world state' is in fact the only model which accords with the analogy between an interpersonal and an international social contract, while the 'homogeneous world state' as well as the 'ultraminimal world state' – Kant's permanent congress – each in its own way forms a false parallel. From the fact that there has to be an authoritative third party which can adjudicate in case of conflict it follows that the 'ultraminimal world state' is incompatible with the idea of perpetual peace, but it does not follow that there has to be a 'homogeneous world state'. Just as individual persons do not give up their freedom and bodily integrity by entering the civil condition, so too the freedom and internal legal order of states is not cancelled out by submitting to a global state-authority with limited powers. Unless one ascribes to a doctrine of indivisible sovereignty, according to which sovereignty means supreme authority on every subject domain within a territory, it is simply jumping to conclusions to claim that transferring some competencies implies transferring all competencies to a higher level.

Yet, even if Höffe tries to establish a middle-ground between a federation of states and a unified world state, one might still question whether such a move really suffices in order to avoid the 'soulless despotism' invoked by Kant. In my view, prudential considerations speak against any form of world state: a global monopoly of power may very well become the 'graveyard of freedom' (Kant 1983: 125), even if the state in question is only a 'minimal' state. At the same time, I am not convinced by the traditional way this problem is accounted for, namely as a problem related to the sheer size of any political structure having global reach. As Ingeborg Maus has

argued (2004, 2006), Kant, just like Rousseau and the American Anti-federalists, worries that the government in 'outsized nations' inevitably will tend to become independent of its own constituency and usurp all power, because an effective division of powers securing popular sovereignty and the rule of law presumably is possible only in limited spaces: 'The larger the state [...] the more efficient the executive must be, until finally a point is reached beyond which the executive either breaks down or can no longer be controlled by the legislature and the social base' (Maus 2006: 472). But one need not accept this very strong claim that despotism is a necessary implication of world government in order to agree that there is a potential conflict between peace thus conceived and political freedom, from which the idea of perpetual peace is derived in the first place. Even if one does not find it outright impossible to establish a division of powers similar to that found in the nation-state at the global level,[12] there is no reason to play down the risks involved in authorising a world sovereign. As I see it, the real problem here does not so much concern size as it concerns the fact that there is no spatial division of power in the world state, i.e. the fact that the world state has no external borders. Of course, a spatial division of political power between territorial states is in itself no guarantee against despotic rule. Neither has the modern system of sovereign states 'proved a particularly good way of avoiding tyranny – even if it does avoid global tyranny' (O'Neill 2000: 171). Nevertheless, tyranny in one or some places may be preferable to global tyranny. The good thing about spatially delimited tyranny is that is limited. As long as there remain other non-tyrannical states, such states can lay outside pressure on despotic regimes. A global tyranny has no external instances that can check its power. Moreover, the scenario of a plurality of states, some of which are despotic some of which are not, still keeps the option of walking away open. If the world state develops into a tyranny there will be no safe havens.[13]

But if the world state is at odds with the idea of legally secured freedom, and the voluntary federation is insufficient for achieving perpetual peace, one apparently faces the following dilemma: Either one must choose the risk of peaceful slavery (the world state), or one must choose to perpetuate savage freedom (the voluntary federation). This is, however, an alternative that exhausts all possibilities only if the task of establishing a legally binding international law is conceived as similar to the challenge facing individual persons in the thought experiment of an original state of nature.[14] Only if one starts from the premise of an international state of nature – conceived of as an empirical, rather than hypothetical, condition – does legally binding international law necessarily require a universal state (that nevertheless endangers the freedom of its citizens). The question is whether this is a sound premise. As Kant notes in *Perpetual Peace*, there is an essential difference between the pre-political subjects living in a stateless condition and collective state-subjects,

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[12] If size is identified as the problem in this context, it follows that large states are more prone to despotism than small states. But this is a view that not only is hard to corroborate empirically. Arithmetically speaking, it also leads to absurd consequences, such as the proposition that Sweden, with its approximately 9 million inhabitants, is inherently twice as despotic as Norway, which only has approximately 4.5 million inhabitants.

[13] Kant's provision on turning foreigners away is interesting in this context. According to the doctrine of hospitality, a state is in its full right to deny someone permanent residence on its territory *provided* it can be done 'without destroying him' (Kant 1983: 118). This reservation seems to imply the acknowledgement of a right to asylum. If there only were one state such a right no longer seems to have any meaning.

[14] See, for instance, Byrd 1995; Höffe 2006; Lutz-Bachmann 1997; McCarthy 2002.

insofar as states already has established an internal legal order (Kant 1983: 116). In a similar fashion, Habermas has pointed to the different interests and concerns of the individuals living in the state of nature and state-citizens. Alluding to Hobbes' description of the state of nature, he writes:

> In contrast to individuals in the state of nature, citizens of competing states already enjoy a status that guarantees them rights and liberties […] [C]itizens of any state […] possess the political good of legally secured freedoms which they would jeopardize if they were to accept restrictions on the sovereign power of the state which guarantees this legal condition. The pre-social inhabitants of the state of nature had nothing to lose but the fear and terror generated by the clash of their natural, and hence insecure, freedoms.
>
> (Habermas 2006: 129f)

While Kant from this observation draws the conclusion that states cannot be forced to subject to a more extensive legal framework, Habermas furthers the same point in a different direction. Since the attempt to achieve a just international order must take the existence of already established constitutional democracies into account, he argues, the process leading to the former has to be thought of in different terms than the process leading to the latter. Rather than seeing the two processes as analogous, the relationship ought to be construed as *complementary*. Instead of conceiving the challenge of establishing binding international law in terms of escaping a state of nature, Habermas starts from the idea that classical international law, as it developed in the repercussions of the religious civil wars of the 17th century, worked as a kind of *proto-constitution* for the European community of states. Even if there were no common authority above the state subjects, and even if there were no prohibition against war, he argues that it still makes sense to speak of a weakly constituted legal community among formally equal parties. Insofar as it implied the mutual ascription of rights among sovereign states, and also established common procedures and rules of conduct, the Westphalian state system cannot adequately be described as a lawless condition, despite its anarchic character.

This way, one can see that the evolutionary process of extending the rule of law to the international level actually is an inversion of the process through which a hierarchically organised state power is tamed and put in democratic chains (cf. Habermas 2006: 131 ff.). Compared to the historical challenge of turning absolutist regimes into legally regulated associations of free and equal citizens, the challenge of institutionalising international law goes in the opposite direction. Since there already is a non-hierarchical community of states in place, the challenge cannot be construed as similar to establishing horizontal relations among state-citizens. The challenge rather is to provide agency, i.e. to establish supranational institutions that effectively and impartially can enforce international law in a way that *supplements*, rather than supersedes, the *already existing* horizontally structured state-community. In other words, if this line of argument is sound, there is no compelling reason to conceptualise a reformed and strengthened UN according to the template of a state authority. Instead, the UN, like Höffes 'minimal world state', would resemble the liberal night-watchman state of the 19th century, except for the fact that it would not even be a state: 'No structural analogy exists between the constitution of a sovereign state that can determine what political competencies it claims for itself [...], and the

constitution of an inclusive world organization that is nevertheless restricted to a few, carefully circumscribed functions' (Habermas 2006: 134).

The missing structural analogy between the world organisation and a sovereign state is not only due to the former's limited and relatively fixed set of tasks, which implies that 'the enforcement of established law takes precedence over the constructive task of legislation and policy-making' at the global level (Habermas 2006: 174). There is also a certain resemblance with Kant's idea of a voluntary federation insofar as even a reformed and strengthened UN would be composed of sovereign states that retain control with the means of coercion. Yet, here too there are differences which resist complete assimilation. Even today the world organisation exhibits features that go beyond Kant's vision. For one thing, the UN Charter contains provisions for sanctions against non-complying member-states. Even if the authority to decide upon the use of coercive means at the global level is split from the direct control with such means, one could still say that UN members are subjected to 'civil laws and their constraints' (Cf. Kant 1983: 117).[15] Furthermore, the UN Charter does not exclusively recognise states as legal subjects. Despite the main thrust of the text, which is concerned with the maintenance of 'international peace and security' (Art 1.1) in order to 'save succeeding generations from the scourge of war' (Preamble), there is also included a commitment to promote and encourage faith and respect for human rights (Preamble and Art. 1.3). Combined with later declarations and conventions on human rights, this has gradually led to the recognition of individual persons as subjects of international law. Against this background, one might conceive of the world organisation as a cornerstone in what Jean Cohen has called a 'dualistic' world order, founded on the principles of equal sovereignty and human rights (Cohen 2006).

Now, such an organisation, whose field of operation is carefully restricted, will of course not suffice in order to address the challenge of the nation-state's waning action-capabilities. Even if one succeeds in reforming the UN so as to make it capable of dealing effectively with international security and human rights issues, the negative impact of economic globalisation still remains a problem. For this reason, I assume, in line with many others that larger political bodies at a regional mid-level, like the European Union, might be a valuable, perhaps necessary, complement to the world organisation.[16] If such units were made fit for collective problem solving and conflict resolution with regard to central cross-border issues, they could serve the function of providing action capacities, not only for the nation-states, but for the UN as well.

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[15] To leave such a gap between the authority to decide and the actual control with coercive means is only plausible if state actors are not conceived of as rational actors in the sense of rational choice theory, i.e. if state actors are not 'rational devils' possessing theoretical, but not practical, reason.

[16] See, for instance, Eriksen (2009).

The role and structure of regional political bodies

According to a common view, the main purpose of creating larger political units beyond the traditional framework of more or less independent nation states is to catch up with processes of de-nationalisation by increasing the political action capacities of state actors, in particular vis-à-vis economic forces. From this perspective, political bodies at the regional level, due to their territorial reach, potentially may re-establish conditions under which those who are expected to abide by public laws and regulations might understand themselves as the authors of the very same set of rules. In addition, regional polities could function as what Habermas has termed 'global players' within the framework of transnational negotiation systems dealing with pressing cross-border issues, especially those issues which touches upon questions of distributive justice on a global scale (ecology, energy, economy). Since negotiations on such issues hardly should be expected to be unaffected by the interests and relative power of the negotiating parties, the development of robust and representative regional units of this kind might be pivotal for the purpose of reaching fair compromises. What is more, by delegating these tasks to the level of regional bodies and transnational forums, the workload of the all-inclusive world-organisation is lightened, enabling it to specialise and deal more efficiently with tasks within its own field of operation. And lastly, regional political units could also play a more direct role in a multilateral security-system, for instance by providing the UN with actual capacities in case of peace-keeping and peace-enforcement missions, or by contributing to stability and prosperity of member-states, as well as actively addressing regional peace- and security-threats.

Insofar as one ascribes the dual function of providing action-capacities for both the traditional nation-states as well as the world-organisation to mid-level political units, they could aptly be characterised as 'regional subsets of a larger cosmopolitan order' (Eriksen and Fossum 2007: 20). But even if one can imagine such regional subsets as central building blocks within an institutional scheme that is to approximate Kant's idea of perpetual peace, one should be careful to avoid that what is identified as problematic at the higher level unwittingly is reproduced at the lower level. If lack of solidarity and fear of tyranny are relevant objections against the world state, could they not be raised against political units at the regional level as well?

As far as solidarity is concerned, I think it is fair to say that today there is only in Europe anything resembling a will to extensive political integration beyond current state borders, and even here it remains an open question whether solidarities sufficient for a transnational democracy will develop. One might optimistically view organisations like ASEAN, MERCOSUR or AU as global players in the making, but as of today none of these regional alliances even approximate the level of integration necessary for becoming global actors of the kind envisioned here. At least in the short run, this state of affairs may raise some doubt as to the feasibility of a multileveled world order à la Habermas.

With regard to the issue of tyranny, one could of course say that things are somewhat less precarious at the mid-level, insofar as the scheme presupposes a plurality of regional units rather than one all-embracing state. Here, the 'no outside'-objection is out of place. At the same time, if one takes the example of European integration as a model, the current situation may give rise to some uneasiness. The so-called

democratic deficit is a complex issue, but if one restricts the analysis to certain features of the European governmental structure, not only does the central position of the Commission and the Council of Ministers lead to executive dominance at the European level. It also changes the balance between legislative and executive powers within the primary state units. In combination with the doctrines of Supremacy and Direct effect the hierarchical relation between the two branches is in fact turned upside down. Instead of democratic control with the executive there is, in the words of Hauke Brunkhorst, 'the rule of the *particular* (the executive) over the *universal* (the legislature)' (Brunkhorst 2006b: 175). Hence, even if Europe have a constitution in the sense of a (Lockean) rule of law regime that restrains political power, it does not have a (Kantian/Rousseauian) revolutionary constitution that goes back to the will of the people and empowers citizens to give rights to themselves (Brunkhorst 2004).

Like Brunkhorst, I believe the way out of this predicament necessarily has to go through 'legal formalism'. Proposals that aim at transnational democracy through exclusive reliance on informal communicative processes within civil society networks will not do.[17] Appeals to discursive networks at the expense of formalised decision-making procedures that turn deliberation into collectively binding decisions cannot, for instance, sufficiently explain how the claims of underprivileged people are to be converted into political decisions that can make a difference. In the absence of formal rules and institutions guaranteeing equal representation in decision-making processes, deliberation may very well become an ideological disguise for the rule of the talking classes: '[T]here is no democracy at all without egalitarian procedures of decision-making. […] Legal formalism is the only guarantee that the voices of weak, silenced and poor citizens will be taken into account [...]' (ibid. 97 f.). To be sure, organisational and procedural norms and a system of institutionally entrenched civil rights do not by themselves make a democracy. Without a political public sphere embedded in a civil society of voluntary associations or mass media allowing for the dispersion of information legal formalism remains a mere formality. But the further inference that democratic politics can dispense with constitutional norms is not really convincing. Formal rules are not contrary to debate and contestation within public spheres. They should rather be seen as enabling conditions for a political practice where opinions produced or corroborated through public discussion effectively can influence collectively binding decisions.

There is, however, a certain tension between Brunkhorst's emphasis on formalism and his opposition to the view that a democratic constitution presupposes the state. Even if I agree as far as formalism is concerned, I find his argument unconvincing when it comes to the issue of whether a democratic constitutional order can be de-coupled from statehood. It makes perfect sense to speak of constitutionalism without

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[17] For instance, John Dryzek has proposed that transnational democratisation could be anchored in informal civil society networks rather than in formalised institutional structures (2000: 115 ff.; 2007). According to this view, 'contestatory' discourses within decentralised transnational networks of communication that respond critically to the failures of political bodies like the UN, WTO, or the World Bank might serve as an alternative to the creation of authoritative decision-making bodies beyond the traditional nation states. While such communicative contestation indeed could play an important role in challenging and altering discursive frameworks steering the way in which political issues are thought and talked about (cf. Dryzek 2000: 131), the obvious weakness of this discursive conception of democracy is that it is merely 'contestatory' (cf. Bohman 2007: 14). What is missing is some reflection on the *formal preconditions* for an egalitarian and socially inclusive democratic order, i.e. an order where everyone are represented equally.

a state (Cf. Brunkhorst 2002). but it is not clear that the idea of *democratic* constitutionalism without a state is equally meaningful. After all, the conceptual separation of 'state' and 'constitution' depends on the idea of a power-binding constitution that limits already existing ruling powers through checks and balances. This 'liberal' type of constitution may provide an appropriate model for the establishment of a global non-state constitutional order providing collective security and basic human rights protection. But insofar as the primary aim of rule of law constitutionalism is the juridification, and not democratization, of power, the idea of a democratic constitution without a state does not seem to square too well with the egalitarianism implied by legal formalism.[18] Nevertheless, according to Brunkhorst, such a de-coupling is possible due to the non-substantial meaning of 'popular sovereignty', a notion that 'aims only at the completely constructive formation of a common will from case to case', and that 'is not only prior to all concepts of substantial communities or states, but [...] can also be separated from states and any particular community' (Ibid. 99 f.). Elsewhere, he claims that popular sovereignty must be conceived of as part of a '*practical* vocabulary' directed at emancipation and public criticism, rather than as part of a '*theoretical* vocabulary' meant for describing 'the (political) world' (Brunkhorst 2008: 494). And because of this non-substantial, practical-emancipatory meaning of the term, there is in his view no need to insist on any conceptually necessary link between democracy, as a principle of legitimate law-making, and the organisational body of a state. Insofar as 'state' here designates one specific state form, namely the sovereign state of the Westphalian system, I have no problem with this line of reasoning. However, the argument rests on the presupposition that the state concept, unlike the concept of democracy, belongs to a descriptive, theoretical vocabulary. But conceived of in more abstract terms, as an authoritative structure organising a collective capacity to act and intervene in society, the state concept belongs to the same practical vocabulary of which the notion popular sovereignty is part. 'State' in this sense need not be equated with the specific form of the sovereign state as conceived of in classical international law. The concept subsumes a wide variety of organisational forms, from centralised unitary states to de-centralised federal regimes, and it does not have to imply a sovereign right to declare war. And without some kind of hierarchically organised power structure, a democratic order is hardly comprehensible.[19]

At least if we turn to the issue of regional political units and considers the gravity of the tasks assigned to such mid-level actors within the multilevel framework outlined above it is hard to imagine what kind of actor this could be if not a state actor. There is a conceptual gap between the idea of a world state, however minimal, and a future UN, insofar as the latter is functionally specialized and assigned a restricted set of tasks. Rather than speaking of a global 'state' it is therefore more adequate to speak of a supranational 'agent' authorized by the world community (composed of the states and citizens of the world) to deal with collective security issues as well as to prosecute 'Crimes against Humanity'. When it comes to the regional units, however, things are

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[18] Against this background, Habermas remark that 'constitutions of the liberal type recommend themselves for political communities beyond stats or *continental regimes such as the EU* [my emphasis]' (2006: 139) is puzzling. Although it is not particularly clear what is meant by this, it does seem to be at odds with the eurofederalist position which Habermas has defended elsewhere. Cf. for instance Habermas (2004).

[19] Cf. Schmalz-Bruns (2005: 80 f.). For a good account of Kant on public authority as a precondition for justice, or political freedom, see Varden (2008).

different. An organisation that legitimately can initiate and implement general economic, social and environmental policies, negotiate binding compromises on behalf of its members, as well as arbitrate internal conflicts, does not act on delegated powers, and would have to feature all the central functions of a state. There would have to be a legislature that represents every subject of law equally, a formally accountable executive power that ensures reliable enforcement of legal rules as well as effective implementation of political programs, and common judiciary institutions that guarantee equal legal protection to each and everyone in accordance with standing law. And if a regional political body that is to live up to republican principles requires all the functions of a state to be in place, then the logical conclusion seems to be that the regional units have to evolve into state units. In my view, this conclusion is in fact also supported by Brunkhorst's own analysis of the democratic deficit in the EU, which identifies the tension between a formally democratic, but materially undemocratic, *intergovernmental* track of legitimation and an insufficiently institutionalised *supranational* track of legitimation as favouring 'the hegemonic dominance of the executive branches of the [...] European institutions' (2004: 99 f.). Against this background, the *prima facie* most obvious answer to the normative challenge of democratising the Union does appear to be less intergovernmentalism and more supranationalism, even if the EU, empirically speaking, 'is not on an evolutionary track to statehood' (ibid.).

Conclusion

Throughout this article I have argued that it is necessary to consider other institutional schemes than the two alternatives found in Kant's writings in order to approximate his idea of perpetual peace. The choice between a voluntary federation and a world state has persisted in guiding discussions concerning the issue of how a just international order ought to be conceived. Yet, both notions are problematic, and they do not exhaust the possibilities. As regards the former, the federation of free states, there is a problem of conceptual inconsistency, as well as a problem related to the blurring of the distinction between a state's inside and outside due to processes of denationalization. With regard to the world state, there are problems related to its size and to its lack of external borders. I have also argued that the often held view that the world state is necessary on conceptual grounds does not hold. In opposition to the two traditional notions, I have considered Habermas' proposal for a non-state multilevel institutional scheme as a possible middle path. This scheme is not least interesting due to the central role of so-called 'regional regimes', which may serve the purpose of providing action-capacities for nation states as well as for the world-organisation. However, these mid-level units would have to develop into federal states on a continental scale if they are to fulfill their functions in a legitimate way. While I endorse the egalitarianism implied by the formalism which Brunkhorst defends, I find it hard to reconcile it with his rejection of a European federal state. This would certainly require institutional reforms and transfers of competencies to the federal level that can be expected to meet resistance. Yet, if regional political bodies of the kind envisaged here are to fulfill their task in a democratic way there are no alternatives to statehood, or, at least, there are no conceptually coherent alternatives that I know of.

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