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# Democratic Cosmopolitanism

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## Democratic Cosmopolitanism

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Another Cosmopolitanism / Seyla Benhabib / (New York, Oxford University Press, 2006) / 206 pages / ISBN-13-978-0-19-518322-1

The last twenty years have witnessed the emergence of a large body of literature in cosmopolitan political theory. Authors with a large variety of interests, approaches, and positions claim to present cosmopolitan theories of justice, democracy, or culture, so much so that it has become rather difficult to identify what cosmopolitanism really is. Seyla Benhabib in *Another Cosmopolitanism* aims to present her own understanding of the concept by providing for it a philosophical ground and by illustrating by examples what it implies for political practice. This thin but thought-provoking book contains Benhabib's two-part Tanner Lectures, comments by Jeremy Waldron, Bonnie Honig, and Will Kymlicka, and Benhabib's reply to comments.

Benhabib's lectures consist of two parts. In the first part she discusses the philosophical foundations of cosmopolitan norms. She sets the scene by referring to the correspondence between Hannah Arendt and Karl Jaspers about the lawfulness of Eichmann-trial and the authority of international law. She then proceeds by outlining the philosophical foundations of cosmopolitan right by providing an original interpretation of Kant's idea of the cosmopolitan duty of hospitality. In the second part of her lectures, Benhabib presents two examples of the changing character of citizenship that in her view support her understanding of cosmopolitan right.

Benhabib starts the discussion by presenting the reader with a puzzle. We are used to thinking about moral issues in universal terms. What makes an act right or wrong depends on the features of the act, and not on the group membership of the agent or the subject. This is also how cosmopolitan theorists think about cosmopolitan norms such as human rights: they are thought to bind everyone, regardless of nationality, religious conviction, or race, with regard to all other humans. This is not how we think about laws, however. They bind only a circumscribed group of persons. On the one hand, their validity is contingent on there being a sovereign authority with the powers of enforcement. On the other hand, their authority depends on the fact that they are the outcome of a people's democratic self-determination. Both features are problematic for cosmopolitan norms, however. There is no world-wide sovereign authority capable of enforcing human rights on a global scale, at least not at present. Moreover, there is no global democracy either. Democracies have always, so far, claimed to make law in the name of some circumscribed group of persons, narrower than that of humankind. As long as we have separate demoi claiming to be the ultimate source of law within a circumscribed territory, however, the authority of international human rights norms rests on at best fragile foundations. Those of us who want to see human rights as having a binding force similar to that of positive law will find this unsettling. Thus, focusing on the status of human rights, Benhabib poses a question that she regards as an important dilemma: "How to create quasi-legally binding obligations through voluntary commitments and in the absence of an overwhelming sovereign power with the ultimate right of enforcement?" (p.23)

In looking for an answer to this question, Benhabib draws on Kant's doctrine of cosmopolitan right, with the duty of hospitality at its centre. In her interpretation, this duty covers the relationship between states and those of their residents not having full rights of membership. She regards human rights as an important example of such a relationship. In regard to the above dilemma, she suggests that human rights acquire the force of law within a country by a process of "democratic iteration", involving a "jurisgenerative politics" that

mediates “between universal norms and the will of democratic majorities.” (p.49) Benhabib argues that, at least in democratic countries, processes of “democratic iteration” will gradually align the content domestic law with the requirements of moral universalism. She supports this conjecture with two examples about how our conception of citizenship has changed in some Western countries.

The traditional liberal idea of a nation-state has been undermined by some important recent developments. This view has regarded citizenship as a unitary bundle of particular rights and obligations borne by subjects within a circumscribed territory. Benhabib questions the appropriate location of some of these rights by invoking two recent examples that, in her view, represent a departure from the traditional liberal view of the nation-state. The first of these examples focuses on political struggles in Western, secular countries about what rights members of immigrant Muslim minorities are entitled to, with regard to the display of religious symbols, such as the wearing of head-scarves in public schools. Benhabib suggests that political struggles within countries like France may eventually lead to a redefinition of national identity. The second of her examples questions the traditional view by showing that some political and social rights that were earlier on regarded as aspects of the unitary concept of citizenship have been unbundled in the member states of the European Union. For example, those citizens of EU-countries who are residents of other EU-countries are eligible to vote in local and EU-wide elections. Therefore, with her two examples, Benhabib emphasises the disaggregation of three dimensions of citizenship: national identity, political rights, and social and economic rights. Her conclusion is that, as a result of this process, through which democratic iteration within these countries brings about a greater correspondence between cosmopolitan norms and national law, citizenship can no longer be regarded as a unitary concept. I regard as one of the main virtues of Benhabib’ lectures that the author recognises some important aspects of the changing character of citizenship.

Benhabib’s lectures, for all their important insights, have significant shortcomings as well. I find Benhabib’s example of the “scarf-affair” rather unfortunate in that it does not challenge the unitary view of citizenship she purports to criticise. The question of what religious symbols students may wear at school can be answered within the framework of the nation-state. It ultimately boils down to the issue how to reconcile citizens’ right to religious freedom with other constitutional rights in liberal democracies. As Will Kymlicka points out in his comments, the traditional liberal nationalist could accommodate all the demands for cultural rights immigrant minorities claim without having to face a serious challenge of the liberal nationalist conception of citizenship. (p.137) This may well be only a problem with Benhabib’s choice of examples, rather than a conceptual shortcoming of her analysis. However there is a deeper, conceptual problem that underlies Benhabib discussion of the examples.

Even though Benhabib is aware of the unprecedented impact of international law and soft law on the organisation of state institutions, and of the change in our conception of citizenship brought about by the disaggregation of political, cultural, social, and economic rights, she fails to grasp the limitations of the state system. Her remarks suggest that she sees democracy as being bound up with territorially circumscribed states, which imposes a significant limitation on what cosmopolitan right can demand of us. It is her important insight that democratic constitutions circumscribe not only the group of the subjects of law and that of its authors, i.e. those who have a say in making the law, but also a territory within which authority is exercised over subjects and objects. She claims “the will of the democratic sovereign can only extend over the territory that is under its jurisdiction; democracies require borders”, and she contrast democracies, which have borders, with empires, which have frontiers. (p.33) She does not elaborate on, however, why this must be so.

Other cosmopolitans might find Benhabib's taking for granted the territorial state system unjustifiable, especially considering some important dimensions of state power Benhabib is silent about. States claim not only rights to be exclusive imposers of legal requirements on those residing within their territory, but also to exclude others from access to their territory, and exclusively to control the use and distribution of resources found or produced within their territory. These dimensions of state power are very problematic, and it is questionable whether concerns about them can be accommodated by a system of territorial states, however democratic they might be in their internal working. This is the main concern of those cosmopolitans who argue for global institutional reforms that might eventually lead to abandoning the system of nation-states. Perhaps Benhabib has the answer to these concerns and is able to outline an alternative form of global democracy capable of taking into account the interests of all humans equally. In this case the book provides a good starting point for discussion. However, short of a convincing argument for how political processes within democratic countries will lead to the gradual evolution of a cosmopolitan global system of institutions, we are left with some doubts about the prospects for such developments.

Finally, I have to note a minor aspect of the book that I found disturbing. The editors do not follow in the body of the book the original German transcription of titles and phrases taken, for example, from Kant, however they return to the original German transcription in the Notes. This disturbing inconsistency could have easily been avoided.

For all its problematic aspects, this thin book provides an original contribution to the flourishing literature on cosmopolitanism and human rights. Those familiar with this literature will find the insights of the book refreshing. However, it will also be of interest for the more general audience of those troubled by the democratic credentials of international law and human rights.