On the Democratic Provenance of Cosmopolitan Governance

- Plea for a revaluation of the democratic subject -

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Introduction

Does the discipline of International Relations have something to offer to the world? As a student of IR, I find it difficult to conceive of an affirmative and convincing answer to this question. Although there has always been a branch of IR that engaged with politics directly, a phenomenon embodied by the person of Henry Kissinger, the main theoretical and methodological debates of the last decades appear quite remote from international political practice. When the question moreover concerns IR’s service to the world at large, Kissinger, a Realpolitiker pur sang, hardly seems an appropriate example. A staunch defender of IR’s value for humanity might of course point to the so called first ‘great debate’ in IR between realism and idealism and argue that IR in fact originates from scholars’ concern with humanity’s faith. To make her case completely, this person could quote Kant’s *On Perpetual Peace* and refer to the league of nations and its follow-up the United Nations; point taken.

We live however in a world more cynical than some decades ago, that is post-Fukuyama in regard to our faith in achieving international peace. A skeptic only has to remind us of what happened to the league of nations, urge us to observe the paralysis of the Security Council and simply read the news now and then. It is exactly in this time of crisis that faith in international progress is waning. Nevertheless, a new answer to the question what humanity can expect from IR has recently come to the fore, and its name is *Global Governance*. The term has started to pop up in the IR literature from the end of the nineties onwards and its use has grown exponentially ever since. Not only did the new kid on the block apparently respond to an urgent theoretical need of the community of IR theorists, it seemed of interest to policymakers too. *Global Governance* is here to stay; the term has found its way into undergraduate textbooks and even turned into a main subject for graduate students.

By dropping the term, what first comes to mind is the United Nation, and it was in fact a UN commission on global governance that brought the term into fashion by issuing a report called *Our Global Neighbourhood* in 1995. This report not only marked the birth of an influential concept, it is also representative for an apparent paradigm shift in International Relations towards the normative dimension of the field, as its drafters take the world to be ready for a *global civic ethic based on a set of core values that can unite people of all cultural, political, religious, or philosophical backgrounds*.\(^1\) Although governance is primarily understood descriptively, *as the sum of the many ways individuals and institutions, public and private, manage their common affairs*\(^2\) the report is a call for action to explicate

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2. Idem, p.2
the mechanisms and the normative underpinnings by which global governance should take place. More theorizing therefore was necessary to convince the outside world of the concept’s value and turn global governance from a mere ‘container concept’ into a meaningful notion. Ambitious projects have hereto been launched. David Held is without doubt one of the most prominent scholars who has taken up the challenge of theorizing a democratic global order. In his latest book, *Cosmopolitanism: Ideals and Realities*, Held provides his readers with an elaborate and theoretically underpinned global reform agenda which firmly grounds global governance in a Kantian cosmopolitan tradition. Held’s institution building project aims to strengthen global governance structures and back them up with democratic accountability mechanisms. This project offers institutional solutions to global problems that are, from the view of existing forms of global governance, quite revolutionary.

Held’s radical departure from the status quo was however also what provoked skeptical replies and fierce objections. Realists, as well as communitarian critiques of Universalist ethics have grave doubts about the attainability and validity of cosmopolitan ideals respectively. Both objections however, which roughly defined are the idea that global democracy is difficult if not impossible to attain because of the prevalence of power politics on the international level and the conviction that democracy rests on a substantial overlapping consensus of its constituency, are far from conclusive. Whereas self-interest and morality are in no sense mutually exclusive, democracy arguably is exactly the process of consensus and institution building. The burden of proof in other words, lies with the objectors; it is for realists to show that any attempt to move towards a more democratic global order is in vain and for communitarianists to demonstrate that reaching consensus outside established groups is impossible.

Can we therefore and after all, present Held’s cosmopolitan project to the world as an example of IR’s contribution to human progress? In this thesis I will argue against such a position and suggest that we should be careful not to take Held’s cosmopolitanism as a blueprint for further reform. One reason is that cosmopolitanism, not unlike communitarianism, in the end, treats consensus as something already given, and thereby makes democratic decision-making redundant. The problem I am referring to is in fact quite familiar to political theorists and one of which Held is well aware: It is the case that the creation of a cosmopolitan democracy requires the active consent of peoples and nations: initial membership can only be voluntary. It would be a contradiction of the very idea of democracy itself if a

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3 A task that was arguably neglected by its academic circles equally popular predecessor regime theory
4 The basis of Held’s cosmopolitanism is formed by eight principles: equal worth and dignity, active agency, personal responsibility and accountability, consent, collective decision-making about public matters through procedures, inclusiveness and subsidiarity, avoidance of serious harm and sustainability.
cosmopolitan democratic order were created non-voluntarily, that is, coercively. If the initial inauguration of a
democratic international order is to be legitimate, it must be based on consent.  

Held describes a dilemma, but does not consider it an insurmountable problem. Consent, Held argues,
‘ought to follow from the majority decision of the people’s representatives, so long as they – the trustees
of the governed – uphold cosmopolitan law and its covenants. Who, one may however ask, decides and
adopts such cosmopolitan law and covenants? Held’s work suggests that cosmopolitanism can be
anchored in universal principles without the need for people’s consent. Held moreover stresses that, to
actually get started with global democracy, we can very well assign existing agencies and institutions with
the task ‘to coordinate a future model for a global democracy’.  

But what about the enactment of cosmopolitan principles, most importantly: equality, consent and
collective decision making? What about the people’s sovereignty and autonomy? As Marc Doucet points
out in response to Held; ‘relying upon the cosmopolitan actors noted above would mean that cosmopolitan
democracy’s answer to undemocratic globalising forces would not be legitimated democratically since the
‘demos’ on behalf of which they are meant to act does not yet exist. Cosmopolitan democracy, in other
words, demands the impossible: that unattached individuals unite in a collective, exactly to realize and
defend the presupposed autonomy of individuals.

To illustrate this dilemma, consider Jacques Derrida’s reading of the American Declaration of
Independence: In who’s name, Derrida asks himself, is the declaration written down? The answer is of
course not Thomas Jefferson, the referent is the people itself. The people however, only comes into
existence by the act of signing. Authorization to the document can thus solely be given retrospectively.
This example simultaneously shows, however, that the claim of some scholars that cosmopolitan,
democracy is virtually impossible since there is no global demos, is misconceived and is a sign of both
historical as well as philosophical myopia. The paradox is as valid for cosmopolitan democracy as it is for
national democracies which were not based on any pre-existing community either.

Conversely, I will argue that Held’s neglect of the problem of consent manifests itself in the
disappearance of democratic subjectivity from his cosmopolitan project. The concern that the lack of a
meaningful notion of the democratic subject forms a serious impediment for the development of a truly

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6 David Held, Democracy and the Global Order: From the Modern State to Cosmopolitan Governance, Stanford
University Press, 1995, p.231  
7 David Held, ‘The Changing Contours of Political Community: Rethinking Democracy in the context of
8 Idem, p. 143  
10 See for a skeptic approach to global democracy for example: Jaap De Wilde, ‘The Mirage of Global Democracy’,
European Review, 19 2011, p. 5–18. The problem of consent moreover caused the emergence of a whole branch of
thinking called social contract theory, departing from a Rousseauian, Hobbesian and Kantian tradition.
cosmopolitan democracy is shared by several other scholars. IR-theorist David Chandler argues that ‘the cosmopolitan project seeks to legitimise liberal policy frameworks without engaging with the electorate (…)’. Those frameworks inverse the relationship between rights and their subjects ‘in their construction of rights independently of their subjects’. 11 The consequent rights are fictitious (…) because there is a separation between the subject of these rights and the political or social agency giving content to them. And indeed, as the political philosopher Noortje Marres observes; by giving precedence to an order ruled by cosmopolitan principles, cosmopolitanists subtract from democracy ‘the big bonus of popular sovereignty that the national model offered or promised to subjects.’12

The attempt to implement an ideal presupposes a certain conception of democracy, namely, one that according to Fukuyama history has proven to be unsurpassable. To grasp cosmopolitanism as a dynamic process however, I will argue that we are in need of a theory of democratization rather than democracy as framework, and institutionalization rather than institutionalism.13 To think democracy as change, as an open-ended process, is the only way for democratic subjects to exercise their capacity for autonomous decision-making. Eradicating uncertainty from democracy by firmly grounding it in a framework; gain, is to make such decision-making redundant. As Derrida puts it:

When the path is clear and given, when a certain knowledge opens up the way in advance, the decision is already made, it might as well be said that there is none to make: irresponsibility, and in good conscience, one simply applies or implements a program.14

I am not the first to emphasize the paradoxical nature of democracy and politics in order to criticize liberal and cosmopolitan democracy theorists. The paradox has in fact taken center stage in contemporary talk about the ‘return of the political’. 15 This thesis however takes the paradox as its starting point, rather than its final conclusion. In the first chapter I will discuss and criticize Held’s own argumentation surrounding

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11 David, Chandler, ‘Empowering the Individual, the Limits of Solidarity and Citizenship beyond the State’, in: Strangeness and Familiarity, 2010, p.278
12 Noortje Marres argues in her dissertation No Issue, No Public, Democratic Deficits after the Displacement of Politics, that procedural forms of global democracy as proposed by Held can be characterized as producing legitimacy after the fact, that is, legitimacy can only be derived from procedures after they are institutionalized. Amsterdam 2005, p. 16
13 Something similar is argued by Ingeborg Maus in the chapter ‘Zur Theorie der Institutionalisierung bei Kant’, in her book, Zur Aufklärung der Demokratietheorie, Rechts- und demokratietheoretische überlegungen im Anschluß an Kant, Suhrkamp verlag Frankfurt am Main 1992. Here she argues that Kant’s philosophy assumes that, in contrast to philosophers before him, ‘weder die Welt der Erscheinungen noch die der Institutionen aus >>Sachen << besteht, sondern auf Leistungen des Subjekts selbst zurückzuführen ist.’ p.251, and that Kant’s philosophy implies ‘eine Theorie der Institutionalisierung, nicht der Institutionen, p.253
14 Jacques Derrida, The Other Heading, Reflections on today’s Europe, Pascale-Anne Brault and Michael B. Naas (transl.), Indiana University Press 1992, p.41
15 ‘The return of the political’ is the title of a book by Chantal Mouffe, but also marks a broader trend in democratic theory that is represented by the work of among others Bonnie Honig, Claude Lefort and Ernesto Laclau
his cosmopolitan project. Whereas according to Held, urgent global problems give rise to the need for the design and subsequent implementation of a well-formed democratic order, Kant is much more ambivalent in regard to the question of democratization. In the second chapter, I will point out that the paradox surfaces in Kant’s work as well, for example in regard to the question whether states should join a league of nations voluntarily or be forced to accept its structure. A deepened understanding of the Kantian notions that underlie Held’s understanding of cosmopolitanism is moreover important to revive an understanding of autonomy as a critical process of becoming rather than an end-stage of development and a mere building block of cosmopolitan global governance. As my discussion of Kantian moral philosophy will show, autonomy does not refer to a holy (human) core is to be contemplated but to a capacity that should be exercised.

The Kantian questions of progress and autonomy will form the starting point for a renewed understanding of democratic change. I will claim that the recognition of the apparent ‘groundlessness’ of democracy is a necessary but not sufficient condition to approach the enigma of the democratic subject. The third chapter consists of a theoretical effort to bring the democratic subject back in, by discussing Kant’s understanding of the French revolution and the philosophy of Jacques Rancière, whose work gives rise to a more radical notion of democracy based on the enactment of equality.

My discussion of democracy will among other things point to the conclusion that a truly democratic theory of global governance should recognize a cosmopolitan structure not solely as enabling a democratic processes and delimiting its terms, but should recognize such an order as an object of discussion itself. The overall goal of this exercise then is to break open Held’s rigid understanding of democracy and, with a recourse to its Kantian roots, demonstrate how our understanding of cosmopolitanism can be improved ‘from the inside’. Whereas Held argues that ‘cosmopolitanism registers and reflects the multiplicity of issues, questions, processes and problems which affect and bind people together (...)’, 16 this thesis sets itself the task to show that it is not a cosmopolitan structure or law, but rather the people themselves that do the work. Conversely, the work to be done for policy makers and politicians thereby turns out not to be ‘closing the gaps’ 17 of a global institutional order, but to allow for democratic subjects to come about and exercise their sovereignty.

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17 Idem, p. 163
Chapter I: A preliminary critique of David Held’s Cosmopolitanism

Introduction: What is democracy?

In the preface to *Cosmopolitanism, Ideals and Realities*, David Held states that Democracy, through the ages, ‘has been the most powerful of all political ideas, expressing, as it does, the yearning for self-determination and all the achievements and limitations of the actual process involved’[^18]. Although Held simply wants to underline the importance and centrality of the notion of democracy here, we can already distinguish two different sides to the conceptualizations of democracy that recur in Held’s work and much other literature. Democracy appears, on the one hand, to refer to a yearning for freedom and justice, whether demonstrated by anger, clear-cut demands or outright violence. On the other hand, it refers to the process that organizes this desire and presumably makes the actual exercise of proper agency possible.

Which is by no means to say, in advance, that this is what democracy is. However, if we survey the literature, it is almost impossible not to recognize the division of terms in two groups. We find a cluster of terms that (at first sight) refer to some facts, there is sovereignty, which belongs to a demos or community, which consists of individuals. Next to this, we find a cluster of terms that refer to organizing structures and principles like representation, parliament, voting-procedures, institutions, governance. I am pointing out this divide because I take it to be crucial for my discussion of David Held’s work. I will argue that Held provides no, or hardly any, theorizing of the concepts from the first cluster, and solely focuses on the latter. In Held’s writings, the former concepts deliver the justifications for the design of the latter, or what can be called global governance structures, but are at the same time conditioned by these structures. In other words, the needs and rights of individuals and communities give rise to governance structures while the latter subsequently determines what the former (most notably sovereignty and community) can entail. I will argue that this is a wrong strategy, because for one thing, it provides us with a static conception of what democracy is and thereby prevents us from recognizing democratic events when they take place. At worst, an excessive reliance on structures and institutions can diffuse our understanding of sovereignty and legitimacy to the extent that we can only locate it in procedures themselves.

Having made the observation that this divide is recurrent and striking, I will proceed by making two modifying remarks. Firstly, I don’t mean to argue that Held explicitly or always treats the concepts in the first cluster as unalterable. In fact, his cosmopolitan project aims to transform not only our common notion of sovereignty as inalterable itself; it strives to completely release sovereignty from the nation-state. By

not taking the classical Westphalian notion of sovereignty (supreme authority within a territory) as a
given, Held builds on a large body of literature that has questioned the fact-like nature of the nation-state
and the conception of sovereignty attached to it. This is an insight most famously articulated by Benedict
Anderson as phrased in the title of his book *Imagined Communities*. In IR the discussion on the nature of
the international system of sovereign states was opened up by a similar observation by the scholar
Alexander Wendt in the article *Anarchy is what states make of it*. Wendt’s article, by challenging ‘one
important justification for ignoring processes of identity- and interest-formation in world politics’\(^\text{19}\) has
however only done some preliminary work for a more substantial constructivist turn in IR.
Constructivism, broadly conceived, opened up the discipline for insights from sociology and history and
entails the view that the manner in which the material world shapes, and is shaped by, human action and
interaction, depends on dynamic normative and epistemic interpretations of the material world.\(^\text{20}\)
Constructivism holds a cognitive, intersubjective conception of process, in which identities and interests
are *endogenous* to interaction.\(^\text{21}\)

It can however be disputed (which I will), whether David Held’s cosmopolitan project has
actually incorporated all insights from constructivism. Although much literature on cosmopolitan
governance claims to take its arguments from history itself,\(^\text{22}\) it often takes those historical events as
pointing towards a certain telos. In other words, the historical contingency and mechanisms of force (as
identified by the constructivists) that have shaped the current situation are used by cosopolitanists to
identify or reconstruct a certain development that points towards their cosmopolitan order. In case we
agree with cosmopolitanism’s democratic teleology, it can indeed be argued that, by taking up the
institutionalization of the cosmopolitan ideal as a serious and primary task, Held brings the realization of
this process a step closer. If however, we are suspicious of this presumed end-state or ideal of a
democratic and cosmopolitan order, this teleology not only precludes a consideration of human beings as
pre-formed by their historical and social circumstances, but can be argued to be at odds with true
democratic agency.\(^\text{23}\)

Organization* 46 (1992) p.424

\(^{20}\) Emanuel Adler, ‘Seizing the Middle Ground: constructivism in World Politics’, *European Journal of International
Relation*, 3 (1997) 319-364, p.322

*Theories of international relations* (3rd edition; New York 2005) p.197

\(^{22}\) See for example Daniele Archibugi, ‘Principles of Cosmopolitan Democracy’, in: Daniele Archibugi, David Held and

\(^{23}\) See for example the debate between David Held and Heikki Patomäki in: ‘Problems of Global Democracy, A
There is moreover a slightly different sense in which Held fails to take the insights of the constructivist turn in IR fully into account. Much scholarly work that can be labeled constructivist forms a serious critique of the state-system. Whereas Held, as we will see, pursues the strategy of arguing that the state-system is no longer capable of solving the problems that need to be solved, he fails to problematize the past itself. This in Held’s case leads to an uncritical translation of much of the nation-state governance structures to the global level. This move is striking, since one would think that constructivism’s method, which has generally been to deconstruct the naturalness of states, would rather lead to the opposite conclusion: that a justification for any global governance structures cannot uncritically be given by the same reasons that were given for the institutionalization of the nation state itself.

Secondly, the individual terms that I have mentioned on one side of the divide are often also found in opposition to each other, most notably in the dichotomy between demos and community on the one hand, and individual(s) (rights) on the other. This is a dichotomy that prevails in the debate about the ethical foundation of governance between cosmopolitanism and communitarianism. This well-known cos-com debate however can be argued to have produced few interesting results or insights and, as suggested in the introduction, has ended in a stalemate of positions. Consider the hypothetical question of establishing a world-assembly. Communitarians are apt to point out that there is simply no one eligible to decide on constituencies that would elect members of such an assembly.  

Held by contrast, does not consider this an obstacle and expects for agreement to be generated in a stakeholder process of consensus building: a global constitutional convention involving states, IGO’s, INGO’s, citizen groups and social movements. Held describes this process in an essay with the telling title ‘From Executive to Cosmopolitan Multilateralism’. It suggests that executive multilateralism is not inherently opposed to cosmopolitanism, but should rather be adapted and complemented to deserve the qualification cosmopolitan. In the text, the growth of multilateralism and development of international law are identified as ‘cosmopolitan anchors’ and perceived to form sufficient basis for further consolidation.

In spite of the ‘consent deadlock’ however, communitarianism still poses some of the main objections against not only the desirability of a cosmopolitan order, but against its attainability in terms of democratic legitimacy. In other words, if communitarianism is right, the idea of a legitimate global governance structure itself is beyond the bounds of the possible. Held nevertheless persists in viewing

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26 Idem, p.183
27 Interestingly, David Miller solves the problem of consolidating communitarianism and global governance by arguing that there are ‘available a range of mechanisms for dealing with international and global problems whose
communitarian objections as marginal to the real issues that have to be resolved by the cosmopolitan project he proposes. Held will admit that the tensions that exists between individual rights and the sovereignty of existing communities are very real and difficult, however, the only way for those tensions to be played out in a just way is by institutionalizing a cosmopolitan framework in which claims to particularity can be tested against a universalist standard that is embodied by procedures and institutions.

Obviously, there are numerous other objections to Held’s cosmopolitan project. It is however the lack of a theorizing of process, as put to the fore by constructivism, and the paradox of consent, which preserves the cos-com deadlock, that I take to point towards the problem at hand in this thesis: Held’s incapacity to understand the meaning of politics and the subsequent theorizing of a cosmopolitan order which leaves no room for exercising autonomous agency and neglects ‘first cluster’ terms in general. In order to be able to give a well-considered critique of Held’s work which revolves around the division of concepts I just pointed out, a more extensive discussion of Held’s cosmopolitanism is necessary. This first chapter will be structured by successively discussing the occasion for cosmopolitanism, its theoretical background and institutional implications. In other words, I am splitting Held’s work into three themes: the problems, the tools and the solutions, using as my main sources the books *Cosmopolitanism* and *Models of Democracy*, complemented by several articles.

**Section 1.1: Cosmopolitan Governance as the Answer to Globalization**

To understand Held’s plea for a cosmopolitan order, it is necessary to know what exactly gave rise to his renewed interest in cosmopolitanism in the first place. This is not a difficult question to answer. In all discussions by Held, the cosmopolitan ideal is linked to the fact of globalization. Most introductions to books or articles by Held start with a description of how our world is being transformed profoundly by globalizing forces. Held shortly characterizes globalization as the ‘widening, intensifying, speeding up and growing impact of worldwide interconnectedness’.[28] Such a description of how global processes are increasingly affecting our lives is in Held’s works usually followed by an outcry for the need to face this ‘new reality’ and confront the very real problems that this process brings. Held will subsequently emphasize that we can no longer rely on the liberal notion of self-government because it assumes a delimited space. In other words, we are confronted with trans-boundary problems but limited to our bounded (national, hence limited) problem solving mechanisms to deal with them. We therefore, Held will continue to argue, need to detach liberal principles from their state-centered presuppositions to make them suitable as the basis for a truly cosmopolitan order. In the words of Held: ‘Political ideas need to be

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28 Held, ‘Cosmopolitanism’, p. 29
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reinvented to embrace a global age’. The conclusions that we should draw from identifying the ‘pressing issues’ like global warming, the failure to reach the millennium goals or nuclear threats, is made very clear: either we reform global governance or it will be ‘apocalypse soon’!

Intuitively however, this unscholarly and apocalyptic tone evokes aversion. The ‘there is no alternative’ type of reasoning moreover seems a weak strategy for ‘selling’ the cosmopolitan project; Held’s language now and then seems more suited for EU bureaucrats’ legitimizing institutional talk, or politicians desperately seeking re-election by rhetorically blackmailing their voters. Held for example urges his public to confide in public institutions by pointing out that otherwise ‘the defeat of terrorism and intolerance becomes a hugely difficult (if not impossible) task’. He even goes so far as to state that ‘globalization without cosmopolitanism could fail’ which is clearly circular since cosmopolitanism is already the standard by which globalization is judged. Held admits that disputes within a cosmopolitan order about the appropriate jurisdiction will be complex, but the alternative; leaving those issues to be decided by ‘powerful geopolitical interests or market-based organizations’ is, again, no viable option. Not only is the debate on globalization predicated on dichotomies, globalization is a beast that needs to be tamed, whereby the only and necessary tool for domestication turns out to be an adherence to a cosmopolitan framework.

Naturally, justification of the cosmopolitan order does not only depend on its evil alternative (untrammeled influence of globalized economic forces) but is given, by Held and others, through cosmopolitan principles. The emphasis on globalization’s (potential) dangers could moreover be judged more mildly by not focusing on its polarizing effects, but on its capacity to raise awareness: we no longer live in the same world that traditionally forms the background for our ideas about justice, political action and reform. Good intentions however do not detract from the fact that for Held, necessity overrules existing reluctance by people to adhere to new forms of government; people in his view are better off accepting these structures, even if they don’t know it yet. Held hereby establishes a clear hierarchy in terms of the establishment of governance structures; problems simply need to be dealt with before it is too late.

Even for environmental doom-mongers however, Held’s gloomy prospects for a world without a cosmopolitan order, might sound overly pessimist. Conversely, Held’s message has been conceived to be

29 Held, 'Cosmopolitanism', preface', p.x
30 The millennium goals set standards in relation to, among other things, health, poverty and education
32 Held, ‘From Executive to Cosmopolitan Multilateralism’, p. 182
33 Idem, p.174
34 Held, ‘Cosmopolitanism’, p.34 this aim is most clearly articulated in Globalization/Anti-Globalization: beyond the great divide, David Held and Anthony Mc Grew (eds.) Polity Press 2003
overly optimistic in regard to the actual or possible decline of the nation-state and the subsequent possibilities for global transformations. Especially after 9/11, several scholars have advocated the end of globalization, or have proclaimed it to be a misguided social concept all along. According to Held however, these obituaries to globalization are premature. ‘Globalization, in its multiple forms, remains far more socially and institutionally entrenched than its critics have recognized’. We can simply not come to a useful understanding of our world when we continue applying a ‘methodological nationalism’, for (whether we like it or not) ‘there has been an unbundling of the relationship between sovereignty, territoriality and political outcomes’. Held’s point is that as heirs to this new globalized world, we can no longer assume the existence of well-defined political communities that are bounded by a delimited territorial space. Our current condition is that of a world inhabited by overlapping communities of fate. Cosmopolitanism is thus also and in first instance a call for a paradigm shift, from state-centered classical social theory, towards a theory that recognizes the multiplicity of actors that shape the current order.

Held’s diagnosis of the new condition humaine is straight forward indeed: we are faced with shared problems and need new insights and practices to deal with them. The actual reasons Held gives for the creation of new governance structures are however much more ambiguous. For Held, the recognition that the nation-state is no longer able to solve its problems goes hand in hand with the recognition that political power is presently shared and negotiated among diverse forces and agencies at all levels. The ‘actual capacity for states to rule is changing its shape’ and a new regime of governance is emerging. Not only are states losing their grip on many processes because of their transnational nature, they are also losing power to new governance structures that are created as an answer to transnational problems.

The ambivalence lies exactly in the recognition that these new governance structures are often illegitimate from the perspective of a liberal democratic tradition. Whereas Held generally applauds the creation of global governance structures, he thereby loses sight of the processes that precede the institutionalization of multilateral orders. Most instantiations of new governance structures are not backed up by national processes of will-formation. Held treats the emergence of global governance structures as part of the globalization process that we should come to terms with nonetheless, and considers the emergence of global governance to imply a necessary loss of national sovereignty.

It would be unfair to say that Held assumes that global governance as a multi-actor complex gives rise to a situation in which all states have an equal voice ‘let alone equal influence’. Not only does Held admit that current global governance responses to globalization are insufficient for dealing

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35 David Held in: Globalization Theory, Approaches and Controversies, David Held and Anthony Mc Grew (eds.), Polity Press 2007, p.4
36 Held, ‘Cosmopolitanism’, p.30-36
37 Idem, ‘Cosmopolitanism’, p.32
with economic and environmental problems, and thus fail to enhance public goods, they are also not or insufficiently backed up by accountability mechanisms. Held fiercely resists dominance based on a club model of global governance and legitimacy and proposes a radical transformation of global governance institutions. In spite of this fierce call for radical changes in term of democratization, my point is that by accepting that existing institutions should be reformed rather than deconstructed in search for their democratic base in the first place, Held is making the best of a bad bargain. By considering existing agencies and institutions as the coordinators of a future model for global democracy, Held dismisses the need to come to terms with the idea that primary authority and sovereignty lies with the individuals that are affected by these institutions. This is striking for it apparently runs counter to cosmopolitanism’s moral character and its emphasis on individual autonomy itself, which is the subject of the next paragraph.

Section 1.2: Cosmopolitanism’s Principles

As we have just seen, it is the economic, environmental and technological developments of the last decennia that form the starting point of Held’s cosmopolitan project. Globalization and the proliferation of a multiplicity of new (powerful) actors, most notably MNC’s, have produced a situation that might be described as a global chaos in terms of authority, legitimacy and accountability. Whereas the diagnosis, global chaos, is primary to Held’s concerns, cosmopolitanism, the cure, is most central to his reform program. Held likes to speak of the ‘new circumstances of cosmopolitanism’ which again marks the underlying idea that globalization gives us little choice but to consider a common cosmopolitan framework of standards and political action. I will review this cosmopolitan framework, as Held precedes himself, bottom-up. That is, to begin with the principles that make up its basis.

Held’s institution-building project is based on a set of principles derived from a Kantian liberal tradition. It is important to note from the outset that for Held, these principles not only constitute a critical test for the legitimacy of current and future global governance institutions, they directly point towards the establishment of those institutions. As a first characterization, cosmopolitan principles can be said to emphasize what we share, rather than what divides us. Thus although cosmopolitanism is a moral theory, at its basis stand certain facts about humanity that are a-historical and, at first sight, a-moral. Two

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38 Idem, p. 4-5
39 David Held, ‘The Changing Contours of Political Community’, p.29, see also Daniele Archibugi and David Held, ‘Cosmopolitan Democracy: Paths and Agents’ in Ethics and International Affairs, 25,4 pp.433-461
40 Held, ‘Cosmopolitanism’, p.39
41 Communitarianism also puts emphasis on what we share, with the important difference that it takes what we share as a community as primary, not what we share by simply being individual human beings. It can therefore be argued that communitarianism focuses on what we do not share with other human beings (a culture, a history etc.)
observations are crucial here.

Firstly, as the stoics already pointed out, we are all citizens of the world. Without entering into lengthy discussions about what kind of substantial notions of rights and citizenship this gives rise to, the fact that we all inhabit the world simply implies that we are bound to the limits this world poses upon us. This idea is also found back in Kant’s argument that revolves around the sphericity of the earth. The spherical shape of the earth unites all the places on its surface, which entails that community is a necessary result of individuals’ inhabittance of the earth. Similar to the stoics, Kant thereby argues that, on a minimal level, our faith is connected to that of others. Although we find ourselves in the world in possession of a will, subjects’ acquisition of a place on the earth is acquired apart from their will, merely by virtue of being born.  

Secondly and similarly, as human beings, we not only share a world, we also share a nature. That is, in the first place, to say that human beings share certain basic needs like food and shelter. Thus not only are we bound to the earth, we are also affected by its forces in a similar way. Both ideas resonate with the liberal insight that the outer limits of our freedom are constituted by the lives of others. Both arguments moreover make that we, besides the existence of multiple individuals, can actually speak of humanity, an important concept which regularly pops up in debates about cosmopolitanism, serving as the ultimate source of normative justifications.  

An initial reply to this insight however is whether the fact that we meet people, who have needs similar to ours, also implies that we have moral obligations towards them. We might, in other words, agree on the idea that the before mentioned observations are indeed fact-like and a-historical, without necessarily presupposing a consensus on their relevance to questions of politics. The earth’s spherical surface is an empirical ‘given’, and in that regard constitutes and limits the possibilities for agency. But we might agree with Sheila Benhabib that the spherical surface constitutes a circumstance of justice, rather than a moral justification of any sort.  

According to Held however, two crucial consequences follow from these observations. First of all, by sharing a common world, we share a common faith. Globalization has made this more clear than ever. In fact, Held argues that where politics used to be concerned with treats that are posed by ‘the other’, the new treats are collectively shared problems. This does sound a bit naïve after taking a short look at present international politics, which more often than not revolves around lines that actually divide us, like religion, culture and territoriality. Held should however be taken to argue that the recognition that our

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43 This insights is most famously captured by John Stuart Mill in *On Liberty*
44 Jens Bartelson, ‘Globalizing the Democratic Community’, *Ethics & Global Politics* (2008) 1, 4, pp. 159-174
46 Held, ‘Cosmopolitanism’, p.14
faith is intrinsically bound to that of others should itself lead us to see what the ‘real’ treats are. In other words, even if we don’t share a conception of the good life, we should be equally concerned about processes of global warming that do not discriminate between world-views or cultures (although they do geographically). This argument is in line with Held’s recurrent notion ‘overlapping communities of faith’. Even if we concede to communitarians that communities provide us with substantial values, we should recognize that these communities are never absolute and indeed overlap. From the cosmopolitan perspective then, we can in fact speak of only one truly and bounded community, called humanity.

It can however still be objected that our common condition does not necessarily entail that we belong to a Kantian kingdom of ends as well. But Held follows Kant in his moral philosophy too. For Kantians it follows from the equality of human nature and, more precisely, from the basic structure of human cognition that we share a morality as well, implying on its turn that all human beings have equal moral worth. Our humanity not only consists of our needs but is more importantly derived from our shared capacities to behave rationally and adopt and pursue our own ends. I will delve into Kantian morality a bit more in the second chapter, but for now it is important to note that Held derives his cosmopolitan principles from Kant’s insights that have found their way into the contemporary literature on cosmopolitanism.

Held adheres to three key-elements of cosmopolitanism that he finds in the work of among others, Thomas Pogge, Charles Beitz and Brian Barry. The first cosmopolitan imperative is egalitarian individualism, which entails that individuals are the ultimate units of moral concern. This principle, according to Held, does not deny the importance of local affiliations, but does delimit what these can entail in terms of moral considerations. Cosmopolitanism, in other words, turns out to be an inherently universalist ethical system which puts limits on human diversity to the extent that this diversity challenges equality. Secondly, a cosmopolitan order demands reciprocal recognition, which means that equal moral worth should be recognized by all in the process. Thirdly, cosmopolitanism requires impartialist reasoning which demands that each person’s claims are to enjoy impartial considerations in public deliberation and argument.

I moreover take the concept of autonomy, a term that is not much or explicitly articulated in Cosmopolitanism but much elaborated on in for example Models of Democracy, as crucial for understanding Held’s cosmopolitanism. Autonomy is the foundation from which the building that is called democracy is supposed to be erected. Autonomy refers both to what people are and what is their potential:

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47 Again, this is according to Held and many other proponents of cosmopolitanism not to say that a universalist ethics cannot take cultural and political specificity seriously
48 Held, ‘Cosmopolitanism’, p.85-91
‘Autonomy’ connotes the capacity for human beings to reason self-consciously, to be self-reflective and to be self-determining. It involves the ability to deliberate, judge, choose and act upon different possible courses of action in private as well as in public life’.\(^{49}\)

Autonomy is complementary to the idea of moral equality, in the Kantian sense that it is our shared capacity for self-legislation what makes us both morally equal and autonomous. For Held, autonomy thereby provides us with ‘an anchor point for both conceiving and building a new and more robust account of democracy’. The paradoxical situation, illustrated by the ambivalent notion of autonomy, in which democratic theory finds itself, is that although we presuppose that human beings are (potentially) all this; autonomous, self-conscious, self-reflective and self-determining, they are only so actually when (institutional) conditions make them so. The principle of autonomy, in Held’s words, ‘has to be linked to a diversity of conditions of enactment’, that is, institutional and organizational requirements, if it is to be fully entrenched in political life.\(^{50}\)

Seemingly, a division between a potential and actual autonomy frees theorists of democracy from the responsibility of elaborating on and specifying what autonomy means and directs their attention to the ‘real’ problem, which consists in drawing the conditions for actual autonomous agency. Pointing out the capabilities of human beings should stem us optimistic about the possibilities for democratic problem solving, for as Held proclaims ‘the democratic citizen that is capable of being ‘fact-regarding, future-regarding and other-regarding’ is not simply a myth’.\(^{51}\) However, this democratic citizen is no given; it can only exist within an institutional framework. It is moreover unclear if by drawing a picture of a citizen that is all this, future regarding etcetera, we actually grasp the idea of autonomous agency. It can subsequently be questioned whether specifying the institutional requirements is the best or only way of bridging the gap between moral autonomy and autonomous agency.

To fully understand the institutional conditions that are needed for autonomous individuals to be truly autonomous in a political sense, we need to remain on the metaphysical level of Held’s theory a bit longer and consider the two meta-principles that are guiding for his institutional design. The before-mentioned cosmopolitan principles make a re-appearance here as the Metaprinciple of Autonomy (MPA) and the Metaprinciple of Impartialist Reasoning (MPIR). MPA and MPIR together form the organizing notions of ethical discourse. Held describes the MPA as the crystallization of a historical process which understands citizens in a democracy as free and equal individuals entitled to moral autonomy and political self-determination. MPIR forms the basic philosophical idea about interaction ‘when it comes to the elaboration of political and moral principles that all should be able to endorse and adopt.’ MPA and MPIR

\(^{49}\) Held, ‘Models of Democracy’, p.263  
\(^{50}\) Idem, p.260  
\(^{51}\) Idem, p.217
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are meta-principles because they are used to guide a hermeneutic process in which other principles are interpreted for their cosmopolitan validity. In other words, the meta-principles form the preconditions of a theoretical conversation that aims at an anticipated agreement ‘with all those whose diverse circumstances affect the realization of people’s equal interest in self-determination and autonomy’. The outcome of such a process of justification is the establishment of principles and rules that ‘nobody, motivated to establish an un-coerced and informed agreement, could reasonably reject’.

Held’s understanding of moral justifications echoes the work of contemporary social contract theorists like TM Scanlon, who argues that we owe it to others to treat them only in ways that can be justified to them. An act can accordingly be called right only when it can be justified to others. On a more abstract level, Scanlon argues that ‘an act is wrong if its performance under the circumstances would be disallowed by any system of rules for the general regulation of behavior which no one could reasonably reject as a basis for informed, unforced, agreement’. Held interprets the need for justifications that are implied by a Kantian account of morality like Scanlon’s to be best served by the institutionalization of a cosmopolitan framework to provide, so to say, a democratic level playing field.

Held’s concern with procedures to guide processes of deliberation and justification is moreover clearly Habermasian. According to the latter, outcomes from a political process are legitimate when they can be agreed upon by equally entitled participants in deliberation, that is, when they ‘meet with the justified consent of all under conditions of rational discourse’. According to Held, Habermas ‘thought experiment’ enables us to ask what the circumstances would be like for people to follow rules and laws they think right, justified and worthy of respect. Both Scanlon’s as well as Habermas’ theories about moral justifications are derived from everyday practices of justification, and enable us to, counterfactually, ask whether or not certain outcomes of (political) processes are legitimate. Jens Bartelson formulates a good example of such a cosmopolitan litmus test for the legitimacy of governance; ‘all claims to particularity must be open to contestation at the global level before democratic communities of lesser scope and size can be considered democratically legitimate’. According to Bartelson, the question of

52 (...) As such, the ultimate test of its validity must depend in contemporary life on the extension of the conversation to all those whom it seeks to encompass. Held, ‘Cosmopolitanism’, p.90-91
53 Held, ‘Cosmopolitanism’, p.46
54 TM Scanlon, What We Owe to each Other, Harvard University Press 2000, p.189 According to Scanlon’s account of Contractualism: everyone ought to follow principles that could not reasonably be rejected by people who were moved to find principles for the general regulation of behavior that others, similarly motivated, could not reasonably reject.
57 Held, ‘Models of Democracy’, p.289
legitimacy ‘can only be settled democratically with reference to the wider community of whole mankind’.

Although Habermas and Scanlon’s work demonstrate that we need real-life procedures and frameworks to optimize the conditions to establish an un-coerced and informed agreement, what those laws and procedures would look like is not an uncontroversial matter. Moreover, legitimacy for Bartelson and Held is not guaranteed by the act of consent itself, but rather by taking into account the whole of mankind. For Held, Scanlon and Habermas’ insights amount to the necessity to secure the possibility of political participation within a legal framework that protects and nurtures the enactment of the principle of autonomy. Held consequently calls for the codification of cosmopolitan principles in a cosmopolitan law. This cosmopolitan right transcends particular claims of nations and states and, following the cosmopolitan meta-principles, asks whether they can be justified to a universal community.\(^{60}\) By pointing out its limits, cosmopolitan law thus functions primarily as a critique of state-legitimacy and challenges the idea of sovereignty as supreme authority within a territory.

**Section 1.3: Cosmopolitan Law and Sovereignty**

Whereas cosmopolitanism is sometimes taken by Held as implying a radical transformation of the notion of sovereignty, at other points in his work he holds that this transformation of sovereignty was on its way for a long time already. In *Cosmopolitanism*, Held argues that following World War II and the creation of the human rights regime, the classic model of sovereignty (untrammeled power over a unified territory) was challenged by ‘the liberal model of sovereignty’. In a sense, cosmopolitanism could be understood as taking this new liberal notion of sovereignty to its final implications, for the liberal model according to Held anchor’s the state’s legitimacy to the protection of basic human rights, making the protection human rights conditional to the sovereignty of government.\(^{61}\) But Held not simply wants to delegate the protection of human rights to a cosmopolitan law, he wants to replace the liberal model of sovereignty with a cosmopolitan model of sovereignty. From the perspective of the traditional understanding of sovereignty, cosmopolitan sovereignty is even more radical, for it ‘challenges *the very idea of fixed borders and territories governed by states alone*’. Held subsequently re-defines sovereignty as ‘the

\(^{58}\) Bartelson, ‘Globalizing the Democratic Community’, pp. 159-174 According to Bartelson the democratic paradox implies that we have to consider ‘humanity’ as the only legitimate community, because humanity is one in being different (unity in plurality)

\(^{60}\) Held, ‘Cosmopolitanism’, p.43

\(^{61}\) Idem, p.18
networked realms of public authority shaped and delimited by an overarching legal framework.’ Or to put it even more enigmatically:

In this model bounded political communities lose their role as the sole center of legitimate political power. Democratic politics decision-making are thought of as part of a wider framework of political interaction in which legitimate decision-making is conducted in different loci of power within and outside the nation-state.\(^\text{62}\)

As it appears, the delegation of sovereignty (which basis was formerly conceived to be a community) to a cosmopolitan framework is justified on the ground that it respects and enables the autonomy of individuals. Cosmopolitanism, as becomes clear from Held’s discussion of the concept, hereby not only provides a (moral) base-line that provides standards which no agent should be able to violate, it also creates powers, rights and constrains that have ‘far-reaching political consequences’. Held refers for an instantiation of these new powers to the division of political authority within the European Union. The EU surfaces frequently in Held’s work as a case of successfully developed and complex global governance. What can however be inferred from this example and what force does the subsequent argument carry? From the factual diffusion of political authority in the EU context, Held concludes that ‘the boundaries between states, nations, and societies can no longer claim the deep legal and moral significance they once did in the era of classic sovereignty’\(^\text{63}\).

This is an ambivalent point, because from Held’s moral perspective, the Westphalian notion of sovereignty was always and already flawed. Although Held keeps emphasizing that sovereignty can no longer be located within a community because of the unbundling of political power, sovereignty, democracy, citizenship and territorial space, neither does cosmopolitanism locate sovereignty within a collective in the past. On the other hand, the fact that authority is diffuse does not entail that it is legitimate in a democratic sense. This is the point I want to stress. If history is important in the sense of determining what kind of sovereignty we can refer to or use as a justification for governance structures, the history of these governance structures should interest us as well. In other words, by insisting that what we, by erecting new governance structures have implicitly accepted the delegation of political authority to multiple levels, Held should ask himself what role the adoption of such a notion of acceptance, or phrased differently, as an act of consent, plays in a theory of global democratic governance.

Whereas abstractions and conceptualizations enable us to speak of cosmopolitan democracy in the first place, Held’s analysis never returns to the concrete democratic event or instances of collective action. This

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\(^{62}\) Held, ‘Cosmopolitanism’, p.19, A similar definition is given on p. 100 : ‘cosmopolitan sovereignty is sovereignty stripped away from the idea of fixed borders and territories governed by states alone, and is instead thought of as a framework of political relations and regulatory activities, shaped and formed by an overarching cosmopolitan legal structure.’

\(^{63}\) Idem, p.95-96
is not surprising since these instantiations are traditionally identified as cases in which sovereignty is exercised and possibly re-defined. Such conception of sovereignty, on its turn, stands in direct opposition to Held’s understanding of sovereignty as an attribute of basic cosmopolitan democratic law. Cosmopolitan sovereignty as attribute of global rules, in other words, overrules the prerogatives of states in rule-making and thereby transforms and delimits the order of states, ‘embedding national policies in new forms and layers of accountability and governance’. Thus not only are political decisions subjected to the cosmopolitan ‘humanity’ litmus test, the understanding of sovereignty itself is subject to it, and has thereby become redundant for a theory of cosmopolitan democracy.

Held’s position should be seen in opposition to constructivist studies that are concerned with the ways in which ‘the meaning of sovereignty is negotiated out of interactions within intersubjectively identifiable communities’ and in which practice constructs, reproduces, reconstructs, and deconstructs sovereignty. Although we are used to speaking of sovereign supranational institutions like the EU, much literature on sovereignty and democracy, dating back to Rousseau, would point out that this sovereignty is only a derived form of sovereignty which ultimately lies with individuals that are organized into a collective. This process of political organization, in other words, can be argued to be an exercise in sovereignty and self-determination already.

To start with the source of sovereignty, the actual individuals, is crucial for understanding Roussean but also Kantian inspired theories of democracy, for it is the individual that is author of the law. Certainly, this law subsequently, as Held notes, becomes an attribute itself which can be drawn upon and enacted in diverse realms. My point here however is that by starting with the cosmopolitan law and framework, although very much concerned with the moral autonomy of individuals, it subsequently becomes difficult to understand sovereignty as a property of people rather than structures. Held’s theory arguably is forgetful of the theory of popular sovereignty’s original function, which was to prevent the state apparatus’ tyranny by confronting the state’s monopoly of violence with the people’s right to self-legislation. In Held’s theoretical framework, in contrast, it is the law itself (in the shape of norms and treaties that advocate norms and rules of conduct) that causes transformations in terms of authority rather than peoples exercising their sovereignty.

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64 Held, ‘Cosmopolitanism’, p.99
65 Idem, p.96
67 Held, ‘Cosmopolitanism’, p.99
68 Ingeborg Maus, ‘From Nation-State to Global State, or the Decline of Democracy’, Constellations, 13 4 2006, p.476
Section 1.4: Cosmopolitan Institutions

Since cosmopolitan law is not supposed to function solely as a reminder for states of the principles they should take into account, it must by now have become clear that Held proposes a radical expansion and reform of current global governance institutions. Held sets down consent, deliberation and collective decision-making as the essential mechanisms for the creation and development of these institutions, because they are vital for ‘non-coercive, legitimate political processes.’ Held argues that the model hereby promotes a way of translating individual agency into collective political enterprises.  

This ‘complex program of institution building’ apparently challenges my criticism of cosmopolitan sovereignty, for Held seems to aim at transferring (part of) this sovereignty back to individuals. Democracy, Held contends, is only fully worth its name when citizens have the actual power to be active as citizens. And, as already mentioned, it is up to institutions to specify the conditions necessary for a common structure of political action. Falling outside of an institutional framework constitutes impaired agency because it prevents individuals from participating in the processes and institutions that shape their lives. Institutionalization in other words, is needed to create the ethical and political space which sets out the terms of reference for the recognition of people’s equal moral worth, their active agency and what is required for their autonomy and development.

It is however hard to equate the question of how we get from here to there, from fragmented and unaccountable global governance to a true cosmopolitan order as quick as possible as the main question of democracy. What happens in between is, as my (and Held’s) emphasis on consent indicates, in fact what matters. Held does mention that the institutionalization of cosmopolitan principles requires the entrenchment of accessible and open public fora, but fails to give an indication of the ways these fora should be opened up and used. We might, still, consider Held’s further specification of cosmopolitanism’s principles as an attempt to fill this gap in our democratic imagination.

While the before mentioned meta-principles point out how decisions can be justified within a cosmopolitan framework, a more extensive set of principles is proposed by Held to specify further what cosmopolitanism deems important. Some of these principles are already covered by the preceding discussion, like equal worth and dignity and their corollary, active agency i.e. the ability to act otherwise. The remaining principles are understood as derivatives from the former, Held mentions ‘personal responsibility’ but also ‘consent’, which ‘constitutes the basis of non-coercive collective agreement and

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69 Held, ‘Cosmopolitanism’, p.14-15  
70 Held, ‘Models’, p.274  
71 Idem, p.277  
72 Held, ‘Cosmopolitanism’, p.45-46  
73 Idem, p.49  
74 Idem, p.50
governance" and the related principle of collective decision-making through voting procedures. The latter is directly related to the democratization of global governance:

‘Principle five recognizes the importance of inclusiveness in the process of granting consent, while interpreting this to mean that an inclusive process of participation, deliberation and debate can coalesce with a decision-making procedure that allows outcomes which accrue the greatest support."

The so called ‘all affected principle’ completes the notions of consent and collective decision-making, because it points out who should and shouldn’t be included in the decision-making process. The final principles that Held points out are concerned with social justice, which demands the avoidance of social harm and sustainability.

Most notably in light of the latter principles, Held can be said to go beyond Kant with his cosmopolitan project, by addressing the social and economic issues that need to be resolved as part of the conditions of possibility for democratic global governance. For Held, the commitment to allow each person to become part of a cosmopolitan society, cannot solely have a formal character but should take the complexity of power, power relations and inequality that result from a capitalist market sphere into consideration. The reflections of these concerns can be found in the multiple policy recommendations that Held tends to give at the end of his books, like the development of formal institutional capacity for a World Environmental Organization, guided by principles like inclusiveness, political equality, deliberation, environmental sustainability, and economic effectiveness.

Although Held’s policy recommendations imply valid and radical transformations, they do not overcome the critical points that arise from the discussion in this chapter, which are embodied by the ‘consent’, ‘collective decision-making’ and the all-affected principle. The problems surrounding the all-affected principle, which has not been discussed so far, are not hard to imagine. Although it is greatly to Held’s merit that the globalization discourse and the idea of affecting has opened up possibilities for the recognition of democratic subjects, it has thereby suppressed another blind spot of democracy theory; for who effectively decides on the degree of affectedness? Possible answers range from arguing, in line with the butterfly effect, that everyone might be affected by anything to proposals for the establishment of one uncontestable authority to decide in case of disagreement. Realistic proposals are likely to be closer to the latter. This idea of a cosmopolitan allocator of political subjectivity arguably gives the final blow to what was left of politics as a collective practice. Held’s logic of cosmopolitanism then gives us a world order in

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75 Held, ‘Cosmopolitanism’, p.69-71
76 Idem, p.72
77 Idem, p.53
78 See for a summary of those recommendations for example ‘Cosmopolitanism’ p.236-237
which decisions precede collective action that is no longer political but directed at efficient and effective governance of the globe.

To revive the importance of political action, the all-affected principle for this reason should recognize its righteous place among political conflicts rather than to assume an Archimedean standpoint to justify the terms for participatory access of certain governance structures. For Held, the institutionalization of a cosmopolitan structure or framework serves people’s autonomy because it brings the vital aspects of people’s lives within reach of their decision-making abilities. Held thereby however allows the institutional bases of this structure the privilege of determining what the most important and vital aspects of people’s life are. In the foregoing I have questioned whether cosmopolitanism is really justified in taking away people’s sovereignty to return it to them later under ‘improved’ conditions. I find it more likely that by adhering to Held’s cosmopolitan project, we lose sight of the essence of exercising sovereignty, which is constituted by self-legislation, rather than adhering to the law after the fact of its creation. This forms the subject of the next chapter.

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80 Held, ‘Cosmopolitanism’, p. 18
Chapter II: A Kantian approach to cosmopolitan democracy: autonomy reconsidered

Introduction: Turning back to Kant

This chapter discusses parts of Immanuel Kant’s work on moral and political philosophy. One can of course question whether such a discussion is really necessary in order to get a better grasp on the shortcomings of Held’s cosmopolitanism and the requirements of a (new) theory of (cosmopolitan) democratization. Let me therefore clarify my reasons for delving into Kant’s legacy by recalling the distinction I made at the beginning of chapter 1. I claimed that much talking and writing about democracy either explicitly or implicitly, deliberately or unintentionally, assumes a division of terms surrounding the central notion of democracy into two clusters: (social) fact-like entities as sovereignty, individual and community on the one hand, and organizing structures like institutions, procedures and governance on the other. In the following I will argue that the basis for theorizing both clusters is present in Kant’s work on practical reason, which not only concerns the moral, universal law, but also the consciousness of the moral law, the will to will the law and the respect for this law. These latter notions (in italic) according to Kant stem from what we consider to be our free will and arguably relate to the terms under the heading of the first cluster. It is also here, in the critical assessment of the law (or any other ‘given’ knowledge) where the heart of Kant’s critical project lies. In contrast, it is an emphasis on Kant’s universalism and its requirements, not the free act of assenting to this law by individuals that pervades the literature on cosmopolitanism and global democracy.

This question of freely assenting to the moral law is related to the question of (moral) progress in history and the tension (dialectical relation) in Kantian philosophy between theoretical and practical reason. In discussions about the free will, Kant is considered to be a compatibilist, which means that determinism and freedom according to Kant are not mutually exclusive. Rather, freedom, since it is located in our capacity for moral reasoning, is of a different nature than the necessity that guides theoretical reason. Kant’s so called two standpoints theory can be summarized by stating that determinism

81 ‘Alle Menschen denken sich dem Willen nach als frei’ Immanuel Kant, Grundlegung zur Metaphysic der Sitten (GMS), 1785 (455) The moral law is the principle of a free will: ‘to have a free will and to operate it in accordance with the Formula of Universal Law are, as Kant puts it, “one and the same.” Christine Korsgaard, Introduction to: Groundwork of the Metaphysics of Morals, Cambridge Texts in the History of Philosophy , Mary Gregor (ed.) 1998, p xxvi

82 By highlighting certain aspects of the idea of morality as self-legislation I will claim that not only the gap between moral philosophy and the problems that confront a theory of cosmopolitan democracy will turn out to be small, but that the idea of self-legislation points out the direction for conceptualizing the dynamics of democratization rather than cosmopolitanism as framework.
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(the absence of freedom) applies to the world of phenomena or appearances (the domain of explanation) and that freedom of the will applies to the intellectual world of noumena (the domain of reason-giving).  

It goes without saying that Kant himself did not develop anything like a social theory to conceptualize an experience of (collectively and) freely assenting to a moral law. In fact, Kant’s two standpoint theory implies that freedom is not a concept of experience, that is, it cannot be found in empirical reality. This is however not to say that freedom in Kant’s philosophy does remains a negative conception (in the sense of not being incompatible with theoretical reason) because the recognition of the moral law within us is in fact a positive demonstration of its existence. In the following moreover, I will argue that Kant’s cosmopolitanism does point towards the need for a critical conception of a democratic subject and that the latter’s philosophy and the writings of contemporary Kantians offer the necessary theoretical starting point for doing so.

To re-open the case for autonomy in (cosmopolitan) democracy theory, I will firstly discuss the basics of Kantian moral philosophy as laid out in Kant’s Grundlegung zur Metaphysic der Sitten (GMS 1785), mostly referred to in English as The Groundwork. A discussion of the Groundwork will clarify the duality of Kant’s moral philosophy and show that following the moral law is itself not a sufficient condition for moral action and freedom. This discussion of autonomy as self-legislation connects to Kant’s ideas about the state and the role and origin of law, which I will lay-out by discussing some famous essays that concern the relation between morality and politics like Zum Ewigen Frieden and Über den Gemeinspruch: das mag in der Theorie richtig sein, tauft aber nicht für die Praxis. I will refer to the work of (among others) Pauline Kleingeld to emphasize the role consent plays within Kant’s ideas about a league of nations.

This discussion about democratization and the foundation of governance will subsequently give rise to the need for a further reexamination of the notion of autonomy that was layed out in the first section. I will elaborate on the question whether the force that accompanies the foundation of law should

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83 GMS (452)
84 Which is to say that because the empirical world is ruled by causal processes, we cannot encounter instances of transcendental freedom in our experience of it. See Kant, GMS (455) and Kant, ‘Über den Gemeinspruch: Das mag in der Theorie richtig sein, tauft aber nicht für die Praxis’ in: Zum Ewigen Frieden und andere Schriften, Fischer Taschenbuch Verlag 2008, p.92, For an elaboration see: Henry Allison, Kant’s Theory of Freedom, Cambridge University Press 1990, p.11-28
85 In the introduction to Kant, The Critique of Practical Reason, Cambridge Texts in the History of Philosophy, Mary Gregor (ed.), Cambridge University Press 1997, Korsgaard writes that: ‘the moral law proves its reality (…) by adding a positive determination to a causality thought only negative (…), it adds, namely, the concept of a reason determining the will immediately by the condition of a universal lawful form of its maxims (…). Moreover ‘although Kant denies that we can ever know for sure that someone has been morally motivated, the moral law cannot have authority over our wills unless it is possible for us to be motivated by it. p.xxi
lead us to reject all preconceived notions of law as oppressing since they contradict the logic of self-legislation. A discussion of some of Onora O’Neill’s insights on Kantian reason however points to the opposite conclusion; that the imperfection of the law turns out to be exactly what allows for autonomy in the first place. Similarly, for Jacques Derrida, the recognition of the aporias of the law, is conditional for calling an action free and autonomous. This and other recent work on Kantian moral philosophy by Jan-Willem van der Rijt gives rise to the idea that some more flesh needs to be put on the notion of autonomy. I will subsequently argue that autonomy should be considered an activity or a ‘becoming’ rather than some presupposition of moral and political theory.

Finally, in the fourth section, I will return to macro-questions concerning the possibility of progress and draw lessons from Kant’s essay Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht and the work of Jens Bartelson on the matter, highlighting the dialectics between theoretical and practical reason. As prefigured by the discussion on autonomy, the question of how political changes progresses, namely by keeping a radical openness to what is other and unexpected, turns out to more fundamental than the implementation of a preconceived ideal.

Section 2.1: The Groundwork

Self-legislation arguably forms the core idea of Immanuel Kant’s moral and political philosophy and is intrinsically linked to both autonomy and freedom. The idea of autonomy as self-legislation originally stems from Rousseau’s political philosophy and was transported by Kant into ethics and subsequently applied to his political philosophy as well. Free, autonomous persons are self-legislating individuals and free states are self-legislating collective entities: Republics. Since it is my premise that cosmopolitan theorists (Held and Kant included) are primarily concerned with freedom, we need to ask ourselves what it is about self-legislation that makes subjects and states free and autonomous, and this requires some elaboration on the Categorical Imperative.

Pre-Kantian theories of ethics usually assumed a conception of the good and derived rules from it. Kant however approached the question of morality radically different. In the *Groundwork* Kant embarks

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86 According to Henry Allison: ‘(...) Kant’s achievement consists in having transformed this notion from one that was intended to account for the obligation to obey the juridical laws of a political state to one that grounds the obligation to obey an inner, moral legislation. And, as a direct result of this, the traditional question: “Why should I be moral?” was transformed from one concerning the benefits to be derived from obeying ethical requirements (whether in this world or the next) into one concerning the grounds of the legitimacy of these requirements. In: Allison, *Kant’s Groundwork for the Metaphysics of Morals: A Commentary*, Oxford University Press 2011, p.2

87 This summary naturally is unable to do justice to all the discussions surrounding Kantian morality but will give (I assume) a reasonably uncontroversial interpretation of the *Grundlegung*. 26
on a search for the supreme principle of morality. He there to asks himself: what is unconditionally good? The answer that Kant gives is ‘a good will’, and the good will is good through its willing. More precisely, this is to say that a good will is a will to act out of duty and in correspondence with duty. Kant thus discriminates between acting ‘out of duty’ and ‘in conformity with the will’. The former concerns acts that are not, at least not solely, done because one likes or fancies acting in a certain way and neither because one aims to reach a certain goal (desires certain consequences) but because it is morally right to act a certain way. From this it follows that simply taking the rules that should guide our conduct into account and following them is not sufficient for acting autonomously, because the rationale may be an external constraint, like coercion, or an external goal, like reputation. Acting autonomously in contrast is a moral exercise throughout because it requires someone to act out of a moral conviction. The moral worth of an action in other words, is not situated in the goal that is attained by the action, but in the adoption of a maxim that gives rise to the action and by which the action is decided. This principle, according to Kant, is the common agreement with the law as such. This is indeed no other principle than Kant’s famous Categorical Imperative which says that one could never proceed otherwise than by simultaneously desiring that my maxim would be a general law. The necessity expressed by this law is thus a moral necessity. According to Kant it is the consciousness of the moral law that leads to respect for this law, and it is the respect on its turn that motivates moral action. Kant defines respect as the feeling that is the result of reflection on the moral law. It is because of the intrinsic moral motivation that constitutes its rationale that the maxims guiding our conduct can be distinguished from other rule-based ethics like rule-utilitarianism. Although it remains difficult to stipulate what the act of recognition or the consciousness of the moral law precisely entails, it is clear that reflection is crucial for acting out of duty and forms the critical test for calling an action moral. According to Kant, it is fully rational to accept the moral law as the basic principle of conduct
because it is derived from a conception of freedom that we are warranted in attributing ourselves on grounds that are independent of morality. Kant famously states that ‘all human beings think of themselves as having free will’, by which it is implied that we cannot think it otherwise (GMS 455). Conversely, in the Kritik der Reinen Vernunft, Kant states that the authority of a moral law is firmly established as a “fact of reason”, which is to say that morality ‘cannot be grounded in anything outside of our ordinary moral consciousness, in which we are directly aware of the law-giving activity of reason.”

In The Grundlegung, Kant formulates three versions of the Categorical Imperative. The first formulation, already mentioned above, is called the formula of Universal Law: “Act only on a maxim which you can at the same time will to be a universal law.” Different authors, Onora O’Neill for example, have taken this formulation to point towards a procedure to test whether the maxim by which you act is morally permissible, it however fails to show us why we should will only maxims that can be universal laws. To understand what kind of motivation is involved in acting according to this law, we should consider Kant’s second formulation of the Categorical Imperative which explicitly formulates its necessary end: ‘we should act in such a way that we treat Humanity, whether in ourselves or in others, never merely as a means only but always as an end in itself’.

According to the Kantian philosopher Christine Korsgaard, this formulation tells us to respect the power of self-determination in others and cherish and cultivate that power in ourselves. Moreover, according to Korsgaard, ‘the most characteristically Kantian moral prescriptions – the strict respect for freedom of choice and action, and the resulting prohibitions against coercion, deception, and paternalism, are most naturally associated with this formula’. The second formulation is also the one that figures most prominently in the literature on global justice and cosmopolitan democracy in which one can find multiple versions of the idea that ‘mankind as a whole ought to be considered the ultimate source of legitimacy’.

The third formulation is usually known as the Formula of the Kingdom of ends, although some

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97 Alternatively ‘act only in accordance with that maxim through which you can at the same time will that it become a universal law’ GMS (421)
98 Korsgaard, ‘Introduction’, p.xxi
99 GMS (421) So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means (429) (Formula of the end-in-itself or formula of humanity) Korsgaard: Act always so that you treat humanity, in your own person or another, never merely as a means but also at the same time as an end in itself.”
100 Christine Korsgaard, http://www.people.fas.harvard.edu/~korsgaar/CMK.Kant.EE.pdf, p.5
authors prefer ‘commonwealth of Ends’. Unlike the first two formulations, Kant does not formulate it as an explicit act-guiding principle. It is however mostly taken to entail that we should “act in accordance with the maxims of a member giving universal laws for a merely possible kingdom of ends”. The kingdom of ends constitutes Kant’s ideal moral community. Citizens of the kingdom of ends legislate the moral law together and ‘when we act morally, Kant claims, we act from a conception of ourselves as citizens of the kingdom of Ends’. Kant’s third formulation of the CI can be said to combine the different aspects of the former two formulations, namely the idea of self-legislation and the idea of self-determination, which is the idea of every rational being as a will that legislates universal law. It is moreover here that Kant emphasizes most clearly our status as law givers rather than law followers.

Finally, it is also the third formulation that comes closest to Kant’s political philosophy for it refers to a conception of autonomy that is collective and which assigns every member an equal share in legislating the principles for their community. This gives us a first impression of what the adoption of autonomy as central to theory about democratization should entail; not only the consolidation of universal laws but its autonomous adoption by moral agents.

Section 2.2: On Politics and Perpetual Peace

The Categorical Imperative again surfaces as the leitmotiv in Kant’s political philosophy. It is tempting to raise several objections to this application of Kant’s highly theoretical notion of morality to the robust practice of state politics and Kant himself in fact had to deal with such objections in his time. Kant however renounces theories that can only regard politics in terms of natural necessities. Contra Hobbes, Kant maintains that politicians also need to be concerned with moral rights and duties. Duties do not solely refer to a formal conception of what we ought to do. The duty to follow maxims that can be

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102 Jan-Willem van der Rijt for example prefers ‘commonwealth of Ends’ to ‘Kingdom of Ends’ because the latter is a loose and somewhat misleading translation of Reich der Zwecke, De Rijt, The Importance of Assent, a theory of coercion and dignity, Box Press, 2009, p. 77
103 According to van der Rijt the common wealth of Ends is described as ‘a systematic union of various rational beings through common laws’ (433) and ‘morality consists (...) in the reference of all action to the lawgiving whereby alone a [commonwealth] of ends is possible’ ‘the importance of Assent’, p. 61
104 GMS (439)
106 GMS (432)
107 The Grundlegung discusses autonomy as self-legislation in 431,433,440
108 As Jan-Willem van der Rijt notes: ‘As the categorical imperative is the supreme principle of morality, it is a crucial notion in all of Kant’s moral philosophy. It unites both his political and ethical thinking. Nonetheless, these two parts of Kant’s moral thinking are often viewed separately. In ‘The importance of assent’, p. 61
109 Most notably from Christian Garve and Moses Mendelssohn
universalized, Kant argues, would not be a duty when it would be impossible to realize in experience.\footnote{110}{\textit{Den es würde nicht Pflicht sein, auf eine Gewisse Wirkung unsers Willens auszugehen, wenn diese nicht auch in der Erfahrung (...) möglich wäre} in: \textit{Über den Gemeinspruch: das mag in der Theorie richtig sein, taugt aber nicht für die Praxis}, Zum Ewigen Frieden und andere Schriften, Fischer Taschenbuch Verlag 2008, p.83} Morality is thus in itself practical, being the ‘totality of unconditionally mandatory laws according to which we ought to act’.\footnote{111}{\textit{On Perpetual Peace}, fragment in: Paul R.Viotti and Mark V. Kauppi, \textit{International Relations Theory, Realism, Pluralism, Globalism and Beyond}, Allyn and Bacon 1998, p.415} Kant’s dualism thus points towards the intrinsic connection between freedom, morality and political questions: although freedom stems from the world of understanding, it can only be recognized as duty when confronted with questions of experience.

The Categorical Imperative moreover does not solely concern individual moral conduct but is leading for the political behavior of states and peoples as well and as in his moral philosophy, in his political thought Kant is concerned with constraining freedom of action in order to enable it. In the essay called \textit{On the Common Saying: That may be Correct in Theory, but it is of no Use in Practice}, Kant makes freedom the first of three principles that form the basis of a state\footnote{112}{Kant, ‘\textit{Zum Ewigen Frieden}’, p.99, 1. The freedom of every member of the state as a human being, 2. The equality of each with every other as a subject 3. The independence of every member of a commonwealth as a citizen.}: Similarly, Kant states that there is only one innate right: freedom, which means independence of being constrained by another’s choice, to the extent that it does not contradict the freedom of every other in accordance with the universal law.

\subsection{2.2.1 Kant’s Republic and external freedom}

To understand the moral character of a state, Kant develops a notion of a contract that is not unlike Hobbes’s and Rousseau’s. As in Hobbes theory, in Kant’s conception of contract, people leave the state of nature by entering into a contract with others.\footnote{113}{In the \textit{Kritik der reinen Vernunft} (KrV) Kant writes ‘just as Hobbes asserted, the state of nature is a state of injustice and violence, and one must necessarily leave it in order to submit himself to the lawful coercion which alone limits our freedom in such a way that it can be consistent with the freedom of everyone else and thereby with the common good. (A752/B780)} However, whereas the former’s conception of contract refers to the association of many that share a common goal, it is according to Kant only a contract that is the association of many that are goals in themselves which constitutes a free society.\footnote{114}{Kant, ‘\textit{Über dem Gemeinspruch}’, p.98} Kant’s position is more similar to Rousseau’s, who held that men are not naturally enemies, but when they live in a state of primitive independence, the relation among them is not sufficiently stable to constitute a state of peace.\footnote{115}{Rousseau, ‘\textit{The Social Contract}’ (357) in: \textit{Contractarianism/Contractualism}, Seteven Darwell ed., Jon Wiley & Sons, 2002, p.59} The Kantian contract moreover not solely or primarily serves common goals like security, but by establishing a constitution, assures its members of their freedom in the first place. According to Kant:
On the Democratic Provenance of Cosmopolitan Governance

‘Every person believes that he himself would hold the concept of law sacred and faithfully follows it provided he were sure that he could expect the same from others, and the government does in part assure him of this’.  

The state is accordingly not considered to be some (necessary) impediment to freedom, but rather the condition for its possibility. As grounded in the freedom of each individual, Kant states in the first (positive) article of Zum Ewigen Frieden that each constitution in every state should be Republican. Conversely, all people who can mutually influence each other should fall under the jurisdiction of a civil constitution. In contrast to a despotic form of government, a Republican form of government is based on a separation between the executive and legislative branch. A Republic moreover pursues three principles, which are the freedom of all its members, the dependence of all on common legislation and the equality of all as citizens under the established constitution.

Kant’s political philosophy is thus explicitly concerned with reciprocity and the social condition of living together with others. The concept of right hereby refers to the regulation of the external relations among free persons. As Kant stipulates in Zum Ewigen Frieden and as summarized by Pauline Kleingeld:

*Right is the restriction of the freedom of each to the condition of its being compatible with the freedom of everyone, to the extent this freedom is possible in accordance with a general law; and public right is the sum of external laws that make such a universal harmony possible*.

Kant moreover notes that next to being grounded in human freedom, a Republican constitution has another advantage, for it requires its citizen’s consent in deciding on going to war. This requirement is itself conducive to perpetual peace, since citizens according to Kant are unlikely to be willing to pay (and thus vote) for a war.

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118 ‘Alle Menschen, die auf einander wechselseitig einfliessen können, müssen zu irgendeiner bürgerlichen Verfassung gehören.’ ‘Zum Ewigen Frieden’, p.159 footnote 1
121 Kant, ‘Zum Ewigen Frieden’, p.161
Whereas public domestic law governs the relations between individuals, Kant describes international law or the law of nations as governing the relations among states and dedicates a major part of *Zum Ewigen Frieden* to delineating several prohibitions of actions that entail a violation of state sovereignty. Kant repeatedly emphasizes that a state is a society of people over whom no other than the people itself can dispose and that no state should therefore interfere with the constitution and government of another state, even if this state is internally divided, for the ‘scandal’ of interference would make the autonomy of all other states precarious. Similar to his understanding of the autonomy of individuals, Kant thus considers states to be autonomous (self-governing) entities that should remain free from interference by other states. The analogy would lead one to think (and Kant points this out himself) that, since states find themselves in a state of nature in their relation to other states, as individuals, states would be eager to raise themselves out of this situation by adhering to a common constitution.

Kant’s reluctance however to draw this conclusion, and the fact that states indeed show little signs of desire to adhere to an external constitution should draw our attention. Kant does not argue that reason or the idea of perpetual peace dictates the enforcement of states under a (cosmopolitan) constitution. Before discussing this matter in greater detail, I will first take a closer look at Kant’s ideas about the way a legitimate political order comes about, which is related to the question of democratization. What exactly legitimates a state and how does this differ from how Kant thought a federation of states should come about? Although this is an enormously controversial matter in political theory in general, it is exactly Kant’s ambiguity that is insightful.

### 2.2.2 Political Change

Whereas political theorists generally struggle with the problem of democracy, how to reconcile the will of the individual with those of others, it is in Kant’s philosophy that this question at first sight appears redundant. As becomes clear from its various formulations, the *Categorical Imperative* in itself contains the wills of others. However, if morality is about the laws we impose on ourselves, we are still in need for a political theory that stipulates how this done collectively. From a certain perspective (i.e. from a reading of *On Perpetual Peace* and *On the Common Saying*), Kant’s answer to what makes a state legitimate is

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122 Compare this to Held who, at all times, gives primacy to cosmopolitan law above sovereignty


124 ‘Kein Staat soll sich in die Verfassung und Regierung eines andern Stats gewaltthätig einmischen. (...) So lange aber diese innere Streit noch nicht entschieden ist, würde diese Einmischung äussere Mächte Verletzung der Rechte eines nur mit seiner inneren Krankheit rigenden, von keinem anderen abhängige Volks, selbst also ein gegebenes Skandal sein und die Autonomie aller Staaten unsicher machen. Kant, ‘Zum Ewigen Frieden’ p.155-156

125 ‘so, sollte man denken, müsten gesittete Völker (jedes für sich zu einem Staat verenigt) eilen, aus einem so verworfenen Zustande je eher desto lieber herauszukommen’, ‘Zum Ewigen Frieden’, p.165
quite disappointing. The reason for this is not, primarily, that like Hobbes, Kant regards the idea of an original social contract not as a fact but rather as a hypothesis, i.e. a principle of Reason. What does violate our contemporary democratic intuitions is that this hypothetical possibility of the consent of all with the constitution is judged by the sovereign only and cannot be undone at a later moment.\textsuperscript{126}

Kant, in other words, restricts the authority for matters of justification to the sovereign. The people should put their trust in the sovereign’s insight into the idea of an original contract which binds him to law-giving that could have arisen from the will of a whole people. This moreover leads Kant to conclude that ‘in the practical execution of this idea we can count on nothing but force to establish the juridical condition’.\textsuperscript{127}

Thus although Kant adheres to the idea of popular sovereignty, the necessary condition for its establishment appears that force precedes the law. This is not to say that Kant is founding his political concepts on some sort of power politics. It is the recognition of the empirical groundlessness of the establishment of crucial notions like sovereignty and authority that leads him to acknowledge the violence inherent in the establishment of all lawful arrangements. Due to the critical function of the principle of Reason that impels the sovereign to act in accordance with the (now sovereign) will of the people, approximation of a lawful condition is both possible and morally imperative.\textsuperscript{128}

Kant furthermore emphasizes that for the establishment of a lawful condition, a representative system is indispensable, without which the form of government would be despotic and violent.\textsuperscript{129}

Although Kant’s ideal republic very much resembled the representative democracies that we know today, he was a fierce opponent of what he took to be the characteristic of democracy: the desire of all to rule.\textsuperscript{130}

This desire would make the acceptance of any type of authority impossible and thereby contradict the external freedom of all. Thus, although we should understand the idea of an original contract as binding the sovereign as legislator, Kant does not leave open a course of action for citizens in case the sovereign

\textsuperscript{127} ‘Certainly the will of everyone to live under a juridical constitution according to principles of freedom (i.e., the distributive unity of the will of all) is not sufficient to this end. That all together should will this condition (i.e., the collective unity of the united will) – the solution to this troublous problem- is also required. (…) hence in the practical execution of this idea we can count on nothing but force to establish the juridical condition, on the compulsion of which public law will later be established. We can scarcely hope to find in the legislator a moral intention sufficient to induce him to commit to the general will the establishment of a legal constitution after he has formed the nation from a horde of savages; therefore, we cannot but expect (in practice) to find in execution wide deviations from this idea (in theory).’ On Perpetual Peace, fragment’, p. 416
\textsuperscript{128} Ingeborg Maus, Zur Aufklärung der Demokratietheorie, Rechts- und demokratietheoretische Überlegungen im Anschluß an Kant, Suhrkamp Verlag Frankfurt am Main 1992. p.62-63 (Für die Gründung des Gemeinwesens ergibt sich daraus die notwendige Konsequenz: > Muss die Gewalt vor dem Rechte vorhergehen <)
\textsuperscript{129} This requirement however is weakened by Kant’s remark that at the very least, a sovereign should act in the Spirit of a representative system, such as the ruling by Friedrich II; Prussia’s ruler at the time (1712-1786) who became known as a proponent of enlightened absolutism
\textsuperscript{130} Kant, ‘Zum Ewigen Frieden’, p. 163
deviated from the contract.\textsuperscript{131} The potential of an abuse of power did not seem to be much of Kant’s concern, which is striking since the perception of this risk in his time gave rise to constitutional provisions that allowed for a rebellion by the people in case of a violation of the constitution by the monarch. What Kant writes about the British law can be considered exemplary for his aversion to clauses that leave open the possibility for revolution or rebellion by the people:

\begin{quote}
Denn dass die Constitution auf diesen Fall ein Gesetz enthalte, welches die subsistirende Verfassung, von der alle besondere Gesetze ausgehen (…) umzustürzen berechtigte, ist ein klarer Widerspruch: weil sie alsdann auch eine \textit{öffentlich constituire} Gegenmacht enthalten müsste, mithin noch ein zweites Staatsoberhaupt, welches die Volksrechte gegen das erstere beschützte, sein müsste, aber dann auch ein drittes, welches zwischen Beiden, auf wessen Seite das recht sei, entschiede.\textsuperscript{132}
\end{quote}

Kant’s argument is simple: a rebellion or revolution can by no means be called rightful, because such an event begs the question of justification. A revolution moreover not only leaves the question of rightfulness unresolved but in fact runs the risk of worsening the situation. Most importantly, since it is the law that founds the community, it is through rebellion that the people undermine their own sovereignty.\textsuperscript{133} On the other hand, although legitimate, Kant’s point is in fact very formal and tells us little about the institutionalization of democratic orders. Should citizens according to Kant be helplessly waiting for the sovereign to acquire full rational insight? Also this conclusion appears premature. There are two lines of argument I would like to pursue here which will both be elaborated on at a later stage. The first line concerns Kant’s writings on the Public use of Reason which I will argue are intrinsically linked to the notion of autonomy. This line of argument will be developed in section three and will deal explicitly with the question of autonomy and action. The second line of argument consists of an interpretation of Kant’s writings on the revolution offered by Michel Foucault and Francois Lyotard, which will be pursued in chapter 3. First however, I will discuss the part of Kant’s writings that is most closely connected to the paradoxes of global governance.

\textsuperscript{131} Rather, the kind of possibility at issue is one of rational possible unanimity based upon fair distributions of burdens and rights in abstraction from empirical facts or desires
\textsuperscript{132} Kant, ‘Über den Gemeinspruch’, p.114
\textsuperscript{133} See also Maus, ‘Zur Aufklärung’, p.65, Here she argues that what makes the crime of revolution (the murder of the king) special is that: ‘in der Vernichtung des Quells der Gesetze, also in der Beseitigung des gesetzgebenden Souveräns besteht, die sich eines Verfahrens bedient, das seinerseits auf positiven recht basiert’. 
2.2.3: Democratization beyond the nation-state or how to escape the international state of nature:
Whereas Kant’s ideas on the republican ideal are fairly straightforward, his position on how, subsequently, states should be raised out of the international state of nature is less clear. In *Zum Ewigen Frieden* Kant lays out three final conditions for the realization of eternal peace: 1. the internal organization of states as republics, 2. a law of nations grounded on a federal structure of free states and 3. a cosmopolitan law based on the principle of hospitality. Not surprisingly, the interpretation of these principles has given rise to much discussion. The standard interpretation of the second principle is that Kant’s ultimate ideal is a league of states. A possible alternative interpretation is that a league should be regarded as a first but necessary step towards a federation of states. Another issue that arises (in regard to the ultimate ideal of perpetual peace) is its order: should states firstly become republican and subsequently accede to the league, or should existing Republics, organized in a league, exert pressure on despotic states to become Republics too? The latter option clearly contradicts the first sections of *Zum Ewigen Frieden*, but at first sight appears more promising for the actual attainability of a perpetual peace.

The dilemma that states are facing can be stated as follows: on the one hand, because states, like men, find themselves in a state of nature, they have reason to enter into a contract with one another, both because of the security this grants them and because it is morally imperative to do so. On the other hand however, accession to a league is at odds with the idea of people’s sovereignty since by adhering to a higher authority, the people will in fact cease to exist (dissolve), because it was the very contract that brought the (sovereignty of) the people about. It is, moreover, in Kant’s words, exactly the ‘not being bounded’ to external laws that the state’s dignity consists of. This ambiguity in Kant’s thought has led many commentators to argue that Kant contradicts himself and makes a realist move by deducing what is normatively required from empirical facts. What Kant should have done, according to those critics, is to simply advocate ‘a state in the case of individuals’ and ‘a state of states in the case of states, i.e. a world republic’.

A possible refutation of this argument is that, although Kant does consider a world republic as the highest ideal, *Perpetual Peace*’s mainly addresses politicians and statesmen and therefore concerns an ‘inferior but far more realistic ideal of the best possible semi-juridical condition: the ideal of a pacific league of sovereign states’. This interpretation, given by Thomas Pogge, entails that Kant’s hesitation to propagate a world republic is strategic. A league is more easily reachable from the status quo, which on its

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134 Kant, ‘Zum Ewigen Frieden’, p.159-169
135 Kleingeld, ‘Kant’s Theory of Peace’, p.483
136 Kant, ‘Zum Ewigen Frieden, p. 164-165
137 Kleingeld, ‘Kant’s Theory of Peace’, p. 484
turn is a step forward in the direction of a world republic.\textsuperscript{138} Although this argument has some plausibility, it could also backfire, since the ultimate possibility of perpetual peace needs to remain to be conceived of as possible. For Kant to marginalize his true commitment, in other words, could be counterproductive because he fails to provide a true incentive for thorough juridification of the relations among states.

A slightly different interpretation of Kant’s ‘mysterious’ hesitation to advocate a world republic follows from a consideration of the uncertainties that states are faced with rather than the counterforces (of self-interest) that have to be ‘overcome’. This problem of uncertainty (rather than attainability) is compatible with the interpretation that Kleingeld proposes. As already noted, the analogy between the state of nature among individuals and the state of nature among states is not watertight:

> When individuals leave the state of nature to submit to the laws of a common state, the state they form may not be perfect, but it will be better, normatively speaking, than the state of nature that they left behind because before its creation there was no rule of law at all. This is not true, however, in the case of states leaving the state of nature.\textsuperscript{139}

We can thus understand Kant’s remark that states ‘have outgrown the coercion of others to put themselves under their conception of law under a broader constitution’\textsuperscript{140} to mean that they have become cautious since they actually have something to lose: freedom itself. Kant’s reluctance to propagate the enforcement of an external structure upon individual states can thus be explained by the fact that doing so would contradict the freedom of states (and the individuals in it) which makes it morally objectionable. This is the explanation that Kleingeld ultimately proposes: to force an unwilling state into a federation would constitute a violation of the individuals composing the state collectively, as co-legislating citizens.

Although Kleingeld does not state so explicitly herself, her interpretation and solution to the apparent paradox in Kant’s writings corresponds to my discussion in the first section. To be able to speak of progress, it is necessary to speak of moral progress. Moral progress in turn does not consist of simply following the providence of Reason, in which case the enforcement of states into a federation would be quite legitimate, but requires the consent of citizens as a result of their own reflection on the matter, an idea that I will pursue in the next section. The dilemma is also resolved by a simple reminder of the basics of Kant’s moral thought which is its deontological nature. It is not the state of affairs that is brought about (in this case a federation of states or world-republic) which has moral worth, but the maxim (duty) that


\textsuperscript{139} Kleingeld, ‘Kant’s Theory of Peace’, p.485

\textsuperscript{140} Kant, Zum Ewigen Frieden, ‘p.166 Kant writes that what applies to men in the state of nature does not apply to states, ‘weil sie als Staaten innerlich schon eine rechtliche Verfassung haben und dem Zwange anderer, sie nach ihren Rechtsbegriffen unter eine erweiterte gesetzliche Verfassung zu bringen, entwachsen sind.’
gives rise to the action, which could either result in assent or dissent. Thus not only does Kant advocate a non-coercive league of states ‘because he regards it as the only possible road to the ultimate ideal’\(^\text{141}\), it is the *voluntary* adherence what makes the ideal moral.\(^\text{142}\)

This conclusion contradicts Held’s presupposition that cosmopolitan law might indeed violate the interests of states, but is necessarily in agreement with the freedom of individuals. Although the interests of imperfect republics might at times or on certain matters contradict its citizen’s interests and freedom, so might, as far as the citizens are concerned, a world republic. The organization of states into a federation through the institutionalization of the cosmopolitan law is an essentially paternalistic line of reasoning that passes over the political autonomy of the people it purports to serve.\(^\text{143}\) This fear for domination greatly overlaps with the so far unmentioned but equally heated controversy surrounding the interpretation of Kant’s concern about the possibility of world despotism. At the end of *On Perpetual Peace*, Kant warns his readers that although the separation of several independent neighbouring states is indeed ‘a state of war’, it is certainly a better state of affairs than for states to be swallowed by a foreign power that overgrows the others and ultimately turns into a universal monarchy:

\[\text{(..) and a soulless despotism, after having eliminated the seeds of good, ultimately declines into anarchy. Yet this is the aim of every state (or of its leader), to enter into a condition of lasting peace in this way, such that it might eventually rule the entire world.}^{144}\]

It should be clear that such a world hegemony does not constitute a true peace in Kant’s understanding, for dominated people will continue to oppose the oppression and strive for their freedom. And although it is true that people tend to abstain from others due to cultural differences, the same grounds for mutual hatred can be turned into the condition for an ultimate agreement on common principles. The wish for non-domination in other words leads states to *anticipate* world despotism and agree to common governance structures to avoid such an outcome.

World despotism in other words is indeed an alarming prospect but certainly forms no argument against the implementation of international governance structures in itself. Quite the contrary, the

\[^{142}\text{Kleingeld, ‘Kant’s Theory of Peace’, p.483}\]
\[^{143}\text{Idem, p.492: ‘for peace to be truly perpetual however, it needs to be supported by moral dispositions (and this is of course what morality requires). The fragile “natural” peace is itself conducive to its gradual and never-ending transformation into a perpetual “moral” peace, and this is how nature paves the way for morality without eliminating freedom, duty, and virtue.’}\]
\[^{144}\text{Idem, p. 487 Kleingeld continues ‘The people may well want to get rid of their despot, but it does not follow that they will want to join a particular state of states. Perhaps what they want most of all is to have a say in the matter.’ It of course open to debate whether Kant would endorse such an interpretation himself, but the interpretation in itself is both consistent and fruitful in the light of the question of autonomy and democratization.}\]
foregoing discussion highlights that it is the process by which governance structures come about that greatly determines their moral nature and contributes mostly to the ultimate ideal of perpetual peace rather than their force or reach. Realizing this is important because the world despotism passage often surfaces in the literature as an important if not exhaustive argument against global democracy.\textsuperscript{145} For one thing, suspicion against forms of external governance is not justified by the idea that morality is bounded by the state, but rather by the idea that morality (Reason itself) is the sole and only authority that can guide individuals and states behaviour. Despotism is in fact a potential danger of political constellations that do not take autonomy seriously. In other words, the danger of soulless despotism can by no means be equated with a federation of states or world-republic, which might come about by mutual agreement rather than the fusion of single states into one hegemonic super-state.\textsuperscript{146}

The main conclusion of this section can thus be phrased as follows: progress into the direction of a federative structure of states, not only should not be enforced, it cannot be enforced, because it entails a misunderstanding of progress, which is moral progress. States reluctance to adhere to a foreign constitution is understandable even from a moral perspective because freedom can be lost. This is the case because, as Kleingeld points out, ‘even individuals in despotic states may not want to join a federation of states if this has to happen on a conception of rights that differs from their own’, which would imply a despotic structure of the situation itself.\textsuperscript{147}

Section 2.3: Autonomy reconsidered

Kant’s republic is based on the principles of freedom and equality of its citizens. It depends however on which text is read, whether this equality and freedom is constituted by the citizens dependence on a common legislation, or on their independence as co-legislators.\textsuperscript{148} I will depart from the latter

\textsuperscript{145} This position is mostly assigned to John Rawls, \textit{The Law of Peoples with 'The Idea of Public Reason Revisited'}, Harvard University Press 1999

\textsuperscript{146} Consider for example Pogge’s note 11 in the Blackwell Guide to Kant’s ethics on p. 207 : ‘One prominent example is John Rawls, who writes: “here I follow Kant’s lead in \textit{Perpetual Peace} (1795) in thinking that a world government – by which I mean a unified political regime with the legal powers normally exercised by central governments – would either be a global despotism or else would rule over a fragile empire torn by frequent civil strife as various regions and peoples tried to gain their political freedom and autonomy “(Rawls 1999, p.36) Rawl’s appeal to Kant is marred by a faulty translation. What Kant rejects is not “the amalgamation of states under one superior power, as this would end in one universal monarchy”(ibid note 40), but, in a literal translation, “their amalgamation by means of a power that overgrows the other and develops into a universal monarchy (die Zusamennschmelzung derselben durch eine die andere überwachsende und in eine Universalmonarchie übergehende Macht)”(PP8:367: 12-14)

\textsuperscript{147} Kleingeld, ‘Kant’s theory of peace’, p.486

\textsuperscript{148} See ‘Perpetual Peace’ (8:349) and ‘Theory and Practice’(8:294) respectively, This distinction is pointed out by Kleingeld, ‘Kant’s theory of peace’, p. 481
interpretation since, as Kleingeld points out; an understanding of autonomy as self-legislation explains Kant’s hesitation to propose the enforcement of a federative structure upon independent states best. Moreover, as (again) will appear from this chapter, autonomy does not refer to a holy (human) core that should be contemplated but to an activity and capacity that should be exercised. This deepens my critique of Held since in his conception of cosmopolitanism it is the citizen’s dependence on a common legislation (the cosmopolitan law) that is taken as primary. It hereby makes autonomy not only of secondary concern for an understanding of global governance, but derives it from a cosmopolitan law that actually requires our critical assessment and subsequent assent or dissent in the first place.

2.3.1: The Subjective character of Freedom and the Aporias of the law

Let’s rewind once more to the Grundlegung. Here Kant argues that it is moral thoughts that provide us with incentives for action. A moral thought however does not function as a cause nor directly leads us to act in a certain way, but provides us with a consideration that we take into account. It is by deciding to act on an incentive that you ‘make it your own maxim’ to act in the way suggested by the incentive. This is to say that not only do we act in accordance with laws, but in accordance with our own conceptions of laws. There is, in other words, a subjective side to the adoption of the moral law. Korsgaard for example emphasizes this subjective dimension in relation to the second formulation of the Categorical Imperative:

‘If their value does not rest in themselves, but rather in the fact that they are important to us, then in pursuing them, we are in effect taking ourselves to be important. In that sense, Kant says, it is a “subjective principle of human actions” that we treat ourselves as ends.’

Stressing the subjective character of Kant’s moral thought might be counterintuitive, because not only is Kant concerned with objective knowledge, the Categorical Imperative demands universalization. However, when we remind ourselves of the autonomy of the will, which is only motivated by reason itself (and not by an external source i.e. heteronomously) we have to agree with Korsgaard’s remark that: ‘there can only be one reason why we must do what duty demands, and that is that we demand it of ourselves’. This is certainly not to degrade the Categorical Imperative to an arbitrary principle one can adopt or not according to how one feels. Stressing this subject aspect of morality however should lead us, as political theorists, to value the moral judgments of individuals themselves.

Something similar is argued by Jan-Willem van der Rijt, who stresses that it is exactly because people have the capacity for moral agency, that their moral judgements concerning issues by which they

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149 GMS (412) See also Korsgaard ‘Introduction’, p.xiv
150 Idem, p. xxii GMS (429)
151 Korsgaard ‘Introduction’ p.xxiv
are affected must matter as well. This intuition unsettles the question of political authority and (again) begs the question of how a political theory should deal with conflicting moral judgements and the question of coercion. We hereto need to radicalize the question of moral agency, for how can we know whether or not the exercise of our practical reason does not imply a passive surrender to the law after all? An affirmative answer should bother us because autonomy as a critical activity is hard to reconcile with moral agency as submission.

The discrepancy we are dealing with here is related to a familiar problem in philosophy and law, which deals with unique cases, and a general law. Although judgment demands exactly that: to subsume the particular under the general, can we still say that single cases require individual evaluation? As Jacques Derrida puts it in a slightly more eloquent fashion:

> How are we to reconcile the act of justice that must always concern singularity, individuals, irreplaceable groups and lives, the other or myself as other, in a unique situation, with rule, norm, value or the imperative of justice which necessarily have a general form, even if this generality prescribes a singular application in each case?^{153}

To complicate things a bit more; this question not unlike the problems surrounding foundation of law as touched upon in the introduction of this thesis. The operation that consists of founding, inaugurating, justifying law, Derrida tells us, ‘consists of a *coup de force*, of a performative and therefore interpretative violence.\(^{154}\) There is no justificatory language for what founds the law and a political order, which remains ‘a mystery’. Now think of an individual deciding ‘freely’ on a question of morality. In view of the foregoing, we wouldn't say that simply following a rule or enacting a program, would be a free decision. We might say that it is legal, but (as Derrida emphasizes) we wouldn't say that the decision is *either just or free*. Derrida explores the possibility of a free and just decision, by considering the case of a judge (who quite literally judges about cases on a daily basis). Because each case is different, this judgment can, again, not merely follow a rule, but must also ‘assume it, approve it, confirm its value, by a reinstituting act of interpretation, as if ultimately nothing previously existed of the law, as if the judge himself invented the law in every case’.\(^{155}\)

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\(^{152}\) Jan-Willem van der Rijt, *The Importance of Assent, a Theory of Coercion and Dignity*, Rijksuniversiteit Groningen 2009, p.2 As van der Rijt points out: coercion does not just curtail individual’s freedom, ‘but challenge his standing as an autonomous agent, too (...) ’ Coercion violates moral agency ignoring moral judgment’.


\(^{154}\) Derrida, ‘Force of Law’, p.941  

\(^{155}\) Idem, p.961
The act of foundation is thus in a sense repeated by actors every moment that a decision is taken. There is, so to say, a need for ‘fresh judgment’:

‘for a decision to be just and responsible, it must, in its proper moment if there is one, be both regulated and without regulation: it must conserve the law and also destroy it or suspend it enough to have to reinvent it in each case, rejustify it, at least reinvent it in the affirmation and the new and free confirmation of its principle.’¹⁵⁶

The full acknowledgement of this paradox then, implies that we cannot speak of an absolute free decision. By basing her decision on a rule the judge behaves, in Derrida’s words, like a ‘calculating machine’; the decision is not hers and consequently not free.¹⁵⁷ Conversely, when she doesn’t refer to a rule, we will say that the decision is suspended. Suspension cannot be just (or free) in itself, because there is no act and no decision is taken.¹⁵⁸ Judgment, by its very nature, is either ‘enforced upon’ or simply does not take place.

Derrida however does not despair, and holds on to the very conceptions of freedom and justice by claiming that the experience of this *aporia*; the experience of the impossible (i.e. a free and just decision) is what freedom consists of. It is in other words exactly the fact that law is constructed which forms the condition for the possibility (before only considered to be its condition of *im*possibility) of freedom. This might be clarified by considering a similar aporia. Since justice concerns the singularity of the other, the condition of all justice accordingly is to address oneself to the other in the language of the other. Because it is impossible to speak the language of the other, Derrida argues that I will try to assimilate to a third law representing a pure and universal conception of justice.¹⁵⁹ Although this equally amounts to an impossibility, the activity that both the demand for justice of the other and the idea of justice itself sets into motion is not only the meaning of deconstruction but comes closest to a conception of justice itself.

As summarized by Derrida:

Law, like legality, legitimacy or legitimation is always constructed and hence deconstructible: it makes deconstruction possible. Justice, on the other hand is undeconstructible, which on its turn also makes deconstruction possible, ‘indeed is inseparable from it’. The result is that ‘deconstruction takes place in the

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¹⁵⁶ Idem
¹⁵⁷ Similar to Derrida, Onora O’Neill argues that Kant’s analogue of a tribunal to reason’s authority suggests that reason is not algorithmic, for if that were the case, tribunals would in fact be redundant. (p.18) This is not to say that algorithmic procedures are to be outright dismissed, but rather that they are incomplete, private uses of reason. ‘formal calculi and models of rational choice presuppose rather than articulate what is most crucial for reasoning’. p.19 Onora O’Neill, ‘Constructions of Reason, Explorations of Kant’s Practical Philosophy’, Cambridge University Press 1989
¹⁵⁸ Derrida ‘Force of Law’, p.961-963
¹⁵⁹ Idem, p.949
interval that separates the undeconstructibility of justice from the deconstructibility of *droit* (authority, legitimacy and so on).¹⁶⁰

This is the reason why we should not despair: the laws unfoundedness, its ‘deconstructibility’, is in fact good news and should be seen as a ‘stroke of luck for politics’. Justice is the possibility of deconstruction which enables the continuous re-authorization of the law as the exercise of deconstruction.¹⁶¹ By the activity of deconstruction we are opening up pre-existing lawful arrangements. In Derrida’s case however, it seems that this remains an activity reserved for academics and intellectuals that more often than not stand at the sideline of the political process. What we are looking for however, is a way to relate deconstruction to a democratic subject. Before I come to propose an alternative conception of the democratic subject based on the work of Jacques Rancière in the third chapter, there is more to learn from some of the Kantian literature that resonates with Derrida’s deconstructive approach.

### 2.3.2: Autonomy as Critique

In *Constructions of Reason*, Onora O’Neill develops a political interpretation of Kant’s legacy including work which is usually taken to be purely theoretical and concerned with the possibility of knowledge, most notably the *Critique of Pure Reason*. What (surprisingly) becomes clear from O’Neill’s discussion of the Kantian method par excellence; reason’s self-examination, is that it greatly resembles Derrida’s relentless deconstructive activity:

> Reason must in all its undertakings subject itself to criticism; should it limit freedom of criticism by any prohibitions, it must harm itself, drawing upon itself a damaging suspicion. Nothing is important through its usefulness, nothing so sacred, that it may be exempted from this searching examination, which knows no respect for persons. Reason depends on this freedom for its very existence. For reason has no dictatorial authority; its verdict is always simply the agreement of free citizens, of whom each one must be permitted to express, without let or hindrance, his objection or even his veto.¹⁶²

O’Neill points out that in this quote from “The Discipline of Pure Reason in Its Polemical Employment” Kant argues that reason can only lose authority by appeal to power or force. Kant compares and contrasts reason with the political discipline imposed by dictators or conquerors who coerce obedience. The discipline of reason is rather ‘like the discipline of those who must interact without relying either on imposed or on pre-established harmony’, reason’s authority would therefore be undermined by appeal to

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¹⁶⁰ Derrida, ‘Force of Law’, p. 945
¹⁶¹ Idem, p.943-45
¹⁶² (CPR, A738/B766) Quoted by O’Neill in Onora O’Neill, *Constructions of Reason, Explorations of Kant’s Practical Philosophy*, Cambridge University Press 1989, p.15
an “alien” authority, ‘which would itself stand in need of vindication’.163

Reason is thus a *deconstructive* reason, because it relies on negative instruction, which is to say that it cannot count on any pre-established agreement. In an almost Arendtian vein, O’Neill moreover reminds us that according to Kant, there is always a *plurality* of potential reasoners. The freedom to reason autonomously naturally should be in accordance with the Categorical Imperative and ‘bound in such a way that it can be consistent with the freedom of everyone else (..),’164 but this does not imply that reason should ‘play safe’ and avoid the risk of giving offence:

To this freedom, then, there also belongs the freedom to exhibit the thoughts and doubts which one cannot resolve oneself for public judgment without thereupon being decried as a malcontent and a dangerous citizen. This lies already in the original right of human reason, which recognizes no other judge than universal reason itself, in which everyone has a voice; and *since all improvement of which our condition is capable must come from this*, such a right is holy, and must not be curtailed.165

For the individual subject, this boils down to Kant’s famous enlightenment imperative to ‘think for oneself’ or ‘dare to think’ (sapere aude). Kant emphasizes that individuals possess inalienable rights and although, due to the requirements of external freedom the difference with the sovereign is simply that these rights cannot be *Zwangsrechte* (laws of enforcement)166, this is not to say that citizenship is a passive notion. Every citizen has the authority to publicly speak his mind about a supposed injustice, which might convince the sovereign to act otherwise. This important because although ideally the highest power conforms to the moral law at all times, there is no reason to suppose that a sovereign does not err.167

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163 O’Neill, ‘Constructions of Reason’, p.15
164 ‘And the endless controversies of a merely dogmatic reason finally make it necessary to seek peace in some sort of critique of this reason itself, and in a legislation grounded upon it; just as Hobbes asserted, the state of nature is a state of injustice and violence, and one must necessarily leave it in order to submit to the lawful coercion which alone limits our freedom in such a way that it can be consistent with the freedom of everyone else and thereby with the common good. (A752/B780). Kant refers here for the first time to Hobbes ‘state of nature’ and Hobbes’s formulation of the second ‘fundamental law of nature’ and thereby anticipates his own formulation of the Universal Principle of Right, The Cambridge edition of the Critique of Pure Reason, note 17, notes to pages 650-673, p. 753
165 (A752/B780) My emphasis
166 Indem der Staat keinen eigenen rechtszweck zu verfolgen hat, sondern der rechtszweck ausschließlich in der Kompatibilisierung der Berechtigungen der Individuen gegeneinander besteht, ist bei Kant die Staatliche Zwangsbefugnis ausschließlich als –monopolisierte – Servicefunktion im Dienste des > wechselfeitigen Zwanges <, der ihre Freiheitsspären gegeneinander verteidigenden Individuen konstruiert, in: Maus, ‘Zur Aufklärung’, p.66 Kant does not deny the existence of people’s sovereignty but the possibility of lawful resistance, see also Maus, ‘Zur Aufklärung’, p.68
167 (TP114-116) Mithin da jeder Mensch doch Seine unverlierbaren Rechte hat, die er nicht einmal aufgeben kann, welche er auch wollte, und über die er selbst zu urteilen befugt ist; das Unrecht aber, welches ihm seiner Meinung nach widerfährt, nach jener Voraussetzung nur aus irrthum oder Unkunde gewisser Folgen aus Gesetzen der obersten macht geschieht: so muss dem Statsbürger und zwar mit Vergünstigung der Oberrherrn selbst die Befugnis zustehen, seine Meinung über das, was von den verfügen desselben ihm ein Unrecht gegeben das
In the essay *What is Enlightenment*, Kant argues that the tendency and calling to free thinking should be fostered, for when it is:

‘(..) it will gradually extend its effects to the disposition of the people (through which the people gradually becomes more capable of freedom of action) and finally even to the principles of government, which find it to be beneficial to itself to treat the human being, who is indeed more than a machine, in accordance with his dignity.**168**

Although Kant is talking about the freedom that enlightened *despotism* grants its citizens, it is the citizens who make use of this condition to raise themselves out of a condition of ‘immaturity’, an approach to emancipation and change that is nowadays characterized as *bottom-up*.

In *The Critique of Judgment*, Kant argues that applied to reasoning itself, the Categorical Imperative demands the adoption of three “maxims of common human understanding” of which *to think for oneself* is the first. O’Neill explains: only those who think for themselves have any contribution to make to a debate. Those who suppress their own voices do not reason; they are mere voiceless echoes, whose parroted words cannot be taken as expressions of judgment or as acts of communication.**169** O’Neill thereby suggests that to judge is not merely to repeat or affirm consensual knowledge, but actually to say something new.

The second maxim that is required for the application for the *Categorical Imperative* to reasoning itself is to think from the standpoint of everyone else. This ‘maxim of enlarged thought’, strongly reminds of the *humanity* formulation. Importantly however, O’Neill argues that to think from the standpoint of everyone else does not presuppose an Archimedean standpoint ‘but one that a thinker constructs “by shifting this ground to the standpoint of others”’.**170** It is again not difficult to read Kant as proposing a continuous deconstructive activity that Derrida would approve of. This might however not be said of the third maxim, *always to think consistently* which has every appearance to foreclose an openness what is *other, singular* and *unexpected*. I will postpone this last issue to section 2.4 in which I will argue that the requirement of consistency should be understood as an anticipation of a forthcoming coherence rather than an attempt to bring the ‘new’ in harmony with existing beliefs.

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**Note:**

169 (CJ, V, 294) quoted by O’Neill ‘Constructions of Reason’, p.25
What are the implications of the foregoing elaborations on deconstruction and practical reason for a political conception of autonomy? For one thing, individuals and collectivities alike, in order to rise (themselves) out of their condition of immaturity (to make fully use of their capacity for self-legislation) should be able to articulate their possibly radical ideas without constraints vis-à-vis an authority under which they may find themselves. As O’Neill stresses in reference to What is Enlightenment, in reasoning publicly, one does not address an audience that has been restricted and defined by some authority, but rather “the world at large”.

Autonomy, in short, should be understood as the relentless activity of reason scrutinizing itself, putting emphasis on the critical character of self-legislation which considers no law as final nor grounded outside of reason.

2.3.3: Disagreement in the Commonwealth of Ends

What I take to be crucial for theorizing a democratic subject is O’Neill’s conclusion that the ground for reason’s authority itself should be ‘seen as a practical and collective task, like that of constituting political authority. Most importantly, the recognition that there is no antecedent for coordinating this process implies that disagreement remains a constant threat. The possibility of disagreement was of course already acknowledged at the start of this section by valuing individual judgment regardless of its correspondence to an external law. Van der Rijt underlines the compatibility of Kant’s Categorical Imperative with the possibility of moral conflict in a way similar to O’Neill’s. Consider the commonwealth of ends formulation: act in accordance with the maxims of a member giving universal laws for a merely possible kingdom of ends”. According to Van der Rijt, the commonwealth of ends as an ideal does not imply that everyone in it should be idealized. Naturally each individual has a duty to optimize its possibilities and approach this ideal. However ‘it is the system that is to be ideal, not the members in it, for a system to be ideal it must, rather, take account of the nature of the beings in it. This leads van der Rijt to conclude:

Regarding ourselves as legislators in a Commonwealth of Ends is therefore compatible with sincere moral disagreement, even though within the idea of a Commonwealth of ends such disagreement is impossible because of the perfect rationality of its legislators.

Conversely: acting in a way that is guided by the idea of a commonwealth of ends does not mean acting in accordance with the rules that would govern a ‘perfect’ commonwealth, but entails that we seek to act in

171 O’Neill ‘Constructions of Reason’, p.34
172 Idem, p.18
173 GMS (439)
174 Van der Rijt, ‘The Importance of Assent’, p.98
175 Idem, p.99. According to Van der Rijt, this is not to deny the regulative function of law, but rather to emphasize that focusing exclusively on this part of the system of laws (...) would disregard the fact that the Commonwealth of Ends, as a description of the CI, is a formulation of the supreme principle of morality, not just part of it. p.100
such a way that all agents who are affected by our actions can continue to regard themselves as lawgivers (in a commonwealth of ends). How is this to be done when facing the fact that coercion cannot be eradicated from law-giving completely? Van der Rijt argues that to coerce may be permissible in cases in which it is ‘truly impossible to act in a way that satisfies the sincere moral views of all concerned’. The nature of cases of coercion should however be such that:

(..) there remains a possibility in the future that we and those with whom we now interfere in ways they deem wrongful can entertain the idea that such union is guiding our mutual interaction.

This idea; ‘not to make future peace impossible’, will be pursued further in the next section, but already from this section we can recognize the far-reaching implications of my discussion of Kant, O’Neill, Derrida and Van der Rijt for Held’s cosmopolitan project. The worry of possible domination cannot be swiped of the table by the adoption of a cosmopolitan law, since even though the moral law cannot dominate, any law that (in practice) functions as a regulative principle can. To interpret the commonwealth of ends as something that should be brought about as soon as possible therefore leads, according to van de Rijt, to ‘behaviour that is totally opposed to the general spirit of Kant’s ethical and political thought’. Such an interpretation inevitably leads to the ultimate adoption of a final law that is presented as non-dominating, coinciding with the end of contestation. There is no reason to rejoice in the prospect of such ‘end of history’ since it implies the end of freedom of speech and action, which can now be taken to include the freedom of moral judgement.

**Section 2.4: Understanding Progress**

We could characterize the critical spirit of Kant’s philosophy roughly but adequately by holding on to the idea that there’s always room for improvement. This improvement stems from free autonomous wills, which indeed encounter the world of sense as an obstacle, but as their condition of possibility too. This is where Kant locates the potential for moral progress; in our capacity as members of the world of understanding, confronted with an empirical reality giving rise to a myriad of possible (political) decisions. It is however hard to conceive of progress from this bottom-up perspective only. This last section therefore provides a discussion of the help moral judgment receives from nature, which Kant argues forms ‘the essence with regard to perpetual peace’:

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176 Idem, p. 114  
177 Idem, p. 112  
178 Idem, p.108-109
(..) what nature does in this regard, or to be precise, with regard to the end that their own reason makes into a duty for human beings, and hence to further their moral aim; and how nature guarantees that which human beings ought to do in accordance with the laws of freedom, but which they do not do, can be secured without injuring this freedom even through nature’s compelling them to do so, and specifically with regard to all three types of public right, constitutional right, international right, and cosmopolitan right.179

2.4.1: The belief in Progress
In the former sections I have discussed both what is required for a perpetual peace (most notably as stipulated by the three Definitivartikel in Zum Ewigen Frieden) and, by interpretation, how this is to be acquired, namely by freely consenting to a federative structure (with the intermediate step of a league of nations). However it can be argued that these answers are not very satisfying if we want to radically (re-)theorize democratization. An important question remains: what may we reasonably hope for? One obvious but somewhat meager answer to this is that it is implied by Kant’s conception of morality and free will that we are justified in taking the possibility of progress seriously. As Kleingeld points out, ‘Kant does not say that states will never want to join a federation but, rather, that they do not want to do so because they (mis)interpret international right to remain in the state of nature’.180

The belief in progress is also warranted by the fact that states do not regard international law, as for example (Kant points out) articulated by Grotius and Pufendorf, as an oxymoron. This is demonstrated by the fact that states, although wrongfully so, use international law for the justifications of their wars. According to Kant, this proves that humans possess a latent moral capacity that gives hope for overcoming human nature’s more evil inclinations.181 But is this truly reassuring? Even a mild cynic would draw the opposite conclusion: rhetoric of progress and reference to laws is the perfect cover-up for an absence of any moral intention whatsoever, an opinion which, especially after the invasion of Iraq by Bush junior, is in fact widespread.

It thus appears that the belief in the capacity of individual actors to gain moral insight does not in fact warrant a belief in overall historic progress. To support the latter, we can start to point out occurrences, as Kant does, in which self-interest coincides with moral duty. This is the case with the before mentioned peaceful nature of republics; by delegating the choice and costs for war to their citizens, republics are less prone to engage in warfare. Another example is the spirit and advantages of trade (between peoples) that stimulate the peaceful relations and lawful integration of states. To warrant support

179 Kant, ‘Toward Perpetual Peace’, p.88-90
180 Kleingeld, ‘Kant’s Theory of Peace’, p.485
181 Kant, ‘Zum Ewigen Frieden’, p.165-166
for such a belief however, it seems hardly enough to point out anecdotic evidence.\textsuperscript{182}

The empirical coincidences of interest and morality have however in the last decades been taken to form a regular pattern. The idea of democratic peace and the peaceful disposition produced by trade have come to function as the (non-moral) premise of liberalism, formed the most influential rationale behind European integration, and has led Francis Fukuyama to declare ‘the end of history’. Kant’s writings indeed support the idea that although the \textit{appearances} of the will as demonstrated by human actions are determined ‘like every other event, in accordance with universal natural laws’, we can discover a pattern of progress in its manifestations.\textsuperscript{183}

History, which is concerned with giving a narrative account of these appearances, allows us to hope that, however deeply concealed their causes may be, if we consider the free exercise of the human will broadly, we can ultimately discern a regular progression in its appearances. History further lets us hope that, in this way, that which seems confused and irregular when considering particular individuals can nonetheless be recognized as a steadily progressing, albeit slow development of the original capacities of the entire species.\textsuperscript{184}

The observation that liberal states have been, so far, more peaceful in their conduct towards one another cannot, \textit{pace} Fukuyama, be taken to prove morality has progressed to its ultimate ideal nor for that matter that history is over. Although it is very tempting, the fact that Kant, already at the end of the eighteenth century, wrote about the steady progress of humanity, is not to say that we should be there by now. Let’s take a look at Kant’s own narrative of humanity’s progress.

\textbf{2.4.2: Man’s unsocial sociability and the dialectics of nature and reason}

In the essay \textit{Idea for a Universal History from a Cosmopolitan Perspective}, Kant argues that the only option for us to encounter progress, since we cannot deduce this from the behavior of individuals, is to attempt to find an end of nature behind all this ‘on the basis of which a history could be given of beings that proceed without a plan of their own, but nevertheless according to a definite plan of nature.’ Kant thinks we can indeed find a guiding principle for history, and does so by developing nine propositions.

Kant proposes, firstly, that all creatures are purposeful beings\textsuperscript{185} and secondly, that in case of human beings this purposiveness entails the use of reason which, it is important to note, is to be

\textsuperscript{182} And Fukuyama does indeed include a teleology in his argument
\textsuperscript{184} Kant, ‘Idea for a Universal History’, p. 3
\textsuperscript{185} Kant, ‘Idea for a Universal History’, p.4 first proposition: ‘All of a creature’s natural predispositions are destined eventually to develop fully and in accordance with their purpose’.

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“developed in full only in the species, but not in the individual”. According to the third proposition, ‘Nature has willed that human beings produce everything that extends beyond the mechanical organization of their animal existence completely on their own’. Kant makes clear that it is according to nature that humans can attain perfection and not by nature’s forces, but rather ‘by means of their own reason’. Nature, like morality, thereby seems more concerned ‘with (human beings’) rational self-esteem than with their well-being. From the first three propositions it can be concluded, minimally speaking, that moral progress is no battle against the forces of nature, but is rather supported by a natural inclination to act according to reason.

The crucial question however, is how this natural inclination relates to man’s collective behavior. Kant hereto lays out his ideas about man’s antagonistic nature captured by the term unsocial sociability. In the fourth proposition, he describes this unsocial sociability of individuals as a tendency to enter into society, bound up with a tendency of constant resistance which threatens to break up society. The unsocial sociability is the defining characteristic of man’s relation to others, whom he can ‘neither endure nor do without’. Although this means that life is often a struggle, it also functions as an incentive for a collective (moral) learning process. It is, in other words; not only freedom but moreover men’s desires for honour, power, property etcetera, in which others both form a treat as well as the condition for the possibility of their realization and are thereby supportive of humanity’s moral development.

Reason and nature thus appear to stand in a dialectical relationship, conditioned by their mutual opposition and implication. As Jens Bartelson puts it, nature is the condition of possibility for human reason; and human reason is the condition of possibility of the concept of nature. Kant holds that man’s unsocial sociability lays the foundation for ‘a manner of thinking which is able, over time, to transform the primitive natural predisposition for moral discernment into definite practical principles’. Whereas I characterized the ideas on political change that arouse from the writings discussed in the former sections as unsatisfactory, Kant’s introduction of the notion of unsocial sociability can be considered a more convincing answer to the problem of collective action and should in my view be taken to complement Kant’s insights about autonomy and the public use of Reason. The idea of moral progress as instantaneous can hereby definitely be rejected as naïve. And as Kant makes clear, neither should we any longer expect it to come about in full harmony, a misguided idea founded on the romanticized conception that it lies in human nature to live like shepherds.

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186 Idem, p.5-6
188 Kant, ‘Idea for a Universal History’, p. 6-7
The final propositions that Kant develops in his essay on Universal History relate to the questions discussed in section two and three. The possibility for political change, moral conflict and the exercise of autonomous agency can now be understood more clearly as backed up by the process that is the result of men’s unsocial sociability. The greatest problem to which nature compels to seek a solution, ‘the achievement of a civil society which administers right universally’ can only be realized when man’s unsocial sociability gets free play. Although this is to take place within the limits of freedom, specified and secured as such that the freedom of each is consistent with that of others, this should not impede societies members to ‘continually struggle with each other’,\(^{189}\) which seems to suggest that the dialectic between nature and reason does not necessarily lead to a final reconciliation. Bartelson articulates this idea as follows:

> ‘The dynamic opposition between nature and reason ‘(..) merely transposes conflict to a new and higher level, where it manifests itself conceptually as well as in the phenomenal world of institutions and concrete practices, Kant’s dialectic of conflict has no predetermined end (..).\(^{190}\)

### 2.4.3: Towards an open teleology?

If Jens Bartelson is right, we need to ask ourselves how this openness to the future is reconcilable with the before mentioned idea of ‘Nature’s end’ and vice versa. On the one hand, Kant’s teleological account of history is an important reply to (his) critics who argue that the normative ideals as formulated in *Zum Ewigen Frieden* are unrealistic. However, by holding that ‘nature is organized teleological in such a way as to support the cause of law governed peace and moral development’\(^{191}\) nature’s compatibility with human freedom returns as a valid concern. Kant’s use of the idea of ‘the end of nature’ or the ‘telos of human history’ however, differs from several (dogmatic, rationalist) philosophers before him. Already in *The Critique of Pure Reason*, Kant describes both reason’s need for assuming a purpose as well as the limits that should be placed on such an assumption:

> The highest formal unity that alone rests on concepts of reason is the purposive unity of things; and the speculative interest of reason makes it necessary to regard every ordinance in the world as if it had sprouted from the intention of highest reason. Such a principle, namely opens up for our reason, as applied to the field of experience entirely new prospects for connecting up things in the world in accordance with teleological laws, and thereby attaining to the greatest systematic unity among them. The presupposition of a supreme intelligence, as the sole cause of the world-whole, but of course merely in the idea, can therefore

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\(^{189}\) Kant, ‘Idea for a Universal History’, p.8  
\(^{190}\) Bartelson, ‘Trial of Judgment’, p. 268  
\(^{191}\) Kleingeld, ‘Kant’s theory of peace, p. 490
always be useful to reason and never harmful to it. (...) As long as we keep to this presupposition as a regulative principle, then even error cannot do us any harm. For then nothing more can follow from it in any case than that whether we expected a teleological connection (..), a merely mechanical or physical (..) is to be found; in such a case we only miss one more unity, but we do not ruin the unity of reason in its empirical use.

Teleological judgments can thus be justified as a heuristic principle and, as Kleingeld points out, a teleological account of history can be put in the service of moral theory. In my view, this is not just to say that a belief in a purpose gives hope and presents normative ideals as not unrealistic, it provides us with an incentive to act and search for possible future (political) constellations. Kant’s regulative principle can therefore be argued to support the critical conception of autonomy as develop in section three.

It is possible to embroider on this interpretation of Kant by referring to Derrida’s work on the question of democracy. Most instructive in this regard is Derrida’s 1992 book Spectres of Marx, which starts out with the intention of discussing the legacy of Marxism, but ends up discussing (the very Kantian) question of the possibility of progress. As my discussion of Derrida on autonomy showed, the possibility of self-legislation amounts to an aporia, because, put in Derridaen terms, its condition of possibility is simultaneously its condition of impossibility; the individual is always already restricted by the law in making its decision, the possibility of which depends on the law as referent. The problem of progress, Derrida talks about justice and democracy, is in fact very similar.

Derrida’s work, more so than Kant’s and very much inspired by Levinas’ ethics, is directed towards an openness for the singular (other) that is precluded (excluded) by the present order. Present institutions and laws, by their very nature are unable to do justice to this possible otherness and are resistant to change. We therefore need an understanding of justice, or democracy for that matter, which is located outside the present arrangement of people and things. However, neither can this conception of justice or democracy be fixed, since this retrospectively, too, precludes a radical openness towards the singular other which is its condition of possibility. On the other hand, we cannot entirely abandon the idea of justice nor democracy, since it provides the incentive for (is conditional of) an openness towards the future. It is the hope for a better future, as discussed above, which enables moral progress itself. Kant uses the notions of Leitfaden and Regulative Idea, to guide him in his critical project where there is still much

192 (KrV A688/B716) Kant here also remarks that it is ‘quite impossible to prove in any one case that a natural arrangement, whatever it might be, has no end at all.’ The idea of an end of nature can however never be constitutive but only be used relatively because it extends beyond experience.

193 (A 687/B715) Kleingeld, ‘Kant’s theory of peace’, p.491 Kleingeld puts it cautiously: ‘the assumption of progress is encouraging for the moral agent because it presents the normative ideals as not unrealistic.’

194 See for a more extensive discussion E. Evink, Transcendentie en Inscriptie, Derrida en de Hubris van de Metafysica, Eburon 2002, p. 112-113
uncertainty about what can exactly be known. This idea (arguably in a weaker version) is reflected in Derrida’s work in the notions of a democracy, or justice ‘to come’ (à venir).

As in Levinas’ ethics, which precludes the possibility of a thoroughly adequate response to the call of the other, Derrida argues that we can never live up to the requirements of justice which will only and always be à venir. What Derrida recognizes in the critical spirit of Marxism, is the fact that the promise of improvement and the hope for progress produce an attitude that is critical of the present and responsive to future reforms and radical change. The critique of a Metaphysics of Presence which such an attitude entails is something Derrida borrows from Martin Heidegger. The Metaphysics of Presence favors what appears (the ontic in Heidegger’s terminology) above what makes the appearance possible in the first place. In the latter’s case this is the ontological, the primary question of philosophy which according to Heidegger has suffered from negligence by the entire western tradition. In the case of Derrida, the condition of possibility of any appearance is what the same appearance precludes: its other. This is, in a nutshell, the meaning of Derrida’s notion of difference.

Philosophy is a tradition of dualisms, body-mind springs into mind, Plato’s separation of the ideal forms from the physical world, Kant’s distinction between noumena and phenomena but also the constituting dichotomy of ethics: good and bad. However, most notably since Heidegger, philosophy is also a tradition of destruction of those dichotomies that are constitutive of our thinking about the world. Heidegger fiercely attacks the distinction between subject and object, by arguing that what precedes such a distinction: Dasein’s Being in the World, defies all dichotomies. Derrida follows in Heidegger’s footsteps, but makes, so to say, another step. Derrida’s critique on dualism in the first place amounts to the insight that it is dualisms themselves that make meaning possible. Words have no meaning for us in isolation of their ‘others’, i.e. their opposites, which are constitutive of meaning itself. Upon closer inspection however, by tracing the meaning of our language to what it is constituted by, we end up in an infinite regress. Meaning turns out to be forever postponed; every idea refers to something beyond itself. Difference refers to deconstruction’s double intent, meanings dependence on others and its ultimate unfoundedness.

What are the implications of all this for the question of progress and teleology? Since meaning is unfounded, we can by no means know the future. According to Derrida however this does not mean that we cannot expect. Derrida refers to the Marxist emancipatory promise that gives rise to the expectation of

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On the Democratic Provenance of Cosmopolitan Governance

a rupture, a displacement which makes that not only time, but the law as well is ‘out of joint’. Rather than a (simple) negation, difference can be considered an event:

It is there that Difference if it remains irreducible, irreducibility required by the spacing of any promise and by the future and by the future-to-come that comes to open, does not mean only (...) deferral, lateness, delay, postponement. In the incocerible difference the here-now unfurls. What remains undeconstructible, as Derrida cautiously puts it, is ‘perhaps, a certain experience of the emancipatory promise’. We can re-name this promise the idea of democracy, a continuous expectation that we distinguish from its determined meaning and its crystallization in procedures and frameworks. The latter are designed to guarantee translatability, homogeneity and systematic coherence and thereby render (a priori) injunction, yes the future itself, impossible.

A new conception of democracy is not necessarily a postmodern one in which all presuppositions and expectations of coherence should be rejected. It is however one that holds on to the idea of transformative interpretation (Derrida points out the contrasts here with Marx 11th thesis against Feuerbach) which is primary in regard to change. Derrida hereby advocates an active position; an inheritance, whether it is the legacy of liberal democracy or the Marxist past and ideology, is never a given but always a task. We need, in other words, to actively engage with the principles that the past passes on to us. This position radically differs from Fukuyama according to whom the ideal of liberal democracy cannot be improved upon. To avoid misunderstandings, Fukuyama certainly did not hold that (all) liberal democracies are perfect as they are, what he recognizes are rather ‘problems of implementation’, the theory of liberal democracy however is, so to say, finished.

The same seems true for Held’s cosmopolitan ideal. What we are most in need of, according to this perspective, is a step-by-step plan telling us how to build the cosmopolitan world order. Few conceptions of democracy however could be more opposed to the one developed in this thesis so far. The idea of a democracy á venir is not interested in closing the gap between the actual and the ideal. The failure or more adequately ‘impossibility’ to close this gap rather characterizes:

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196 What according to Derrida ‘resonates’ in “Marx’s three voices” is ‘the appeal or the political injunction, the pledge or the promise (...)’, the originary performativity that does not conform to preexisting conventions (..), but whose force of rupture produces the institution or the constitution, the law itself. ‘Specters of Marx’, p.31
197 Idem, p.31
196 Idem, p.59 (...) ‘and an idea of democracy – which we distinguish from its current concept and from its determined predicates today’.
196 Idem, p.35
197 Idem, p.54
200 Idem, p.64
‘a priori and by definition, all democracies, including the oldest and most stable of so-called Western democracies. At stake here is the very concept of democracy as concept of a promise that can only arise in such diastema (failure, inadequation, disjunction, disadjustment, being ‘out of joint’). That is why we always propose of a democracy to come, not of a future democracy in the future present, not even of a regulating idea, in the Kantian sense, or of a utopia – at least to the extent that their inaccessibility would still retain the temporal form of a future present, of a future modality of the living present. 203

In contrast: Held’s cosmopolitanism closely resembles an attempt to claim such a future modality for the present. Not only does his cosmopolitanism thereby, as repeatedly emphasized, preclude the possible inclusion of what is other, capturing a cosmopolitan world order in a policy plan also is inherently reckless and amounts to an ‘illegitimate transcendence of the limits of possible experience’. This attempt to understand oneself at ‘being situated at the end of historical process’ is what according to Jens Bartelson gives rise to the major paradox of internationalist change; ‘at the same moment historical progress is brought to a conclusion, the impetus behind it would be undermined, and peace perhaps perpetually lost’. 204

Should we therefore cherish Kant’s Leitfaden and Derrida’s democracy à venir? Definitely. For our purposes however, that is to understand cosmopolitanism as democratization, it remains problematic that these notions defy all attempts at representation. We require more of our moral capacity than simply understanding it; we want to see this capacity reflected in empirical events. There is, in this regard, a final Kantian notion that should be considered, which attempts to bridge the gap between the faculties and to reconcile ought with is; the so called historical sign, which is the critical name for an important ‘crossing place’ between different faculties. This attempt at reconciliation could succeed when we can tell what what justifies us in recognizing such crossing place in a historical event. 205 Both realists and idealists might be surprised to find out where the key for the solution of this problem lies: affections.

203 Derrida, ‘Specters of Marx’, p.64-65
204 Bartelson, ‘Trial of Judgment’, p.269
205 Jean-François Lyotard, Het Enthousiasme, Kants kritiek van de geschiedenis, Kok Agora 1986, p.64-67
Chapter III: Democratizing Cosmopolitanism

Introduction: The Mystery of the Democratic Subject

There is something ungraspable about the democratic subject. The jury is still out on what motivates and constitutes it; is it self-interest, perceived injustices, utopian ideals, or is men simply a zoon politikon following its nature by actively cooperating and contesting with others, emphasizing the social in Kant’s unsocial sociability. Even if we grant the idea that it is probably a mix of factors, the enigma of the democratic subject cannot be completely ‘theorized away’. This mysterious foundation was articulated in the former chapter by what Kant calls the moment of the consciousness of the law within us and the feeling of respect this produces. Derrida radicalized this moment as an experience of an aporia, an impossible passage that we cross nevertheless. What we do know by now is that these moments of free decisions cannot be grasped by a framework or procedure. At best, or so I will argue, they are demonstrated by empirical events that are indicative of subjects exercising their freedom.

In the following I will argue that Rancière’s notion of la politique comes closest to a concept of the democratic subject that simultaneously grasps the idea of democratization. Before delving into Rancière’s thought however, I want to pick up the thread where I left it at the end of chapter 2 and answer the question of historical signs (3.1). So far it has been argued that progress, understood as democratization, requires active assent by autonomous individuals. We are moreover justified in expecting progress to be possible by anticipating a ‘democracy to come’. What would however be incredibly helpful not only for theorizing cosmopolitan democratization but for realizing it, is to gain some knowledge about the (empirical) characteristics of democratic events.

To achieve this it is worth turning to Kant once more, by looking at the essay Contest of the Faculties and Foucault’s interpretation of the latter. Whereas in chapter two the moral agent was identified as a (possible) cause of progress, we are now interested in the reality of its effects by pointing out certain events that can be considered historical signs. Identifying these events on its turn bring us closer to Rancière’s democratic subject which is wedded to the idea of spectatorship (3.2). A discussion of Rancière’s critique of hierarchies (3.3) will subsequently lead to a more precise conceptualization of the democratic subject (3.4). Since Rancière’s understanding of the democratic subject asks us to put on some new glasses when studying democracy I will dedicate a separate section (3.5) to future observers of democracy in order to give some clues in regard to the question of how democratization can be studied. Finally, I will lay-out the implications of Rancière’s philosophy Held’s cosmopolitan project and discuss whether there is still a future for cosmopolitanism (3.6).

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206 Michel Foucault, ‘Kant, de Verlichting, de Revolutie’, in: Krisis vol.6 nr. 3 p.32
Section 3.1: Historical Signs, The Revolution and Foucault

For a prophetic history of humanity or an idea of the end of Nature to make any sense, it must be connected to experience. Not just any experience however qualifies. What we are looking for is rather an event which indicates that man has the ‘makeup and capacity to be both the cause of human progress toward the better and (since this is supposed to be the act of a being endowed with freedom) the agent thereof’. 207 What could constitute such an event? Obvious candidates, at least for historians, are wars, political reforms or social upheavals and revolutions. Although we have seen in chapter two that Kant did not seem to be very fond of revolutions, it is time to revise this impression in light of some other writings in which Kant displays his enthusiasm for the events taking place in France during the period of 1887-1889.

Although Kant is quite consistent in his rejection of the revolution as unlawful, we can find remarks in several texts that are indicative of the importance he attached to the revolution. In a footnote in Zum Ewigen Frieden for example, Kant urges politicians to take revolutions very seriously:

(…) even when nature herself produces such revolutions political wisdom will not employ them to legitimize still greater oppression. On the contrary, it will use them as a call of nature for fundamental reforms to produce a lawful constitution founded upon principles of freedom, for only such a constitution is durable.’ 208

How should we understand this remark that the revolution is a call of nature? Kant presumably did not consider revolutions to be mechanical events determined by laws of nature to which we should submit. Their occurrence however is a call for legislating authorities to incorporate revolutions as the collective strive for freedom into better collective political arrangements. Kant’s ‘theory’ of historical signs, subsequently, consists of events that are constituted by collective experiences which are indicative of progress. 209

It seems obvious that we turn to revolutions to provide us with the kind of situation that man is both cause and author of his own improvement, but it is not the revolutionary overthrow or ‘break’ character of revolutions that according to Kant marks its importance. We should rather look for the prophetic sign of progress in events that draw less attention. The revolution proper, the violence that it is attended by or the structural reforms it initiates, does not necessarily imply progress; it can in fact be a very bloody affair and possibly lead to the installment of yet another despotism. What does contain meaning is the way the

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208 On Perpetual Peace, fragment in: Paul R.Viotti and Mark V. Kauppi, International Relations Theory, Realism, Pluralism, Globalism and Beyond, Allyn and Bacon 1998, p.421
revolution performs its spectacle and the subsequent reception by the spectators on all sides.\textsuperscript{210} It is in other words not the vanguards that stand on the barricades who make the difference in this regard. It is rather the spectator and their feelings, afflictions and, in the end, their enthusiasm that justifies the thought that things are changing for the better. Kant thus warns his readers not to misunderstand the importance of revolutions, which does not consist of ‘striking’ deeds or misdeeds of human beings, but of the public’s approval:

It is simply the spectators’ mind-set, which reveals itself publicly in the face of this show of large-scale transformations and which makes known such a universal and yet unselfish sympathy with the players on the one side against those on the other, even at the risk that this partiality could become quite detrimental to them.\textsuperscript{211}

An obvious reply to a spectator perspective is that it is a passive conception of progress. Is it not rather the revolutionaries or revolutionary politicians that make the difference in initiating the overthrow or reform? Such an objection seems supported by Kant’s remark that we can tell a history but what makes this history possible is that the one ‘foretelling an event himself brings about and arranges the events that he announces in advance’. This can however not be equated with politicians ordering the people to do what they want them to do.\textsuperscript{212} This kind of action might be characterized as ‘ruling’ or ‘policy’ and does not produce a moral consciousness. What Kant has in mind is rather:

‘freely acting beings, beings who can be told in advance what they ought to do, but for whom it cannot be predicted what they in fact will do, and who, when truly bad circumstances prevail, know to derive from the feeling of the afflictions that they have brought upon themselves an even stronger motivation to make things better than they had been before this state.’\textsuperscript{213}

The moral motivation that the public’s enthusiasm revives is what actually tells the story of history and thereby realizes it. Kant emphasizes that the braveness of the public and its unselfish support for certain developments does not simply foster hope for progress toward the better, but is ‘rather already itself such progress’.\textsuperscript{214} The observation that the production of a certain spirit and hope itself can be called progress is remarkable because it seems to escape the possibility of formalization. The sympathy however complements rather than contradicts the Categorical Imperative. The spectator’s sympathy is simply the effect of the moral capacity of the human race. Even if the proposed end of the revolution fails, the event

\begin{itemize}
\item \textsuperscript{210} Foucault, ‘Kant, de Verlichting, de Revolutie’, p.33
\item \textsuperscript{211} Kant, ‘Contest of the Faculties’, p.155
\item \textsuperscript{212} Idem p.150-151
\item \textsuperscript{213} Idem, p. 153 \textit{my emphasis}
\item \textsuperscript{214} Idem, p.155
\end{itemize}
as enacted by a general spirit of hope and approval will not have been in vain.\textsuperscript{215} Kant thought that the French Revolution would make an imprint on the human race as the collective consciousness of progress and would therefore never be forgotten. The philosopher of history Frank Ankersmit seems to echo such an insight more than two centuries later by developing the idea of a sublime historical experience: ‘for a nation, a collectivity or a culture that has had such a sublime historical experience, the past and an awareness of this past will become ineluctable realities’.\textsuperscript{216}

The widespread enthusiasm for the revolution in France is not only a historical sign, it also provides an argument for people’s self-determination and according to Kant demonstrates that people ‘must not be hindered by other powers in giving itself a constitution that \textit{it itself regards as good}.\textsuperscript{217} Kant clearly issues a warning to politicians when he argues that although it is ‘certainly pleasant to think up state constitutions that correspond to the demands of reason’ (…) it is inappropriate to propose them seriously and even ‘punishable to incite the people to do away with an existing constitution’.\textsuperscript{218} The events accompaniment with enthusiasm marks the voluntariness of people’s support, which strengthens the interpretation of progress towards perpetual peace as predicated on the people’s active and autonomous assent.

It can be argued from its sublime character that Kant’s historical sign has an aesthetic, rather than ethical character and that its logic resembles the idea of \textit{sensus communis} which Kant develops in his third critique, rather than practical reason. Although it goes beyond the scope of this thesis to discuss Kant’s Critique of Judgment, it should be noted that the sensus communis plays a mediating role between the formal capacities of theoretical and practical reason. In regard to the French Revolution, Jean-François Lyotard argues that, taken strictly; ethically speaking, the public’s enthusiasm should be denounced as pathological. It is however aesthetically sublime, since it is a concentration of powers through ideas which animates the mind more strongly and long-lasting than the impulse exerted by sensuous impressions.\textsuperscript{219} In Lyotards reading then, the sublime experience appears to refer to an insane break with the present moral order, while simultaneously to be \textit{conditional} of the ethical. The public’s delirious joy that turns the revolution into a historical sign is a withdrawal from the moral order, exactly in order to confirm it. We will see that this is roughly the line of reasoning Rancière follows in regard to the meaning of democratisation.

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\textsuperscript{215} Lyotard, ‘Het Enthousiasme’, p.70-72  \\
\textsuperscript{216} Frank Ankersmit, \textit{The Sublime Historical Experience}, Stanford University Press 2005, p. xv  \\
\textsuperscript{217} Kant, ‘Contest of the Faculties’, p.155, Foucault, ‘Kant, de Verlichting en de Revolutie, p.34  \\
\textsuperscript{218} Idem, p.161  \\
\textsuperscript{219} Lyotard, ‘Het Enthousiasme’, p.76
\end{flushright}
Kant’s idea of progress as it arises from the *Contest of the Faculties* is thus not only moral; but simultaneously understands history as radically contingent. Foucault’s interpretation of Kant emphasizes the distinctive way in which the revolution animates people’s minds and argues that the event of the French Revolution has brought to light an attitude and possible course of history that was impossible to deduce from past events. The revolution as event, arising from the enthusiasm of its public; a sublime experience, opens up new horizons. In this event, time is out of joint; past, present and future collapse into one moment of duration and presence in which both openness to the past and the future are perceived:

‘To the openness of the future corresponds the openness of the past; whereas the concept of reflective judgment helps us to keep the experience of the past open in face of the future, the concept of historical sign helps us to keep expectations of the future open in the face of the past.’

The ‘collapse into one moment of duration and presence’ finally, is no ‘paralyzing’ conclusion; progress is in no way restricted to a presence. A historical sign in fact ‘permits us to discern a continuous development in the past that led up to the event in question, and to envisage a future marked by signs of further progress’. As Foucault emphasizes, the historical sign points towards an attitude at work in history and its progress, an attitude that is embodied by the democratic subject.

**Section 3.2: The Spectator as Democratic Subject**

In the following I will argue that Kant’s theory of the spectator’s enthusiasm contains a potential basis for a radical conception of democracy in which the democratic subject takes central stage and opens up the present arrangement of things. The spectator can do this because in its enthusiasm, it claims the event for itself. This makes that the spectator, as Bartelson remarks, ‘is no longer subjected to time, but sovereign over time’, which makes it seem as though:

(…)Augustine’s Aeternitas has been brought down to earth, but with the crucial difference that it is man - not God - who creates time through his word. In the beginning was the word; the sublime and divine gesture behind all creation is now the prerogative of man alone.

But man is not god, and we only need to mention Marx’s famous remark the *Eighteenth Brumaire*, saying that ‘men make their own history, but not under conditions of their own choosing’ to remind us that the enlightened subject who is in charge of its own destiny is also a historical being. This is however an

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220 Foucault, ‘Kant, de Verlichting, de Revolutie’, p.35  
221 Bartelson, ‘Trial of Judgment’, p.274  
222 Foucault, ‘Kant, de Verlichting, de Revolutie’, p.36  
223 Bartelson, ‘Trial of Judgment’, p.274
ambiguous statement, for although we cannot change the past, the progress as discuss here by Kant lies exactly in making an event ‘one’s own’; in appropriating an event as the spectators of 1789 did during and after the revolution. As the spectators in France, a new public can arise anytime, to form a lasting virtual power and a movement towards progress. This public would thereby ‘unchain’ itself from a past that before seemed fixed and pointing towards a pre-determined future.

For an insistent objector, Spectatorship (certainly from a Marxian revolutionary perspective) might however still not sound as a very convincing substitute for vanguardism or proletarian uprisings. What constitutes the spectator’s validity as a metaphor for the democratic subject? In his essay on Kant and the revolution, Foucault mentions the spectator’s impartiality and disinterestedness. And indeed, the spectator is physically located away from the scene and watches it from the outside. The set-up of a theater serves this purpose and assigns the public its righteous place, handing out tickets specifying whether this is the back, the front row or the balcony. This is however not to say that the spectator holds some Archimedean standpoint from which he can judge the play’s moral worth. The performance itself moreover, especially in modern theater, often aims at exactly blurring the division between spectator and actor; actors mix with the public and now and then, the public is urged to join the actors on the stage.

The public in other words, participates in the play and can actually influence the course of events. But as appeared from Kant’s description of the revolution’s spectators, the public is in fact never passive. Similarly, Rancière proposes to interpret the activity of spectatorship as the arising consciousness of a collectivity. What Kant understood as a sign of historical progress is now understood as the formation of a political subject. To explain how the consciousness of a collectivity arises, Rancière describes the spectacle as the confrontation with an enigma. The mystery of the play, as any other type of entertainment, confronts every single person that is present. Unlike other forms of entertainment however, theater addresses a public, rather than each individual separately. The theater, in other words, is a place where the audience is directly confronted with itself as a collective. Rancière regards theater as the name for an idea of the community as a living body; ‘it conveys the idea of the community as self-presence opposed to the distance of the representation’.

From this, it is quite tempting to conclude that Rancière has discovered the holy grail of political philosophy and unraveled the mystery of self-foundation. But this cannot be entirely true since it is the organizers of the theater and the actors who set this process of consciousness-raising into motion. Nevertheless, the role of the theater’s actors and producers is more one of a catalyst than the creator of substantive identities. Although the theater presents a certain story and conveys a certain message, it

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225 And indeed found the solution to the democratic paradox
simultaneously sets itself the task of reversing its own effect ‘by giving back to the spectators their self-consciousness or self-activity’. As the following reference by Rancière to two schools of thought in dramaturgy shows, the metaphor of the theater can be taken quite literally as description of the way collective subjectivity arises:

‘Either, according to the Brechtian paradigm, theatrical mediation makes the audience aware of the social situation on which theater itself rests, prompting the audience to act in consequence. Or, according to the Artaudian scheme, it makes them abandon the position of spectator: No longer seated in front of the spectacle, they are instead surrounded by the performance, dragged into the circle of the action, which gives them back their collective energy. In both cases the theater is a self-suppressing mediation.’

The political subject is, in short, a historical subject that comes into existence through events that lead it to become conscious of itself. This activity is regarded by Rancière as a process of *equalization*. We will see that *democratization* should subsequently not be thought of as approaching an impartial political structure, but rather as the negation of any hierarchical structure by instantiations of equalization. To understand what Rancière means by equalization, I will in the following discuss his critique of several lines of thought which, taken together can be characterized as Rancière’s critique of hierarchy.

**Section 3.3: Rancière’s critique of hierarchy**

Inspired by years of study of social (workers) movements, Rancière’s work on the one hand describes emancipation as moments of equalization, and on the other aims at eradicating the persistent dichotomies that corrupt such a process. Dichotomies like the ones encountered in the practice of performances (activity versus passivity, doing versus watching) Rancière argues, are constitutive of hierarchies resistant of equality. In his book *The Ignorant Schoolmaster*, Rancière develops some provocative arguments against the use of dichotomies in assigning authority to certain knowledge. Pedagogy and our ideas about the meaning of learning, Rancière points out, are permeated by the idea that we need a master, who talks a master language, to *understand*. At closer look however, this idea, which divides intelligence into two types, the random gathering by students, and a methodological, complex approach by the master, gives rise to an infinite regress presupposing a master of the master etcetera. Against the idea of privileged knowledge, Rancière sets the presupposition of the equality of knowledge which entails that any individual:

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227 Idem, p.274
228 Jacques Rancière, *De onwetende meester, vijf lessen over intellectuele emancipatie*, translated and introduced by Jan Masschelein, Acco Leuven 2007, p.47-50
‘(...) can learn (...) the resemblance of that of which he is ignorant to that which he knows. (...) From the ignorant person to the scientist who builds hypotheses, it is always the same intelligence that is at work: an intelligence that makes figures and comparisons to communicate its intellectual adventures and to understand what another intelligence is trying to communicate in its turn.’ 229

Rancière’s critique of the pedagogical distance between a ‘determined ignorance and a determined knowledge’ not only refers to educational institutions and practices but can be applied to a plethora of human relations like the one between the worker and the intellectual, the politician and its constituency, a writer and its readership and, naturally, the actor and the public.

This line of argumentation which presupposed an equality of intelligences can be contrasted with both the traditional Marxist critique as well as with its object, the capitalist production structure and its ‘bourgeois ideology’. Rancière’s work is marked by a turn away from his teacher Louis Althusser and the latter’s work on dominating power relations that constitute the subject. The difference in positions that the respective philosophers took vis-à-vis the (student) May 1968 revolt is exemplary of their theoretical break. According to the Marxist Althusser, students needed to be told what and how to study by some authority; the knowledgeable master. 230 This view corresponds to the Marxist tradition in which workers needed to be told that they were ignorant (alienated) and subsequently shown how to proceed in action (by an intellectual vanguard). Rancière criticizes such attempts to ‘speak for the people’, as predicated on the presupposition of inequality, a critique that became the theme (similar to the critique of pedagogical distance) of several publications on workers’ emancipation and intellectuals.

As Stephen Corcoran points out in the introduction to Dissensus, with his critique of Althusser, Rancière also distances himself from ‘two other prevalent modes of critique’. Firstly; a hermeneutics of suspicion (propagated by whom Paul Ricoeur identified as the ‘masters of suspicion’, namely Marx, Freud and Nietzsche) which attempts to discern a ‘secret’ hidden beneath discourse –usually a mark of domination. Secondly, Rancière’s work should also be distinguished from the deconstructive method. 231 Although Rancière shares with Derrida a ‘suspicion’ towards linguistic oppositions this does not lead Rancière to a relentless deconstruction of speech. What according to Rancière Derrida’s approach lacks is a consideration of democracy as a practice. Although Messianism itself promises the advent of the other, it remains an unfulfilled promise and thereby does no justice to:

229 Rancière ‘The Emancipated Spectator’, p.275
231 Editor’s introduction to: Jacques Rancière, Dissensus, on Politics and Aesthetics. Continuum International Publishing Group, 2010, p. 22
[the] ‘political process of subjectivation, which continually create ‘newcomers’, new subjects that enact the
equal power of anyone and everyone and construct new words about community in the given common world.’

For Rancière, the deconstructive process comes to a hold in practice with an act of dissensus. Dissensus refers to the (rather scarce) moments of the recognition of the equality of intelligences, subjects and forms of knowledge and are what Rancière regards as politics proper (la politique). The impossibility of dissensus within the frames of political philosophy forms the background for Rancière’s critique of attempts to think the political.

Whereas emancipation cannot be equated with the transfer of some privileged kind of knowledge or telling people what to do and think, politics for Rancière cannot be equated with following the rules of the political system. Thus in line with his critique of pedagogy, the confusion of a master vocabulary with an actual learning process and his critique of Marxism, confusion of the existence of a vanguard with change, stands a third critique which is the confusion of a political structure and procedures with democratization. Rancière’s critique of political philosophy shows similarities with Chantal Mouffe’s critique of deliberative democracy and Claude Lefort’s call for the ‘installment’ of an empty place. Rancière’s philosophy however can be argued to move in a different direction. The (now fashionable) calls for a return of the political, Rancière argues, are ultimately dependent on a pure conception of politics. Those authors working in the tradition of Carl Schmitt or even in the arguably more plural tradition of Hannah Arendt, still use the frame of political philosophy to define an opposition between the political and the social. They thereby occlude ‘the fact that the social is by no means a particular sphere of existence but instead a disputed object of politics’. As Rancière puts it in his ‘ninth thesis on politics’:

Inasmuch as the province of political philosophy lies in grounding political action in a specific mode of being, it works essentially to efface the litigiousness constitutive of politics. Philosophy effects this effacement in its very description of the world of politics (...).

With its description of politics (of what is political), in other words, political philosophy functions in a restrictive manner rather than opening up new possible modes of being which are intrinsically related to progress and emancipation. In contrast to political philosophy’s attempt to ground political action into

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232 Rancière, ‘Dissensus’, p. 59
233 La Politique is translated in English as ‘politics’ in contrast to Carl Schmitt and Chantal Mouffe’s ‘the political’
234 The political turn in social and political philosophy is mostly associated with Chantal Mouffe (On the Political, The Democratic Paradox) Ernesto Laclau (On Populist Reason) and other theorists inspired by Carl Schmitt, see also Samuel A. Chambers, ‘Jacques Rancière and the problem of pure politics’ European Journal of Political Theory, 2011, 10, pp.303-326
235 Rancière, Dissensus, on Politics and Aesthetics, Continuum International Publishing Group, 2010, p. 42
236 Idem, p. 40
procedures or spheres, Rancière posits that democracy is characterized by the ‘complete absence of any entitlement to govern’.\footnote{Rancière, ‘Dissensus’, p. 31} Democracy cannot appeal to a principle for a division of roles, but is in its basis simply the drawing of lots, which ‘presents the paradox of a qualification without qualification’.\footnote{Idem, p.51 this is, in other words, the absence of a special political virtue; arkhè} Rancière’s radical notion of equality here returns in the shape of political subjects which are ‘forms of inscription that (ac)count for the unaccounted’, which is, in the last instance ‘the equality of speaking beings without which inequality itself is inconceivable’.\footnote{Rancière, ‘Dissensus’, p.33}

It is not hard to see how Rancière’s critique relates to Held’s proposals for a cosmopolitan world order. Held does assign the sphere of citizenship to a definite set of institutions, problems, agents and procedures.\footnote{Idem, p.57} Cosmopolitanism itself hereby seems to account for the practice of politics, by connoting its ethical and political space and setting out the terms of reference for the recognition of people’s equal moral worth.\footnote{Held, ‘Cosmopolitanism’, p.49} This cosmopolitanism has no need for ‘new political subjects that enact the equal power of anyone’, because, as Held points out, cosmopolitanism itself already ‘registers and reflects the multiplicity of issues, questions, processes and problems which affect and bind people together’.\footnote{Held, ‘From Executive to Cosmopolitan Multilateralism’, p.167} As will become clear from the next section, this presumed ability of cosmopolitanism to recognize the multiplicity of ways that shape individuals into political subjects, much more than stimulating a process of democratization, resembles the logic of Rancière’s police order.

**Section 3.4: The Police Order and the Democratic Subject**

As indicated by the notion of dissensus, Rancière conceives of politics as a deviation from the normal order of things. To understand what ‘the normal order of things’ is, we can trace what the effects are of giving in to political philosophy’s desire to give the community a single foundation, which in Rancière’s words, is the act of cancelling out of politics ‘through the gesture of founding it’.\footnote{Idem, p.41} Political philosophy hereby re-identifies politics with a certain mode of governance which Rancière, following Foucault, calls police or the police order. Police does not refer to the policemen on the street and neither should we necessarily think of Althusser’s policemen, interpelling subjects in society.\footnote{Rancière, ‘Dissensus’, p.3 Contra Althusser’s famous example, that accounts of policemen ‘interpellating’ subjects on the street by simply shouting ‘hey you there’, Rancière provides us with the image of policemen at an demonstration shouting: ‘there is nothing to see here’ and ‘move along’. Politics for Rancière consists exactly in
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from a sixteenth century understanding of Government which did not only refer to the management of states, but more importantly ‘designated the way in which the conduct of individuals or of groups might be directed’. Foucault is not referring to oppression of the violent totalitarian type, but of another singular mode of action:

It [government] did not only cover the legitimately constituted forms of political or economic subjection but also modes of action, more or less considered or calculated, which were destined to act upon the possibilities of action of other people. To govern, in this sense, is to structure the possible field of action of others.

The police thus turns out to be an essentially paternalistic (indeed pastoral) kind of power of the type of the omniscient schoolmaster. It in fact disguises the concept of sovereignty by defining the people as the object rather than the source of (social) policy. As the schoolmaster’s knowledge, the ‘police includes everything’, and as the schoolmaster and the revolutionary vanguard, the police only wants the best for its constituency and ensures that ‘people survive, live, and even do better than just that’. The police thereby determines the hierarchical relationships between human beings and by distributing their societal roles and share in society’s products, constitutes its material order as well.

The character of the police is however not primarily reflected by its function as distributer of materials and neither should the police order simply be understood as a hegemonial project that propagates a false consciousness. The essence of the police order rather lies in a distribution of the sensible (partage du sensible) whose principle is the absence of void and of supplement. Whereas Foucault remarks that the ‘police includes everything’, Rancière talks about the symbolic constitution of the social. The police order assigns every individual and thing its ‘righteous’ place in society by its mode of operation that can be characterized as aesthetic:

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246 Idem, p.790 my emphasis
247 Maus, ‘From Nation-State to Global State’, p. 467
250 Rancière, ‘Dissensus’, p.36
‘I [Rancière] call the distribution of the sensible the system of self-evident facts of sense perception that simultaneously discloses the existence of something in common and the delimitations that define the respective parts and positions within it.’

The ‘possible fields of action’ are thus constituted by a distribution of the sensible, in other words; what is perceived as possible. It should be emphasized that Rancière’s understanding of the aesthetic does not refer to a shallow or mediatized version of politics which no longer deals with concrete issues and neither does it propose to subsume politics under an artistic regime which considers the people to be a work of art. In case we really are looking for an analogy, Rancière proposes to understand aesthetics in the Kantian sense:

‘(…) as the system of a priori forms determining what presents itself to sense experience. It is a delimitation of spaces and times, of the visible and the invisible, of speech and noise, that simultaneously determines the place and the stakes of politics as a form of experience. Politics revolves around what is seen and what can be said about it, around who has the ability to see and the talent to speak, around the properties of space and the possibilities of time.’

What comes to the fore from this quote is that the aesthetic regime is delimiting; it determines what can be said, felt, seen, hence; experienced. As Kant’s a priori forms however, it is also enabling, and simply forms the condition for the possibility of experience as such. This is what I take Rancière to mean when he remarks that the partition of the sensible should be ‘understood in the double sense of the word: on the one hand, as that which separates and excludes; on the other, as that which allows participation’. We are now in a better position to understand the above mentioned quote about the police whose principle is the absence of void and of supplement. The police claims that everything that can be said is in fact said within the order, there is no void, nothing is left unsaid by the institutions and procedures that regulate this order. Unlike Kant’s a priori forms however, Rancière points out that the aesthetic regime is contestable. Politics revolves around exactly this question: the distribution of the sensible.

On the foregoing pages I have discussed bits and pieces of Rancière’s philosophy and I will not claim that they present a complete overview of the latter’s work. I do hold however that the several critiques and lines of thought discussed above come together in a conception of democratic politics that is embodied by an active democratic subject. To wrap up the foregoing: what Rancière inherited from his Marxist predecessors is a concern with emancipation, but only by radically changing its understanding. That is to

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253 Rancière, ‘Dissensus’, p.36
254 Idem, p.36
say that emancipation for Rancière turns out to be something very different from educating the masses’, but can conversely be described as ‘the process of verification of the equality of intelligence’. Rancière’s political thought in a nutshell is that this process or moment of equalization coincides with the spectator’s enthusiasm, the consciousness of itself as a collective and its disensual resistance to the police order, thereby opening up horizons for new ways of looking, talking and acting.

It is moreover not only by looking into our (collective) experience’s conditions of possibility that Rancière follows a typical Kantian approach. The Rancièrean presupposition of equal capacity also resonates with the Kantian conception of autonomy as discussed in chapter two and shares with Kant an aversion to paternalism. But although both philosophies are a call for people to think for themselves, Rancière proposes a more radical notion of equality whose claim goes beyond the Categorical Imperative and the respect for subjective moral judgments. Whereas Kant assigned to human beings an equal potential for (moral) development, according to Rancière, equality is something actual; ‘any distance is a matter of happenstance’ rather than the result of underdevelopment or backwardness.

Rancière subsequently recognizes a more originary moment of action than does Kant with the act of assent to the (moral) law. The moment Rancière refers to contains a previous decision about possible worlds to which, subsequently, this law might apply:

‘Political argumentation is at one and the same time the demonstration of a possible world in which the argument could count as an argument, on that is addressed by a subject qualified to argue, over an identified object, to an addressee who is required to see the object and to hear the argument that he ‘normally’ has no reason either to see or to hear.’

This is to say that we can only recognize change by acknowledging that before the possibility of the law, another ‘partition’ takes place, which in line with what was discussed in the previous section could be called the division between the sayable and the unsayable. What belongs to the sayable refers to the established arrangements of symbols and meanings which is guarded and consolidated by the police order. Politics, on its turn, is the creation of the (virtual) space in which the unsayable is turned sayable and whereby the delimitation of the possible fields of experience that the police order advocates is explicitly questioned.

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256 Idem, p.275
257 This point should be distinguished from the question in regard to the CI whether we can imagine a world in which the law may hold (in which we simultaneously want it to apply to ourselves and others, will it to be universal)
258 Rancière, ‘Dissensus’, p. 39
259 What turns out to be sayable and what not, was already recognized by Pierre Bourdieu as the result of the ‘symbolic struggle to impose the definition of the social world’, Pierre Bourdieu, ‘Symbolic Power’, Critique of Anthropology, 1979 4, p.80
Rancière’s conception of politics is thus inherently performative, but not in the analytical tradition of Austin. Rancière does not recognize a political context, structure or procedure that would make political action ‘felicious’. For Rancière, language is neither inherently oppressing (as in the case of Althusser) nor freeing (Habermas). Like Foucault, Rancière in this regard is more indebted to the phenomenological tradition and philosophers such as Heidegger and Charles Taylor who have ‘interpreted language as that which first opens up an arena for action and communication by letting things appear as something’.  

Does an understanding of political action as ‘opening up new ways of being’ in fact lend itself for theorizing cosmopolitan democracy? Certainly, but especially for scholars accustomed to tying equality to institutional conditions, it demands a radical change of perspective. Held treats equality as he understands it: as a principle. The principle of egalitarian individualism according to Held should become widely recognized and come to structure social and economic policy. Cosmopolitan principles, Held continues, should become constitutive of the conceptual world of modern politicians (‘democratic or otherwise’). Versus the need to recognize the principle of equality and its subsequent codification in treaties and policy documents, Rancière puts the enactment of equality. The feminist philosopher Linda Zerilli in my view articulates exactly what is at stake here:

Practices of political freedom are fundamental inaugural in character; they create, through speech and action, a subjective in-between that discloses differences and sometimes exceeds the institutional space of equal rights.

Thus apart from the question whether global institutions do not run the risk of misrecognition and by the act of redistribution are adding insult to injury, cosmopolitan democracy should be concerned with democratization as the actual enactment of equality. Fundamental for the development of an alternative cosmopolitanism then is that, by itself, it cannot enact this equality.

**Section 3.5: Clues for Future Observers of Democracy**

The insight that the democratic subject loiters somewhere ahead of the question of political structure is not to advocate a return to some kind of pre-critical, pre-political standpoint from which we can’t judge at all.

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261 Held, ‘From Executive to Cosmopolitan Multilateralism’, p.172-173
263 This quote comes from Nancy Fraser and her critique on justice as redistribution, see for example: Nancy Fraser, *Adding Insult to Injury: Nancy Fraser debates her critics*, Verso 2008
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It does, however, require a more radical openness from the political observer, not only to what we consider to be rational expressions, but to other types of expression, of being (human). Ever since Aristotle, political philosophy has focused on the question of citizenship by describing a citizen as someone who has a part in the act of governing and being governed, and this still counts as an uncontroversial description of what citizenship is about for most democratic states. As Rancière however repeatedly emphasizes, another form of distribution precedes this act of partaking in government: the distribution that determines who have a part in the community of citizens. Although this question is one that was, strangely enough, mostly neglected by a long tradition of political philosophy, it is exactly the question that the debate around democracy beyond the nation-state has put on the agenda. Held’s proposed solution, as shortly discussed in chapter 1, consists of a form of stakeholders’ democracy. With the introduction of his ‘all affected’ principle he claims to have found a fair criterion to determine who are to have part in the democratic decision-making process.

As already indicated in chapter one however, there are certain problems connected to this apparently easy solution. With Rancière’s understanding of politics we are now in possession of the theoretical tools to deepen this critique. In light of Rancière’s critique of political philosophy, it can be argued that what Held does is simply to transpose the question and rephrase the opposition: citizen and outsider, stranger or foreigner has now been replaced with affected and not affected. The question of who is affected (who forms part of the relevant demos and in which respect) is however not a marginal nor an easy question and can only be dealt with politically. That is to say that any hierarchy constituted by an opposition between affected and not affected is contestable. As Rancière, following a point Giorgio Agamben makes in his book Homo Sacer, notes: ‘two subjects are simply one too many and some fallacy must have crept in’.

Underlying Held’s argument we can discern a ‘presupposition which states that the political subject must be one and the same’. In contrast, democracy according to Rancière entails that there is never merely one subject, since political subjects exist in the interval between different identities. Far from being the embodiment of the power of Man or that of the citizen, a political process of subjectivation consists in a form of connection and disconnection between Man and citizen. This process, the making of political subjects, is simply the displacement of political limits and boundaries itself.

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264 Jürgen Habermas, Theory of Communicative Action, 1984, Beacon Press, p. 19
266 See for example Robert E. Goodin, ‘Enfranchising All Affected Interests, and Its Alternatives’, Philosophy and Public Affairs, 35 1 2007
267 Rancière, ‘Dissensus’, p.54-56. The identity thesis amounts according to Rancière to the claim that ‘politics is either a mere appearance or else its subject is identical to that defined in constitutional contexts.’
My claim is that both studying global democratic processes and proposing framework to address ‘democratic gaps’ requires, in first instance, a sharp eye on practices of re-enactment of equality. This implies, in the first place, to study without presupposition of hierarchy. This is probably the most difficult requirement and task for scholars and policy makers since it asks them to do away with all pre-formed conceptions and ‘models’ of democracy. Cosmopolitanism should become both more philosophical and empirical, taking in the lessons of Derrida’s deconstruction and IR’s constructivism. Both conceive of groups and collectivities as enactment or formation rather than as predetermined categories making up the basis of an administrative structure.

The question remains whether it is possible at all to recognize the moment democratic subjects, come into being. Any attempt to grasp democratic action without doubt involves the risk that what we are describing are, if not actors that speak through institutions, institutions that speak through actors. My discussion of Rancière’s work however demonstrates that we can actually talk about democratization in contrast to people constituted by and talking through procedures, by evoking what happens in the break with the police order. This break is not simply a negation of the present order of things and neither should we only think of it as located at the boundaries of the political community. Rancière’s conception of dissenus should therefore not be confused with identity politics. La politique is not simply a politics of difference, but is rather a search for new commonalities. Not only the spectacle performed in a theater produces new commonalities, Rancière sees the same process at work in contemporary forms of political art that try to create new forms of social bonds. The aesthetic partition that politics entails forms, like the work of artists, both a break with the present order, and the potential for a new order:

‘What the artists does is to weave together a new sensory fabric by wrestling percepts and affects from the perceptions and affections that make up the fabric of ordinary experience. Weaving this new fabric means creating a form of common expression or a form of expression of the community.’

The weaving of new sensory fabrics is however not the sole prerogative of artists or actors. It is what happens during demonstrations and within the dynamics of groups of people in general. It can even happen within established political parties because it merely consists of making one’s own of a certain way of being. As in chapter two, where I argued that adopting the law is not merely to understand the law’ ; ‘understanding’ a language should be distinguished from making a language one’s own. Contra Aristotle, who held that a speaking being is a political being, Rancière points out: ‘if a slave understands the language of its rulers (...) he does not ‘posses’ it’. The collective power that is common to democratic subjects is rather ‘the power to translate in their own

268 Jacques Rancière, The Emancipated Spectator, Verso 2009, p. 54
269 Idem, p.56
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way what they are looking at’.  
Thus, for one thing, the mere adoption of a human rights discourse is, although mostly a smart move for NGO’s looking for funding, or oppressed people aiming for outside support, no proof of democratization. When the discourse however is successfully connected to the situation at hand, emphasizing what is communal to people and mobilizing people in its wake, it certainly can be. As mentioned, processes of equalization are recognized in practice most clearly in emancipatory movements. The women movement during the French revolution constitutes one of Rancière’s favourite examples. During the revolution, women were not only granted certain rights but ‘showed that since they could enact those rights, they actually possessed them’.  

To sum up: a concern with equality as *dissensus* urges observers to recognize the dissensual activities of democratic subjects and not to confuse, in Zerilli’s words; ‘the constitution and practice of political freedom with formal equality and the institutionalization of rights.’ The lessons Rancière draws from nineteenth and twentieth century worker’s emancipation is that, what typifies these actions, is a ‘reconfiguration *hic* and *nunc* of the distribution of time and space, which ‘invalidated the old distribution of the sensible.’  

In my view, future observers of democracy should expose such practices of dissensus and bring them under the attention of politicians and policymakers, rather than present the latter with clear-cut reform programs. Both should moreover be aware of being spectators themselves. That is to say, the political theorists or policy advisor might turn out to be not so different from the subject he or she studies:

‘It starts when we realize that looking is also an action that confirms or modifies that distribution, and that “interpreting the world” is already a means of transforming it, of reconfiguring it. The spectator is active, just like the student or the scientist: he observes, he selects, he compares, he interprets. He connects what he observes with many other things he has observed on other stages, in other kinds of spaces.’  

**Section 3.6: What (new) Cosmopolitanism?**

In this thesis I have, in several ways, pointed out what democracy is *not*. It cannot be equated with procedures, it cannot be *grounded* in morality and it cannot be expected to take a certain form towards which can be worked. This is in no way a call to reject all procedures, to condemn the morality talk or to stop imagining possible futures. It is however a call for embracing cosmopolitanism to the extent that we

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271 Rancière, ‘Art Forum’, p. 278  
272 Rancière, ‘Dissensus’, p.57  
are prepared, for all these notions belonging to the Heldian cosmopolitan discourse, to be undermined by acts of dissensus.

Not only does a new cosmopolitanism have to come to terms with the adoption of a less firm grounding, it also needs to radically shift its base from institutions towards what Rancière calls the ‘supplementary power of the people’. Cosmopolitanism moreover needs to be conceptualized politically, whereby the ‘infinite respect for the other’ should not be forever postponed but take ‘the shape of an otherness that has a multiplicity of forms’. ‘Doing politics’, in other words, means exactly to undermine ‘the purity of the given’ which implies that we should ‘reject any model of unalloyed politics’, and insist that politics can never proceed as if the other can be fully known and incorporated in the social order.

Held’s cosmopolitan project forms an outright contradiction of both of these imperatives, by developing an ideal cosmopolitan order that presumes the inclusion of all possible issues and subjects. Held is convinced that non-coercive political processes can be realized within an institutional context which subsequently serves the conceptualization of a ‘common’ or ‘basic’ structure of individual action and social activity. An institutional context that recognizes the equal worth and moral value of individuals, in this view, guarantees the eventual consent of ‘those affected’. As anyone familiar with the cos-com debate knows, communitarianism rejects this idea that procedures can ‘shape’ the will of the people. I in fact agree with David Miller that the problem for global governance, especially in Held’s case, degenerates into ‘a question of how to engineer a transition to a global form of democracy’ by ‘setting a goal towards which political reforms should try to work’.

Miller thus appears to share my concern with democratization by asking how global democracy is possible. Miller’s answer however is disillusive and consists of the communitarian reflex or default position to emphasize that what forms the basis of democracy ‘is a certain convergence of interests and belief among the set of people’. Both Miller’s communitarianism and Held’s cosmopolitanism, by emphasizing the primacy of consensus are inherently resistant to democratic change. Whereas Held criticizes communitarianism’s ‘rootedness’ in bounded political communities, his proposal to newly ‘anchor’ cosmopolitanism in autonomy, in order to ‘build a new and more robust account of democracy’, relies on an equally static concept of democracy. To understand cosmopolitan democracy as a practice

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275 Rancière, ‘Dissensus’, p.52
276 Idem, p.61
277 Chambers, ‘Jacques Rancière and the problem of pure politics’, p.305
278 Held, ‘Cosmopolitanism’, p.71-77
279 Miller, ‘After the Nation’, p.142
280 Miller, ‘After the Nation’, p.145
281 Held, ‘Models’, p.260
of ‘uprooting’ and ‘re-anchoring’ is not only deceptive, it’s political consequences can be devastating for democratic subjectivity.

Not only is a democratic cosmopolitanism necessarily impure,\(^{282}\) it should also, to use a term from Foucault, be mature. On Foucault’s reading, Kant was modern, but not mature; Kant resisted the temptation to ground human action in metaphysics, but exchanged metaphysics for epistemology.\(^{283}\) Held’s cosmopolitanism, based on a shallow interpretation of the Kantian legacy can be argued to do worse, and involve a return to dogmatic metaphysics. As the extensive discussion of the concept of autonomy in chapter one and two showed, by assuming the self-evidence of cosmopolitanism’s building blocks, Held risks the return to a pre-critical standpoint. By assigning a metaphysical status to autonomy, subjects are deprived from possibilities for articulating their idiosyncratic ways of being as a political claim. To quote Foucault interpreters Dreyfus and Rabinow:

> (...) maturity would consist in at least being willing to face the possibility that action cannot be grounded in universal, ahistorical theories of the individual subject and of writing, or in the conditions of community and speaking, and that, in fact, such attempts promote what all parties agree is most troubling in our current situation.\(^{284}\)

By grounding human action in an unalterable conception of autonomy as property of institutional structures, Held surrenders his understanding of cosmopolitanism to what I have in the first chapter called second cluster terms. Mature cosmopolitanism conversely, incorporates a democratic subject in its conceptualizations, as an act of dissensus, without claiming the authority to pre-conceive the forms democratic action could take. Mature cosmopolitanism moreover recognizes that democratic communities are not necessarily communitarian nor shaped by moral procedures. It however emphasizes the communal character of democratic politics, in which democratization always takes place through a subject becoming conscious of itself as a collective.

Mature cosmopolitanism is, I admit, quite demanding for it expects two worlds; the world of governance and new possible worlds proposed by acts of dissensus. It thereby resists the universality of the law, which as Foucault showed will irrevocably fall prey to the logic of governmental action.\(^{285}\) Mature cosmopolitanism shares with Habermas a concern for the life world, as it forms the breeding ground for democratic subjects. Contrary to Held’s interpretation of the latter however, it does not

\(^{282}\) Interestingly ‘impure cosmopolitanism’ already exists as a name used by Ulrich Beck to contrast his mundane conception of cosmopolitanism with ideal types of global order. Beck however proposes something different from the new cosmopolitanism I have in mind.

\(^{283}\) Dreyfus and Rabinow, ‘What is maturity?, p. 118

\(^{284}\) Idem, p.118

\(^{285}\) Rancière, ‘Dissensus’, p. 57
consider institutions as the panacea to the privatization of public life or ‘policing’. Politics is not 
predicated on a certain (communicative) space, its essential work is rather ‘the configuration of its own 
space’. This is why mature cosmopolitanism cannot align with the police order, for in that way it will not 
recognize dissensus as the ‘presence of two worlds into one’, but will, as the police, urge politicians not to 
linger over events like demonstrations, and insists that there’s nothing to see, at least nothing that deserves 
our attention. 286

Finally, to put this conclusion in a wider context of international change, we should recognize that the 
future is open to modification 287 but also that ‘the principle of equality’ can be enacted to resist global 
changes that claim to point out the way forward. Mature cosmopolitanism leaves open the possibility for 
movements of resistance to count as enactments of equality. Whereas the social scientific literature is 
often quite harsh in its condemnation of ‘populist’ uprisings, it is their ability to break-open the police 
order that in fact should be valued. That there’s no such thing as pure negative resistance is for example 
demonstrated by the anti-globalization movement which has largely turned into organizations that are 
currently labeled as alter-globalization.

The implications for the theory of cosmopolitanism might be less condemning than one would 
extpect from my critical discussion of Held. No one can be expected to create a theory about everything, 
but no one should therefore propose to do so either. Held’s work clearly belongs to the domain of the 
second cluster, triggering the search for new forms of global governance and emphasizing that our 
collective fortunes require collective solutions. A scholar of mature cosmopolitanism would however not 
allow for a bookchapter with the title ‘implementing cosmopolitan social democracy’. As noted by Kant 
and again in other words stressed by Derrida, this is to reduce politics to a mere technique. To paraphrase 
the former; the moral politician, or moral policy advisor for that matter, wishes perpetual peace ‘not 
merely as a material good’ but also as a condition issuing from the active consent of individuals. 288 There 
is so much to say about autonomy, sovereignty and democratic subjectivity that frameworks can’t grasp 
and that are nevertheless important for theorizing global democracy. Neither, as much literature on the 
ethical dimension of global governance supposes, does there exists a necessary trade-off between 
sovereignty and individual rights. 289

286 Idem, p.37
287 Bartelson, ‘Trial of Judgment’, p.274
288 Kant, ‘Perpetual Peace’, fragment in Viotti & Kauppi, p.419
289 According to Mark Amstutz for example, ‘(...) the pursuit of international justice frequently involves a trade-off 
between sovereignty and human rights, between autonomy and suffering (..)’communitarianism is thereby ‘more 
likely to foster international stability ’ Mark, R. Amstutz, International Ethics, Concepts Theories, and Cases in Global 
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This then is the challenge for future scholars of global governance: to think autonomy and sovereignty both as properties of democratic subjects and thereby free theory from its hostageship by the axes of cosmopolitanism-communitarianism.

Conclusion

Held’s theory of cosmopolitan democracy cannot function as a blueprint for a future cosmopolitan order for the simple reason that it contradicts the meaning of democracy itself. Democracy is no program or plan that can be implemented and legitimated by an adherence to cosmopolitan principles. This is not to say that cosmopolitan principles are invalid and should be left out in thinking about global democracy. It is rights are best understood as two normative elements of an inherently contradictory modern discourse of legitimate statehood. Reus-Smit, ‘Human rights and the social construction of sovereignty’, 537
however to say that we cannot ‘build’ democracy by adding a decision-making procedure on a foundation of autonomy, topping off with a ‘layer of social justice’. We need to think cosmopolitan principles actively as properties of sovereign democratic subjects. Exercising autonomy and giving consent necessarily involve a subjective dimension in which individuals act according that what they think is right, independent of whether or not this idea fits a scholarly or institutional understanding of the cosmopolitan law. Only democratic change constitutes real progress in this respect. Democratic change assumes an openness towards the past and the future, in which narratives about sovereignty can be re-set and new paths and objectives can appear before us.

Democratic change will always maintain a mysterious core and require a ‘virtual act’ by which a certain people becomes the author of a political framework. Once a constitution is founded or a procedure is shaped however, democracy cannot, like Held’s cosmopolitanism, come to resemble dogmatic reason. Since any political order will claim to ‘speak in the name of intelligibility, good sense, common sense, or the democratic ethic’ and ‘discredit anything that complicates this model’, 290 democratic subjects, as the relentless scrutinizing activity of critical reason itself, should be free to always put the claims of such an order into question. Democracy, as Rancière points out; entails that ‘every ground for the power of ruling is that there is no ground at all’. 291 The institution of politics as paradox is not simply to identify demonstrations, strikes, petitions and other types of protests as the true democratic activities that set into motion a dialectic between agent and structure. Democratic subjectivity rather opens up new ways of being and experience, creating new commonalities and possible futures on the way. Politics, as the enactment of equality, is an inherently emancipatory practice that a future cosmopolitanism should celebrate.

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290 Derrida, ‘The Other Heading’, p.55
291 Rancière, ‘Dissensus’, p.50
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