Beyond the Debate between Cosmopolitanism and Communitarianism: Toward a Hegelian Synthesis

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The landscape of the ethics of international relations is largely shaped by the great divide between cosmopolitanism and communitarianism. Theorists of international political theory or international ethics more often than not take this divide as their initial reference scheme (Brown 1992; Thompson 1992; Cochran 1999; Hutchings 1999; Shapcott 2001). Participants in this debate who take the cosmopolitan position are usually political theorists (e.g. Pogge 1994; Beitz 1999; O’Neill 2000; Nussbaum 2002). Their ontology is basically individualistic, and their way of thinking is usually in the Kantian mode of theorizing in the abstract. Though this approach is very dominant in political theory, it is not very welcome among students of international relations. For most theorists of IR, the basic agent of international relations is the state, and thus any normative theory that downplays the role the state is impracticable. They deem it “utopian” to put emphasis on the individual as the principal agent and to theorize international relations in the abstract (e.g. Jackson 2005). Conversely, for cosmopolitan political theorists, IR theorists’ position is akin to that of the communitarians in political theory and tends to defend the status quo. There appear to be not much dialogue between the two camps.

Given the prominence of this debate, it is impossible to bypass the divide when one comes to the issues of ethics in IR. On the other hand, given the endurance of the debate, it might be equally impossible to prejudge which camp will eventually win the debate. In view of this, the issue at stake is probably not which approach is the right one. Rather, given each approach has garnered widespread supports from its own camp, my conjecture is that both positions may embody partial truth to some extent. Therefore, the right question to ask is whether we can go beyond this debate and reach deeper understanding of international ethics. In the discipline of international political theory, several theorists have embarked on the enterprise of transcending the great divide; notable examples include Molly Cochran (1999), Kimberly Hutchings (1999), Richard Shapcott (2001), etc. These works are all very

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1 Cosmopolitanism could certainly take other forms such as utilitarianism (Hutchings 1999, 36). However, since the Kantian version appears to be the most popular one, my discussion in this paper will focus only on the Kantian version.
sophisticated accounts and deserve careful evaluation, which certainly cannot be done in this paper. My purpose is thus only limited to exploring and assessing one among the many approaches that attempt to go beyond the divide, i.e., the Hegelian approach. But I am aware that even such a limited purpose cannot be fully accomplished in a paper, so I shall attempt instead to show that the Hegelian elements are indispensable when theorizing the ethics of IR. My way of doing it goes like this: Given the predominance of the cosmopolitan thinking among political theorists, I do not dispute the necessity of cosmopolitan elements in theorizing international ethics. In other words, I concede that the well-beings of the individuals must be taken into account in international ethics and theorizing in the abstract is also indispensable. On the other hand, however, I shall argue that the interests of the state should also be taken into account, and thinking international ethics (instead of international morality)\(^2\) in concrete historical context is also indispensable. To show why this is so, I take issue with the accounts of international ethics of John Rawls and Jürgen Habermas, who are regarded as the exemplary contemporary Kantians, and attempt to reveal the Hegelian elements implicit in their accounts. Then I shall explore if the Hegelian elements extracted from their accounts can be grafted to the ideas of the Hegelian approaches championed by Mervyn Frost and Andrew Linklater.\(^3\) The purpose of this exploration is to show that if both the Kantian and Hegelian moments can be subsumed in a mainly Hegelian framework, such a Hegelian synthesis might produce more insights and fruitful results than either the Kantain or the Hegelian approach can do on its own.

\(^2\) The difference between ethics and morality derives from Hegel’s famous distinction between Sittlichkeit (ethical life) and Moralität (morality) (Hegel, 1991: 62-4). See also the discussion of Chris Brown (1992, 62).

\(^3\) The choice of these two theorists as representatives of the Hegelian approach is indebted to Molly Cochran’s discussion of Hegelian method (Cochran 1999, ch. 3). It should be noted, however, that other theorists with strong Hegelian characteristics are equally important. Notable examples include Chris Brown (1994) and Kimberly Hutchings (1999). The reason I do not discuss Brown’s account is because it is less developed than Frost’s and it can even roughly subsumed by the latter. On the other hand, Hutchings’s account is mainly concerned with the “phenomenological adequacy” and “genealogical honesty” of both cosmopolitan and communitarian positions. I am not able to discuss her work in this paper for two reasons. First, Hutchins’s account is theorizing at a highly philosophical level and it touches less on substantive issues; yet discussion at such a level is beyond my intellectual capacity. Second, albeit explicitly invoking Hegelian phenomenology in her work, Hutchings at one point writes: “critical theory, postmodernism and feminist theories come closest to the best kind of international normative theory.” (Hutchins 1999, 179) This suggests that her ambition might go far beyond a mere appropriation of Hegel’s philosophy.
The Hegelian Moments in Rawls’s Account

Let me begin my discussion with Rawls’s account of international ethics (Rawls 1999a). The Kantian element in Rawls’s account is quite explicit in his use of the original position at the international level. But his approach offers little comfort to cosmopolitan political theorist, for they find its Hegelian elements very troublesome. The most notable Hegelian element in Rawls’s account is probably Rawls’s taking people instead of the individual as the unit of moral concern in international ethics. For cosmopolitans, the bearer of moral concern should be the individual, not people or the state. Rawls disagrees; he holds that a cosmopolitan approach, by employing an all-inclusive global original position that treats individuals as free and equal, “makes the basis of the law of peoples too narrow.” (Rawls 1993, 66) Clearly, the fundamental difference between Rawls and cosmopolitans is that Rawls regards the justice of societies as the ultimate concern of the law of peoples whereas cosmopolitans take the well-being of individuals as theirs (Rawls 1999a, 119). Why this difference? Arguably, it is because Rawls very much deems people as a moral community in itself whereas cosmopolitans regard the moral status of people as derivative of that of the individuals. Given the strong opposition to Rawls’s “people-centric” approach among liberal political theorists, I shall attempt to show why this approach merits our serious consideration. My defense of this approach will be couched largely in Rawls’s own terms, but I will also reveal the inconsistency in his account and offer a revision that make his account more coherent.

The Hegelian elements in Rawls’s works have been well noted by many theorists. For example, Rawls’s student Sibyl Schwarzenbach identifies three areas in which Rawls’s position resembles that of Hegel: the task of political philosophy and its method (or justification), the conception of the person, and the conception of community and the state (Schwarzenbach 1991). Given that this issue area (i.e., the similarity between Rawls and

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4 In similar vein, Molly Cochran, based on Chandran Kukathas and Philip Pettit’s observation (Kukathas and Pettit 1990), identifies several main points where Rawls’s and communitarians’ positions converge: historical contextualism, the self as being socially constructed, and the idea that “moral personality can differ within varied social contexts” (Cochran 1999, 23, fn. 4).
Hegel) has been well trodden, I will take these observations as the starting points and explore the implications for the ethics of IR. My discussion below will center on the three areas Schwarzenbach identifies, but the order of discussion will be reversed.

Rawls’s Conception of Social Union and Its Implication for International Ethics

Let me begin with Rawls’s conception of political community, which is succinctly expressed in his exposition of the idea of well-ordered society as a “social union of social unions”. The Hegelian characteristic of this idea is manifested in a statement that draws heavily on Wilhelm von Humboldt:

…the group achieves, by a coordination of activities among peers, the same totality of capacities latent in each….they express the sum of potentialities of the membership as a whole in activities that are intrinsically good and not merely cooperation for social or economic gains…persons need one another since it is only in active cooperation with others that one’s powers reach fruition. Only in a social union is the individual complete. (Rawls 1971, 524-5n, emphases mine)

The significance of viewing a well-ordered society as a social union of social unions is, as Schwarzenbach rightly points out, that it attributes a certain “primacy” to group activity, for the group has “an internal organization and interests peculiar to it”. And such a scheme is “conceptually prior” (not “temporally prior”) to any new member, and its agency cannot be adequately comprehended in terms of a “mere sum” of isolated actions (Schwarzenbach 1991, 559) Most importantly, since for Rawls citizens “value their political institutions and activities as goods in themselves” (Rawls 1971, 522, my emphasis), it can be argued that this good is not reducible to the sum of the goods of individual citizens.

Later in his Political Liberalism Rawls pushes the idea a step further by saying that “a democratic society well-ordered by the two principles of justice can be for each citizen a far more comprehensive good than the determinate good of individuals when left to their own devices or limited to smaller associations.” (Rawls 1996, 320, emphasis mine) Is Rawls here
suggesting that the good of society takes priority over that of the individuals? Rawls does not say that, and so one is better off not to speculate by inference. In fact, Rawls cautions us not to think that way.\(^5\) This shows that Rawls, while attributing certain primacy to the social union, conscientiously distances himself from the organic view of society that is characteristic of certain persuasion of communitarian thinking. We should also note that for Rawls the good of society derives from the justice of its institution, and thus not all kinds of society but only well-ordered societies are endowed with such good. In other words, Rawls does not grant moral status to all societies across the board.

Now, what is the implication of Rawls’s idea of the social union for thinking about international ethics? In his *The Law of Peoples*, Rawls writes:

> Leaving aside the deep question of whether some forms of culture and ways of life are good in themselves (as I believe they are), it is surely, *ceteris paribus*, a good for individuals and associations to be attached to their particular culture and to take part in its common public and civic life...

> This is no small thing. It argues for preserving significant room for the idea of a people’s self-determination and for some kind of loose or confederative form of a Society of Peoples. (Rawls 1999a, 61)

This passage shows that for Rawls the good for individuals to be associated with a way of life and to be involved in public life requires that we respect the self-determination of peoples, and arguably this is why the basic unit of moral consideration in international ethics must be peoples not individuals. This requirement echoes Hegelian/communitarian approach to international ethics that takes the state to be the unit of moral concerns.\(^6\)

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\(^5\) Rawls writes: “Everyone’s more private life is so to speak a plan within a plan, this superordinate plan being realized in the public institutions of society. But this larger plan does not establish a dominant end, such as that of religious unity or the greatest excellence of culture, much less national power and prestige, to which the aims of all individuals and associations are subordinated. The regulative public intention is rather that the constitutional order should realize the principle of justice.” (Rawls 1971, 528)

\(^6\) Rawls takes pains to draw a distinction between people and the state. However, as Allen Buchanan argues convincingly, Rawls’s distinction is not only unnecessary but also misleading (Buchanan 2000). Therefore, I take Rawls’s “people-centric” approach to be a variant of “state-centric” approach. For detailed argument, see my Ph.D. dissertation (Lin 2006a).
There is a difference between these two approaches, though. For the communitarian approach as well as in the practice of contemporary international relations, sovereign states are equals regardless of the kind and quality of their domestic institutions. This idea of sovereign equality is eloquently expressed in Chris Brown’s remark:

…this notion (i.e. nations as moral equals) is coupled with a refusal to distinguish between different kinds of states. From the UN viewpoint, a state is a state is a state—and any attempt to distinguish between those states that have earned the right to autonomy and those that have not is totally unacceptable. (Brown 1992, 121)

For Rawls, by contrast, only societies whose institutions meet certain minimal criteria deserve respect or toleration.7

But where do these criteria come from? In The Law of Peoples Rawls distinguishes five types of peoples or societies,8 and this distinction is drawn prior to the construction of the law of peoples, which suggests that the criteria are given from outside the construction process. Such “categorical” taxonomy is quite troublesome, for it appears to be inconsistent with the constructivist nature of Rawls’s philosophical enterprise.9 To see why this is so, we must first consider Rawls’s conception of the person and explore its implication for international ethics. We will also have to inquire into Rawls’s method of justification and its implication for international ethics. Let me begin with Rawls’s conception of the person.

Rawls’s Conception of the Person and Its Implication for International Ethics

In A Theory of Justice Rawls argues that moral persons are characterized by two moral powers, i.e. they are capable of having a conception of their good and capable of having a

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7 These criteria include: First, the society must not be aggressive towards other societies. Second, its system of law must accord with a common good idea of justice, which secures basic human rights for all its members. Third, its system of law must impose moral duties and obligations on all its members, and its judges and officials must possess a sincere belief that the law is guided by a common good idea of justice (Rawls 1999a, 64–6).
8 They are liberal peoples, well-ordered hierarchical peoples (or decent hierarchical peoples), outlaw states, societies burdened by unfavorable conditions, and benevolent absolutism (Rawls 1999a, 4, 63)
9 I borrow the term “categorical” from Simon Caney (2002). For detailed exposition of Rawls’s political constructivism, see Lecture III of Political Liberalism (Rawls 1996).
sense of justice (Rawls 1971, 505). In “Constitutional Liberty and the Concept of Justice,” Rawls says that the term “person” may also be extended to refer to corporate entities including “nations, corporations, churches, teams, and so on.” (Rawls 1999b, 75) These two ideas taken together will endow people or society with moral standing. Hence Rawls explains in The Law of Peoples why liberal peoples have a moral character: “Like citizens in domestic society, liberal peoples are both reasonable and rational.” Their rationality is “organized and expressed in their elections and votes, and the laws and policies of their government,” while their reasonableness is expressed in their being able to offer and honor fair terms of cooperation provided other peoples do so as well (Rawls 1999a, 25).

Now, the question is whether this moral standing can also be granted to peoples or societies that are not liberal? In A Theory of Justice Rawls states that “equal justice is owed to those who have the capacity to take part in and to act in accordance with the public understanding of the initial situation,” and “the capacity for moral personality is a sufficient condition for being entitled to equal justice.” (Rawls 1971, 505, emphasis mine) Moreover, Rawls says:

I assume that the capacity for a sense of justice is possessed by the overwhelming majority of mankind…That moral personality suffices to make one a subject of claims is the essential thing. We cannot go far wrong in supposing that the sufficient condition is always satisfied. Even if the capacity were necessary, it would be unwise to withhold justice on this ground. (Rawls 1971, 506, emphasis mine)

The crucial point of this statement is that “the minimal requirements defining moral personality refer to a capacity and not to the realization of it.” (Rawls 1971, 509) And this emphasis on potentiality is especially pertinent to our discussion in that “regarding the potentiality as sufficient accords with the hypothetical nature of the original position.” (Rawls 1971, 509, emphasis mine). But if that is the right approach to the original position at the

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10 In the same spirit, Charles Beitz writes: “one would not want to argue that only the righteous, the virtuous, or the psychologically well integrated should be respected as autonomous beings.” (Beitz 1999, 81)
domestic level, why should it be any different at the international level? In his objection to the cosmopolitan view, Rawls says:

The intuitive force of equality holds, it might be said, only between individuals, and treating societies equally depends on their treating their members equally. I don’t agree. Instead, equality holds between reasonable, or decent, and rational, individuals or collectives of various kinds when the relation of equality between them is appropriate for the case at hand. (Rawls 1999a, 69)

If this argument is sound, shouldn’t Rawls regard all peoples as equally autonomous? In other words, to be self-consistent Rawls should not distinguish different kinds of peoples in ideal theory; rather, he must assume that all peoples are moral persons in so far they are capable of being rational and reasonable. This revision would require that the representatives of all peoples or states be included in the international original position; in other words, no states should be excluded on the ground that they are incapable of being rational and reasonable. I believe this revision accords better with Rawls’s discussion concerning the basis of equality in A Theory of Justice.

To be sure, my revision does not deny that in reality some regimes may be morally superior to other, but this only begs the question as to who is entitled to judge the legitimacy of a regime. As Michael Walzer argues convincingly, the members of a political community are entitled to judge, and they are free to rebel if they deem the regime illegitimate. But the point is that their right to revolution does not transfer readily to foreigners (Walzer 1980). This does not suggest, however, that outsiders can never intervene on the insiders’ behalf. But absent a neutral referee, intervention is often tarnished by parochial self-interests or self-righteous arrogance. Hence Rawls writes:

In political liberalism we must distinguish between, first, the political case for intervention based on the public reason of the Law of Peoples and, second, the moral and religious case based on citizen’s comprehensive doctrines. In my estimation, the former
must prevail if a stable peace is to be maintained among pluralistic societies. (Rawls 1999a, 84, emphasis mine)

Here the emphasis on public reason, which is one important feature of Rawls’s later works, is especially worthy of our attention. To fully understand its implication for international ethics, we must now turn to Rawls’s philosophical method and his conception of justification.

**Rawls’s Conception of Justification and Its Implication for International Justice**

It is well known that the Kantian moment in Rawls’s philosophy is embodied in his use of the original position. But there is also a Hegelian moment in Rawls’s method; it is expressed in his requirement of reflective equilibrium. As Schwarzenbach points out, for both Hegel and Rawls “moral philosophy is the attempt to clarify and synthesize what we have ‘all along’ been doing.” (Schwarzenbach 1991, 544) This is so because for Hegel the task of philosophy is to comprehend the rationality latent or embodied in what he calls “objective spirit,” which refers to “the world of concrete political institutions, customs, and social laws, as well as the in the traditions of their interpretation (Schwarzenbach 1991, 544)." Whereas for Rawls the task of philosophy is to “render coherent” and to justify our considered convictions of justice or moral judgments (Rawls 1971, 19-21) These judgments consist of what Rawls calls “basic facts”: “These facts do not lie here and there like so many isolated bits. For there is: tyranny is unjust, exploitation is unjust, religious persecution is unjust, and on and on.” (Rawls 1996, 124) For Rawls, “These convictions are provisional fixed points that it seems any reasonable conception must account for.” (Rawls 1996, 8) Arguably, implicit in this idea is the belief that there is certain degree of reasonableness latent in those facts or judgments, and thus they can serve as the starting point of our moral reflection. But those judgments are merely “provisional fixed points,” for when there are discrepancies between the selected principles

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11Hegel writes: “To comprehend what is is the task of philosophy, for what is is reason.” Hegel also posits that “What is rational is actual; what is actual is rational.” (Hegel 1991, 20-1)
and considered convictions, “[w]e can either modify the account of the initial situation or we can revise our existing judgments.” (Rawls 1971, 20)

Rawls further parts company with Kant when he draws a distinction between proof and justification:

…justification is argument addressed to those who disagree with us, or to ourselves when we are of two minds. It presumes a clash of views between persons or within one person, and seeks to convince others, or ourselves, of the reasonableness of the principles upon which our claims and judgments are founded….A proof simply displays logical relations between propositions. (Rawls 1971, 580-1).

It follows that “the argument for the principles of justice should proceed from some consensus,” and this in turn requires that justification must be public in nature (Rawls 1971, 581). This aspect of Rawls’s conception of justification is fully expressed in the following passage:

Justice as fairness aims at uncovering a public basis of justification on questions of political justice given the fact of reasonable pluralism. Since justification is addressed to others, it proceeds from what is, or can be, held in common; and so we begin from shared fundamental ideas implicit in the public political culture in the hope of developing from them a political conception that can gain free and reasoned agreement in judgment, this agreement being stable in virtue of its gaining the support of an overlapping consensus of reasonable comprehensive doctrines. (Rawls 1996, 100-1, my emphasis)

The emphasis on public political culture is crucial in that it exhibits another Hegelian moment in Rawls’s philosophy, i.e. the relevance of historical and social conditions to political theory.12 And since the distinctive feature of modern conditions is the fact of reasonable

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12 As Schwarzenbach points out, public political culture in Rawls’s philosophy roughly plays the role of “objective spirit” in Hegel’s philosophy, for Rawls assumes that the core of our political institutions are at least minimally “rational” (Schwarzenbach 1991, 566, note 18).
pluralism, this condition impels Rawls to assign a more limited task to political philosophy, i.e. finding an overlapping consensus. As Kukathas and Petitt points out, in so doing Rawls further turns his back on Kant by giving up the comprehensive liberalism of Kant and Mill in favor of the political liberalism he advocates (Kukathas and Petitt 1990, 139-42). This Hegelian turn has far-reaching consequences for thinking about international ethics. Below I shall elaborate on what these implications are.

Let me begin with the condition of the fact of reasonable pluralism. For Rawls, reasonableness entails the willingness to propose fair terms of cooperation and the willingness to recognize the burdens of judgment and to accept their consequences for the use of public reason when justifying our political conception of justice to others (Rawls 1996, 54, 97; Rawls 2001, 27). At the core of the idea of public reason is the criterion of reciprocity, and the content of this criterion may vary from one context to another. But why is the content of the criterion contingency on its context?

Rawls writes: “it is the distinct structure of the social framework, and the purpose and role of its various parts and how they fit together, that explain why there are different principles for different kinds of subjects.” (Rawls 1993, 47) This idea is further illustrated in Rawls’s discussion of why the principles of justice do not directly apply to (though do impose considerable constraints on) the internal life of associations such as family, church, university, and so on, which suggests that there needs to be “division of labor between different kinds of principles.” (Rawls 1999a, 158-9)

Now, we can return to the question why the unit of moral concern in international ethics is people (or the state) and not the individual. In the domestic context, the reason we can appeal to the political ideal of free and equal citizens for public justification in democratic societies is because that ideal is part of the public political culture in those societies. Yet in the global setting, as Leif Wenar aptly puts it,

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13 Rawls’s full exposition of the idea of public reason is seen in his “The Idea of Public Reason Revisited,” which now becomes the addendum to The Law of Peoples. Rawls says that “The idea of public reason is also integral to The Law of Peoples, which extends the idea of a social contract to the Society of Peoples.” (Rawls 1999a, vi) This underscores the crucial role this idea plays in Rawls's theory of international ethics.
There simply is no robust global public political culture which emphasizes that the citizens of different countries ought to relate fairly to one another as free and equal....It is peoples, not citizens, that international political institutions regard as free and equal, and so it is these ideas of peoples that Rawls thinks he must use to develop his global political principles. (Wenar 2001, 87)

In other words, since respect for individual autonomy is not part of the global public political culture, it is unreasonable from a Rawlsian point of view to appeal to such conception at the global level. Or put it in a slightly different way: In so far as liberal democracies value individual autonomy and treat each citizen as free and equal, so the criterion of reciprocity applies, in the domestic context, among individuals. In the global context, however, there is no such consensus in the public political culture. The only widely acknowledged idea is the equality of states (or peoples), and so in the global context the criterion of reciprocity only applies among peoples or states.

So far I have enlisted the Hegelian elements in Rawls’s philosophy—including the idea of social unions, the conception of personhood, and his method of justification—in the service of defending a statist approach to international ethics. This approach is largely couched in Rawlsian terms, with the exception that I do not employ external criteria to prejudge the legitimacy of a people or a state. This may cause the concern that by granting moral status to all states regardless of the kind of their domestic institutions I am giving the state a blank check to do as they please. But this concern is unwarranted. In the domestic case, when we regard individuals as autonomous moral beings, we do not suggest that they can do anything as they please. Rather, autonomy only means that they must legislate for themselves. In similar vein, when I say states are autonomous moral agents, I am only suggesting that they must legislate for themselves. This claim does not entail the assumption that states are self-sufficient, no more than assuming that they can do whatever they like. In fact, no states in the real world can be self-sufficient, and they must (and do) comply with international norms. But these facts do not run up against the claim that states are autonomous moral beings, just as the facts of interdependence among individuals and the lawfulness in the domestic context.
cannot discredit the claim that individuals are autonomous moral beings. This interpretation of state autonomy is to underscore the intuition that every state is to participate in the legislation process and not to comply with a law by imposition. The crux of this interpretation of autonomy is the ethos of anti-paternalism. Unfortunately, one principal weakness in Rawls’s approach to international ethics is that his smuggling the criteria of regime legitimacy into the law of peoples smacks of paternalism. Another weakness of Rawls’s theory is that his account, despite exhibiting notable Hegelian moments, is still too static; a more dynamic account that employs Hegel’s dialectic is to be wanting. Fortunately, these weaknesses can be remedied by enlisting Habermas’s Hegelian moments. Before turning to Habermas, I want to make one more point: granting moral status to states does not suggest that the state is the single source of moral concern, nor does it mean that the moral standing of the state is necessarily higher than that of the individual. The point is merely to suggest that the state has its independent, irreducible moral standing, and thus in theorizing international ethics the interests of the state must be taken into consideration along with the interests of the individual. Cosmopolitans need not worry that my approach will prioritize state autonomy at the expense of individual autonomy. This will become clear after we discuss Habermas’s theory.

The Hegelian Moments in Habermas’s Theory

In an article comparing his philosophy with Rawls’s, Habermas regards his own as a “straightforward Kantian strategy” in that his approach does not try to be normatively neutral (Habermas 1998a, 99). This suggests that Habermas’s approach is even more Kantian than Rawls’s in terms of general philosophical orientation. But in so far as Rawls takes peoples to be the bearers of moral concern in international ethics, Rawls’s position is closer to Kant’s vision of a federation of nations in Perpetual Peace (Kant 1970, 93-130). By contrast, Habermas sees an inconsistency between Kant’s vision of a federation of nations and his notion of cosmopolitan right (I will discuss this in a moment) in that the latter calls for a federation of world citizens instead of a federation of nations (Habermas 1998a, 180-1). This
suggests that in terms of ontology Habermas’s theory of global justice goes beyond Kant’s vision, and his position appears to come closer to that of cosmopolitans (Moon 2006, 269). Nonetheless, I shall argue that on closer examination Habermas’s approach also exhibits traits of Hegelianism, and these Hegelian elements, if fully exploited, could eventually run against his seemingly cosmopolitan position. The Hegelian elements consist of, firstly, his recognition that culture provides the context which constitutes the identity of its members (Habermas 1998a, 221) and, secondly, a dialectical approach to global justice. But as Will Kymlicka (2002) has argued forcefully, the first Hegelian element can be reconciled without much difficulty with a largely liberal, individualistic scheme, hence my analysis will focus on Habermas’s dialectical approach and its implication for thinking about international ethics.

Habermas’s theory of global justice largely revolves around the issues of postnational constellation, globalization, human rights, and just war. At the core of these issues is the notion of political legitimation, and this notion is in turn closely tied to the legitimacy of nation-states. Hence I will take the question of nation-states as the entry point of my analysis. On this issue, Habermas is apparently critical of the notions of ethnonationalism, national self-determination, and external sovereignty, and this may suggests a cosmopolitan reading of his theory. But Habermas explicitly states: “the nation-state should be ‘transformed’ rather than abolished” (Habermas, 1998a: 127). Deeper understanding of this statement calls for a careful study of his analysis on this subject, which in turn requires that we be attentive to the Hegelian element in his analysis and see where it may take us.

Habermas on the Question of the Nation-State

Unlike Rawls’s static, ahistorical notion of peoples, Habermas offers a historical-sociological analysis on the development of modern nation-states. His account

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14 Kenneth Baynes (2002) also argues that Habermas’s conception of freedom exhibits strong affinities with that of Hegel.

15 For a critique of Rawls’s static, idealized notion of people, see Robert Jackson’s recent work Classical and Modern Thought on International Relations (2005). Here Jackson writes: “Rawls’s ‘peoples’ have neither names, nor histories nor identities; they only have a standing and a role in a philosophical system.” (Jackson 2005, 161)
begins with an etymological distinction between nation and the state, arguing that the state is a “legally defined term” whereas a nation is a community constituted by geographical contiguity, common language, customs, and traditions, and thus the notion of a nation exhibits *prepolitical* quality. Habermas claims that it was after the French Revolution that the “prepolitical quantity” was transformed into “a constitutive feature of the political identity of the citizens of a democratic polity.” (Habermas 1996, 494) In other words, there is a sense of contingency in the “symbiosis” between nationalism and republicanism (Habermas 1998a, 132). Nonetheless, there is certain degree of rationality in nationalism, for the nation-state “represented a cogent response to the historical challenge to find functional equivalent for the early modern form of social integration which was in the process of disintegrating.” (Habermas 1998a, 106) More specifically, nationalism “provided the cultural background against which ‘subjects’ could become politically active ‘citizens’,” and in so doing it helped to lay the foundation for a new “mode of legitimation” (Habermas 1998a, 111). Be that as it may, Habermas argues that the “complementary relation” between nationalism and republicanism is a contingent one, for “citizenship was never conceptually tied to national identity.” (Habermas 1996, 495) In addition, there is a tension, built into the very concept of nation-state, “between the universalism of an egalitarian legal community and the particularism of a community united by historical destiny.” (Habermas 1998a, 115) Hence Habermas submits that this tension will eventually impel republicanism to part company with nationalism, and this separation is especially pressing today in that nation-states are threatened by multiculturalism from within and besieged by globalization from without (Habermas 1998a, 117).

With regard to the challenges to nation-states from within, Habermas argues that in a time of political fragmentation, characterized not only by national and ethnic conflicts but also the problem of poverty and redistribution, nationalism can no longer provide the foundation for social integration (Habermas 2001, 71-2). He submits that the function of social and political integration must now be performed by “a practice of self-legislation that
includes all citizens equally.” In addition, Habermas believes that when a discursive process of will-formation can make possible a reasonable political understanding, “a previous background consensus, constructed on the basis of cultural homogeneity and understood as a necessary catalyzing condition of democracy” will become “superfluous” (Habermas 2001, 73). This leads to his famous claim that the “nation of citizens” must replace the nation-state, and “constitutional patriotism” can replace nationalism as the foundation of civic solidarity (Habermas 1998a, 108, 118, 129-32).

Now, at the philosophical level, Habermas’s derogation of nationalism is inconsistent with his endeavor to accommodate the challenge of multiculturalism, which is expressed in his aforementioned recognition that culture provides the context that constitutes the identity of its members (Habermas 1998a, 221). Habermas once offers a non-instrumental justification for the “intrinsic significance” of culture for the individuals, arguing: “Only as social members of cultural communities can they develop into persons. Only on the path of socialization, growing into an intersubjectively shared universe of meanings and practices, can persons develop into distinct individuals.” (Habermas 2005, 17) The Hegelian character in this thesis of “individuation through socialization” or “cultural constitution of the human mind” is reminiscent of Rawls’s idea of social unions. And as Max Pensky points out, in the domestic context culture is construed as an enabling condition for the growth of democratic institutions. However, in the international context the nation is deemed the principal disenabling condition for the growth of global democratic institutions. Pensky argues that cultural identity is no less “artificial” than national identity, and so Habermas should be equally critical of both (Pensky 2000). Pensky’s criticism of Habermas underscores the importance of individual reflexivity, and its purpose is to point to a form of cosmopolitanism that values global solidarity. Here I want to reverse Pensky’s argument and take it to the opposite direction. I shall argue: Habermas’s downplaying of nationalism is based on the assumption that “collective identities are made, not found,” (Habermas 2001, 19; cf. Habermas 1996, 494) and this assumption

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16 In another place, Habermas writes: “Persons, including legal persons, become individualized only through a process of socialization.” (Habermas 1998a, 208)
acquires its strength largely from Benedict Anderson’s thesis of “imagined community” that Habermas cites repeatedly in his works (Habermas 1998a, 110; Habermas 2001, 64) It is debatable, however, whether nations are merely “imagined community”. But it is not necessary to get into this debate here, for the fact that something is “constructed” does not suggest that it does not deserve our respect. If Habermas believes cultural identity deserves respect, then he cannot say that national identity does not deserve respect. It would be inconsistent to do the contrary, for both cultural and national identities are equally “artificial”.

Be that as it may, Habermas can revert to a more individualistic position to accommodate multiculturalism. This is evident in his defense for granting cultural rights to minorities. Habermas argues that cultural rights need not arise from a shaky “presumption of equal values” of cultures, as Charles Taylor’s politics of recognition appears to suggest; nor need they take the form of collective rights (Habermas 1998a, 221-2). Rather, he submits that cultural rights can be derived from the principle of the inviolability of human dignity (Habermas 2005, 17-8). Habermas argues against the “species preservation” approach to cultural rights and the “politics of survival”. The reason is this: “The accelerated pace of change in modern societies explodes all stationary form of life. Cultures survive only if they draw the strength to transform themselves from criticism and secession.” (Habermas 1998a, 223) This challenge of modernity demands that members of every culture take a reflexive attitude toward their culture. And those “rigid forms of life” that lack an awareness of the “fallibility” of their claims are thus deemed “fundamentalist” and will thus not be tolerated in a democratic constitution (Habermas 1998a, 222-4; Habermas 2005, 20-3).

Clearly, the crux of Habermas’s approach to accommodating multiculturalism is to subsume the politics of recognition under the heading of socialized individual rights. Whether or not this strategy is successful is a keenly debated issue. Indeed, multiculturalists do contest that Habermas’s approach runs against the proceduralism of Habermas’s philosophy in that it entails a substantive prejudgment with regard to the unreasonableness of “fundamentalist”

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17 Money and property rights are socially constructed. Can we infer from this fact that they do not deserve our respect?
ways of life. Maeve Cooke, for example, argues that “the denial of equal political recognition to some persons on the basis of the content of the substantive ethical commitments and convictions poses a problem with a moral dimension.” (Cooke 1997, 281) In similar vein, Andrea T. Baumeister also contends that such denial of equal recognition “does not sit well with Habermas’s own commitment to respect each person’s capacity to form her own conception of the good life” and it is also incompatible with Habermas’s claim that “democratic will-formation does not draw its legitimating force from the prior convergence of settled ethical convictions.” (Baumeister 2003, 749; cf. Habermas 1996, 278) Such contentions suggest that the task of accommodating multicultural aspirations within a fundamentally individualistic framework is much more difficult than Habermas anticipated.

At a less philosophical level, Habermas’s constitutional patriotism may have certain appeal for Western democracies, but it is doubtful if the Western experience can be generalized and extended to the rest of the world. I am not suggesting that non-Western societies will never become like Western societies; indeed they can (i.e., Japan). But we should not assume that the Western trajectory is the only path to “modernization.” Even if the Western experience is the model for the rest of the world, it may still be the case that the idea of national self-determination has not exhausted its appeal among non-Western societies. The evidence is not hard to find—just consider the reason why so many Taiwanese and Tibetans want to pursue independence. For those nations that aspire for their own states, nationalism may prove to be the most effective mode of social integration. Unfortunately, Habermas is so hostile to the right to self-determination that he even regards it as “sheer nonsense”. He contends that “demands for ‘national-independence’ are legitimate only as a response to the repression of minorities whom the central government has deprived of equal rights, specifically rights to cultural equality.” (Habermas 2001, 72) Does this mean if the British

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18 As Jean Bethke Elstain argues eloquently, “Aggrieved peoples want, not an end to the nation-state, or to sovereignty, or national autonomy, but an end to Western colonial or Soviet or other external dominance of their particular histories, languages, cultures and wounded sense of collective identities. Once inside the world of nation-state civic identity, they are pitched into that outside world of state competition.” (Elshtain 1995, 270, emphases in the original)
Empire had granted Indians equal cultural rights then the Indian would have no right to self-determination?

Let us tackle the issue from different angle: Habermas wants to replace nationalism with constitutional patriotism. But could it be the case that constitutional patriotism as a foundation for social and political integration is too thin and too weak? Habermas is not unaware of this problem. In fact, he acknowledges that every legal system is “ethically imbued” in that it expresses a form of life and not merely reflect the universal content of basic rights (Habermas 1998a, 144; Habermas 1998a, 217). However, if constitutional democracies are so permeated by ethics, is it likely that their ethical content may someday develop into their distinct political cultures? And once their political cultures are consolidated, one wonders if the patriotism initially based on constitutional principles will not turn into another form of nationalism. The case of American patriotism is a good example. As is well known, American people develop a sense of “American exceptionalism” from their own historical experience; they deem patriotism as a civic virtue while find fault with the nationalism of others. Because of this exceptionalist mentality, the US has been hostile, and even belligerent in its confrontation with the so-called “totalitarian” states. This suggests that at the international level constitutional patriotism may prove to be just as troublesome as nationalism does. Moreover, Habermas’s confidence of the peaceful tendency of liberal democracies derives its strength, as in the case of Rawls’s account does, from the democratic peace thesis (Habermas 1998a, 171-8). But as I have argued elsewhere (Lin 2006, ch. 2), democratic peace thesis cannot guarantee that democracies will never attack non-democracies, as is evident in the 2003 American invasion of Iraq, and this raises serious concerns in the ethics of IR. For, even if constitutional principles can serve as the foundation of solidarity among Europeans as Habermas wishes, it does not preclude the possibility that they may still be involved in conflict with the rest of the world without a just cause. This suggests that at the international level the difference between constitutional patriotism and nationalism cannot be overemphasized.
Habermas on the Challenge of Globalization to Nation-States

For Habermas, the nation-state faces not only the challenge of multiculturalism from within but also the challenge of globalization from without. He argues that under the pressures of globalization the prerogatives of the nation-state have eroded in three aspects:

1. the decline in the state’s capacities for control;
2. growing deficits in the legitimation of decision-making processes;
3. an increasing inability to perform the kinds of steering and organizational functions that help secure legitimacy (Habermas 2002, 220).

Habermas argues that competition between states in the age of globalization weakens the capacity of social integration of welfare states, which renders obsolete “Keynesianism in one country.” The growing interdependence has transformed the globe into a “community of risks,” which introduces a new horizon that rules out the option of externalizing the consequences of our actions (Habermas 2001, 51, 55, 79). These add to the reason why the nation-state must be transformed. One alternative to the nation-state is to transfer its welfare functions to supranational agencies such as the European Union. But the creation of larger political entities “would at best generate internal advantages for global competition,” which merely leads to “defensive alliances against the rest of the world, but it changes nothing in the mode of locational competition as such.” (Habermas 2001, 53) In addition, this level lacks another mode of political coordination: these institutions are “too weak to take binding decisions and to assume any efficient regulatory function over the economy, ecology or social security.” (Habermas 1998b)

For Habermas, the only way out of this impasse is to introduce elements of a *global will-formation*, which incorporates individual states into “the binding procedures of a cosmopolitan community of states.” If this is the solution, then “the decisive question is whether the civil society and the increasingly large regimes can foster the consciousness of an obligatory cosmopolitan solidarity.” (Habermas 2001, 55) However, as Habermas is quite
aware, “the political culture of a world society lacks the common ethical-political dimension that would be necessary for a corresponding global community—and its identity formation….A cosmopolitan community of world citizens can thus offer no adequate basis for a global domestic policy.” (Habermas 2001, 109) Hence, the model Habermas has in mind is not that of cosmopolitan democracy championed by David Held and Daniele Archibugi; rather, his vision of “a world domestic policy without a world government” is to be realized through an international negotiation system that operates between “political processes that persist at national, international, and global levels.” (Habermas 2001, 109-10) In this dynamic picture, “The autonomy, particularity, and uniqueness of formerly sovereign states will have to be taken into account.” (Habermas 2001, 56)

By far it seems that Habermas cannot but acknowledge that states still play an important role in the process of global will-formation. Nonetheless, Habermas remains skeptical of sovereign states: “The Hobbesian problem—how to create a stable social order—overtaxes the cooperative capacities of rational egoists, even on the global level.” (Habermas 2001, 56) Hence the “addressees” for the project he has in mind are social movements and non-governmental organizations and not the states. But is it true that sovereign states are not capable of solving the Hobbesian problem? In the literature of IR, students of rational choice and game theory have argued convincingly that states as rational egoists are not incapable of reaching cooperation under the condition of anarchy (Axelrod 1984; Oye ed. 1986). Alexander Wendt’s constructivism even suggests that sovereign states are capable of transforming the international system from the Hobbesian culture to the Lockean culture, and even to the Kantian culture (Wendt 1999, ch. 6). Hence the Hobbesian problem is not unsolvable by egoist states. Even if we concede that states cannot solve the problem, it is not clear why social movements and NGOs, who may also be rational egoists, are capable of solving it. This suggests that Habermas’s downplaying of the role of states in favor of the NGOs and social movements is unpersuasive.
Habermas on Human Rights and Its Implication for International Ethics

A full exposition of Habermas’s account of international ethics must also include his position on human rights, for he explicitly offers a thesis of “legitimation through human rights” (Habermas 2001, ch. 5). Habermas’s discussion begins with the legacy of Kant’s notion of cosmopolitan law (das Recht der Weltbürger). According to Habermas’s analysis, Kant’s social contract theory draws an analogy between the individual and the state, arguing that the state must exit the state of nature and enter a state of “legally secured freedom.” For Kant, this state of freedom is to be achieved not by a federation of citizens, but by a federation of free, independent states. This federation is voluntary in so far as the associated states retain their sovereignty. Habermas finds this vision of perpetual peace inadequate, however, for with the proviso that states may dissolve their compact, the federation “remains hostage to an unstable constellation of interests and will inevitably fall apart.” He submits that perpetual peace cannot depend on “each government’s own moral self-obligation” (Habermas 1998a, 169). Rather, it must be secured through a cosmopolitan law that “bypasses the collective subjects of international law and directly establishes the legal status of the individual subjects by granting them unmediated membership in the association of free and equal world citizens.” (Habermas 1998a, 181) Such a conceptual revision of Kant’s vision is necessitated on three grounds: First, in response to the catastrophes of the twentieth century, the two world wars in particular, the Briand-Kellogg Pact and the incrimination of war itself as a crime have altered the external relations among states. Second, the introduction of the notion of “crimes against humanity” also sets limits on the internal sovereignty of states. Third, the globalization of danger further calls for a reconceptualization of the very concept of “peace” (Habermas 1998a, 178-86).

It should be noted, however, the three grounds given above are sociological or post hoc justifications. They only imply that states are no longer sovereign today; they tell us nothing about the moral and political status of human rights. As Habermas is quite aware, an international agreement on the normative status of human rights is still lacking, and “the
general validity, content, and ranking of human rights are as contested as ever.” (Habermas 2001, 119) Hence, Habermas must offer a philosophical justification as to why human rights provide the sole basis for legitimation at the international level. His account can be found in his response to three lines of objection: the self-criticism of the West, the discourse of “Asiatic values,” and the challenge of fundamentalism (Habermas 2001, ch. 5). To meet the challenge of fundamentalism, Habermas appeals to the modern condition, i.e. the fact of pluralism of worldviews, and argues that the secularization of politics requires that traditional worldviews undergo a “reflexive reformulation” (Habermas 2001, 128). In response to the discourse of “Asiatic values,” Habermas argues that the traditional forms of political and social integration must adapt to “the hard-to-resist imperative of an economic modernization that has won approval on the whole.” (Habermas 2001, 124) Finally, in response to criticism from inside the West, Habermas appeals to the Western standards of legitimacy expressed in an ideal speech situation in which “free and equal citizens take counsel together on how they can regulate their common life.” (Habermas 2001, 121)

It should be noted that the second line of justification is a functional one, and Habermas is aware that functional arguments cannot easily be converted into normative arguments (Habermas 2001, 125). Hence the burden of justification falls on the rest two arguments, whose “individualistic style and secular basis” accords centrality to autonomy (Habermas 2001, 122) This appeal to individual autonomy amounts to seeing the West as the measure of the rest of the world.19 But as I have argued earlier, the rest of the world may not follow the path of the West. And even if they do, it is not clear how human rights are to be enforced universally around the (real) world. The question of enforcement is especially important in that it takes us to the Hegelian moment in Habermas’s theory that does not sit well with his Kantian moment. This Hegelian moment is expressed in Habermas’s idea that human rights are not merely moral but legal in nature. Habermas writes:

19 Indeed, Habermas does writes: “The First World thus defines so to speak the meridian of a present by which the political simultaneity of economic and cultural nonsimultaneity is measured.” (Habermas 1998a, 184)
…human rights belong structurally to a positive and coercive legal order which founds actionable individual claims. To this extent, it is part of the meaning of human rights that they claim the status of basic rights which are implemented within the context of some existing legal order, be it national, international, or global. (Habermas 1998a, 192, emphasis in the original)

This idea is similar to Mervyn Frost’s idea that rights are “situated”: “[r]ights are not things which a person can be conceived of as having outside of or prior to any and all social and political institutions.” (Frost 1996, 138) But what is the implication of this notion of rights as situated for international ethics? Michael Walzer has answered this question eloquently, so allow me to quote in length:

Individual rights may well derive, as I am inclined to think, from our ideas about personality and moral agency, without reference to political processes and social circumstances. But the enforcement of rights is another matter. It is not the case that one can simply proclaim a list of rights and then look around for armed men to enforce it. Rights are only enforceable within political communities where they have been collectively recognized, and the process by which they come to be recognized is a political process which requires a political arena. The globe is not, or not yet, such an arena. Or rather, the only global community is pluralist in character, a community of nations, not of humanity, and the rights recognized within it have been minimal and largely negative, designed to protect the integrity of nations and to regulate their commercial and military transaction. (Walzer 1980, 226-7, emphasis mine)

To be sure, Habermas is certainly not unaware of “the weak link in the global protection of human rights remains the absence of an executive power.” (Habermas 1998a, 182) But he fails to explore the implications of this “enforcement deficiency” for theorizing international ethics. As I have argued elsewhere, the absence of an impartial authoritative administration often gives rise to the problems of selective enforcement and double standard that are bound to breed cynicism. And where these problems are not at issue, the fact that those values are often pursued paternalistically is of great concern (Lin 2006, ch. 5).
The problem of paternalism is of particular interest here, for the ethos of anti-paternalism is at the heart of Habermas’s philosophy. This ethos is expressed in his repeated emphasis that a legal order is legitimate only when the addressees of the law can see themselves as its authors.” (Habermas 1998a, 215) Measured by this doctrine of self-legislation, not only Taylor’s politics of recognition but also Rawls’s political liberalism will appear to be paternalistic (Habermas 1998a, 207; Habermas 1998a, 95). Now, it is certainly debatable whether the criticism of paternalism is fair to Rawls’s political liberalism, as Rawls did contest the validity of the charge. Nonetheless, Rawls’s theory of international ethics does exhibit the trait of paternalism in that its “categorical taxonomy” of peoples relegates non-liberal peoples to an inferior status and it prejudges certain regimes illegitimate by smuggling in criteria of regime legitimacy prior to the construction of the law of peoples. Interestingly, Habermas’s theory could offer an antidote, for his doctrine of self-legislation, when applied to the international level, would require a “decentralization of one’s own perspective” (Habermas 2003, 369). The anti-paternalistic characteristic of Habermas’s international ethics in most evident in his criticism of American invasion of Iraq in 2003:

“Values”—including those that have a chance of winning global recognition—don’t come from thin air. They win their binding force only within normative orders and practices of particular forms of cultural life. If thousands of Shi’ites in Nasiriya demonstrate in equal measure against both Saddam and the American occupation, they express the truth that non-Western cultures must appropriate the universalistic content of human rights from their own resources and in their own interpretation, one that will construct a convincing connection to local experiences and interests. (Habermas 2003, 369)

This criticism points to a more dialogical and less monological approach to international ethics in which the West and the rest can learn from each other through dialogue:

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20 In particular, in his critique of Rawls’s philosophical project Habermas writes: “However, only a theory that lays down the complete design of a well-ordered society for the citizens create the danger of political paternalism. Rawls does not consider that a consistently worked-out proceduralism could defuse the whole issue of whether philosophy undermines the political autonomy of the citizens.” (Habermas 1998a, 95)
With the growing distance of imperial domination and the loss of colonialism, the European powers also got the chance to assume a reflexive distance from themselves. They could learn from the perspective of the defeated to perceive themselves in the dubious role of victors who are called to account for the violence of a forceful and uprooting process of modernization. This could support the rejection of Eurocentrism, and inspire the Kantian hope for a global domestic policy. (Habermas and Derrida 2003, 297, emphasis in the original)

Arguably, for this dialogical approach to be possible Habermas must abandon his claim that the West is the measure of the rest. In this regard, Rawls’s theory may prove to be equally suited to such a dialogical approach, for Rawls explicitly affirms that decent societies are just as capable of moral learning as liberal peoples are.\(^21\) My difficulty with Rawls is that he should not assume that only liberal peoples and decent societies are capable of moral learning. Rather, we must assume that all peoples have the same moral capacity unless evidence proves otherwise. Hence, by allowing the representatives of all peoples to participate in the international original position, my revision of Rawls’s framework will be even more consistent with a dialogical approach than Rawls’s own.

**The Hegelian Approaches of Mervyn Frost and Andrew Linklater**

After revealing the Hegelian moments in Rawls’s and Habermas’s account of international ethics, now I shall explore if they can be dovetailed with other more Hegelian accounts in IR. To begin with, we can find notable points of contact between Rawls’s and Mervyn Frost’s account of international ethics. Just like Rawls takes people to be the basic unit of moral concern in international ethics, Frost takes the state to be the basic unit.\(^22\) There is a slight

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\(^{21}\) Rawls writes: “All societies undergo gradual changes, and this is no less true of decent societies than of others. Liberal peoples should not suppose that decent societies are unable to reform themselves in their own way.” (Rawls 1999a, 61)

\(^{22}\) Frost writes: “What is being argued is that individuals and states must have *some* moral position....” (Frost 1996, 47, emphasis in the original) “I simply contend that any discussion about what ought to be done in world politics...must be conducted in the language of the modern state system. No other suitable language is available.” (Frost 1996, 90)
difference, though: While Rawls’s people-centric approach can be justified by appealing to a Hegelian notion of social union, Frost’s state-centric approach is justified by appealing to a “constitutive theory” of individuality, which is also derived largely from Hegel. The crux of this constitutive theory is expressed in the following statement:

It is only in the state that individuality can be fully realized. Both [Hegel and Charvet] support this contention by examining how our individuality is partially constituted by subordinate wholes, like family and civil society, and by showing how the shortcomings of the subordinate institutions are overcome by subsequent and higher institutions. This dialectical process then culminates in the state. (Frost 1996, 142)

For Frost, at the international level the state is an individual vis-à-vis other states, and for Hegel the state’s individuality is manifested in its autonomy vis-à-vis other states. Frost infers from this that “for their citizenship to be fully actualized their state needs to be recognized by other states as autonomous.” (Frost 1996, 151) Thus, Frost takes the “modern state domain of discourse” to be the starting point of his theory. To justify his starting point, Frost invokes Ronald Dworkin’s method of “settling contested issues by argument”. This method resembles that of Rawls in many ways: First, it regards the main task of normative theory as constructing the best possible background justification for settled body of norms.\(^{23}\) Second, for this purpose we must begin with “what everyone knows” and employ Rawls’s method of reflective equilibrium to render an initially not fully coherent body of norms more coherent (Frost 1996, 93-104).

As Molly Cochran points out, “Hegel’s philosophy is an affirmative methodological exercise,” and Frost’s approach exhibits this Hegelian characteristic in that he suggests: “We must begin with what we have. A normative theory of a social world constructed out of the thin air is no good for us. Normative goals must be instructed by reality, and reality for IR at present is a world of states.” (Cochran 1999, 101) Like Rawls’s the law of peoples, there is

\(^{23}\) The settled norms include eighteen norms that represent international consensus on four issues areas—sovereignty, international law, modernization, and democracy and human rights (Frost 1996, 111-2).
certainly a good sense of realism in taking this state of the world (as a world of states) as the
staring point of international ethics. But to the extent that Frost’s method of justification
exhibits the Hegelian affirmative character, his theory is also often faulted for being oriented
to the status quo. It is considered to be too conservative in that “his starting point within
contemporary international practice leaves no space for imagining new institutional
possibilities.” (Cochran 1999, 109) It should be noted, however, that Frost may avoid this
charge by claiming that he is not committed to holding that life in states is the only proper life
for human beings, or that the way that states are organized at present is the best way of
organizing them (Frost 1996, 90) In fact, Frost even argues that we must not rule out the
justifiability of a world state. For Frost, a world state could be justified “if it came about
through the voluntary action of all sovereign states.” (Frost 1996, 157)

It is ironic to witness that a statist approach to international ethics could be more open
to the possibility of a world state than most cosmopolitan approaches. Nonetheless, how a
world state will come about is beyond Frost’s concern. In addition, although Frost regards his
starting point to be, as Cochran puts it, in a “dialectical process of change” (Cochran 1999,
106), the “motor” of this dialectics, i.e. the lack of fit between norm and background theory, is
nevertheless inadequately dialectical. An adequately dialectical account must, in my opinion,
entail a sociology or political economy that “explains the empirical processes of
transformation from one type of intersocietal form to another.” (Cochran 1999, 103) This
takes us to Linklater appropriation of Hegel’s dialectics with regard to international ethics. 24

Like Frost, who traces the constitution of individuality in a hierarchy of institutions
within the state, Linklater traces the development of human freedom in a succession of ever
more rational social institutions, starting with tribal societies (Linklater 1990, 171-82;
Cochran 1999, 81-3). In this evolutionary process, each prior form has certain degree of
rationality, and each stage contributes to the improvement of human freedom. Specifically, the
state replaces kinship relations and custom with legal and political society, which treats

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24 My discussion of Linklater’s account draws heavily on Cochran’s analysis (Cochran 1999, ch. 3).
citizens equally under the law; it is thus considered to be a higher stage of freedom (Linklater 1990a, 182, quoted in Cochran 1999, 83). But unlike Frost who seems to suggest that the modern state already provides the individual with the basis for human freedom, Linklater finds the modern state an inadequate institution in that it exhibits paradoxical character: “on the one hand, it is the site on which radical intensifications of social control have been established but, on the other hand, it has been the setting for unprecedented efforts to eradicate the tyranny of unjust exclusion.” (Linklater 1998, 146-7) To overcome this paradox the modern state and the international society must undergo substantial transformations. Linklater offers three alternative frameworks: a pluralist society of states, a solidarist society of states, and a post-Westphalian framework (Linklater 1998, 166-7).

On the face of it, Linklater’s account appears to suggest that the sequence of “kin, tribe, city, state” would eventually be completed by “world”. The universalism and progressivism implicit in this sequence are bound to be vulnerable to Chris Brown’s criticism of cultural imperialism (Brown 1995). But Linklater is quite aware of the totalizing tendency of a universalistic project. He tries to avoid this quagmire by asserting that each of the three aforementioned frameworks “strikes the balance between the universal and the particular in a distinctive way” and thus all three frameworks make positive contribution to the creation of a “universal communication community” (Linklater 1998, 176, 167). At one point Linklater even acknowledges that one should not assume that the post-Westphalian arrangements are the destination that all communities should strive to reach (Linklater 1998, 167). Nonetheless, his discussion of the problem of exclusionary sovereignty state and citizenship in the post-Westphalian state (Linklater 1998, ch. 6) suggests that he deems the post-Westphalian framework as the most progressive order. Yet, as students of the English School observe,

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25 A pluralist society of states is a framework in which “the constitutive principles aim to preserve respect for the freedom and equality of independent political communities.” A solidarist society of states is a framework in which states “have reached an agreement about a range of moral principles such as individual human rights, minority rights, responsibilities for nature and duties to other species.” A post-Westphalian order is a framework in which sovereignty, territoriality and citizenship no longer immediately associated with the concept of the state (Linklater 1998, 167-8).

26 This sequence is borrowed from Brown (1995, 101).
“while states in the modern world can agree on the principles of a pluralist international society, they do not exhibit a common desire to establish more solidarist arrangements.” (Linklater 1998, 173) This observation suggests that Linklater’s aspiration for a post-Westphalian framework needs a justification.

Linklater justifies his vision by arguing that the movement toward the “post-exclusionary states” is an answer to the “universal rationales” that is inherent in the modern idea of citizenship. Like Habermas, who submits that the universalism of republicanism will eventually part company with the particularism of nationalism, Linklater also argues that the universal principle underpinning the modern idea of citizenship contradicts the exclusive nature of the nation-state and thus the tension inherent in this idea creates the possibility of advances beyond the sovereign state (Linklater 1998, 191-3) To the extent Linklater’s argument resembles that of Habermas, however, it is subject to the criticism leveled against Habermas’s ideal of constitutional patriotism that I have discussed earlier. In addition, even if we concede that the idea of citizenship provides the “moral resources” that make the movement toward a post-Westphalian order possible, we still need a more dialectical account of how this ideal can be realized. Yet Linklater’s account, compared with Habermas’s, falls short of being adequately dialectical due to its inadequate attention to the material conditions of possibility.27 To remedy this weakness, we may need to go back to Habermas’s analysis.

Like Linklater, Habermas finds a universalistic momentum toward a more abstract form of social integration in the process of evolution from village and clan to dynasty to nation-state; he also regards “carrying on this process with a further abstractive step” to be our task (Habermas 2001, 18) But Habermas’s account is more dialectical than Linklater’s in that it examines the process through the lens of “the subtle dynamic of the opening, and renewed closure, of socially integrated lifeworld” (Habermas 2001, 81). Seeing through this lens, globalization is regarded as an impulse toward opening that provides individuals with

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27 I borrow this idea from what Hutchings calls “phenomenological adequacy” (Hutchings 1999, xiii-xiv) but reverse her argument to contrary effect.
new possibilities and freedom on the one hand while increases their risk of making mistakes on the other. But to the extent that lifeworlds disintegrate under the pressure of opening, they must close themselves again with expanded horizon (Habermas 2001, 83). For Habermas, the new closure should not be a return to the so-called “first modernity” in which nation, class and state were the most important components. Rather, the challenge is to strike a balance between opening and closure (Habermas 2001, 86-8) Habermas tests the conditions of possibility of this new closure by the case of the European Union. Here we need not go through his analysis in detail; it suffices to note that his analysis finally leads to the conclusion, as I have pointed out earlier, that a cosmopolitan community is premature in that it is dependent on a civic solidarity that has yet to be achieved at the global level. This dialectical analysis ironically suggests that Frost’s starting point of international ethics, i.e. the modern state domain of discourse, is not an unreasonable one.

There is one weakness in Frost’s theory that needs to be corrected, however. Like Rawls’s theory, Frost’s theory also exhibits the trait of paternalism. This is evident in his use of the chess-playing metaphor: Frost divides the world into two kinds of states— developed states and quasi-states, with the former likened to “initiates” and the latter “novices” in the chess game (Sutch 2001, 127). By this metaphor, admission of a new state to the international society is likened to the process of an initiate teaching a novice to the game (Frost 1996, 154-5). This approach to recognition is paternalistic in that the relationship between the initiator and the novice is plainly unequal and the novice is merely a passive receiver of the rule of the game. The paternalism in Frost’s account is similar to that of Rawls, and I have argued that the weakness of paternalism can be overcome by applying Habermas’s more dialogical approach to international ethics. Such a dialogical approach has been adumbrated by Linklater in his appropriation of Habermas’s discourse ethics (Linklater 1998, ch. 3; Linklater 2005). It should be noted, however, that Linklater’s account is ontologically individualistic while the dialogical approach I have in mind is a statist one. Hence, how
Habermas’s discourse ethics is to be applied to relations among states remains a subject to be explored. But due to the space limits, I shall leave this task for future exploration. 28

Conclusion: Toward a Hegelian Synthesis

I have shown both Rawls’s and Habermas’s accounts of international ethics are compatible with the Hegelian approaches of Mervyn Frost and Andrew Linklater. Now I shall further explore if it is possible to subsume Rawls’s and Habermas’s theories of international ethics in a broadly Hegelian approach. Before proceeding, we must consider a potential objection to such an endeavor: that Rawls’s philosophical enterprise is so radically different from Habermas’s that they cannot be subsumed in one grand theory. I must acknowledge that a full rejoinder to this objection is beyond my intellectual capacity. But I am skeptical of the claim that the divide between the two philosophers cannot be bridged. My optimism is based on the fact that Rawls and Habermas, albeit explicitly disagree with each other in their exchange (Rawls 1996, Lecture IX; Habermas 1998, chs. 2 & 3), both adopt a two-stage approach to theory-formation, i.e.: “The principles justified at the first stage must be exposed to public discussion at the second stage.” (Habermas 1998a, 61) 29 This suggests that the divide


29 What Habermas calls “two-stage approach” refers to Rawls’s four-stage sequence concerning the formation and application of the principles of justice, which Rawls describes in his A Theory of Justice, §31 (Rawls 1971, 195-201). Rawls summarizes these sequences in his exchange with Habermas as follows: “We begin in the original position where the parties select the principles of justice; next, we move to a constitutional convention where—seeing ourselves as delegates—we are to draw up the principles and rules of a constitution in the light of the principles of justice already on hand. After this we become, as it were, legislators enacting laws as the constitution allows and as the principles of justice requires and permit; and finally, we assume the role of judges interpreting the constitution and laws as members of the judiciary.” (Rawls 1996, 398) The crux of this four-stage sequence is that citizens’ conception of justice is not decided by abstract reasoning in the original position once and for all; rather, “it is you and I—and so all citizens over time, one by one and in associations here and there—who judge the merits of the original position as a device of representation and the principles it yields.” (Rawls 1996, 383, fn. 14) Habermas’s interpretation of Rawls’s four-stage sequence is quite illuminating: “The theory as a whole must be subjected to criticism by the citizens in the public forum of reason. In this forum it is no longer the fictional citizens of a just society about whom statements are made within the theory but real citizens of flesh and blood.” (Habermas 1998a, 61, emphasis in the original) It should be noted, however, that the purpose of Habermas’s interpretation is to show that Rawls’s framework prioritizes “the liberal rights of the moderns over the democratic of process (or the liberties of the ancients) (Habermas 1998a, 69). Though Rawls denies Habermas’s charge, he does not dispute the “two-stage” characterization of his approach (Rawls 1996, 396-9). On the other hand, Habermas may want to deny that he also adopts a two-stage approach to theory-formation. But as Rawls rightly points out, Habermas’s appeal to the ideal speech situation in fact

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between the two philosophers may be narrower than it appears to be. Thus Christopher McMahon does not go far wrong to conclude: “when the moral theories of Habermas and Rawls are examined more fully, it can be seen that these two procedures of moral thinking are not in competition with each other. Rawls can make use of Habermas’s procedure, and Habermas could employ a theoretical device that plays the role of Rawls’s original position.” (McMahon 2002, 111)

Building on this observation, I propose a division of labor between Rawls’s and Habermas’s account of international ethics: We begin largely with Rawls’s people-centric or statist approach that he lay out in The Law of Peoples. But as I proposed elsewhere (Lin 2006, ch. 2), the line between ideal theory and non-ideal theory is drawn in parallel with Seyla Benhabib’s distinction between the standpoint of the generalized other and the standpoint of the concrete other (Benhabib 1992, 158-9; Benhabib 1994, 179-87). In this revised Rawlsian framework, parties to the international original position should adopt the standpoint of the generalized other, and so there is no need to distinguish different kinds of peoples or societies; instead representatives of all peoples are included in the deliberation and selection of the principles of international justice. Since the principles are now selected by all and not only by liberal peoples, this revision should be able to correct the paternalistic bias of The Law of Peoples. But since the parties do not know the identity of their regime behind a thick veil of ignorance, they will select well-established norms such as sovereign equality and non-intervention and not controversial norms such as rights to democracy or a difference principle applied at the global level. For cosmopolitans, such a law of peoples would be too

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30 In fact, in his discussion of the immigration policy of Germany, Habermas explicitly invokes Rawls’s “thought experiment of the original position” to illustrate what he calls “the moral point of view” (Habermas 1996, 511-2).

31 The crux of the distinction is summarized in this statement: “According to the standpoint of the generalized other, each individual is a moral person endowed with the same moral rights as ourselves; s/he is capable of a sense of justice, of formulating a vision of the good, and of engaging in activity to pursue the latter. The standpoint of the concrete other, however, enjoins us to view every moral person as a unique individual, with a certain life history, disposition, and endowment, as well as needs and limitations.” (Benhabib 1994, 179)
thin or too conservative. Yet, from a Hegelian (and a communitarian) point of view, this is the price we need to pay in order to avoid paternalism. Cosmopolitans need not be disappointed by this Hegelian approach, though, for their aspiration for democracy, human rights and just distribution at the global level can be expressed in the international public political forum when we move from ideal theory (the first stage) to nonideal theory (the second stage), where Habermasian discourse ethics can be applied. It should be noted, however, that parties to this forum must appeal to public reason, at the core of which is the criterion of reciprocity. And at the global level the criterion of reciprocity applies mainly among states, for the public political culture at the global level treats states and not individuals as equals. This emphasis on the reciprocity among states will forbid the use of force to promote democracy and human rights; instead, it calls for international dialogues in which liberal and nonliberal states can learn from each other.

This new approach is a Hegelian synthesis in that it both entails a Kantian moment and a Hegelian moment. The Kantian moment is expressed in the use of the original position at the international level. The Hegelian moment is expressed in the movement from the abstract (the first stage) to the concrete (the second stage) and a concrete analysis of the conditions of possibility. For cosmopolitans, this synthesis may appear to be advantageous to the communitarian position and thus it has not gone beyond the divide between cosmopolitanism and communitarianism. But I hope I have made it clear in this paper that a full account of international ethics cannot do without Hegelian moments, and the Hegelian moment can sit well with the Kantian moment in a broadly Hegelian approach, which subsumes the two moments in the division of labor of the two-stage theory formation.
Reference


